

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.

\_\_\_\_\_ /

FIFTEENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR FOR THE  
DETROIT POLICE DEPARTMENT ISSUED JULY 10, 2013

**Independent Monitor  
for the  
Detroit Police Department**



**Robert S. Warshaw**

**Independent Monitor**

Office of the Independent Monitor  
Police Performance Solutions, LLC

July 10, 2013



**FIFTEENTH QUARTERLY REPORT**

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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 our 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 of January 1, through March 31, 2013.

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

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

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

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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 the fifteenth quarterly report of the Independent Monitor in the case of United States of America v. City of Detroit No. 03-72258. The report covers the period of January 1, through March 31, 2013; and is based on our site visit of April 8, through April 12, 2013; and our subsequent analyses of relevant data from this period. Consistent with the practice we established in our first review, we continue to assess all requirements of both active Judgments for compliance. Our report has generally assessed 110 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. In this executive summary, I will review the levels of compliance found for the reporting period.

As a result of an agreement with the Parties, during this reporting period, we limited our assessments to include: all requirements in both Consent Judgments that are not in compliance; as well as particular requirements that were selected by the Parties (specifically, 25% of the compliant requirements) and the Monitor (specifically, 50% of the remaining compliant requirements). This resulted in 40 requirements – 37 from the Use of Force Consent Judgment, and three from the Conditions of Confinement Consent Judgment – that we did not assess during this reporting period; we are considering these requirements to be in *sustained* compliance.<sup>1</sup>

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

As noted above, the Department is again in Phase 1 compliance with all 110 (100%) of the Use of Force requirements. For the current reporting period, we also found the Department in Phase

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<sup>1</sup> The requirements that we did not assess include: U14; U19; U20; U21; U23; U26; U31; U41; U44; U54; U55; U56; U57; U58; U61; U62; U63; U64; U65; U66; U70; U71; U72; U74; U75; U76; U77; U81; U85; U86; U87;

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1 and Phase 2 compliance (full compliance) with 98 (89%) of the 110 Use of Force requirements. This is three percentage points above the level found in our last report. During this reporting period, one Use of Force requirement (U18, regarding the use of force policy) is again deferred.

The Department is again in Phase 1 compliance with all 65 (100%) of the Conditions of Confinement requirements. This level has been maintained since the fourth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 61 (94%) of the 65 requirements. This is the one percentage point *lower* than the level noted in the last reporting period. The current figures are presented in the table below.

Fifteenth Quarterly Report Summary							
	Use of Force			Cond of Conf		Total	
	Phase 1	Phase 2		Phase 1	Phase 2	Phase 1	Phase 2
<b>Paragraph Numbers</b>	14-123			14-78			
<b>Number of Requirements</b>	110	110		65	65	175	175
<b>Pending Compliance</b>	0	0		0	0	0	0
<b>Not in Compliance</b>	0	11		0	4	0	15
<b>Deferred</b>	0	1		0	0	0	1
<b>In Compliance</b>	110	98		65	61	175	159
<b>Percent in Compliance</b>	100%	89%		100%	94%	100%	91%

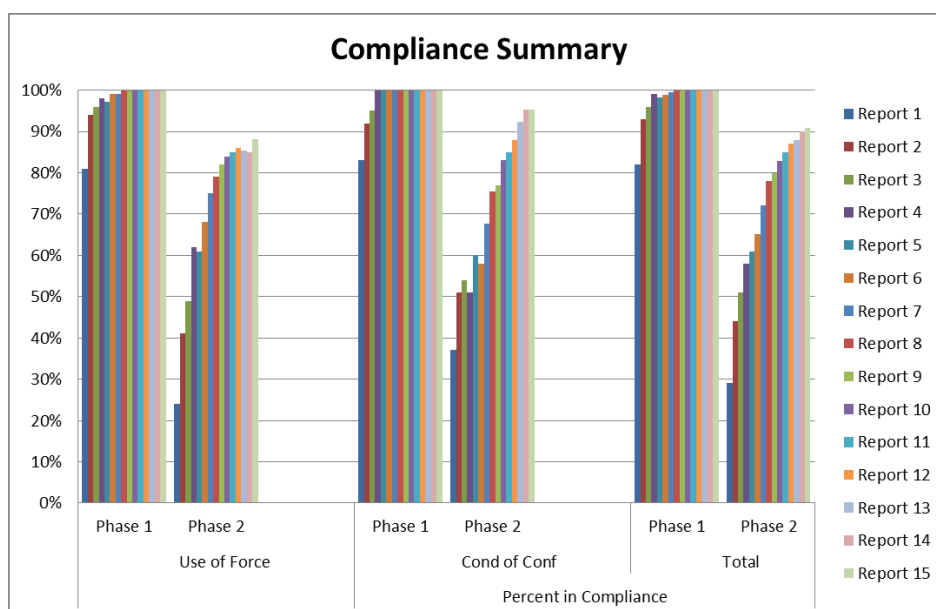
In summary, this is the seventh consecutive report in which we have found DPD in Phase 1 compliance with all (100%) of the 175 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 159 (91%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments. One additional compliance determination is deferred. That said, we have noted some serious concerns.

The chart below illustrates the levels of compliance achieved on both Judgments and across all 15 reporting periods.

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

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

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With achievement of its current compliance level, the Department has passed a new threshold.. Chief Chester Logan, whose distinguished career will have concluded upon the release of this report should be credited for the Department's efforts. We are pleased to congratulate him on that accomplishment and to recognize his great service to the Department and the City of Detroit.

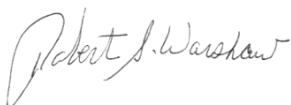
While we acknowledge the long road that brought us to this point – we must also articulate our concern with the fragility of the achievement and the ease with which it can slip away. The devil, of course, is in the details – and the details make clear the fragile nature of compliance with some of the requirements and the need to stabilize and institutionalize the reforms.

In fact, one requirement, C64, addressing the integrity of video documentation, fell out of compliance in this reporting period. Other requirements achieved compliance for the first time by succeeding at the minimal compliance level. For example, U34, which concerns documenting prisoner injuries, moved from being far from compliance in the last report to barely meeting the required standard. Others also brought warnings in our report that they could easily fall out of compliance. Requirements U25 and U28, which address decontamination following use of chemical spray and photographing suspect injuries, both fall into that category. Likewise, we express concerns about the adequacy of justifications reported in stop and frisk cases as required in U45. As appropriate police practice and constitutional issues are the mandate, the Department within its internal culture should at all times strive for 100% compliance, whether it is a requirement of the Judgments or not.

The constellation of requirements around documentation and investigations – particularly in the Use of Force Decree – remain a concern. The significance of these cannot be overstated. They are central not only to the daily practice in the Department, but if not noted by the Monitoring Team or the agency's own auditing process, they will serve as warnings or early indicators of more serious problems – of the type that led to the Judgment in the first place. It is obvious to all that all of the requirements do not address the same level of threat to constitutional policing. It should be equally obvious that the most difficult to bring into compliance and those for which compliance remains most fragile are also those for which failure would be most costly.

Finally, we also recognize that with each step forward, the path becomes steeper. The most difficult challenges remain. Those deal with critical issues relating to investigations, internal review processes, and the challenges posed by new technology. These now await the attention of a newly appointed Chief of Police.

Such challenges are not new to the new Chief, who must also address the problem of serious crime across the City. But the goals of reducing crime and assuring constitutional policing can only complement one another. We expect the new Chief to embrace this reality immediately as nothing short of that will be acceptable.



Chief (Ret.) Robert S. Warshaw, Monitor

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

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

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

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

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

The DPD selected the PR-24 collapsible baton as its impact device, and provided training on its use to 1,573 members (68%) through the third quarter of the fiscal year. In the use of force reports we reviewed during this reporting period, there were no PR-24-related incidents where a subject was struck in the head. We reviewed instances of chemical spray deployments during this reporting period, and found that there were five cases in which chemical spray was utilized. A warning was articulated or danger documented prior to its use in four of those cases.

There were 266 use of force report numbers issued during the first quarter of 2013, an increase of 3% over the 258 issued during the last quarter.

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During this reporting period, DPD continued its practice of issuing Roll Call Information Bulletins that are designed to improve member compliance with DPD policy reflecting the Consent Judgment requirements. Below are some examples of some of the pertinent bulletins relating to both Judgments; these were issued between January 4, and March 28, 2013.

Date	Teletype No.	Subject
1/04/13	13-1	Recording Guidelines for the Wireless Microphone
1/15/13	13-2	Holding Cell Documentation: New Features in the Deskblotter to Document: 1) Meal Service for the Detainees; 2) The Cleaning of Holding Cell Areas
1/18/13	13-3	Proper Use of Force Reporting
1/25/13	13-4	Required Documentation and Notification Procedures for Material Witnesses
2/08/13	13-6	Prohibited Harassment or Discrimination Activity by Members
2/14/13	13-7	Traffic Stop Notifications to Communications Operations Zone Dispatchers
2/22/13	13-8	Documentation of Arrests in CRISNET Reports
3/01/13	13-9	Instructions for Conducting In-Car Video Reviews for the Time Period of March 2, 2013 through March 23, 2013
3/26/13	13-12	Smoking Prohibitions
3/28/13	13-13	Proper Use of Force Reporting

**A. General Use of Force Policy**

***CJ Requirement U14***

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

**Compliance Status:**

Phase 1: In Compliance

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

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**CJ Requirement U15**

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

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

**Comments:**

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

Our previous reviews of use of force reports found that they lacked sufficient documentation or specificity with regards to de-escalation and details of actual disengagement to make a definitive determination regarding Phase 2 compliance.<sup>2</sup> In the last reporting period, we found that 85% of the Command Level Investigations we reviewed contained sufficient explanations of officers' efforts to de-escalate or implement some of the disengagement responses suggested in U15c.

*Command Level Investigations:* During this reporting period, we reviewed 74 Command Level Investigations, which described the conduct of individuals against whom force was used and the corresponding response from the involved officers.<sup>3</sup> In evaluating de-escalation techniques utilized by the officers, we eliminated 19 incidents in which there were no opportunity to attempt de-escalation.<sup>4</sup> We evaluated 55 cases; in 46 (84%) of them, we found evidence of some efforts at de-escalation, a 1% reduction from the last reporting period. 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. De-escalation efforts for the purposes of this requirement are those attempted prior to the force being used. Increased video/audio recordings of encounters with the citizens would prove beneficial in documenting compliance with this requirement.

While de-escalation efforts are encouraged during and after struggles with subjects, it is important for DPD members to recognize that de-escalation as applicable to this requirement are those efforts made before any force is utilized on the subject.

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<sup>2</sup> Twelfth Report of the Independent Monitor, issued September 15, 2012.

<sup>3</sup> We randomly selected 87 cases for review. Of these, 13 had no SIR investigations, leaving 74 cases for review. Of the 13 cases eliminated, 10 were assumed by Force Investigations; two were canine deployments with no contact; and one was an acquired target, which does not require a SIR investigation.

<sup>4</sup> Nineteen were eliminated: three in December; eight in January; and eight in February. Cases that were eliminated included, but were not limited to, the subject fleeing as soon as he sees officers; subjects engaged in assaults as officers arrived; subject striking officers without warning; detainee injury; canine apprehensions with no contact, and attempted suicides.

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

*Force Investigations:* During this reporting period, we reviewed 14 use of force investigations. We found one case where an officer escalated force by administering a chokehold to a female subject in custody. The officer is facing disciplinary action for this conduct. We did not identify any other cases where officers inappropriately escalated force by using head strikes, discharging their firearm at a subject, and discharging their firearm at a moving vehicle. See U17.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U16***

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

**Comments:**

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

*Use of Force Reports:* To assess compliance for this reporting period, we reviewed 175 uses of force reports, of which 168 were applicable to this paragraph. We found that 165 (98%) of the 168 included verbal commands and an opportunity to submit to arrest prior to the use of force; or provided a reason why the verbal command was not given.<sup>5</sup>

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

*Force Investigations:* During this reporting period, we reviewed 14 force investigations and found that officers appropriately used verbal commands and provided an opportunity for subjects to submit to arrest prior to the use of force in seven cases. Of the remaining seven cases, six incidents involved critical firearm discharges in which exigent circumstances existed to immediately elevate to the use of lethal force; the last case involved a vehicle pursuit that ended in a crash, and the opportunity to give verbal commands did not exist.

In one of the above cases, the officer's use of a chokehold on a person in custody was found excessive; the officer is currently facing disciplinary action.

The requirements of this CJ paragraph were not applicable in seven cases. One of these cases involved a vehicle pursuit ending in a crash; the other six involved firearm discharges where exigent circumstances existed and in which opportunities to give verbal commands were not present.

