

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.

\_\_\_\_\_ /

NINTH QUARTERLY REPORT OF THE NEW INDEPENDENT MONITOR FOR THE  
DETROIT POLICE DEPARTMENT DECEMBER 30, 2011

# **Ninth Quarterly Report**

## **Independent Monitor**

**for the**

## **Detroit Police Department**



**Robert S. Warshaw**

### **Independent Monitor**

Office of the Independent Monitor  
Police Performance Solutions, LLC

December 30, 2011



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FOR THE DETROIT POLICE DEPARTMENT**

December 23, 2011

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**SECTION ONE: INTRODUCTION**

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

Our Team conducted its first quarterly site visit in November 2009 and has conducted subsequent site visits in each calendar quarter since. We have observed considerable change within the City and the Detroit Police Department during our engagement.

Similar to previous reports, the issuance of this report follows an onsite visit to assess the Detroit Police Department's compliance with the requirements of the Judgments. This report includes our assessment of compliance with each of the requirements contained in the Use of Force and the Conditions of Confinement Judgments. Our findings are based on the results of discussions and meetings with City and Police Department staff, observations of operational activities, inspections of facilities, and our review of documents and data covering the period July, through September 2011.

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

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

In addition to the above findings, in those limited circumstances where substantial work and time is required to achieve implementation, we recognize that progress with the designation "Pending Compliance." In addition, there are circumstances in which we are unable to fully determine the

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<sup>1</sup> The City and the DPD are in Phase 1 Compliance with all requirements; therefore we have moved references to supporting policies, directives, and other relevant documents from the narrative section of the report to Appendices A and B.

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compliance status of some requirement due to a lack of data, incomplete data, or other reasons, which we identify with the designation “Deferred.”

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.

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

## **EXECUTIVE SUMMARY**

This is our ninth quarterly report in the case of United States of America v. City of Detroit No. 03-72258. The report is for the period July 1, through September 30, 2011; and is based on our site visit, which took place from October 3, through October 7, 2011, and our subsequent analyses of relevant data. Consistent with the practice we established in our first review, we continue to assess all requirements of both active Consent Judgments. This includes 110 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 reporting period.

First, we are pleased to report that, again this quarter, we found the City and the Police Department in Phase 1 (policy) Compliance with all requirements of both Judgments. As a response to that, and in the interests of brevity and easy access, we have moved references to supporting policies, directives, and other relevant documents to Appendices A and B.

For the quarter under review, we also found the Department in Phase 1 and Phase 2 compliance (full compliance) with 90 (82%) of the 110 Use of Force requirements. This is five more requirements than we found in compliance in the last reporting period. Additionally, the status of some other individual requirements has changed. Use of Force paragraph U45 (Written account of stops and frisks) went from not in compliance to pending compliance; U68 (Time limits for review of investigations/complaints) went from in compliance to not in compliance. Also during this reporting period, three Use of Force requirements are in pending compliance, and two are deferred.

As noted above, the Department is in Phase 1 compliance with all 65 (100%) of the Conditions of Confinement requirements, as it has been since the fourth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 50 (77%) of the 65 requirements. This is one more than we reported in compliance during the last reporting period. C31 (Prisoner health information protocol required) and C36 (Prisoner security screening program) went from not in compliance to in compliance. The status of some other individual requirements also changed. Conditions of Confinement paragraphs C29 (Medical protocols), C32 (Clothing-suicide prevention) and C63 (Operate cells in compliance with risk plan) went

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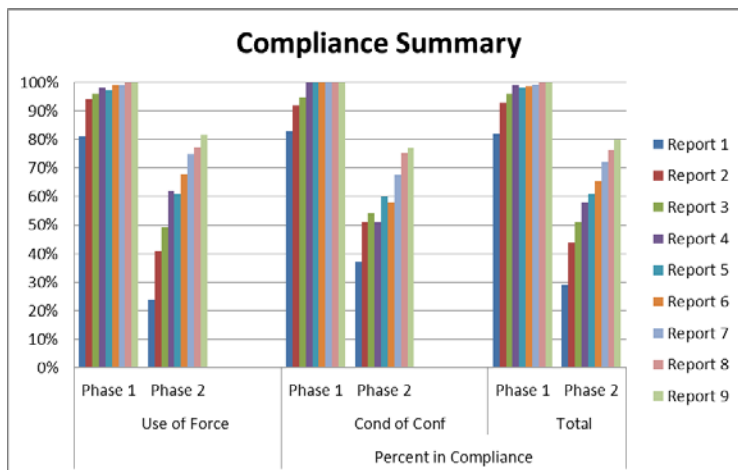
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from not in compliance to pending compliance; and C44 (Insure sufficient cell lighting) went from in compliance to deferred. The current figures are presented in the table below. Three Conditions of Confinement requirements are in pending compliance, and three are deferred.

Ninth Quarterly Report Summary						
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
<b>Paragraph Numbers</b>	14-123		14-78			
<b>Number of Requirements</b>	110	110	65	65	175	175
<b>Pending Compliance</b>	0	3	0	3	0	6
<b>Not in Compliance</b>	0	15	0	9	0	24
<b>Deferred</b>	0	2	0	3	0	5
<b>In Compliance</b>	110	90	65	50	175	140
<b>Percent in Compliance</b>	<b>100%</b>	<b>82%</b>	<b>100%</b>	<b>77%</b>	<b>100%</b>	<b>80%</b>

In summary, DPD is, for the second time, in Phase 1 compliance with all (100%) of the 175 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 140 (80%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, an increase of six from the eighth reporting period. We also found the Department to be in pending Phase 2 compliance with six requirements, or 3.4% of the total. Five compliance assessments (2.8%) are deferred.

The chart below illustrates the levels of compliance achieved on both Judgments and across all nine reporting periods.



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As the chart above shows, we continue to report increases in the total level of full compliance as we have for each of the previous visits following our initial report. For this, our ninth report, we saw an increase of six requirements in Phase 2 compliance.

The chart below provides the summary data illustrating the increases in compliance over the course of the nine quarterly reporting periods.

Quarterly Report	Percent in Compliance					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
<b>Report 1</b>	81%	24%	83%	37%	82%	29%
<b>Report 2</b>	94%	41%	92%	51%	93%	44%
<b>Report 3</b>	96%	49%	95%	54%	96%	51%
<b>Report 4</b>	98%	62%	100%	51%	99%	58%
<b>Report 5</b>	97%	61%	100%	60%	98%	61%
<b>Report 6</b>	99%	68%	100%	58%	99%	65%
<b>Report 7</b>	99%	75%	100%	68%	99%	72%
<b>Report 8</b>	100%	77%	100%	75%	100%	77%
<b>Report 9</b>	100%	82%	100%	77%	100%	80%

We recognize that as the Department moves forward, it must address increasing difficult and complex requirements. Our purpose here then is not simply to note past accomplishments, but also to help chart the path forward. Toward that end, we note that some significant issues limiting compliance persist across our reports. In particular, compliance has not yet been achieved in a cluster of requirements that address the Department's ability to satisfy its own policy requirements regarding investigations and reviews of officer conduct in relation to use of force and citizen complaints. The issues appear to center around reticence to focus full and critical attention on the details of actions under review. Too often, the credibility of civilians is questioned without justification, or officers face leading or incomplete questions from investigators who may not press for full accountability. These problems are equally relevant in the Department's detention settings as they are for officers on the street. And too, these issues have implications for training and supervision and other critical Department functions.

There are also other issues that have repeatedly limited compliance with the requirements of the decree addressing the conditions of confinement. These have dealt with medical and mental health screening, prisoner observation, and related practices. Some address physical conditions in detention, such as lighting levels. The persistence of these problems remains troubling; however, we note that during this reporting period, the Parties agreed on a plan to resolve the issues raised regarding lighting levels. The fact that the Department's continued responsibilities regarding detention are the subject of broad policy discussions does not relieve the Department or its individual members of the immediate responsibility for meeting the requirements laid out in the Consent Judgments. The Department cannot justify inaction, and the Monitor cannot tolerate compliance failure based on some uncertain future. Compliance must be achieved and sustained in the present.

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During this reporting period, we began a new practice of preparing expedited compliance reports on a limited number of requirements. Within 30 days of the end of the reporting period, we provided DPD with our compliance findings for the following paragraphs: U82, Data Input Plan; U86, Risk Management Common Control No.; U90, DOJ Approval for Changes; C23, Ensure Safety; and C25, Key Control. We will describe these findings in our discussion of these requirements.

After a long period of stagnation, we are pleased to recognize what the Detroit Police Department has achieved over the past two years. The Department has reached the milestone of being at a compliance level of 80%. We attribute the agency's successes to the leadership of Chief Godbee and the strong support he has received from Mayor Bing. The Mayor's interest in this process has been an important contribution to the energy and commitment of the police leadership and the City is to be applauded for the strides it has made in this endeavor.

Unquestionably, the hardest work for the Department is the work that lies ahead. Serious, substantive requirements still remain and it is imperative for the Department to commit to an unprecedented resolve to address the impediments that have inhibited the Department from fulfilling its total compact with the community. That said, we have confidence that the Department has the requisite skills to bring about the change that the Detroit community so richly deserves.



Chief (Ret.) Robert S. Warshaw  
*Monitor*

**The Monitoring Team:**

Chief (Ret.) Charles D. Reynolds, *Deputy Monitor*  
Lt. Colonel (Ret.) J. Rick Brown  
Division Chief (Ret.) Rachel M. Burgess  
Commander (Ret.) John M. Girvin  
Chief (Ret.) Eduardo Gonzalez  
John M. Klofas, Ph.D.  
Leonard F. Rice, M.E.S., R.S.  
Chief (Ret.) Billy R. Riggs  
Asst. Director (Ret.) Joseph R. Wolfinger  
Robin Busch-Wheaton, *Editor*

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

### **III. USE OF FORCE POLICY**

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

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

To assess implementation of these policies for this and previous reporting periods, we visited police districts, precincts, and other commands; met and discussed operational activities with command, supervisory, and training staff; observed training classes; reviewed arrest, use of force, and related police reports; and reviewed investigations of force, detainee injuries, and allegations of force. We continue to find that DPD needs to strengthen its command staff review and oversight of the uses or force. We have previously urged DPD to remain vigilant in this area to meet the requirements regarding thorough and timely use of force investigations, and continue to do so; however, it may well be that DPD needs to also review its case management systems for the use of force reports.

During this reporting period, the Command Level Investigations submitted within the 10-day time limit increased to 60% from the 20% registered last quarter. However, we continue to urge DPD to develop a case management system that requires the command initiate and document appropriate actions that will ensure that they comply with both the 10- and the 30-day time limits. Our previous reviews of use of force reports found instances where officers fired at moving vehicles due to exigent circumstances. However, neither the Consent Judgment nor existing policy provides for exigent circumstance exceptions; instead, both clearly prohibit the firing at or from moving vehicles. DPD has provided DOJ with a proposed policy revision authorizing an exception to the firing at a moving vehicle prohibition when exigent

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circumstances exist during the incident. The Court approved the proposed amendment on June 1, 2011. The DPD anticipates operational implementation during the next reporting period.

During this reporting period, DPD issued Training Directive 11-01, effective August 4, 2011, Reporting/ Documenting Acquiring of a Target, which provides instructions to DPD members on the procedures for reporting and documenting any instance in which an officer draws a firearm and only acquires a target. This Training Directive further advises that in cases where the acquiring of a target is the only force used, a Supervisor Investigation Report (SIR 002a) is no longer required.<sup>2</sup> To assess compliance with the requirements relating to the issuance and carrying of authorized weapons and ammunition, we examined the investigations of critical firearm discharges by FI. During this reporting period, we reviewed documentation that included no critical firearm discharges.

The DPD selected the PR-24 collapsible baton as its impact device, and has provided training on its use to 707 members (27%) in the first quarter of the Fiscal Year. There were no PR-24 strikes to the head noted in use of force reports during this reporting period; however, there was one Force Investigation involving a strike to the mouth of a subject with a Department-issued flashlight.

We also reviewed instances of chemical spray deployments during this and previous reporting periods. The Department's status reports indicate that although some officers are providing appropriate warnings prior to deployment, decontamination, and subsequent medical assistance, they are not consistently doing so. In addition, we find that officers are not consistently adhering to the time requirements on contamination or indicating how the decontamination was accomplished.

The DPD 32nd Quarter Status Report, issued September 30, 2011, states that during the reporting quarter ending July 30, 2011, the Office of Civil Rights (OCR) has assigned a commander to focus on the quality of Department-wide use of force investigations and reports. The OCR has developed and disseminated the Supervisor Investigation Report Guide and Checklist during this quarter. It will serve as a reference to help supervisors prepare complete and thorough investigations as required by DPD policy and the CJ requirements.

During this reporting period, there were five cases in which chemical spray was utilized and a warning was not articulated prior to its use. Exigent circumstances of the officer being assaulted were not articulated in these five cases.

Once again, there were no reported instances of an officer spraying an unruly crowd. There was one instance where an officer sprayed a handcuffed individual who was in a police car, and then fell out of the back seat area onto the ground when the chemical spray was deployed. No individuals were placed/kept in a face-down position after being sprayed.

The DPD 32nd Quarter Status Report, issued September 30, 2011, states that during the reporting quarter ending July 30, 2011, the Office of Civil Rights (OCR) has assigned a commander to focus on the quality of Department-wide use of force investigations and reports. The OCR has developed and disseminated the Supervisor Investigation Report Guide and Checklist during this quarter. It will serve as a reference to help supervisors prepare complete

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<sup>2</sup> SIR and Command Level Investigations are used interchangeably throughout the report.

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and thorough investigations as required by DPD policy and the CJ requirements. 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:**

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

To assess Phase 2 compliance with this requirement, we reviewed completed use of force investigations, met with DPD staff, and observed relevant operational activities. DPD generated 401 use of force numbers during the previous reporting period, and 362 during this reporting period (a 9% reduction). We will continue to monitor these numbers in subsequent visits. DPD remains in Phase 2 compliance with this requirement.

**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:**

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

Our previous review of use of force reports found that they lacked sufficient documentation or specificity with regards to de-escalation and details of actual disengagement to make a definitive determination regarding Phase 2 compliance.<sup>3</sup>

To assess compliance during this reporting period, we reviewed reports to determine the extent to which the policy requirements noted above are reflected in practice. We reviewed 95<sup>4</sup>

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<sup>3</sup> Report of the Independent Monitor, issued September 23, 2011.

<sup>4</sup> The sample size was 125 cases. The number reviewed was reduced to 95 because canine deployments with no contacts, acquired targets with no other force involved, and cases assumed by Force Investigation have no Command Level Investigations.



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Command Level Investigations, and verified that they described the conduct of individuals against whom force was used, and described some efforts at de-escalation employed by the officers.<sup>5</sup>

In 65 of the 90 (69%) cases we reviewed, we found the reports contained sufficient explanations of officers' efforts to de-escalate or implement some of the disengagement responses suggested in U15c.<sup>6</sup> This is a continued improvement from the 39% registered in our seventh quarterly report and the 62% in our last report. We continue to encourage DPD to emphasize the importance of de-escalation techniques as a means of avoiding violent confrontations between citizens and police, and to emphasize the importance of adequately documenting the steps taken by the officers to minimize the use of force. It is possible that there are more efforts being made and that officers are simply not documenting them; however, absent the documentation, we have no way of establishing the Department's compliance. DPD's 32nd Quarter Status Report notes that on July 22, 2011, an Informational Bulletin was issued to reinforce the requirements that officers and supervisors are to document all de-escalation tactics in use of force reports and investigations.

DPD is not in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U16***

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

**Comments:**

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

*Use of Force Reports:* To assess compliance for this reporting period, we reviewed 204 use of force reports. We found that 178 (95%) included verbal commands and an opportunity to submit to arrest prior to the use of force; or provided a reason why the verbal command was not given.<sup>7</sup> DPD is in Phase 2 compliance with this portion of this paragraph.

*Force Investigations:* We reviewed seven force investigations conducted by DPD. We found that one of the seven investigations conducted by FI did not include a verbal command or an opportunity for a subject to submit to arrest prior to the use of force. In this case, the DPD

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<sup>5</sup> Command Level Investigations are also referred to as Supervisory Investigative Reports (SIRs).

<sup>6</sup> The number was reduced from 95 to 90 in this category, due to detainee injury cases that the officers had no opportunity to deescalate.

<sup>7</sup> The base was reduced from 204 to 187 by 12 canine deployments, four detainee injuries, and one attempted suicide. Of these, 178 included the verbal commands and other requirements; nine did not.

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officer escalated the force on a subject that was in custody placed in a scout car by striking the subject in the mouth with a flashlight breaking the subject's teeth. The DPD officer is facing formal disciplinary action.

Two cases required a verbal command or an opportunity for a subject to submit to arrest prior to the use of force; we found both incidents in compliance with this requirement. Four cases were not applicable to the provisions of this Consent Judgment requirement for the following reasons: the case involved a vehicle pursuit that ended in a crash and opportunities for giving verbal commands were not present; the case involved DPD officers shooting two vicious dogs, which is an exception to the Department's use of force policy; and, in two instances, the cases were found not to involve DPD officers and were referred to the appropriate agency for action. This represents a 100% compliance rate. DPD is in Phase 2 compliance with the Force Investigations portion of this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U17***

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

**Comments:**

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

To assess compliance with this requirement for this reporting period, we reviewed 204 use of force reports and 95 completed Supervisory Investigation Reports (SIRs). There were three allegations of choke holds by subjects, none of which were reported to Force Investigations (FI), and none of which were resolved by the Command Level Investigation.<sup>8</sup> We recommend that cases involving chokehold allegations that are unable to be resolved by the Command Level Investigation be referred to Force Investigations for review and further investigation. DPD remains in Phase 2 compliance with this paragraph; however, in future reporting periods, the Department's continued failure to notify FI regarding unresolved allegations by subjects of chokeholds being applied by members will result in a loss of that designation.

**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*

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<sup>8</sup> This number includes one in June, and two in July.

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*shall implement the revised use of force policy within three months of the review and approval of the DOJ.*

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Deferred

***CJ Requirement U19***

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

**Comments:**

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

*Use of Force Reports:* Our review of 204 use of force reports found no instances of any strikes to the head. DPD is in Phase 2 compliance for use of force reports in this paragraph.

*Force Investigations:* Our review of seven investigations completed by Force Investigations revealed one instance where a DPD officer used the Department-issued flashlight to strike a subject in the mouth, breaking his teeth. The FI investigation determined that the force used in this case was unjustified; the Department initiated formal disciplinary action for unnecessary force and false statements.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***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.*

**Comments:**

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

Directive 304.1 contains a section, 304.1-4.3, which enunciates the policy that “Members must train and qualify with their weapon during the bi-annual training and qualification program.” Accordingly, the Department requires its officers to attend and qualify at firearms training sessions in the six-month periods ending on December 31 and on June 30 of each year. During

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the last six-month qualification period that ended on June 30, 2011, 97% of the DPD officers who were available to train attended firearms and qualified.

During the first half of the current six-month qualification period (July 1, 2011, through September 30, 2011), 1,353 (52%) officers of 2,613 available to train attended firearms training and qualified. The DPD appears to be remaining in compliance with this requirement; over 50% of the officers available to train qualified during the first half of the six-month period.

**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:**

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

During the first three months of the current six-month firearms qualification period, the three members who failed to qualify were required to relinquish their firearms. These members were placed in “no-gun” status, in which they were relieved of their police powers. Two of the three were provided remedial training, and both subsequently qualified. After they qualified, their firearms were returned and they were returned to full-duty status. The third officer did not attend remedial training and was placed in medical “no-gun” status without police powers.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**B. Use of Firearms Policy**

***CJ Requirement U22***

*The firearm policy shall prohibit shooting at or from a moving vehicle except in exceptional circumstances. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle<sup>9</sup>.*

**Comments:**

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

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<sup>9</sup> Amended by Court Order dated June 1, 2011.

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*Use of Force Reports:* During this reporting period, we reviewed 204 use of force reports and 95 Supervisory Investigation Reports (SIRs), and found no incidents involving officers firing at or from moving vehicles. DPD is in Phase 2 compliance for use of force reports in this requirement.

*Force Investigations:* Our previous reviews of cases closed by Force Investigations found instances where officers fired at moving vehicles contrary to the prohibition in this paragraph and the above-cited directive; however, DPD found the officers' actions justified due to the presence of exigent circumstances. During this reporting period, we reviewed seven FI investigations, and found no incidents involving an officer firing at a moving vehicle. DPD and DOJ proposed an amendment to this paragraph to allow the firing at or from moving vehicles under specified conditions. The Court approved the proposed amendment on June 1, 2011; it has been incorporated in the requirements of this paragraph (above), and is scheduled for BOPC review and approval and operationally implementation during the next reporting period.

Accordingly, DPD is in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U23***

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

**Comments:**

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

During previous site visits, we found officers to be carrying authorized weapons and ammunition, and that the Department had implemented a procedure requiring the inspection of officers' weapons and ammunition as part of its required biannual firearms training program which officers are required to attend.

During firearms training, officers fire the ammunition they are carrying and are issued a new supply of approved ammunition.

Ninety-seven percent of the officers participated in the biannual qualifications where they shot their old ammunition, which was replaced with authorized ammunition. As it appears that DPD remains on track to train its full complement of members during the first half of this six-month qualification period, DPD remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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**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:**

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

*Use of Force Reports:* During this reporting period, we reviewed 204 use of force reports, and found no strikes to the head with the designated intermediate force device (PR-24). DPD has launched the new Fiscal Year training cycle. A total of 707 members (27%) have received PR-24 training in the first quarter of the year.

*Force Investigations:* During this reporting period, we reviewed seven cases completed by FI, and found no cases where an intermediate force device (PR-24) was used.

**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;*
- 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:**

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

*Use of Force Reports:* To assess compliance for this reporting period, we reviewed 204 use of force reports and 95 Command Level Investigations. We found 12 deployments of chemical spray, with warnings or danger articulated in seven (58%) of the 12 cases. This is a significant reduction from the 100% registered in our seventh quarterly report and the 88% in our last quarterly report.

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During our evaluation of decontamination requirements, we found that 10 (83%) of the 12 cases provided details of decontamination within 20 minutes of spraying or capture. While this is an increase from the 75% previously noted, it still remains far below the >94% level needed to achieve Phase 2 compliance.

In all cases, officers noted that windows were rolled down to allow for proper ventilation during the transport of subjects. Medical assistance was offered to five of the subjects requiring it, and three were transported to a hospital; two subjects did not require medical attention.

There were no reported instances of an officer spraying an unruly crowd.

As we previously noted, the use of chemical spray by DPD officers is very limited; consequently, the Department's compliance numbers are affected by the failure of one or two officers to document their actions when using chemical spray. It is critical that supervisors discuss with their subordinates the need to provide a warning – or to articulate the exigent circumstances not permitting the warning – before they deliver the bursts of chemical spray. The documentation of the decontamination times is equally important; and supervisors need to ensure that their subordinates provide the times, preferably in military time, as well as how and where the decontamination was conducted.

The DPD 32nd Quarter Status Report, issued September 30, 2011, notes that when members fail to properly document the decontamination process used, OCR is issuing Corrective Action Notices (CANs) and forwarding them for appropriate disciplinary action.

We also recommend that the Department consider providing some level of training, whether roll call or more formalized, regarding the Time Sprayed and Time Flushed section of the 002 form. It appears that some members believe that they are to insert how many bursts were delivered in the Time Sprayed Box, and how many times the face was flushed in the Time Flushed Box.<sup>10</sup> DPD remains not in compliance with this portion of the requirement for this reporting period.

*Force Investigations:* During this reporting period, we reviewed seven cases completed by FI, and there was one case of chemical spray being used during the arrest of a subject. The DPD officer provided a verbal warning before using the chemical spray and ensured the subject was decontaminated within 20 minutes. DPD remains in Phase 2 compliance with the reporting of the use of chemical spray in the use of force investigations.

**Compliance Status:**

Phase 1: In Compliance

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.*

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<sup>10</sup> In some instances, instead of time, the members insert the number “two” in the slot for “time sprayed,” and the number “three” or “four” for “time flushed.”

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**Comments:**

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

*Use of Force Reports:* To assess compliance with these requirements for this reporting period, we reviewed 204 use of force reports, and 95 use of force Command Level Investigations. No handcuffed individuals in a police vehicle were sprayed, and no sprayed individuals were placed face-down.

We continue to note that when sprayed individuals are transported in scout cars, officers report the lowering of windows to provide ventilation beneficial to the subject.

DPD remains in Phase 2 compliance with this portion of the requirement.

*Force Investigations:* During our review, we identified one force investigation where a subject was handcuffed and placed inside the DPD scout car. While in the car, the subject became violent, kicked at the windows, and eventually kicked an officer in the stomach. The subject fell out of the car and onto the ground, where the DPD officer used chemical spray to gain control of the subject. As described in paragraph U25 above, the subject was then appropriately decontaminated.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

- The issue of how best to determine DPD's efforts at deescalating and disengaging with respect to use of force situations remains a perplexing issue, and one that affects DPD's compliance with several of the requirements. We continue to recommend that the Department improve its documentation of its de-escalation strategies, or to document the fact that none were used due to the particular circumstances. This quarterly report notes an improvement in documentation, and we recommend that DPD continue to emphasize that officers articulate the actions they took before they used force. Reviewing some of the investigations, we find the supervisors noting the de-escalation, which occurs after the situation is neutralized. This is an important action to note; however, we want to ensure that the supervisors do not confuse or equate the required de-escalation techniques before resorting to force to the de-escalation following the incident. DPD's 32<sup>nd</sup> Quarter Status Report notes that on July 22, 2011, the Department issued an Informational Bulletin to reinforce the requirements that officers and supervisors are to document *all* de-escalation tactics in use of force reports and investigations.
- The continued documentation of how, when, and where subjects are sprayed with chemical spray, and then are decontaminated, is one which DPD must continue to work on if the Department is to care for the subjects sprayed in the manner that both Departmental policy and the Consent Judgment requires. A warning prior to spraying, when the situation permits, is required if no exigent circumstances are present. This is an issue that can be addressed with specific attention on the part of supervisors, and some re-instruction on their part as to how officers are to document the warning, or in the case of an exigent circumstance the need to document that circumstance, the



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spraying, and the flushing time (military time is easiest). Officers need to be reminded that they can use water from the locations in which they find themselves to flush eyes. DPD must continue to emphasize the prohibition on spraying handcuffed subjects in police vehicles. There are no exceptions to this prohibition, in policy or the Consent Judgment.

- Training Directive 11-01, effective August 4, 2011, details the Department's newly instituted process for reporting cases in which the only force used is the acquiring of a target. We believe this new process requires enhancements by DPD to ensure that adequate documentation is provided; this will allow the Monitoring Team to ascertain that the acquiring of a target was the appropriate level of force to be used. At a minimum, DPD must include reporting mechanisms that describe the availability, use, and review of video and audio recording devices. There should also be a requirement that Crisnet reports be submitted with the Use of Force 002 report, and that prior uses of force and history for the officer(s) be included in the package. The Monitoring Team will be available to provide technical assistance reference these requirements should DPD require it.

***Next Steps:***

During the next reporting period, we will:

- Continue to monitor the numbers of use of force reports generated during the next quarter, and if discrepancies are found, discuss same with DPD.
- Continue to discuss with DPD the issue of documenting de-escalation of use of force situations in an effort to identify a sound methodology for measuring the effort. Emphasis by DPD on the proper documentation of efforts will not only facilitate the measuring of the Department's efforts, but continued emphasis should also result in officers employing more of the directed techniques – which may, in turn, result in more compliance by the citizens and less uses of force on their part.
- Meet with CRIB personnel to discuss enhancements to the reporting of acquiring target incidents.
- Discuss and verify with FI any remaining cases that constitute a backlog that needs addressed.
- Discuss with FI measures to ensure that investigators are requesting in-car video recordings in a timely fashion and properly evaluating their evidentiary value in FI cases.
- Monitor the use of force and PR-24 training to ensure 100% compliance for the training Fiscal Year.

Also, during our previous site visit, we requested the number of use of force case numbers issued for the second quarter of the year (April 1, through June 30, 2011), and were provided a MAS document listing 401 cases. During our most recent site visit, we were provided the third quarter MAS document, and it listed 362 cases. We will continue to monitor the numbers during subsequent visits.

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¶	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	Deferred
19	Strike to the head-deadly force	In Compliance	In Compliance
20	Bi-annual firearms qualification	In Compliance	In Compliance
21	Failure to qualify with firearms	In Compliance	In Compliance
22	Prohibit firing at vehicles	In Compliance	In Compliance
23	Selection of ammunition	In Compliance	In Compliance
24	Intermediate force device	In Compliance	In Compliance
25	Chemical spray policy	In Compliance	Not in Compliance
26	Spraying handcuffed subjects	In Compliance	In Compliance

#### **IV DOCUMENTATION, INVESTIGATION, AND REVIEW**

##### **A. General Investigations of Police Action**

###### ***CJ Requirement U27***

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

###### **Comments:**

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

To assess compliance with these requirements, we meet on a quarterly basis with Command, Internal Affairs, Force Investigations, OCI and other staff. We also reviewed relevant investigative and other reports, and the DPD 32<sup>nd</sup> Quarter Status Report, dated September 30, 2011, which sets forth some of the corrective measures initiated by DPD to achieve compliance with this paragraph.

*Command Level Investigations:* During the eighth reporting period, we reviewed 227 use of force reports resulting in 104 SIRs (Command Level Investigations), and found DPD to be in Phase 2 compliance with requirements.

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To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 204 use of force reports resulting in 95 SIRs.<sup>11</sup> There were no instances where a SIR was closed simply because a subject or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury. We also found sufficient justification for officers' conduct in 90 (96%) of the assessed investigations and SIRs.<sup>12</sup> We found no investigations that were closed prematurely. DPD is in Phase 2 compliance with the Command Level Investigations portion of this paragraph.

