

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.

_____ /

TENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR FOR THE
DETROIT POLICE DEPARTMENT ISSUED APRIL 18, 2012

Tenth Quarterly Report

Independent Monitor

for the

Detroit Police Department



Robert S. Warshaw

Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC

April 18, 2012



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

Our Team conducted its first quarterly site visit in November 2009 and has conducted subsequent site visits each subsequent calendar quarter. 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 and guide the Department's ongoing efforts. This report includes our assessment of the Department's compliance with each of the requirements contained in Judgments. Our findings are based on the results of discussions and meetings with City and DPD staff, observations of operational activities, inspections of facilities, and our review of documents and data covering the period October, through December 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 the Conditions of Confinement Judgment. Following these narratives are their respective requirements and our comments regarding the compliance status for each. After these are summary notations of Phase 1 and Phase 2 compliance. A statement of "Critical Issues" follows the reviews of the requirements in each major section of the Judgment. A brief statement of "Next Steps" follows, in which we describe a plan of work for the next visit including a discussion of the data we plan to review. Finally, a table summarizes the compliance finding for that particular section of the Judgment.

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

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

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

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

EXECUTIVE SUMMARY

This is our tenth quarterly report of the Independent Monitor in the case of United States of America v. City of Detroit No. 03-72258. The report is for the period of September 1, through December 31, 2011; and is based on our site visit of January 9, through January 13, 2012; and our subsequent analyses of relevant data from this period. Consistent with the practice we established in our first review, we continue to assess all requirements of both active Judgments for compliance. 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.

With regard to Phase 1 (policy) compliance, for the third consecutive quarter we found the City and the Police Department in compliance with all requirements of both Judgments. Following the practice we established during the last reporting period, all references to supporting policies, directives, and other relevant documents are listed in Appendices A (Use of Force) and B (Conditions of Confinement).

As noted above, the Department is again in Phase 1 compliance with all 110 (100%) of the Use of Force requirements. For the current reporting period, we also found the Department in Phase 1 and Phase 2 compliance (full compliance) with 92 (84%) of the 110 Use of Force requirements. This is two more requirements than we found in compliance during the last reporting period. Also during this reporting period, one Use of Force requirement is in pending compliance, and one is deferred.

As noted above, the Department is again in Phase 1 compliance with all 65 (100%) of the Conditions of Confinement requirements. This level has been maintained since the fourth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 54 (83%) of the 65 requirements. This is four more than we reported in compliance during the last reporting period. The current figures are presented in the table below. Two Conditions of Confinement requirements are in pending compliance, and two are deferred.

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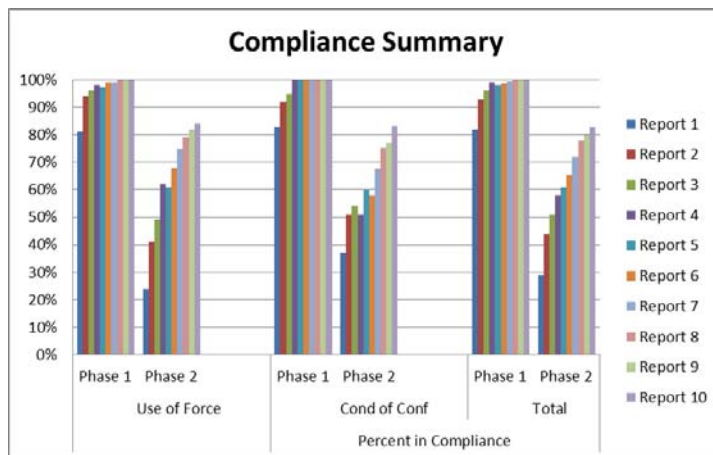
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Tenth Quarterly Report Summary						
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirements	110	110	65	65	175	175
Pending Compliance	0	1	0	2	0	3
Not in Compliance	0	16	0	7	0	23
Deferred	0	1	0	2	0	3
In Compliance	110	92	65	54	175	146
Percent in Compliance	100%	84%	100%	83%	100%	83%

In summary, this is the third consecutive report in which we have found DPD in Phase 1 compliance with all (100%) of the 175 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 146 (83%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, an increase of six from the last reporting period. The Department’s upward trend is continuing. We also found the Department to be in pending Phase 2 compliance with three requirements, or 2% of the total. An additional three compliance assessments are deferred.

As noted in our last report, the requirements that remain outstanding share some common themes. We continue to be concerned with the quality and comprehensiveness of reviews in several areas, including investigations regarding use of force and citizen complaints. These problems are equally relevant in the Department’s detention settings as they are for officers on the street. In the detention settings, we remained concerned with medical and mental health screening, prisoner observation and related practices, and also with levels of facility lighting.

The chart below illustrates the levels of compliance achieved on both Judgments and across all 10 reporting periods.



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As the chart above shows, in each of our quarterly reports, including this one, we have reported increases in the total level of full compliance achieved by DPD. For this, our tenth report, we saw an increase of five requirements in Phase 2 compliance.

The chart below provides the summary data illustrating the increases in compliance over the course of the 10 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
Report 1	81%	24%	83%	37%	82%	29%
Report 2	94%	41%	92%	51%	93%	44%
Report 3	96%	49%	95%	54%	96%	51%
Report 4	98%	62%	100%	51%	99%	58%
Report 5	97%	61%	100%	60%	98%	61%
Report 6	99%	68%	100%	58%	99%	65%
Report 7	99%	75%	100%	68%	99%	72%
Report 8	100%	79%	100%	75%	100%	78%
Report 9	100%	82%	100%	77%	100%	80%
Report 10	100%	84%	100%	83%	100%	83%

For over two years, the work of the Monitoring Team has been directed by the 175 requirements that comprise the Use of Force and Conditions of Confinement Consent Judgments. It is against those requirements that the progress of the Department is measured during each reporting period. And it is the sustained satisfaction of those requirements that will mark the completion of our responsibilities.

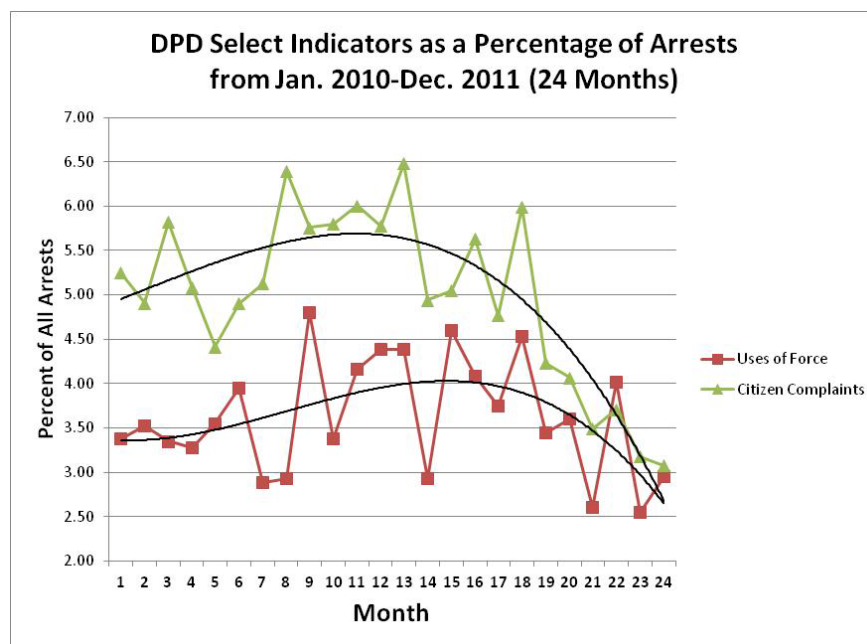
There are, however, other impacts and effects of the Department's compliance effort that are significant. Some of those outcomes may not easily be quantified. They include such elements as the increased capacity of front-line supervisors, and the diligence evident in the processes of command level review of important Department functioning. There are certainly broad benefits to the improvements in technology, officer training, and the accountability and intervention processes associated with the Consent Judgments.

There are also some changes that do lend themselves to measurement. The chart below shows the number of uses of force and the number of complaints divided by the number of arrests made by DPD for each month of 2010 and 2011. This method of calculation standardizes the data to control for fluctuations that may result from such elements as seasonal changes in arrests, differences in crime, or the number of active police officers over time.

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The black lines in the chart below show the trends in the data by smoothing out minor fluctuations. The trend lines show that the use of force and complaint rates remained somewhat stable, or rose slightly, through 2010 but declined significantly in 2011. The use of force rate for December 2011 is 12.5% below the January 2010 rate. For citizen complaints, the percentage reduction is 41% over the two years. There are no established target levels for these measures in policing, and comparison data for other departments is not generally available. However, these data do suggest that, under the current Monitorship, and after a lag in time in which implementation moved forward, the reforms that have occurred in DPD based on the Consent Judgment have had a significant measureable impact.¹



The broad changes in the Department, and the measureable outcomes noted above, all reflect the seriousness and determination with which the Department has moved forward implementing the requirements of the Consent Judgments. The progress in reform is a reflection of the strong leadership of Chief Ralph Godbee and his executive team. A special recognition should go to the Civil Rights Enforcement Bureau (CRIB) under the leadership of Deputy Chief Tolbert and prior to that, Deputy Chief Butler. Along with the energies of Commanders Jeff Romeo and James White and the City's special counsel Allan Charlton, they have moved this agenda forward, not by seeking simply to record technical compliance with the requirements of the Agreements – but by understanding the substantive meaning behind those requirements and by embracing the opportunities they present for improving the quality of policing in Detroit. The

¹ The complaint data for October 2010, as seen in Appendix E, show large differences from the surrounding months. This anomaly was treated as error in the analysis, and the average of nearby months was substituted for this data point to avoid distortion of the distribution.

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support and leadership of Mayor Dave Bing has unquestionably been instrumental in the changes we have begun to see in the Detroit Police Department.

As a cautionary note, we are concerned that the Office of Chief Investigator (OCI) has experienced some setbacks that we are hopeful will not reverse the progress the Department has made in complying with the provisions of both Judgments. We recognize the sincere effort that OCI has been making to rectify these issues, and we intend to monitor its progress closely.

In our last report, we noted that the Department had passed the important milestone of compliance with 80% of the Consent Judgment requirements. That number has increased in this report. Even with this movement forward, however, it is clear that hard work, perhaps the hardest so far, remains ahead. Twenty-nine of the 175 requirements continue to challenge the Department. We look forward to continued efforts to move this Department toward full compliance and to its recognition – not just an improved department, but as a department at the forefront of American policing.



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Monitor

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Robin Busch-Wheaton, *Editor*

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

III. USE OF FORCE POLICY

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

DPD has conducted the requisite reviews and revisions of policies, which have been approved by the Department of Justice. The revised policies include a force continuum that identifies lethal and less lethal force options; relates the force options to the types of conduct by the individuals justifying the various force options; and describes de-escalation, disengagement, and other appropriate tactics and responses. The revised firearms policies address qualification requirements, approved firearms and ammunition, and a prohibition on the firing at or from moving vehicles. DPD also selected an intermediate impact device, developed guidelines on its use, and provided the required training. The chemical spray policy requires, when appropriate, a verbal warning prior to the deployment of chemical spray; sets forth requirements for decontamination, medical assistance, and requires supervisory approval if the chemical spray is to be used against a crowd. It prohibits officers from using chemical spray on a handcuffed individual in a police vehicle or keeping a sprayed individual 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. Command review of SIR investigations has improved, and we encourage DPD to continue to strengthen this effort. 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 75% from the 60% registered last quarter. However, in spite of the continued improvements over the last two reporting periods, we continue to urge DPD to develop a case management system that requires that the command initiate and document appropriate actions that will ensure that they comply with both the 10- and the 30-day time limits.

During the ninth 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

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where the acquiring of a target is the only force used, a Supervisor Investigation Report (SIR 002a) is no longer required.² 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 22 critical firearm discharges.

The DPD selected the PR-24 collapsible baton as its impact device, and has provided training on its use to 1,243 members (49%) through the second quarter of the fiscal year. There were no PR-24 strikes to the head noted in use of force reports during this reporting period. There was one incident we reviewed where an officer used a Department-issued firearm to strike a subject on the side of the head, constituting a use of deadly force.

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.

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

Once again, there were no reported instances of an officer spraying an unruly crowd nor were there any cases where spray was used on a handcuffed individual in a police car. No individuals were placed/kept in a face-down position after being sprayed.

The DPD 33rd Quarter Status Report, issued December 31, 2011, states that the Department has initiated a new program, the Quality Control and Case Management Practices for Command Level Use of Force/Detainee Injury Investigations. It details the operations as follows:

“During this quarter, commencing on November 1, 2011, Force Investigation (FI) implemented a comprehensive review process for all command level investigations of use of force and detainee injuries. FI has served as the final repository for these investigations. FI's newly established Command Level Use of Force Review Team (CLUOFRT) is responsible for reviewing and tracking all command level use of force and detainee injury investigations that are entered into MAS and forwarded to FI. Any deficiencies identified in any of the investigations shall be returned to the commanding officer of the applicable command for corrective action. The commanding officer is then required to document and implement a corrective action plan (CAP) to address the deficiencies.”

This additional review step, coupled with the transmission of a corrective action plan to the affected command, should have some positive outcomes and improve the quality of the Command Level Investigations.

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

² SIR and Command Level Investigations are used interchangeably throughout the report.

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Consent Judgment requirements. Below are examples of some of the pertinent Bulletins issued from October 14, to December 23, 2011.

Date	Teletype No.	Subject
10/14/2011	11-1200	Holding Cell Cleaning and Sanitation
10/21/2011	11-1229	Revisions to Cell Check Log (DPD 659)
10/28/2011	11-1252	Firearms/Personal Protective Vests
11/4/2011	11-1270	Span of Control-Notifications in SIR
11/11/2011	11-1291	Responding Supervisor-Category One Use of Force/Detainee Injury Investigations
11/18/2011	11-1351	Standard Required Information for all Command Level Investigations for Use of Force, Detainee Injury and Inquiring a Target Incidents
11/23/2011	11-1357	Issuance of Corrective Action Notices for Deficiencies Identified in Use of Force Investigations
11/25/2011	11-1381	New Requirements for Acquiring of a Target Incidents-Documentation of In-Car Video Review
12/2/2011	11-1392	Implementation of the Detainee Input Sheet to Replace the Arrest Ticket
12/9/2011	11-1443	Updated Guidelines Available for Use of Force/Detainee Injury
12/16/2011	11-1468	Use of Department In-Car Video Equipment and Body-Mics
12/23/2011	11-1497	Procedures for Documenting the Consent to "Frisk" or "Search" from an Investigatory Stop

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. We also determined that DPD generated 362 use of force numbers during the previous reporting period, and 333 during this reporting period (an 8% reduction). For calendar year 2011, there were 1,401 use of force numbers generated, a 5% reduction from the 1,479 that were issued during the previous year. 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:

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

Comments:

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

Our previous reviews of use of force reports found that they lacked sufficient documentation or specificity with regards to de-escalation and details of actual disengagement to make a definitive determination regarding Phase 2 compliance.³ In the previous reporting period, we found that 69% of the Command Level Investigations we reviewed contained sufficient explanations of officers' efforts to de-escalate or implement some of the disengagement responses suggested in U15c.

During this reporting period, we reviewed 87 Command Level Investigations, which also described the conduct of individuals against whom force was used and the corresponding response from the involved officers. In evaluating de-escalation techniques utilized by the officers, we eliminated cases in which there was no opportunity to attempt de-escalation.⁴ There were 62 cases evaluated; in 28 of them, we found evidence of some efforts at de-escalation (45%). 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. As we have noted previously, 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 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

³ Report of the Independent Monitor, issued September 23, 2011.

⁴ Twenty-five cases were eliminated: 14 in September; nine in October; and two in November. Cases included, but were not limited to, the subject fleeing as soon as he sees officers; subjects engaged in assaults as officers arrived; detainee injury; canine apprehensions with no contact, and a subject trying to harm himself.

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commands and other techniques that do not require the use of force would be ineffective or present a danger to the officer or others.

Comments:

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

Use of Force Reports: To assess compliance for this reporting period, we reviewed 183 use of force reports, of which 167 were applicable to this paragraph. We found that 157 (>94%) of the 167 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.⁵ DPD is in Phase 2 compliance with this portion of this paragraph.

Force Investigations: During this reporting period, we reviewed 31 force investigations conducted by DPD. We found that two of the 31 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 the first case, three DPD officers used excessive force on a subject who was being taken into custody by striking the subject in the face and head with flashlights while handcuffing and continuing to use force after the subject was handcuffed. The subject received a fracture of the left nasal bone, mild soft tissue swelling, multiple abrasions on his head and face, and a laceration to his upper lip. In the second case, eight DPD officers used excessive force on a suspect in custody who did not resist arrest. The subject received multiple fractured ribs. In both cases, all subject officers are facing formal disciplinary action.