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<sup>5</sup> The base was reduced from 175 to 168 due to six detainee injuries and one canine deployment, no contact.

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DPD officers in the seven applicable cases where verbal commands were given and subjects were given the opportunity to submit to arrest are in compliance with the requirements of this paragraph. This represents a 100% compliance rate. DPD is in Phase 2 compliance with the Force Investigations portion of this paragraph.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U17***

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

**Comments:**

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

*Use of Force Reports:* To assess compliance with this requirement for this reporting period, we reviewed 175 uses of force reports and 74 Supervisory Investigation Reports (SIRs).<sup>6</sup> There were three cases in which subjects claimed that they were choked. In one instance, FI assumed the case; in another, the investigating supervisor resolved the allegation. FI was notified in that case, as well, and allowed the Command to handle. There was one allegation that was not resolved by the investigation or referred to FI.

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

*Force Investigations:* Our review of 14 force investigations for this reporting period identified one incident wherein a DPD officer used a chokehold to restrain a subject; we found that this incident did not comport with DPD policy. The involved officer used a chokehold to restrain a female subject who was not totally cooperative during processing after an arrest and posed no imminent threat to life.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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<sup>6</sup> The terms Command Level Investigations and Supervisory Investigation Reports (SIRs) are used interchangeably throughout the quarterly report.

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***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, DPD remains in deferred Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Deferred

***CJ Requirement U19***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U20***

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

**Compliance Status:**

Phase 1: In Compliance

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

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***CJ Requirement U21***

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

**Compliance Status:**

Phase 1: In Compliance

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

**B. Use of Firearms Policy**

***CJ Requirement U22***

*The firearm policy shall prohibit shooting at or from a moving vehicle except in exceptional circumstances. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle.<sup>7</sup>*

**Comments:**

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

*Use of Force Reports:* During this reporting period, we reviewed 175 uses of force reports and 74 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:* During this reporting period, we reviewed 14 FI investigations, and found no incidents involving an officer firing at a moving vehicle. DPD is in Phase 2 compliance for Force Investigations in this requirement.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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<sup>7</sup> Amended by Court Order dated June 1, 2011; approved by the BOPC, November 3, 2011.

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**A. Use of Firearms Policy**

***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.*

**Compliance Status:**

Phase 1: In Compliance

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

**B. Intermediate Force Device Policy**

***CJ Requirement U24***

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

**Comments:**

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

*Use of Force Reports:* During this reporting period, we reviewed 200 uses of force reports, and found no strikes to the head with the designated intermediate force device (PR-24). DPD provided training on its use to 1,573 members (68%) during the third quarter of the fiscal year. DPD remains in Phase 2 compliance with this paragraph for use of force reports.

*Force Investigations:* During this reporting period, we reviewed 14 cases completed by FI; there were no cases where an intermediate force device (PR-24) was used.

DPD remains in Phase 2 compliance with this paragraph for Force Investigations.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance



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**C. Chemical Spray Policy*****CJ Requirement U25***

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

- a. provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;*
- b. provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject;*
- c. obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis or heart ailment) 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 175 uses of force reports and 74 Command Level Investigations. We found five deployments of chemical spray, with warnings or danger articulated in four (80%) of the cases.<sup>8</sup> This is a decrease from the 100% registered during the last reporting period. During our evaluation of decontamination requirements, we found that four cases (80%) provided details of decontamination within 20 minutes of spraying or capture. This is a decrease from the 100% registered during the last reporting period. If DPD fails to achieve  $\geq 94\%$  Phase 2 compliance during the next reporting period, we will consider the Department to be out of Phase 2 compliance with this paragraph.

There were no complaints of ill effects from the spraying noted in the five cases.

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

DPD is in Phase 2 compliance for Command Level Investigations.

*Force Investigations:* During this reporting period, we reviewed 14 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 use of force investigations.

DPD is in Phase 2 compliance with this paragraph.

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<sup>8</sup> All of the cases occurred in January 2013.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U26***

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

**Compliance Status:**

Phase 1: In Compliance

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

***Critical Issues:***

- The issue of how best to determine DPD's efforts at deescalating and disengaging with respect to use of force situations remains a perplexing issue, and one that affects DPD's compliance with several of the requirements. As we have noted above, an improved reliance on body microphones and a strict requirement that officers utilize them when engaging Detroit citizens could prove beneficial to better documenting the de-escalation techniques. While DPD previously advised that the issues experienced with the Data 911 Video System have been resolved and the system operational again, we find officers continuing to experience difficulties with their microphones. We strongly recommend that DPD conduct an Investigation and Report regarding the microphones in an effort to determine if, in fact, they will ever be made to work properly. If following that review the determination is made that the issues are related to user errors, DPD must implement procedures to address the user errors effectively.

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

***Next Steps:***

During the next reporting period, we will:

- Continue to monitor the numbers of use of force reports generated during the next reporting period, and continue to discuss with DPD the issue of documenting the de-escalation of use of force situations in an effort to identify a sound methodology for measuring the effort. We will monitor any increase in the reliance on audio recordings to enhance the documentation provided by the officers. We will also meet with CRIB personnel to further discuss issues associated with use of force compliance.

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

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

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

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

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

##### **Comments:**

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

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

*Command Level Investigations:* To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 175 uses of force reports

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resulting in 74 SIRs.<sup>9</sup> There were no instances where a SIR was closed simply because a subject or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury. We also found sufficient justification for officers' conduct in all 74 (100%) of the SIRs.

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

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

During this reporting period, we reviewed 14 FI cases, and found all in compliance with the requirements. DPD is in Phase 2 compliance with the FI cases portion of this paragraph.

*Office of the Chief Investigator:* During our previous reviews of completed cases, we noted that while the case files generally contained sufficient facts to support a determination that justified or did not justify an officer's actions, there were several inconsistencies between investigators, and some cases lacked the necessary information to reach a proper determination. 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 257 cases that were closed in January, February, and March 2013. (This represents a 16% decrease in closed cases over the previous reporting period.) Generally, the investigations established sufficient facts to support determinations that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.<sup>10</sup>

We note a significant decrease in the number of cases that appear to have been closed prematurely, identifying only one such case during this reporting period. In this case – a demeanor complaint during an Emergency Medical Services (EMS) call – the involved officers refused to provide statements because their attorney failed to show for their interviews. This appropriately led to sustained findings for failing to cooperate with the investigation, but the interviews were never obtained. During our last two site visits, we advised OCI staff that they must exhaust all efforts to secure interviews from uncooperative employees, including enlisting the assistance of the Police Department's chain of command if necessary.

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<sup>9</sup> Many of the command-level investigations contained multiple uses of force forms. Canine deployments with no contact, acquired target cases, and cases assumed by FI were removed from the numbers reported as SIRs.

<sup>10</sup> If an allegation appropriately received a finding of unfounded or not sustained, justification for the conduct was not assessed since, by definition, its occurrence was either refuted or not substantiated.

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While complainants failed to cooperate in 21% of the cases, their lack of cooperation was not a factor in the closing of these cases. Invariably, the narrative contained in the Citizen Complaint Report (CCR) served as the complainant's statement in these instances.

With a 99% 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 26 cases that were closed by IAD in January, February, and March 2013. We assessed the investigations for consistency with the procedures contained in applicable DPD directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation.

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U28***

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

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

**Comments:**

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

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

- There was one case in which the investigating supervisor authorized, witnessed, or participated in the incident. This resulted in a 99% compliance rate. In 86 (100%) of the cases, the names of all of the officers involved or on the scene during the incident were included. In 86 (100%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses, or explained why a canvass was not conducted.

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- Thorough and complete interviews were conducted in 77 (90%) of the cases. As previously noted, we continue to encourage supervisors to focus on areas like who, what, where, when, why, and how questioning used by journalists and other investigative writers for basic information-gathering. The increase in compliance from 84% during the last reporting period, to 90% this reporting period, is encouraging. Continued critical reviews at the command level can improve compliance with this requirement.
- In 71 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 67 (94%) of the cases. Sixty-eight of the cases could have included documentation of medical care and 67 (98%) did. Not all of the administered medical care was related to police actions. Twelve of the cases involved care ranging from psychiatric evaluations to a need for medications.

During this reporting period, we determined the following:

- There were no cases in which the investigating supervisor authorized, witnessed, or participated in the incident. This resulted in a 100% compliance rate. In 72 (97%) of the cases, the names of all of the officers involved or on the scene during the incident were included. In 73 (99%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses, or explained why a canvass was not conducted.
- Thorough and complete interviews were conducted in 66 (89%) of the cases. Investigating supervisors must illicit pertinent details from members while conducting their interviews and ask follow-up questions that can clarify information being provided. Continued critical reviews at the command level can help to improve compliance with this requirement.
- Material inconsistencies were addressed in 17 of 24 applicable cases (71%).<sup>11</sup>
- In 55 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 58 (95%) of the cases. Fifty-seven of the cases could have included documentation of medical care and 56 (98%) did. Not all of the administered medical care was related to police actions. Thirteen of the cases involved care ranging from psychiatric evaluations to a need for medications.

We caution DPD that if it fails to achieve  $\geq 94\%$  Phase 2 compliance during the next reporting period, we will consider the Department to be out of Phase 2 compliance with this paragraph.

We continue to emphasize the need for the critical review of completed investigations, especially at the first reviewing supervisory level. While inspectors and commanders continue to be involved in the reviews, it is important that they ensure that levels below them are also complying with their responsibilities.

The Command Level Investigations are in Phase 2 compliance with these requirements.

*Force Investigations:* Our previous reviews of force investigations found appropriate documentation of the name and badge number of all officers involved in or on the scene of the

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<sup>11</sup> In 50 of the 74 SIRs reviewed there were no inconsistencies identified.



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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 14 force investigations.<sup>12</sup> The case files included complete documentation of the name and badge number of all officers involved in or on the scene of the various incidents, canvasses for civilian witnesses in all applicable cases, and any medical care that was provided.

The investigations contained witness interviews, both written and recorded. We noted continued improvement by FI in addressing material conflicts in investigations. Investigators used recorded statements and video evidence to address material inconsistencies and identify when officers or citizens were untruthful during an investigation. Photographs were taken as required.

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

*Office of the Chief Investigator:* During this reporting period, we reviewed 100 randomly sampled OCI investigations. All were investigated by investigators who did not authorize, witness, or participate in the incidents being investigated. In 14 cases, involved officers were not identified by both name and badge number. Four cases were transferred to either Internal Affairs or Force Investigations based on the allegations and before steps were taken to identify the officers involved. In the remaining cases, OCI took diligent steps to identify involved personnel. If they were not identified, they were listed as “unknown.”

In the cases retained for investigation by OCI, investigators attempted to contact potential witnesses when appropriate. In many cases, witnesses refused to cooperate, but investigators documented their steps to try to obtain statements.

In all of the cases alleging excessive force that were retained by OCI (one case was transferred to Force Investigations), 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 eight cases, it was appropriate to reference medical care; and in all of these cases, the documentation was included in the investigative packages.

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

*Internal Affairs Division Investigations:* We reviewed all 26 cases that were completed by IAD during this reporting period. The investigations consistently included the names and badge numbers of all officers who were involved in or on the scene during an incident. In four of the cases, the complainant could not identify the officer(s) that were the subject of their complaints. IAD expended particular efforts in identifying officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near the location. IAD has the capacity to access recordings from in-car video storage from the division’s desktop computers. If any related evidence has been recorded, it can be requested

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<sup>12</sup> These investigations included six critical firearm discharge events and one vehicle pursuit.

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from the Technical Services Unit within a 90-day period. In an effort to resolve the allegations, in-car video was requested in five of the cases where video should have been recorded. Three recordings were available to be used in the investigations; however, there were no audio recordings associated with the videos. We also found in the cases that we reviewed that witnesses were interviewed, and that the investigators made an effort to resolve inconsistencies between witness statements.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U29***

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

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

**Comments:**

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

*Command Level Investigations:* During the previous reporting period, we determined that in 82 (95%) of the 86 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident. This percentage is an improvement over the 84% noted in our last report. The interviews of complainants and witnesses were conducted at sites and times convenient for them in 86 (100%) of the 86 cases we reviewed. DPD has improved in its performance for this requirement and has returned to Phase 2 Compliance status for Command Level Investigations.

During this reporting period, we determined that in 64 (86%) of the 74 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident. This percentage is a decrease from the 95% noted in our last report. The interviews of complainants and witnesses were conducted at sites and times convenient for them in 73 (99%) of the 74 cases we reviewed.