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

During this reporting period, we reviewed seven FI cases, and found them to be completed satisfactorily. DPD is in Phase 2 compliance with the FI cases portion of this paragraph.

*Office of the Chief Investigator:* During our previous reviews of completed cases, we noted that while the case files generally contained sufficient facts to support a determination that justified or did not justify an officer's actions, there were several inconsistencies between investigators, and some cases lacked the necessary information to reach a proper determination. Additionally, we noted cases that were improperly administratively closed, and cases that were significantly overdue, impacting DPD's ability to reach appropriate conclusions many months after the alleged occurrence.

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 300 cases that were closed in July, August, and September, 2011. (This represents a 5% decrease in closed cases over the previous quarter.) With the exception of five cases that appeared to have been closed prematurely, the investigations established sufficient facts to support a determination that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.<sup>13</sup> In one case, a complaint of force in the MGM Casino, eight potential witnesses were listed. There was no apparent attempt to contact them until nearly five months after the complaint was lodged. The case was closed nine days later, with an indication that the witnesses failed to cooperate. Additionally, while repeated requests for the casino video were documented, it was never obtained. Since nearly every action in a casino is captured on video, OCI should have been more diligent in trying to obtain it, particularly given that the allegation was of excessive force.

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<sup>11</sup> Many of the command-level investigations contained multiple use of force forms. Canine deployments with no contact, acquired target cases, and cases assumed by FI were removed from the numbers reported as SIRs.

<sup>12</sup> The base number for this computation was reduced from 95 to 94 SIRs because one of the investigations was of an attempted suicide, in which force was not used.

<sup>13</sup> If an allegation appropriately received a finding of unfounded or not sustained, justification for the conduct was not assessed since, by definition, its occurrence was either refuted or not substantiated.

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In another case – a complaint that officers improperly entered a house to serve an arrest warrant – two possible witnesses inside of the house were not interviewed. The investigator indicated that the complainant was not able to provide their contact info. We listened to the complainant's interview, however, and the contact information was never requested. In a similar case, an investigator asked if anyone else could have witnessed the incident; the complainant volunteered that her father did. Yet there was no mention of this potential witness in the investigative summary.

In another case, the complainant alleged that responding officers failed to check a house during a burglary call, allowing three suspects to escape after the officers left the scene. The investigation revealed that the officers were dispatched to check a suspicious vehicle, which they did. There was no reference to a possible burglary. While the officers' actions were appropriately justified, a potential miscue in Communications was not explored.

While complainants failed to cooperate in 32% of the cases, their lack of cooperation was not a factor in the closing of these cases.

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

*Internal Affairs Division Investigations:* To assess Phase 2 compliance with this paragraph, we interviewed IAD supervisors and selected staff, and reviewed the 71 cases that were closed by IAD in July, August, and September 2011. The significant increase in completed cases over the previous quarters represents a concerted effort by IAD to remove the backlog of overdue cases. We assessed the investigations for consistency with the procedures contained in applicable DPD directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation.

We found that all of the cases were sufficiently investigated – including those where the complainants and/or witnesses failed to respond to requests to be interviewed. In addition, all cases met the requirements – with the exception of timeliness – of this paragraph.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U28***

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

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

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**Comments:**

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

*Command Level Investigations:* During the last reporting period, our review of SIRs noted that the investigations were in compliance with the provisions that: (1) prohibit the conducting of investigations by supervisors who authorized, witnessed, or participated in the force that was used; (2) require that the cases contained the names of all of the officers involved or on the scene during the incident in the report; and (3) require the documentation of medical care for the subjects of the use of force.

We found that DPD was not in compliance with the requirements that investigators conduct a canvass to identify civilian witnesses or explain why a canvass was not conducted; conduct thorough and complete interviews of all witnesses; resolve material inconsistencies; and ordering photos of officer or subject injuries.

To assess compliance for this reporting period, we reviewed 95 SIRs and found the following:

- There were two instances (2%) in which the supervisor conducting the investigation authorized, witnessed, or participated in the incident. Ninety (95%) of the cases contained the names of all of the officers involved or on the scene during the incident in the report.
- In 93 (98%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted. This represents an increase from our previous finding of 92%. We recommend that DPD continue to emphasize the importance of conducting the canvasses and identifying civilian witnesses, as the information they provide can contribute to a more complete report and may help in resolving material inconsistencies.
- We have previously noted that the thoroughness and completeness of interviews of witnesses continues to be an issue for DPD. In our last report, we noted that thorough and complete interviews were conducted in 73 (70%) of the cases. This was a slight increase from the 68% reported in our seventh quarterly report. During this reporting period, we found that thorough and complete interviews were conducted in only 60 of the cases (63%). The thoroughness and completeness issues center on the failure of the supervisors to follow up on answers provided by witnesses and officers and the acceptance of very general statements from the officers. We have discussed with DPD the importance of providing training in the interview process for supervisors engaged in SIR investigations, and we continue to strongly urge DPD to provide that training as soon as possible. All officers present at a use of force incident and who may have witnessed the incident or who are involved in an incident should be interviewed. The Command review of the completed investigations has to critically review the interviews being conducted and when necessary they should be returning investigations for more detailed interviews.
- Forty-two of the cases we reviewed contained material inconsistencies; supervisors attempted to resolve the inconsistencies in 13 (31%) of these. We reiterate that it is incumbent on individuals involved in the command-level review to question material inconsistencies that are not addressed and resolved by the investigator, taking the appropriate corrective actions. First-line supervisors must conduct more critical reviews.

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- Thirty-eight cases might have included photos taken of officer or subject injuries. The reports noted that photos were ordered in 31 (82%) of the cases. This is a slight decrease from the 86% previously registered. Fifty-four cases included documentation of medical care in the file. Not all of the administered medical care was related to police actions. Eighteen of the cases involved care ranging from psychiatric evaluations to asthma to a need for medications. All subjects who should have received medical attention were provided it.
- We recommend that DPD conduct a critical review of its performance with this requirement. We previously suggested that the decline noted in this area might well be a bump in the road to compliance; however, if it is not addressed, it will continue to affect DPD's ability to achieve compliance.

The Command Level Investigations are not in Phase 2 compliance with these requirements.

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

To assess compliance for this reporting period, we reviewed seven force investigations.<sup>14</sup> The case files included complete documentation of the name and badge number of all officers involved in or on the scene of the various incidents, canvasses for civilian witnesses in all applicable cases, and any medical care that was provided.

The investigations also contained witness interviews, both written and recorded. However, in one investigation, the interviews were deficient and incomplete. The FI Commander conducted 17 different case reviews with the investigator, and the investigation took two years and eight months to complete. The investigator received counseling for this deficiency. In our last quarterly report, we identified one case where a subject officer was involved in an off-duty incident that resulted in a formal complaint by a citizen and was notified of the complaint by the officer's station co-workers before any investigative action was initiated by DPD Internal Controls. This breach of confidentiality is very troubling. Even more troubling, DPD has no formal policy in place to assure the confidentiality of citizen complaints. Within minutes of a citizen filing a complaint at a DPD station, its contents can be disseminated by uninvolved persons at the station and subject officers can be warned of the pending action. This breach of confidentiality can allow officers involved in misconduct to alter or destroy evidence, concoct stories, and in general interfere with the investigatory process.

We have previously recommended that the Department issue a policy that protects the confidentiality of all complaints, and metes out severe discipline for DPD officers or employees who are made aware of a complaint and "tip off" subject personnel. The failure to assure the confidentiality of all complaints weakens officer accountability, compromises the integrity of the investigation, and contributes to poor risk management. To date, DPD has not taken any action on this recommendation; and this issue remains an important concern of the Monitor.

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<sup>14</sup> These investigations included no critical firearm discharge events.

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Our review also identified one investigation that contained no photographs of the subject's injuries as required by DPD policy. Several days had passed before DPD was notified by another police agency of the complaint. FI responded, and the subject's injuries were still visible as documented in the report. DPD did not take its own photographs of the subject, and relied on photographs taken by the subject. We looked at the photographs, which are blurry and of poor quality; in our view, they have little or no evidentiary value. The provisions of this paragraph do not preclude DPD from photographing injuries of complainants, even if a few days have passed and the injuries are still visible. Sometimes, injuries are not visible on the date the incident occurred; it is critical that DPD be vigilant in this area and secure photographs of injuries alleged to have been made by DPD officers. The compliance rate for this section is 67%.

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

*Office of the Chief Investigator:* During this reporting period, we reviewed 100 randomly sampled OCI investigations. In 11 of these, involved officers were not identified by both name and badge number. In all but one case, diligent steps were taken to identify involved personnel. The remaining case involved a complaint that a dispatcher hung up on the complainant. The case was administratively closed after listening to the tapes, but the dispatcher, while apparently known, was not identified in the investigative summary. Canvasses were generally deficient, as outlined in CJ requirement U32. In three cases, potential witnesses were identified, but not interviewed. These are three of the cases listed in CJ Requirement U27.

In five force cases, the investigations did not include a reference to photographs as required. (In one of these, an officer also sustained a visible injury that was not photographed.) While photographs may not have been available in all of these cases, their existence should have been explored. In one of these cases, information regarding medical treatment was also omitted.

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

*Internal Affairs Division Investigations:* We reviewed all 71 IAD cases that were completed by IAD during this reporting period. The investigations consistently included the names and badge numbers of all officers involved in or on the scene during an incident. IAD expended particular efforts in identifying officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near the location. IAD now has the capacity to access recordings from in-car video storage from the Division's desktop computers. If any related evidence has been recorded, it can be requested from the Technical Services Unit within a 90-day period. We also found in the cases we reviewed that witnesses were interviewed or gave written statements, and that the investigators made an effort to resolve inconsistencies between witness statements.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U29***

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

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

**Comments:**

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

*Command Level Investigations:* During the last reporting period, we found that in 90 (87%) of the 104 cases we reviewed, timely statements were taken from officers who were involved or who witnessed the incident. We also found that the interviews of complainants and witnesses were conducted at sites and times convenient for them in 103 (99%) of the 104 cases we reviewed, a percentage consistent with that registered during the seventh quarter.

During this reporting period, we determined that in 85 (89%) of the 95 cases we reviewed, timely statements were taken from officers who were involved in or who witnessed the incident. This percentage is a slight improvement over the 87% noted in our last report. Delays in interviews ranged from 17 to 36 days. The interviews of complainants and witnesses were conducted at sites and times convenient for them in 94 (99%) of the 95 cases we reviewed, consistent with the percentage registered during the previous reporting period.

In our last quarterly report, we noted that the Command Level Investigations would remain in Phase 2 compliance pending our review for this quarterly report; we emphasized that for DPD to maintain this status, the Department had to return to a >94% level in the taking of timely statements. The taking of timely statements from officers did not return to the >94% level during this reporting period; consequently, DPD is returned to Phase 2 non-compliance for the Command Level Investigations section.

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

To assess compliance with these requirements for this reporting period, we reviewed seven closed FI cases, and continued to find much the same as described above. Statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of



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non-police witnesses were generally taken in a timely manner, usually within minutes or hours of the event; however, in two cases, statements that were taken from involved and witness officers under the provisions of Garrity were unnecessarily delayed.

Delays with the Garrity interviews of the involved officers in these cases increased and ranged from 162 to 334 days from the date of the incident. In the last reporting period, we found that the Garrity interview delays of involved officers fell between 123 and 275 days from the date of the incident. Garrity interviews of witness officers ranged from 138 to 334 days from the date of the event. This is a significant increase from the last reporting period, when the Garrity interview delays of witness officers fell between 33 to 65 days from the date of the event. We have discussed with FI our concern regarding interview delays for a host of reasons – not the least of which is credibility. As we have previously noted, officers' recollections of the facts, weeks and months after an event, particularly one involving the use of deadly force, are externally and perhaps significantly affected by news accounts and their interactions with friends, family, and colleagues, and thus, often altered. The practice of delaying interviews, for whatever reason, mitigates the accuracy and credibility of the information provided by officers.

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

During this reporting period, we reviewed 100 randomly sampled investigations. Timely interviews of involved parties, particularly officers, continue to be an issue. In 28 of the cases we reviewed, employee interviews were untimely. In several cases, investigators cited difficulty in scheduling employee interviews as a reason for requesting an extension. However, a review of the Significant Event Logs often revealed that attempts to schedule interviews were not made until well into the 90-day timeframe allowed for investigations (and sometimes after the 90-day mark had passed).

Complainants were identified as uncooperative in 32 of the investigations we reviewed, down 25% from the last review period. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. Timeliness issues notwithstanding, when interviews were conducted, they were administered and recorded in accordance with requirements. We found one instance of a complainant refusing to allow her statement to be recorded. The complainant was, in fact, withdrawing her complaint, and ironically, the withdrawal was recorded.

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

*Internal Affairs Division Investigations:* During earlier reporting periods, we found that the DPD directive requiring timely statements from officers was inconsistently applied. Interviews of involved witness officers were often delayed with little justification other than unavailability. There were exceptions involving pending criminal proceedings against officers in some cases. However, it was apparent from the investigators' Case Supervision Sheets that efforts to set and keep appointments were disregarded by some of the officers. In many cases, officers were scheduled for furloughs after appointments had been made. Adherence to scheduled appointments improved during the previous two reporting periods; however, continued delayed

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interviews of officers continued to affect the quality of the interviews, and subsequently, the quality of the cases. Additionally, these delays affect compliance in U36b, which requires that IAD investigations be completed within 90 days of an incident. Timely statements were taken in all 71 cases we reviewed during this reporting period. Unfortunately, some cases sat dormant after the statements were taken and were not completed within the required 90-day timeframe.

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

In all of the investigations, complainants and witnesses were interviewed at times and sites convenient for them.

DPD and the City are not in Phase 2 compliance with this portion of this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U30***

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

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

**Comments:**

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

*Command-Level Investigations:* During the last reporting period, we found 90 cases in which the question-and-answer format was used to document officer interviews in the SIR; in seven (8%) of these, investigators had asked improper leading questions.<sup>15</sup>

During this reporting period, we found 82 cases (98%) in which the question-and-answer format was used to document officer interviews in the SIR.<sup>16</sup> In two (2%) of these cases, we found that the investigator had asked improper leading questions. This is a significant improvement over the past quarter. There were no interviews via written questions contrary to appropriate law enforcement techniques.

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

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

<sup>15</sup> Fourteen of the cases did not utilize a question and answer format, reducing the base to 90 cases.

<sup>16</sup> Thirteen of the cases did not utilize a question and answer format, reducing the base to 82 cases.

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noted that investigators asked leading questions in 80% of the interviews. Previously, we noted that the interviews varied in thoroughness and were generally brief.

To assess compliance for this reporting period, we listened to five randomly selected recorded statements taken from police officers. We found that one interview involved the occasional use of leading questions, which is an improvement from the whole interview being based on leading questions. However, we continue to be concerned with the prevalent prefacing of questions with the phrase “Do you remember,” or “If you remember,” or “Do you have any remembrance of,” or “Do you recall.” Such phrasing prompts answers of “No,” or “I do not remember,” or “I do not recall.” We recognize that it can be difficult for interviewing investigators to refrain from asking questions that suggest answers, and we recognize the efforts of DPD to address this issue through supervision and training. However, we urge that DPD continue these efforts, and include a careful review and critique of all interviews in order to improve performance in this important area.

We also found that investigators continue to refrain from confronting officers with conflicting information that they provide during an investigation. Routinely, investigators fail to ask appropriate follow-up questions. The interviews revolve around *reporting* – not *investigating*. We are also concerned with investigators’ lack of preparation to conduct Garrity interviews. Investigators need to prepare for interviews by reviewing all evidence, documentation, and interviews already completed before conducting detailed and thorough Garrity interviews. Despite these concerns with interviewing skills, DPD and the City are in compliance with the FI portion of this requirement.

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

*Office of the Chief Investigator:* OCI supplied digitally recorded interviews for both sworn and civilian interviewees for a randomly selected subset of our review sample. During this reporting period, we listened to 107 interviews (75 employees, 32 citizens) associated with 28 cases. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions. As noted in the FI cases, some OCI investigators still overuse the introduction, “Do you recall,” rather than simply directly asking a question. This allows the interviewee – usually an officer – to answer on his/her recollection, rather than on what actually occurred. While the results of the interview may not change, OCI investigators must eliminate this poor interviewing technique.

During this reporting period, we noted two cases in which leading questions were used. One involved a complaint of excessive force and improper demeanor during a field stop. The other alleged rudeness during a traffic stop. Some investigators will also begin the interview by reading the complaint form (often poorly, depending on how they are written) to complainants and witnesses. This practice may insure that complainants’ concerns are accurately captured, but may also serve to suggest answers. We continue to recommend that, if done, this be reserved for the end of the interview. Written questions were included in four cases, although it is probable that they are used to structure interviews in many more cases. In each case, the questions we reviewed were appropriate and not contrary to accepted law enforcement practices.

We note a wide disparity in the interviewing skills of OCI’s investigators, and we have suggested that supervising investigators either sit in on the interviews conducted by their investigators or listen to the recordings, in order to identify training needs and provide appropriate,

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individualized corrective measures. OCI has been advised that we will assess the degree to which this suggestion has been implemented during our next scheduled site visit.

Despite these concerns with interviewing skills, DPD and the City are in compliance with the OCI portion of this requirement.

*Internal Affairs Division Investigations:* In all of the previous reporting periods since the first reporting period, we found no evidence of the use of leading questions during IAD interviews. During this reporting period, we reviewed all 71 investigations that were completed by IAD, and again, did not find any indication that investigators conducted interviews via the use of leading questions. In all cases, we looked for evidence in the case summary that the investigators had asked particular questions to clarify complainants' and witnesses statements, and or physical evidence. We reviewed the digital recordings of interviews conducted for five investigations (five investigators, 32 sworn and civilian interviewees.)

We found in one investigation that the investigator appeared to not be prepared. The investigator asked leading questions, and did not elicit pertinent information to complete the investigation. The complaining party was interviewed again months later by a new team. The remaining interviews were thorough, although the investigators frequently employed phrases that allowed the subjects to provide narrow answers instead of what may have actually occurred (e.g., "Did you do this?" instead of "What did you do?"). These are the same types of issues that we noted in FI and OCI interviews. We noted that three of the investigators challenged the officer safety tactics and credibility in two of the investigations. The IAD administration is in transition with the retirements and promotions of several investigators. We continue to recommend that IAD provide appropriate training to current and incoming staff.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U31***

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

**Comments:**

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

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. In addition, it requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview.

The protocol also requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview.

Our reviews of SIR, IAD, and OCI investigations found supervisors and investigators consistently and meticulously compliant with applicable Garrity requirements. In all of the cases involving officer interviews, proper protocols pursuant to Garrity were followed. Each case

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contained documentation that officers were advised of their rights, and all of the officer interviews we listened to begin with an on-the-record acknowledgement of Garrity rights.

DPD is in Phase 2 compliance with this paragraph.

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

**Comments:**

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

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

*Command Level Investigations:* During the previous reporting period, we examined 104 SIRs and found that 81 (78%) contained a precise description of the facts and circumstances of the incidents, as required by U32a, to include a detailed account of the actions of the subject(s), complainant(s), and officer(s). In 99 (95%) of 104 cases, investigators evaluated the initial stop

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In 66 (69%) of the cases, all relevant evidence – including circumstantial, direct, and physical evidence – was reviewed.<sup>17</sup> None of the 104 cases we reviewed in the last quarter 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. Ninety-seven (93%) of the investigations contained evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations, a decrease from the 95% registered during the last reporting period. There was no evidence of any discounting of a witnesses statement merely because the witness had some connection to the subject or complainants. Eighty-seven (84%) investigations contained evidence of an evaluation of whether or not an officer(s) complied with DPD policy. As we found in previous reports, the investigators commented on the relationship of the use of force as it was applied in the case they reviewed. We do not believe that compliance with DPD policy is limited to compliance with DPD use of force policy. We continue to assert that in this context, the Consent Judgment requires compliance with all applicable DPD policy.

There were 93 (95%) instances in which an investigating supervisor made an effort to evaluate an officer's tactics. There were two allegations of misconduct uncovered in the investigations we reviewed. Of the 104 cases we reviewed, 101 (97%) reflected a reliance on the preponderance of evidence standard to reach a determination. In 30 of the 46 cases that required extensions, we found written documentation of the basis for extending the deadline of a report, to include notations regarding corrections to reports, problems with inputting information into MAS, and witnesses being on furlough. There was one case where the extension was a result of an investigator's vacation, furlough, or problems with workloads. We found non-disciplinary/disciplinary corrective actions documented in 27 of the investigations we reviewed that required corrective actions.

During this reporting period, we examined 95 SIRs and determined that 69 (73%) contained a precise description of the facts and circumstances of the incident, a reduction from the 78% registered during the last reporting period. Some of the issues affecting the Department's ability to achieve compliance in this area include the "one-question interviews"<sup>18</sup> being utilized by some of the supervisors, interviews that lack or are missing certain details, all of the potential witnesses not being interviewed, the actions of all officers present not explained, and conflicts between documents in the file.<sup>19</sup> In 91 (95%) of 94 cases, supervisors evaluated the initial stop or seizure.<sup>20</sup>

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<sup>17</sup> The base number was reduced from 104 to 95 for this requirement, as 12 of the scout cars had no video installed, which precluded their video or audio recording of the incident.

<sup>18</sup> A "one question interview" is one in which the investigator may ask, "what happened?" and following the officers statements there are no follow-up questions regarding any answers provided which may require follow-up.

<sup>19</sup> This is not an all-inclusive list.

<sup>20</sup> One case was an attempted suicide, so only 94 cases are applicable for this review.

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During this reporting period, we determined that 53 (73%) of the 73 cases contained all of the relevant evidence, including circumstantial, direct, and physical evidence.<sup>21</sup> In our evaluations of the review of physical evidence by the investigators, the Monitoring Team is placing greater emphasis on the review of video/audio evidence from the mobile video system because we continue to find that in far too many investigations, the supervisors are unable to download video evidence for review and/or the body microphones which the officers are supposed to have turned on during all contacts are either not turned on or not functioning. Requests are made to the Technical Support Unit for recordings of the stops; however, the recordings seldom arrive prior to the completion of the investigation. The review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations and consequently we continue to recommend, in the strongest of terms, that DPD initiate all of the corrective actions necessary to ensure that encounters are captured in both video and audio recordings. We recommend that DPD develop a process that directs that in investigations in which recordings have to be requested from Technical Support are requested and received *prior* to the submission of the preliminary report. The failure to have these reviews conducted prior to the submission of the final report is an unacceptable practice requiring immediate remediation.

With respect to the microphones, we are advised by DPD that new microphones have been ordered and that officers will be issued their personal chargers, which should alleviate some of the difficulties currently being documented. We urge DPD to implement a system that allows the Department to determine that the microphone has a full charge at the start of every shift. We continue to place emphasis on the microphones, as there are frequently issues with line of sight for video recordings, although audio recordings are not affected by line of sight issues. As in our previous report, none of the 95 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.

Eighty-eight (93%) of the investigations contained evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations. As in our previous quarterly report, there was no evidence of any discounting of a witnesses statement merely because the witness had some connection to the subject or complainants.

During this reporting period, we determined that 71 (75%) of the investigations contained an evaluation of whether or not an officer complied with DPD policy. Supervisors continue to comment on use of force in this area, even though there is a specific requirement dealing with the evaluation of force. We again assert that in this context, the Consent Judgment requires DPD members be evaluated with respect to their compliance with *all* DPD policy – not simply force. While some of the supervisors are documenting DPD policy violations other than force, many still do not. The primary issues impacting on compliance with this requirement include the failure to document officers not recording the shift (no audio recordings of citizen contacts), officers failing to make force notifications from the scene, officers not utilizing the zone

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<sup>21</sup> The base number was reduced from 95 to 73 as 22 of the SIRs reflected that the units were not equipped, as the officers were on foot beats.

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dispatcher to notify of the use of force, and officers not completing their 002 forms in a timely fashion or supervisors not approving them on a timely basis. This requirement presents an opportunity for supervisors to evaluate the performance of their subordinates in the field as it relates to their compliance with DPD policy; and in instances where there may be some deviation, to use the situation to re-instruct their subordinates on the prescribed method for performing the task at hand.

During this reporting period, we found the use of force evaluated in 90 (98%) of the 92 cases reviewed.<sup>22</sup> Officers' tactics were evaluated in 87 (92%) of the 94 cases.<sup>23</sup> There were no allegations of misconduct uncovered in this reporting period. Ninety-one (96%) of the 95 cases were evaluated on a preponderance of the evidence standard.

During this reporting period, we also found that 45 (92%) of the 49 cases requiring extensions of deadlines documented the need for the extension – either by a formal extension request or by notations in the file reflecting submission dates, return for corrections dates, and final submission dates. We urge DPD to provide guidance to the various commands regarding the importance of properly documenting the extensions and the need for same. There were three cases where an extension was the result of an investigator's vacation, furlough, or problems with workloads. Corrective actions were documented in 35 of the investigations we reviewed. Inclusive in the corrective actions were Misconduct Investigations, Negative Administrative Counseling Registers, re-instructs, re-training, and verbal counseling. Upon one commander's return from furlough, she conducted reviews of reports that had already been completed, and recommended corrective actions for several of them.

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

*Force Investigations:* Our review of completed FI cases for previous reporting periods found them to be in overall compliance, but noted cases wherein there was no evaluation of the initial stop and/or seizure; no reference to the presence or absence of circumstantial evidence; and a lack of reference to the conducting of credibility determinations. To assess compliance for this reporting period, we examined seven completed case files and noted the continued inclusion of a detailed account of the facts of the event.<sup>24</sup> Investigators evaluated the initial stop/contact in each case and evaluated direct and physical evidence, and generally did better evaluating the presence or absence of any circumstantial evidence in a small number of cases but need to do much better. There were no instances where a subject's court-related appearances had any effect on the outcome of investigations. The files documented some reasonable credibility determinations, but demonstrated the need for FI to provide additional training on this issue.

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

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<sup>22</sup> Three of the cases were detainee injuries in which force was not used.

<sup>23</sup> One case was an attempted suicide.

<sup>24</sup> These investigations included no critical firearm discharge events.



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We note that requested extensions of deadlines for reports were documented; and when they were approved, there was a new deadline, usually within 15-30 days, specified. This is a positive development; however, the practice of granting multiple extensions remains problematic and tends to circumvent the intent of this requirement. Four of the investigations we reviewed were untimely. No extensions were requested for three of the four investigations that were late. In the remaining investigation, multiple extensions were authorized, totaling three separate requests; despite their approval, the completed work product was late.

We were also concerned with the confusion associated with the reason for the numerous extension requests. In most instances, the requests referred to the pending criminal investigations, but the lines between the criminal investigation and the administrative investigation of this case were blurred. The reports were unclear on when the actual criminal investigation was ongoing and when it was completed. While conducting concurrent criminal and administrative investigations is a recognized professional practice, it is of the utmost importance that any intermixing of investigative initiatives comports with applicable guidelines.

We recognize the challenges inherent with effective case management, and recognize the continued efforts of DPD, particularly IAD and FI staff, to address them. Regardless, it is difficult to justify the approval of deadline extensions to conduct interviews, obtain an officer's discipline history, obtain videotapes relating to an event, or locate complainants or subjects weeks or months after an incident.

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

During the current reporting period, we reviewed 100 randomly selected cases. Two of the complaints were lodged in 2010, with the remainder being received in this calendar year. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. However, we noted two cases in which additional allegations were raised during interviews, and not documented or addressed. In one, a citizen complained that officers used vulgarity during a warrant arrest. In the other, a complainant alleged that an officer improperly threatened to revoke his concealed carry permit.

In three cases, relevant evidence was not considered. One was the casino case referenced above, which was closed prior to obtaining video recordings from the casino. In another, one of the interviewed officers indicated that he had a cordial conversation with the complainant at the hood of his car, "in front of the video." Not only did the investigator apparently disregard this statement, but she indicated that no video was available. There was no documentation that she verified its existence. The third case, also described above, involved the failure to investigate a burglary. While the officers' actions were appropriate, OCI did not address the possibility that the call was improperly classified in Communications.

We note that investigators generally explore the availability of video evidence in cases where it is appropriate. In 68% of the applicable cases during this review, video evidence was not available. This is concerning, given the large monetary and resource investment that DPD has

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made in this technology. We continue to recommend that investigators inquire about video as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of the video before it can be acquired.

We found no evidence where a complainant's conviction or guilty plea had a bearing on the investigation. However, credibility assessments were lacking for both officers and complainants/witnesses.

In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.<sup>25</sup> In one case, misconduct was discovered during the course of the investigation and ultimately sustained. An officer failed to show for his scheduled interview without explanation.

In seven cases, potential misconduct was not discovered. One involved the alleged failure to investigate a rape. During his interview, a lieutenant pointed out inconsistencies between the subject officers' log sheet and CAD data, and also that they failed to take a report. These allegations were not investigated, and were only learned of by listening to interviews. In two other cases, officers apparently failed to document uses of force. In one, the use of force is exonerated, yet the fact that officers failed to complete appropriate use of force reports went unaddressed. In another – a complaint of rudeness – an officer denied making certain statements that were caught on tape. While the demeanor complaint was sustained, the officer's apparent lack of truthfulness was not addressed. In yet another case, an investigator learned that officers failed to complete Daily Activity Logs.

In seven cases, the preponderance of evidence standard was not used. This is based on our determination that not all potential evidence was considered, or different findings were warranted based on the documentation provided for our review. For example, allegations that were unfounded or exonerated by investigators would more appropriately be classified as not sustained based on the information in the case file.