Fifteen cases required a verbal command or an opportunity for a subject to submit to arrest prior to the use of force; we found all 15 incidents in compliance with this requirement. Fourteen cases were not applicable to the provisions of this Consent Judgment requirement. One case involved a vehicle pursuit that ended with the subject exiting the vehicle and fleeing on foot. In another case, the subject slipped on ice and broke his leg, and opportunities for giving verbal commands were not present. Two cases involved DPD officers shooting two vicious dogs, which is an exception to the Department's use of force policy. In addition, four cases involved off-duty officers, three cases involved accidental firearm discharges, and four cases involved exigent circumstances in which opportunities to give verbal commands were not present. This represents a >94% 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:

⁵ The base was reduced from 183 to 167 by 10 canine deployments, four detainee injuries, one accidental discharge, and one insufficient time. Of these, 157 included the verbal commands and other requirements; 10 did not.

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

Use of Force Reports: To assess compliance with this requirement for this reporting period, we reviewed 183 use of force reports and 87 completed Supervisory Investigation Reports (SIRs). There was one case where a headlock was applied which could have accidentally slipped into a choke hold. There was no indication of a notification to FI.

We recommend that cases involving any possibility of a chokehold being applied, accidentally or otherwise, be referred to IAD/Force Investigations for review, and further investigation should be required. The failure to make notification will be further noted in U35, which addresses notifications.

Force Investigations: Our review of 31 force investigations for this reporting period revealed no allegations or incidents involving choke holds by DPD officers.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U18

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

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

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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 183 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 31 investigations completed by Force Investigations revealed one instance where a DPD officer used the Department-issued firearm to strike a subject on the side of the head. The subject was attempting to disarm the officer by grabbing the barrel of the Department-issued shotgun and trying to wrestle the shotgun from the officer's hands. The FI investigation determined that the force used in this case was justified.

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.

DPD policy requires 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 the six-month qualification period that ended on December 31, 2011, 99% of the DPD officers who were available to train attended firearms and qualified.

During the current six-month qualification period (July 1, through December 31, 2011), DPD listed 2,540 officers available to train. Of this number, 15 were in a medical or administrative "no-gun" status. Of the remaining 2,525 officers, 2,509 (99%) attended firearms training and qualified.

The DPD remains in compliance with this requirement; 99% of the officers available to train qualified during the six-month period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U21

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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.

During the most recent six-month firearms qualification period (July 1, through December 31, 2011), 13 members failed to qualify and were placed in “no-gun” status, in which they were relieved of their guns and police powers. Eleven of these 13 officers were placed in “medical no-gun” status after consultation with the DPD physician; two were provided remedial firearms training and subsequently qualified.

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 vehicle⁶.

Comments:

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

Use of Force Reports: During this reporting period, we reviewed 183 use of force reports and 87 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, the investigations of the events found the existence of exigent circumstances that warranted the discharge of firearms even though prohibited by both policy and the Judgment. Although the firing at or from a moving vehicle is not a recommended police practice, doing so when specified exigent circumstances leave no other alternative available to officers is a generally accepted exception. Accordingly, the DPD and DOJ, with the concurrence of the Monitor, 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 was approved by the BOPC and operationally implemented on November 3, 2011.

⁶ Amended by Court Order dated June 1, 2011, and approved by the BOPC on November 3, 2011.

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During this reporting period, we reviewed 31 FI investigations, and found one incident involving two officers firing from a moving vehicle. DPD determined the firearm discharge to be out of policy. The CLFRT concluded that the officers' actions and tactics were against Department policy, and that the officers' decision-making processes were inappropriate. The CLFRT issued a finding of sustained misconduct against both officers for shooting from a moving vehicle. The CLFRT instituted administrative action to address both officers' policy failure.

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-nine percent of the officers participated in the biannual qualifications, where they shot their old ammunition, which was replaced with authorized ammunition. DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

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Use of Force Reports: During this reporting period, we reviewed 183 use of force reports, and found no strikes to the head with the designated intermediate force device (PR-24). Midway through the Fiscal Year training cycle, a total of 1,244 members (49%) have received PR-24 training. DPD remains in Phase 2 compliance with this paragraph for use of force reports.

Force Investigations: During this reporting period, we reviewed 31 cases completed by FI, and found no cases where an intermediate force device (PR-24) was used.

DPD is in Phase 2 compliance with this paragraph.

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 183 use of force reports and 87 Command Level Investigations. We found seven deployments of chemical spray, with warnings or danger articulated in four (57%) of the cases. This is on par with the percentage registered last quarter, 58%.

During our evaluation of decontamination requirements, we found that three (43%) of the seven cases provided details of decontamination within 20 minutes of spraying or capture. This is a significant decrease from the 83% registered last quarter.

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 four of the subjects requiring it, and all four were transported to a hospital; three of the subjects did not require medical attention.

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

As we continue to note, 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

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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.

DPD is not in compliance with this portion of the requirement for this reporting period.

Force Investigations: During this reporting period, we reviewed 31 cases completed by FI, and there were no cases of chemical spray being used during the arrest of a subject. 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.

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 183 use of force reports, and 87 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 of 31 force investigations, we found no instances of DPD officers using chemical spray.

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. During the most recent site visit, members of the Monitoring Team met with members of the DPD District and Precinct Command

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Staffs to discuss a number of issues, including the de-escalation documentation issue. We believe that all parties left the meeting with a better understanding of how best to document the officer's actions and there is every reason to believe that the process will improve. This quarterly report notes a falling off in what had previously been an improvement in documentation, and we recommend that DPD continue to emphasize that officers articulate the actions they took before they used force.

- Officers need to be reminded that they can use water from the locations in which they find themselves to flush eyes. 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 spraying, and the flushing time (military time is easiest).
- 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 previously noted that 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.

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 citizens and less uses of force on their part.
- Meet with CRIB personnel to further discuss any additional enhancements the Monitoring Team believes are needed for 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 third quarter of the year (July 1, through September 30, 2011), and were provided a MAS document listing 362 cases. During our most recent site visit, we were provided the fourth

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quarter MAS document, and it listed 333 cases. We will continue to monitor the numbers during subsequent visits.

¶	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 review relevant investigative and other reports, and the DPD 33rd Quarter Status Report, dated December 31, 2011, which sets forth some of the corrective measures initiated by DPD to achieve compliance with this paragraph.

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Command Level Investigations: To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 183 use of force reports resulting in 87 SIRs.⁷ 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 84 (97%) of the assessed investigations and SIRs. 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 addressed these issues with strengthened supervision and in-service training.

During this reporting period, we reviewed 31 FI cases, and found them in compliance with the requirements. DPD is in Phase 2 compliance with the FI cases portion of this paragraph.

Office of the Chief Investigator: During our previous reviews of completed cases, we noted that while the case files generally contained sufficient facts to support a determination that justified or did not justify an officer's actions, there were several inconsistencies between investigators, and some cases lacked the necessary information to reach a proper determination. 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 288 cases that were closed in October, November, and December 2011. (This represents a 4% 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.⁸

One case involved allegations of excessive force and rudeness during an arrest at a festival. The investigation focused on officers who transported the complainant from the scene, rather than the reserve officers who had the initial encounter with the complainant and were the apparent subjects of the complaint. In another case, the complainant alleged, among other things, that an officer removed her keys from the ignition of her vehicle during a traffic stop. The officer's partner, corroborating the complainant's assertion, indicated that this occurred. The subject officer denied doing this. Not only was this discrepancy not explored, but the officer's actions –

⁷ 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.

⁸ 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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which he denied took place – were exonerated. Similarly, in another case, officers’ statements conflicted on who applied handcuffs. This discrepancy was never explored or resolved.

In yet another case involving an allegation of profanity during a traffic stop, the officers were not interviewed. The investigator relied solely on the Insight video, which is certainly a useful resource, but did not capture the conversation at the moment the alleged rudeness occurred. In the final case – again, profanity alleged during a traffic stop – the officer claimed no recollection of the incident which took place two weeks prior. The interview lasted approximately two minutes, with the majority of the time spent going over the officer’s rights. Not only was the interview substandard, but in her summary, the investigator attributed comments to the subject officer that he did not make.

While complainants failed to cooperate in 30% of the cases, their lack of cooperation was not a factor in the closing of these cases.

With a 95% compliance rate, the City 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 50 cases that were closed by IAD in October, November, and December 2011. IAD continued to attempt to clear the backlog of overdue cases by reassigning them to different investigators. 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.*

Comments:

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

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Command Level Investigations: During the previous reporting period, we found that thorough and complete interviews were conducted in only 63% of the cases. In addition, of the cases we reviewed that contained material inconsistencies, supervisors attempted to resolve these inconsistencies in only 31%. Photos of officer or subject injuries were ordered in only 82% of the cases where they should have been requested.

During this reporting period, we determined the following:

- There was only one case in which the investigating supervisor authorized, witnessed, or participated in the incident (99% compliance). Eighty (92%) of the cases contained the names of all of the officers involved or on the scene during the incident, a three percent reduction from the 95% registered last quarter.
- In 82 (94%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted. This is a reduction from the 98% reported during the last reporting period. We encourage DPD to continue to focus attention on this requirement, as it is essential to allow for the identification of independent witnesses.
- During this reporting period, we found that thorough and complete interviews were conducted in only 45 of the cases (52%). This is a reduction from the 63% that we found during the last reporting period. Some of the issues associated with this finding include: the one-question interviews, the willingness on the part of investigators to accept general statements from officers, and the failure to ask follow-up questions. In a recent meeting with district/precinct commanders, we discussed the lack of thorough and complete interviews, suggesting that supervisors be provided additional interview technique training. In the meantime, supervisors need to focus on the who, what, where, when, why, and how concept used by journalists and other investigative writers for basic information gathering.
- Fifty of the cases we reviewed contained material inconsistencies; supervisors attempted to resolve the inconsistencies in 17 (34%) 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.
- In 45 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 39 (87%) of the cases. This is an increase from the 82% previously registered. Fifty-eight cases included documentation of medical care. Not all of the administered medical care was related to police actions. Twenty-five 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 continue to encourage the critical review of completed investigations, especially at the first endorser level, which is the first review level. Inspectors and commanders are becoming more involved in the reviews and that is a positive step, but it is important that they ensure that levels below them are also complying with their responsibilities.

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

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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 31 force investigations.⁹ 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 two investigations, the interviews were deficient and incomplete due to FI's failure to properly analyze existing evidence. These failures led to material inconsistencies between the officers and witnesses statements.

In our last quarterly report, we discussed an issue of considerable concern. This resulted from a case where a subject officer was involved in an off-duty incident that resulted in a formal complaint by a citizen. The officer 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 still has not taken any formal policy and implementation action on this recommendation; and this issue remains an important concern. We will continue to monitor this issue closely.

Our review also identified two investigations that contained no photographs of the officer's or subject's injuries as required by DPD policy. The compliance rate for this section is 87%.

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

Office of the Chief Investigator: During this reporting period, we reviewed 100 randomly sampled OCI investigations. All of the cases were investigated by investigators who did not authorize, witness, or participate in the incidents being investigated. In 17 cases, involved officers were not identified by both name and badge number. Five cases were transferred to Force Investigation based on the allegations and before steps were taken to identify the officers involved. In all but one of the remaining cases, diligent steps were taken to identify involved personnel. The remaining case was determined to be a civil matter involving an off-duty work

⁹ These investigations included 22 critical firearm discharge events, and one vehicle pursuit.

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arrangement (construction) that did not concern the exercise of police powers. Canvasses were generally deficient, as outlined in CJ requirement U32. We did not note any cases in which investigators failed to attempt to contact potential witnesses. Many refused to cooperate, but investigators documented their steps to try to obtain statements.

In the cases alleging excessive force that were retained by OCI (10 cases were transferred to Force Investigation), photographs were referenced where appropriate. In most of the cases, force could not be substantiated and use of force documentation, including photographs, did not exist. In three cases, it was appropriate to reference medical care, and such documentation was included in the investigative packages.

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

Internal Affairs Division Investigations: We reviewed all 50 IAD cases that were completed by IAD during this reporting period. The investigations consistently included the names and badge numbers of all officers who were involved in or on the scene during an incident. 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 that we reviewed that witnesses were interviewed or gave written statements, and that the investigators made an effort to resolve inconsistencies between witness statements. DPD is in Phase 2 compliance with the IAD portion of this paragraph.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U29

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

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

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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, we found that in 89% of the 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 99% of the cases we reviewed.

During this reporting period, we determined that in 77 (89%) of the 87 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident. This percentage is consistent with the 89% noted in our last report. The interviews of complainants and witnesses were conducted at sites and times convenient for them in all (100%) of the 87 cases we reviewed.

DPD is not in Phase 2 compliance for use of force reports.

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

To assess compliance with these requirements for this reporting period, we reviewed 31 closed FI cases, and continued to find much the same as described above. Statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of non-police witnesses were generally taken in a timely manner, usually within minutes or hours of the event; however, in five 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 decreased from the previous reporting period, but remained at an unacceptable level of 62 to 326 days from the date of the incident. Garrity interviews of witness officers ranged from 26 to 326 days from the date of the event, which is a decrease from the previous reporting, but also problematic. 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. In addition, aside from investigative reasoning regarding the delaying of interviews of involved officers, we find no legitimate basis to delay interviews of witness officers; quite the contrary, there is a compelling need to interview all witnesses – including witness officers – in an expeditious manner.

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As indicated, oftentimes the delays discussed above reportedly result from the desire to await a declination decision from the District Attorney. Accordingly, we re-examined 65 cases closed by FI during 2011, and found 14 where a prosecutorial decision from the Wayne County District Attorney's Office was sought with the following results:

- Nine of the 14 cases involved critical firearm discharge events.
- Seven of the 14 cases included Garrity interviews conducted by FI prior to the prosecutorial decision by the District Attorney.
- Three of the 14 cases included prosecutorial decisions that were received ranging from 114 days to 388 days from the date of the event. In these cases, the Garrity interviews of the involved officers were delayed by FI.
- Two of the 14 cases included Garrity interviews that were completed within 30 days from the date the prosecutorial decision was rendered, or completion of the criminal prosecution as required by paragraph U38.
- Four of the 14 cases included Garrity interviews that were not completed within 30 days after the prosecutorial decision was rendered, or completion of the criminal prosecution as required by paragraph U38.

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

DPD is not in Phase 2 compliance with this portion of this paragraph with a compliance rate of 84%.

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 37 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. In one case, the first officer interview took place 167 days after the complaint was filed.

Complainants were identified as uncooperative in 30 of the investigations we reviewed. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. Timeliness issues notwithstanding, when interviews were conducted, they were administered and recorded in accordance with requirements. We did not note any instances of complainants or witnesses refusing recorded statements when participating in the investigation.

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The City 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. This continues to be unresolved for DPD; we will monitor this issue closely.

During this reporting period, timely interviews were appropriately conducted in all but four of the 50 cases that we reviewed. In two of the cases, the investigators did not schedule timely interviews, even after gathering sufficient evidence. In the other cases, the subject officers apparently eluded Garrity interviews by being non-responsive to investigators' calls and taking off on medical. One officer resigned during the course of the investigation, and the other officer's case was sustained.

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

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

DPD is not in compliance with the IAD portion of this paragraph with a 92% compliance rate.

DPD is not in Phase 2 compliance with 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 82 cases (98%) in which the question-and-answer format was used to document officer interviews in the SIR; in two (2%), investigators had asked improper leading questions.¹⁰

During this reporting period, we found that in 76 of 80 cases (95%) the question-and-answer format, without the use of leading questions, was used to document officer interviews in the

¹⁰ Thirteen of the cases did not utilize a question-and-answer format, reducing the base to 82 cases.

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SIR.¹¹ In four (5%) of these cases, the investigator utilized leading questions. 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 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 seven randomly selected recorded statements taken from police officers. We found that two interviews 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 note that investigators sometimes refrain from confronting officers with conflicting information that they provide during investigations. Routinely, investigators fail to ask appropriate follow-up questions. The interviews often revolve around *reporting* – not *investigating*.

Information that is readily available is not being reviewed or considered in preparation for officer interviews. Investigators need to prepare for interviews by reviewing all evidence, documentation, and interviews that have already been completed before conducting detailed and thorough Garrity and other interviews.

Despite these concerns, DPD and the City are in Phase 2 compliance with the FI portion of this requirement.

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 102 interviews (79 employees, 23 citizens) associated with 25 cases. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions. 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 six cases in which leading questions were used. 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

¹¹ Seven of the cases did not utilize a question and answer format, reducing the base to 80 cases.

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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 two 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 OCI's investigators or listen to the recordings, in order to identify training needs and provide appropriate, individualized corrective measures. We advised OCI supervisors and the Acting Chief Investigator – both during a site visit and in follow-up written communications – that we would inquire as to whether our suggestion was implemented. We were disappointed to learn that only one of the four supervising investigators listened to 13 interviews during the quarter.