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If DPD fails to achieve  $\geq 94\%$  Phase 2 compliance during the next reporting period, we will consider the Department to be not in Phase 2 compliance with this paragraph.

DPD is in Phase 2 compliance for Command Level Investigations.

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

To assess compliance with these requirements for this reporting period, we reviewed 14 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, statements from involved officers or witness officers under the provisions of Garrity were sometimes unnecessarily delayed.

We found that Garrity interviews of involved officers in all of the cases ranged from five to 55 days from the date of the incident. In addition, we noted Garrity interviews of witness officers ranged from 17 to 138 days from the date of the incident. We have discussed with FI our concern regarding interview delays for a host of reasons – not the least of which is credibility. We found in this case that the delays of the witness officers were unnecessary. 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.

As reported, the delays discussed above often result from the desire to await a declination decision from the District Attorney. Accordingly, we examined 14 cases closed by FI during this reporting period, and found five where a prosecutorial decision from the Wayne County District Attorney's Office was sought with the following results:

- Four cases involved critical firearm discharge events and one case involved an in-custody death.
- In all five cases, FI conducted Garrity interviews prior to the prosecutorial decision by the District Attorney.

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- Two of the five cases include requests for a prosecutorial decision that is still pending receipt.
- One of the five cases included Garrity interviews that were not completed within 30 days after the prosecutorial decision was rendered or completion of the criminal prosecution – they were completed nearly five months after the event and nearly two months after the prosecutorial decision – as required by paragraph U38.

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

DPD is not in Phase 2 compliance with this portion of this paragraph, with a compliance rate of 93%.

*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 eight of the cases we reviewed, employee interviews were untimely. This represents a 27% reduction in cases with untimely interviews when compared to the last reporting period, and continues OCI's positive trend of addressing this concern.

Complainants were identified as uncooperative in 21 of the investigations we reviewed. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. When interviews were conducted, they were administered and recorded in accordance with requirements.

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.

During this reporting period, timely interviews were appropriately conducted in all of the 26 cases that we reviewed.

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

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

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**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 previous reporting period, we found that in 82 (96%) of 85 cases, the question-and-answer format, without the use of leading questions, was used to document officer interviews in the SIR. There was one case in which some of the officer interviews were conducted via email written questions, contrary to appropriate law enforcement techniques.

During this reporting period, we found that in 73 (99%) of 74 cases, the question-and-answer format, without the use of leading questions, was used to document officer interviews in the SIR.

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

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

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

To assist with our assessment of compliance for this reporting period, we listened to nine randomly selected recorded interviews of police officers. We noted that, although the interviews were not primarily based on leading questions, the use of leading questions has not been entirely eliminated and still on occasion surface. We noted, during an interview regarding one critical firearm discharge event, the investigator on two occasions provided leading questions to assist the subject officer in articulating why he made the decision to use lethal force. The FI

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investigator's duty is not to assist the subject officer in justifying force actions taken during an incident. We have a continuing concern with the tendency of some interviewing officers to preface questions with "Do you remember...do you recall" or similar phrases, which tend to prompt "I do not remember...I do not recall" responses. While recognizing that interviewing skills must be acquired through training and experience and also that the DPD has attempted to address these issues, the overall quality of the interviews remains marginally acceptable.

Additionally, we compared the officers' spoken words with the documented summaries of the interviews prepared by FI investigators that are included in their investigative reports. We are mindful that in use of force incidents generated by DPD policy, and not routinely initiated by a citizen complaint, require prompt reporting and preparation of Crisnet reports by all involved officers contemporaneous to the event. The review of officers' Crisnet reports prior to their Garrity interviews provides a good snapshot to FI investigators of what occurred at the time of the event. During our review of the nine recorded interviews, we noted that the investigators' summaries are generally consistent with the recordings. In one case, we noted a conflict with how many gunshots a witness officer heard on his recording and what was documented by the investigator in the FI report. We caution FI to continue to be diligent in reviewing these important investigations to ensure significant facts involving the use of force are documented accurately.

During our review of the aforementioned nine recorded interviews, we noted the following: investigators often do not prepare adequately for their interviews; key dates – and at times, facts – were in conflict or confusing; and more probing questions should have been asked relating to how the officers' actions interfaced with DPD policy, specifically involving vehicular pursuits, the intentional pointing of firearms while acquiring a target, and critical firearm discharges. These interviews are the most significant interviews police personnel can face, and must be approached seriously by the Department. We noted in one interview that we could hear loud laughter occurring outside of the interview area. These types of events can reduce the significance of Garrity or compelled interviews in the eyes of personnel. Accordingly, we continue to encourage the DPD to seek *comprehensive* interview training, and also to carefully supervise and critique all interviews in order to avoid a future non-compliant finding.

DPD is not in Phase 2 compliance with the FI portion of this paragraph with an 89% compliance rate; however, the DPD will remain in compliance with the requirement unless the Department is found out of compliance with this section for a second consecutive quarterly assessment.

*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 71 interviews (53 employees, 18 citizens) associated with 26 cases. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions.

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

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In the past, we have noted a wide disparity in the interviewing skills of OCI's investigators, and have recommended that supervising investigators either observe the interviews conducted by OCI's investigators or listen to the recordings, in order to identify training needs and provide appropriate, individualized corrective measures. The supervising investigators provided documentation that they either observed, or reviewed recordings of, interviews in 54 cases during the reporting period. This represents a 39% decrease when compared to the last reporting period. This is concerning, since monitoring interviews is the only way that the supervising investigators can identify and address certain deficiencies that are not documented in any other fashion.

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

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U31***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U32***

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

- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;*
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;*
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense shall it justify discontinuing the investigation;*
- d. reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant*

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- 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 61 (82%) of the investigations, a decrease from the 86% registered during the last reporting period. Some of the issues that continue to adversely affect compliance in this area include: insufficient details in any of the interviews; interviews that appear almost verbatim from officer to officer; officers providing statements which are evasive and nebulous, and investigators not asking follow-up questions; investigators failing to address discrepancies between officer statements; and investigators failing to interview complainants/victims.<sup>13</sup> In 74 (100%) of the cases, an evaluation of the initial stop or seizure was conducted. In 33 (63%) of the 52 cases evaluated, all of the relevant evidence – including circumstantial, direct, and physical evidence – was reviewed.<sup>14</sup> This is a decrease from the 70% we found during the last reporting period.
- We continue to assert that the review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations and consequently we continue to recommend, in the strongest of terms, that DPD initiate all of the corrective actions necessary to ensure that encounters are captured in both video and audio recordings. Given that most uses of force occur out of the line of sight for the video, the audio recordings take on greater importance. DPD must continue to work on improving the audio capability of its system – and make every effort to determine if the

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<sup>13</sup> This is not an all-inclusive list.

<sup>14</sup> Twenty-two of the cases reflected either no equipment installed or officers assigned to walking beats, leaving 52 cases to evaluate.



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failures to capture audio recordings at the scenes are system issues or user errors, and then institute the appropriate corrective measures. Commands must make every effort possible to review available video/audio recordings prior to the submission of the SIR. The failure to have these reviews conducted prior to the submission of the final report is an unacceptable practice. Seventy-three (99%) 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 over the percentage registered during the last reporting period. Seventy-four (100%) of the investigations contained an evaluation of whether or not an officer complied with DPD policy. Sixty-six (100%) of the 66 cases that we reviewed contained an evaluation of the use of force.<sup>15</sup> Officers' tactics were evaluated in 74 (100%) of the 74 cases reviewed. There was one case identified in which the force used was found to be excessive. Seventy-four (100%) of the 74 cases were evaluated on a preponderance of the evidence standard.

- Sixty-five of the cases (88%) had no extension request; of the remaining nine cases, seven (78%) contained documentation for the delays. Of the two cases that were not documented properly, one had no formal request in the file, and the second was submitted after a due date had passed. 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 48 SIRs in which corrective action might have been taken; corrective action was documented in 43 (90%) of the investigations. Inclusive in the corrective action were misconduct investigations, negative administrative counseling registers, re-instructs, re-training, written reprimands, 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 we noted cases wherein there was no evaluation of the initial stop and/or seizure; no reference to the presence or absence of circumstantial evidence; and a lack of reference to the conducting of credibility determinations.

To assess compliance for this reporting period, we examined 14 completed case files and noted the continued inclusion of a detailed account of the facts of the event.<sup>16</sup> Investigators evaluated the initial stop/contact in each case, but need to more thoroughly evaluate available direct, circumstantial, and physical evidence. For example, investigators need to review related police reports; medical documentation for injured subjects; and autopsy reports. Investigators miss opportunities to complete thorough and factual investigations when evidence is obtained and not properly analyzed. This also includes the lack of satisfactory ballistics examinations. Lastly,

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<sup>15</sup> Eight cases were eliminated, as they were detainee injuries or attempted suicides, with no use of force.

<sup>16</sup> These investigations included six critical firearm discharge events and one vehicle pursuit.

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command/supervisory personnel are reviewing a number of these investigations and are rendering findings based upon incomplete information.

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

The files documented some reasonable credibility determinations, but 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 noted during this assessment that extensions were properly requested and documented in four cases. We recognize the challenges inherent with effective case management, and recognize the continued efforts of DPD – particularly the FI staff – to address them.

DPD is 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. Eighty-four cases were received in 2012, with the remainder being received this year. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. We noted one case in which an additional allegation was raised during an interview, but not documented or addressed. In this complaint – which primarily involved force and demeanor allegations – the complainant also alleged that an officer confiscated his cell phone and sent text messages from the device.

We did not note any cases in which OCI did not consider the relevant evidence available in a case. We observed that investigators generally explore the availability of video evidence in cases where it is appropriate. In 46 cases, investigators inquired as to the availability of video. In 35, or 76%, of these cases, video evidence was not available. This is concerning, given the large monetary and resource investment that DPD has made in this technology. We continue to recommend that investigators inquire about video as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of video evidence before it can be acquired. In addition, there were two other cases in which video evidence might have been available, but OCI did not document any efforts to obtain it.

We found no evidence where a complainant's conviction or guilty plea had a bearing on the investigation. Credibility assessments were generally lacking for both officers and complainants/witnesses. However, in three cases, the investigators' assessments of credibility directly and appropriately contributed to the determination of findings. In one case, the investigator sustained demeanor allegations based on the statement of a witness determined to be



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unbiased even though she knew the complainant. In another, the investigator appropriately questioned the complainant's credibility, impacting the finding in a complaint stemming from a traffic stop. In the remaining case, it was clear from the complainant's allegations that she was suffering from a mental illness. Family members confirmed this.

In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.<sup>17</sup>

In six cases, OCI investigators appropriately discovered potential misconduct during the course of their investigations. In one case, mentioned earlier, officers failed to provide statements when their attorney did not show for their interviews. In another case, review of the available video revealed that an officer intentionally turned his microphone off in violation of policy. In still another case, an officer admitted in an interview to not wearing a nametag as required. In another case, it was discovered that officers made an inappropriate civilian transport and failed to document it on their log sheet.

In five cases, the preponderance of evidence standard was not used, a noticeable improvement over the last quarter. This is based on our determination that 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. As is our practice, each of these cases will be discussed in detail with OCI staff during our next site visit.

Eight of the cases we reviewed were not completed within the prescribed 90-day time period. Written requests for extension were not submitted in five of these cases. Per OCI policy, if cases are not completed within 90 days, investigators are obligated to submit extension requests justifying the need for additional time to complete the cases.

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

We reviewed several cases in which the canvasses were either deficient or performed so long after the alleged occurrence as to have no investigative value.

In summary, although appropriate directives are in place, our analysis of OCI investigations does not yet 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. The supervisor meets with the investigators every two weeks to discuss the case progress and grant extensions when necessary. During this review of 26 completed IAD investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence. There were five cases that exceeded the 90-day requirement. Four cases were delayed due to the

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<sup>17</sup>If an allegation appropriately received a finding of unfounded or not sustained, evaluation of policy compliance was not assessed since, by definition, its occurrence was either refuted or not substantiated.

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criminal court process and one case was delayed thirty days due to the inability to locate multiple witnesses. In those cases, extensions were requested and appropriately granted. Appropriate credibility determinations were made in all of the cases, and ultimately the determinations were made using the preponderance of evidence standard. In nine of the 26 investigations, additional DPD policy violations were identified and sustained.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U33***

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

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

**Comments:**

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

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

*Command Level Investigations:* Our assessment for this reporting period found that in 74 (100%) of the 74 SIRs reviewed there was a chain of command review above the investigator. DPD identified deficiencies in 72 (99%) of 73 cases, with 66 (90%) requiring corrections within seven days of submission.<sup>18</sup> In six of the cases, the reviewing supervisor 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 seven instances of DPD taking corrective action for investigations that were not conducted

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<sup>18</sup> One case was not applicable, as it had no errors and was not returned for corrections.