Sixty-six of the cases we reviewed were not completed within the prescribed 90-day time period. Given that the timeliness of investigations has been the focus of the Court and the Monitoring Team, this was disappointing, and represents a 17% increase in overdue cases when compared to the last review period. Written requests for extension were submitted in 30 of these cases, frequently after the investigations were already overdue. One request mentioned workload as a reason for the extension in contradiction of policy and this paragraph. As a rule, the extension requests do not adequately identify why the extensions are required, nor do they explain long periods of investigative inactivity leading up to the requests. In at least three cases, the reason given for the extension did not match the facts of the case. One cited the need to interview witnesses, even though none were identified or mentioned elsewhere in the case. Extension requests appear to be approved *pro forma*, with little or no verification of their content.

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

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<sup>25</sup> If an allegation appropriately received a finding of unfounded or not sustained, evaluation of policy compliance was not assessed since, by definition, its occurrence was either refuted or not substantiated.

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We reviewed several cases in which the canvasses were either deficient or performed so long after the alleged occurrence as to have no investigative value. During our May site visit, the Chief Investigator indicated that she instituted a policy that certain investigative steps such as complainant contact and canvassing be conducted within the first two weeks of an investigation being assigned. We do not, as of yet, see evidence that these changes have been instituted.

In summary, although appropriate directives are in place, our analysis of OCI investigations does not support a Phase 2 compliance finding with this paragraph.

*Internal Affairs Division Investigations:* Our review during this reporting period found that the IAD investigative packages continue to be well organized, and elements of the investigation are easy to locate. We found that the IAD investigations were conducted in a professional manner. IAD command staff continue to accept constructive criticism after the Monitoring Team discusses concerns with them. The supervisor meets with the investigators every two weeks to discuss the case progress and grant extensions when necessary. During this review of 71 completed investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence. Appropriate credibility determinations were made in the cases, and a tactical analysis was provided by the investigator in one case. Case Trax, IAD's case management system, where investigative activity is logged, is also used by the supervisor who inserts directions and explanations for extension requests.

In summary, although appropriate directives are in place, our analysis of command-level investigations, and those of FI, IAD, and OCI, do not support a Phase 2 compliance finding with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U33***

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

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

**Comments:**

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

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

*Command Level Investigations:* During the previous reporting period, we found that in 101 (97%) of the 104 investigations there was a chain of command review above the investigator. Deficiencies were identified in 29 of the cases, with 16 (55%) requiring corrections within seven days of submission. In six of the cases, recommendations were made that training, policy, or procedural issues be referred to the appropriate DPD unit. The final reviewing authority referred issues to the appropriate DPD unit in four instances. We also found five instances of corrective action being taken for investigations that were not conducted properly, to include re-instruction and training and the issuance of corrective memos and references to the SIR preparation guide. Our assessment for this current reporting period finds that in 93 (98%) of the 95 investigations there was a chain of command review above the investigator. Deficiencies were identified in 29 of the cases, with 15 (52%) requiring corrections within seven days of submission. In three of the cases, recommendations were made that training, policy, or procedural issues be referred to the appropriate DPD unit to deal with handcuffing techniques, and remediation for both the supervisor and the officers on use of force reporting. The final reviewing authority referred issues to the appropriate DPD unit in four instances. We found three instances of corrective action being taken for investigations that were not conducted properly, to include re-instruction training and the issuance of corrective memos. There were four instances where appropriate actions were taken for investigations not evaluated appropriately by the reviewing supervisor, to include re-instructions, Negative Administrative Counseling Registers, Inspection and Report, and retraining. As we have previously mentioned, the review of SIRs by the Command level remains the most critical step in the conduct of these investigations. It is incumbent on that level to correct deficiencies in the investigations and to ensure that the appropriate units are consulted if any procedural or tactical issues are identified.

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

To assess compliance for this reporting period, we reviewed seven completed FI cases. Although we are sufficiently satisfied, based on our discussions with FI staff, that supervisory reviews and evaluations are occurring, we were unable to find supporting documentation of such. We recommend that these reviews be more thoroughly documented. Three of the four cases included documentation confirming that investigators corrected deficiencies within the required seven-day period. The remaining three cases were not applicable to this Consent Judgment paragraph. DPD is not in Phase 2 compliance with this portion of this paragraph.

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

For the current reporting period, we reviewed a random sample of 100 closed investigations. During this reporting period, 43 cases were returned for deficiencies. As in past reviews, there is

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little evidence that a failure to adhere to investigative timelines is addressed as an investigative deficiency, for either the investigators or their supervisors. However, in early August, four OCI investigators were terminated based on the quality and timeliness of their investigations. 177 cases assigned to these investigators had to be reassigned. At least 20 of these cases were part of our review sample. Most of these cases had serious deficiencies, such as large gaps of inactivity, prior to their transfer.

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

*Internal Affairs Division:* During this reporting period, the supervisor attempted to clear the backlog of overdue cases; this resulted in 71 cases being completed for the quarter. During our review, we found that Corrective Action Notices had been issued to investigators for failing to manage their cases in a timely manner. During our site visit, we found that four of the 57 open cases were, inexcusably, over 90 days old.

DPD is not in compliance with the IAD portion of this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

**B. Use of Force and Prisoner Injury Investigations**

***CJ Requirement U34***

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

**Comments:**

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

In the previous reporting period, we reviewed 227 auditable forms (UF002), and found that 175 of the forms (77%) were prepared correctly, and documented the prisoner injuries, uses of force, and allegations of uses of force. The forms include seven cases that were referred to FI/IAD.

During this reporting period, we reviewed 204 auditable forms (UF002) and found that 146 of the forms (72%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include seven cases that were referred to FI/IAD. The issues that continue to affect compliance with this requirement are, in the main, a failure to prepare or review the forms in a timely fashion.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

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***CJ Requirement U35***

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

- a. officers to notify their supervisors following any use of force or prisoner injury;*
- b. that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the supervisor shall interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;*
- c. the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury; and*
- d. IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation<sup>26</sup>*

**Comments:**

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

*Command Level Investigations:* During the previous reporting period, we reviewed 104 cases and found that in 98 (94%) cases, a supervisor was notified following a use of force or a prisoner injury. There were 19 cases in which the use of force involved a firearms discharge, a visible injury or a complaint of injury and a supervisor responded to all 19. Supervisors responded to other uses of force on a priority basis in 73 (86%) of the remaining 85 cases.<sup>27</sup> Ninety (87%) of the cases reflect supervisory efforts to interview the subject, at the scene or at the district. In 97 (93%) of the cases, the supervisor examined the subject on the scene or at the district/precinct for injuries, and ensured that the subjects received the needed medical attention. IAD was notified in seven cases, and assumed responsibility for those cases.

During this reporting period, we reviewed 95 cases and found that in 89 (94%) cases, a supervisor was notified following a use of force or a prisoner injury. There were seven cases in which the use of force involved a firearms discharge, a visible injury or a complaint of injury and a supervisor responded to six of them. Supervisors responded to other uses of force on a priority basis in 81 (86%) of the remaining 88 cases. In combination, a supervisor responded to 87 (91%) of the 95 cases reviewed, a slight improvement over the 89% registered in our last report. The main reason for not responding is a failure on the part of officers to make the appropriate notification; however, in one instance, the first endorser stated in the review that absent an injury, a supervisor does not have to respond to a use of force. That position is not supported in the DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010;

<sup>26</sup> Consent Judgment amendment, September 15, 2008.

<sup>27</sup> In combination, the supervisors' response to all uses of force in 92 of the 104 cases, a combined 89%.

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and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. The failure to respond often affects the ability to interview subjects and witnesses who may not be located at a later time.

Eighty-five (89%) of the cases reflect supervisory efforts to interview the subject, at the scene or at the district. In 80 (84%) of the cases, the supervisor examined the subject on the scene or at the district/precinct for injuries, and ensured that the subjects received the needed medical attention, a reduction from the 92% that we found last quarter. IAD was notified in six cases, and assumed responsibility for those cases. Closer attention to details could move the Command Level Investigations portion of this requirement into compliance.

*Force Investigations:* Our review of seven FI cases relevant to this requirement shows that, taken together, the majority of these reports did not meet these requirements. Though DPD is still not in compliance with these requirements, it is making progress in some of the areas, with some of the components of this requirement exceeding the 90% level.

**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:**

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

*Command Level Investigations:* To assess compliance for this report, we reviewed the 95 completed Command Level Investigations, and found that 57 (60%) of the preliminary investigations were completed within 10 days of the event. This is a significant increase from the 20% registered in our last report, but still well short of the >94% required for compliance. All 95 of the investigations contained the required synopsis of the event. There were no photographs of injuries in the files.

In 90 (95%) of the cases, the canvass and witness information was included in the file, an increase of the 93% reported in our last report. Officers' prior uses of force and allegations of misconduct were included in 92 of the cases (97%). All of the cases reflected first-line supervisor evaluations, an increase over the 99% registered in our last report. The final command use of force investigations were completed within 30 days in 79 (83%) of the cases, an improvement from the 77% we found in our last report. Copies of completed Command Level

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Investigations were transmitted to IAD within seven days of completion of the investigations in 75 (79%) of the 95 cases, a reduction from the 93% registered last quarter.

In spite of the improvement noted in the timely submission of the final report, we continue to recommend that DPD develop a more sophisticated system of tracking these cases. We recognize that some cases may be quite complex, but we find it difficult to understand why cases such as detainee injury cases don't meet the time requirements. DPD has not achieved Phase 2 compliance with this paragraph for the Command Level Investigations.

*Force Investigations:* We previously reviewed completed FI cases for compliance with these requirements. The investigations included synopses of the events and witness statements, and demonstrated in each successive report, a marked improvement in thoroughness and documentation of canvasses for civilian witnesses; although we noted that the investigations lacked 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.

To assess compliance for this reporting period, we reviewed seven completed FI cases.<sup>28</sup> Each included officers' prior histories/profiles and a synopsis of the event and applicable witness statements; however, one file contained no photographs of subject injuries taken by DPD as required. The photographs included with the investigation were taken by the subject and were of poor quality and of little evidentiary value. Four of the seven cases we reviewed were untimely. Notably, of the seven cases, one case was from 2009. The remaining cases were from 2010 and 2011.

We continue to recommend that DPD closely evaluate case management and related issues, including staffing, to identify the means to more expeditiously complete these investigations. DPD is not in Phase 2 compliance with this portion of this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U37***

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

**Comments:**

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

Previously, we found that the JIST did not appropriately respond to critical firearm discharge events; accordingly, we found DPD not in Phase 2 compliance with this requirement. There were no critical firearm discharge investigations completed during this reporting period; therefore, we have no basis upon which to change our previous finding. However, DPD should

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<sup>28</sup> These investigations included no critical firearm discharges.



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ensure that the appropriate JIST notifications and responses are made and included in future investigative reports.

DPD is not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not 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.*

**Comments:**

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

There were no critical firearm discharge investigations completed and submitted for review during this reporting period. Accordingly, we have no basis to change our previous finding. DPD is not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U39***

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

**Comments:**

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

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

During this reporting period, the CLFRT did not convene because there were no critical firearm discharge investigations completed for review.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

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

Our previous review of the CLFRT process found that the DPD did not include interviews of principal investigators as part of the CLFRT process; however, the DPD has addressed this concern.

There were no critical firearm discharge investigations completed and submitted for review during this reporting period. Accordingly, we have no basis upon which to change our previous finding.

**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:**

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

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The CLFRT Chair previously prepared an annual report and critique of critical firearm discharges and in-custody deaths and was found in compliance with this paragraph. These reports are due by May of the year following the year under review.<sup>29</sup>

We received the CLFRT annual report during the previous reporting period, as required. The report, prepared by Force Investigations, included a description of investigative processes; case summaries; and various analyses of fatal and non-fatal firearm discharges, in-custody deaths, and pursuits. As we noted, the report indicated a downward trend in critical firearm discharges during the latest five-year period. After peaking at 59 in 2006, DPD recorded 33 critical firearm discharges in 2010. There were seven fatal shootings in 2010, after peaking at nine in 2006. The most common encounter involved armed subjects; however, two subjects were unarmed.

Although the report was comprehensive, it did not include an analysis of the data to detect additional patterns or problems, or the absence thereof. Nevertheless, we found DPD in continued Phase 2 compliance with this paragraph, pending receipt of a supplemental report containing the above-described analysis.

We received the supplemental report during this reporting period. The report addressed the DPD's efforts to ensure that officers are carrying approved ammunition, and that 90 firearm inspections at the precincts are being conducted by Ordinance Control Officers, as required. The Department has authorized certain types of hollow point ammunition for use by its members. These two actions should reduce or eliminate officers carrying unauthorized ammunition. In addition, the report addressed the issue of unintentional/accidental discharges by officers. There were four total listed in the report – two of which occurred off-duty. The accidental discharge information has been communicated to the CLFRT for further evaluation. In the interim, all officers involved in the accidental discharges were found negligent and have been formally disciplined and directed to Firearms Training for additional instruction on proper weapon handling and firearm safety.

The Department is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

- The failure to conduct quality investigations within prescribed timelines remains a critical issue. We have noted some improvement in the submission of both the preliminary and final reports, but we believe that a more sophisticated management program would prove beneficial. We again emphasize the need to provide formal documentation of reasons for delays in the completion of investigations. Many cases indicate that they are returned for corrections, but do not explain what is needed to be corrected, nor what new time limits have been established for re-submission.

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<sup>29</sup> On January 28, 2009, the Court amended this paragraph to require the DPD to 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.

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- A vital component of the Command Level investigative process is the critical review of the work product by supervisory personnel, beginning with the first-line supervisors. Attention needs to be given to the quality of interviews; many are one-question interviews, with no follow-up questions; other lack details regarding the incident and how the officers present responded to the incident. Video and audio recordings must be reviewed as part of the investigative process. Supervisors need to ensure that activity logs are properly completed with respect to the video and audio capabilities; and when equipment is inoperative, the proper documentation should be prepared and commented on in the investigation.
- The DPD does not have a formalized practice of forwarding complex investigations to the Training Division and/or the Policy Section for review to ensure that both units are aware of the situations officers are confronting in the streets. The review of these cases by those specialized units could result in enhanced training curricula or improved DPD policies.
- Our reviews of auditable forms found that, in some instances, officers erroneously believe there is no need to notify supervisors of a use of force absent excessive force or injury. The DPD must clarify for both officers and supervisors the requirement to notify supervisors when force is used, as well as the requirement that supervisors must respond when notified, absent a more pressing priority.

***Next Steps:***

During the next reporting period, we will:

- Continue to assess compliance, paying particular attention to meeting the specific detailed elements prescribed in these requirements. Of particular concern to us are the thoroughness and completeness of investigations, their review by supervisors, and compliance with the timelines.
- Discuss with DPD in-car video and audio evidence, use of force de-escalation, and appropriate due diligence in contacting complainants and witnesses in force investigations.
- Review the impact of the Chief Investigator's systemic and structural changes within OCI.
- Continue to review progress on OCI and FI's case management systems and the results of current field-testing. Conduct a random audit of FI's open or pending investigations.
- Discuss specific OCI cases from this reporting period with the Chief Investigator and OCI supervising investigators.
- Discuss with IAD managers case management methods, adherence to IAD Standard Operating Procedures, and investigative interviewing techniques.
- Discuss specific FI cases from this reporting period with the FI Commander and randomly selected investigators.

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<b>¶</b>	<b>Requirements</b>	<b>Phase 1 – Policy</b>	<b>Phase 2 – Implementation</b>
27	Revise investigative policies	In Compliance	In Compliance
28	Investigation by uninvolved supervisor	In Compliance	Not in Compliance
29	Procedures for investigative interviews	In Compliance	Not in Compliance
30	Leading questions prohibited, etc.	In Compliance	In Compliance
31	Garrity Protocol required	In Compliance	In Compliance
32	Revise investigatory report policies	In Compliance	Not in Compliance
33	Chain of command reviews	In Compliance	Not in Compliance
34	Auditable form required	In Compliance	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	Not 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 and supported this effort by frequent roll call training and two Administrative Messages issued in January and April 2011. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy establishes that a material witness can only be taken into custody by obtaining a Court order prior to such taking.

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

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DPD has made significant progress in documenting Investigatory Stops, Detainee Registration and following their internal Witness Identification policies during the previous two reporting periods. The Department's ability to document and timely prepare warrant submittals to the prosecutor had been problematic, in that the failure to do so caused other violations of policy. (See U50, U51, and U53.) We have found that in a few instances, the failure to prepare the required auditable form has kept DPD out of compliance with certain paragraphs. Supervisory and command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

In the fifth reporting period, DPD assigned a commanding officer (lieutenant) to coordinate the efforts of the different districts/precincts and other investigative operational units in their reviews of witness identification and questioning policies. This strategy has been successful and should be continued, as we have now found the applicable CJ paragraph in compliance for four consecutive reporting periods. This same strategy may be successful for DPD in its compliance efforts for investigatory stops.

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

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U43***

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

**Comments:**

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

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 108 arrest case files. The review included Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all cases, sufficient probable cause for the arrest was present, and supervisory approval occurred within 12 hours of the arrest.

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When an officer is not seeking an arraignment warrant, the Department is required to complete Auditable Form U004, Warrant Tracking Hold Form (effective September 2009). Of the 108 arrest cases we reviewed, the Department did not seek a warrant in 18. This is the lowest number of arrests in all previous reviews where DPD did not request an arraignment warrant. In all cases, the required auditable form was completed. In two cases, although the auditable form was completed, the officers who completed the forms did not submit them in a timely fashion. In one of the cases, the auditable form was submitted 30 days late. DPD policy requires that an auditable form be completed within 12 hours of the event.

In one instance, probable cause did not exist for the arrest and was so noted by the OIC on the warrant tracking form, however, the Review of Arrest Exception form (DPD UF-001) was not completed. DPD's compliance with this paragraph is dependent upon probable cause to arrest and timeliness in preparing the required auditable forms.

DPD's compliance rate for this reporting period is 98% for the three separate and distinct requirements of this paragraph. DPD remains in Phase 2 compliance with this paragraph.

**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:**

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

Phase 2 compliance is related to and contingent upon the implementation of U45; accordingly, our compliance finding is deferred.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Deferred

***CJ Requirement U45***

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

**Comments:**

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

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In all of our previous reports, we determined that DPD was not in compliance with the provisions of this paragraph. DPD has come into compliance with traffic and investigatory stops, and is making some progress with Terry stops (frisks). In the last reporting period, DPD's compliance rate for frisks was 85%. 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. During the current reporting period, we found that DPD personnel have made significant progress in documenting investigatory stops. We also found that some supervisors, when reviewing officers Daily Activity Logs, checked off each frisk on their subordinate's logs or completed an auditable form when the frisk was not articulated. This sound accountability practice by DPD supervisory personnel should be continued.

To assess compliance for this reporting period, we reviewed 355 officers' Daily Activity Logs completed on three randomly selected dates.<sup>30</sup> Each district/precinct provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles or in vehicles stopped in places where a police inquiry was warranted.

Our review yielded 47 investigatory stops, of which 46 indicated a lawful purpose and the remaining one failed to describe the reasons for the investigatory stop. An auditable form was not completed for the stop that did not articulate a purpose for the stop. In all instances, supervisors reviewed all stops within the required timeframe. DPD's compliance rate for investigatory stops only (excluding frisks, traffic stops, and required auditable forms) this reporting period is 98%, a slight increase from the previous quarter.

The logs included 175 traffic stops, and our review indicated that six did not contain sufficient information to justify the stop, which is a basic requirement. For example, there were situations where the officer issued a summons for driving without a license or proper insurance without providing any additional information describing what violation occurred or what investigatory purpose was necessary for the initial stop. Supervisors reviewed 174 traffic stops in a timely fashion, marking their signatures, and dates and times of review. In one cases, the supervisor signed, dated, and timed the log more than 24 hours after submission by the officer. In previous reviews, these violations were by the same supervisors. DPD's compliance rate for traffic stops increases from 95% in the previous quarter to 96%.

During this reporting period, we also reviewed the 30 frisks appearing on officers' Daily Activity Logs. We found that 27 of the frisks met the requirement. We found that in two instances, the officer failed to describe the rationale for the frisk and in one the officer asked for consent to frisk. Requesting consent from an individual to frisk (Terry Stop) by DPD does not meet the intent of the Consent Judgment. On July 28, 2011, DPD issued an Administrative Message (Teletype #11-0925) to be read at 10 consecutive roll calls instructing supervisors how to address consent frisks by officers.

Officers are required to fill in the "Recap of Activity" portion of the log to indicate their total daily activities and also mark the "Frisk" box in the narrative portion of the report. This is a tool for the supervisor to locate and review the frisks that occur by their subordinates. However, this

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<sup>30</sup> For this review, we randomly selected Daily Activity Logs completed on July 13, August 13, and September 1, 2011.



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tool is not being used by supervisors, as we occasionally note frisks listed under “Recap of Activity,” but cannot locate them in the narratives. We are also finding instances where the officer properly conducts a frisk but does not mark either of the appropriate boxes and the supervisors are failing to discover the omissions.

During a previous site visit, the Parties held a meeting to discuss DPD’s request that consent searches (frisks) met the legal requirements of the Consent Judgment. We have observed no change resulting from that meeting.

During this reporting period, we found that all frisks were documented by the end of the officers’ shifts. Although there is evidence of much progress as it relates to some supervisors completing auditable forms for the violations, the Department’s compliance rate for frisks during this reporting period increased from 85% to 90%.

In previous audits, the Audit Team 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. A review of in-car video of frisks by the training staff and commanders may be helpful in ensuring legal authority exists for the frisks. It does not appear that commanding officers review the investigatory stops, as we have not reviewed an officer’s activity log with any comments by command personnel, or reviewed any documents that indicate that command personnel have questioned the lack of auditable forms generated by supervisors.

During the last reporting period, we reviewed auditable forms (Stop and/or Frisk Exception form, DPD UF-003, effective October 31, 2009) from supervisors indicating that they had challenged an improper investigatory stop-and-frisk. As noted above, Administrative Message 11-0151, issued on January 28, 2011, and a subsequent Administrative Message, 11-0477, issued on April 22, 2011, emphasizes recording of investigatory stops/frisks by officers and supervisory review. We note that the Department has taken corrective action as a response to previous audits, including an audit for June 2011, and those supervisors or command officers need to complete an auditable form or take action when the violations occur.

DPD is in pending Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Pending Compliance

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

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U47***

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U48***

*The DPD shall document the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD shall review in writing all interviews, interrogations and conveyances and document on an auditable form those in violation of DPD policy within 24 hours of the interview, interrogation or conveyance.<sup>31</sup>*

**Comments:**

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

During the previous reporting period, we reviewed interviews and interrogations from the Domestic Violence Unit, Child Abuse Unit, Commercial Auto Theft Unit and the Narcotics Unit, and found them in Phase 2 compliance with these requirements.

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

To assess compliance with the requirements for this reporting period, we reviewed the Eastern District, the Sixth Precinct, the Southwestern District, and the Northeastern District.

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<sup>31</sup> Amended by Court Order dated June 1, 2011.

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We reviewed the Eastern District's IOU case files, which contained a random sample of 50 witness/interrogation interviews. Forty-nine interviews/interrogations met the requirement, and contained the proper documentation and supervisory review within prescribed timeframes. In two cases, the supervisory review did not occur; however, one had the required auditable form attached. All commands have made adjustments during previous reporting periods to address the lack of timeliness in supervisory review, and progress is evident. During this reporting period, Eastern District achieved a compliance rate of 98% with this paragraph.

We reviewed a random sample of 38 cases for the current reporting period from the Sixth Precinct, for a total of 71 interviews/interrogations. Sixty-four of the cases met the requirement. In eight cases where the interview was not compliant, the lieutenant completed two auditable forms to cover all eight violations. A separate auditable form is required for each violation. In another case supervisory review did not occur and an auditable form was not completed. The Sixth Precinct's compliance rate for this quarter is 89%.

We also reviewed a random sample of 30 Southwestern District case files containing 47 interviews/interrogations conducted on the proper form. Of these 47, one did not contain an ending time of the interview; however, the auditable form was completed. In another case where an ending time was not indicated, an auditable form was not completed; in one other case, the name of the witness was not listed on the interview form, and the required auditable form was not generated. Southwestern District's compliance rate for this paragraph is 96%.

We reviewed a random sample of 37 Northeastern District's case files that resulted in 53 interviews/interrogations forms being completed. In one case, the supervisory review occurred three months after the interview and an auditable form was not completed. In another instance, the date of the review was documented prior to the interview taking place. In one other case, the beginning and ending times of the interview were not listed; however, the supervisor documented this omission on an auditable form. The Northeastern District's compliance rate for this paragraph is 97%.

We have reviewed all DPD's Investigative Operational Units, many of them several times during previous site visits. None of them, with the exception of the Homicide Command, were in compliance at the end of 2010. Much progress has been made and should be sustained. The combined compliance rate for Interviews/Interrogations for the four Investigative Operational Units during this reporting period is 95%.

We reviewed all instances of conveyances to DPD facilities for the purposes of interviews during the current quarter. There were 35 such conveyances, and all but two were in full compliance with the requirements of the paragraph. DPD's compliance rate for conveyances is 95%.

Since our first (2009) review of interviews, interrogations, and conveyances, we have observed remarkable progress in the documentation of required forms. This is attributable to the leadership and initiative on the part of supervisors and employees in those commands. DPD has sustained the progress it has made in this area; the Department is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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**D. Prompt Judicial Review Policies**

***CJ Requirement U49***

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U50***

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

**Comments:**

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

Due to a few case reports involving traffic, probation violations, and warrant arrests that are handled by other means, or where the arrestee is taken directly to court, we reviewed 90 case reports that eventually were submitted to the Prosecutor's Office for arraignment. The documentation supporting this review included Crisnet reports, Warrant Verification Logs, Arraignment Sheets, Detainee Input Sheets, and Warrant Tracking Hold Forms. Of the 90 cases we reviewed where an arraignment warrant was submitted, all but three met the 48-hour requirement. One of the cases contained the required auditable form. DPD's compliance rate with this requirement is 98%.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U51***

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

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

**Comments:**

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

To assess Phase 2 compliance with these requirements, we reviewed the same documents referenced in U50. Of the 108 arrest case reports we reviewed, there were 63 that began at the initial arrest and concluded in arraignment. We excluded cases that involved warrant arrests, juvenile arrests, some traffic cases, and situations where the offender was able to post bond or taken directly to court.

There were 37 cases where the arraignment occurred after 48 hours from the time of the initial arrest. In all cases, an auditable form was completed timely. In three instances where the warrant submittal to the prosecutor was late, only one auditable form was completed by the OIC. When the commanding officer reviews the auditable form, s/he must inspect the document to ensure that the OIC is dating or placing the time the event was recognized. On January 11, 2011, we reviewed a Departmental Message that indicated UF-004/007 had been combined and entered into MAS. The new form has a designated box for the OIC to place the date and time the form is generated. We have observed that the new form is being utilized properly and the before mentioned issues have been resolved.

DPD's compliance rate with this requirement for the current reporting period is 95%. In our previous reports, we determined that Department personnel occasionally delay completing the warrant submittal unnecessarily (although it is within the 48-hour timeframe), and thus arraignments are often delayed. We looked at the date and time of arrest for the three late warrant submittals and determined that occasionally a full work day (Monday through Friday) elapses prior to those documents being processed and forwarded to the prosecutor. Although we are seeing fewer unnecessary delays overall, DPD must strive to submit the documentation to the prosecutor in a more timely fashion. We observed that some entities within DPD have successfully addressed the problem of submitting the warrant request in a timely fashion.

As we noted previously, the elimination of evening arraignments by the 36<sup>th</sup> District Court of the State of Michigan will continue to be problematic for DPD in its ability to arraign detainees in a timely fashion.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**E. Hold Policies**

***CJ Requirement U52***

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

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U53***

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

**Comments:**

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

In previous reporting periods, DPD was not in Phase 2 compliance with this paragraph, due to holds/warrants not being cleared and the auditable form not being prepared. In the last reporting period, the Department's compliance rate with this requirement was 96%.

To assess compliance with the requirements, we reviewed 108 Detainee Input Sheets, and found a total of 49 holds/warrants listed on the forms. In all but two cases, an auditable form had been completed for those holds exceeding 48 hours. In one case, the OIC generated the auditable form after the required timeframe. In another case, an auditable form had been completed for an arraignment exceeding 48 hours; however, for the same arrest, there was no indication on the form that the hold/warrant had not been cleared timely and the hold box had not been checked. This form was created and contains appropriate indications for officers to identify more than one violation of the Prompt Judicial Review Policies. DPD personnel must be aware that if an arraignment occurs more than 48 hours after an arrest and the detainee has an outstanding hold/warrant, there is a likelihood that the warrant may not be cleared within the requirement and both boxes should be checked.

There are two separate and distinct parts to this particular requirement. With few exceptions, the majority of the Detainee Input Sheets did not indicate a "date cleared" in the appropriate location (box), although the actual time of release (hold/warrant cleared) is indicated in Section (3), the Final Charging, and Disposition and Release portions of the form, which indicates when the detainee is released from custody. As we have noted previously, the lack of DPD personnel properly indicating the date and time holds/warrants are identified/ cleared and generating the required auditable forms for violations continues to be a problematic for the Department. If personnel would properly complete the required information contained on the Detainee Input Sheet, the existing problems would be resolved. DPD's compliance rate for this requirement is remains at 96%.

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DPD is in Phase 2 compliance with this paragraph.

**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:**

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

Full compliance with this paragraph is dependent upon the successful implementation of U55; accordingly, DPD is in Phase 2 compliance with this paragraph.