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

Internal Affairs Division Investigations: Since the first reporting period, we have found no evidence of the use of leading questions during IAD interviews. During this reporting period, we reviewed all 50 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.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U31

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

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, FI, and OCI investigations found supervisors and investigators compliant with applicable Garrity requirements. In all of the cases involving officer interviews, proper protocols pursuant to Garrity were followed. Each case 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. However, we have noted unnecessary delays

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of interviews with witness officers due to a misconception that these interviews must be delayed pending the completion of a criminal review. This practice mitigates the credibility of both the interviews and the investigations.

Despite this, 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 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 current reporting period, we found the following:

- The data reflects a precise description of the facts and circumstances of the incident, including a detailed account of the subject(s) or complainants and officer(s) actions in 49 (56%) of the investigations, a reduction from the 73% registered during the last reporting period. Issues that have previously been identified continue to hamper compliance in this area: interviews appear almost verbatim from officer to officer; investigators do not ask follow-up questions; investigators fail to address discrepancies between officer

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statements; investigators fail to interview complainants/victims.¹² In 87 of the cases (100%), an evaluation of the initial stop or seizure was conducted.

- In 43 (54%) of the 79 cases all of the relevant evidence, including circumstantial, direct, and physical evidence, was reviewed.¹³ This is a reduction from the 73% we found during the last reporting period. As we have previously mentioned, we are placing greater emphasis on the review of available video and audio recordings in the evaluation of this requirement. We continue to assert that the review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations and consequently we continue to recommend, in the strongest of terms, that DPD initiate all of the corrective actions necessary to ensure that encounters are captured in both video and audio recordings. 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.
- None of the 87 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-three (95%) 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. This is a slight increase from the 93% we found during the last reporting period. Three investigations, three percent of the cases, contained evidence that a witness's statement may have been discounted merely because the witness had some connection to the subject or complainants. Ninety-seven percent did not.
- Sixty-four (74%) of the investigations contained an evaluation of whether or not an officer complied with DPD policy. This is a slight reduction from the 75% we found during the last reporting period. The primary issues impacting on compliance with this requirement continue to include the failure to document officers not recording the shift (no audio recordings of citizen contacts), the officers failing to make force notifications from the scene, officers not utilizing the zone 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 failure to deal with policy violations could be corrected through more critical reviews of the investigative work product, getting the issues corrected before submission to MAS. Seventy-eight of the 82 (95%) cases that we reviewed contained an evaluation of the use of force.¹⁴ This is a slight reduction from the 98% we found during the last reporting period. Officers' tactics were evaluated in 76

¹² This is not an all-inclusive list.

¹³ Eight of the units had no equipment installed.

¹⁴ Five cases were eliminated, as they were detainee injuries, with no use of force.

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(93%) of the 82 cases; during the last reporting period, we found this number to be 92%. There were three cases (3%) of misconduct identified; 97% had no misconduct identified.

- Eighty-five (98%) of the 87 cases were evaluated on a preponderance of the evidence standard. This is a slight increase from the 96% we found during the last reporting period. We also found that 60 (91%) of the 66 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 continue to urge DPD to provide guidance to the various commands regarding the importance of properly documenting the extensions and the returns of reports for corrections routinely documented in the Timeline section of the SIRs. Documents returned for corrections should reflect the new due dates. There were 50 SIRs in which corrective action might have been taken and corrective actions were documented in 45 of the investigations (90%). Inclusive in the corrective actions were misconduct investigations, negative administrative counseling registers, re-instructs, re-training, and verbal counseling.

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 31 completed case files and noted the continued inclusion of a detailed account of the facts of the event.¹⁵ Investigators evaluated the initial stop/contact in each case and but need to do a much better job of evaluating available direct, circumstantial, and physical evidence. Investigators need to review related police reports; medical documentation for injured subjects; and autopsy reports, for example, with existing information available at the time of the incident. Investigators are missing opportunities to complete thorough and factual investigations when evidence is obtained and not properly analyzed. 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 continue to provide 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.

We note that requested extensions of deadlines for reports were documented; and when they were approved, but new due dates were not clearly established and documented. The new due date should also be entered into the case management database. The practice of granting multiple extensions remains problematic and tends to circumvent the intent of this requirement. Twenty-eight of the investigations we reviewed were untimely. Multiple extensions were requested for eight of the 28 investigations that were late. Multiple extensions were authorized

¹⁵ These investigations included 22 critical firearm discharge events and one vehicle pursuit.

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in these cases ranging from three to 11 separate requests; despite their approval, the completed work products were late.

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.

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

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

During the current reporting period, we reviewed 100 randomly selected cases. All of the complaints were lodged in 2011, with half of them being received before July 1, 2011. 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 planted drugs to increase the aggregate weight of marijuana they confiscated during a search warrant (and thus inflate the charge). In the other, a complainant alleged that he was offered cash by officers to "forget the whole thing", referring to alleged force used on the complainant.

In two cases, relevant evidence was not considered. In one, a complaint involving an alleged improper search and damage to a vehicle, the Citizen Complaint Report (CCR) indicated that the complainant had photos of the damage. However, it did not appear that the investigator followed up on this. In the other, an investigator based her finding in a demeanor complaint on a review of the vehicle Insight video, despite an indication that the video did not record the salient portion of the police/citizen encounter.

We note that investigators generally explore the availability of video evidence in cases where it is appropriate. In 36 cases, investigators appropriately inquired as to the availability of video. In 28 of these cases, or 78%, video evidence was not available. This is concerning, given the large monetary and resource investment that DPD has made in this technology. We continue to recommend that investigators inquire about video as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of the video before it can be acquired. We learned during our most recent site visit that OCI investigators now have the ability to access the Insight Video system directly ("read only" access – they cannot alter or modify the database) and research the existence of possible video evidence, rather than relying on a written inquiry to Technical Services.

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.

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In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.¹⁶ In four cases, misconduct was discovered during the course of the investigation and ultimately sustained. In one, Insight video revealed that officers drove by the location of a possible burglary in progress, and charges of falsifying their activity logs were subsequently sustained. In another, officers admitted to using force and not documenting it. While an allegation of excessive force was not sustained, the failure to document the force used resulted in a sustained finding. In another case, an officer was sustained for failing to take a report, and in the last case, an officer failed to properly complete his activity sheet by listing assisting units. These officers – who were never identified – were the subject of a force complaint.

In two cases, potential misconduct was not discovered. In one, reserve officers apparently used force but did not document it. In another, an officer admitted to using force – and the force was deemed justified – but the investigator failed to note that the officer did not document the force per policy.

In 11 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-seven 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 continues a disappointing trend. At the end of the reporting period (December 31, 2011), over 57% of OCI's *active* caseload had already passed the 90-day mark. Written requests for extension were submitted in 56 of these 67 cases, frequently after the investigations were already overdue. Three requests 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 extension request mentioned the need to conduct "additional interviews," when in fact the *first* interview associated with the case took place a month after the request. Similarly, another cited difficulty in scheduling interviews but the first attempt to contact officers occurred eight days after the request. Another mentioned additional information to follow-up on "after interviewing the complainant." The complainant, however, was uncooperative in this case and never submitted to an interview. We cannot help but conclude that extension requests are routinely approved 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.

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.

¹⁶ 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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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 50 completed IAD investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence. In two of the investigations, the supervisor did not authorize extensions and the cases ultimately exceeded the 90-day requirement. Both of the investigators have retired. Appropriate credibility determinations were made in all of the cases. 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.

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

DPD is not in Phase 2 compliance 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.

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

Command Level Investigations: Our assessment for this current reporting period found that in all of the 87 SIRs reviewed (100%) there was a chain of command review above the investigator.

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DPD identified deficiencies in 69 (79%) of the 87 cases, with 27 requiring corrections within seven days of submission. In eight of the cases, DPD made recommendations that training, policy, or procedural issues be referred to the appropriate DPD unit. In four instances, the final reviewing authority referred the matter to an appropriate DPD unit. There were 12 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 and Negative Administrative Counseling Registers. In two instances, instructions were provided to entire platoons based on issues identified in particular SIR investigations.

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.

DPD is not in compliance for the Command Level Investigations.

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 31 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 some supporting documentation referred by FI as Case Review Sheets. We recommend that these reviews be more thoroughly documented. Considering the fact that 28 of the cases we reviewed were very late, correcting deficiencies within seven days in these investigations is insignificant for the purpose of compliance with this paragraph. Only 10% of the cases we reviewed were timely. 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, 86 cases were returned for deficiencies. Most of these were for spelling, grammar, and formatting. In 21 of the cases, based on a review of the Significant Event Logs, the deficiencies were not corrected within seven days. We noted only one case in which an Administrative Counseling Record was issued to an investigator for the quality and timeliness of an investigation. We indicated in our last report that in early August, four OCI investigators were terminated based on the quality and timeliness of their investigations. A total of 177 cases assigned to these investigators had to be reassigned. OCI established a "Special Assignment Squad" from existing investigators to handle these cases. At least 17 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.

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

The City is not in Phase 2 compliance with this portion of the paragraph.

Internal Affairs Division Investigations: During this reporting period, the IAD supervisor used the case management system, Case Trax, to record any deficiencies and instructions in the investigator's progress notes. As noted in U32, two of the 50 cases that we reviewed this period were overdue and were not authorized for extensions. The case files noted that reprimands had been issued to the investigators.

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

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

B. Use of Force and Prisoner Injury Investigations

CJ Requirement U34

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

Comments:

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

In the previous 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. During this reporting period, we reviewed 183 auditable forms, and found that 118 of the forms (64%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include 10 cases that were referred to FI/IAD.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U35

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

- a. officers to notify their supervisors following any use of force or prisoner injury;*
- b. that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the*

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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 investigation¹⁷*

Comments:

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

Command Level Investigations: During the previous reporting period, we found that in 94% of the cases we reviewed, a supervisor was notified following a use of force or a prisoner injury. Supervisors responded to 86% of cases in which the use of force involved a firearms discharge, a visible injury or a complaint of injury. Supervisors responded to other uses of force on a priority basis in 86% of cases. In combination, a supervisor responded to 91% of the cases reviewed. Eighty-nine percent of the cases reflected supervisory efforts to interview the subject, at the scene or at the district. In 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. IAD was notified in six cases, and assumed responsibility for those cases.

During this reporting period, we reviewed 87 cases and found that in 84 (96%) cases, a supervisor was notified following a use of force or a prisoner injury. There were 16 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury; and a supervisor responded to 15 of them (94%). Supervisors responded to other uses of force on a priority basis in 65 (93%) of the remaining 70 cases. In combination, a supervisor responded to 81 (93%) of the 87 cases reviewed, a slight improvement over the 91% registered in our last report.

In 78 of the 87 cases (90%), a supervisor interviewed the subject at the scene, at the District/Pct, or at DRH.¹⁸ In 74 (85%) of the 87 cases, a supervisor examined the subject for injury and ensured that the subject received needed medical attention.¹⁹ Force Investigations (FI) was notified in 10 of the cases. There was one possible choke hold which was not reported to FI.

Force Investigations: Our review of 31 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.

¹⁷ Consent Judgment amendment, September 15, 2008.

¹⁸ In some instances, a subject is moved to the District/Precinct or DRH due to circumstances at the scene or the health of the subject.

¹⁹ In some instances, a subject is moved to the District/Precinct or DRH due to circumstances at the scene or the health of the subject.

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DPD is not in Phase 2 compliance with this paragraph.

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: In the previous reporting period, we found that 60% of the Command Level Investigations were completed within 10 days of the event. All investigations contained the required synopsis of the event; however, there were no photographs of injuries in the files.

In 95% of the cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 97% of the cases. All of the cases reflected first-line supervisor evaluations. The final command use of force investigations were completed within 30 days in 83% of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 79% of the cases.

During this reporting period, we found that 65 (75%) of the preliminary investigations were completed within 10 days of the event, a continued improvement over previous quarters but still short of the >94% required to achieve compliance. Eighty-six of the 87 reports (99%) included a synopsis of the incident. There were still no photographs of injuries in the files.

In 84 (97%) of the cases, the canvass and witness information was included in the file, officers' prior uses of force and allegations of misconduct were included in 86 of the 87 cases (99%). All of the cases reflected first-line supervisor evaluations. The final command use of force investigations were completed within 30 days in 71 (82%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 70 (80%) of the 87 cases.

We continue to recommend that DPD develop a more sophisticated system of tracking these cases. Cases failing to meet the 30-day requirement ranged from 34 to 57 days after the incident, with most not offering an explanation for the delay. We recognize that some cases may be quite

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complex, but our review of the delayed cases didn't find them to be particularly complex. 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 31 completed FI cases.²⁰ Each included officers' prior histories/profiles and a synopsis of the event and applicable witness statements; however, two files contained no photographs of officer or subject injuries taken by DPD as required. Twenty-eight of the 31 cases we reviewed were untimely. Notably, of the 28 cases, three cases were from 2009, 14 were from 2010, and the remaining cases were from 2011. Our review of the 28 untimely cases revealed a troubling pattern involving the vast majority of investigative legwork being completed by FI investigators in the early stages of an event and then the investigators taking several months to more than two years to complete the investigative report. There was no articulated reason or justification in the documentation reviewed for investigators to require several months or even years to complete a report long after the investigative work has been completed.

We also noted in a case that the evidence technician assigned to download the video involving a critical firearm discharge event took over one year to complete the request and provide the evidence to FI. We are troubled by the evidence technician's remarks that dual assignments make it nearly impossible to provide the video evidence in a timely fashion. There was further indication that FI's request was a low priority compared to other requests from other entities. The evidence technician was disciplined for not performing duties; however, the importance of events that involve the application of deadly force must be a priority for all DPD personnel especially those that are required to investigate and process the related incident scene(s).

We continue to recommend that DPD closely evaluate case management and related issues, including staffing, and more closely monitoring the FI investigator's time management and report preparation 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

²⁰ These investigations included 22 critical firearm discharges.

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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 22 critical firearm discharge investigations completed during this reporting period. JIST did not appropriately respond in one critical firearm discharge event.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U38

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

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

Comments:

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

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

In addition, we noted that while the locations of officers were generally described, diagrams depicting their positions were not consistently included in the case files. We also expressed concern regarding the absence of gunshot residue and DNA collection and analysis. The DPD

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advised that gunshot residue analysis is no longer available; that DNA analysis is limited and that there are significant delays in ballistics analyses, which are conducted by the State Crime Lab. These have been – and remain – issues mitigating the ability of FI to conduct complete and timely critical firearm discharge investigations. And finally, we have repeatedly expressed concern with the failure to complete these investigations within the prescribed 30-day time limit.

To assess compliance with requirements for this reporting period, we reviewed 22 completed critical firearm discharge investigations, one of which was fatal. Three cases contained discrepancies between the number of rounds (ammunition) officers were carrying at the time of the event and the number of rounds they are required to carry by policy. These discrepancies were resolved due to other evidence; however, they do illustrate the need for investigators to document DPD policy violations relating to the carrying of a specified amount of ammunition and the need for DPD to take corrective action.

The investigations that we reviewed described the locations of the officers; however, the diagrams that were included did not always specifically indicate them. The locations of shell casings were noted. Additional evidentiary issues of concern pertinent to the requirements of this paragraph include: the failure of FI to reconcile the number of shots believed to have been fired with autopsy findings; the failure of FI to use the Department metal detector to search for shell casings in grassy or vacant lots; and the failure of FI to collect and submit DPD firearms for ballistic testing, and conduct gunshot residue tests.

We also are concerned that ballistic testing and analysis was not conducted on recovered spent shell casings due to the procedures and protocols of the State Lab; we are further concerned that certain firearms evidence was not submitted to the State Lab for testing due to the DPD practice of only submitting evidence for ballistic testing/analysis when there is an injury due to gunfire and/or unless the Prosecutor's Office requested it.

All 22 of the critical firearm discharge investigations we reviewed were untimely. These cases were closed in a timeframe of five to 28 months, clearly outside of the 30-day requirement. All of the cases included Garrity interviews; however, none required delays due to DA declinations, which were not an issue in these cases.

These above-cited ongoing issues are significant and continue to mitigate the quality and thoroughness of these investigations, and therefore require expeditious resolution.

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.

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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 convened and reviewed 21 critical firearm discharge investigations completed for review.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U40

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

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

Comments:

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

During this reporting period, FI submitted 22 critical firearm discharge investigations for our review; however, one critical firearm discharge investigation was – contrary to policy – referred back to the Command Level for disposition, and it was never presented to the CLFRT for review as required.

The 21 critical firearm discharge investigations that were completed and submitted to the CLFRT for review during this reporting period were not completed in a timely manner. The CLFRT indicated that, to address the issue, FI has recently implemented a new case management system that will increase the productivity and efficiency of the unit. The CLFRT also acknowledges its own delay in reviewing investigations. The CLFRT indicated that team members have been mandated to convene twice each month and adjust their schedules accordingly.

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

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Compliance Status:

Phase 1: In Compliance

Phase 2: Not in 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.

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.²¹

We received the CLFRT annual report by May 31, 2011, 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 July – September 2011 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.