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properly; the corrective action included re-instruction, training, and the issuance of corrective memos. There was one instance where appropriate actions were taken for investigations that had not been evaluated appropriately by the reviewing supervisor. There were three instances in which written explanations were provided by a supervisor who disagreed with a finding by a subordinate, and in each instance, a written explanation for the departure was provided.

As we have previously mentioned, the review of SIRs by the command level remains the most critical step in the conduct of these investigations. With specific training and more critical command reviews of the investigations, DPD will be able to improve the quality of investigations conducted at the command level. It is incumbent on the Inspectors and Commanders to continue to ensure that deficiencies in the investigations are corrected, and to consult the appropriate units if any procedural or tactical issues are identified.

DPD is not in compliance with the Command Level Investigations portion of this paragraph.

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

To assess compliance for this reporting period, we reviewed 14 completed FI cases. Although we are sufficiently satisfied, based on our discussions with FI staff, that supervisory reviews and evaluations are occurring. We recommend that these reviews continue to be more thoroughly documented.

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

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

For the current reporting period, we reviewed a random sample of 100 closed investigations. During this reporting period, 69 cases were returned for deficiencies. Most of these were for spelling, grammar, and formatting. In eleven of the cases, deficiencies were either missed or not corrected within seven days. Four involved untimely transfer of cases to either Force Investigation or Internal Affairs. The remainder involved issues such as lack of investigative activity for long periods of time, improper findings, and failure to submit proper extension requests.

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 investigators' progress notes. All of the investigations were reviewed and approved by the chain of command above the investigators within the required timeframe.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

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

***CJ Requirement U34***

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

**Comments:**

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

During the previous reporting period, we reviewed 200 auditable forms, and found that 167 (84%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include 11 forms that were referred to FI/IAD, and five in which the officers acquired a target.

During this reporting period, we reviewed 175 auditable forms, and found that 165 (94%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include 23 forms that were referred to FI/IAD, and one in which the officers acquired a target.

The DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U35***

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

- a. officers to notify their supervisors following any use of force or prisoner injury;*
- b. that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the supervisor shall interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;*

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- c. the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury; and*
- d. IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation.<sup>19</sup>*

**Comments:**

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

During the previous reporting period, we reviewed 86 Command Level Investigations cases and found that in 85 (99%), a supervisor was notified following a use of force or a prisoner injury. There were 45 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury; and a supervisor responded to all of them. Supervisors responded to other uses of force on a priority basis in all (100%) of the remaining 41 cases. In combination, a supervisor responded to 86 (100%) of the 86 cases reviewed, maintaining the 100% registered in the last reporting period.

In 84 (98%) of the 86 cases, a supervisor interviewed the subject at the scene, at the district/precinct, or at DRH. Also, in 83 (96%) of the 86 cases, a supervisor examined the subject for injury and ensured that the subject received needed medical attention. Force Investigations (FI) was notified in 39 of the cases, and assumed responsibility for nine of them. There was one choking allegations which was resolved through an FI CAN transmitted to the Command.

During this reporting period, we reviewed 74 Command Level Investigations cases and found that in 73 (99%), a supervisor was notified following a use of force or a prisoner injury. There were 28 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury; and a supervisor responded to all of them. Supervisors responded to other uses of force on a priority basis in the remaining 45 cases. In combination, a supervisor responded to 73 (99%) of the 74 cases reviewed.

In 70 (94%) of the 86 cases, a supervisor interviewed the subject at the scene, at the district/precinct, or at DRH.<sup>20</sup> Also, in 72 (97%) of the 74 cases, a supervisor examined the subject for injury and ensured that the subject received needed medical attention.<sup>21</sup> Either Force Investigations (FI) or the Internal Affairs Division (IAD) was notified in 28 of the cases, and assumed responsibility for 10 of them. There were three allegations of choking. In one instance, FI assumed the case. In another, the investigating supervisor resolved the allegation; FI was

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<sup>19</sup> Amended by Court Order dated September 15, 2008.

<sup>20</sup> 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.

<sup>21</sup> 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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notified in that case, as well, and allowed the Command to handle the investigation. There was one allegation that was not resolved by the investigation or referred to FI.

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

*Force Investigations:* Our review of 14 FI cases relevant to this requirement found that no officers failed to report the use of force to supervisors as required.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U36***

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

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

**Comments:**

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

*Command Level Investigations:* In the last reporting period, we found that 82 (95%) of the preliminary investigations were completed within 10 days of the event, an increase over the previous reporting period's 89%. Eighty-six reports (100%) included a synopsis of the incident. There were photographs of injuries in one of the files, though in two others there were comments that the photos had been viewed at the command.

In 86 (100%) of the cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 86 cases (100%). Eighty-eight first-line supervisor evaluations were made in 86 of the cases (100%). The final command use of force investigations were completed within 30 days in 78 (91%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 78 (91%) of the 88 cases.

The Command Level Investigations portion of this requirement failed to achieve Phase 2 compliance due to the failure on the part of the commands to submit the reports within the 10- and 30-day time constraints. In some instances, the failure can be attributed to the failure to keep track of the days; in others a failure to attend to details. DPD has not achieved Phase 2 compliance with this paragraph for the Command Level Investigations.



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During this reporting period, we found that 68 (92%) of the preliminary investigations were completed within 10 days of the event, a decrease from the previous reporting period's 95%. Seventy-four reports (100%) included a synopsis of the incident. There were photographs of injuries in five of the files, an improvement over the one in the last quarter. In 73 (99%) 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 73 cases (99%). Seventy-four first-line supervisor evaluations were made in the cases (100%). The final command use of force investigations were completed within 30 days in 63 (85%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 65 (88%) of the cases.

DPD must place greater attention to the requirements dealing with the 10- and 30-day reporting requirements and the transmission to FI of the completed reports within the seven-day requirement. These issues appear to be related to a lack of a tracking system and we would once again encourage DPD to install a more sophisticated system than currently exists.

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

*Force Investigations:* To assess compliance for this reporting period, we reviewed 14 completed FI cases.<sup>22</sup> Only one of the 14 cases we reviewed was untimely. We continue to recommend that DPD closely evaluate case management and related issues, including staffing, and more closely monitor FI investigators' time management and report preparation to more expeditiously complete these investigations.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U37***

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

**Comments:**

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

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

DPD is in Phase 2 compliance with this paragraph.

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<sup>22</sup> These investigations included six critical firearm discharges and one vehicle pursuit.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U38***

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

- a. the investigation to account for all shots fired, all shell casings, and the locations of all officers at the time the officer discharged the firearm;*
- b. the investigator to conduct and preserve in the investigative file all appropriate ballistic or crime scene analyses, including gunshot residue or bullet trajectory tests; and*
- c. the investigation to be completed within 60 days of the incident. If a Garrity statement is necessary, then that portion of the investigation may be deferred until 30 days from the declination or conclusion of the criminal prosecution.<sup>23</sup>*

**Comments:**

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

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

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

To assess compliance with requirements for this reporting period, we reviewed six completed critical firearm discharge investigations, none of which involved fatalities. None of the six

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<sup>23</sup> Consent Judgment amendment April 23, 2012.



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investigations 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.

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

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

Five, or 83%, of the six critical firearm discharge investigations we reviewed were timely.

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

DPD is not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U39***

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

**Comments:**

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

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

The DPD submitted seven CLFRT reports that met the composition requirements of this paragraph during this reporting period. The reports assessed included six critical firearms discharges and one in-custody death.

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 U40***

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

- a. complete its review of critical firearm discharges that result in injury and in-custody deaths within 21 days from the completion of the investigation and require the Chief of Police to complete his or her review of the team's report within 14 days;<sup>24</sup>*
- b. comply with the revised review of investigations policies and procedures;*
- c. interview the principal investigators; and*
- d. prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol.*

**Comments:**

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

During this reporting period, the DPD submitted seven CLFRT reports that met the time limitations for completion. The CLFRT's assessments complied with DPD protocols, and the principal investigator was interviewed. There were no reviews completed by the Chief of Police that were untimely.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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<sup>24</sup> Amended by Court Order dated April 23, 2012.

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***CJ Requirement U41***

*The commanding officer of Force Investigation or other appropriate DPD executive designated by the Chief of Police shall annually review critical firearm discharges and in-custody deaths in aggregate to detect patterns and/or problems and report his or her findings and recommendations, including additional investigative protocols and standards for all critical firearm discharge and in-custody death investigations, to the Chief of Police. A copy of the report shall be submitted to the Monitor within five months after the end of the year reported on.*<sup>25</sup>

**Compliance Status:**

Phase 1: In Compliance

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

- The failure to conduct quality investigations within prescribed timelines remains a critical issue. We again emphasize the need to provide formal documentation of reasons for delays in the completion of investigations. Many cases indicate that they are returned for corrections, but do not explain what is needed to be corrected, nor what new time limits have been established for re-submission. Complete information must be provided under the Timeline category of the SIR.
- DPD needs to continue to provide more attention to the quality of interviews; some lack details regarding the incident and exactly how the officers on the scene responded to the incident; it appears that investigators, armed with new information from interviews seldom re-interview officers to resolve differences. Video and audio recordings must be reviewed as part of the investigative process; the Department needs to place greater emphasis on the appropriate use of the body microphones to capture interactions between officers and the public/subjects. Supervisors need to ensure that activity logs are properly completed with respect to the video and audio capabilities; unknown is not an acceptable category of the capabilities. When equipment is inoperative, the proper documentation should be prepared and commented on in the investigation. We continue to recommend that a formalized practice of forwarding complex/faulty investigations to the Training Division and/or the Policy Section for their review as a measure of ensuring that both units are aware of the situations officers are confronting in the streets and institute any corrective measure they may seem appropriate.

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<sup>25</sup> Amended by Court Order dated January 28, 2009.

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***Next Steps:***

During the next reporting period, we will:

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

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

## **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. As a result of additional emphasis by the Department on traffic stops and investigatory stops/frisks, DPD has been in compliance in this area for six consecutive reporting periods although DPD has been unable to maintain its compliance with documenting frisks and appropriate supervisory review, which is a critical component of the paragraph. Since compliance was first achieved in the Tenth Quarterly Report,

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DPD has been unable to maintain compliance with frisks for consecutive quarterly periods. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy establishes that a material witness can only be taken into custody by obtaining a Court order prior to such taking.

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

While previous compliance had been achieved in these areas, we note during this and previous reporting periods the inability of personnel to indicate holds over 48 hours on the Warrant Tracking Form. This has been problematic in that when command review occurs, the commanders had relied solely on whether the OIC had indicated on the Warrant Tracking Form the hold status of the detainee. Due to previous compliance, the current issues stem from combining the general investigative units that were previously housed in the districts and precincts into two central facilities. The issue of failing to document holds over 48 hours has been addressed in the Command Accountability Meetings and commanders are now required to verify the existence of any holds in violation of policy.

DPD has made progress in documenting Investigatory Stops, Detainee Registration and following internal witness identification policies during the previous six reporting periods. Certainly the articulation of reasonable suspicion with frisks and the required supervisory reviews have improved; however, as noted above, consistent and sustained compliance has not yet been achieved. While DPD is currently in compliance with U45, we note that the current method of capturing initial stops and frisks on officers' Daily Activity Logs is inefficient and prone to error; both by the officer completing the log and the supervisor reviewing it. Essential information, for example, reason/justification for the stop; and in addition, justification for the frisk, is not consistently documented. We have previously recommended that DPD develop a form, which would capture all the necessary information relating to the stop and subsequent frisk and also serve as the required auditable form for stop and frisk exceptions to resolve this impending problem. Such forms have been utilized to document stops and frisks in other agencies for many years and constitute a sound management tool to insure consistency and legality of police actions.

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 continue to find in a few instances, the failure to prepare the required auditable form or timely review by a commanding officer has kept DPD from compliance with certain paragraphs. Supervisory and command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

All paragraphs under the Arrest and Detention Policies and Practices require supervisory review and command review when violations of policy are discovered. On August 7, 2012, Administrative Message (Teletype 12-066) mandated 12-hour work shifts for police officers in the field and the holding facilities. However, sergeants and higher level ranks remain on eight-hour shifts. Since adequate supervisory and command review has been major issues for

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compliance purposes, it appears that consistency of supervision for field personnel could jeopardize DPD's ability to monitor subordinates' activity.

**A. Arrest Policies**

***CJ Requirement U42***

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U43***

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

**Comments:**

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

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 98 arrest case files. The review included Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all cases, sufficient probable cause for the arrest was present.