**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:**

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

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed 108 arrest case files and found one restriction. However, while reviewing the random sample of Detainee File Folders, we found another restriction that was in compliance. Both restrictions were in compliance. DPD personnel advise us that restricting a detainee's access to visitors, attorneys, and the use of telephone privileges rarely occurs. Personnel may impose a telephone restriction when a detainee makes threatening or harassing calls to individuals outside the facility. There are payphones in each holding facility for the detainees' use. DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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**G. Material Witness Policies**

***CJ Requirement U56***

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

**Comments:**

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

Full compliance with this paragraph is dependent on the implementation of U57; accordingly, DPD is in Phase 2 compliance with this paragraph.

**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:**

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

To assess Phase 2 compliance with this paragraph, we reviewed all of DPD’s requests to the Court for taking a material witness into custody for the period of July 1, through September 30, 2011. The auditable form, approved by a supervisor, was attached to the Court order in all cases presented to the Court. The Court order was issued by a Judge in the 36th District Court of the State of Michigan prior to the witnesses’ detention. DPD’s compliance rate with this paragraph for the current reporting period is 100%.

The Department remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**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;*



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- 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:**

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

DPD has been in compliance with this paragraph in all of the previous reporting periods. To assess Phase 2 compliance during this reporting period, we reviewed a random sample of 108 arrest case files where a Detainee Input Sheet was completed that contained personal information about the detainee, charges, holds/warrants, and other supporting data. We used the 63 cases where an arraignment occurred to determine compliance due to all eight elements of this paragraph being included. The contained documents included Detainee Input Sheets, Warrant Verification Logs, Arraignment Logs, and Livescan forms. In the majority of 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 three cases, the officer failed to include their badge number on the Daily Warrant Verification Log. In two instances, relevant detainee personal information under U58a was not properly completed. We examined each case for compliance with the eight individual requirements, and found an overall compliance rate of 99%. DPD remains in Phase 2 compliance with this paragraph.

**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:**

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

In our previous reports, we did not find the DPD in Phase 2 compliance with this requirement, 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.

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In our review of 108 arrests during this reporting period, we determined that all the arrests, with the exception of one, properly documented probable cause. In those situations where a warrant is not sought on an arrestee, supervisors should scrutinize the arrest packets to ensure that the elements required for a valid arrest are documented.

We reviewed 30 frisks, and determined that 27 articulated reasonable suspicion. In the previous reporting period, DPD generated auditable forms for violations of this paragraph relating to frisks. In the three instances where a violation occurred, an auditable form had not been prepared. In order to be lawful, a 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 a majority of the stops, the remainder documented no basis for the frisk. While supervisors *do* review the officers' Daily Activity Logs, they should also be challenging officers to articulate the *reason* for the stops/frisks. The officers, in a few cases, are only noting the stops.

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

There were 47 investigatory stops (excluding frisks and traffic stops), of which 46 were based on a documented investigatory purpose. One of the stops did not articulate reasonable suspicion. We were unable to locate any auditable forms. There were no auditable forms generated for the commander to review.

There were 18 cases where documentation was completed that indicated an arraignment warrant was not sought and an auditable form completed. In 19 cases, a commanding officer approved the form and attached his/her signature including the date of review. In one case a sergeant signed off on the commander's review. We have observed DPD's progress with commanders' oversight as it relates to warrants not served. DPD's compliance rate for commanders' review of warrants not served is 95%.

We reviewed 221 witness/interrogation interviews from Eastern District, the Sixth Precinct, the Southwestern District, and the Northeastern District investigative functions. There were 12 instances where the reviewing supervisors should have generated an auditable form (DPD 103), due to the officers not completing – or omitting information from – the Interview/Interrogation document. It is the commander's responsibility to ensure that these forms are completed.

Although the Department has made progress with commanders' reviews of warrants not sought and witness identification and questioning policies, DPD remains not in compliance with investigatory stops due to the lack of auditable forms being forwarded for review. Until DPD personnel comply with the requirement of completing auditable forms and forwarding them to commanders for review, the Department will continue to have difficulty achieving compliance in this area.

DPD is not in Phase 2 compliance with this paragraph.

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**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:**

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

To assess compliance for this reporting period, we reviewed 108 arrest case reports, of which 90 were submitted to the Prosecutor's Office and 63 went to arraignment. There were 37 cases where the arraignment occurred more than 48 hours after the arrest. In all but three cases, the request for the warrant was submitted in a timely fashion. In all cases, there was appropriate command review. In one instance, command review occurred, but the commander failed to indicate the date or time of the review. We have noted previously that the Department sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints. DPD's compliance rate for this portion of the requirement is 98%.

Of the 49 hold/warrants we identified, there were 12 holds that were not cleared within the required 48 hours. An auditable form was generated for each of these holds. In one instance, the commander's review was not timely. It is the commander's responsibility to ensure that the required auditable forms are generated for personnel under his/her command. DPD's compliance for this portion of the requirement is 92%, a slight decrease over the previous quarter.

There were two "restrictions" placed on detainees this quarter and both were in compliance.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

- The Chief Judge of the 36th District Court of the State of Michigan announced on January 11, 2010 that evening felony arraignments were being discontinued at that District. This change made it more difficult for the DPD to arraign detainees within 48 hours of arrest, as required. 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.

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- The delay of warrant request to the prosecutor's office often delays the arraignment for more than 48 hours; and thus, if there is a hold attached to the warrant, both the arraignment and the hold require an auditable form creating additional work for DPD personnel and the opportunity for failure.
- The DPD Administrative Message (Teletype 10-04118) dated November 22, 2010 noted that several precincts/districts were delaying the faxing of prisoner information to Court Liaison just before the cutoff time, thus creating delays in arraignment. This issue remains problematic for DPD.
- Our review of investigative stops found that officers often fail to articulate "reasonable suspicion" In accordance with DPD policy requiring written documentation of all investigatory stops and frisks. The supervisory monitoring of stops and frisks has been an ongoing issue since the beginning of the Consent Judgments. During the last reporting period, we received, for the first time, auditable forms for violations of the investigatory stop policies; however, in the current reporting period, none were included in the documentation. Supervisors must carefully review officers' Daily Activity Logs and complete auditable forms when they are required.
- Commanders must ensure auditable forms are completed and forwarded promptly for their review.

***Next Steps:***

During the next reporting period, we will:

- Meet with DPD's Civil Rights Integrity Bureau (CRIB) to discuss our stop-and-frisk concerns and the timeliness of commanders' reviews as it relates to auditable forms. Completeness, accuracy, and timeliness of all reports and auditable forms continue to affect field units and the quality of administrative review.
- Review other investigative units (Homicide, Narcotics, Sex Crimes and the Sixth Precinct) to determine their compliance with interrogations, interviews, conveyances, and material witness policies.
- Observe the personnel who are responsible for the detainee booking process; and interview them regarding procedures for detailing when holds/warrants are identified and cleared; and how they can assist in the probable cause review as a back-up for the probable cause verification normally completed on the Crisnet report.
- Inquire with DPD if any additional processes have been enacted to address the dilemma that occurs when a hold has been previously placed on an arrestee, and the warrant request to the Prosecutor's Office on the current charge has been denied. The concern for DPD in these instances creates a delay in presenting the hold for arraignment within 48 hours only on the basis of the hold. In our reviews, this issue has been and remains a problematic, in that holding cell personnel tend to utilize the time of release on clearing a hold – rather than simply writing in the date and time in the space provided on the form. In a few cases, we are finding that when an arraignment occurs more than 48 hours after the arrest and the OIC is completing the auditable form for the late arraignment, the OIC is failing to mark the box on the same form for a hold not being cleared.

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	<b>Requirements</b>	<b>Phase 1 Policy</b>	<b>Phase 2 Implementation</b>
42	Define and prohibit arrest without probable cause	In Compliance	In Compliance
43	Review all arrests for probable cause	In Compliance	In Compliance
44	Revise investigatory stop-and-frisk policy	In Compliance	Deferred
45	Written account of stops and frisks	In Compliance	Pending Compliance
46	Revise witness policies	In Compliance	In Compliance
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	In Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	In Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting telephone access	In Compliance	In Compliance
55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	In Compliance
57	Custody of material witnesses-court order	In Compliance	In Compliance
58	Arrests and detention record requirements	In Compliance	In Compliance
59	Required written review of violations	In Compliance	Not in Compliance
60	Required written review of violations	In Compliance	In Compliance

## **VI. EXTERNAL COMPLAINTS**

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

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

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

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

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

During our most recent site visit, we met with the Supervising Investigators assigned to OCI. We discussed the status of overdue investigations in general, which is unfortunately trending downward. The number of overdue investigations has steadily increased since the Backlog Squad, referenced in previous reports, was disbanded. The Chief Investigator was terminated on August 16, 2011, and has not been replaced as of this writing.

***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:**

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

The established policies and procedures set forth the jurisdictional responsibility of the DPD, IAD and OCI.

IAD is charged with the prevention, discovery, and investigation of criminal allegations and allegations of serious misconduct against Department members and City employees who are assigned within the DPD. IAD is responsible for all external complaints alleging possible criminal misconduct.

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;

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and service. The established policies and procedures also provide guidance for receiving, recording, tracking, referring, and investigating complaints.

Both 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. OCI and IAD continue to enhance the databases; investigators and supervisors now have the ability to make case notes directly into the database. 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 runs public service announcements concerning how to file a citizen's complaint against the police. Through 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 BOPC 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

***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*

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

During previous site visits, we inspected Police Headquarters, the Office of the Chief Investigator, police facilities, libraries, and Neighborhood City Halls for compliance with this paragraph. All locations displayed, in a prominent location, permanent placards that described the complaint process. All desk personnel in the police facilities were able to produce citizen complaint brochures immediately, and were aware that they should not discourage citizens from filing a complaint.

During our most recent site visit, we inspected the Office of the Chief Investigator, the Central, Northeastern and Eastern Districts; Schaefer Annex; and the Sixth, Eighth, and Twelfth

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Precincts. We found the appropriate citizen complaint posters, forms, and brochures in place. We contacted desk officers and field officers at each site, and they were able to provide citizen complaint forms and brochures.

We also inspected two Neighborhood City Hall locations – the Southwest District Community Access Center and the Coleman A. Young Municipal Center. We found the appropriate posters on display and supplies in order. Each location had an adequate supply of complaint forms and informational brochures, and staff was familiar with the process to obtain replenishments. We additionally reviewed an audit of the Board of Police Commissioners' external information campaign conducted by one BOPC staff member in September 2011.

Both DPD and OCI conduct 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. DPD provided us with the broadcast schedule for the week of our site visit.

DPD remains in Phase 2 compliance with this paragraph.

**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:**

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

During previous site visits, we reviewed the audits conducted by the DPD Office of Civil Rights regarding citizen complaint informational brochures and contact forms carried in police vehicles, and we randomly selected officers during our field visits to police facilities and asked them to provide the brochures and forms for review. Each officer who we contacted provided the documents upon our request, and was aware of the requirements of the DPD policy concerning citizen complaints.

During this reporting period, we randomly selected both desk officers and patrol officers in the Central, Northeastern and Eastern Districts, Schaefer Annex, and the Sixth, Eighth, and Twelfth Precincts, and asked to produce complaint forms and brochures. They were able to do so in each case. We also inspected the complaint logbooks in each location. We found one Citizen Complaint Report (CCR) unaccounted for in the Eighth Precinct; that is, there was a blank in the ledger book used to record when the CCRs are used. While all inspected facilities keep



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handwritten records, there is a disparity in the information captured among sites. We recommend that DPD standardize the recordkeeping.

DPD remains in Phase 2 compliance with this paragraph.

**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:**

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

Our past reviews of IAD and OCI external complaint investigations determined that the complaints were filed using all of the communication facilities identified in this paragraph.

Our review of 71 IAD and 100 OCI investigations for this reporting period again found that complaints were filed using all of the communication methods identified in this requirement. DPD remains in Phase 2 compliance with this paragraph.

**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:**

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

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

We reviewed 71 IAD and 100 OCI cases for this reporting period. We again 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 paragraph.

**Compliance Status:**

Phase 1: In Compliance

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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:**

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

During previous reporting periods, we reviewed closed IAD and OCI external complaint investigations, and found that 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.

For this reporting period, we reviewed 71 IAD and 100 OCI investigations. All investigations contained the required information. The letters also provided case-specific identifiers for the complainant to reference when contacting either IAD or OCI. DPD and the City are in Phase 2 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*

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- 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.*<sup>32</sup>

**Comments:**

*Office of the Chief Investigator:* For this reporting period, we reviewed 100 randomly selected OCI cases. Four cases were transferred to IAD and two cases were transferred to Force Investigation. Three of the IAD cases alleged theft, and one alleged soliciting bribes from a bar owner. The Force Investigation cases alleged excessive force. One of the IAD cases was not transferred for 16 days. All other cases were transferred to either IAD or Force Investigation within the required five-day period.

Five cases were resolved informally, and all met the criteria as three involved service complaints (failing to respond in a timely manner) and two were claims of innocence. Two of the informal resolutions were not closed within 90 days.

Twenty-seven cases in our sample were administratively closed, including those informally resolved and those transferred to other investigative units. We determined that two were inappropriately closed via this process. One involved a complaint that a dispatcher hung up on the complainant. Tapes revealed otherwise. OCI administratively closed the case as lacking merit. The OCI SOP allows this “if the complainant is unavailable and/or unwilling to contribute to the furtherance of the investigation.” Since OCI had a cooperative complainant, the appropriate route would have been to complete the investigation with an unfounded finding. In the other case, an allegation of rudeness to a bus driver, the complainant is a seasonal worker and was unavailable. The case should have been completed allowing the CCR to serve as the complainant’s statement – a practice that OCI frequently and appropriately employs in many other investigations. There was enough information already gathered, including an officer interview, to reach a not sustained finding.

Only 34 of the 100 cases we reviewed were completed within 90 days. As in previous reports, we noted many had long gaps of time in which no apparent activity took place. As noted earlier, three investigators and one senior investigator were terminated from OCI during the review period. A total of 177 cases, many of them overdue, were reassigned to other investigators. While this undoubtedly contributed to the precipitous decline in timely cases during this quarter, OCI has been steadily backsliding in the percentage of cases completed on time since March, when they briefly achieved compliance.

Four of the 100 cases we reviewed were not referred to OCI within five business days as required by DPD policy, although most were transferred within one to three days.

In all but seven cases, we noted efforts to keep the complainant informed of case progress. Often, this correspondence involved attempts to encourage uncooperative complainants to participate in their investigations. In all applicable cases, the complainants were notified of the

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<sup>32</sup> Consent Judgment amendment, September 15, 2008.

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disposition of their cases, and if any allegations were sustained, they were advised that the case was referred to the Chief of Police for appropriate corrective action.

During our last three site visits, we confirmed ongoing in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we continue to encourage OCI to explore training specific to OCI's responsibilities, in order to address knowledge and skill gaps that impact the quality of its investigations. During this reporting period, in addition to the Department-wide in-service training, all personnel were trained on issues raised in our last quarterly report, in addition to timeliness of investigations and appropriate use of administrative closures and informal complaint resolutions.

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

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

IAD Standard Operating Procedures and OCI Policy require that all complaints be referred to the appropriate agency within five business days of their receipt. Historically, we discovered significant delays in transferring appropriate cases from OCI to IAD. During the current reporting period, we reviewed 71 IAD cases, and determined that one had been referred by OCI and arrived at IAD 21 business days after the complaint was filed.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. In cases of prolonged investigations, IAD must provide an updated case status to complainants, and upon closure, notify them of the closure, finding(s), and action(s) taken, where appropriate.

Our review determined that IAD is in compliance with the notifications to complainants upon both the opening and the closure of all investigations. However, IAD's ability to complete all investigations within 90 days remains problematic. During our current review of 71 investigations, 30 exceeded the 90-day time limit. Of those, the reviewer determined that 15 were reasonably delayed due to awaiting the prosecutor's decision, attempts to secure search warrants as the case progressed, or multiple subjects and witnesses. The remaining 15 cases were not managed by the investigator or supervisor. During this reporting period, the regular supervisor was away for a 12-week training program. Upon her return, IAD reduced the backlog significantly, which accounts for the unusually large number of completed investigation submitted for this quarter.

DPD is not in Phase 2 compliance with this paragraph.

**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:*

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- 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;<sup>33</sup> and*
- c. *the Chief of Police or his or her designee to complete his or her review of external complaints within 7 days of completion of the BOPC's review.*

**Comments:**

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

During our past reviews, with the exception of the last reporting period, the external complaint review process was completed within the appropriate timeframes. During the last reporting period, we identified 18 cases in which the Chief Investigator did not complete her review within the required seven-day time period. During this reporting period, 40 cases were not reviewed within this time period. The Chief Investigator was terminated on August 16, and has not been replaced as of this writing. During various timeframes, either the Secretary to the Board of Police Commissioners or a supervising investigator has been serving as Acting Chief Investigator. We recognize that OCI is in a period of transition, which is the main contributing factor in these untimely reviews. Nonetheless, OCI has fallen out of compliance with this requirement.

All Board of Police Commissioner reviews in our sample were completed in a timely manner. During our most recent site visit, we also reviewed correspondence between OCI and the Chief's Office showing timely transfer of cases once the Board approves them.

DPD is not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not 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*

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<sup>33</sup> Consent Judgment amendment July 18, 2003.

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

**Comments:**

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

During this reporting period, we reviewed 100 randomly selected OCI cases. For purposes of this paragraph, we evaluated the determination of finding based on the information in each case file. We found four cases in which allegations did not receive appropriate dispositions. In three cases, we learned of the additional allegations by listening to the complainants’ interviews, as they were not mentioned on the original CCR. The allegations were not identified or addressed in the case summaries. Similar to our last report, we are concerned with the frequency of this, as we only listen to a small subset of interviews.

In seven cases, we disagree with the findings assigned to one or more allegations. In one, a use of force was exonerated even though none of the officers admitted to using force and no use of force report was completed. In another, we believe that the preponderance of the evidence supports a sustained finding for an officer pointing his firearm at the complainant, rather than OCI’s not sustained determination. In still another, a lieutenant admitted to uttering a remark that the complainant found offensive, but a not sustained finding was assigned to the allegation. It is questionable whether the remark constituted rudeness, but the finding should have either been exonerated or sustained. There was no dispute that it took place.

OCI is not in compliance with this requirement due to the above described deficiencies. The City should insure that OCI takes corrective action to avoid a future non-compliance finding.

In addition, we reviewed all 71 IAD cases that were completed during this reporting period, including internal and external complaints. All contained the required dispositions.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

We examined 71 closed IAD cases and 100 closed OCI cases for the period of April 1, through June 30, 2011. Our review disclosed that the following issues continue to require attention:

- *IAD Case Tracking:* IAD has recently adopted a computer program to aid in tracking its cases. While the system does not alert the users to deadlines, it does allow for communication between the investigator and supervisor. The supervisor recently incorporated a computerized calendar into the process, which notifies her when an assignment date has been reached. Also, cases that are submitted to the Prosecuting Attorneys’ Office are tracked, and updates are requested on a regular basis.
- *Timeliness of Investigations:* The timeliness of OCI’s investigations has been steadily slipping since the Backlog Squad, referenced in our previous reports, was disbanded. During this reporting period, three investigators, one senior investigator, and the Chief

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Investigator were terminated. These personnel actions, while justified, have exacerbated the timeliness issue. We will continue to monitor OCI's adherence to timelines closely.

- *OCI Case Management:* OCI continues to make incremental progress on a reliable case-tracking system. During this reporting period, we observed the continued transition from paper to electronic records, although most files had both paper and digital Significant Event Logs. The system still lacks alerts for time-sensitive dates, which would help both the investigators and their supervisors better manage multiple investigations. We continue to remind OCI staff that a case management system can never be a substitute for regular supervisor/investigator interaction.

***Next Steps:***

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of October, November, and December 2011.
- Verify the length and content of new investigator and in-service training offered to OCI and IAD personnel.
- Review any enhancements to OCI's case management system.
- Review results and any adjustments to the restructuring and systemic changes implemented by the Chief Investigator during the past two quarters.

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

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police actions in violation of DPD policies shall subject them to a variety of possible actions, to include disciplinary, criminal prosecution, or civil liability. This section also requires officers to report acts of misconduct by other officers, whether on or off duty. Additionally, this section required DPD to revise its policy regarding police actions by off-duty officers; and to revise the policies on how DPD handles prisoners, to include summoning first aid as necessary, summoning assistance if required, and prohibiting the accompanying of prisoners to the holding cell area. This section also required DPD to develop a foot pursuit policy and to plan for adequate distribution of manpower. DPD has developed the appropriate policies and has achieved implementation.

***CJ Requirement U70***

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

**Comments:**

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

The DPD CRIB Planning Unit is responsible for reviewing and updating all current policies and for ensuring that revisions are consistent with the requirements of the Consent Judgment. With the effective dissemination of Directive 404.1, Definitions, it has ensured that all terms are clearly defined. The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

The DPD 32<sup>nd</sup> Quarter Status Report, issued September 30, 2011, notes that during this quarter the Firearms Directive, 304.1, was approved by the Board of Police Commissioners (BOPC) on August 4, 2011. It was revised again on September 2011 and is pending approval by the BOPC. The Special Purpose Committee Directive, 101.9, was submitted for review to the Board of Police Commissioners on September 2, 2011 and again on September 22, 2011. CRIB also advised that in August the BOPC issued the approval letter for Training Directive 11-01, Report/Documenting the Acquiring of a Target, effective August 4, 2011.

Policy revisions are posted on the DPD dedicated email address on the City of Detroit's website. DPD reports that, to date, no citizen comments have been received for any of the postings.

We note DPD's continued adherence to the process and to its integration of special orders into the directive system, allowing for citizen input to the process.



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DPD remains in Phase 2 compliance with this paragraph.

**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:**

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first fiscal quarter of FY 11-12. As of August 31, 2011, 707 members (27%) have received the use of force training, which incorporates the methods for dealing with this requirement.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In 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:**

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

During our July 2011, site visit, we reviewed 124 Daily Details for the platoons and specialized units that worked on three dates selected at random. A total of 121 (98%) of the 124 platoons were in compliance with the required 1:10 ratio of supervisors to officers in patrol and specialized units on the dates surveyed. We found the DPD in Phase 2 compliance with this requirement.

During our most recent site visit, we again surveyed Daily Details for three days selected at random (Wednesday July 13, 2011; Monday August 22, 2011; and Thursday September 1, 2011). We found that of the 112 platoons deployed on the three days, 109 (97%) were in compliance with the required 1:10 span of control ratio. The supervision of a total of 1,882 (97%) of the POs working in those platoons on the three random sample days was in compliance with required span of control.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

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Phase 2: In Compliance

***CJ Requirement U74***

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

**Comments:**

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first fiscal quarter of FY 11-12. As of August 31, 2011, 707 members (27%) have received the use of force training, which incorporates the methods for dealing with this requirement.

During this reporting period, there were no cases identified at the SIR investigative level in which an off-duty officer was involved in conduct contrary to the Code of Conduct.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U75***

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

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

**Comments:**

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

The DPD 31<sup>st</sup> Quarter Report notes that the letter to the Michigan Association of Chiefs of Police (MACO) was sent January 19, 2011. To assess Phase 2 compliance for this report, we reviewed the training data for the first fiscal quarter of FY 11-12. As of August 31, 2011, 707 members (27%) have received the use of force training, which incorporates the methods for dealing with this requirement.

There was one case at the SIR investigative level in which an off-duty officer was involved in an incident in DPD's jurisdiction, which is governed by this requirement. The member was faced with an exigent circumstance: a subject who struck the member's vehicle while it was parked and then tried to leave the scene. The member contacted DPD and detained the individual pending the arrival of the on duty unit. Minimal force was utilized by the off-duty member, and

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it was documented on a Use of Force 002 form, with a corresponding SIR investigation conducted. No violations of this requirement were noted.

DPD remains in Phase 2 compliance with this paragraph.

**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;*
- 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:**

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first fiscal quarter of Fiscal Year 2011-12. As of August 31, 2011, 707 members (27%) have received the use of force training, which incorporates the methods for dealing with the enumerated requirements.

We also reviewed all 95 Command Level Investigations completed during this reporting period. None of the cases reviewed were in violation of these requirements.

DPD remains in continued Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In 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;*

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- 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.*

**Comments:**

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

During this reporting period, we reviewed the training data for the first fiscal quarter of FY 2011-12. As of August 31, 2011, 707 members (27%) have received the use of force training, which incorporates the methods for dealing with the enumerated requirements.

We reviewed eight foot pursuits during this reporting period. There was one case in which alternatives to foot pursuits were considered. Four of the cases involved foot pursuits on individuals who had been armed, though each of the subjects discarded their weapons during the pursuit. All eight pursuits were documented on the appropriate Use of Force 002 Form.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

DPD remains in full compliance in this area, and we have observed no major issues that suggest concerns about their continuing that status.

***Next Steps:***

During the next reporting period, we will:

- Continue to monitor relevant policy changes, including efforts to address the public's interest in policy.
- Continue to heed the training requirements inherent in policy development in this area.
- Review correspondence with the Michigan Chiefs.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
70	Clear definitions in policies	In Compliance	In Compliance
71	Proposed policy changes open to comm.	In Compliance	In Compliance
72	Advise officers policy violations disciplined	In Compliance	In Compliance
73	Adequate officer/supervisor ratio	In Compliance	In Compliance
74	Enforce misconduct reporting requirements	In Compliance	In Compliance
75	Revise policies regarding off-duty officers	In Compliance	In Compliance

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76	Revise prisoner-related policies	In Compliance	In Compliance
77	Develop foot pursuit policy	In Compliance	In Compliance

## VIII. MANAGEMENT AND SUPERVISION

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

### A. Risk Management Database

#### *CJ Requirement U78*

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

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

#### **Comments:**

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

This paragraph provides an overview of the requirements for the development and implementation of the risk management system, which is described in detail in paragraphs U79-99; and the other requirements relating to management and supervision. Progress in particular areas reflected in those requirements is noted in the separate assessments below. Overall progress is also reflected in our last report, with the finding of pending compliance for this paragraph.

The Department continues to make progress with regard to the risk management requirements of the Consent Judgments. As our reviews document that progress, we have also identified new issues that are uncovered as the system, and its use, advance. As noted below, those issues in this report relate to data that we expected to find in MAS but were not stored there, and continued work on norming performance indicators to enhance comparisons. We do not regard either of these issues as indicative of a reversal of progress. We fully expect to see further advances in norming the data. With regard to information not reported to the database, we look forward to a Department review which diagnoses the cause of the problem and to a report of remedial steps which have been taken. It is therefore appropriate to continue a finding of pending compliance, with the caveat that full compliance will depend on improved and sustained quality in the data-related processes and effectiveness in the application of the system. Consistent with our compliance methodology, a finding of pending compliance can be in place

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for only two consecutive quarters. Following that, a requirement must advance to in compliance or fall back to not in compliance as the review merits.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Pending Compliance

***CJ Requirement U79***

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

**Comments:**

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

Phase 2 compliance with this requirement was recognized following extensive testing of MAS, from which we concluded that the system was capable of meeting the risk management requirements as specified in the Consent Judgment. The Department has continued to make progress on system development, training, and implementation. In the current reporting period, we again examined the use of the system, including the input of data, the use of that data, and the identification and review of officers exceeding thresholds established in the system. Some issues with those aspects of the system are noted in individual compliance assessments below, including concerns with progress in norming the data that will allow for more systematic comparisons across officers. Based on our review of the continued development and use of this system, we again recognize the achievement of Phase 2 compliance with this requirement but we also note the caveat that we anticipate observing further refinements and progress in the system as we move forward.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U80***

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

- a. *all use of force reports and use of force investigations;*
- b. *all canine deployments;*
- c. *all canine apprehensions;*
- d. *all canine bites;*
- e. *all canisters of chemical spray issued to officers;*

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- 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:**

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

DPD first achieved compliance with this requirement in our last quarterly report. Our analyses continue to find that the expected information is present for all the mandated data categories. As anticipated in our last report, the totals for data entered for all relevant subtasks are presented

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below. Reporting this each quarter will allow us to consider the stability and completeness of the data collection processes over time. Our review of MAS reports also supports the fact that these data are consulted and used in the risk management process. We continue to recognize the importance of sound data entry and retention practices and we anticipate further review of specific data elements each quarter.

TASK 80 Data Requirements – Quarterly Totals		
Subtask	Text	Department Total
a	use of force reports	278
a	use of force investigation	132
b	canine deployments	15
c	canine apprehension	6
d	canine bites	0
f	injured prisoner reports	13
g	injured prisoner investigations	13
g	force and arrests for resisting arrest	116
g	force and arrests for assault on an officer	58
g	force and arrests for disorderly conduct	42
g	force and arrests for interfering with city employee	32
h	firearm discharge reports	7
h	firearm discharge investigations	7
i	officer draws a firearm & acquires target	18
j	Complaints	307
j	complaint investigations	307
k	investigations of criminal misconduct by officers	15
l.	criminal proceedings against members	0
l.	all civil lawsuits	8
m	vehicle pursuits	42
m	foot pursuits	14
m	traffic collisions	34
n	reports of arrests w/o probable cause	2
n	individuals discharged from custody w/o charges	5
o	investigatory stops and frisks w/o reasonable suspicion	Frisks=146 Stops=54



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p	reports of interviews, interrogation, or conveyances in viol of policy	Interviews=33, Interrogation=15 Conveyances=4
r	reports of violations of prompt judicial review	891
s	reports of violation of DPD hold policy	134
t	reports of restrictions on phone calls or visits	27
u	report of declination to prosecute due to police conduct or suppressed evidence	0
v	disciplinary action taken against officers	37
w	non-disciplinary corrective action	188

The quarterly review raised one concern that we will continue to monitor. In response to an inquiry about data in MAS regarding a specific incident involving use of force and a subsequent lawsuit, the Department reported that neither the use of force nor the lawsuit were recorded in the risk management system. This deficiency was related to the information processing methods associated with the particular way information was filed in the incident. The Department has reviewed the issue and is taking remedial steps. While our concerns with this single incident does not merit a change in compliance status at this time, we will revisit the issue in our next visit to assure that the underlying problem has been resolved.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U81***

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

**Comments:**

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

Before our last report, DPD resolved issues around reporting information regarding citizens connected with reported incidents. That data continues to be entered into MAS appropriately. The data on officers also continues to be reliably entered and maintained.