²¹ 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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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.
- The timeliness of OCI's investigations has been steadily slipping since March. OCI continues to operate without a permanent Chief Investigator, and the leadership vacuum – coupled with the lack of a comprehensive plan to address the growing backlog of cases – is of great concern. We will continue to monitor OCI's adherence to timelines closely.
- 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. DPD needs to give more attention 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 on the scene 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

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thoroughness and completeness of investigations, their review by supervisors, and compliance with the timelines.

- Discuss with DPD Commanders the importance of video and audio evidence, the need for improved documentation of the use of force de-escalation methods, and the need for 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.
- Discuss ballistics collection and analysis with FI.

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

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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.

DPD has made significant progress in documenting Investigatory Stops, Detainee Registration and following their internal Witness Identification policies during the previous three reporting periods. For the first time, DPD has come into compliance with its investigatory policies and the preparation of auditable forms when reasonable suspicion was not properly articulated for the stop.

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 or timely review by a commanding officer 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 has continued, as we have now found the applicable CJ paragraph in compliance for five consecutive reporting periods.

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.

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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 107 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 but one, sufficient probable cause for the arrest was present and an auditable form (DPD UF-001, Review of Arrest Exception) was not completed. In two cases, supervisory approval occurred more than 12 hours after the arrest.

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 107 arrest cases we reviewed, the Department did not seek a warrant in 20. In all cases except one, the required auditable form was completed. In the exception, the detainee was held for more than 48 hours and the auditable form submitted was marked as "warrant denied" when, in fact, the warrant submittal documents had not been prepared or forwarded to the Prosecutor's Office. We spoke with the commander of the unit involved, and he indicated that there was some initial confusion with this case and that the Department now understands the correct procedure to follow. There was an auditable form completed for this case after the fact.

In one case, although the auditable form was completed, the officer who completed the form submitted it 28 days after the event. In another instance, the time of supervisory approval of the probable cause did not appear on the Crisnet report, and the supervisor in the holding facility failed to indicate the approval time on the Detainee Input Sheet. There was a Corrective Action Notice issued in this instance. DPD policy requires that an auditable form be completed within 12 hours of the event.

We also note that corrective action notices were prepared for three of the instances mentioned above. 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 96%, a slight decrease from the previous quarter's 98%, for the three separate and distinct requirements of this paragraph. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

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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: In Compliance

CJ Requirement U45

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

Comments:

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

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 90%. 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 460 officers' Daily Activity Logs completed on three randomly selected dates.²² Each district/precinct provided the logs

²² For this review, we randomly selected Daily Activity Logs completed on October 28, November 14, and December 1, 2011.

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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 58 investigatory stops, of which 56 indicated a lawful purpose and one failed to receive supervisory approval within 24 hours of receiving the officers' Daily Activity Logs. An auditable form was not completed for the two instances that did not articulate a purpose for the stop. In all instances except one, 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 95%, a slight decrease from the previous quarter's 98%.

The logs included 248 traffic stops, and our review indicated that eight 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 242 traffic stops in a timely fashion, marking their signatures, and dates and times of review. In one case, the supervisor signed, dated, and timed the log more than 24 hours after submission by the officer; and in another, there was no supervisory review. We observed that in four instances, the supervisor used a signature stamp to indicate his/her review of the document when a signature is required. DPD's compliance rate for traffic stops decreases from 96% in the previous reporting period to 95%.

During this reporting period, we also reviewed the 20 frisks appearing on officers' Daily Activity Logs. We found that 15 of the frisks met the requirement. In two instances, the officer failed to describe the rationale for the frisk; and in three, the officer asked for consent to frisk. In each of these five cases, the auditable form (DPD UF003, Investigatory Stop and/or Frisk Exception Form) was completed. 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 tool has not been used by supervisors. In past reports, we occasionally noted frisks listed under "Recap of Activity," but could not locate them in the narratives. We also found 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 we noted one late supervisory review, there is evidence of much progress as it relates to supervisors completing auditable forms for the violations, the Department's compliance rate for frisks during this reporting period increased from 90% to 95%.

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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; Administrative Message 11-0477, issued on April 22, 2011; and a subsequent Administrative Message 11-1497, issued on December 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, indicating those supervisors and command officers need to complete an auditable form or take action when the violations occur.

DPD compliance rate for investigatory stops is 95%.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

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

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

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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.²³

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 Eastern District, the Sixth Precinct, the Southwestern District and the Northeastern District, 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 Homicide Command, the Sixth Precinct, Narcotics and Sex Crimes.

We reviewed Homicide Command's investigative files and reviewed a random sample of 140 witness/interrogation interviews. A total of 132 met the requirement, and contained the proper documentation and supervisory review within prescribed timeframes. In five cases, supervisory review did not occur; and in three instances, the interviewing investigator failed to indicate the ending time of the interview; none had the required auditable form attached. All commands have made adjustments during previous reporting periods to address the lack of timeliness in

²³ Amended by Court Order dated June 1, 2011.

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supervisory review, and progress is evident. During this reporting period, Homicide Command achieved a compliance rate of 95% with this paragraph.

We reviewed a random sample of 47 cases for the current reporting period from the Sixth Precinct, for a total of 68 interviews/interrogations. Sixty-six of the cases met the requirement. In two cases where the interview was not compliant, there was supervisory review; however, the reviewing supervisor failed to indicate the time of the review on the form. The Sixth Precinct's compliance rate for this quarter is 97% which is an increase from the previous quarter's 89%.

We also reviewed a random sample of 24 Sex Crimes case files containing 46 interviews/interrogations conducted on the proper form. All 46 were compliant. Sex Crimes' compliance rate for the reporting period is 100%.

We reviewed a random sample of 29 Narcotics Unit case files that resulted in 30 interview/interrogation forms being completed. In one case, the supervisory review occurred seven days after the interview and an auditable form was not completed. The Narcotics Unit's compliance rate is 97%. We have reviewed all of 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 2009. 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 96%, an increase from 95% from the previous reporting period.

We reviewed all instances of conveyances to DPD facilities for the purposes of interviews during the current quarter. There were five such conveyances, and all were in full compliance with the requirements of the paragraph. DPD's compliance rate for conveyances is 100%.

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

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.

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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 84 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 84 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%, the same rate as the previous quarter.

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 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 107 arrest case reports we reviewed, there were 56 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. We found one case where a warrant request submitted to the prosecutor was denied, and the arrestee was held in DPD custody for 63 hours before being released. An auditable form was not generated for this detainee.

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There were 33 cases where the arraignment occurred after 48 hours from the time of the initial arrest. In all cases, an auditable form was completed timely. As in our previous quarterly report, there were 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 97%, an increase from the previous quarter's 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.

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

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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 107 Detainee Input Sheets, and found a total of 53 holds/warrants listed on the forms. As in our previous report, in all but two cases, an auditable form had been completed for those holds exceeding 48 hours and not being cleared. Form (DPD UF004-007, revised June 2009) was created and contains appropriate indications for officers to identify more than one violation of the Prompt Judicial Review Policies. DPD personnel must be aware that if an arraignment occurs more than 48 hours after an arrest and the detainee has an outstanding hold/warrant, there is a likelihood that the warrant may not be cleared within the requirement and both boxes should be checked. There can also be an issue if the warrant submittal for the outstanding arrest is denied by the prosecutor and there is a hold on the detainee. In these cases, DPD has an expectation that the hold(s) will be addressed at the arraignment on the current charge; and if the warrant is denied, the detainee may be presented to the judge at the next available arraignment opportunity.

There are two separate and distinct parts to this particular requirement. With few exceptions, the majority of the Detainee Input Sheets indicated 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 that holds/warrants are identified/cleared and generating the required auditable forms for violations continues to be 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 remains at 97%.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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 107 arrest case files and did not identify any restrictions. 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

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.

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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 October 1, through December 31, 2011. The auditable form, approved by a supervisor, was attached to the Court order in all five 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;*
- 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.

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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 107 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 56 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 two cases, the officers failed to include their badge numbers on the Daily Warrant Verification Log. In one instance, relevant detainee personal information under U58a was not properly completed. All other required information was properly documented. We examined each case for compliance with the eight individual requirements, and found an overall compliance rate of 99%.

DPD is 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.

In our review of 107 arrests during this reporting period, we determined that all the arrests, with the exception of one, properly documented probable cause. An auditable form was not generated in this case. In those situations where a warrant is not sought or a warrant is denied on an arrestee, supervisors should scrutinize the arrest packets to ensure that the elements required for a valid arrest are documented.

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We reviewed 20 frisks, and determined that 15 articulated reasonable suspicion. In the previous reporting period, DPD generated auditable forms for violations of this paragraph relating to frisks. In the five instances where a violation occurred; two lacked reasonable suspicion for the frisk and three were in cases where the officer asked for consent to frisk. An auditable form had been prepared for each violation. In two cases, the commanding officer reviewed the form after the required timeframe.

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. 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 some 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 eight 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 58 investigatory stops (excluding frisks and traffic stops), of which 56 were based on a documented investigatory purpose. The two 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 20 cases where documentation was completed that indicated an arraignment warrant was not sought and an auditable form completed. In all cases, a commanding officer approved the form and attached his/her signature including the date of review. We have observed DPD's progress with commanders' oversight as it relates to warrants not served.

We reviewed 284 witness/interrogation interviews from Homicide, the Sixth Precinct, Sex Crimes and Narcotics investigative functions. There were 11 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 is not in compliance with investigatory stops due to the timeliness of the commander's review. We reviewed 25 auditable forms (warrants not served and investigatory stops) under this paragraph that were sent to the commander for review. All reviews were timely with the exception of one of the frisks. Until DPD personnel comply with the requirement of completing auditable forms and forwarding them to commanders for timely review, the Department will continue to have difficulty achieving compliance in this area. DPD's compliance rate for this reporting period is 96%.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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 107 arrest case reports, of which 84 were submitted to the Prosecutor's Office and 56 went to arraignment. There were 33 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 one instance an auditable form was completed and command review occurred. There was no command review in the other two cases, as the auditable form had not been completed.

In the 56 cases that went to arraignment, 33 of these were arraigned more than 48 hours after arrest, and auditable forms were completed. In two instances, the commander's review was late. 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 53 hold/warrants we identified, there were 17 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.

Under this paragraph there were a total of 51 auditable forms reviewed by the commander; two of the reviews were late.

DPD's overall compliance rate for this paragraph is 96%, an increase over the 92% that we found in the previous reporting period.

There were no restrictions placed on detainees during this reporting period.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- 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 districts/precincts were delaying the faxing of prisoner information to Court

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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, although we have observed marked improvement during this and the previous reporting period. During the previous two reporting periods, we received auditable forms for violations of the investigatory stop policies. 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 to determine their compliance with interrogations, interviews, conveyances, and material witness policies. DPD is centralizing its general investigative units; and as the Department progresses in this endeavor, we will determine how best to review documentation as it relates to witness identification and questioning 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.
- Meet with the commanders of each district and precinct to discuss issues relating to auditable forms and their role in ensuring compliance.
- 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. During this reporting period, we continued to find instances where the warrant tracking/hold form is not marked when a hold exceeds 48 hours.

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	Requirements	Phase 1 Policy	Phase 2 Implementation
42	Define and prohibit arrest without probable cause	In Compliance	In Compliance
43	Review all arrests for probable cause	In Compliance	In Compliance
44	Revise investigatory stop-and-frisk policy	In Compliance	In Compliance
45	Written account of stops and frisks	In Compliance	In Compliance
46	Revise witness policies	In Compliance	In Compliance
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	In Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to Prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	In Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting telephone access	In Compliance	In Compliance
55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	In Compliance
57	Custody of material witnesses-court order	In Compliance	In Compliance
58	Arrests and detention record requirements	In Compliance	In Compliance
59	Required written review of violations	In Compliance	In Compliance
60	Required written review of violations	In Compliance	In Compliance

VI. EXTERNAL COMPLAINTS

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

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

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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, Southwestern, and Eastern Districts; and the Sixth, Eighth, and Twelfth Precincts.

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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 the Grand River Neighborhood City Hall and two libraries – Henry Chaney and Campbell. We found the appropriate posters on display. One location did not have a supply of complaint forms or brochures, and we advised the employees to call for replacements.

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 is 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, Southwestern, and Eastern Districts; and the Sixth, Eighth, and Twelfth Precincts, and asked them to produce complaint forms and brochures. They were able to do so in each case. We also inspected the complaint logbooks in each location. In one location, we found an original voided Citizen Complaint Report (CCR) from November. By policy, these are to be sent to OCI, and the report was forwarded during our visit. In two other locations, the information from completed CCRs was missing from the logbooks. Supervisors located the district copies of the CCRs, and the missing information was recorded. While all inspected facilities keep handwritten records, there is a disparity in the information captured among sites. We recommend that DPD standardize the recordkeeping.

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DPD is 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 50 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 50 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

Phase 2: In Compliance

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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 50 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*
- 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*

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*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.*²⁴

Comments:

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases. One case was transferred to IAD and 10 cases were transferred to Force Investigation. The IAD case alleged inappropriate touching during an arrest. The Force Investigation cases all alleged excessive force. Four of the force cases were not transferred in a timely manner. Three cases were transferred in 14, 37, and 45 days respectively. In the last case, an investigator finally reviewed video evidence 153 days after the complaint was lodged. She immediately came to the conclusion that it corroborated the complainant's claims, and the case was transferred to Force Investigation the next day.

Seven cases were resolved informally. Two of the seven cases did not meet the criteria for an Informal Complaint Resolution (ICR) as they did not involve complaints of inadequate service or innocence of the charge. One involved the confiscation of a concealed carry permit (procedure) and the other involved an off-duty work arrangement. Despite the streamlined approach allowed by an ICR, five of the seven cases were not closed within 90 days.

Thirty-six cases in our sample were administratively closed, including those informally resolved and those transferred to other investigative units. We determined that three were inappropriately closed via this process. One was the concealed carry case mentioned above. In another case involving a firearm confiscation, the investigator wrote it up as an administrative closure because she believed it lacked 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 third case, an allegation of excessive force, the case was closed without interviewing the officer. While the complainant refused to cooperate, the allegation did not lack specificity and should have been investigated with the CCR serving as the complainant's statement, an approach OCI took with at least 30 other cases in our sample.

Only 33 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 in August 2011. A total of 177 cases, many of them overdue, were reassigned to other investigators. While this undoubtedly contributed to the decline in timely cases during this reporting period, OCI has been steadily backsliding in the percentage of cases completed on time since March, when OCI briefly achieved compliance. They do not have a definitive plan to reverse this trend.

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 six 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 disposition of

²⁴ Consent Judgment amendment, September 15, 2008.

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

During our previous site visits, we verified ongoing in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we 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. Additionally, a new investigator assigned to OCI during the review period received appropriate pre-service training from a tenured senior investigator.

The City 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 50 IAD cases, and determined that two had been referred by OCI. One arrived at IAD 11 days after receipt, and the second arrived at IAD within the required five-day period.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. Two IAD investigators attended a three-day in-service training, Discipline and Internal Investigations, in December 2011 that was provided by an outside training agency. Upon their return, the attendees prepared a presentation for dissemination to the remaining investigators.

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

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

During our current review of 50 investigations, 16 exceeded the 90-day time limit. Of those, the reviewer determined that seven were delayed due to awaiting the Prosecutor's decision or prosecution. Two were delayed due to extensive document research and multiple witnesses. Two were delayed because of investigations by other police agencies and five were delayed because investigators did not secure officers for Garrity interviews or failed to manage the cases appropriately.

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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CJ Requirement U68

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

- a. the Chief Investigator or his/her designee to complete review of OCI investigations within 7 days of completion of the supervisor's review;*
- b. the Board of Police Commissioners to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review;²⁵ 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 two reviews, we noted that the external complaint review process was not completed within the appropriate timeframes. During the last reporting period, we identified 40 cases in which the Chief Investigator did not complete his/her review within the required seven-day time period. During this review, we noted eight such cases. While this is a notable improvement, OCI remains 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*
- d. "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.*

²⁵ Consent Judgment amendment July 18, 2003.

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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 two cases in which allegations did not receive appropriate dispositions. In both 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. As noted in our last two reports, we are concerned with the frequency of this, as we listen only to a small subset of interviews. Based on our raising this issue in our previous reports and during our site visits, we are disappointed that the Acting Chief Investigator did not follow through on our suggestion to require supervising investigators to either sit in on or listen to the interviews of their investigators. (Only one supervising investigator audited a relatively small number of interviews during this reporting period.)

We do not concur with the findings assigned to one or more allegations in 10 cases. Two cases involved unknown officers. In one, an allegation of an improper field stop in a park, the investigator inappropriately reached an unfounded finding. She did not reach a conclusion, using the preponderance of the evidence standard, that some contact with DPD officers did not occur. In the other case, a citizen complained of an improper field stop and the unknown officers' actions were exonerated. The investigator could not substantiate that the complainant had contact with DPD officers, much less determine that their actions were justified.

In a force case, an investigator unfounded an allegation of excessive force even though she wrote that she was "unable to support or refute the complainant's allegations." This is the classic definition of not sustained. In still another case, the investigator exonerated a harassment allegation, basically inferring that the harassment occurred but was justified. At best, the investigation supported a not sustained finding, but if the investigation were to clear the officer, the finding would have been unfounded. "Harassment" cannot be justified.