In all cases, supervisory approval occurred within 12 hours of the arrest. In our previous report, we reported that two of the 106 arrest case packets we reviewed did not contain sufficient probable cause for the arrest; all arrests during this reporting period contained documented probable cause.

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 98 arrest cases we reviewed, the Department did not seek a warrant in 13. In all of the cases except one, the required auditable form was completed in a timely basis. In the one exception, the auditable form was not completed. The officer in charge failed to generate the required auditable form when the warrant was not sought. When reviewing subordinates' work product, the supervisor should have caught the omission.

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DPD's compliance rate is 99%, an increase from the previous reporting period's 97%, for the three separate and distinct requirements of this paragraph. DPD has been in compliance with Phase 2 of this paragraph in all our previous reports.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**B. Investigatory Stop Policies**

***CJ Requirement U44***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U45***

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

**Comments:**

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

In our tenth quarterly report, we determined that DPD was in compliance with the provisions of this paragraph; this was the first reporting period that DPD achieved compliance in this area. DPD had previously come into compliance with traffic and investigatory stops. In the last reporting period, DPD's compliance rate for frisks was 100%. During the current reporting period, as in our previous review, we found that DPD personnel made significant progress in documenting investigatory stops. Supervisors must scrutinize each officer's Daily Activity Log and complete the required auditable form when reasonable suspicion for the stop does not exist. Due to settling previous litigation, DPD issued Training Directive 12-03 on January 12, 2012 reinforcing Detroit City Code 38-1-3 as it pertains to the loitering ordinance. The new guidelines clearly define the rights of the individual and provide clarity to personnel when enforcing loitering violations.

DPD issued Teletype 13-073 (read at all Roll Calls from February 16, through February 22, 2013) regarding traffic stops and the codes used by the officers to notify Communications



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Operations Zone Dispatchers when they clear the stop. One of the codes indicates “advised/released without requiring the officer to state to the dispatcher the reason for the initial stop.”

To assess compliance for this reporting period, we reviewed 307 officers’ Daily Activity Logs completed on three randomly selected dates.<sup>26</sup> Each district/precinct provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles or in vehicles stopped in places where a police inquiry was warranted.

Our review yielded 60 investigatory stops, of which 58 indicated a lawful purpose. We observed and noted in previous reports that supervisors are now more thorough in their reviews of officers’ Daily Activity Logs and would complete auditable forms for violations; that is no longer the case, as we have not reviewed any auditable forms (traffic stops or investigatory stops for this or the previous reporting period. Most of the investigatory stops involved subjects being in a park after posted hours, entering premises/property without owner’s permission, and loitering. In all instances, supervisors reviewed all investigatory stops within the required timeframe. OCR did send out a Corrective Action Notice to a Command where the reporting officers indicated they conducted an investigatory stop for “youthful appearance” without any other description of suspicious activity. While this may have been a legal stop, officers must make an effort to describe other factors involved. DPD’s compliance rate for investigatory stops only (excluding frisks and traffic stops) during this reporting period is 97%, the same as that registered in the last reporting period. In two other cases, there were Corrective Action Notices forwarded to the Commands for review; and each was addressed timely and contained the Stop and Frisk Exception Form. In one review, the supervisor, working with an officer in the field, reviewed and approved his own Daily Activity Log.

The logs included 162 traffic stops, and our review indicated that four did not contain sufficient information to justify the stop, which is a basic requirement. For example, the officers failed to describe the initial necessity or purpose of the traffic stop. Supervisors reviewed all but one of the officers’ Daily Activity Logs containing traffic stops in a timely fashion, marking their signatures, and dates and times of review.

DPD’s compliance rate for traffic stops is 97%, a decrease from the previous reporting period’s 99%.

During this reporting period, we reviewed 13 frisks appearing on officers’ Daily Activity Logs. We found that 12 of the frisks met the requirement. In the one exception, officers making a traffic stop indicated the reason for the stop as “suspected narcotics” without any other description for the stop. At some point, the officers could smell the aroma of marijuana coming from the vehicle but they failed to indicate when (before or after they approached the vehicle). This event occurred in the afternoon at 3:00 p.m. OCR issued a Corrective Action Notice on this stop prior to our notification that we were also concerned with the stop. We have observed fewer frisks conducted by officers during the two previous reporting periods. Perhaps officers have a

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<sup>26</sup> For this review, we randomly selected Daily Activity Logs completed on January 17, February 12, and March 1, 2013.



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better understanding through training and frequent Administrative Messages by DPD staff of what circumstances need to exist prior to conducting a frisk.

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. Another Administrative Message (Teletype 11-1497) was issued on December 24, 2011 emphasizing the importance of officers describing the frisk and supervisors' responsibilities completing the auditable form when required.

Officers are required to complete the "Recap of Activity" portion of the log to indicate their total daily activities and also mark the "Frisk" box in the narrative portion of the report. This is a tool for the supervisor to locate and review the frisks that occur by his/her subordinates. However, supervisors have not used this tool – as we continue to find instances where the officer properly conducts a frisk, but does not mark either of the appropriate boxes or the frisk box is marked erroneously and the supervisors fail to discover the errors.

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

In previous audits, to ensure compliance with the Department's stop-and-frisk policies, the Audit Team recommended a number of steps, including retraining officers and reviewing all stop-and-frisk situations by supervisors and command personnel in a timely fashion. We have found that the emphasis DPD has placed on officers properly documenting investigatory stops and supervisory review had previously paid dividends toward compliance.

A review of in-car video of frisks by the training staff and commanders is helpful in ensuring that legal authority exists for the frisks. In our eleventh quarterly report, we noted that supervisors conducted in-car video review of their subordinates' investigatory stops and frisks. This is a sound supervisory practice and we encourage DPD to continue the video review of these stops when the legality of these stops is in question. As noted above, Administrative Message 11-0151, issued on January 28, 2011; Administrative Message 11-0477, issued on April 22, 2011; Administrative Message 11-1497, issued on December 22, 2011; and a subsequent Administrative Message, issued on November 9, 2012; emphasized the recording of investigatory stops and frisks by officers and supervisory review. We note that OCR continues to send Corrective Action Notices to the various commands when they review our document request for Daily Activity Logs; however, this responsibility lies with the individual commands, not OCR, and commands need to take action immediately when the violations occur.

In previous reporting periods, we found a few cases where auditable forms were completed after they were requested by the Monitoring Team and reviewed by DPD personnel. DPD personnel have been trained; this is no longer an issue of *training* but one of *accountability*. Command personnel must ensure that their sergeants/lieutenants review investigatory stops and take action when they occur. DPD continues to fail in the area of supervisory and command review. First-line supervisors are the key personnel in ensuring that all investigatory stops are in compliance with policy. DPD's compliance rate for frisks this quarter is 93%, a decrease from the 100% we found during the previous reporting period. DPD's overall compliance rate for *all* investigatory

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stops and frisks is 96%, a decrease from 98% in the previous reporting period. Conducting frisks that follow appropriate guidelines and meet established law is an important part of this paragraph and must be compliant.

DPD is in Phase 2 compliance with this paragraph.

**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

***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.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U48***

*The DPD shall document the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD shall review in writing all interviews, interrogations and conveyances and document on an auditable form those in violation of DPD policy within 24 hours of the interview, interrogation or conveyance.<sup>27</sup>*

**Comments:**

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

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

On June 13, 2012, DPD advised us that all general investigative operational units would be merged under one command, the Criminal Investigation Unit, and be divided geographically into East and West facilities (Central District and Second Precinct). Although this change should increase efficiency, it has resulted in commanders' reviews of holds often exceeding the 48-hour mandate (U53, U60). During our October 2012 site visit, a lieutenant in one district/precinct advised us that prior to merging the investigative operational units, if there was an issue with an auditable form, it usually occurred at that location, and the lieutenant could contact the officer and correct the problem immediately.

We have noted that during this review that both general investigations units located at Central District (East) and the Second Precinct (West) are now conducting their own internal inspections of their witness/interrogation forms for completeness and accuracy. This is a sound practice and should be expanded to other functions within the Department.

We reviewed 77 case files containing 108 interviews/interrogations (DPD Form 103, revised April 2009) at Central District (East) and found all but one in compliance. There were three violations of policy with the required auditable forms attached. In two instances, the violations were discovered during an internal audit by command staff at the Central District, and submitted in a timely fashion; however, one of the violations was discovered five weeks after the interview occurred and should have been caught and forwarded by the reviewing supervisor. Central District's (East) compliance rate with this paragraph is 99%.

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<sup>27</sup> Amended by Court Order dated June 1, 2011.

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We reviewed case files containing 103 interviews/interrogations from the Second Precinct (West) and found six that did not meet the requirement. We found 13 instances where violations of policy occurred. In three cases there was no supervisory review but the omissions were discovered during a command inspection by the Second Precinct and the required auditable forms were generated two weeks after the violations occurred; in another case the supervisor dated his review the day before the review occurred; and in the remaining two cases, the interviewing officer failed to present the interview form for supervisory review and in another the interview form did not contain an ending time. All other violations contained the appropriate auditable form. The Second Precinct's compliance rate for interviews/interrogations is 94%.

We reviewed 62 interrogation forms from the Narcotics Unit and found all in compliance. Narcotics Unit's compliance rate is 100%.

We reviewed 28 witness conveyances from Homicide and 11 from the Sex Crimes Unit during the reporting period and found all in compliance. Due to the nature of homicide and sexual abuse investigations, witness conveyances are generally exclusive to more serious crimes.

DPD's compliance rate for this paragraph is 98%, the same as the previous reporting period.

**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.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***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 or the detainee taken directly to court, all but one met the 48-hour requirement.

In the one instance, the warrant submittal to the prosecutor's office was late; however, the appropriate Warrant Tracking Form was timely submitted by the officer in charge of the case and submitted for command review. In another case, the warrant submittal was late but the officer in charge failed to document the late submittal on the Warrant Tracking Form – though he did indicate the hold that had exceeded the 48-hour requirement. DPD's compliance rate for this for this paragraph is 99%, an increase from the 98% in 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 98 arrest case reports we reviewed, there were 84 that began at the initial arrest and in which a warrant was submitted to the Prosecutor's Office for arraignment. There was one case where the warrant submittal to the prosecutor's office was late; however, the auditable Warrant Tracking Form was completed and submitted timely. In one other case the

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auditable form was not generated for the failure to submit the warrant request. We excluded cases that involved warrant arrests, juvenile arrests, and traffic cases.

There were 57 detainees who went to arraignment and 38 of these where the arraignment occurred more than 48 hours from the time of the initial arrest. In two cases, an auditable form was not generated for violation of the prompt judicial review policies and in the third the required auditable form was completed late. When the commanding officer reviews the auditable form, s/he must inspect the document to ensure that the OIC is dating or placing the time the event was recognized. If the commanding officer reviews the dates and times of the events prior to approval, determining compliance is straightforward.

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

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

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

*The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. This policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or 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 89%.

To assess compliance with the requirements, we reviewed 98 Detainee Input Sheets, and found a total of 56 holds/warrants listed on the forms. In our earlier reports, we noted satisfactory completion of the auditable forms for those holds exceeding 48 hours and the detainee still in custody. Form (DPD UF004-007, revised June 2009) was created and contains appropriate indications for officers to identify more than one violation of the Prompt Judicial Review Policies. DPD personnel must be aware that if an arraignment occurs more than 48 hours after an arrest and the detainee has an outstanding hold/warrant, there is a likelihood that the warrant may not be cleared within the requirement and both boxes should be checked. There can also be an issue if the warrant submittal for the outstanding arrest is denied by the prosecutor and there is a hold on the detainee. In these cases, DPD has an expectation that the hold(s) will be addressed at the arraignment on the current charge; and if the warrant is denied, the detainee may be presented to the judge at the next available arraignment opportunity.

Our review of the data requested in our previous three quarterly samples and during this reporting period indicates a reversal of DPD's previous progress. Of the 56 holds we reviewed, there were 21 that were not cleared within 48 hours. Five of these did not contain the required auditable form for holds not being cleared within 48 hours of the arrest. In one of these cases, there were eight holds on one individual from the 36<sup>th</sup> District Court that were not discovered until three days after the arrest.

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

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

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

DPD's compliance rate for this requirement is 89%, the same as registered during the previous reporting period. This is the fourth consecutive reporting period in which DPD has not been in compliance; therefore, the Department is not in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***CJ Requirement U55***

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

**Compliance Status:**

Phase 1: In Compliance

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



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**G. Material Witness Policies**

***CJ Requirement U56***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U57***

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

**Compliance Status:**

Phase 1: In Compliance

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

**H. Documentation of Custodial Detention**

***CJ Requirement U58***

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

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

**Compliance Status:**

Phase 1: In Compliance

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

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**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 first two years of reviewing officer's Daily Activity Logs, 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 inadequate supervisory review.