DPD remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U82***

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

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

**Comments:**

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

The Department's revised Data Input Plan was approved by the Department of Justice in a letter dated June 9, 2011. During our most recent site visit, our observations and interviews with DPD supported the conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department. During this reporting period, as noted above, we provided DPD with an expedited assessment on this requirement, and found the Department in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U83***

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

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

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**Comments:**

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

The Department's revised Report Protocol was also approved by the Department of Justice in a letter dated June 9, 2011. During this most recent site visit, our observations and interviews with DPD supported the conclusion that the provisions of the Report Protocol are reflected in the practices of the Department. To consider this, we also examined command monthly reviews in MAS, and confirmed both the availability and use of the MAS data at the command level.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U84***

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

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

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

**Comments:**

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

The Review Protocol was revised, submitted for review and approved by DOJ on June 9, 2011. Interviews with staff assigned to MAS support the conclusion that the review process is being implemented consistent with policy. To further assess that, we examined all Personnel Evaluation and Enhancement Review Sessions (PEERS) for the quarter. In 93 PEERS supervisors and command staff found no need for action in 65 (70%) of cases. They assigned officers to be monitored in 10 (11%) of cases and they took informal action in 18 (19%) of cases.

These figures make it clear that MAS is being utilized. Supervisors appear to be thorough in their reviews and command staff appears to scrutinize PEERS decisions appropriately. However, the volume of cases reviewed and the high proration of cases where no intervention is needed raises another issue – an issue raised by the Chief of Police during our last visit, when he noted the need to find ways to make comparisons across officers that are useful for understanding risk. The current use of three performance indicators to trigger a PEERS is inefficient for that purpose, and risks damaging perceived program legitimacy by identifying too many officer who do not need intervention or monitoring. The Department had indicated it would work on methods of norming the measures of officer behavior to allow them to focus on outlier cases- cases that fall in the top 5% or 10% of officers. We continue to seek analysis and processes that support that approach to efficient and effective risk management. Since this approach is still being developed in the Department, there is no impact on compliance assessment at this time.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U85***

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

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**Comments:**

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

During the quarter under review there have been no changes that would affect the compliance status with this requirement. The Department continues its processes of development and improvement of the risk management system in a manner consistent with expectations.

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

DPD has addressed the need for a common control number or other equally effective means of connecting information across reports of a single incident by developing an algorithm to link documents in the database. The system now links documents using as many as nine variables. These include such elements as identifying information on officers and civilians involved in the incident, the date of the event, and the Crisnet number. DPD also incorporated a box to check to retrieve “related documents” directly on the appropriate MAS computer screens. This has proven a successful solution to this technical problem.

During this reporting period, as noted above, we provided DPD with an expedited assessment on this requirement, and found the Department in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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:**

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

The Phase 2 compliance finding for this requirement remains unchanged. The required data are accessible through MAS, and the five-year retention policy on personal information is in place.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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 timeframes described in this paragraph is unlikely, the plaintiff shall so notify the Court and the defendant. Within sixty days after receipt of such notice, the defendant shall issue an RFP to develop or complete development of the new risk management database as was required by 88c. of this Consent Judgment before it was amended. In that event, the requirements of paragraphs 88.d., 88.e., 88.f., and 88.g. of this Consent Judgment before it was amended shall be enforced, with dates adjusted as follows: the Review Protocol (paragraph 88.d.) shall be issued within five months after issuance of the RFP; the defendant shall select the contractor (paragraph 88.e) within seven months after issuance of the RFP; the beta version (paragraph 88.f) shall be ready for testing within fifteen months after issuance of the RFP; and the risk management database shall be operational (paragraph 88.g) within twenty-six months after issuance of the RFP.<sup>34</sup>*
- 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,*

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<sup>34</sup> Consent Judgment amendments, November 9, 2007, and July 22, 2008.

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*configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.*

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

**Comments:**

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

All of the timeframes and dates specified in the original Consent Judgment and later extended by the Court have expired. Currently, DPD files MAS update reports on a monthly basis. These reports document continued progress in the development and implementation of the risk management system. The schedule set by this requirement is recognized as obsolete and its original intention has been met and is monitored through the monthly MAS reports produced by the Department.

Accordingly, DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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 DPD is in Phase 1 compliance with this paragraph. See Appendix A.

In accordance with the Consent Judgment, DPD developed and used the Interim Management Awareness System (IMAS) prior to development of MAS. With progress on the current system, the need for IMAS has been superseded. Therefore, DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

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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:**

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

Prior to our last report, the Department revised the key documents required for the risk management system. It submitted the revised Data Input Plan, Review Protocol, and Report Protocol to the Department of Justice and the changes were approved as noted in a letter from DOJ dated June 9, 2011. With this, the Department has demonstrated compliance. We will continue to monitor the risk management system to ensure that any other significant changes are handled in a manner consistent with this requirement.

During this reporting period, as noted above, we provided DPD with an expedited assessment on this requirement, and found the Department in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**B. Performance Evaluation System**

***CJ Requirement U91***

*DPD shall ensure that performance evaluations for all DPD employees below the rank of Deputy Chief occur at least annually and include, but are not limited to, consideration of the following:<sup>35</sup>*

- 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.<sup>36</sup>*

**Comments:**

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<sup>35</sup> 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.



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

DPD has been in Phase 2 compliance with this paragraph for the past seven reporting periods. To verify continued compliance for the current reporting period, we examined a random sample of 100 evaluations drawn from all a list of all personnel. Our review verified that more than 94% of reviews were current and properly completed with original narratives, references to “no change in status,” or references to material in MAS. Eleven evaluations were excluded since they were not completed due to the probationary status of the employees or extended leave. Two evaluations could not be located.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**C. Oversight**

***CJ Requirement U92***

*The DPD shall develop a protocol for conducting annual audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.<sup>37</sup>*

**Comments:**

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

Phase 2 compliance is dependent on compliance with the requirements of U93-97; accordingly, the DPD is in Phase 2 compliance with requirements.

**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:**

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<sup>37</sup> Consent Judgment amendment, October 4, 2004.

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

The DPD is in Phase 2 compliance with this requirement. All audits contain the appropriate sign-offs by unit commanders. We verified the review by the Chief through examination of the summary audit briefing signoff dated October 4, 2011. New audits and resulting corrective action reports were completed according to the Audit Protocol schedule.

**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.*<sup>38</sup>

**Comments:**

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

The DPD is in Phase 2 compliance with this requirement. Audits on use of force, prisoner injuries, and allegation of misconduct were completed in July; review for corrective action was being completed at the time of the visit. As part of the audit protocol, new audits are scheduled for July 2012.

**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.*<sup>39</sup>

**Comments:**

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

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<sup>38</sup> Consent Judgment amendment, October 4, 2004.

<sup>39</sup> Consent Judgment amendment, October 4, 2004.

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DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Stop and frisk audits were completed in July, and were under review for corrective action requirements. New audits are schedule for completion on an annual basis. The Department remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U96***

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.<sup>40</sup>*

**Comments:**

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

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Custodial detention audits of all relevant facilities were completed on schedule in July and are under review for corrective action.

The Department remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U97***

*The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.<sup>41</sup>*

**Comments:**

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

The city has been in Phase 2 compliance with this requirement since our second quarterly report. All audits were completed on schedule this fall and are under review for corrective action

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<sup>40</sup> Consent Judgment amendment, October 4, 2004.

<sup>41</sup> Consent Judgment amendment, October 4, 2004.

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reports. This is consistent with the active audit schedule incorporated in the audit protocol and managed through the Civil Rights Integrity Bureau (CRIB). The Department remains in compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U98***

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

**Comments:**

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

The Department now has approximately 300 scout cars equipped with MVS. During the current reporting period, we interviewed the Deputy Chief for Technology and reviewed the MAS records. During the current reporting period (July 1, through September 30, 2011), DPD supervisors reviewed 5,491 videos.

We sampled three platoons on two different dates (Tuesday, July 12, 2011; and Saturday, August 27) in three precincts (Northeast District, Northwest District, and Southwest District) to determine how many cars with operational video units had actually been deployed and how many had random reviews conducted. On both days, since reports were also made on some cars that were not equipped with operational MVS systems, more random reviews were conducted and recorded than required. In every case in our survey, more reviews were reported than MVS systems were deployed. The following chart reflects the results of our survey.

<b>DATE</b>	<b>NORTHEAST</b>			<b>NORTHWEST</b>			<b>SOUTHWEST</b>		
	<b>DEPLO Y</b>	<b>EQUI P</b>	<b>REVIE W</b>	<b>DEPLO Y</b>	<b>EQUI P</b>	<b>REVIE W</b>	<b>DEPLO Y</b>	<b>EQUI P</b>	<b>REVIE W</b>
Tuesday, July 12, 2011	38	17	23	41	34	36	30	23	23
Saturday, August 27, 2011	28	19	28	35	22	34	21	16	21

The Department is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U99***

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

**Comments:**

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

DPD has been in Phase 2 compliance with this requirement since our second quarterly report. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the August 3, 2011 meeting involving DPD and five members of the Prosecutor's Office. The minutes indicate that a wide range of topics relevant to performance were discussed, including information access for both police and prosecutors, evidence issues including specific cases, and other compliance issues including uses of force and stop and frisk. The Department remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**D. Use of Video Cameras*****CJ Requirement U100***

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

**Comments:**

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

MVS equipment, particularly older units, is subject to breaking down and requiring repair. As a result, the total number of operational units at any one time varies. During our July 2011 review, DPD estimated that it had 303 MVS units operational. The compliment of MVS equipment actually installed and operational remains the same, 303 vehicles.

During this reporting period, we interviewed DPD Technology Bureau staff and reviewed maintenance logs and other records relating to the repair and installation of MVS equipment. We found that emphasis has been placed on upgrade of the wireless transmission system at its local precincts and districts from 54 MB to 300 MB, about a 600% increase. The wireless upgrade is now being installed in the Northeastern District and in the Lyndon garage facility. Testing was expected to be complete by October 14, 2011. The rest of the DPD sites will be upgraded by the end of October 2011.

The Purchase Order was issued on September 2, 2011 for 250 Data911 Mobile Video units, but the units have not been received, and final decisions on their precise configuration are still being made. On November 7, 2011 Data911 will be back on site to install the systems in five proof of concept vehicles which will be deployed to the Northeastern District. The current plan calls for the proof of concept to run until November 25, 2011. By the end of the proof of concept period, the online training component of the project will be completed.

Installation is expected to begin on December 2, 2011 and run through January 17, 2012. During this time period, DPD will install the new equipment in 150 2010 and 2011 marked scout cars. During the second quarter of 2012, the Department will take delivery of an additional batch of vehicles, which will receive mobile video systems as well. According to DPD, the exact quantity is yet to be determined and will be based on funding.

The Department is developing an eLearning training component to support its training of officers to use the new equipment. In addition, it will deliver 1,250 in-car microphones to officers and

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roll out a new updated method of performing in-car video inspections. The new microphones will be set to work with the Department's old (current) video system so that only one type of microphone is in use. These microphones are important to the successful implementation of the MVS system. Each officer will be issued a microphone for which s/he will be responsible. The officers will sync their microphones with their patrol car when they start their shift. The MVS units will record audio on three channels so that two officers' microphones and a third microphone located in the back seat will each be recorded. The microphone in the back seat will be activated when the rear door is opened.

During the three-month period ending on September 30, 2011, the DPD IT Bureau responded to 388 requests for service. Our review found that 356 of these were closed as "resolved." Six repairs were recorded as "closed unresolved," 11 were closed as "pending vendor issues," and 15 were recorded as "active." We found that 16 of the "active" and "pending vendor issues" were resolved at later dates. A total of 372 (96%) of the 388 requests for service were successfully resolved.

The Department is in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U101***

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

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

**Comments:**

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

During our past site visits, we found:

- a. The DPD MVS cameras are set to operate 100% of the time on patrol. Full video is 24-30 frames per second; MVS units are set to capture one frame of video per second at all non-emergency times. Whenever the emergency lights are activated, the units switch to full-video mode and capture 28 frames per second.
- b. While supervisory review of videotapes involving injuries to a prisoner or an officer, uses of force, vehicle pursuits, and external complaints is required, DPD has been unable to provide comprehensive data identifying all such incidents. We therefore are unable to accurately measure compliance with U101b.
- c. DPD preserves and retains videos, as required by U101c.

U101b requires that video be activated for each of the incidents specified and that supervisors conduct a review of the video where one is available. We found the following on this site visit:

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- **Pursuits:** DPD was able to produce MAS Vehicle Pursuit Reports that identified 43 pursuit reports during the quarter under review. Thirty-three of the 43 were determined to have operational MVS systems in their cars. Of these, 27 (82%) recorded video and audios were found for 20 (61%). This is approximately the same result for videos that we found in our July 2011 review, when we found that 86% recorded video. We also reviewed the MAS Vehicle Pursuit Reports for comments by supervisors that they had reviewed in-car video in their review of the incident. Eighteen (55%) contained such a notation.
- **Uses of Force:** We reviewed 95 use of force reports for the period from June 1, 2011, thorough August 31, 2011. In our review, we deducted the cases that involved a patrol car not equipped with MVS and situations that occurred where no vehicle was close. We found that in the most recent months reviewed (July and August 2011), supervisors noted that some videos were not downloaded. If these videos were, in fact, extant and were reviewed, the percentages of recorded and reviewed for July and August would be 64% and 67%. The chart below depicts our findings:

Month	# Reviews	NE or NA	Equipped	Video/Audio Recorded & Reviewed	% Recorded & Reviewed	# Not downloaded
June	34	9	25	17	68%	0
July	31	8	22	10	45%	4
August	30	15	15	4	27%	6
	95	32	62	31	50%	10

- **Injuries:** DPD was unable to produce a report that identified a comprehensive list of incidents involving injuries to officers or subjects in which MVS should have been recorded. We reviewed 34 Supervisor's Traffic Crash Reports (DPD 159-A), and found that 25 involved accidents where no injuries were reported. Six involved incidents where a sudden crash occurred and it would not have been appropriate to be operating video. Of the remaining three, two involved automobiles that were not equipped with MVS and one had recorded video. We also reviewed 11 injury/illness reports (form DPD 101), and found none in which a video would have been appropriate.
- **External Complaints:** DPD provided a list of 14 Internal Affairs investigations closed during the quarter under review in which video should have been available and in which it was requested. In eight of those cases (57%), video was produced and reviewed. Our review of IAD investigations revealed 19 additional IAD investigations in which video should have been recorded. Twelve (63%) of these cases had video and were reviewed.

The Department is in Phase 2 compliance with U101a and U101c. It is not in compliance with U101b.

**Compliance Status:**

Phase 1: In Compliance

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Phase 2: Not in Compliance

***CJ Requirement U102***

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

**Comments:**

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

During our last review, we were informed that the Department was upgrading the wireless receivers at the various precincts and districts to ensure that the new MVS units, when installed, would function properly. DPD expected that the upgrade of the wireless system would be performed by the contractor during the quarter. As noted in U100, the wireless upgrade is now being installed in the Northeastern District and in the Lyndon Garage Facility. Testing was expected to be completed by October 14, 2011; and the rest of the DPD sites were expected to be upgraded by the end of October 2011.

During this reporting period, we selected a random sample of 100 traffic stops for each of the months in the quarter (July, August, and September, 2011). The results were as depicted on the following chart.<sup>42</sup> Since the DPD failed to respond to our September random list, the results are blank in the chart.

<b>Month</b>	<b>Sample Size[i]</b>	<b># Video</b>	<b>%</b>	<b>Audio</b>	<b>%</b>
Jul-11	85	60	71%	25	29%
Aug-11	83	71	76%	23	24%
Sep-11					
Total for the Reporting Period	168	131	75%	43	25%

While DPD is not in Phase 2 compliance based on this data, in keeping with our practice, DPD will retain compliance for this reporting period. If found to be not in compliance during the next reporting period, DPD will be removed from compliance.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

<sup>42</sup> Sample size does not reach 100 in any month because some vehicles in our sample were determined at the time of the traffic stop to have had inoperable MVS units or have had units removed from the car.



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**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:**

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

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 117 disciplinary cases that were closed during the quarter. As noted below, there is not backlog of cases and case flow is being managed sufficiently. We also established that all previously noted resources remain in place to support compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U104***

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

**Comments:**

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

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 117 disciplinary cases that were closed during the quarter. All disciplinary proceedings met the established timelines and were consistent with this requirement. There are no cases remaining open that predate 2010. Eleven cases remain open from 2010. The status of all open cases is track by the disciplinary unit and reported quarterly. The open 2010 cases and 130 open cases from this year reflect appropriate scheduling and steps toward closure.

**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;*

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

**Comments:**

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

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 117 disciplinary cases that were closed during the quarter. The disciplinary matrix is provided for use at disciplinary trial boards. All decisions this quarter fell within the matrix and were consistent with this requirement. It is also worth noting that the review of disciplinary cases and processes has been incorporated in an ongoing quarterly risk review by the Department. 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
78	Comprehensive Risk Management Plan	In Compliance	Pending Compliance
79	Improve risk management system	In Compliance	In Compliance
80	Database requirements (a-z)	In Compliance	In Compliance
81	Database to include officer information	In Compliance	In Compliance
82	Data Input Plan (a-d)	In Compliance	In Compliance
83	Report Protocol for database (a-c)	In Compliance	In Compliance
84	Review Protocol for database (a-l)	In Compliance	In Compliance
85	Use modules to ensure work progress	In Compliance	In Compliance
86	Common control number required	In Compliance	In Compliance
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	In Compliance	In Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	In Compliance
91	Annual officer review criteria specified	In Compliance	In Compliance
92	Protocol for conducting audits	In Compliance	In Compliance

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

## **IX. TRAINING**

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the Training Commander and several training supervisors. We observed a Use of Force in-service training class. We reviewed a variety of memoranda, policy material, and new lesson plans prepared for use during the 2011-2012 Training Year (July 1, 2011, through June 30, 2012).

DPD continues to make progress in addressing the Consent Judgment training requirements. The Department should now be taking steps to ensure that the changes it has made are institutionalized and accepted throughout the organization.

### **A. Oversight and Development**

#### ***CJ Requirement U106***

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

#### **Comments:**

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

We found during our July 2011 review that the DPD report, “Training Oversight and Development Report – Semi-Annual Review, June 2011,” addressed requirement U106. This report – the fifth such report to be issued – contained the evaluation of use of force, arrest, and

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detention training; and covered all elements of this requirement. The next such report will be produced in December 2011.

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U107***

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

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

**Comments:**

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

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

- a. During our July site visit, we reviewed the revised lesson plans that are being used in the 2011-2012 training cycle. In addition, we reviewed the report entitled, "Training Oversight and Development Report – Semi-Annual Review," dated June 2011, which documents the DPD's semi-annual review and evaluation of its training. During our most recent site visit, we attended and observed a portion of Use of Force officer training in the annual in-service program. Use of force training is adequate.
- b. As noted above, we reviewed the recently revised lesson plans for the Use of Force and Arrest and Detention training, and found them to be adequate for the training required.
- c. DPD did not select any new trainers during the past quarter.
- d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions.
- f. Directive 304.5-3.4 places responsibility on the Commander of Training for conducting a training needs assessment. In January, 2011, and again in July, 2011, the DPD documented training needs assessments. Executives and mid-level managers representing critical areas of the DPD participated in the process. The group identified

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several “performance gaps” that could be addressed through training. DPD has initiated new training and, where appropriate, modified in-service training in order to address many of the deficiencies identified in the needs assessments. The next critical step in this process will be evaluation of the impact of the new training and, if necessary, its revision. DPD plans to conduct a training needs assessment every year. The next one is planned for June, 2012.

Changes to DPD training made as a result of the needs assessments included the following:

<b>Training In-service</b>	<b>Training Added</b>
Use of Force	De-escalation techniques such as “verbal Judo.” Emphasis on documentation of use of force. Examples of proper documentation of use of force. Proper documentation of reasonable suspicion for stop and frisk.
Supervisory Leadership and Accountability	Information concerning identification of high-risk officers. Emphasis on reviewing reports to catch omissions and errors. Proper documentation by officers of reasons for stop and frisk. DNA collection.
Prisoner Detention	Explanation of many new forms and procedures. Instruction re process of new procedures for live scan. Eight-minute video regarding DNA collection.
Search and Seizure	Examples and case law explaining reasonable suspicion necessary for stop and frisk.
Urban Street Survival	Safety tactics for felony vehicle stops. Use of cover and concealment.
Emergency Vehicle Operations	Operation of automobile in pursuits.
In-Car Video	Proper use of in-car cameras.
DNA Collection	Eight-minute video on DPD intranet.
MAS	Corrective action notices. Documentation of actions taken to address officers’ behavior.

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Training In-service	Training Added
	Monitoring officers' behavior.
Quality Public Service	External complaints.

The Department remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U108***

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

**Comments:**

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

DPD captures data relating to its in-service training, and records it on a spreadsheet. Since the spreadsheet is used by the Department to determine if all of its officers have attended the required in-service training sessions, we have conducted audits of its accuracy during the past and current reporting periods. In past reviews, we randomly selected 100 officers who were listed on the spreadsheet as having received and completed in-service training during the previous quarter. During our July 2011 review, the Training Division was able to locate sign-in sheets reflecting attendance for 99% of the officers listed on the spreadsheet as having completed their training during the previous reporting period.

During this reporting period, we selected at random 100 records for officers who were listed as having completed their in-service training during the first quarter of the current training year (July 1, 2011, through September 30, 2011). The DPD was able to locate sign-in sheets reflecting 100 (100%) of the records in our sample. During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. Training has entered all DPD training records for years 2003 through the present. We verified that all 100 records that we selected at random from the past quarter were had been recorded the MITN System.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U109***

*The DPD shall ensure that only mandated objectives and approved lesson plans are taught by instructors and that instructors engage students in meaningful dialogue regarding particular*

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*scenarios, preferably taken from actual incidents involving DPD officers, with the goal of educating students regarding the legal and tactical issues raised by the scenarios.*

**Comments:**

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

DPD training directives and lesson plans properly direct and instruct on the relevant provisions of the Consent Judgment.<sup>1</sup> DPD developed 10 scenarios utilizing Internal Affairs incidents, and accepted them for incorporation into the Use of Force training. It has another five scenarios under development.

The Department also developed 12 scenarios for its legal training. The legal scenarios are based on both national and local cases that illustrate various legal issues. During our July 2011 review, we observed the Legal in-service class in which several scenarios were presented and discussed. We found that the legal points presented were practical and appropriate for patrol officers.

Our previous review of training curricula, lesson plans, and scenarios used in the current training year (July 1, 2011, through June 30, 2012) showed that they instruct and convey the requirements of the Consent Judgment and DPD policy. During this reporting period, we observed a Use of Force training, and found that it provided adequate use of force training. The instructor followed the lesson plan for the course. The Department remains in Phase 2 compliance with this paragraph. We will review future changes and report on compliance in coming quarterly evaluations.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U110***

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

**Comments:**

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

The DPD met with the City Law Department pursuant to this requirement on August 25, 2011. 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*

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*each provision's implementation. Thereafter, the DPD shall provide training on the policies contained in this Agreement during in-service training.*

**Comments:**

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

Recruits receive this training, which is conducted by CRIB, after they complete their state certification exams and before they graduate from the Academy. The currently in-progress Basic Training class – which began its training on September 23, 2011, and is composed of 34 new recruits – will receive its training at a later date. Civilian employees also receive this training from CRIB. No new civilian employees were hired during the current reporting period.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**B. Use of Force Training**

***CJ Requirement U112***

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

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



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- i. *The proper duration of a burst of chemical spray, the distance from which it should be applied, and emphasize that officers shall aim chemical spray only at the target's face and upper torso, and*
- j. *Consideration of the safety of civilians in the vicinity before engaging in police action.*

**Comments:**

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

During our July 2011 site visit, we assessed training policy directives, curricula, lesson plans, special orders, training needs assessment and teletypes, among other materials that were prepared to address the requirements of U112 during Training Year 2011-2012 (July 1, 2011, through June 30, 2012). Our review showed that the course content requirements of U112 and all of its subparagraphs were met for all recruits and in-service trainees.

Also during our July 2011 site visit, we found that 2,582 (99%) of the then 2,612 DPD members "available to train" attended Use of Force training during the last complete training year (July 1, 2010, through June 30, 2011). The DPD also trained 2,567 (98%) of its officers in its PR-24 in-service course.

During this reporting period, we found that 707 (27%) of its 2,613 officers currently available to train attended the Use of Force in-service training during the first quarter of the new training year. A total of 716 officers (27%) officers attended PR-24 training during the same period. The DPD is on a course to remain in compliance with this requirement.

The Department remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**C. Firearms Training**

***CJ Requirement U113***

*The DPD shall develop a protocol regarding firearms training that:*

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

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- e. *Maintains finger off trigger unless justified and ready to fire;*
- f. *Maintains proper hold of firearm and proper stance; and*
- g. *Uses proper use of force decision making.*

**Comments:**

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

The requirements specified in U113 are addressed in the Department's Firearms training which officers are required to attend and qualify every six months. During the last six-month firearms qualification period (January 1, 2011, through June 30, 2011), 2,539 (97%) of the 2,612 officers available to train attended firearms and qualified.

During the first half of the current six-month qualification period (July 1, 2011, through September 30, 2011), 1,353 officers (52%) of 2,613 available to train attended firearms training and qualified. The DPD is well on its way to continue in compliance with this requirement; over 50% of the officers available to train qualified during the first half of the six-month period. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**D. Arrest and Police-Citizen Interaction Training**

***CJ Requirement U114***

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

- a. *The DPD Arrest, Investigatory Stop and Frisk and Witness Identification and Questioning Policies;*
- b. *The Fourth Amendment and other constitutional requirements, including:*
- c. *Advising officers that the "possibility" that an individual committed a crime does not rise to the level of probable cause;*
- d. *Advising officers that the duration and scope of the police-citizen interaction determines whether an arrest occurred, not the officer's subjective, intent or belief that he or she affected an arrest; and*
- e. *Advising officers that every detention is a seizure, every seizure requires reasonable suspicion or probable cause and there is no legally authorized seizure apart from a "Terry stop" and an arrest; and*
- f. *Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper police-community interactions, including scenarios which distinguish an investigatory stop from an arrest by the scope and duration of the police interaction; between probable cause, reasonable suspicion and mere speculation; and voluntary consent from mere acquiescence to police authority.*

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**Comments:**

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

Use of Force, Search, and Detention training are taught in the eight-hour Use of Force in-service training and, until the current year, in the four-hour Arrest Procedures in-service training. The Arrest Procedures session has been discontinued as a separate course, and is now being addressed in the Use of Force and Legal blocks of instruction. Annual training is provided by DPD in its in-service training program for officers and supervisors. During the last training year (July 1, 2010, through June 30, 2011), the Department trained 98% of its available members in its Use of Force in-service training.

During this reporting period, we found that 707 (27%) of DPD's 2,613 officers available to train attended the Use of Force in-service training during the first quarter of the new training year. In addition, 745 (29%) attended the Legal in-service block of instruction. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**E. Custodial Detention Training*****CJ Requirement U115***

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

**Comments:**

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

DPD developed appropriate policies and lesson plans to comply with this provision, as well as a protocol to train all recruits, sworn members, confinement officers, investigators, and supervisors. All officers who attend Use of Force in-service training receive the detention training specified by this requirement. Officers who serve in the detention cell areas are required to receive *additional* annual detention officer training, which is more specifically related to detention responsibilities (see C73).

During the training year that ended on June 30, 2011, 2,582 (99%) DPD members attended the Use of Force in-service training session and received this training. As noted in U114, 27% of DPD officers have attended Use of Force training during the first quarter of the current training year.

The DPD remains in Phase 2 compliance with this paragraph.

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***CJ Requirement U116***

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

**Comments:**

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

DPD has incorporated these training requirements into its Use of Force lesson plan. During the past year, the Department trained 99% of its officers in its Use of Force in-service training session. DPD remains in compliance, and has trained 27% of officers available to train during the recently completed first quarter of the current training year.

The Department remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U117***

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

**Comments:**

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

DPD arrest policies are articulated in DPD Directive 202.1, Arrests, effective July 1, 2008. Departmental policy clearly states, “[O]nly 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.”

Material witness training has been incorporated into the Use of Force lesson plan. As noted above (see U115), the DPD trained 99% of its officers in the Use of Force in-service training during the training year that ended on June 30, 2011; it trained 27% of its officers in the first quarter of the current training year. DPD remains in compliance with this requirement.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**F. Supervisory Training**

***CJ Requirement U118***

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

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**Comments:**

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

The DPD fulfills Consent Judgment requirements U118-122 through its annual Supervisory Leadership and Accountability in-service training that is required for both supervisors and investigators. During the training year that ended on June 30, 2011, the Department trained 612 (99%) of its 616 supervisors in its Supervisory Leadership and Accountability in-service training session.