OCI must not only make one of the findings specified above, but the finding must be consistent with the defined requirements. Accordingly, the City is not in Phase 2 compliance with this requirement.

In addition, we reviewed all 50 IAD cases that were completed during this reporting period, including internal and external complaints. All contained the required dispositions. IAD is in 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

Critical Issues:

We examined 50 closed IAD cases and 100 closed OCI cases for the period of October 1, through December 31, 2011. Our review disclosed that the following issues continue to require attention:

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- *IAD Case Tracking:* During the first quarter of 2011, IAD 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 March. OCI continues to operate without a permanent Chief Investigator, and the leadership vacuum coupled with the lack of a comprehensive plan to address the growing backlog of cases is of great concern. 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. 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 January, February, and March 2012.
- 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.
- Confirm whether or not OCI supervisors are closely monitoring the conduct of investigator interviews as suggested.

¶	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	Not in Compliance

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VII. GENERAL POLICIES

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

CJ Requirement U70

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

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 33rd Quarter Status Report, issued December 31, 2011, notes that during this reporting period, Directive 304.1, *Firearms*, was approved by the BOPC on November 3, 2011, and re-disseminated via MAS during the reporting quarter. Also, the *Detainee Personal Property* Directive, 305.3, and *Custodial Questioning* Directive, 203.9, were revised by the OCR on November 17, 2011, and were re-disseminated via MAS. Policy revisions are posted on the DPD

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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.

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 half of FY 11-12. As of December 31, 2011, 1,243 members (49%) 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 the previous reporting period, we found that 97% of the randomly selected platoons and specialized units were in compliance with the required 1:10 ratio of supervisors to officers in patrol and specialized units on the dates surveyed.

During this reporting period, we again surveyed Daily Details for three days selected at random (Sunday, October 16; Monday, November 21; and Friday, December 2, 2011). We found that of the 115 platoons deployed on the three days, 113 (98%) were in compliance with the required 1:10 span of control ratio. The supervision of a total of 1,699 (98%) of the 1739 POs working in those platoons on the three sample days was in compliance with required span of control.

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 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 half of FY 11-12. As of December 31, 2011, 1,243 members (49%) 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 where officers reported misconduct of other officers.

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 31st Quarter Report notes that the letter to the Michigan Association of Chiefs of Police (MACO), requesting that member agencies notify DPD IAD of any off-duty action involving DPD members, was sent January 19, 2011. We will request a copy of the new letter as part of the document request during our next site visit.

To assess Phase 2 compliance for this report, we reviewed the training data for the first half of FY 11-12. As of December 31, 2011, 1,243 members (49%) have received the use of force training, which incorporates the methods for dealing with this requirement.

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During this reporting period, there were no cases at the SIR investigative level in which an off-duty officer was involved in an incident in DPD's jurisdiction. 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 half of Fiscal Year 2011-12. As of December 31, 2011, 1,243 members (49%) have received the use of force training, which incorporates the methods for dealing with the enumerated requirements.

We also reviewed all 87 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;*
- c. emphasize the danger of pursuing and engaging a subject with a firearm in hand; and*

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- 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 half of FY 2011-12. As of December 31, 2011, 1,243 members (49%) have received the use of force training, which incorporates the methods for dealing with the enumerated requirements.

We reviewed 14 foot pursuits during this reporting period. There were three cases in which alternatives to foot pursuits were considered. Three of the cases involved foot pursuits on individuals who had been armed, though each of the subjects discarded their weapons during the pursuit. All 14 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 the Department's 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.

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¶	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
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.

The DPD has made progress in instituting a workable mobile video system that supports both its important police mission and the management and oversight of its operations. In the past two years, it has repaired and deployed over 300 in-car MVS systems and begun to remedy deficiencies that threaten its successful implementation. The wireless system, the most serious problem that prevents comprehensive upload of data, is now being upgraded. DPD has also begun to acquire new MVS units that are expected to provide both significantly improved reliability and enhanced management capabilities.

DPD has moved forward significantly in this area, but there is still more to do to ensure success. Training the officers and supervisors who will work with the new equipment in the procedures and directives that pertain to its operation will be critical to success. The Department needs to devote the resources, both in personnel and equipment, necessary to complete the work on this important project.

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*

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- 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. In our previous report, a finding of pending compliance for this paragraph was associated with two issues discussed below.

In our last report, we noted that data regarding an incident that led to a civil suit could not be located in MAS following a request from the Monitoring Team. DPD determined that the report documenting the allegation of the use of force had not been completed by the Office of the Chief Investigator (OCI). To prevent this problem in the future, the Office of Civil Rights (OCR) has reported that it will: 1) review MAS on a weekly basis to assure the appropriate of documents on known incidents. It has also: 2) implemented a policy requiring completion of documentation by the end of shift and forwarding of information to supervisors; and 3) it is working with OCI to ensure that its Standard Operating Procedures reflect the policy requirement. Finally, 4) OCR has subscribed to an electronic alert service which will notify them of DPD-related news coverage of activities that may have required documentation, such as completion of use of force forms. These changes will also be reflected in an SOP covering MAS oversight and risk management-related tasks. We will review that SOP during our next site visit. The changes noted above reflect a sound problem-solving process and fully address the concerns raised in our previous report.

The second concern noted in our last report was related to the process of norming MAS indicators by arrests so that outliers could be identified while taking into effect levels of officer activity. This step will add an important dimension to a management process intended to reduce risk by addressing the most unusual activity patterns. It will also contribute to the sustainability of the system by limiting the focus on officers whose activities are not problematic. Our understanding is that DPD is making progress on this issue and will be prepared to present the results of its analysis during our next site visit.

This requirement establishes the general parameters of the risk management system. DPD has moved steadily toward compliance with it over the past reports as it has met the more technical requirements of the related paragraphs. We fully expect compliance with this paragraph, and therefore all of the risk management requirements, when the use of normed data is incorporated into the risk management process. As this is the only remaining issue at this time, we will take the unusual step of continuing a finding of pending compliance until the issue is assessed during our next site visit.

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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 this reporting period, we reviewed the monthly command reviews documenting the use of MAS. We have also examined the results of Peers reviews and the material currently used in training on the risk management system. For 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, including concerns with progress in norming the data that will allow for more systematic comparisons across officers, as noted above. 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.

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 below. Reporting this each quarter will allow us to consider the stability and

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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 reporting period.

The data below show that there is a general consistency in the numbers across most categories for the two time periods shown. The exceptions to that include a significant reduction in stop and frisk exception forms reported across the reporting periods, and in investigations of criminal conduct by officers. The information on complaint investigations was corrected during this reporting period to reflect the practice in which the notice of complaint but not the investigation is maintained in MAS. Two other items on which we will seek additional information on or next visit include the seemingly low number of times in which an officer draws a firearm and acquires a target, and the number of reports of violations of prompt judicial review.

U80 Data Requirements – Quarterly Department Totals			
Subtask	Text	7/1-9/30, 2011	10/1-12/31, 2011
a	use of force reports	278	254
a	use of force investigation	132	100
b	canine deployments	15	15
c	canine apprehension	6	4
d	canine bites	0	0
f	injured prisoner reports	13	18
g	injured prisoner investigations	13	18
g	force and arrests for resisting arrest	116	99
g	force and arrests for assault on an officer	58	36
g	force and arrests for disorderly conduct	42	27
g	force and arrests for interfering with city employee	32	11
h	firearm discharge reports	7	6
h	firearm discharge investigations	7	4
i	officer draws a firearm & acquires target	18	12
j	Complaints	307	264
j	complaint investigations	307	N/A*
k	investigations of criminal misconduct by officers	15	0
l	criminal proceedings against members	0	2
l	all civil lawsuits	8	34
m	vehicle pursuits	42	81
m	foot pursuits	14	14
m	traffic collisions	34	35
n	reports of arrests w/o probable cause	2	10
n	individuals discharged from custody w/o charges	5	10
o	investigatory stops and frisks w/o reasonable suspicion	Frisks=146 Stops=54	Frisks=63 Stops=10
p	reports of interviews, interrogation, or conveyances in viol of policy	Interviews=33, Interrogation=15 Conveyances=4	Interviews=18, Interrogation=10, Conveyances=0
r	reports of violations of prompt judicial review	891	841
s	reports of violation of DPD hold policy	134	97
t	reports of restrictions on phone calls or visits	27	1
u	report of declination to prosecute due to police conduct or suppressed evidence	0	0
v	disciplinary action taken against officers	37	42
w	non-disciplinary corrective action	188	299

The quarterly review of these data provides a means by which the Department can assess DPD activity and also examine the quality of information entered into MAS. It also provides a useful

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tool for the Monitor, and is shared with all Team members as they consider and assess their own specialty areas. This analysis continues to indicate that the appropriate data are collected and entered into the risk management system.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U81

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

Comments:

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

As noted in our past two reports, DPD has 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

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. Our observations and interviews with DPD continue to support the

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conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U83

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

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

Comments:

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

The Department's revised Report Protocol was also approved by the Department of Justice in a letter dated June 9, 2011. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Report Protocol are reflected in the practices of the Department. To consider this, we also examined command monthly reviews in MAS, and confirmed both the availability and use of the MAS data at the command level. During our most recent site visit, members of the Monitoring Team also attended the Command Compliance Review Meeting and observed the use of information from MAS.

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:

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

Comments:

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 continue to 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) completed and signed off in the

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reporting period for the relevant quarter. The data comparing this reporting period to the previous reporting period are presented below.

PEERS and Their Outcomes		
	July-Sept	Oct-Dec
Total PEERS	93	77
No Action Needed	65 (70%)	67 (87%)
Monitoring	10 (11%)	7 (9%)
Other	18 (19%)	4 (5%)

In 77 PEERS, supervisors and command staff found no need for action in 67 (87%) of cases. They assigned officers to be monitored in seven (9%) of cases and they took informal action (training recommendations, additional review) in four (5%) of cases. Compared with the last reporting period, these reviews resulted in higher numbers of findings of “no action required” and lower numbers of informal action taken. Findings for monitoring were the result of approximately the same percentage of reviews across the two reporting periods.

The figures above 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 proportion of cases where no intervention is needed again raises the question of efficiency of the system at identifying officers engaged in high-risk behavior. That, in turn raises the question of sustainability if the system is judged as needlessly cumbersome. 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 is working on methods of norming the measures of officer behavior to allow them to focus on outlier cases – that is, cases that fall in the top 5% or 10% of officers. 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.

Comments:

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

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During current reporting period, 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. It produces regular reports of the system status and any revisions or improvements that have been made.

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.

DPD continues to be in Phase 2 compliance with this requirement.

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.

Compliance Status:

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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: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in 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.²⁶*
- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.*
- f. By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii)*

²⁶ Consent Judgment amendments, November 9, 2007, and July 22, 2008.

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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, again, 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.

The Department has 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 that, the Department 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.

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:²⁷

- 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.²⁸*

Comments:

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

²⁷ 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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DPD has been in Phase 2 compliance with this paragraph for the past eight reporting periods. To verify continued compliance for the current reporting period, we again examined a random sample of 109 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. Eight evaluations were excluded since they were not completed due to the probationary status of the employees or extended leave.

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.*²⁹

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. The audit protocol is in place following revision in July and all audits are scheduled. Accordingly, the DPD continues in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

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

Comments:

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

²⁹ Consent Judgment amendment, October 4, 2004.

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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. Annual audits are once again scheduled for July.

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.*³⁰

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 and were followed by corrective action reports. 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.*³¹

Comments:

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

³⁰ Consent Judgment amendment, October 4, 2004.

³¹ 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 corrective action reports were completed. 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.*³²

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. Corrective action reports were and new audits are scheduled for next July.

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.*³³

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, in the fall. Corrective action reports were completed

³² Consent Judgment amendment, October 4, 2004.

³³ Consent Judgment amendment, October 4, 2004.

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based on the audits. 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. Directive 303.3 requires that supervisors randomly review video segments for training and integrity purposes and document the results on activity logs. From October 1, through December 15, 2011, DPD supervisors reviewed a total of 4,437 videos.

We sampled three platoons on two different dates (Sunday, October 16, 2011; Monday, November 21, 2011; Friday, December 2, 2011) 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. We found that 116 equipped units were deployed in the three districts on the three days in our survey. 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 only one instance (October 16, 2011, in the Southwest District) were fewer videos reviewed than the number of deployed and equipped vehicles. The following chart reflects the results of our survey.

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Date	NORTHEAST			NORTHWEST			SOUTHWEST		
	Deployed	Equipped	Video Review	Deployed	Equipped	Video Review	Deployed	Equipped	Video Review
Sunday, October 16, 2011	31	20	29	38	37	39	28	25	23
Monday, November 21, 2011	24	19	24	36	32	36	8	6	6
Friday, December 2, 2011	25	24	25	38	32	36	25	22	22

Reviews where a supervisor simply randomly selects and views an event that has been recorded are helpful in confirming that the equipment is operational and that, to some extent, it is being used. A better review technique would be for supervisors to select an event that occurred during the shift that requires video to be recorded and confirm that it was, in fact, recorded. For example, select a traffic stop and check to see if it was recorded. In this way, supervisors conducting daily random reviews should be able to determine if their officers are complying with Directive 303.3.

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:

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

DPD has been in Phase 2 compliance with this requirement since the second reporting period. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the November 9, 2011 quarterly meeting involving DPD and members of the Prosecutor's Office. As has been common, 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.

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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. DPD estimates that it has 303 MVS units operational. The compliment of MVS equipment actually installed and operational has remained the same, 303 vehicles, since July 2011.

During our last review, we were informed that the Department was upgrading the wireless receivers at the precincts and districts to ensure that the new MVS units, when installed, would function properly. The upgrade of the wireless transmission system at local precincts and districts was expected to raise the transmission speed from 54 MB to 300 MB, about a 600% increase. At the time the wireless upgrade was being installed in the Northeastern District and in the Lyndon Garage Facility. DPD was installing new MVS systems in five vehicles to be tested as prototypes. The rest of the DPD sites were expected be upgraded by the end of October 2011.

During this reporting period, we interviewed DPD Technology Bureau DC and his staff and reviewed maintenance logs and other records relating to the repair and installation of MVS equipment. We found that work on the wireless network upgrade has not yet been completed. The infrastructure work has been completed on five DPD buildings. New MVS units were installed in five vehicles that have been tested as prototypes and DPD encountered no significant problems that it was not able to resolve. It now expects to install new units in 40 more vehicles that will be placed in service. DPD estimates that the new MVS systems will transmit data to the network about 10 times faster than the old infrastructure permitted. Vehicles with older MVS systems are expected to transmit data about four times as fast.

During our previous review, we were advised that installation of new MVS units was expected to begin on December 2, 2011 and run through January 17, 2012. During this time period, DPD projected it would install the new equipment in 150 2010 and 2011 marked scout cars. During the eighth reporting period, the Department would take delivery of an additional batch of vehicles, which will receive mobile video systems as well. During this review, we found that the DPD installation plan had slipped considerably. MVS systems had been installed in 40 new cars but a procurement order for wiring harnesses had not been acted upon by the City and the work cannot be completed without the harnesses.

During the three-month period ending on September 30, 2011, the DPD IT Bureau responded to 388 requests for service. Our review found that 11 requests were pending due to vendor issues, and nine requests listed as "active" were subsequently resolved. Of the remaining 368 requests for service 356 (97%) were successfully resolved.

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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 made strides in providing these data for our review but has not yet been able to provide comprehensive data identifying all such incidents. We therefore are unable to accurately measure compliance with U101b or to find DPD in compliance with this requirement.
- 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:

- **Pursuits:** DPD was able to produce MAS Vehicle Pursuit Reports that identified 46 pursuit reports during the current reporting period. Thirty-two of the 46 were determined to have operational MVS systems in their cars. Of these, DPD was able to locate video for 11 (34%) pursuits where the car was equipped with operational video and audios were found for only two (6%). This is a decline from our previous review when we found 82% videos recorded in our October 2011 review.
- **Uses of Force:** DPD provided a list of 29 use of force cases in which in-car video could have been recorded that were closed during October, November, and December, 2011. We deducted the cases where a technical failure prevented operation of the MVS system and situations that occurred where no vehicle was close. Of 29 cases over the reporting period, 11 cases (52%) contained video that was reviewed. The chart below depicts our findings:

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Month	# Cases	Video Present and Reviewed	Technical Issues or Explanation	% Recorded and Reviewed
October, 2011	15	4	6	44%
November, 2011	4	2	0	50%
December, 2011	10	5	2	63%
Total	29	11	8	52%

- **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.
- **External Complaints:** DPD provided a list of eight Internal Affairs investigations closed during the current reporting period in which video should have been available and in which it was requested. In six of those cases (75%), video was produced and 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

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 this reporting period, we selected a random sample of 100 traffic stops for each of the first two months in the reporting period (October and November, 2011). The results are depicted on the following chart. DPD did not provide data for December 2011, for inclusion in this review. We have encountered difficulty in the past in obtaining data for the last month of the reporting period. In future reviews, we will examine traffic stop data for a three-month period beginning four months before the review.