In our review of 98 arrests during this reporting period, we determined that all properly documented probable cause. There was one case where the officer in charge failed to complete the required auditable form for a warrant not sought; therefore, the commander was unable to conduct a command review of the arrest. 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.

We reviewed 13 frisks, and determined that 12 met the requirement; in the one not articulating reasonable suspicion, the supervisor did complete the required auditable form for the violation. In prior reporting periods, DPD has generated auditable forms for violations of this portion of the paragraph relating to frisks. The failure of supervisors to review and recognize frisks in violation of policy and to complete the required auditable forms continues to be problematic for DPD with maintaining compliance with U45. 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.

Our review of 162 traffic stops determined that officers' abilities to accurately describe the actions that led to the stop are compliant; however, there was no auditable form generated for the four traffic stops in which a form was required to be completed. Commanders are not receiving the forms due to supervisors not completing them.

There were 60 investigatory stops (excluding frisks and traffic stops), of which 58 were based on a documented investigatory purpose. No auditable forms were generated by the reviewing supervisors.

There were 13 cases where documentation was completed indicating that an arraignment warrant was not sought and auditable forms were completed, 12 of these cases contained appropriate command review. In one case, the auditable form was not completed by the officer in charge

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and therefore did not receive a command review. 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 273 witness/interrogation interviews from Central Investigative Command (East & West) and the Narcotics Unit. There were three auditable forms (Exceptions to Interviews, Interrogation and Conveyances (DPD Form uf005) completed for this paragraph where command review occurred. There were 39 witness conveyances and all were compliant.

Under this paragraph, DPD commanders have seven days to review the requirements from time of receipt; compliance should not be an issue. All command reviews received by commanders were compliant; however, in some instances the auditable forms were not prepared and forwarded to the commander for review. These exceptions were previously noted in other paragraphs (U43, U 45 and U48).

DPD's compliance rate with this requirement is 100%, an increase from the previous reporting period's 98%.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U60***

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

**Comments:**

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

To assess compliance for this reporting period, we reviewed 98 arrest case reports, of which 84 were submitted to the Prosecutor's Office and 62 went to arraignment. There were 39 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 two instances an auditable form was completed and command review occurred.

In the 57 cases that went to arraignment, 38 of these were arraigned more than 48 hours after arrest, and auditable forms were completed. In one case the commander's review of the Warrant Tracking Form was dated two days prior to the arrest and five days prior to the OIC completing the auditable form. It was replete with date and time errors. There were difficulties with this particular case as the defendant was eventually arraigned from a hospital bed. In the other instance, the command review was not within the required timeframe. We noted previously that

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OCR sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints.

Of the 56 hold/warrants that we identified, there were 21 holds that were not cleared within the required 48 hours. In 16 instances, the Warrant Tracking Form was properly completed and forwarded to the commander for review; in five cases, the "hold" box was not marked indicating a hold over 48 hours. There were two material witnesses taken into custody during this reporting period, and all required auditable forms were completed. The one restriction reviewed was within DPD policy.

Under this paragraph, there were a total of 46 auditable forms in our sample reviewed by the commander. There were two violations of policy requiring command review. In the event of a commander's absence from the district or precinct, the on-duty commanding officer (lieutenant or above) has the authority to review and sign off on the auditable forms as they serve as precinct commanders during that timeframe. There should not be any instance where the officer in charge of the case cannot contact a lieutenant or above to review those cases where there are violations of the prompt judicial policies.

DPD's overall compliance rate for this paragraph is 96%, an increase over the 94% that we found in the last reporting period. DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

- For the past four reporting periods, we noted instances in which the OIC failed to indicate on the Warrant Tracking Form when holds exceed 48 hours. DPD had taken steps to rectify this failure during the previous reporting period by including it as a point of discussion at the Command Accountability Meetings. We have seen no improvement during this quarter's review. We have stressed this issue with DPD in previous site visits and our quarterly reports. During the next few months, DPD will close its five holding facilities scattered throughout the City and move into a state of the art, former MDOC facility near the Northeastern District where all detainees will be housed in one facility. The MDOC compound will also be the new quarters of all general investigations operational personnel of the DPD and should help in resolving existing issues with prompt judicial review.
- If warrant submittals to the prosecutor were made timelier, violations of the prompt judicial policies would be reduced significantly; therefore reducing the amount of unnecessary work and documentation by DPD staff. We have noticed a considerable drop in the number of frisks conducted by officers in the previous two reporting periods. During our April 2013 site visit we requested that DPD provide us with the normal investigatory stop sample for April and June (one day each month) and to pull every frisk conducted by any officer for the month of June 2013 and to forward those

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documents to us weekly. During previous 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.

- District/precinct commanders must ensure that auditable forms are completed and forwarded promptly for their review, and advise their lieutenants that they have the authority to review and sign auditable forms under U60 in their absence.
- It is not OCR's responsibility to issue corrective action in the districts/precincts. All issues and violations of policy should be addressed in the individual commands by the Commander's prior to being reviewed by OCR and then the Monitor.

***Next Steps:***

During the next reporting period, we will:

- Meet with DPD's Civil Rights Integrity Bureau (CRIB) to discuss our investigatory stop concerns, and the timeliness of commanders' reviews as it relates to auditable forms that require daily review. 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. During our April 2012 site visit, DPD had drafted a plan to centralize its general investigative units and the plan was implemented; however, the failure of the OIC to properly indicate holds over 48 hours still exists. While command reviews have been exceptional, the ability of personnel completing the Warrant Tracking Form needs to improve.
- Our review of documentation for this reporting period indicated a high number of instances where holds exceeded the 48-hour requirement and where the Warrant Tracking Forms were not completed. We advised CRIB of this issue during our July and October 2012 site visits, and again during our January and April 2013 visits.
- Meet with the commanders, if possible, of each district and precinct to discuss issues relating to auditable forms and their role in ensuring compliance.
- Inquire with DPD if any 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.

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

## VI. EXTERNAL COMPLAINTS

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

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

During our most recent site visit, we examined the investigative procedures employed by IAD for consistency in the application of procedural fairness, timeliness, confidentiality, and the

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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 BOPC Staff, the Chief Investigator, and supervising investigators assigned to OCI. We discussed with specificity the cases which were deemed noncompliant during the last reporting period. We also attended case review meetings with all investigative staff.

***CJ Requirement U61***

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

**Compliance Status:**

Phase 1: In Compliance

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



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***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*

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U63***

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

**Compliance Status:**

Phase 1: In Compliance

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

**A. Intake and Tracking**

***CJ Requirement U64***

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

**Compliance Status:**

Phase 1: In Compliance

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



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***CJ Requirement U65***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U66***

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

**Compliance Status:**

Phase 1: In Compliance

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

**B. External Complaint Investigations**

***CJ Requirement U67***

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

- a. *provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*
- b. *permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*
- c. *refer all complaints to the appropriate agency within five business days of their receipt;*
- d. *require that the complainant shall be periodically kept informed regarding the status of the investigation;*
- e. *develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*
- f. *implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*
- g. *require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*

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- h. require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.*<sup>28</sup>

**Comments:**

*Office of the Chief Investigator:* For this reporting period, we reviewed 100 randomly selected OCI cases. Three of the cases were transferred to IAD, and one was transferred to Force Investigations. One of the IAD cases involved an allegation of lewd behavior; another involved an allegation of theft of a cell phone; and the other involved allegations of damage to property and force.. The case transferred to Force Investigations alleged force causing serious facial injuries. While all of these referrals were appropriate, none of them were timely. The cases transferred to IAD took between 41 and 53 days to refer. Sixty-four days after the force complaint was lodged, the OCI investigator learned that Force Investigations had already investigated the matter and reached a finding.

Five cases were resolved informally, and all met the criteria for an Informal Complaint Resolution (ICR), as they involved complaints of inadequate service or innocence of the charge. In two cases, complainants did not believe they deserved the citations they received. In two others cases, the complainants took exception to the perceived slow response times to their calls for service. In the remaining case, the complainant alleged that responding officers failed to investigate her property damage claims. Officers responded twice and documented their investigation each time.

Three cases in our sample were administratively closed, and all were appropriate for such closure. In one, the investigator determined that a Michigan State Trooper was the subject of the complaint. In another, the subject officer retired from service. The remaining case lacked specificity. A complainant, who subsequently refused to cooperate further with the investigation, alleged that he went to an unknown precinct and was treated rudely by unknown officers.

Ninety-two of the 100 cases we reviewed were completed within 90 days, a decrease from the ninety-six timely cases during the last review period. OCI successfully eliminated its backlog of cases two quarters ago.

Ninety-six of the 100 cases we reviewed were referred to OCI within five business days as required by DPD policy; most cases were transferred within one to three days. However, four cases took between seven and 22 days to be referred. We also noted the untimely transfer of four cases from OCI to IAD and Force Investigations, as described earlier.

In most cases, we noted efforts to keep the complainant informed of case progress. Often, this correspondence involved attempts to encourage uncooperative complainants to participate in their investigations. However, we identified 12 cases in which complainants did not receive

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<sup>28</sup> Amended by Court Order dated September 15, 2008.

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update letters after 45 days as required by OCI policy. This represents a 56% decrease in such cases over the previous reporting period. In all applicable cases, the complainants were notified of the disposition of their cases, and if any allegations were sustained, they were advised that the case was referred to the Chief of Police for appropriate corrective action.

During our previous site visits, we verified ongoing in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we 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. The Chief Investigator continues to develop OCI specific training, and her staff meetings frequently have a training component.

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 26 IAD cases, and determined that two complaints alleging criminal misconduct had been referred to IAD within the appropriate time period.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. IAD is current in its training requirements. There have been no new applicants to IAD during this period.

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

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

During our current review of 26 investigations, five exceeded the 90-day time limit. Of those, the reviewer determined that four were delayed due to criminal prosecutions. One investigation exceeded the time limit by 30 days due to difficulty in locating and interviewing multiple witnesses. All delayed investigations were documented and approved by the supervisor. There were no cases that were inappropriately delayed during this period.

DPD is in compliance with the IAD portion of 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;<sup>29</sup> and*
- c. the Chief of Police or his or her designee to complete his or her review of external complaints within 7 days of completion of the BOPC's review.*

**Comments:**

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

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

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

During our most recent site visit, we learned that OCI failed to send any Board-reviewed investigations to the Police Chief's office for the entire quarter. Consequently, the Chief or his designee was unable to complete any reviews. The Chief Investigator advised us of this issue as soon as she was made aware of it, and she informed us that she addressed the issue with the person responsible for coordinating these transfers. We also have to question how seriously the reviews are conducted in the Chief's Office, if the three-month lack of cases was not noticed or questioned.

The City remains in Phase 2 compliance with this paragraph, but will be held out of compliance if all appropriate reviews are not conducted during the next quarter.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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<sup>29</sup> Amended by Court Order dated July 18, 2003.

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***CJ Requirement U69***

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

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

**Comments:**

During this reporting period, we reviewed 100 randomly selected OCI cases. For purposes of this paragraph, we evaluated the determination of finding based on the information in each case file. We do not concur with the findings assigned to one or more allegations in five cases, a 67% decrease from our last review. Two cases involved allegations of search without a warrant. In each case, it was determined that search warrants existed, and the allegations should have been unfounded rather than exonerated. In another investigation, the investigator exonerated an officer for failing to take a report, even though it was determined that a report was taken. We also believe there was enough evidence to sustain a force allegation in a case arising from a domestic dispute call. The investigator reached a not sustained determination.

We also identified one case in which an allegation was not investigated. The complainant alleged that an officer confiscated his phone and used it to send text messages.

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

In addition, we reviewed all 26 IAD cases – including internal and external complaints – that were completed during this reporting period. During earlier reviews, there were dispositions in each of the investigations. We did not always agree with the dispositions, especially those that were derived from faulty interviews and/or the failure to gather pertinent evidence. When we discussed this issue with IAD personnel, IAD advised that it was making efforts to correct the problems.