On June 10, 2011, DPD Training approved a new three-hour block of instruction entitled, "Supervisory Report Writing – SIR Report." This block of instruction is designed to provide procedures for proper documentation for the following situations in which:

- A use of force was employed
- A firearm was drawn and a target acquired
- An injury to detainee(s) occurred
- Allegations of injuries while in DPD custody were made

The three hours have been incorporated into the Supervisory Leadership and Accountability in-service training. During the first quarter of the new training year (July 1, 2011, through September 30, 2011), 154 (25%) of 606 supervisors and investigators attended the Leadership and Accountability in-service.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U119***

*DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.*

**Comments:**

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

The DPD did not promote any personnel to the supervisor rank during the past quarter. As noted in U118, during the Training Year that ended on June 30, 2011, the DPD trained 99% of its supervisors and investigators at its annual Supervisory Leadership and Account in-service training. Also as we reported in U118, during the first quarter of the new training year, the DPD trained 25% of its supervisors and investigators in the annual supervisory training course. DPD remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***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:**

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

The Department's supervisory and leadership accountability in-service training session addresses this requirement. During this reporting period, we found that DPD had provided this training to 99% of its supervisors during the training year that ended on June 30, 2011. During the first quarter of the new training year, it trained 25% of its supervisors and investigators. The DPD is in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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:**

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

The training required by U121 is delivered in the DPD Supervisory and Leadership in-service training, which is attended by both supervisors and investigators. In the training year that ended on June 30, 2011, the Department trained 99% of its supervisory staff. During the first quarter of the new training year, it trained 25% of its supervisors and investigators. The Department is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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:**

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

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The training required by U122 is delivered in the DPD Supervisory and Leadership in-service training, which is attended by both supervisors and investigators. In the training year that ended on June 30, 2011, the Department again trained 99% of its supervisory staff. During the first quarter of the new training year, it trained 25% of its supervisors and investigators.

DPD Training is developing an investigative techniques course to address performance issues relating to its IAD and OCI investigators. The course will be mandatory for all investigators assigned to these units. The Department is in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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:**

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

The DPD conducted a training class for its Field Training Officers in April 2011, in which it trained three new FTOs and recertified another. It has not conducted another certification or recertification class since April 2011. DPD currently has 114 FTOs throughout the Department.

Probationary police officers are assigned to work with different FTOs in three 28-day periods. DPD now has 22 PPOs working with the FTOs. Typically, two probationary police officers (PPOs) are assigned to one of five FTOs who are assigned to DPD Training. Although the FTO usually has two PPOs working with him/her, each day s/he evaluates only one PPO of the two; the other simply accompanies the FTO and observes the process. Twelve PPOs are assigned to beats downtown, special functions such as baseball and football games, and other events. PPOs are periodically rotated into assignments with the FTOs, and the others move into the beat and special assignments. The FTOs evaluate the PPOs daily. If a problem is developed during the FTO training, a Probationary Evaluation Board, chaired by the Commander of Training, is convened to consider the situation. The Board can recommend dismissal, additional training, or an extension of the probationary period; or return the PPO to his or her assignment. DPD is in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

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***Critical Issues:***

- ***Risk Management and the Status of MAS:*** The critical issues now related to the effective use of the system and refinements to improve efficiency and effectiveness in risk management. Assurances of accuracy in data input and storage and the efforts to norm data by arrest volume are significant as is the development of reports that monitor the use and outcomes of the risk management process.
- ***In-car Video Progress:*** The DPD has repaired its MVS equipment and equipped over 300 cars. The Department has begun the process of upgrading its wireless system which is used to upload videos automatically. A robust system that uploads automatically without fail is important to achieving success in the use of MVS throughout the Department. Such a system will facilitate access to videos by supervisors and commanders. A second important upgrade to the Detroit MVS will be realized when the new units are installed in the patrol cars.
- DPD expects that the new system's capabilities will significantly enhance management capabilities. Audio, for example, will record the status of the microphone, on/off, or out of range. The video and audio will be activated when the rear door is opened. The system will record both officers' audio and the rear seat of the car on separate channels.
- In our reviews, we have found some dysfunction between the users of in-car video and the technical aspects of the system. The current system creates a very large amount of data and, as a result, downloading data from the cars into the wireless network has been a technical challenge. As a result, there have been times that the users (primarily supervisors and investigators) were unable to access the videos when they checked the on-line video server. In fact, it is this system weakness that the Information Technology staff has identified as a serious problem and is resolving through the new upgrade to the wireless transfer system. In spite of the upgrade, a system, in which such searches that failed are recorded and researched at a later date to find the video, should be designed and implemented.
- We have also noted an issue involving the 90-day video destruction policy. Since the DPD is dealing with such large amounts of data, the retention of videos for only 90 days has been set as policy. If videos are needed for a period longer than 90 days, they can be copied or protected and held for a longer period. While there have been deviations from the rigid application of this policy and some video has been retained longer than 90 days, we have also observed instances where video was destroyed after 90 days, and when requested at a later date, it was unavailable. Some disciplined control over requests for videos needs to be implemented into the system. Supervisors and investigators who need videos should be required to flag the ones needed for a later date so that the Information Technology staff can ensure that they are protected.
- Finally, DPD, as we observed in our last report, confronts the challenge of ensuring that the equipment is used by officers as directed by Departmental policy. The Department has made some progress with audio, but the level of compliance remains low.
- ***Discipline:*** There is no backlog of disciplinary cases and cases are now resolved within the established timelines and with sanctions that fall within the expected range. The Department is also now incorporating the use of disciplinary data in relation to the risk



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management process. We will continue to monitor the disciplinary process to ensure that no similar problems arise.

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

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

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

During our first site visit in November 2009, we reviewed required directives, supporting logs, forms, and documentation relating to the operation of the detention facilities. Accompanied by key members of the DPD Office of Civil Rights personnel, we conducted our first tour of the Detroit Police Department's five facilities with holding cells and the Detroit Receiving Hospital.<sup>43</sup> We have repeated our tours and inspections of some or all of these facilities during each of our subsequent site visits, and have interacted with command and key detention staff at each facility.

In addition, we have met with key CRIB command staff, Audit Team personnel, and the designated health care professional to conduct a thorough review of all requirements, DPD directives, forms, logs, and documentation relating to and required by this Judgment. Our review disclosed the need for the DPD to revise various health-related directives and to have them reviewed and approved by a health care professional. This was accomplished. In addition, we met with DPD Training staff regarding training issues, which were promptly addressed.

During our visits to and inspections of the various facilities with holding cells, we were often accompanied by CRIB staff, and assisted by the cell block supervisors and compliance officers. These inspections included our entering and examining every holding cell, interviewing detention staff, and reviewing forms and logs.

The Conditions of Confinement Consent Judgment is comprised of several different categories relating to the confinement facilities maintained and operated by DPD.

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<sup>43</sup> Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts.

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**III. FIRE SAFETY POLICIES**

***CJ Requirement C14***

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

**Comments:**

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

The Fire Marshal reviews the FSP annually and also conducts regular and periodic (annual) inspections of holding cells; the most recent review was conducted in May 2011. With the exception of the Southwestern District, the Audit Team determined that the DPD did not meet the requirement to maintain the Smoke Alarm Systems in the DPD precincts/District Buildings. The Fire Inspection was incorporated into the semi-annual audit conducted for July 31, 2011. Following the inspection, requests for repairs were submitted to the DPD Office of Facilities Management and noted on the DPD form 702 Maintenance Log.

Accordingly, DPD remains in Phase 2 compliance with this 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:**

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

The DPD has been in Phase 2 compliance with this paragraph since the second reporting period.

During this reporting period, we reviewed DPD 716, Fire Extinguisher Monthly Inspection/Inventory, and DPD 703, Fire Drill Documentation Forms, for all of the districts/precincts with holding cells; and determined that all facilities are in compliance with these requirements. We also examined a sample of the fire extinguishers at each holding facility, and found them all to be fully charged.

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

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Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C16***

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

**Comments:**

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

Following the development of the Fire Safety Plan, the DPD made required structural changes to districts/precincts' holding facilities, including the updating and/or installation of sprinkler systems, fire alarm systems, and fire-rated doors. During our inspection of the district/precinct holding cells, we found the presence of all three.

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C17***

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

**Comments:**

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

The DPD has developed and implemented the required Fire Safety Plan.

During our most recent site visits to each district/precinct that maintains holding cells, we found documentation of the Fire Marshal's inspections. The most recent inspections were conducted in May 2011. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement C18***

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

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

**Comments:**

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

The DPD has been in full Phase 2 compliance with this paragraph since the first reporting period.

As 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 Fire Systems of Michigan and the Fire Marshal conducted and documented inspections of suppression systems in May 2011. DPD remains in Phase 2 compliance with the requirements of this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C19***

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

**Comments:**

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

The DPD has been in Phase 2 compliance with this paragraph since the second reporting period.

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

Fire Systems of Michigan and the Fire Marshal conduct the required inspections, which were last conducted in May 2011. The Fire Safety Practices and Policies audit for the reporting period ending July 31, 2011, was conducted by the Office of Civil Rights Audit Team, and members of

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the Holding Cell Compliance Committee from the Detroit Fire Department and the Independent Qualified Source, as required by Paragraph 66 of the Conditions of Confinement Consent Judgment. A review of the audit documents during this reporting period indicated that maintenance problems were discovered in four of the five facilities, Southwestern being the exception. As noted above, the DPD Office of Facilities Management is responsible for the maintenance of these systems. DPD Form 702, Maintenance Log, instituted by the Holding Cell Compliance Committee in January 2011, ensures that all maintenance issues are documented and tracked at the Civil Rights Integrity Bureau. 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 completed and generated by DTE Energy.

The DPD remains in Phase 2 compliance with this Consent Judgment paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C20***

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

**Comments:**

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

The DPD has been in Phase 2 compliance with this paragraph since the first reporting period. During our most recent unannounced inspection of the facilities with holding cells, we discovered one officer smoking in the garage area and evidence that smoking had taken place at other times. During our review of all of the monthly inspections on DPD 715 - Evaluation of the Operation of Holding Cells, we found no documentation that any smoking had been observed in the facilities.

The DPD is in continued Phase 2 compliance with this Consent Judgment paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C21***

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

**Comments:**

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

Our inspection of the holding facilities found that each district/precinct was equipped with at least one yellow storage cabinet, located in the garage area, for flammable and combustible

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liquids. We checked the cabinets, and found flammable materials and gas storage containers. DPD is in continued Phase 2 compliance with this Consent Judgment paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C22***

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

**IV. EMERGENCY PREPAREDNESS POLICIES*****CJ Requirement C23***

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

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**Comments:**

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

During this reporting period, as noted above, we provided DPD with an expedited assessment on this requirement. As noted previously, Phase 2 compliance is related to and contingent upon the implementation of C24-25; accordingly, our compliance finding is deferred.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Deferred

***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:**

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

The CEPP identifies staff responsibilities in the event of a fire emergency to include notifications, evacuation, and key control procedures. (See C15.)

The DPD achieved full compliance in the second and subsequent reporting periods as it increased the frequency of fire drills to the 100% level required by policy. During this reporting period, we determined that the fire drills were again conducted according to policy at the 100% level.

Following our recommendations that the detention evacuation equipment be stored in the immediate vicinity of the holding cells so that it is readily accessible to officers, we found, during the last reporting period, that the shackles were fully accounted for and placed individually in crates, allowing for easy access. Some were being used by the transportation crew. We then determined that the detention officers had sufficient handcuffs and /or shackles to utilize in the event of an evacuation. We found that this continues to be the case during this reporting period.

The DPD is in continued Phase 2 compliance with this paragraph.



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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C25***

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

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

**Comments:**

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

We noted in our first quarterly report that DPD had not achieved Phase 2 compliance with this paragraph, due to a lack of documentation regarding maintenance and operational testing of the keys. During our first site visit, we recommended that each officer working in a cell block be issued a complete set of keys. As a result, we were informed that two extra sets of keys were distributed to each district/precinct with holding cells, bringing the total at each to five – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants’/sergeants’ office. The DPD subsequently achieved Phase 2 compliance in this area, as we noted in our second and third quarterly reports.

We continued to note that DPD form 715 (Evaluation of the Operation of the Holding Cells) needed to be updated to reflect the appropriate number of keys. While the Department revised the form in October 2010, the form still did not elicit some critical information, including: the number of key sets at each location; where the keys are stored; and who has possession of them. In addition, the Emergency Evacuation Procedures Manual (or “red book”) did not reflect the number of key sets assigned to each detention facility. As of our most recent site visit, these modifications have been made.

During our previous inspection, we found that each districts/precincts had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants’ and sergeants’ office. Teletype # 11-0989 Holding Cell Facility Keys – Required Documentation regarding Inventory and Assignment of Keys by the Cellblock Supervisor was distributed. It directs the cell block supervisor to conduct an inventory of the keys at the commencement and the conclusion of his/her tour of duty and document same in the desk blotter.” During our most recent site visit, we found that at one facility, the key inventory policy had never been implemented. At another facility, two of three shifts had completed the inventory correctly; and at a third facility, a set of keys had been missing for an unknown period of time, but at least several weeks. At one facility, when asked if he had a set of keys, the Detention Officer searched under a stack of papers until he found his key set.

These same problems were documented on the form 715, Evaluation of the Operation of Holding Cells, when the CRIB inspector conducted his unannounced monthly inspections during this quarter.

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As noted previously, poor key control and retention jeopardizes detainees, officers, and the public; and reflects a serious lack of security in detention facilities. Officers must have control of their keys at all times, and supervisors must know where all of the keys are located.

During this reporting period, as noted above, we provided DPD with an expedited assessment on this requirement, and found the Department not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
23	Ensure reasonable safety in emergency	In Compliance	Deferred
24	Develop comprehensive emergency preparedness program	In Compliance	In Compliance
25	Implementation of key control policies	In Compliance	Not in Compliance

**V. MEDICAL AND MENTAL HEALTH CARE POLICIES**

***CJ Requirement C26***

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

**Comments:**

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

During previous reporting periods, we found DPD not in Phase 2 compliance with this paragraph.

During this reporting period, we reviewed DPD's Audit Team report of its findings of the Holding Cells released on July 31, 2011. We noted that some progress has been made to address the deficiencies described in their report.

Our inspections, along with our review of the quarterly detainee file folders, revealed multiple issues and deficiencies in this area including: missing documentation and the lack of completing the Detainee Intake Form, DPD 651 by including the name of the arresting or transporting officer. We have found in a few instances where the processing officer writes this information in by hand on the form after the fact. While clerical errors are not as numerous as in past reviews, they still exist. Medical referrals and the thoroughness of medication logs have also improved during this reporting period, and the documentation of the exchange of health information between shifts has become compliant. In previous reviews, holding cell personnel did not adequately list the medical needs of the detainees on the Platoon Daily Detail Summary and the shift preparing or receiving the log failed to place the date or the time on the form.

During the current reporting period, we reviewed and inspected a random sample of the detainee file folders and observed personnel. We again found that personnel are still not properly implementing these procedures in accordance with the DPD directives. We continue to note

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clerical errors, incomplete or missing documentation of medical referral and medication logs, missing signatures, and missing documentation of required supervisory reviews. In order to assess compliance with this paragraph we reviewed those issues that had a direct impact on identification and response to a detainee's medical or mental health conditions. We found sixteen instances where the processing time did not meet the requirement, no release of medication was indicated, no conveying officer listed, missing discharge instructions, or no time indicated for the initial request for medical treatment.

DPD improved in this area during this reporting period, but remains not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement C27***

*The DPD shall develop a comprehensive medical and mental health screening program (CMMHSP) that shall be approved in writing by qualified medical and mental health professionals. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the program within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved by qualified medical and mental health professionals at least every year and prior to any revisions to the programs. At a minimum, the comprehensive medical and mental health screening program shall include prisoner screening procedures and medical protocols.*

**Comments:**

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

During our seventh reporting period, the DPD Health Authority completed the review and approved the CMMHSP policies and directives. The DPD provided us with documentation during that site visit. DPD remains in 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,*

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- c. *require that the DPD follow a standard intake procedure for each individual entering DPD custody;*
- d. *require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*
- e. *incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

**Comments:**

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

During all of the previous reporting periods, we found DPD not in Phase 2 compliance with this requirement. We observed deficiencies including clerical errors; missing signatures of police detention officers and supervisors; and incomplete or incorrect completion of required forms. In five cases, during this review, we found that detainee intake screenings were not conducted within two hours of a detainee's arrest. Occasionally an arrestee is taken directly to DRH from the scene, and the two-hour screening mandate from time of arrest to processing does not meet the requirement. Any instance in which a detainee is screened after two hours from the time of the arrest the processing officer should so indicate the reason on the face sheet of the DIF. In one incident, staff had not transported to DRH a detainee needing medical care until seven hours after the initial screening had been completed. The staff did not follow DPD policy that requires referring the detainee to DRH. Many of these issues would be resolved if personnel would complete all the information the forms require.

We reviewed the Cell Check Logs (DPD 659) for this reporting period, and found 99% in compliance for general population checks. The Medical/Mental High Risk Logs (DPD 661) for this reporting period revealed that 99% of high-risk detainees were observed by staff.

There remains confusion among DPD personnel as to how to classify detainees who have had previous ideations of suicide or suicide attempts. DPD policy 305.1-3.9, Detoxification/Safety Cell, indicates that a detoxification/safety cell is an observation cell temporarily used to detain chemically impaired persons or a person who may be a suicide risk (constant observation). As the policy is written, any previous suicide attempt requires constant supervision. On page 3 of the Detainee Information Form there is a statement: "If only #10 is marked yes and suicide attempt is over one year ago, monitor. If attempt is less than one year ago, place detainee on constant supervision." DPD Policy 305.1-3.21 indicates that a suicidal detainee is one with a history of suicide attempts. In some cases, medical professionals at DRH may recommend placing a detainee on constant watch or remove them from the watch. In these cases, DPD personnel need to indicate these changes in the comment section of the High Risk Log or on the form when they have returned to the holding facility. We have discussed these concerns with OCR staff during our site visits.

During this reporting period, in our review of a random sample of 183 detainee file folders, we continued to find some of the problems we observed in the past. These deficiencies included missing or incorrect dates/times on forms and logs; forms and logs not filled out completely (Medical Treatment/Medical Referral Logs); and cases where detainees should have been referred to DRH in a more timely fashion, but were not. We also found, as in past reporting periods, that medical and mental health information is not being updated in the Livescan system. We have continued to recommend to CRIB that it develops and implements a process so that

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when a detainee's medical or mental health status changes, detention staff update the system accordingly.

Overall, we found that DPD had an 89% compliance rate with this paragraph in the current reporting period. DPD is not in 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:**

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

The DPD was not in Phase 2 compliance with this paragraph in previous reporting periods.

During this reporting period, we reviewed a sample of 183 detainee file folders, and inspected each of the districts/precincts that maintain holding cells and the Detroit Receiving Hospital. We continue to find that staff did not follow policy in several key areas, including:

- Untimely referral, of detainees in need of medical or mental health care to the Detroit Receiving Hospital;
- Cases in which intake screenings were not conducted within the required two-hour timeframe following arrests;
- Medical referrals lacking appropriate information;
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner or receiving them prior to the prescribed time; twenty-seven detainees had medications disbursed, in one instance the dosage was administered late and in another the medication log was missing from the file folder.
- Health information not being updated in Livescan;
- Detroit Receiving Hospital discharge instructions missing.

Overall, we found that 88% were in compliance with this paragraph – an increase over the 87% in the previous reporting period. DPD remains not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Pending Compliance

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***CJ Requirement C30***

*The DPD shall develop and implement policy regarding infectious disease control (IDC) in consultation with medical health professionals. The policy shall be reviewed and approved in writing by qualified medical health professionals at least every year after implementation and prior to any revisions to the policy. At a minimum, the policy shall:*

- a. establish appropriate housing for prisoners believed to have infectious diseases; and*
- b. mandate measures the DPD shall take to prevent the spread of infectious diseases, including proper handling and disposal of bio-hazardous material.*

**Comments:**

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

During our previous site visits, our inspections of the Detroit Receiving Hospital and the five DPD facilities that maintain holding cells disclosed poor levels of sanitation in similar degrees at all of the sites with a trend toward improvement. In our last report we found, for the first time, DPD to be in compliance with its sanitation practices.

We found, in prior visits, that some of the facilities maintained adequate sanitary conditions in the cell areas, and others needed to take additional measures to ensure proper sanitation. During our most recent site visit, we again inspected all districts/precincts with holding cells and the DRH. The DPD should continue to follow and complete the instructions in the Holding Cell Cleaning Log, which is critical to DPD's ability to be in compliance with this paragraph. (See details in C39 and C40.)

We reviewed a sample of 45 Holding Cell Cleaning logs from the five facilities, with seven days on each log, for a total of 315 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors approval designated. In every instance, the cleaning officer checked the box in the appropriate place. However, we found the cleanliness and sanitation at the Eastern District and the Sixth Precinct to be inadequate.

We also found that the Personal Protective Equipment (PPE) kits were in order and included an adequate supply of the required contents. Our inspection of the first aid kits uncovered some expired contents, but we have observed some improvement by the detention staff in this area. We continue to recommend that detention staff open the first aid kits on a regular basis to verify that the contents have not expired.

Previously, we observed that staff had food and drinks in the holding cell areas. During our July and October 2011 previous site visits, we did not observe any staff eating or drinking in a holding cell area, nor did we observe any employee food located in the detainee refrigerator. The DPD Directive 403.2-5-1-8, Precaution Strategies, requires that staff do not eat, drink, smoke, apply cosmetics or lip balm, handle contact lenses, or store food or drink in work areas where there is a reasonable likelihood of significant exposure to infectious diseases. We recommend that as they arise, DPD take appropriate action to remedy these violations of policy.

An effective infectious disease control plan must account for the sanitation and maintenance of all plumbing and equipment; physical plant cleanliness; and documentation that a plan to maintain the physical plant is being implemented in the holding cell areas and holding cells. The DPD Infectious Disease Policy 403.0, Section 403.2-6.3, Statements 1-6, Department Equipment, vehicle or facility, affirms the importance of building maintenance and cleaning and

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decontamination of the facility. DPD's compliance with sanitation practices this quarter is 86%. If found to be not in compliance during the next reporting period, DPD will be removed from compliance.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C31***

*The DPD shall develop and implement a protocol for updating and exchanging prisoner health information. At a minimum, this protocol shall;*

- a. require that prisoner's health information is recorded at intake and thereafter immediately readily available to all relevant medical and transporting personnel in a manner consistent with the relevant federal and state confidentiality statutes;*
- b. require that prisoner health information is continually updated to incorporate any additional relevant information acquired during his or her detention;*
- c. require that relevant prisoner health information is documented and communicated between consecutive shifts, such as whether a prisoner is taking medication or has a medical condition; and*
- d. require that prisoner health information travel with prisoners who transferred to another facility.*

**Comments:**

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

During previous reporting periods, our reviews of DPD form 661, Detainee Medical/Mental Health Monitoring and form 659a, Platoon Daily Detainee Summary Form; indicated that required detainee health information – such as whether a detainee is taking medication or has a medical condition – was not always being documented and communicated between consecutive shifts.

Our most recent inspection and review of documentation revealed that sharing relevant health information between shifts is now compliant. This practice is important to ensure that the detainees' health needs are met, and for the purposes of staff safety. This information must be documented, updated, and communicated between the initial shift receiving the detainee and the subsequent shifts until the detainee is released. It is critical for the oncoming shift to indicate the date and time they receive the Platoon Daily Detainee Summary to assure the continuity of health monitoring for detainees requiring it.

We reviewed DPD log 659a, Platoon Daily Detainee Summary in the five districts/precincts that maintain holding cells, and found few errors. Of those errors the most prevalent are those where personnel do not include the date and time of preparation or receipt of the document. DPD's ability to capture information and list the medical/mental needs of the detainee on the form is exceptional in almost every case. DPD's compliance rate for C31c and d is 97% (See C36.)

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We also reviewed 129 copies of DPD Form 661 that required a 15-minute watch. The entries were made in a timely fashion; and we found that the date, time, and reason for the removal from the watch were recorded in 128 of the 129 cases. We attribute this improvement in part to the revised and combined DPD form 661/661a; DPD needs to continue to ensure that its detention personnel complete the forms correctly.

In addition, we continued to find a few deficiencies in the documentation of important health information in the detainee file folders. The problems include clerical errors, incomplete or missing documentation for the Medical Referral Form and Medication Logs, and missing signatures.

Overall, we found that 97% were in compliance with this paragraph – an increase from the 87% registered in the previous reporting period.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C32***

*The DPD shall develop a prescription medication policy in consultation with qualified medical and mental health professionals that ensures prisoners are provided prescription medication as directed. The policy shall be approved in writing by qualified medical and mental health professionals and shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the policy within three months of the DOJ's review and approval. Thereafter, the policy shall be reviewed and approved in writing by qualified medical and mental health professionals at least annually and prior to any revisions to the program. At a minimum, the policy shall:*

- a. indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*
- b. require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*
- c. require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*
- d. require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*
- e. require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*
- f. require that injected medications are administered as prescribed and in a safe and hygienic manner; and*
- g. require that unused medications prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*



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**Comments:**

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

During all of the previous reporting periods, at the five districts/precincts that maintain holding cells, we found Medication Logs missing critical detainee and staff information. In prior reviews detainee dosages, dosing times, signatures, the names of the persons administering the medications, and prescription release information did not always appear on the logs. Those issues have been addressed with the exception of C32f, medications administrated as prescribed and C32g, prescription release information. As a result, we found the DPD not in Phase 2 compliance with this paragraph.

During the current reporting period, in our review of 183 detainee file folders, we continued to find instances where the DPD failed to record essential detainee and staff information. We noted, for example, that medication logs on detainees who had been released were missing signatures of detention staff or detainees; therefore, it was unclear whether detainees received their medications, or were given their unused medications at the time of release. There were 27 cases where medications were disbursed to detainees. In four instances, it was unknown if the remaining medication was released to the detainee or transferred with them to another facility due to personnel not indicating the status on the form. In one case, the Medication Disbursement form was missing from the file folder and so noted on the cover sheet of the Detainee File Folder. In one case, the medication was given to a detainee six hours after the scheduled dosage time.

We also examined the Platoon Daily Detainee Summary logs, which are used to ensure that detainee health information is exchanged and communicated between shifts. In previous reviews, we found missing signatures between shifts, detainee health information missing, blank comment sections on the forms and lack of a date or time of the preparing officer or the officer receiving the document. During this reporting period, DPD included a section on the PDDSL to indicate if detainees on a monitoring status were taking medications. This serves as an immediate alert for the CBS at the beginning of the shift that informs him/her if any detainees are on medication. We found 97% of the logs in compliance – an increase from the last reporting period, when we found 87% of them in compliance.

During our most recent site visit, we checked all active detainee file folders in all facilities for those detainees who were on medication or on a monitoring status. Each of the medication disbursement logs were reviewed and matched with the medication contained in the medication storage cabinet. We found that the prescribed medication for each detainee was properly stored. We did not find any medication left in the cabinet from detainees who had already been released as we had found in previous inspections. Our inspection of medication cabinets and medications for detainees at the precincts/districts maintaining holding cells revealed that all was satisfactory in the location of the cabinets and storage of medications.

Based on the noted improvements, we find DPD in Pending Phase 2 compliance with this paragraph. However, the Department must address the concerns related to the documentation of medication disbursements,

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Pending Compliance

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***CJ Requirement C33***

*The DPD shall provide appropriate clothing, such as paper gowns or suicide smocks, to all prisoners placed under suicide precautions.*

**Comments:**

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

During the previous reporting periods, we found that detention personnel were generally familiar with where the appropriate clothing items, paper gowns and/or suicide smocks, were stored. Our inspections revealed ample inventory of appropriate clothing.

During our most recent inspections in all five districts and precincts with holding cells, we found sufficient inventory of paper gowns and/or suicide smocks. The staff we interviewed were knowledgeable regarding the use of the clothing and where the appropriate clothing was stored.

We find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C34***

*The DPD shall remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars.*

**Comments:**

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

During all of our previous site visits, we conducted comprehensive inspections of each of the five districts/precincts that maintain holding cells, as well as the Detroit Receiving Hospital cells. The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
26	Prisoners' medical/mental health conditions	In Compliance	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	Pending Compliance
30	Infectious disease policy required	In Compliance	In Compliance
31	Prisoner health information protocol required	In Compliance	In Compliance

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32	Prescription medication policy required	In Compliance	Pending Compliance
33	Clothing-suicide prevention	In Compliance	In Compliance
34	Removal of suicide hazards	In Compliance	In Compliance

**VI. PRISONER SAFETY POLICIES**

***CJ Requirement C35***

*The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.*

**Comments:**

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

Phase 2 compliance is related to and contingent upon the implementation of staff and inmate safety measures required by C36-38; accordingly, our compliance finding is deferred.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Deferred

***CJ Requirement C36***

*The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:*

- a. establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and*
- b. require that security screening information is documented and communicated between consecutive shifts.*

**Comments:**

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

DPD Form 659A (Platoon Daily Detainee Summary), revised August 2011, is used to record information on detainees with medical conditions or special needs. During this reporting period, we reviewed 75 Eastern District logs that contained 313 detainee entries; we found that in two instances, the receiving officer did not review the log when they first reported for duty. All detainee information was included on the form. The Eastern District's compliance rate with this paragraph is 98%, an increase from the previous reporting period.

We reviewed 98 Northeastern District logs that contained 369 detainee entries, and found two forms lacking the date of preparation or receipt by the incoming shift. In another case, the detainee's cell number was not listed and in another, one detainee was listed as receiving medication but the medication box was not checked. The Northeastern District's compliance rate with this paragraph is 98%, an increase from the previous reporting period.

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We reviewed 79 Sixth Precinct logs that contained 399 detainee entries. Seven of these did not include the time the form was either prepared or received and four of these were by the same employee. The Sixth Precinct's compliance rate with this paragraph is 92%, a slight increase from the previous reporting period.