- **Traffic Stops:** We examined 100 traffic stops selected at random for the months of October and November 2011. Overall, we found that 88 (44%) of the traffic stops contained video and 27 (14%) contained audio. The results were as depicted on the following chart.

Mobile Video Recorded - 4th Quarter 2011 Traffic Stops

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Month	# Sample	Video	%	Audio	%
October 2011	100	46	46%	15	15%
November 2011	100	42	42%	12	12%
Total	200	88	44%	27	14%
Mobile Video Recorded - 4th Quarter 2011 Traffic Stops					
Month	# Sample	Video	%	Audio	%
October 2011	100	46	46%	15	15%
November 2011	100	42	42%	12	12%
Total	200	88	44%	27	14%

- Vehicle Searches and Canine Deployments:** DPD reported deploying only one canine to search a vehicle during October 2011. That search was recorded on video but there was no accompanying audio. In November 2011, 10 vehicle searches were conducted by officers utilizing patrol cars equipped with operational MVS systems. Six of the 10 (60%) were recorded on video and four (40%) of the six had audio.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

E. Discipline

CJ Requirement U103

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

Comments:

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. This is the same number of cases that were closed in the previous quarter. As noted below, there is no backlog of cases and case flow is being managed sufficiently. During the current reporting period, a total of 125 new disciplinary cases were opened.

We also established that all previously noted resources remain in place to support compliance with this requirement at this time. We are concerned, however, about changes in resources that are currently occurring. Personnel changes will limit the availability of prosecutors for police trial boards. The Disciplinary Unit is examining ways to compensate for this loss, including exploring the possibility of using law school graduates who are preparing to take the Bar exam

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and also law school interns. We will assess the impact of resource changes during our next site visit.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U104

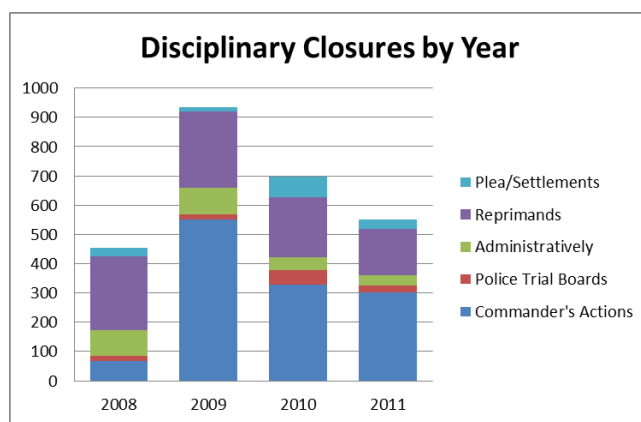
The DPD shall schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD shall establish guidelines dictating the maximum period of time that should elapse 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. Seven cases remain open from 2010. At the end of December, 131 cases remained open for 2010. The status of all open cases is track by the disciplinary unit and reported quarterly. All open 2010 cases reflect appropriate scheduling and steps toward closure.

The Chart below shows the method of closure by year and supports the view that disciplinary procedures are being scheduled at appropriate intervals.



Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U105

The DPD shall create a disciplinary matrix that:

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

Comments:

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 reporting period fell within the matrix and were consistent with this requirement. DPD continues to be in 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
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
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	Not in Compliance
103	Elimination of disciplinary case backlog	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance
105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance

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IX. TRAINING

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the Training Commander and reviewed a variety of memoranda, policy material, and two new use of force scenarios 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. As we noted in our last report, the Department has achieved compliance with all training-related requirements; it should now take 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 current review that the DPD report, “Training Oversight and Development Report – Semi-Annual Review, December 2011,” addressed requirement U106. This report – the sixth such report to be issued – contained the evaluation of use of force, arrest, and detention training; and covered all elements of this requirement. The next such report will be produced in June 2012.

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*

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- 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 now being used in the 2011-2012 training cycle. In addition, during this reporting period, we reviewed the two new use of force scenarios that are being deployed and the report entitled, "Training Oversight and Development Report – Semi-Annual Review," dated December 2011, which documents the DPD's semi-annual review and evaluation of its training. Use of force and detention training are adequate.
- b. As noted above, we reviewed the lesson plans for the Use of Force and Arrest and Detention training that are being used in the current training year (July 1, 2011 – June 30, 2012), and found them to be adequate for the training required.
- c. DPD did not select any new trainers during the fourth quarter of 2011. One sergeant was transferred into Training. As we have noted in the past, Training selects officers below the rank of sergeant, but those at the rank of sergeant or higher are transferred into Training under the terms of the union contract. We reviewed a memorandum that was prepared to document the newly transferred sergeant's suitability to conduct training. The memorandum addressed past performance appraisals, use of force, and Internal Affairs. There was no indication that the sergeant was not suitable for the training assignment.
- 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, July, and December 2011, the DPD conducted and documented training needs assessments. Senior officers and mid-level managers representing critical areas of the DPD participated in the process. Over the past year, such needs assessments have identified several "performance gaps" that could be addressed through training. DPD has initiated new training and modified in-service training in order to address many of the deficiencies identified in the needs assessments. Using this process, Training determined DPD supervisors did not know how to coach their subordinates. A block of instruction is being developed that will instruct DPD supervisors in coaching and mentoring. 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.

The Department remains in Phase 2 compliance with this paragraph.

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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 October 2011 review, the Training Division was able to locate sign-in sheets reflecting attendance for 100% 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 123 records for officers who were listed as having completed their in-service training during the first two quarters of the current training year (October 1, through December 31, 2011). In order to complete their in-service training these officers would have to attend and sign attendance sheets for four courses. Of the 492 signatures expected, we were able to locate 480 (98%). During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. Training has now entered all DPD training records for years 2003 through the present.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U109

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

Comments:

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

DPD training directives and lesson plans properly direct and instruct on the relevant provisions of the Consent Judgment.¹ DPD developed two new scenarios utilizing DPD Internal Affairs

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incidents, and accepted them for incorporation into the Legal block of training. We reviewed both and found them acceptable. Our previous review of training curricula, lesson plans, and scenarios used in the current training year (July 1, 2011, through June 30, 2012) revealed that they instruct and convey the requirements of the Consent Judgment and DPD policy. The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U110

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

Comments:

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

The DPD met with the City Law Department pursuant to this requirement on November 8, 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 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. Thirteen civilian employees (including both those newly hired and reassigned to support the DPD) received this training from CRIB during December 2011. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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;*
 - 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 October 2011 site visit, we found that 27% of the DPD members "available to train" attended use of force training during the first quarter (July 1, through September 30, 2011) of the new training year. During the same period, 27% of the officers available to train attended PR-24 training.

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During this reporting period, we found that 1,243 (49%) of its 2,540 officers currently available to train attended the use of force in-service training during the first half of the current training year. In addition, a total of 1,244 officers (49%) 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:*
- e. *Maintains finger off trigger unless justified and ready to fire;*
- f. *Maintains proper hold of firearm and proper stance; and*
- g. *Uses proper use of force decision making.*

Comments:

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

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

During the current six-month qualification period (July 1, through December 31, 2011), 2,509 officers (99%) of 2,540 available to train attended firearms training and qualified. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

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Phase 2: In Compliance

D. Arrest and Police-Citizen Interaction Training

CJ Requirement U114

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

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

Comments:

The DPD is 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 99% of its available members in its Use of Force in-service training.

During this reporting period, we found that 1,243 (49%) of DPD’s 2,540 officers available to train attended the use of force in-service training during the first half of the new training year. In addition, 1,293 (51%) 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

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E. Custodial Detention Training

CJ Requirement U115

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

Comments:

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

DPD developed appropriate policies and lesson plans to comply with this provision, as well as a protocol to train all recruits, sworn members, confinement officers, investigators, and supervisors. All officers who attend the Use of Force and Legal in-service 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, 99% of DPD members attended the Use of Force and Legal in-service training sessions and received this training. As noted in U114, 49% of DPD officers attended the Use of Force training, and 51% attended the Legal training, during the first half of the current training year.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U116

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

Comments:

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

DPD has incorporated these training requirements into its Use of Force 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 1,243 (49%) of officers available to train during the recently completed first half 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

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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.

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; we found that DPD trained 49% of its officers in the first half 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.

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 99% of its 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 half of the new training year (July 1, through September 30, 2011), 284 (49%) supervisors and investigators of the 581 available to train attended the Leadership and Accountability in-service training.

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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 Accountability in-service training. Also as we reported in U118, during the first half of the new training year, the DPD trained 49% 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

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 Leadership and 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 half of the new training year, it trained 49% of its supervisors and investigators. The DPD is in Phase 2 compliance with this requirement.

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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 Accountability 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 half of the new training year, it trained 49% 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.

The training required by U122 is delivered in the DPD Supervisory and Leadership Accountability 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 half of the new training year, it trained 49% 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

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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. The Department has not conducted a certification or recertification class since April 2011. DPD currently has 115 FTOs assigned throughout the Department. There are 22 probationary officers currently in the FTO Program.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

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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.³⁴ 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.

³⁴ 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 district/precinct buildings. The Fire Inspection was incorporated into the semi-annual audit conducted on 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. According to the DPD 33rd Quarter Report (December 31, 2011), the identified deficiencies were addressed and corrected. The next semi-annual inspection by the Audit Team is scheduled for completion by January 31, 2012.

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.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C16

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

Comments:

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

Following the development of the Fire Safety Plan, the DPD made required structural changes to districts/precincts' holding facilities, including the updating and/or installation of sprinkler systems, fire alarm systems, and fire-rated doors. 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.

Our review of the audit documents during the last reporting period indicated that there were maintenance problems in four of the five facilities, Southwestern being the exception. According to the DPD's 33rd Quarterly Report (December 31, 2011), these deficiencies have been repaired. During our most recent site visit, we found that all fire safety equipment was in working condition except the fire sprinkler system at one precinct, which was inoperable due to two broken sprinkler heads. 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 previous 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 most recent inspection, we did not find any persons smoking in unauthorized areas. Also, during our review of all of the monthly inspections on DPD 715 - Evaluation of the Operation of Holding Cells, we found no documentation that any smoking had been observed in the facilities.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C21

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C22

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

Comments:

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

The DPD has been in continued compliance with this Consent Judgment paragraph since 2005 when it closed some of the facilities where kane fiber ceiling tiles were in place, and it removed the tiles from the remaining facilities.

DPD is in continued Phase 2 compliance with 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

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IV. EMERGENCY PREPAREDNESS POLICIES

CJ Requirement C23

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

Comments:

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

As noted previously, Phase 2 compliance is related to and contingent upon the implementation of C24-25; 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

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individually in crates, allowing for easy access. During our most recent inspection, we found that the shackles were easily accessible. We determined that the detention officers had sufficient handcuffs and/or shackles for use in the event of an evacuation.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C25

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

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

Comments:

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

During our first site visit, we recommended that each officer working in a cell block be issued a complete set of keys. Following this recommendation, we were informed that two extra sets of keys were distributed to each district/precinct with holding cells, bringing the total at each to five – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants' and sergeants' office.

During our two previous inspections, we found that each district/precinct had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants' and sergeants' office. Teletype #11-0989, Holding Cell Facility Keys – Required Documentation, regarding inventory and assignment of keys by the cellblock supervisor, had been distributed. This policy directed the cellblock 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 MAS Desk Blotter.

However, during our previous 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 the previous quarter.

During our most recent site visit, we found that CRIB had distributed Department Teletype #11-01395, which thoroughly explained the procedure for documenting the inventory and security of keys. When interviewed, the detention supervisors and officers appeared to have an understanding of their responsibility for key control. However, another set of keys was lost in December 2011. This required lock changes for all exterior doors at the precinct.

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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.

DPD is not in Phase 2 compliance with this paragraph for this reporting period.

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 the previous reporting period, we reviewed DPD's Audit Team's report of its findings of the Holding Cells released on July 31, 2011. We noted at that time that progress had been made to address the deficiencies described in the 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 and transporting officers. We have found in a few instances where the processing officer writes this information in by hand on the form after the fact and it is therefore not entered into the database. While clerical errors are not as numerous as in past reviews, they still exist. Medical referrals and the thoroughness of medication logs have also sustained improvement during this and the previous reporting period, and the documentation of the exchange of health information between shifts had 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 248 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 24 instances where the detainee processing time did not meet the requirement, no release of medication was indicated, no conveying officer listed or the conveying officer failed to note the date/time of the conveyance back to the holding facility, missing discharge instructions, no time indicated for the initial request for medical treatment, and in one case there was no supervisory approval for the medical referral. At this point, DPD needs to fill out the required forms completely to be in compliance with this paragraph. DPD has made progress during this reporting period, with a compliance rate of 91%.

Despite this improvement, DPD remains in pending Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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;*

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- b. *identify persons who are at risk of committing suicide, persons who have been on heightened observation for suicide risk at any time during a past incarceration and persons who have any medical contraindications for the use of chemical sprays,*
- c. *require that the DPD follow a standard intake procedure for each individual entering DPD custody;*
- d. *require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*
- e. *incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

Comments:

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

During 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 10 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 two incidents, staff had not transported to DRH a detainee needing medical care until five and a half hours after the initial screening had been completed and six hours in the subsequent case. There were 22 instances where the intake screening took more than two hours; however, in 12 of these cases the arrestee was transported to DRH directly from the scene. The staff did not follow DPD policy in the remaining 10 cases. Many of these issues would be resolved if personnel would complete all the information the forms require and the OIC approving the form investigate those in violation of the two hour requirement at the conclusion of the detainee processing.

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 high-risk detainees were observed by staff and were compliant.

There had been 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. There were six detainees placed on constant watch in the

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sample for this reporting period, and all were in compliance, which indicates that DPD has addressed the above-noted problems. This is the first reporting period in which we have found DPD in compliance with C28b.

During this reporting period, in our review of a random sample of 248 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, handwritten documentation that was not updated in LiveScan; and cases where detainees should have been referred to DRH in a more timely fashion, but were not. We have continued to recommend to CRIB that it develops and implements a process so that when a detainee's medical or mental health status changes, detention staff update the system accordingly.

Overall, we found that DPD had a 91% compliance rate with this paragraph due to the non-compliance of COC 28e. There were 32 instances where the Detainee Input Sheet indicated that the arresting officer listed a mental or medical issue with the detainee; and in 29 cases, the medical information was transferred by the processing officer to the Detainee Information Form. On November 11, 2011, DPD issued an Administrative Message (Teletype #11-1392) that advised commands for all detainee registrations to use the revised Detainee Input Sheet, effective December 1, 2011. DPD is in pending Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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 248 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:

- There were 61 referrals of detainees in need of medical or mental health care to the Detroit Receiving Hospital, and two of these were not within policy;
- There were 10 cases (excluding those detainees who were sent to DRH directly from the scene) in which intake screenings were not conducted within the required two-hour timeframe following arrests;

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- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner; 44 detainees had medications disbursed and in two instances the dosages were administered late;
- There were 32 instances where detainee medical information was listed by the arresting officer on the Detainee Input Sheet and in three cases the processing officer did not transfer that information to the Detainee Information Form. In three other cases the processing officer, by hand, wrote in the medical information, therefore, the health information was not being updated in Livescan;
- Detroit Receiving Hospital discharge instructions missing.

Overall, we found that 96% were in compliance with this paragraph – an increase over the 88% in the previous reporting period. DPD is now in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C30

The DPD shall develop and implement policy regarding infectious disease control (IDC) in consultation with medical health professionals. The policy shall be reviewed and approved in writing by qualified medical health professionals at least every year after implementation and prior to any revisions to the policy. At a minimum, the policy shall:

- establish appropriate housing for prisoners believed to have infectious diseases; and*
- mandate measures the DPD shall take to prevent the spread of infectious diseases, including proper handling and disposal of bio-hazardous material.*

Comments:

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 six days on each log, for a total of 270 days. DPD's compliance rate for completing the Holding Cell Cleaning Logs is 97.4%. In order to be compliant with this paragraph all facilities must be in compliance. During our most recent inspection, we found that all holding facilities had

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compliance rates above 98%, with the exception of the Northeastern District (91%). The Northeastern District has historically been less clean than the other facilities.

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 found that the contents were satisfactory, as we have observed 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.

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 decontamination of the facility. Although DPD's overall compliance with sanitation practice documentation during this reporting period is 97%, the Northeastern District was at 91%, all holding facilities must be compliant in order to meet the requirements of this paragraph. If found to be not in compliance during the next reporting period, DPD will be removed from compliance status.

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

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medical condition – was not always being documented and communicated between consecutive shifts.