During this reporting period, all investigations contained the required dispositions. Included in the 26 investigations were 47 allegations of misconduct. The following is a breakdown of the dispositions of the 47 allegations: 25 sustained; nine not sustained; 13 unfounded; and none exonerated. Based on our review of the investigative documents, we are in agreement with the dispositions. IAD is in compliance with this requirement.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***Critical Issues:***

We examined 26 closed IAD cases and 100 closed OCI cases for the period of January 1, through March 31, 2013. Our review disclosed that the following issues continue to require attention:

- *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. The calendar also allows investigators to schedule Garrity interviews to avoid conflicts. Cases that are submitted to the prosecuting attorneys are tracked, and updates are requested on a regular basis. IAD appears to have eliminated the backlog of overdue cases, including those cases that are awaiting disposition or prosecution at the Prosecutor's Office. The IAD manager meets regularly with members of the Wayne County Prosecutor's Office to discuss the viability of the cases still awaiting decisions.
- *Quality v. Quantity of OCI Investigations:* As noted in our past several reports, OCI worked extremely hard to address their large backlog of cases. The quality of their investigations suffered, both because of long periods of inactivity and because of the pressure to complete these investigations and get them off of the books. OCI has eliminated the backlog and as of this writing, OCI has no overdue cases. OCI's Chief Investigator and its supervising investigators have turned their attention to addressing the quality of investigations. During every site visit, we discuss numerous cases in detail from our most recently completed assessment. We note many deficiencies that can be addressed with a thorough review of the cases and independent verification of the content of interviews.
- *Transfer of Cases to the Office of the Chief of Police:* OCI failed to transfer any cases to the Chief's office for the required review during this quarter. Failure to correct this will result in a noncompliance determination during our next review.

***Next Steps:***

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of April, May, and June 2013.

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¶	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	In Compliance
69	Required finding categories specified	In Compliance	Not in Compliance

## VII. GENERAL POLICIES

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

### ***CJ Requirement U70***

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

### **Compliance Status:**

Phase 1: In Compliance

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



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***CJ Requirement U71***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U72***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U73***

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

**Comments:**

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

During the four quarters of calendar year 2012, we found that 100%, 98%, 97% and 97%, respectively, 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, January 6; Monday, February 25; and Tuesday, March 5, 2013). We found that 103 (97%) of the 106 platoons, and 1,388 (97%) of the 1,424 officers working on those dates, were within the required 1:10 ratio.

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 U74***

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

**Compliance Status:**

Phase 1: In Compliance

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

***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.*

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U76***

*The DPD shall revise its policies regarding prisoners to:*

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

**Compliance Status:**

Phase 1: In Compliance

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

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***CJ Requirement U77***

The DPD shall develop a foot pursuit policy to:

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

**Compliance Status:**

Phase 1: In Compliance

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

***Critical Issues:***

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

***Next Steps:***

During the next reporting period, we will:

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

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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.

### A. Risk Management Database

#### ***CJ Requirement U78***

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

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

#### **Comments:**

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

This requirement established the general requirements of the risk management system that are spelled out in greater detail in the requirements that immediately follow. It has now been four quarters since DPD achieved Phase 2 compliance with this requirement. The overall system now functions well and is used to assess and manage risk in the Department. The individual focus of the system with its attention to officer behavior is buttressed by the use of data at the

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organizational level, as illustrated by the regular Command Accountability Meetings and the Quarterly Risk Assessment Review Reports.

The Department also uses a process of continuous improvement in which the risk management process is considered and revised as new opportunities for its use are appreciated and as improvements are considered. In short, the notion of risk management is fully integrated into the Department's normal work. This includes the processes of assessing and improving officer performance and using risk related data in the daily management of the Department.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U79***

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

There are no changes in the compliance status of this requirement. To consider compliance we review monthly MAS status reports. For the reporting period, we also reviewed the monthly command reviews that document the use of MAS, and the results of PEERS reviews that are now completed through the Risk management Unit. We also reviewed the reports of the intervention processes used by supervisors.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U80***

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

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

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- 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.

We continue to find that the expected information is present for all the mandated data categories. The totals for data entered during the reporting period for all relevant subtasks are presented below. Our review of MAS reports also supports the fact that these data are consulted and used in the risk management process. We continue to recognize the importance of sound data entry and retention practices and we anticipate further review of specific data elements each reporting period. The data below show that there is a general consistency in the numbers across most categories for the time periods shown. The exception to that would seem to be on categories considering prompt judicial review and length of “holds” of detainees.

To supplement the collection of the data seen below the Risk Group has also added a civilian auditor to the team. The full responsibilities of the position are still being developed, but currently involve reviewing settled lawsuits for the 2012 calendar year for cases of Violation of Constitutional Rights claims. We are reviewing the profiles of the members named to determine if there is a pattern of behavior.

The Risk Group has also taken significant steps to assess the quality of data in MAS. In previous months, the Risk Group and the Audit Team have focused efforts on the review of CRISNET reports to ensure that they are not under reporting uses of force, specifically acquiring a target. Based on the information gleaned, a formal report will be generated and shared with the commanding officer.

The group is also examining other tools to assist in data analysis. They are working with IBM on several data related issues and are examining adopting, without additional costs, SPSS as a data mining tool.



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	<b>U80 Data Requirements – Quarterly Department Totals</b>					
<b>Subtask</b>	<b>Text</b>	<b>1/1-3/31, 2012</b>	<b>4/1-6/30, 2012</b>	<b>7/1-9/30, 2012</b>	<b>10/1-12/31, 2012</b>	<b>1/1-3/31, 2013</b>
a	use of force reports	237	334	267	222	209
a	use of force investigation	95	118	107	86	63
b	canine deployments	6	7	3	5	5
c	canine apprehension	0	1	2	3	4
d	canine bites	0	0	1	0	0
f	injured prisoner reports	9	17	16	16	15
g	injured prisoner investigations	9	17	15	14	9
g	force and arrests for resisting arrest	101	120	126	102	94
g	force and arrests for assault on an officer	43	65	52	69	50
g	force and arrests for disorderly conduct	14	31	21	19	12
g	force and arrests for interfering with city employee	5	16	12	11	3
h	firearm discharge reports	10	8	15	12	9
h	firearm discharge investigations	7	8	15	12	9
i	officer draws a firearm & acquires target	30	43	21	15	10
j	Complaints	272	232	286	247	178
k	investigations of criminal misconduct by officers	10	0	0	0	12
l	criminal proceedings against members	1	3	3	2	4
l	all civil lawsuits	25	18	48	29	4
m	vehicle pursuits	45	40	21	30	20
m	foot pursuits	9	35	16	8	16
m	traffic collisions	43	36	28	31	33
n	reports of arrests w/o probable cause	0	0	0	4	3
n	individuals discharged from custody w/o charges	509	610	529	453	444
o	investigatory stops and frisks w/o reasonable suspicion	Frisks=21 Stops=12	Frisks=13 Stops=6	Frisks=2 Stops=6	Frisks=4 Stops=3	Frisks=4 Stops=7
p	reports of interviews, interrogation, or conveyances in viol of policy	Interviews=11, Interrogation=6, Conveyances=0	Interviews=0, Interrogation=0, Conveyances=0	Interviews=1, Interrogation=0, Conveyances=0	Interviews=1, Interrogation=0, Conveyances=0	Interviews=10, Interrogation=27, Conveyances=6
r	reports of violations of prompt judicial review	848	829	765	769	825
s	reports of violation of DPD hold policy	111	189	350	431	528
t	reports of restrictions on phone calls or visits	15	18	15	35	9
u	report of declination to prosecute due to police conduct or suppressed evidence	0	0	0	0	0
v	disciplinary action taken against officers	70	15	41	3	0
w	non-disciplinary corrective action	463	131	228	135	161

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

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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. This analysis continues to indicate that the appropriate data are collected and entered into the risk management system.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U81***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U82***

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

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

**Comments:**

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

There are no changes in the compliance status of this requirement. The current Data Input Plan was submitted for review and was approved by the Department of Justice. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U83***

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

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U84***

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

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

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**Comments:**

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

There are no changes in the compliance status of this requirement. As noted in our last report, 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 examine all Personnel Evaluation and Enhancement Review Sessions (PEERS) completed and signed off in the reporting period for the quarter. The data comparing this reporting period to the previous reporting period are presented below. This chart reflects the revised PEERS process in which, when thresholds are met, PEERS are completed by the Risk Management Unit. When action is seen as needed, supervisors prepare and implements monitoring and intervention processes. This approach has eliminated the problem of false positives that required extensive review and reporting by supervisors.

<b>PEERS and Their Outcomes</b>					
	Jan-March 2012	April-June 2012	July 1-Sept 30 2012	Oct 1-Dec 31 2012	Jan-March 2013
Total PEERS	63	68	58	27	25
No Action Needed	53 (84%)	55 (81%)	41 (84%)	0	0
Monitoring	8 (13%)	8 (12%)	6 (12%)	13	10
Other/Pending	2 (3%)	5 (7%)	2 (4%)	7	4
PEERS Pending Review by OCR	0	0	0	7	24
PEERS returned for correction or completion	12 supervisors 13 reviews	3 supervisors 5 reviews	3 supervisors 5 reviews	PEERS are under by OCR	PEERS are under by OCR

For the cases shown above, the risk management unit now performs an initial review of officers who exceed thresholds to determine if they are suitable for review. The unit also selects officers for review based on the MAS indicators as normed by arrest numbers. This reporting period, those processes resulted in selection of 25 officers for review. Those reviews are all either pending or have already resulted in selection for monitoring. As shown, no reviews in this process result in "no action" being taken. This is an efficient and effective improvement to the risk management process and is part of the ongoing improvement being made by the unit.

All of the above data indicate that the system is heavily used and carefully administered in a manner consistent with risk reduction goals. The use of risk management data through the command accountability meeting process illustrates the value of this system to the daily management of DPD.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U85***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U86***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U87***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U88***

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

- a. By January 24, 2008, the City shall have ready for testing a beta version of the risk management database consisting of: 1) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii)*

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

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<sup>30</sup> Amended by Court Orders dated November 9, 2007, and July 22, 2008



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**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U89***

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

**Compliance Status:**

Phase 1: In Compliance

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

***CJ Requirement U90***

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

**Comments:**

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

There are no changes in the Phase 2 compliance status of this requirement. We will continue to monitor the risk management system to ensure that any significant changes are handled in a manner consistent with this requirement. Most recently, DPD has incorporated descriptions of its data norming process in the relevant policies. The changes in review process as noted above are expected to be reflected in policy and reviewed by DOJ.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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**B. Performance Evaluation System**

***CJ Requirement U91***

*DPD shall ensure that performance evaluations for all DPD employees below the rank of Deputy Chief occur at least annually and include, but are not limited to, consideration of the following:<sup>31</sup>*

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

**Comments:**

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

DPD has been in Phase 2 compliance with this paragraph for the past nine reporting periods. To verify continued compliance for the current reporting period, we again examined a random sample of 120 evaluations drawn from all a list of all personnel. 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.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**C. Oversight**

***CJ Requirement U92***

*The DPD shall develop a protocol for conducting annual audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.<sup>32</sup>*

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<sup>31</sup> Amended by Court Order dated October 4, 2004.

<sup>32</sup> Amended by Court Order dated October 4, 2004.

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**Comments:**

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

This requirement, and the five which follow it, established the structure and processes for auditing key functions in the Department. The required audits are completed annually and most were reported out in our last quarterly report leaving limited activity to report for this period.

Phase 2 compliance with this requirement is linked to compliance with the requirements of U93-97. As noted in our last report, the audit protocol was revised, past audits were completed on schedule, and all new audits are now scheduled. The Audit Team also began conducting unannounced site inspections of facilities with holding cells and the review of Activity Logs for Stop and Frisk; Use of Force Form preparation; Investigative Reports related to paragraphs U48-U50.

DPD continues in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U93***

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

**Comments:**

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

The DPD is also in Phase 2 compliance with this requirement. Completed audits contain Corrective Action Notices and corresponding plans submitted and signed by the appropriate command staff, with appropriate notification forwarded to the Chief.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U94***

*The DPD shall conduct regularly scheduled annual audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a statistically valid sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.*<sup>33</sup>

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U95***

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that review a statistically valid sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.*<sup>34</sup>

**Comments:**

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

There are no changes in the compliance status of this requirement. DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Stop and frisk audits were completed on schedule, and corrective action reports were completed. New audits are scheduled for completion on an annual basis in July. The Department remains in Phase 2 compliance with this requirement.

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<sup>33</sup> Amended by Court Order dated October 4, 2004.

<sup>34</sup> Amended by Court Order dated October 4, 2004.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U96***

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.<sup>35</sup>*

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U97***

*The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.<sup>36</sup>*

**Comments:**

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

There are no changes in the compliance status of this requirement. This audit was completed for the reporting period ending January 31, 2013 and covering information through August 31, 2102.

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<sup>35</sup> Amended by Court Order dated October 4, 2004.

<sup>36</sup> Amended by Court Order dated October 4, 2004.