We reviewed 56 Twelfth Precinct logs that contained 287 detainee entries; of these, one did not indicate the times of receipt or preparation by the officer. All but one detainee entry had appropriate medical/mental comments listed in the appropriate space. The Twelfth Precinct's compliance rate with this paragraph is 98%, a significant increase from the previous reporting period.

We reviewed 100 Southwestern District logs that contained 556 detainee entries. We found two instances where the supervisor failed to place the preparation time on the document. All detainee entries were properly documented. During the previous three reporting periods, the Southwestern District made substantial progress in this area; its compliance rate with this paragraph during this reporting period remains at 98%.

COC36a had been compliant in prior reports. In our previous report, we indicated that the failure of holding cell personnel not properly documenting the date and time of preparation or receiving DPD Form 659A remained the only obstacle to compliance with this paragraph. DPD's overall compliance rate for this reporting period is 97%. DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C37***

*The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, the procedures should:*

- a. require that cell checks on the general population are performed at least twice per hour and that cell checks of prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and*
- b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.*

**Comments:**

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

The duties of cell block supervisors (CBS) and detention officers relating to well-being checks are established by written DPD Directive. Supervisors are required to walk through the holding cell areas four times per shift to check on the well-being of the detainees. 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

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DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on DPD Form 661 (Mental Health High Risk Monitoring). During the current reporting period, our review of 230 Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 99% compliance rate. During each tour of duty, detention officers are required to make cell checks every 30 minutes (16 checks daily) and supervisors every two hours (four checks daily).

During our most recent site visit, we observed that in some of the facilities, the processing officer is responsible for conducting the holding cell checks. In some instances where cell checks were late, the processing officer would indicate on the cell check log that the reason for the late check was due to processing detainees. We recommend that DPD rectify this situation.

For the period of July 1, through September 30, 2011, we reviewed 129 detainees who required a 15-minute watch, including those detainees on medication. There were 670 Detainee Medical/Mental Health Monitoring Logs (DPD Form 661) contained in the packets. In 10 instances the Supervisor Authorizing Monitoring failed to place their name, signature or badge in the appropriate box available for that purpose. While the entries were made in a timely fashion, we found that the date, time, and reason for the removal from the watch were recorded in all but one case. There were no late cell checks; and in three instances, the type of watch was not indicated. There were two late checks at the Detroit Receiving Hospital where the detainee holding cells are within a few feet of the office area. The Eastern District's Medical/Mental High Risk Logs for the previous two reporting periods have been exceptional in their completeness and accuracy. DPD's compliance rate with this paragraph is 99%.

We do have concerns with the Medical/Mental Health High Risk cell check logs. There is inconsistency between facilities and shifts in the same facility as to how they document information on the log. Some facilities use pre-printed forms with the 15-minute cell check times already listed on the form and when the officer conducts the cell check they stamp or write their name in the appropriate box. The form requires the officer to print their name and badge number and then place their signature in the same box. In many instances the officer did not sign their name. With the pre-printed times we found only one instance where the officer checking the detainee marked the typed entry out and wrote in the actual time of the check. Some of the supervisors are allowing these violations without challenging the violating officer. One PDO, if not marking the 15-minute check precisely on time, would always put the time on the log ending in a four. Evidently, this practice was not caught or was condoned by supervisors. We question who is responsible for ensuring the time checks are occurring.

In a letter to the City on April 4, 2002, DOJ indicated that the detainee time checks were too uniform in nature. Detention officers were often noting that these checks were performed precisely on the half hour for those in the general population, and precisely on the quarter hour for those detainees requiring a 15-minute watch, which is a near impossible task. Our findings are in agreement. We recommend that DPD use the time stamp utilized for the general population for the 15-minute checks as DRH has been doing since our first report. We also recommend that DPD prohibit the use of personal name stamps for these forms and require a printed name/badge number and signature, which the form requires. We will continue to monitor this issue closely.

We find DPD in Phase 2 compliance with this paragraph at this time. We attribute the Department's progress to the revised and combined DPD Form 661/661a, and the emphasis

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placed (DPD Administrative Message, Teletype 10-2998, issued October 7, 2010) on DPD personnel to complete the forms; however, the failure to address the issues described above may result in a non-compliant finding during our next review.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C38***

*The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on site remote observation of all observation cells while they are occupied.*

**Comments:**

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

As previously noted, DPD continues to not meet its policies in that detainees on suicide watches are often not placed on constant supervision. During the current reporting period, of the 11 DPD 661 Forms (for detainees who were maintained on suicide watches or should have been) that we reviewed, seven specified “constant supervision,” and four specified a 15-minute watch. Even if a detainee is under constant supervision, personnel are required to make notations on the log every 15 minutes. In one case, the notation in the ‘Reason for Authorizing the Watch’ the initiating officer entered “wants to harm herself,” yet a 15-minute watch was listed. In another instance, the officer stamps his name instead of writing in his signature as the instructions clearly state.

There seems to be some confusion regarding what necessitates a constant watch; we noted being suicidal, having previous suicidal attempts, and having suicidal thoughts listed on the form in the “Reason for Starting Monitoring” section of the report. We have observed identical language describing the reason for monitoring, yet some personnel choose to mark 15-minute watch, and others will mark constant watch without any other information listing specifically why that designation was given. DPD Policy 305.1-3.21 clearly states that a suicidal detainee includes a “history of suicide attempts.” As the policy is written, there is no leeway in making a determination if a detainee should be placed on constant watch. There should be more consistency among Departmental personnel when making these determinations. We understand that retrieving medical information from the Detroit Receiving Hospital may be difficult. However, the comments section of the form is not being utilized to its full potential.

If a detainee has had a previous suicide attempt and is not placed on constant watch, then personnel assigned to the holding cells should indicate in the comments section why the detainee is placed on 15-minute watch. DPD’s compliance rate with this paragraph decreased from 74% to 64% during this reporting period.

DPD is not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

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¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
35	Security procedures to ensure safety	In Compliance	Deferred
36	Prisoner security screening program	In Compliance	In Compliance
37	Procedures for cell checks required	In Compliance	In Compliance
38	On-site remote observation of cells	In Compliance	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:**

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

We noted the significant change in the September 2011 revision to the relevant DPD Directive (305.4-5.2) relating to the use of a general purpose cleaning solution to clean and sanitize the holding cells, rather than specifying a particular product as was done in the past. A note referring to biohazard spills is also added to the policy.

During this reporting period, we evaluated all districts/precincts for general cleanliness and sanitation. There was some regression in the overall cleanliness of the holding cells this quarter. The cleanliness levels in the Eastern District and the Sixth Precinct were unsatisfactory. Cell floors, walls, benches, sinks, and toilets were observed that were not adequately clean. The Southwest District was marginally acceptable. Cell 2C03 and the female bullpen, 2BP03, were not properly cleaned and were occupied at the time of the inspection. Photographs were taken of several cells that were unacceptable and have been submitted to Police Department staff.

During this reporting period, we reviewed 45 Holding Cell Cleaning logs from the five facilities, with seven days on each log, for a total of 315 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors' approval designated. In every instance, the cleaning officer checked the box in the appropriate space. At the top of DPD Form 701, Holding Cell Cleaning Log, revised August 2008, it clearly indicates "place a check mark under the duty performed." Although all but one of the entries contained a Cell Block Supervisor's signature, several logs did not contain the time that the form was approved by the CBS, particularly in the Northeast District. DPD's compliance rate with this paragraph fell to 94% during this rating period due to improper documentation of the forms.

There are five holding cell facilities among the districts/precincts, and a smaller facility at the Detroit Receiving Hospital. In order to be found in compliance with this requirement, all facilities must be in compliance. The Northeast District's compliance rate with this requirement was 86%.

DPD is in Phase 2 compliance with this paragraph, since it was in compliance during the previous reporting period. However, the Department must correct the cleaning deficiencies

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noted above and correct reporting errors to remain compliant with this paragraph during the next reporting period.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C40***

*The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.*

**Comments:**

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

DPD revised the relevant Directive (305.4) in an effort to make it more applicable to the cleaning of cells, use of chemicals, and documentation of the cleaning process. The specified use of a particular chemical, NeutraQuat-252L, has been deleted from the directive. Cleaning chemicals are ordered through City of Detroit; therefore, the holding facilities have no control over what chemicals are supplied by the City. The cleaning chemicals and supplies the holding facilities receive are dependent upon what the City has in stock when the order is submitted.

The policy specifies the use of “a general purpose cleaning solution.” Staff are also instructed to follow “directions for use indicated on the cleaning product.” When we questioned staff about unsanitary conditions in the cells, the staff frequently responded that they were waiting for the monthly pressure washing to remove the soil.

The holding facility cannot rely on one particular chemical or on a particular method to maintain a clean facility. Various chemicals are designed and required for specific purposes. For example, a chemical that is effective for cleaning concrete floors and benches may not be satisfactory for cleaning stainless steel toilets and sinks. One chemical may have effective disinfection properties but little or no cleaning properties. Likewise, pressure washing alone will not guarantee a clean and sanitary facility. 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). The holding facility administration has determined that there is no effective way to document the cleaning of vacated cells on the cleaning log (Teletype 11-1148). However, the Holding Cell Compliance Committee has issued Cell Block Cleaning Instructions, effective September 2011, that provide detailed cleaning instructions for specific surfaces in the holding cells, as well as instructions for cleaning vacated cells, and the storage of cleaning products in holding cell areas.

During the current reporting period, we found that cleaning practices and supervisory oversight is questionable. We observed that some facilities take pride in their ability to maintain a safe environment for detainees, while others need to increase their efforts to maintain the cleanliness of the holding cells. Sanitation appears to be satisfactory on paper, but questions remain about the adequacy of the cleaning process.

DPD remains in Phase 2 compliance with this paragraph.



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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C41***

*The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.*

**Comments:**

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

The Platoon 1 Cell Block Supervisor is responsible for conducting a weekly maintenance inspection and for documenting discrepancies in the Facilities Maintenance Log (DPD 702). The Platoon 1 Cell Block Supervisor is required to submit repair orders via e-mail to the Facilities Maintenance Department.

During previous reporting periods, our review of DPD 702 Forms found them to be out of compliance, due either to the construction of the form, or the failure to indicate when critical holding cell repairs were completed. As noted previously, the new form, DPD 702, will likely resolve problems with documentation. Through conversations with DPD personnel, we had indicated the above-noted problem with completion dates of necessary repairs to the facilities being documented. The new form contains a section on the report for Facilities Maintenance or the CBS indicating when the reported repairs are completed.

As a result of those conversations and a subsequent meeting on January 28, 2011, OCR began preparing a spreadsheet specifying all current outstanding repairs and their status at all DPD holding cell facilities. The listed items are derived from each HC facility logs submitted to the Monitor and OCR. The OCR/HCCC also committed to including all outstanding repairs as an agenda item for discussion at each monthly HCCC meeting. During previous site visits, HCCC meeting agendas were reviewed and confirmed that current facility repairs were being discussed. A representative from the Facilities Maintenance Department is required to attend, and his attendance was verified in the meeting minutes.

During our evaluation of this reporting period's Facility Maintenance Logs, we reviewed all logs from each of the five districts/precincts that maintain holding facilities and matched those repair requests to the master tracking log maintained by OCR. We found inconsistencies in recorded completion dates and long delays in correction of problems – for example, 52 days to repair a fire alarm strobe light in the Twelfth Precinct, 39 days to replace a light bulb in the Southwestern District, and 30 days to unclog a sink in the Northeastern District. This section of the Consent Judgment requires “timely performance of routine maintenance.” The Department must make an increased effort to address maintenance issues in a more timely manner. This is especially critical with safety issues. Cells with malfunctioning plumbing should be taken out of service until repairs are made.

**Compliance Status:**

Phase 1: In Compliance

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Phase 2: In Compliance

***CJ Requirement C42***

*The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.*

**Comments:**

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

During our most recent inspection of all five facilities, we checked the temperatures in the holding cell areas and found the temperatures in each of the holding facilities to be within established limits (between 66°F and 80°F). The HVAC systems were operable in all of the DPD districts/precincts. The relative humidity in the cells measured between 35-65%, which is reasonably within the recommended comfort zone of 30-60%.

During our most recent site visit, we also observed that the HVAC systems had been repaired. However, we are concerned that DPD has made an ambiguous change in its policy concerning the comfort level in the holding cells by increasing the maximum temperature range from 80°F to 85°F. The American Society for Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 55 states that 73°F to 79°F, and a range of 30-60% relative humidity is the acceptable summer thermal comfort range. DPD's newly established policy is not aligned with national standards, and it is not in the best interest of the health and safety of detainees.

DPD is in Phase 2 compliance with the requirements of this paragraph for this reporting period.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C43***

*The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.*

**Comments:**

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

During our most recent inspection, there was not an unusually large number of malfunctioning lights, toilets, and sinks, compared to other facilities of this type. The facilities and the equipment are old and outdated. It can be difficult to locate replacement parts for some of the toilet and sink units. When these malfunctions occur in the holding cells, the cells should be taken out of service and signage posted on the front of the cell to prevent usage until repairs are completed. DPD has revised its policy to more effectively track repairs in all facilities. The Holding Cell Compliance Committee has an agenda item during its monthly meeting to discuss and resolve all existing repair issues.

DPD is in Phase 2 compliance with this paragraph.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement 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:**

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

During our previous tour, illumination levels were randomly measured in each of the five districts/precincts that maintain holding cells and the Detroit Receiving Hospital. The lighting levels were determined to be below the required luminescence in all areas except the Detroit Receiving Hospital. The Consent Judgment requires “20 foot candles of illumination at desk level and in personal grooming areas.” The DPD holding cells do not have desks or tables. To properly measure compliance with this section, light measurements must be taken at the sink where grooming would occur, rather than in the center of the cell. Most of the cells in the DPD holding areas do not have a direct light source in the actual cells. Lighting is provided by fluorescent fixtures mounted behind glass bricks at the top of the front wall of the cell, or by flood lights that have been installed in the hall ceiling and directed into the cells. None of this lighting is capable of providing 20-foot candles of illumination in the cells, as required by the Consent Judgment. These deficiencies have not been rectified during this reporting period; however, the City and DOJ have met and agreed upon a plan to resolve the issue, which should be presented to the Court in the near future. Accordingly, DPD is in Deferred Phase 2 compliance with this paragraph at this time.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Deferred Compliance

***CJ Requirement C45***

*The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.*

**Comments:**

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

Our inspection of the district/precinct holding cells during this reporting period determined that all prisoners had access to toilets and potable water at all times. Based on the published directive and our observations of conditions of the physical plant in the district/precinct holding cells, DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

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Phase 2: In Compliance

***CJ Requirement C46***

*The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.*

**Comments:**

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

The DPD staff advised, and our inspections of the district/precinct holding cells confirmed, the removal of all Hepa-Aire purifiers. DPD is in full compliance with the requirements of this Consent Judgment paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
39	Clean and maintain holding cells	In Compliance	In Compliance
40	Holding cell cleaning policy required	In Compliance	In Compliance
41	Holding cell maintenance policy required	In Compliance	In Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunctioning cell elements	In Compliance	In Compliance
44	Insure sufficient cell lighting	In Compliance	Deferred Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance
46	Hepa-Aire purifiers comply with standards	In Compliance	In Compliance

**VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES**

***CJ Requirement C47***

*The DPD shall ensure that persons with disabilities are provided with reasonable accommodations.*

**Comments:**

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

In our previous inspections, we found that the CMMHSP was inconsistently implemented by DPD detention staff. The DPD did not have a process in place to check the TDD equipment to ensure that the TDD equipment was functional and that the DPD staff was proficient in the use of the TDD equipment.

During our most recent inspection, we found that detention staff in the precinct/district with holding cells demonstrated competency in the use of Telecommunications Devices for the Deaf (TDD). In addition, the TDD equipment was working properly. This has been accomplished by

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the development of an effective testing protocol. DPD detention staff is now required per policy to conduct tests on a monthly basis that demonstrate the equipment is working properly and confirm that detention staff can demonstrate the use of the equipment.

Accordingly, we find the DPD in Phase 2 compliance with this paragraph.

**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:**

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

Except for previous issues relating to the use of Telecommunications Devices for the Deaf (TDD), the DPD has been in continuous compliance with the requirements of this paragraph. In previous reporting periods, the DPD failed to demonstrate satisfactorily that the TDD equipment located in districts/precincts was functional, and that the detention staff was proficient in the use of the equipment. According, we found the DPD not in Phase 2 compliance with this paragraph.

During the last reporting period, we visited the five districts/precincts that maintain holding cells, and found that the detention staff demonstrated competency in the use of Telecommunications Devices for the Deaf (TDD), and that the equipment was working properly in all five locations. DPD satisfactorily developed an effective testing protocol during a previous reporting period. The DPD detention staff now is required, per policy, to conduct tests on a monthly basis that demonstrate the equipment is working properly and verify that detention staff can demonstrate the use of the equipment. We asked a detention staff member at each holding facility to demonstrate proficiency with this equipment.

This change in policy and demonstration of competencies in practice by staff in the use of the TDD system now places the DPD in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
47	Reasonable accommodation for disabled	In Compliance	In Compliance
48	Detention of persons with disabilities	In Compliance	In Compliance

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**IX. FOOD SERVICE POLICIES**

***CJ Requirement C49***

*The DPD shall ensure food is stored and served in a sanitary manner and in compliance with state and local health codes.*

**Comments:**

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

Phase 2 compliance is related to and contingent upon the implementation of C50; accordingly, DPD is also in Phase 2 compliance with this paragraph.

**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:**

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

During the current reporting period, we reviewed a random sample of Daily Detainee Meal & Hygiene Logs, DPD form 663, between July 10-15, August 5-12, and September 12-16, 2011. Our review indicated that DPD's compliance rate was 99%. We have found DPD in compliance with this paragraph in all of our previous inspections.

We also reviewed the Refrigeration Logs during this reporting period. We found that in every instance the refrigerators had been cleaned weekly. The refrigerator temperatures and expiration dates on the food were up to standard. In addition, we verified that all districts/precincts that maintain holding cells that we inspected had an adequate number of alternative meals available for detainees with religious or dietary needs.

DPD remains in Phase 2 compliance with this paragraph. DPD must ensure that detention staff have an adequate number of alternative meals onsite, and that the meals are stored in a clean and sanitary environment to maintain this compliance status.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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¶	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:**

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

In the current reporting period, we reviewed a random sample of Meal and Hygiene Logs. We checked the column that indicates if hygiene kits were requested or provided, and found that DPD personnel make them available to detainees. We inspected each area where the meals are stored to see if the kits were readily available, and found that in all five facilities there were an adequate number of hygiene kits to distribute to detainees when needed. In a previous site visit, in one of the facilities, the feminine hygiene products supply had been depleted (none on site), and personnel in the facility advised the new supply was being delivered that same afternoon. DPD holding facilities should be aware of the existing supply and reorder these necessities prior to their depletion.

Our interviews with the PDOs demonstrate an understanding in the importance of providing personal hygiene items to the detainees on a daily basis.

The DPD's compliance rate with this requirement is 100%. Accordingly, we find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

***CJ Requirement C52***

*The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.*

**Comments:**

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

We found the DPD in deferred Phase 2 compliance with this paragraph in the first reporting period, and not in compliance in subsequent reporting periods.

During this reporting period, we reviewed five incidents occurring at detention facilities, four uses of force, and one suicide attempt.<sup>44</sup> There was one incident at the Sixth Precinct; two at the Eastern District; one at the Twelfth Precinct; and one at Southwest.

The review of the suicide attempt (at Southwest) found that the subject used a bra to attempt to hang herself from the cell bars. The supervisor who discovered her requested assistance and the inmate was moved to an observation cell, where she was provided a paper gown and EMS was requested. Following the examination by EMS, the female was transported to DRH by a police unit. She was treated and returned to the station, where she was housed in an observation cell. Our review of the SIR found that the appropriate requirements were adhered to.

The use of force cases in the cell block areas suffer from some of the same deficiencies as those outside the facilities: sketchy reports; brief interview of officers; and a less than critical review of investigations at the command level. The DPD 32<sup>nd</sup> Quarter Report, dated September 30, 2011, notes that during the quarter ending June 30, 2011, the Office of Civil Rights (OCR) assigned a commander to focus on the quality of all Department-wide use of force investigations and reports. During this reporting period, DPD reviewed videos in four of the five cases and requested a CD from Technical Support for the fifth incident, which was not available for viewing due to a malfunction of the system. In two of the five cases, the portable hand held camera was utilized, supplementing video from the installed cameras. There is some improvement noted in the descriptions of the video reviews that are detailed in the SIR reports, but there still remains some room for improvement.<sup>45</sup> Simply stating that the video is consistent with the officers' statements will not suffice. Reviewing four of the five cases, 80%, shows an improvement over that of the last quarter, which was 73%. We recommend that DPD ensure that cell block cameras are all operational, and that supervisors use the handheld cameras whenever possible, as faulty equipment or lack of use of the available equipment will continue to preclude Phase 2 compliance with this requirement.

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:*

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<sup>44</sup> This includes none in June; four in July, including an attempted suicide; and one in August.

<sup>45</sup> In one case, no video was reviewed due to the malfunction; in three cases, the video was reviewed and detail provided; in one case, the video was reviewed but the details were not provided.



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- a. *Officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;*
- b. *absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and*
- c. *the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.*

**Comments:**

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

All districts/precincts that maintain holding cells are equipped with 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. During our previous site visits, we were informed that in addition to the mounted video equipment the detention districts/precincts have now been issued handheld cameras that can be used for planned extractions. Our visits to the various holding facilities found that supervisors were aware of the handheld cameras and had received some training in their use. All supervisors contacted during the site visit were aware of the cameras location and there were two out of three incidents in which the cameras could be used and were. In evaluating whether or not the officers used the appropriate precautions when interacting with prisoners who had previously demonstrated recalcitrant or resistant behavior, we found that there were two cases that could be evaluated against C53a. The remaining three cases included two in which the prisoners had not previously demonstrated recalcitrant or resistant behavior and the attempt suicide. In one of the cases additional officers and a supervisor were summoned, but the extraction lacked organization. The second case was not an extraction; it was in fact the returning of a recalcitrant prisoner to a cell. Additional officer and the supervisor were involved and the action was videotaped on the installed equipment and with the hand held portable.

With respect to C53b, in all of the cases a supervisor was notified or was present at the incident. There were three instances where a supervisor directed the actions of the officers, C53c. In one, a prisoner had been resistant and recalcitrant when being processed and had been searched and placed in a cell. While in the cell, the desk sergeant observed her lighting a cigarette lighter in the cell, requiring officers to reenter to remove the lighter. The video and a portion of audio from the fixed camera equipment described the incident in good detail; however, the sergeant failed to utilize the portable video camera. In the second case, the supervisor is present and directs the extraction of a prisoner who was armed with a shard of Plexiglas he had torn from the cell door area, sending officers to obtain a shield and vests prior to entering and utilizing the portable video camera to record the incident. The third case involved the return of a prisoner who refused to go to DRH for a psychiatric evaluation and then also refused to return to his cell. Supervisors were present directing the operation and the portable camera was used to record the incident.

DPD remains not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

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***CJ Requirement C54***

*The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.*

**Comments:**

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

We found the DPD in deferred Phase 2 compliance status during the first reporting period, and in Phase 2 compliance during subsequent reporting periods.

During our visits to detention facilities during the most recent site visit, we did not observe any detainees handcuffed to fixed objects. Our review of DPD 715 forms (Evaluation of the Operation of Holding Cells), question 22 (“Were any detainees observed handcuffed to an object?”), revealed no instances in which prisoners were so handcuffed.

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
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:**

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

We found the DPD out of Phase 2 compliance with this paragraph during all of the previous reporting periods.

During this reporting period, we reviewed four incidents involving uses of force in holding cells and an attempt suicide. All five cases had SIR investigations completed. Three of the cases met the ten and 30-day requirements. Four of the five cases (80%) had video reviews, a percentage exceeding that of the SIR cases outside of the holding facilities. We continue to encourage the command staff to conduct critical reviews of the investigations.

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During this reporting period, there was one attempted suicide and no in-custody deaths in the cell block area.<sup>46</sup>

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.*

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

In our last report, we noted that DPD was making a more concerted effort to get supervisors to review videos when they conduct these investigations in the holding facilities.

During this reporting period, of the five cases we reviewed, we ascertained that there were video reviews prior to submission of the completed investigation in four of the cases; in one, there were insufficient details provided regarding its contents. The one that contained no review reflected that the system had a malfunction and that a recording had been ordered. While all of the video reviews did not contain a sufficient level of detail, the investigators are also improving in this area.

DPD is not in Phase 2 compliance with this paragraph.

**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:**

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

We reviewed one prisoner injury case occurring in a detention facility during this quarter – an attempted suicide occurring in the Southwestern District. A sergeant conducting a cell block check observed a female prisoner attempting to hang herself with her bra. The subject was moved to an observation cell, and subsequently transported by ambulance to Detroit Receiving Hospital. The investigating supervisors complied with appropriate timelines. The sergeant who found the detainee also interviewed two other prisoners regarding any information they might have. A lieutenant conducted the investigation of the incident and should have conducted these

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<sup>46</sup> The attempted suicide is discussed in more detail in C52.

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interviews as well, rather than the sergeant who was involved by virtue of her interrupting the attempted suicide. The investigation, however, was thorough and complete.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**Critical Issues:**

- The issues which impact the quality of use of force investigations as described in the Use of Force section of the Consent Judgment are applicable to the use of force investigations of incidents occurring in cell block area. The remedies we have recommended in those areas remain constant for the Conditions of Confinement requirements. Timely and thorough investigations, coupled with critical command level reviews, are the keys to achieving compliance. We have noted improvements made in the area of video review and in the use of the handheld portable cameras.

**Next Steps:**

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Monitor the supervisory review of video captured in the detention areas, and, where appropriate, monitor the use of handheld cameras in each detention facility.
- Conduct field visits to various detention facilities to verify the Department's adherence to policy requirements.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
55	Use of force investigations	In Compliance	Not in Compliance
56	Use of force investigations	In Compliance	Not in Compliance
57	Injury to prisoner investigations	In Compliance	In Compliance

**XIII. EXTERNAL COMPLAINTS*****CJ Requirement C58***

*The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.*

**Comments:**

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

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We found DPD in Phase 2 compliance with this paragraph during all of the previous reporting periods.

During this reporting period, the Department closed four complaints originating from detention facilities: two in July and two in September. All complaints were accepted and processed in accordance with DPD policy. Three of the four cases involved allegations of force, while the remaining case involved the alleged denial of a phone call. OCI retained investigation of all of the complaints. While there were issues associated with the investigation of these complaints (see C59), DPD is in Phase 2 compliance with this Consent Judgment paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C59***

*The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.*

**Comments:**

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

We found the DPD in Phase 2 compliance with this paragraph during the first reporting period, but not in compliance during successive reporting periods.

The Department closed four complaints originating from detention facilities during the reporting period. Only one was completed within 90 days. Involved officer statements were considered untimely in two of the cases. One contained an allegation, put forth in the complainant's interview, which was not documented or investigated. DPD checked video in the cases where it was appropriate to do so. In summary, the detention cases exhibited many of the issues delineated in CJ requirements U27-33, impacting DPD's compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***Critical Issues:***

- The issues that impact the quality of use of force investigations and OCI investigations, as outlined in CJ requirements U27-33 and U61-69, are also evident in the cases reviewed for requirements C52-59. As these issues are addressed Department-wide, we hope to see a positive impact on the subset of cases originating from detention facilities.

***Next Steps:***

During the next reporting period, we will:

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- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Check, in applicable cases, for the appropriate use of handheld cameras, now that they are deployed in all detention facilities.
- Conduct field visits to various detention facilities to verify members' knowledge of and the Department's adherence to policy requirements.

¶	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:**

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

We found the DPD in Phase 2 compliance in all of the previous reporting periods. That status continues in this reporting period.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C61***

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

**Comments:**

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

See U71. The DPD is in continued Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
60	Clearly define all terms in policies	In Compliance	In Compliance
61	Policy changes available to community	In Compliance	In Compliance

**XV. MANAGEMENT AND SUPERVISION**

***CJ Requirement C62***

*The DPD shall routinely evaluate the operation of the holding cells to minimize harm to staff and prisoners.*

**Comments:**

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

During the last reporting period, CRIB staff conducted the monthly inspections of all facilities containing holding cells, including the Detroit Receiving Hospital. All of the inspections were completed for the precincts/districts, and the required 715 forms (Evaluation of the Operation of Holding Cells) were submitted for review.

This reporting period, CRIB staff inspected all of the holding cell and the DRH each month and documented their findings on Form 715 Evaluation of the Operation of Holding Cells. All forms contained critical findings and were complete with all required signatures.

During this reporting period, as noted above, we provided DPD with an expedited assessment on this requirement, and found the Department not in Phase 2 compliance with this paragraph.

**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*
- e) regular meetings of the DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

**Comments:**

With regard to personnel evaluations, requirements to sustain Phase 2 findings in U91 are also relevant here. Evaluations of detention personnel are included in our sample drawn for regular review. Procedures requiring audits of holding facilities are also included under the general audit requirements (U92-99). Findings of Phase 2 compliance in these areas, therefore, also

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apply to the related subsections of this requirement (sections b, c). Likewise, requirements regarding regular policy review (section d) and meetings to evaluate potential liability risk (section e) are met by monthly command review meetings.

Under the Use of Force Consent Judgment, U78-90 establish the standards for the Phase 2 requirements of the risk management system. As was true with regard to Phase 1, our findings regarding those requirements are also relevant to here (section e). In this report a finding of pending compliance is reported for U78, which addresses the overall status of the risk management system. That finding also applies to this section and, since it falls short of full compliance it governs the overall Phase 2 status of this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Pending Compliance

***CJ Requirement C64***

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

- a. the installation and continuous operations of video cameras in all prisoner processing areas of the DPD holding cells within one year of the effective date of this Agreement;<sup>47</sup>*
- 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:**

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

During our previous inspections of holding cells, we observed the operation of video cameras in all processing areas and throughout the holding facilities. We noted that CRIB and/or detention staff conducts monthly random reviews of videos in processing areas as well as specific reviews when a use of force incident occurs.