As noted above our reviews of these documents 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 and to acknowledge its accuracy 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 more errors than in our previous reports. Of those errors the most prevalent are those where personnel do not include the date and time of preparation or receipt of the document and the failure to mark the prescribed meds column and the Medicine Cabinet checkbox on the form. It should be noted that form DPD 659 was amended during the ninth reporting period to indicate for each detainee whether medications are prescribed. It is apparent from our observations that staff is not, in some cases, completing this section of the form and supervisory personnel are not catching the omissions. 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 is in compliance for C31a, b, and d. (See C36.) The overall compliance rate (C31c) for all holding cell facilities is 92% for this quarter.

We also reviewed 126 copies of DPD Form 661 that required a 15-minute watch. The entries were made in a timely fashion with but one exception. 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 found a few deficiencies in the documentation of important health information in the detainee file folders. The problems include clerical errors, incomplete or missing documentation with discharge instructions and prescription release information.

Overall, we found that 97% of the PDDSL's were in compliance with this paragraph; however, due to C31c and the lack of staff at the Northeastern District (92%) failing to check the box indicating medications on the Platoon Daily Detainee Summary jeopardizes DPD's compliance status – a decrease from the 97% registered in the previous reporting period. In order to be compliant with this paragraph, all facilities must be in compliance.

DPD remains in Phase 2 compliance with this paragraph; however, failing to correct the deficiencies noted will take the Department out of compliance during the next reporting period.

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

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the effective date of this Agreement. The DPD shall implement the policy within three months of the DOJ's review and approval. Thereafter, the policy shall be reviewed and approved in writing by qualified medical and mental health professionals at least annually and prior to any revisions to the program. At a minimum, the policy shall:

- a. indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*
- b. require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*
- c. require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*
- d. require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*
- e. require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*
- f. require that injected medications are administered as prescribed and in a safe and hygienic manner; and*
- g. require that unused medications prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

Comments:

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

During 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 administered 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 248 detainee file folders, we continued to find a few 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 48 cases where medications were disbursed to detainees. In 11 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. 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 92% of the logs in

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compliance – a decrease from the last reporting period, when we found 97% 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 districts/precincts maintaining holding cells revealed that all was satisfactory in the location of the cabinets and storage of medications.

Based on the noted improvements, we found DPD in pending Phase 2 compliance with this paragraph during the previous reporting period. However, the Department must address the concerns related to the documentation of medication disbursements; C32a through 32f are compliant. The compliance rate for C32g is 78%.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C33

The DPD shall provide appropriate clothing, such as paper gowns or suicide smocks, to all prisoners placed under suicide precautions.

Comments:

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

During 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.

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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	Pending Compliance
27	Medical/mental health screening program	In Compliance	In Compliance
28	Medical/mental health screening procedures	In Compliance	Pending Compliance
29	Medical protocols	In Compliance	In Compliance
30	Infectious disease policy required	In Compliance	In Compliance
31	Prisoner health information protocol required	In Compliance	In Compliance
32	Prescription medication policy required	In Compliance	Not in Compliance
33	Clothing-suicide prevention	In Compliance	In Compliance
34	Removal of suicide hazards	In Compliance	In Compliance

VI. PRISONER SAFETY POLICIES***CJ Requirement C35***

The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

Comments:

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

Phase 2 compliance is related to and contingent upon the implementation of staff and inmate safety measures required by C36-38; accordingly, the DPD is in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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:

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- 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 Eastern District logs that contained 896 entries. We found the second and third shifts' logs seriously deficient in completing the "Prescribed Meds" column and the Medicine Cabinet checkbox. The Eastern District's compliance rate with this paragraph is 89%, a decrease from the previous reporting period.

We reviewed Northeastern District logs that contained 539 entries, and found 10 instances where orange alert boxes were not checked for detainees who were on monitoring status in the District at the end of the shift. The Northeastern District's compliance rate with this paragraph is 93%, a decrease from the previous reporting period.

We reviewed Sixth Precinct logs that contained 999 entries. The most prevalent deficiencies were failure to mark the Prescribed Meds column and the proper Detainee Alert boxes. The Sixth Precinct's compliance rate with this paragraph is 94%, a slight increase from the previous reporting period.

We reviewed Twelfth Precinct logs that contained 531 entries. The Twelfth Precinct's compliance rate with this paragraph is 99%, a slight increase from the previous reporting period and the highest compliance rate reported for this period.

We reviewed Southwestern District logs that contained 550 entries. We found many instances where the "Prescribed Meds" column was not marked for any of the detainees on the sheet, nor was the medicine cabinet checkbox marked. During the previous three reporting periods, the Southwestern District made substantial progress in this area. However, the compliance rate for this reporting period dropped significantly to 87%.

The average for all districts/precincts during this reporting period is 92% compliance out of 3,515 log entries. The failure of holding personnel to mark the "Prescribed Meds" column and the Medicine Cabinet checkbox were the major factors in preventing satisfactory compliance with this part of the Consent Judgment.

DPD is in Phase 2 compliance with this paragraph since it was in compliance during the last reporting period. However, more attention to accuracy and more thorough reviews by supervisors will be needed to keep this section in compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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 DPD policy. 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 (DRH), 15-minute well-being checks are entered on the DPD 659 Form when holding cells are occupied. The review of the DPD 659 forms from DRH this reporting period indicated a compliance rate of 98%. General population well-being checks are entered on the DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on DPD Form 661 (Mental Health High Risk Monitoring). During the current reporting period, our review of 270 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 this reporting period, it was noted in the Northeast District, there were numerous instances of a significant delay in conducting cell checks during shift changes. For example, on October 29, 2011, the last cell check on Platoon I was recorded at 6:34 am. The first cell check recorded by Platoon II was at 8:06 am. On December 3, 2011, the last cell check on Platoon I was recorded at 5:58 am. The first cell check recorded by Platoon II was recorded at approximately 7:50 am. (The last digit of the time is illegible). On December 5, 2011, the last cell check on Platoon I was recorded at 6:27 am. The first cell check recorded by Platoon II was recorded at 7:58 am. On December 6, 2011, the last cell check on Platoon III was recorded at 9:29 pm, approximately two hours before the next shift change. These time lapses not only violate the requirements of the Consent Judgment, but increase the likelihood of liability to the Department. We recommend that DPD rectify this situation.

For the periods of October 25-30, November 15-20, and December 1-6, 2011, we reviewed 126 detainees who required a 15-minute watch, including those detainees on medication. In two instances, the supervisor authorizing monitoring failed to place his/her name, signature, or badge number in the appropriate box available for that purpose. Northeastern District's records revealed instances of 30 minutes to one hour between cell checks for a detainee who was on 15-minute mental health monitoring. On this same log, there was no name, rank, badge number, or

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signature of the supervisor who authorized monitoring. Also, on October 27, 2011, in Northeastern district, a detainee's 15-minute medical monitoring was not continued from Platoon I into Platoon II. This error was caught by the District Commander and investigated.

All districts met or exceeded the required >94% compliance standard. Therefore, DPD is in Phase 2 compliance with this requirement at this time.

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.

During the current reporting period, of the six DPD 661 Forms (for detainees who were maintained on suicide watches) that we reviewed, all six specified "constant supervision." However, one of the six was marked "Suicide Risk" and "Mental - 15 minutes." In one case, an officer entered "mental" in the 'Reason for Authorizing the Watch,' and a constant watch was ordered. In another instance in the same district, the very same reason was given for authorizing the monitoring, but this detainee was assigned a "Mental - 15 Minute" watch.

There continues to be some confusion regarding what necessitates a constant watch. DPD Policy 305.1-3.21 clearly defines the criteria for classifying a suicidal detainee. 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. A constant watch should only be used when a detainee meets one or more of the criteria listed in DPD 305.1-3.21. All other mental health issues should be assigned a 15-minute watch unless medical orders specify otherwise.

All districts met or exceeded the required >94% compliance standard. 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
35	Security procedures to ensure safety	In Compliance	In Compliance
36	Prisoner security screening program	In Compliance	In Compliance
37	Procedures for cell checks required	In Compliance	In Compliance

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38	On-site remote observation of cells	In Compliance	In Compliance
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VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

CJ Requirement C39

The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner.

Comments:

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

During this reporting period, we evaluated all districts/precincts for general cleanliness and sanitation. There was some improvement in the overall cleanliness of the holding cells this quarter. The cleanliness levels in the Eastern District and the Sixth Precinct continued to be deficient. Cell walls, benches, sinks, and toilets were observed that were not adequately clean. Floors and walls in the Southwest District were recently painted and the walls in several of the Sixth Precinct cells were painted to a height of approximately three feet above the benches three weeks prior to this tour, according to staff. In cell 6C04, the recently applied paint was already peeling off the wall and the cell bars.

During this reporting period, we reviewed 45 Holding Cell Cleaning logs from the five facilities, with six days on each log, for a total of 270 days. DPD's compliance rate with this paragraph improved to 97% during this rating period. The most common error was a failure to document the time for performing duties. In a few instances, the Cell Block Supervisor's approval block was not completed.

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 Twelfth Precinct had a 100% compliance rate during this reporting period, followed by Eastern, Southwest, and the Sixth Precinct with rates of 98-99% compliance. The Northeast District's compliance rate for this requirement improved to 91% during this reporting period, but remains below the >94% compliance requirement.

DPD continues to be 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 noted above and correct reporting errors to remain compliant with this paragraph during the next reporting period. Particular attention is needed to improve reporting accuracy in the Northeast District. Failure to do so will jeopardize the Department's compliance status for this section of the Consent Judgment.

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.

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Comments:

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

DPD Directive 305.4 (effective September 30, 2011) is the relevant document for this section; this document is reviewed on an annual basis. Additional documents have been issued to command staff for guidance purposes to ensure consistency in cleaning methods and procedures. The Holding Cell Compliance Committee (HCCC) has issued detailed cell block cleaning instructions that covers procedures, schedules, and documentation. 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 received by the holding facilities are dependent upon what the City has in stock when the order is submitted. Staff frequently expressed frustration over their inability to get needed supplies. One district reported that it had to sell empty aluminum cans to obtain funds to purchase paintbrushes with which to paint the holding cells. The chemical used to clean sinks and toilets was available at only three of the five holding cell facilities.

The Department must recognize that painting over soiled surfaces, such as floors, walls, and benches, is a short-term fix, at best. The recent experience in the Sixth Precinct, as noted above, demonstrates the problems associated with this approach. There is no substitute for physical soil removal, utilizing appropriate chemicals and a healthy application of "elbow grease." As in the October tour, it was demonstrated to staff that soil can be removed from the walls with existing chemicals and a scrubbing pad.

This requirement addresses the design and implementation of a cleaning policy for all holding cells. It also requires routine cleaning and supervisory oversight of cleaning of the cells and nearby areas. The policy is in place and is adequate. The application of this policy is weak. Supervisory oversight is insufficient to ensure that holding cells and adjacent areas are as clean as they should be.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C41

The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.

Comments:

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

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.

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Based on the Holding Cell Facility Logs (DPD 702), OCR prepares a monthly spreadsheet listing all current outstanding repairs and their status. Items on this spreadsheet are reviewed monthly by the HCCC. During this review period, HCCC meeting agendas were reviewed and confirmed that current facility repairs were being discussed.

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. This section of the Consent Judgment requires "timely performance of routine maintenance." We found considerable improvement in response times to address repair issues. Several long-standing maintenance issues were completed during this reporting period, as well.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C42

The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.

Comments:

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

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 85°F). Measured temperatures in the cell blocks ranged from 68°F to 81°F. The HVAC systems were operable in all of the DPD districts/precincts.

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

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taken out of service and signage posted on the front of the cell to prevent usage until repairs are completed.

DPD is in Phase 2 compliance with this paragraph.

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 a previous tour, 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.” None of the existing 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 will be presented to the Court during the next reporting period. Accordingly, DPD is in deferred Phase 2 compliance with this paragraph at this time.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

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. Cells with plumbing deficiencies were not being used and signage was posted accordingly. 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

Phase 2: In Compliance

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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.

All Hepa-Aire purifiers have been permanently removed from the district/precinct holding cell areas. DPD is in full compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
39	Clean and maintain holding cells	In Compliance	In Compliance
40	Holding cell cleaning policy required	In Compliance	In Compliance
41	Holding cell maintenance policy required	In Compliance	In Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunctioning cell elements	In Compliance	In Compliance
44	Insure sufficient cell lighting	In Compliance	Deferred
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.

The Northeast District is the designated ADA-compliant holding facility. All detainees with disabilities requiring special accommodations are housed in this facility. During our most recent inspection, we found that detention staff in the districts/precincts 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 the development of an effective testing protocol. DPD detention staff are now required, per policy, to conduct tests on a monthly basis that ensures the equipment is working properly and confirms that detention staff can demonstrate the use of the equipment.

Accordingly, we find the DPD in Phase 2 compliance with this paragraph.

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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.

The provisions of this requirement are covered in DPD 305.1, Detainee Intake, and DPD 305.5, Detainee Health Care. An annual review of these policies was conducted on February 4, 2011 and approved by qualified medical and mental health professionals.

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
47	Reasonable accommodation for disabled	In Compliance	In Compliance
48	Detention of persons with disabilities	In Compliance	In Compliance

IX. FOOD SERVICE POLICIES

CJ Requirement C49

The DPD shall ensure food is stored and served in a sanitary manner and in compliance with state and local health codes.

Comments:

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

Phase 2 compliance is related to and contingent upon the implementation of C50; accordingly, DPD is also in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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 Daily Detainee Meal & Hygiene Logs, DPD form 663, for the periods of October 25-30, November 15-20, and December 1-6, 2011. Our review indicated that DPD's compliance rate was 90%. We have found DPD in compliance with this paragraph in all of our previous inspections. During this reporting period, compliance rates ranged from 69% in the Northeast District to 99% in the Sixth Precinct. It should be noted that three officers were frequently not listing meal service times on Platoons Two and Three in the Northeast District. In several instances, officers recorded a meal being served to a detainee who, according to the log had already been transferred or released.

We also reviewed the Detention Refrigeration Logs, DPD form 655, 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 had an adequate number of alternative meals available for detainees with religious or dietary needs. There were deficiencies noted in the NED documentation on DPD 655. One officer in the Northeast District signed 12 of the 18 entries covering the periods of discovery. No badge number was listed for this officer in any of the entries. Additionally, the Cell Block Supervisors' (CBS) badge number was missing on five of the six sheets submitted and two of the six sheets had no CBS name, signature, or badge number.

DPD remains in Phase 2 compliance with this paragraph because it has been in compliance in previous inspections. However, DPD must ensure that detention staff are adequately trained to properly document the service of meals and hygiene items, and Cell Block Supervisors must review the logs for accuracy prior to affixing their signature to the logs. Failure to do so will result in the Department losing its compliance status for this section of the Consent Judgment.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
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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. Feminine hygiene products were also available in all sites. Our interviews with the PDOs demonstrate an understanding of the importance of providing personal hygiene items to the detainees on a daily basis.

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:

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 the previous reporting period, we reviewed five incidents occurring at detention facilities, four uses of force, and one suicide attempt. DPD reviewed videos in four of the five cases and

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requested a CD from Technical Support for the fifth incident, which was not available for viewing due to a malfunction of the system.

During this reporting period, we examined six SIRs regarding incidents occurring at detention facilities, one in September and five in October.³⁵ One of the October cases was a suicide attempt. There were no incidents reported at a detention facility in November. In all six of these incidents, the appropriate reports were prepared and submitted. As we have previously noted, these reports suffer from the same deficiencies as those outside the detention facilities. There were videos captured in five of the six cases. In one case, there was no video review, as it occurred in a processing area where there was no video camera and no requirement for the use of a handheld camera. It was a spontaneous incident, not a pre-planned incident. In the five cases reviewed, there were two cell extractions that would have required the use of a handheld camera; in one, the camera was utilized; in the other, it was not. In the case in which the handheld camera was utilized, there was also facility video available; however, the reviews of both videos lacked details, and the investigator simply stated that the contents appeared to be consistent with the officers' statements. There was also a thorough review of a cell block video for another extraction, but in that instance, a handheld camera was not utilized.

There was a thorough review of an incident that started in a processing area that did contain camera coverage; but when staff moved the prisoner toward the cell area, there was no camera in that cell block area.

Video coverage of the cell block area continues to be an issue for DPD, and we strongly urge the Department to expand camera coverage to cover the entire area in which prisoners are processed and housed.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C53

The DPD shall revise and augment its policies regarding prisoners to require that:

- a. Officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;*
- b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and*
- c. the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.*

³⁵ There was one case at Southwest in September; and there were two cases at Eastern, two cases at Northeastern, and one case at the Twelfth Precinct in October.

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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. In addition to the mounted video equipment, the detention districts/precincts have been issued handheld cameras that can be used for planned extractions. Our visits to the various holding facilities found that supervisors were aware of the handheld cameras and had received some training in their use. All supervisors contacted during 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 our previous report, we found that there were five SIR investigations of incidents occurring in detention facilities cases; only two of these cases that could be evaluated against C53a.