During our January 2011 site visit, the Parties determined that video cameras were not required outside of the processing areas. During our April and July site visits, the video cameras in all of the districts/precincts that maintain holding cells were operational in the processing areas. DPD has purchased handheld video cameras to achieve compliance with C53, subparagraph c, which states: “The DPD shall revise and augment its policies regarding prisoners to require that: 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.” Personnel in the five facilities were able to

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<sup>47</sup> Amended by Court Order dated June 1, 2011.



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activate the handheld cameras. This equipment should be routinely checked to ensure its operability.

We reviewed DPD Form 713, effective April 2010, that requires personnel working in the five holding facilities to conduct random reviews of holding cell processing areas for training and integrity purposes and found the reviews timely. One of the logs did not indicate the DPD members on duty at the time of the video review.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C65***

*The DPD shall conduct regularly scheduled semiannual audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including;*

- a. reviewing a statistically valid sample of command, IAD, and Homicide Section investigations;*
- 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.<sup>48</sup>*

**Comments:**

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

The CRIB Audit Team completed and issued its Combined Use of Force Investigations Audit for the audit period ending July 31, 2011. We reviewed the audit for that reporting period. The next

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<sup>48</sup> 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.

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semi-annual audit will have been completed by January 31, 2012. We expect to review it in the next reporting period.

Accordingly, we continue to find the DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C66***

*The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with fire detection, suppression and evacuation program, including:*

- a. testing a sample of smoke detectors and sprinklers;*
- b. testing the back-up power systems;*
- c. reviewing a sample of fire equipment testing and maintenance records; and*
- d. issuing a written report regarding the findings of the audit.*

**Comments:**

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB audit team conducted the semi-annual Fire Safety Practices and Policies Audit that was completed for July 31, 2011.

During this reporting period, we inspected the five districts/precincts that maintain holding cells, and examined the policies and practices related to Departmental fire safety. (See C14-22.)

The Fire Safety Program requires fire drills to be conducted on each shift twice each year. Our review of Log 703 revealed that all units were 100% in compliance with this requirement.

Fire extinguishers are also required to be inspected and inventoried on a monthly basis. Our review of Log 716 Fire Extinguisher Monthly Inspection/Inventory Report revealed that all units were in 100% compliance. We conducted a visual check at each unit, and all fire extinguishers were charged and up to date.

Accordingly, we continue to find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C67***

*The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;*

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- a. *reviewing a sample of key and fire equipment maintenance and inventory records; interviewing selected detention officers about their participation in fire drills and on their responsibilities under emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and*
- b. *issuing a written report regarding the findings of the audit.*

**Comments:**

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit team completed the Comprehensive Emergency Preparedness Program audit for the period ending July 31, 2011. We confirmed that the DPD met the requirements for performance and documentation of requirements of this paragraph.

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).

During our most recent inspection of all precincts/districts that maintain holding cells, we examined the policies and practices related to the Emergency Preparedness Program. Our findings are discussed above in C23-25. The Audit Team noted the same deficiencies for these sections as documented by this report.

The DPD has conducted and documented fire drills, as required. Accordingly, we continue to find the DPD in Phase 2 compliance with these requirements of this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C68***

*The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:*

- a. *reviewing a sampling of hospitals referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;*
- b. *observing intake screening interviews to assess thoroughness;*
- c. *reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*
- d. *issuing a written report regarding the finding of the audit.*

**Comments:**

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

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The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

During the seventh reporting period, we reviewed the Medical and Mental Health Program and Policies Audits conducted by the HCCC and the CRIB Audit Team for the periods ending January 31, 2011. The audit was command-specific, which identified in detail deficiencies and made recommendations for corrective action and accountability at the command level. We found the audits to continue to uncover many of the same deficiencies we have found during our quarterly reviews and inspections. The most recent semi-annual audit was to be completed by July 31, 2011.

We visited the five districts/precincts that maintain holding cells, and examined the policies and operational practices related to the Medical and Mental Health Program. Our findings are discussed above in C26-34.

We conclude that the DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C69***

*The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate detainee safety programs and policies, including;*

- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;*
- b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell checks logs are receiving supervisory review and written approval; and*
- c. issuing a written report regarding the findings of the audit.*

**Comments:**

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed and issued its audit results for the Detainee Safety Program on July 31, 2011. We reviewed the current audit independently, and found that many of the deficiencies founded are similar to our findings during our inspections.

Additionally, we independently reviewed the operational implementation of policies and practices related to the Detainee Safety Program during our visits to all five districts/precincts that maintain holding cells and the DRH. Our findings are discussed in C35-38.

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We conclude that the DPD has met the requirements for performance and documentation of the requirements of this paragraph. Accordingly, we find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C70***

*The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:*

- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks, and toilets are operable;*
- b. reviewing a sampling of cleanings and maintenance logs to ensure they are properly maintained and reflected the scheduled performance of the requisite cleaning and maintenance tasks;*
- c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;*
- d. observing whether holding cells are free of any potential suicide hazards; and*
- e. issuing a written report regarding the findings of the audit.*

**Comments:**

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed its audit of the Environmental Health and Safety Program and issued their findings on July 31, 2011. Additionally, CRIB staff conducts monthly audits of the elements of this paragraph and documents the results on DPD Form 715 Evaluation of the Operation of Holding cells. We reviewed all of the team's results. We continue to conduct inspections separately on operational implementation of policies and practices of the five districts/precincts with holding cells and the DRH. Our findings are discussed above in C39-46. The next semi-annual audit will have been completed by January 31, 2012. We will review it in the next reporting period.

DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement C71***

*The Holding Cell Compliance Committee shall conduct regularly scheduled semiannual audits of all building containing holding cells to evaluate the food service program, including:*

- a. reviewing a statistically valid sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;*
- b. assuring that food is handled in a sanitary manner; and*
- c. issuing a written report regarding the findings of the audit.*

**Comments:**

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on July 31, 2011. We found the audit to be comprehensive and meeting the requirements for performance and documentation of requirements of this paragraph. The next semi-annual audit will have been completed by January 31, 2012. We will review it in the next reporting period.

We continue to visit the five precincts/districts that maintain holding cells. We examined the implementation of the policies and practices related to the food service program and hygiene practices. Our findings are discussed in C49-50.

The DPD remains 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 action.<sup>49</sup>*

**Comments:**

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<sup>49</sup> Consent Judgment amendment, April 15, 2009.

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

The CRIB is mandated under this Consent Judgment paragraph to provide written reports for the Chief of Police and specified commanders. In previous reporting periods, we found that the various reports and field responses were unacceptable, in that these reports were specific to the district/precinct and did not receive sufficient attention. The CRIB conducted a review of the audit process, and subsequently changed the audit process to focus on individual commands. These command-specific audits were anticipated to result in clearer command accountability and increased awareness to issues that are identified through the audit process.

During previous reporting periods, the CRIB completed the required audits for the period ending July 31, 2010. We reviewed the efficiency of the revised process to ensure that 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. In the past, we did not always receive specific command corrective action plans. We felt that the CAP format was insufficient. Our review revealed deficiencies, including missing signatures on employee reprimands and inconsistency in the format of a CAP. We found it difficult to ascertain the course of action taken by the commander in correcting the findings in the audits. We recommended that CRIB develop a standardized Correction Action Plan template created to assist the commanders in more expansively addressing the deficiencies/issues identified in the command-specific audits. In response, CRIB developed a new electronic format.

During the sixth reporting period, we met with CRIB to discuss the new format. DPD advised that these adjustments were implemented so that the commanders/inspectors can respond within the audit report timeframe. This new format places all the critical information in one document, which makes the process more efficient.

For the last reporting period, we received and reviewed the command-specific audits for the period ending January 31, 2011. The audits included are Medical and Mental Health Program and Policies; Environmental Health and Safety; Detainee Food Service and Personal Hygiene Practices; Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program. In addition, we reviewed the command-specific corrective action plans (CAP) that are now incorporated into the new reporting process. Our assessment of the new process finds that it meets the requirements of this paragraph.

We reviewed the semi-annual audits that were submitted on July 31, 2011 for this reporting period. We also reviewed the Corrective Action Notices from the commands that were submitted prior to August 15, 2011. The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

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	Requirements	Phase 1 – Policy	Phase 2 – Implementation
62	Evaluation of holding cell operation	In Compliance	In Compliance
63	Operate cells in compliance with risk plan	In Compliance	Pending Compliance
64	Augment policy regarding video cameras	In Compliance	In Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit	In Compliance	In Compliance
69	Detainee safety audits required	In Compliance	In Compliance
70	Environmental health/safety audits	In Compliance	In Compliance
71	Food service program audits required	In Compliance	In Compliance
72	Audit results to Chief and Commanders	In Compliance	In Compliance

***CJ Requirement C73***

*The DPD shall provide comprehensive pre-service and in-service training to all detention officers.*

**Comments:**

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

During past site visits, we have conducted surveys to evaluate the comprehensiveness of training provided to detention officers, and determine the Department's compliance with its policies requiring that officers who are assigned detention duties have been afforded detention training. DPD has steadily improved in this area. In January, April, and August 2011, our surveys found 100% compliance; all officers and supervisors who had worked in detention on the selected days had received detention training.

During this reporting period, we again sampled three days (Wednesday, July 13; Monday, August 29, 2011; and Thursday, September 8, 2011) and found 100% compliance; all officers who worked in detention duties on those days had completed the Detention Officer Course.

The Department is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance



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***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:**

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

In July 2011, we found that DPD had completed the entry of all training records since 2003 into the Michigan MITN automated records system. During this reporting period, we found that DPD had completed its work entering training records generated during the last quarter into the Michigan MITN system.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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:**

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

Although DPD detention training adequately addresses the requirements of C75, we found in our previous reviews that the Department continued to assign officers and supervisors who had not been trained in detention duties. Since our quarterly review in January 2011, we have found that 100% of DPD officers serving in detention duties on three randomly selected days have attended the required detention training.

During this reporting period, we again found that 100% of DPD officers serving in detention duties had attended the required training. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***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:**

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

During previous reporting periods, we found that this requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee.

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. Since our random review of training files during this reporting period showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: 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.*

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**Comments:**

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

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. Since our random review of training files during this reporting period showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C78***

*The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:*

- a. *cell block cleaning and maintenance protocols; and*
- b. *sanitary food preparation and delivery protocols.*

**Comments:**

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

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. Since our random review of training files during this reporting period showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
73	Pre-service and in-service training	In Compliance	In Compliance
74	Maintain records training	In Compliance	In Compliance
75	Emergency preparedness training	In Compliance	In Compliance
76	Medical/mental health training	In Compliance	In Compliance
77	Detainee safety programs training	In Compliance	In Compliance
78	Environmental, safety, and hygiene training	In Compliance	In Compliance

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**APPENDIX A: Use of Force – Directives/Policies**

<b>USE OF FORCE POLICY</b>	
14	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); and Training Directive 04-7, Use of Force, effective November 21, 2005.
15	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010) and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
16	See paragraph #15 above.
17	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); and Training Directive 04-7, Use of Force, effective November 21, 2005.
18	DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective June 27, 2005 (revised November 1, 2010).
19	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); and Training Directive 04-7, Use of Force, effective November 21, 2005.
20	DPD Directive 304.1, Firearms, effective August 4, 2011 which replaced DPD Directive 304.1, effective November 2010; and Directive 304.5, Training, effective May 13, 2011.
21	DPD Directive 304.1, Firearms, effective August 4, 2011, which replaced DPD Directive 304.1, effective November 2010, and in Directive 304.5, Training, effective May 13, 2011.
22	DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010, and August 4, 2011).
23	See paragraph #22 above.
24	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 (revised November 1, 2010); and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
25	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008 (revised November 1, 2010); and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005.
26	See paragraph #25 above.
<b>INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW</b>	
27	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 2010); 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 2010); DPD Directive 102.6 Citizens Complaints, effective July 1, 2008 (revised November 2010); Training Directive 04-7, Use of Force, effective November 21, 2005; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Office of the Chief Investigator, Standard Operating Procedure, July 1, 2010; and Internal Affairs Standard Operating Procedure, January 2011.
28	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-7, Use of Force, effective November 21, 2005.
29	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); DPD

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	Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Training Directive 04-7, Use of Force, effective November 21, 2005; Internal Affairs Standard Operating Procedure, (January 2011); and Office of the Chief Investigator Standard Operating Procedure (July 1, 2010).
30	See paragraph #29 above.
31	Training Directive 04-4, Garrity Protocol, dated February 9, 2006 (revised October 24, 2009).
32	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Training Directive 04-7, Use of Force, effective November 21, 2005; Internal Affairs Standard Operating Procedure (January 2011); and Office of the Chief Investigator Standard Operating Procedure (July 1, 2010).
33	See paragraph #32 above.
34	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010); DPD Directive 304.1, Firearms, effective May 2, 2005 and revised August 4, 2011; and Training Directive 04-7, Use of Force, effective November 21, 2005; Training Directive 11-01, Reporting/Documenting The "Acquiring of a Target" effective August 4, 2011.
35	See paragraph #34 above.
36	See paragraph #34 above.
37	See paragraph #34 above. Also DPD Joint Incident Shooting Team Standard Operating Procedures and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005.
38	See paragraph #37 above.
39	DPD Special Order 09-13, Command Level Force Review Team (CLFRT) dated March 2, 2009, replaced with DPD Special Order 11-02, effective January 1, 2011; and DPD Directive 101.9, Special Purposes Committees, issued March 2, 2009 and revised September 22, 2011.
40	See paragraph #39 above.
41	See paragraph #39 above.
<b>ARREST AND DETENTION POLICIES AND PRACTICES</b>	
42	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 2010.
43	See paragraph #42 above.
44	See paragraph #42 above (202.1) and 202.2, Search and Seizure, effective May 2, 2005; revised November 2010.
45	See paragraph #42 above.
46	DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010.
47	See paragraph #46 above.
48	See paragraph #46 above.
49	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010.
50	See paragraph #49 above.

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51	See paragraph #49 above.
52	DPD Directive 305.2, Detainee Registration, and effective September 12, 2005.
53	See paragraph #52 above.
54	See paragraph #52 above.
55	See paragraph #52 above.
56	DPD Directives 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) and 305.2, Detainee Registration, effective September 12, 2005. Also Training Directive #04-01, Confinement of Material Witness, effective March 1, 2005.
57	See paragraph #56 above.
58	See paragraph #56 above.
59	See paragraph #56 above.
60	DPD Directive 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010); and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 3, 2010).
<b>EXTERNAL COMPLAINTS</b>	
61	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010); IAD Standard Operating Procedures, Sections 1 and 3 (January 2011); and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004, and July 1, 2010).
62	Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (revised April 29, 2004, and July 1, 2010).
63	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010).
64	See paragraph #61 above. Also see DPD Directive 102.6.
65	See paragraph #63 above.
66	See paragraph #61 above.
67	See paragraph #61 above.
68	See paragraph #65 above.
69	See paragraph #61 above. Also DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-4 Garrity Protocol, effective February 9, 2006 (revised October 24, 2009).
<b>GENERAL POLICIES</b>	
70	DPD Directives 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) and 404.1, Definitions, effective July 1, 2008 (revised November 1, 2010).
71	DPD Directive 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010). The DPD also utilizes a Protocol for Proposed Policy Revisions; an SOP outlining procedures for posting proposed policies to the website; and a flow chart (Visio-DPD Policy Flow Chart) that tracks the movements of proposed policy revisions through the Department and public review.
72	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010).

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73	On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units. <sup>50</sup> Also Directive 101.10, Organization and Management, effective March 30, 2011.
74	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010).
75	See paragraph #74 above. Also DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010 and August 4, 2011).
76	Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised effective March 1 2010 and 305.7, Transportation of Detainees, effective May 9, 2005 (revised May 1, 2010).
77	DPD Directive 202.7, Foot Pursuits, effective July 1, 2008 (revised November 1, 2010).
<b>MANAGEMENT AND SUPERVISION</b>	
78	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010).
79	See paragraph #78 above.
80	See paragraph #78 above.
81	See paragraph #78 above. Also see the DPD Data Input Plan, approved by the Department of Justice, June 9, 2011.
82	See paragraph #81 above.
83	See paragraph #78 above.
84	See paragraph #78 above.
85	See paragraph #78 above.
86	See paragraph #81 above.
87	See paragraph #78 above.
88	See paragraph #78 above.
89	See paragraph #78 above.
90	See paragraph #81 above.
91	DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010).
92	DPD Audit Protocol, effective September 30, 2011. Annual revision required.
93	See paragraph #92 above.
94	See paragraph #92 above.
95	See paragraph #92 above.
96	See paragraph #92 above.

<sup>50</sup>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.

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97	See paragraph #92 above.
98	DPD Directive 303.3, In-Car Video, effective June 21, 2004 (revised February 22, 2010).
99	DPD Directive 304.5 Training, effective May 13, 2011.
100	DPD Directive 303.3, In-Car Video, effective June 21, 2004 (revised February 22, 2010).
101	See paragraph #100 above.
102	See paragraph #100 above.
103	DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 1, 2010) and the related DPD Discipline Matrix (DPD22a).
104	See paragraph #103 above.
105	See paragraph #103 above.
<b>TRAINING</b>	
106	DPD Directive 304.5, Training, effective May 13, 2011.
107	See paragraph #106 above.
108	See paragraph #106 above.
109	See paragraph #106 above.
110	See paragraph #106 above.
111	See paragraph #106 above.
112	See paragraph #106 above.
113	See paragraph #106 above. Also Directive 304.1, Firearms, effective August 4, 2011.
114	See paragraph #106 above.
115	See paragraph #106 above.
116	See paragraph #106 above.
117	See paragraph #106 above.
118	See paragraph #106 above.
119	See paragraph #106 above.
120	See paragraph #106 above.
121	See paragraph #106 above.
122	See paragraph #106 above.
123	See paragraph #106 above.



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**APPENDIX B: Conditions of Confinement – Directives/Policies**

<b>FIRE SAFETY POLICIES</b>	
14	DPD Comprehensive Emergency Preparedness Plan (CEPP), which includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was approved by DOJ on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on November 29, 2010. Also, DPD Directive 305.4, Holding Cell Areas, effective April 21, 2011.
15	See paragraph #14 above.
16	See paragraph #14 above.
17	See paragraph #14 above.
18	See paragraph #14 above.
19	See paragraph #14 above.
20	See paragraph #14 above.
21	See paragraph #14 above.
22	See paragraph #14 above.
<b>EMERGENCY PREPAREDNESS POLICIES</b>	
23	DPD Comprehensive Emergency Preparedness Plan (CEPP), effective May 2011 and DPD Directive 305.4, effective April 21, 2011.
24	See paragraph #23 above.
25	See paragraph #23 above.
<b>MEDICAL AND MENTAL HEALTH CARE POLICIES</b>	
26	DPD Directives 305.1, Detainee Intake Assessment; 305.5, Detainee Health Care and; 403.2, Infectious Disease Control Plan, all effective May 9, 2005. Reviewed and updated by a qualified health care professional on February 5, 2010 and February 4, 2011 as required. DPD Directive 305.5 cited above along with forms and logs, comprises the Comprehensive Medical and Mental Health Screening program (CMMHSP).
27	See paragraph #26 above (DPD 305.5).
28	See paragraphs #26.
29	See paragraph #26 above (DPD 305.1).
30	See paragraph #26 above (DPD 403.2).
31	See paragraph #26 above (DPD 305.5).
32	See paragraph #26 above (DPD 305.5).
33	See paragraph #26 above (DPD 305.1)
34	See paragraphs #26.
<b>PRISONER SAFETY POLICIES</b>	

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35	DPD Directives 305.1, Detainee Intake, effective May 9, 2005 ( revised February 5, 2010); Directive 305.2, Detainee Registration; Directive 305.3, Detainee Personal Property, effective May 20, 2010; DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008, and revised March 20, 2010; Directive 305.5, Detainee Health Care, effective May 20, 2010; Directive 305.7, Transportation of Detainees; effective May 20, 2010; and Directive 305.8, Detainee Food Service and Hygiene, effective May 9, 2005 (revised March 20, 2010).
36	See paragraph #34 above (DPD 305.1)
37	See paragraph #34 above (DPD 305.4).
38	See paragraph #34 above (DPD 305.1 and 305.4).
<b>ENVIRONMENTAL HEALTH AND SAFETY POLICIES</b>	
39	DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008 (revised September 30, 2011). Annual review and revision required.
40	See paragraph #39 above.
41	See paragraph #39 above.
42	See paragraph #39 above.
43	See paragraph #39 above.
44	See paragraph #39 above.
45	See paragraph #39 above.
46	See paragraph #39 above.
<b>POLICIES CONCERNING PERSONS WITH DISABILITIES</b>	
47	DPD Directives 305.1, Detainee Intake and Assessment, and 305.5, Detainee Health Care, effective May 9, 2005, approved and updated by a qualified medical and mental health professional on February 5, 2010 and February 4, 2011. Also the Comprehensive Medical and Mental Health Screening Program (CMMHSP).
48	See paragraph #47 above (DPD Directive 305.1).
<b>FOOD SERVICE POLICIES</b>	
49	DPD Directive 305.8, Detainee Food Service, effective May 9, 2005 (revised March 20, 2010). Also, the Detainee Meal and Hygiene Items Log, DPD 663, effective July 5, 2010.
50	See paragraph #49 above.
<b>PERSONAL HYGIENE POLICIES</b>	
51	See paragraph #49 above.
<b>USE OF FORCE AND RESTRAINTS POLICIES</b>	
52	DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1 2010) and 304.2, Use of Force, effective June 27, 2006 (revised November 1, 2010).
53	See paragraph #52 above.

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54	See paragraph #52 above.
<b>INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW</b>	
55	DPD Directives 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010) and 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1, 2010)
56	See paragraph 55 above. Also DPD Directive 304.2, Use of Force, effective June 27, 2006 (revised November 1, 2010).
57	See paragraph #55 above.
<b>EXTERNAL COMPLAINTS</b>	
58	See paragraph #55 above. Also see DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010).
59	See paragraph #58 above.
<b>GENERAL POLICIES</b>	
60	DPD Directive 404.1, Definitions, effective November 2010.
61	DPD Directive 101.1, Written Directive System, effective November 2010.
<b>MANAGEMENT AND SUPERVISION</b>	
62	DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised April 21, 2011).
63	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010); DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010); and DPD Audit Protocol, effective September 30, 2011.
64	See paragraph #62 above.
65	DPD Audit Protocol meeting generally accepted government auditing standards (GAGAS), effective August 31, 2008 (revised October 31, 2010 and September 11, 2011).
66	See paragraph #65 above.
67	See paragraph #65 above.
68	See paragraph #65 above.
69	See paragraph #65 above.
70	See paragraph #65 above.
71	See paragraph #65 above.
72	See paragraph #65 above.
<b>TRAINING</b>	
73	Directive 304.5, Training, effective May 13, 2011.
74	See paragraph #73 above.
75	See paragraph #73 above.

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76	See paragraph #73 above.
77	See paragraph #73 above.
78	See paragraph #73 above.

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## **APPENDIX C: Acronyms**

*The following is a listing of acronyms frequently used in our quarterly reports.*

<b>ACRONYM</b>	<b>DEFINITION</b>
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFE	Detainee File Folders
DFO/PDO	Detention Facility Officer
DHWP	Detroit Department of Health and Wellness Promotion
DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital

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EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigation ( <i>interchangeable with FIS</i> )
FIS	Force Investigation Section
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
FY	Fiscal Year
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement
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

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USAO	United States Attorney's Office
WCPO	Wayne County Prosecutor's Office
WCJ	Wayne County Jail

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## **APPENDIX D: Monitoring Team**

**Robert S. Warshaw**, *Monitor*

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

### **Lieutenant Colonel (Ret.) J. Rick Brown**

Evaluates compliance with U14-19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U37-41, Review of Critical Firearm Discharges and In-Custody Deaths.

### **Division Chief (Ret.) Rachel M. Burgess**

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; and U67-69, External Complaint Investigations; C14-22, Fire Safety Policies; C23-25, Emergency Preparedness Policies; and C60-61, General Policies.

### **Commander (Ret.) John M. Girvin**

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; U67-69, External Complaint Investigations; C52-54, Use of Force and Restraints Policies; C55-57, Incident Documentation, Investigation, and Review; and C58-59, External Complaints.

### **Chief (Ret.) Eduardo Gonzalez**

Evaluates compliance with U14-19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U70-72 and U74-77, General Policies.



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**John M. Klofas, Ph.D.**

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

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

Evaluates compliance with C39-46, Environmental Health and Safety Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; C51, Personal Hygiene Policies; and C71-72, Management and Supervision.

**Chief (Ret.) Billy R. Riggs**

Evaluates compliance with U42-43, Arrest Policies; U44-45, Investigatory Stop Policies; U46-48, Witness Identification and Questioning Policies; U49-51, Prompt Judicial Review Policies; U52-53, Hold Policies; U54-55, Restriction Policies; U56-57, Material Witness Policies; U58, Documentation of Custodial Detention; U59-60, Command Notification; C26-34, Medical and Mental Health Care Policies; C35-38, Prisoner Safety Policies; and C64, Management and Supervision Policies.

**Asst. Director (Ret.) Joseph R. Wolfinger**




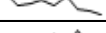

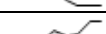
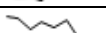
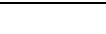


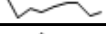

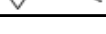
Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; and U123, Field Training.

**Robin Busch-Wheaton**

*Editor*

## APPENDIX E: Detroit Police Department Management Dashboard Data

The table below presents data on measures relevant to the requirements set forth in the Consent Judgments. The data were compiled by the Detroit Police Department and are displayed for presentation by the Monitor. These data are presented here with the consent of the Police Department and serve simply as a means to provide information relevant to issues raised in the Consent Judgments.

Dashboard Data: Detroit Police Department 2011										
	Jan	Feb	March	April	May	June	July	August	Sept	Graph
Total Arrests	2099	1943	2456	2523	2959	2470	2673	3196	2725	
<b>Number of Events per 1000 Arrests</b>										
Uses of Force	43.83	29.34	46.01	40.82	37.51	45.34	34.42	35.98	26.06	
Firearms Discharge	0.48	1.03	1.22	0.79	0.68	1.21	0.75	0.94	0.73	
Citizen Complaints	64.79	49.41	50.49	56.28	47.65	59.92	42.27	40.68	34.86	
Traffic Crashes	5.24	5.15	4.89	3.17	5.41	3.64	5.99	3.75	3.30	
Civil Litigation	7.15	3.60	7.33	8.32	5.75	2.43	0.00	0.00	0.00	
Vehicle Chases	6.19	4.63	5.29	3.57	8.11	6.07	6.73	12.20	12.48	
Disciplinary Action Closed Date	52.41	47.35	20.77	39.64	25.35	43.32	5.99	3.13	5.50	
Arrests for Assault and Battery on a PO	2.38	3.09	5.70	10.31	7.10	5.26	7.86	4.38	6.61	
Resisting or Obstructing Arrests	15.72	8.23	18.32	15.46	16.90	16.60	9.35	15.64	10.28	
Disorderly Conduct Arrests	8.10	1.54	4.48	3.17	5.07	6.07	5.99	2.19	3.30	
Interfering Arrests	2.38	1.54	2.85	5.15	3.04	1.62	3.37	3.75	1.47	
Total Consent Judgment noted Arrests (above 4)	28.59	14.41	31.35	34.09	32.11	29.55	26.56	25.97	21.65	

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This is the data from 2010.

Dashboard Data: Detroit Police Department 2010													
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Graph
Total Arrests	3108	2751	3074	3052	3012	2937	2634	2629	2397	2309	2115	1871	
<b>Number of Events per 1000 Arrests</b>													
Uses of Force	33.78	35.26	33.51	32.77	35.52	39.50	28.85	29.29	47.98	33.78	41.61	43.83	
Firearms Discharge	1.93	1.09	0.00	0.33	0.00	0.00	2.28	0.00	5.01	1.73	0.95	0.53	
Citizen Complaints	52.45	49.07	58.23	50.79	44.16	49.03	51.25	63.90	57.57	19.92	60.05	57.72	
Traffic Crashes	4.83	6.91	2.60	2.62	3.32	4.43	3.04	8.37	3.75	3.03	6.15	7.48	
Civil Litigation	3.54	8.36	2.60	2.62	2.66	6.47	0.76	3.80	0.00	0.00	5.20	6.41	
Vehicle Chases	2.57	1.82	4.88	3.60	1.99	2.04	1.52	3.80	4.17	2.60	5.20	11.76	
Disciplinary Action Closed Date	29.28	12.00	23.42	22.28	30.21	35.75	18.22	22.44	53.40	19.49	8.51	22.98	
Arrests for Assault and Battery on a PO	5.79	7.63	7.16	4.59	5.98	6.13	4.94	6.85	6.26	3.90	9.46	8.55	
Resisting or Obstructing Arrests	10.30	12.36	14.64	9.17	13.61	16.00	7.97	10.27	15.02	15.16	9.46	18.17	
Disorderly Conduct Arrests	7.72	1.82	6.83	4.59	3.98	5.45	1.90	4.56	7.93	1.73	5.67	2.14	
Interfering Arrests	0.97	1.45	2.28	0.98	3.65	2.38	0.38	1.90	2.92	0.43	0.95	0.53	
Total Consent Judgment noted Arrests (above 4)	24.77	23.26	30.90	19.33	27.22	29.96	15.19	23.58	32.12	21.22	25.53	29.40	