During this reporting period, we reviewed six SIR investigations occurring in detention facilities, including one attempted suicide. With respect to C53a, five of the cases involved prisoners who had previously demonstrated he or she was recalcitrant or resistant. In three of the cases, the officers and supervisors reacted appropriately, minimizing injury to the officers and the subject by having sufficient personnel present to deal with the situation. There were two cases involving a cell extraction (U53b); in one the required notification of a supervisor was made; in the other it was not. In none of these cases was there a need to utilize shield and vests to extract the prisoners. Regarding U53c, in one case, the handheld camera was utilized, in the other it was not.

There was video captured in five of the six cases. In one case, there was no video review, as the incident occurred in a hallway leading to the processing area where there is no video camera. There was no requirement for the use of a handheld camera. It was a spontaneous incident, not a pre-planned incident. In the five cases reviewed, there were two cell extractions that would have required the use of a handheld camera; one did and one did not. In the case in which the handheld camera was utilized, there was also a facility video available; however, the reviews of both videos lacked details, simply stating that the contents appeared to be consistent with the officers' statements. There was also a thorough review of a cell block video for another extraction, but a handheld camera was not utilized.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C54

The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Comments:

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.

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During our visits to detention facilities during the most recent site visit, we observed one prisoner handcuffed to a bar located beneath a telephone while he was, in fact, using the phone. This was not deemed to be a violation of this requirement. 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 the previous reporting period, we reviewed four incidents involving uses of force in holding cells and an attempted suicide. All five cases had SIR investigations completed. Three of the cases met the 10- 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 urge the command staff to conduct critical reviews of the investigations. There was one attempted suicide and no in-custody deaths in the cell block area.

During this reporting period, we reviewed six incidents, including an attempted suicide. All six cases had SIR investigations completed. Four of the cases missed the 10-day requirement, and one missed the 30-day requirement. Four of the six cases had some level of video review.³⁶ As with the SIR investigations involving uses of force outside of the detention facilities, we continue to encourage staff to conduct more critical reviews of the investigations. There was one attempted suicide and no in-custody deaths in the cell block areas.

³⁶ Commented on in more detail in C53.

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DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C56

The DPD shall require that all uses of force occurring in the DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

Comments:

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

During the previous 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.

During this reporting period, we commented on the video reviews, noting that five of the cases had opportunities for video recording and reviews. One incident occurred in an area that had no recording equipment. Of the five cases with some level of recording, we found that three had sufficient reviews of the available videos. One included a review of facility and hand-held videos, but lacked detail.³⁷ One noted that there was no download of the video available; the report noted that it is a recurring issue in that district.³⁸

Our review of the SIR investigations found that they suffered from the same deficiencies identified in the field SIR investigations.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

³⁷ Eastern District.

³⁸ Northeastern District.

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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.

In the ninth reporting period, we reviewed one detainee injury case that was an attempted suicide. The investigation was found to be thorough and complete.

During this reporting period, we also investigated a detainee injury case that was an attempted suicide. We noted several areas of concern. The subject threatened suicide at the scene of his arrest; however, the arresting officers did not report that threat to cell block personnel. In fact, during their interviews, one officer responded no when asked if the subject said or did anything that led personnel to believe that he might hurt himself. The second officer stated that he did not note anything unusual until they arrived at the cellblock, when the subject became loud and banged his head into the wall. While in an observation cell, an officer observed the subject wrap a shirt around his neck and pull it upward, in an attempt to choke himself. At that time, the cell block supervisor was notified; and the subject was asked to surrender his clothes, issued a paper gown, and placed on suicide watch.

Arrangements were not immediately made to have the subject transported to DRH, a violation of DPD 305.4. Holding Cells, 305.4-4.4 (2).³⁹ Shortly after being placed in the paper gown, the subject started beating his head against the wall and cell door, causing an abrasion to his head. EMS was requested to the scene, and the subject was transported via EMS to DRH.

The investigating supervisor and the District Command staff, along with Investigators from FI conducting the SIR reviews, addressed the issues regarding the handling of this case. The SIR package also contains the Corrective Action Plan submitted by the district in response to the areas of concern identified by FI. In combination, the district and FI addressed the relevant issues.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The issues that impact the quality of use of force investigations as described in the Use of Force section of the Consent Judgment are applicable to the use of force investigations of incidents occurring in 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

³⁹ "If a detainee exhibits suicidal tendencies, or indicates that he or she is currently being treated for or prescribed medication for any psychological condition (e.g., depression), the CBS shall make arrangements to have the detainee immediately conveyed to DRH for psychiatric evaluation. The CBS shall also ensure that the Detainee Medical Care Referral Form (DPD 660) is completed. The CBS shall sign the Medical Care Referral Form as authorization for conveyance and psychiatric evaluation and/or treatment."

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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.

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: three in November and one in December. All complaints were accepted and processed in accordance with DPD policy. All four cases involved allegations of force. OCI retained investigation of three of the complaints, and the fourth was transferred to Force Investigation. 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

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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.

OCI closed four complaints originating from detention facilities during the reporting period. One was transferred to Force Investigation, albeit 37 days after the complaint was filed. Only one case was completed within 90 days, and that case was improperly administratively closed. In one case, mentioned earlier in this report, the complainant alleged that officers planted drugs during the execution of a search warrant. This allegation was not investigated. 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:

- 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

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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

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
60	Clearly define all terms in policies	In Compliance	In Compliance
61	Policy changes available to community	In Compliance	In Compliance

XV. MANAGEMENT AND SUPERVISION

CJ Requirement C62

The DPD shall routinely evaluate the operation of the holding cells to minimize harm to staff and prisoners.

Comments:

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

During this reporting period, CRIB staff inspected all of the facilities with holding cells and the DRH each month and documented their findings on Form 715 Evaluation of the Operation of

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Holding Cells. All forms contained critical findings, and were complete with all required signatures.

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 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). As noted, DPD has addressed the concerns noted in the previous quarterly report as they relate to data expected but not found in MAS. DPD is also making progress on norming MAS data by arrests. Barring any additional problems, completion of that process will allow them to achieve full compliance with U78. Since the issue of norming the data by the number of arrests is not relevant to risk management issues in the holding cells, the above noted concern does not affect compliance with this requirement.

DPD is now in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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;⁴⁰*
- 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 two previous two 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 activate the handheld cameras. This equipment should be routinely checked to ensure its operability.

We reviewed five use of force cases within the holding facilities during the quarter. In one instance, the supervisor obtained the handheld camera and video-recorded the incident. In another, the resistance took place in the processing area and audio was recorded. There was corrective action taken in some of the cases that did not involve inappropriate uses of force but were concerned with delays in reporting and the canvassing of witnesses.

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. All of the logs indicated the DPD members on duty at the time of the video review. The Northeastern District did not provide any forms for review, as CRIB advised the district is experiencing many technical issues due to its exclusive installation of the new in-car video equipment. We will review the Northeastern District during the next reporting period to ensure that the logs are available.

⁴⁰ Amended by Court Order dated June 1, 2011.

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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.⁴¹*

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 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.

⁴¹ 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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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:

- 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*

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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.

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

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The most recent semi-annual audit was completed for July 31, 2011. The next audit is due on January 31, 2012, and will be reviewed in our next quarterly report.

During this reporting period, 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. The next audit is due on January 31, 2012 and will be reviewed in our next quarterly report.

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.

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

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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 semi-annual 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 for our next quarterly report.

DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C71

The Holding cell Compliance Committee shall conduct regularly scheduled semiannual audits of all building containing holding cells to evaluate the food service program, including:

- a. reviewing a statistically valid sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;*
- b. assuring that food is handled in a sanitary manner; and*
- c. issuing a written report regarding the findings of the audit.*

Comments:

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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 for our next quarterly report.

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.*⁴²

Comments:

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

The CRIB is mandated under this Consent Judgment paragraph to provide written reports for the Chief of Police and specified commanders. In previous reporting periods, we found that the various reports and field responses were unacceptable, in that these reports were specific to the district/precinct and did not receive sufficient attention. The CRIB conducted a review of the audit process, and subsequently changed the audit process to focus on individual commands. These command-specific audits were anticipated to result in clearer command accountability and increased awareness to issues that are identified through the audit process.

For the last reporting period, we received and reviewed the command-specific audits for the period ending July 31, 2011. The audits included are Medical and Mental Health Program and

⁴² Consent Judgment amendment, April 15, 2009.

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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. We also reviewed the Corrective Action Notices from the commands that were submitted prior to August 15, 2011. The next set of audits is due to be completed by January 31, 2012. Although we find the audits to be comprehensive and accurate, we cannot recommend that they be conducted on an annual basis due to the excessive number of repeat deficiencies that have been discovered.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
62	Evaluation of holding cell operation	In Compliance	In Compliance
63	Operate cells in compliance with risk plan	In Compliance	In Compliance
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 the first three quarterly reviews of 2011, our surveys

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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 (Sunday, October 16; Monday, November 21; and Friday, December 2, 2011) and found that 146 (99%) of the 148 officers who worked in detention duties on those three days in our random sample had completed the Detention Officer Course. We also found that all (100%) of the supervisors *specifically designated on the Daily Details as responsible for the cellblock* had received detention training. We note, however, that supervisory authority over the cellblock area in some precincts and districts is not clearly defined on the Daily Details. In 11 (20%) of the 54 Daily Details that we reviewed, no supervisor was clearly listed as assigned to supervise the cellblock. The DPD remains in compliance with C73 but, while the failure to denote the cellblock supervisor on the Daily Detail is not technically a violation of this requirement, it is an undesirable trend that needs to be corrected.

The Department is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C74

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

Comments:

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 verified the accuracy of the DPD Training records (see U108). DPD is able to produce an accurate and current list of officers and supervisors who received in-service training. We further verified the accuracy of detention training records by comparing the list of the 148 officers who served in detention duties on three randomly selected days (see C73 above) with the sign-in sheets on which their training attendance was recorded. We found 146 officers had received detention training and we were able to locate attendance records for 139 (95%) of those officers.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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. Throughout the first three quarters of 2011, we found that 100% of DPD officers serving in detention duties on three randomly selected days attended the required detention training. Our review during our most recent site visit found 99% compliance.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C76

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

- a. *prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;*
- b. *recording, updating and transferring prisoner health information and medications*
- c. *the prescription medication policy, including instructions on the storage, recording and administration of medications; and*
- d. *examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.*

Comments:

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 99% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

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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.*

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 99% 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

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during this reporting period showed that 99% 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

USE OF FORCE POLICY	
14	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010, and November 3, 2011); 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 November 3, 2011) 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 November 3, 2011); 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, and November 3, 2011).
19	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010, and November 3, 2011); 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. Also, Directive 304.5, Training, effective May 13, 2011.
24	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010, and November 3, 2011); 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, and November 3, 2011); 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.
INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW	
27	DPD Directive 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010, and November 3, 2011); 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, and November 3, 2011); 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, and

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	November 3, 2011); 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).
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, and November 3, 2011); 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, and November 3, 2011); 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.
ARREST AND DETENTION POLICIES AND PRACTICES	
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); 202.2, Search and Seizure, effective May 2, 2005; revised November 2010; 203.9, Custodial Questioning, effective November 20, 2010; and 404.1, Definitions, effective November 20, 2010.
45	See paragraph #42 above.
46	DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010.
47	See paragraph #46 above.
48	See paragraph #46 above.

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49	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010.
50	See paragraph #49 above.
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).
EXTERNAL COMPLAINTS	
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).
GENERAL POLICIES	
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

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	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).
73	On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units. ⁴³ 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).
MANAGEMENT AND SUPERVISION	
78	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010).
79	See paragraph #78 above.
80	See paragraph #78 above.
81	See paragraph #78 above. Also see the DPD Data Input Plan, approved by the Department of Justice, June 9, 2011.
82	See paragraph #81 above.
83	See paragraph #78 above.
84	See paragraph #78 above.
85	See paragraph #78 above.
86	See paragraph #81 above.
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.

⁴³Section 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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95	See paragraph #92 above.
96	See paragraph #92 above.
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. Also, Teletype #11-1468, Roll Call Informational Bulletin, Use of Department Issued In-Car Video Equipment and Body Microphones.
102	See paragraph #100 above.
103	DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 1, 2010) and the related DPD Discipline Matrix (DPD22a).
104	See paragraph #103 above.
105	See paragraph #103 above.
TRAINING	
106	DPD Directive 304.5, Training, effective May 13, 2011.
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

FIRE SAFETY POLICIES	
14	DPD Comprehensive Emergency Preparedness Plan (CEPP), which includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was approved by DOJ on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on 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.
EMERGENCY PREPAREDNESS POLICIES	
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.
MEDICAL AND MENTAL HEALTH CARE POLICIES	
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 paragraph #26 above.

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PRISONER SAFETY POLICIES	
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 (revised November 3, 2011); 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).
ENVIRONMENTAL HEALTH AND SAFETY POLICIES	
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.
POLICIES CONCERNING PERSONS WITH DISABILITIES	
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).
FOOD SERVICE POLICIES	
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.
PERSONAL HYGIENE POLICIES	
51	See paragraph #49 above.
USE OF FORCE AND RESTRAINTS POLICIES	
52	DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1 2010) and 304.2, Use of Force, effective June 27, 2006 (revised November 1, 2010 and November 3, 2011).

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53	See paragraph #52 above.
54	See paragraph #52 above.
INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW	
55	DPD Directives 304.2, Use of Force, effective June 27, 2005 (revised November 1, 2010 and November 3, 2011) 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 and November 3, 2011).
57	See paragraph #55 above.
EXTERNAL COMPLAINTS	
58	See paragraph #55 above. Also see DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010).
59	See paragraph #58 above.
GENERAL POLICIES	
60	DPD Directive 404.1, Definitions, effective November 2010.
61	DPD Directive 101.1, Written Directive System, effective November 2010.
MANAGEMENT AND SUPERVISION	
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.
TRAINING	
73	Directive 304.5, Training, effective May 13, 2011.
74	See paragraph #73 above.

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75	See paragraph #73 above.
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.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
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 U16-17 and U19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U37-41, Review of Critical Firearm Discharges and In-Custody Deaths.

Division Chief (Ret.) Rachel M. Burgess

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; and U67-69, External Complaint Investigations; C14-22, Fire Safety Policies; C23-25, Emergency Preparedness Policies; C60-61, General Policies; and C65-72, Management and Supervision.

Commander (Ret.) John M. Girvin

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; U67-69, External Complaint Investigations; and C58-59, External Complaints.

Chief (Ret.) Eduardo Gonzalez

Evaluates compliance with U14-19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U70-72 and U74-77, General Policies.

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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; and C51, Personal Hygiene Policies.

Chief (Ret.) Billy R. Riggs

Evaluates compliance with U42-43, Arrest Policies; U44-45, Investigatory Stop Policies; U46-48, Witness Identification and Questioning Policies; U49-51, Prompt Judicial Review Policies; U52-53, Hold Policies; U54-55, Restriction Policies; U56-57, Material Witness Policies; U58, Documentation of Custodial Detention; U59-60, Command Notification; C26-34, Medical and Mental Health Care Policies; and C64, Management and Supervision Policies.

Asst. Director (Ret.) Joseph R. Wolfinger














Evaluates compliance with U20-21 and U23, Use of Firearms Policy; 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 raise in the Consent Judgments.

Dashboard Data: Detroit Police Department 2011													
	Jan	Feb	March	April	May	June	July	August	Sept	October	November	December	2011
Total Arrests	2099	1943	2456	2523	2959	2470	2673	3196	2725	2940	2553	2403	
Number of Events per 1000 Arrests													
Uses of Force	43.83	29.34	46.01	40.82	37.51	45.34	34.42	35.98	26.06	11.49	16.30	18.24	
Firearms Discharge	0.48	1.03	1.22	0.79	0.68	1.21	0.75	0.94	0.73	0.59	0.37	0.22	
Citizen Complaints	64.79	49.41	50.49	56.28	47.65	59.92	42.27	40.68	34.86	6.78	23.52	24.02	
Traffic Crashes	5.24	5.15	4.89	3.17	5.41	3.64	5.99	3.75	3.30	1.03	2.41	3.11	
Civil Litigation	7.15	3.60	7.33	8.32	5.75	2.43	0.00	0.00	0.00	0.00	2.04	2.67	
Vehicle Chases	6.19	4.63	5.29	3.57	8.11	6.07	6.73	12.20	12.48	0.88	2.04	4.89	
Disciplinary Action Closed Date	52.41	47.35	20.77	39.64	25.35	43.32	5.99	3.13	5.50	6.63	3.33	9.56	
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	1.33	3.70	3.56	
Resisting or Obstructing Arrests	15.72	8.23	18.32	15.46	16.90	16.60	9.35	15.64	10.28	5.16	3.70	7.56	
Disorderly Conduct Arrests	8.10	1.54	4.48	3.17	5.07	6.07	5.99	2.19	3.30	0.59	2.22	0.89	
Interfering Arrests	2.38	1.54	2.85	5.15	3.04	1.62	3.37	3.75	1.47	0.15	0.37	0.22	
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	7.22	10.00	12.23	

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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	
	Number of Events per 1000 Arrests												
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	