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Consistent with the other oversight related requirements, the Department has been in Phase 2 compliance with this requirement since the second reporting period. Corrective action reports and plans were completed based on the audits. The Department remains in compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U98***

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

**Comments:**

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

While the numbers in our past audits were in compliance; and, as a result, the DPD has been found in Phase 2 compliance, the reviews produced few substantive results for the DPD. In past reports, we have noted that reviews where a supervisor simply randomly selects and views an event that has been recorded are helpful in confirming that the video equipment is operational and that, to some extent, it is being used. A better review technique would be for an event to be selected that occurred during the shift that requires video to be recorded and confirm that it was, in fact, recorded.

During the past year, DPD made adjustments its random review procedures but the new processes were disrupted by the technical failures experienced in the fall of 2012. Our examination of the random reviews generated in December 2012 produced mixed results. While we found a number of quality reviews done by supervisors who commented upon such matters as officer safety, tactics, professionalism and use of video and audio, the instances of supervisors identifying officer non-compliance with MVS requirements to video and audio every traffic stop were not realistic.

Our own random reviews produced less favorable results for the month. While DPD supervisors found 96% compliance for video and 86% for audio, we found 83% for video and 47% for audio in our random review of traffic stops. We observed in our last report that the problem, in part, was that the selection of the event to be reviewed was not truly random; the supervisor who conducted the review selected it.

To address the apparent weakness and improve the process, DPD advised that effective February 2013 the Department would institute a new random selection process whereby the Office of Civil Rights would identify which traffic stops be reviewed and task the field operations to review them.

During our April 2013 on-site review, we found that DPD had followed through with its plan to implement a new random review process in which CRIB selects the events to be reviewed. The

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new process was announced by message order that was effective beginning on February 2, 2013, and stated, “the Office of Civil Rights (OCR) shall notify individual commands specific traffic stop events that require a supervisory review of the in-car video/audio system.”

DPD made available the random review sheets from its new selection process for the month of February 2013. The Department focused on 38 police/citizen contacts selected by CRIB from the CAD system. Districts and precincts conducted 38 reviews observing video and audio compliance rates of 58% and 45%. These compliance rates are much more realistic than those that were found in previous “random” reviews in which the reviewing supervisor selected the event to be reviewed. Furthermore, we found a number of instances where supervisors commented on safety and tactical methods employed by the officers. The March 2013 reviews were not available for our review.

While the Department is experiencing difficulties in implementing the new system, we believe that the random review process is being improved.

**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 February 13, 2013 quarterly meeting involving DPD and members of the Prosecutor’s Office. Consistent with previous meetings, a wide range of topics discussed is reported in the meeting minutes including those relating to case dismissals, forensic evidence, gunshot residue tests, court arraignment times and various other crime issues. The next meeting is scheduled for August 7, 2013.

The Department remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance



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

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

**Comments:**

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

MVS equipment, particularly older units, is subject to breaking down and requiring repair. As a result, the total number of operational units at any one time varies. In July 2012, DPD estimated that it had about 303 MVS units operational. A total of 94 cars have been equipped with the new D911 video system. The complement of MVS equipment actually installed has remained the same, about 300 vehicles, since July 2011. At any one time, however, the equipment that is operational is less than 300.

During the third quarter of 2012, the IT Bureau (ITB) was focused on addressing and repairing a significant technical failure that had occurred and was disrupting the system for uploading data to its central server. To correct the problem, the Department acquired and in October 2012, installed a new central server that was dedicated to handling all the data from the newly acquired Data 911 (D911) MVS units. The new central server initially resolved the uploading problem but, since cars had not been able to upload for an extended period, many units were at maximum capacity and the overall system was not stabilized until late November 2012. We found that the DPD ITB resources were properly focused on repairing the disrupted uploading system.

During the first quarter of 2013 the ITB closely monitored the accumulation of data onto each of the Data 911 (D911) equipped cars. DPD has received 50 additional D911 units but installation of the new equipment was deferred until the new system was functioning smoothly.

The new D911 equipment allows the ITB to track each car's storage at any one time. DPD found that when video storage in individual cars rose to over two GBs it was an indication of the system failing to properly off-load data. Using this technique and closely monitoring the system during the quarter the ITB detected a number of cars that were not properly uploading. To remedy the situation, the ITB installed two store and forward servers that it believes solved off-loading problem. During our most recent site visit, we observed the report for the current status of the fleet of D911 equipped cars and found that only two had greater than two GBs of data. Both cars were to be checked by the ITB.

We reviewed the service log for the period January 1, through March 31, 2013 and found that the ITB handled 345 MVS related service actions during the quarter. Nine were classified as "active," one as "closed unresolved," and 335 (97%) as "completed."

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U101***

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

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

**Comments:**

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

During past site visits, we found:

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

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

- **Uses of Force:** We requested 102 cases closed during the months of December 2012, and January and February 2013, for review; and after removing cases that were inappropriate for review for MVS, there remained 86 SIR reports to be reviewed.<sup>37</sup> Of the 86, 36 had no recordings due to Data 911 system issues (see technical failure discussed in U100 above). Of the remaining 50, 17 had no recording equipment installed or the MVS systems were not involved (e.g., officers were on walking beats). Twenty-three (70%) of the remaining 33 instances included video/audio recordings from mobile units, recordings from holding facilities, or recordings from casinos or the city council. All (100%) were reviewed by supervisors. Of these 23, video and audio were recorded in only 12 (52%).
- **Injuries:** In past reporting periods, DPD has been unable to produce a report that identified a comprehensive list of incidents involving injuries to officers or subjects in which MVS should have been recorded by officers and reviewed by supervisors. Beginning in January 2013, the Department has tracked injuries to both officers and subjects. The list identified 88 instances in which DPD officers suffered injuries during

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<sup>37</sup> Includes cases assumed by investigator, acquiring target cases, and K9 deployments without contacts.

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the first quarter of 2013. Most injuries occurred in circumstances in which MVS was not applicable. Only six instances produced video; all six were reviewed by supervisors.

- **Pursuits:** DPD officers engaged in 20 pursuits during the first quarter of 2013. 14 cars that engaged in these pursuits were equipped with operational MVS. Twelve (86%) of the 14 cars recorded video during the pursuit and six (43%) recorded audio. Fourteen (70%) of the supervisors who reviewed the 20 DPD-665 forms (Vehicle Pursuit Reports) submitted for the review commented about the availability of MVS recording. The following chart depicts these data.

Pursuits Q1 Jan - Mar 2013							
Number	MVS Equip	Video	%	Audio	%	Supv Review or Comment	%
20	14	12	86%	6	43%	14	70%

- **External Complaints:** We were provided OCI data regarding 157 cases closed during the first quarter of 2013. In 153 of these cases (97%), OCI investigators' notations indicated they had checked to see if there was video or audio available. In 56 of these cases, video was recorded and in 40 of the 56 cases audio was recorded and supervisory review was noted. DPD was unable to provide a list of these data in which MVS equipment was operational and should have been used.

We reviewed 26 IAD investigations that were closed in the first quarter 2013. Five should have had video. (There was a working video unit in the vehicle.) Of those five cases, three (60%) had video footage available and it was used in the investigations. There was no audio available in any of the five cases.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement U102***

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

**Comments:**

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

DPD has never achieved Phase 2 compliance with this requirement. Our past two reviews were disrupted by technical failures in the DPD MVS system. In October 2012, we found that storage

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of video camera data had been severely disrupted during the third quarter of 2012 due to a technical failure that prevented video from being uploaded successfully. In January 2013, we found that the MVS system had been stabilized in October 2012, through the acquisition of a new central server that was devoted to the new Data 911 (D911) MVS. Since most of the DPD's deployed MVS equipped cars were loaded to capacity with data that could not be uploaded until the new server was installed, the system was not functioning smoothly until mid-November 2012. We reviewed traffic stop data for December 2012, and found video and audio present in 83% and 47% of the random sample records surveyed.

During our April 2013 site visit, we were able for the first time since July 2012, to review a full set of random samples of traffic stops to determine if video and audio were collected. We selected a random sample of 50 traffic stops for each month in the first quarter of 2013. While the January results (video 76% and audio 56%) were very much at the same level as we have found before, February and March showed marked improvement; 92% and 94% of the records surveyed during these months had video, and 76% and 80% had audio. The Department's efforts to gain compliance with this requirement appear to be producing results. The chart below shows our findings.

<b>TRAFFIC STOPS Q1</b>					
<b>Month</b>	<b># Records</b>	<b>Video</b>	<b>%</b>	<b>Audio</b>	<b>%</b>
January 2013	50	38	76%	28	56%
February 2013	50	46	92%	38	76%
March 2013	50	47	94%	40	80%
Totals	150	131	87%	106	71%

In addition, DPD advised that seven vehicles were searched with canines during the period January 1, 2013, through March 31, 2013. In all seven, the car was equipped with an operational MVS in which both the video and microphones were working. In one of the seven deployments, the search was conducted inside a building and video could not be acquired. Five (83%) of the six remaining deployments recorded video and audio.

The Department is not in compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

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***CJ Requirement U103***

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

**Comments:**

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

In this area, the Department has also gone well beyond the requirements of the Consent Judgment. It has instituted several programs designed to enhance case processing and improve outcomes. These include an arbitration process which supports improved case processing and a restorative intervention process which is designed to address officers' emerging patterns of disciplinary problems in a way that seeks to recognize underlying problems and change behavior. The process of consultation, involving all those concerned with the events that triggered disciplinary action, seeks to meet the needs of both the officers involved and their supervisors.

Within the Department, the disciplinary process is also no longer viewed as an isolated and exclusively reactive process. The Disciplinary Administration Unit regularly reviews information to identify patterns of problematic behavior in individual officers, units and the department as a whole. It provides this analysis for consideration in the risk management process and in departmental training. With these changes the disciplinary process is now fully incorporated into the broader context of management of the Department.

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. For this reporting period, we reviewed all 95 disciplinary cases that were closed during the quarter. There is no backlog of cases and case-flow is being managed sufficiently. During the current reporting period, a total of 127 new disciplinary cases were opened. This is a substantial increase over the previous quarter, which saw smaller numbers due to training obligations and some staff changes.

There have also been changes in the command staff overseeing the disciplinary admin unit. Recently developed practices intended to expedite cases and prevent backlogs remain in place. These include voluntary mediation as an alternative to trial boards and restorative practices for resolving low-level discipline issues. These provide positive approaches to addressing administrative requirements while also holding officers accountable for their behavior.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U104***

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

**Comments:**

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. For this reporting period, we reviewed all 95 disciplinary cases that were closed during the quarter. All disciplinary proceedings met the established timelines and were consistent with this requirement. As of the end of March, there are no cases remaining open that predate 2011. For 2011, a total of 6 cases remained open, and 47 cases were open from 2012. The status of all open cases is tracked by the disciplinary unit and reported quarterly. All open 2011 and 2012 cases reflect appropriate scheduling and steps toward closure.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U105***

*The DPD shall create a disciplinary matrix that:*

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

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**Comments:**

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 95 disciplinary cases that were closed during the quarter. The disciplinary matrix is provided for use at disciplinary trial boards and other disciplinary processes. All decisions during this reporting period fell within the matrix and were consistent with this requirement. DPD continues to be in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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



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¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	In Compliance	In Compliance
101	Revision of video camera policy	In Compliance	Not in Compliance
102	Record all vehicle stops, searches, etc.	In Compliance	Not in Compliance
103	Elimination of disciplinary case backlog	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance
105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance

## IX. TRAINING

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the Training Commander and key members of the training staff. The DPD revises and updates its training courses annually and introduces the new material in July of each year. Accordingly, during our July 2012 site visit, we reviewed a variety of memoranda and policy material for use during the 2012-2013 training year (July 1, 2012, through June 30, 2013). There have been no substantive changes in the policies that pertain to Training; the Training Directive 304.5 was revised on July 10, 2012, to address minor numbering typographical errors.

### 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.

The required review was conducted in the fourth quarter of 2012, and documented in a DPD report entitled, “Training Oversight and Development Report – Semi-Annual Review, December 2012.” We reviewed this report – the eighth such report to be issued – during our January 2013 site visit and found that it contained the necessary evaluation of use of force, arrest, and detention training; and covered all elements of this requirement. The report is prepared twice each year, and the next such report will be produced in June 2013.

The DPD remains in Phase 2 compliance with this paragraph.

#### **Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U107***

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

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

**Comments:**

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

To assess compliance with this requirement for this reporting period, we met with the In-Service 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 2012 site visit, we reviewed the revised lesson plans that are being used in the 2012-2013 training cycle. We also have reviewed the new use of force scenarios that are being deployed; and the report entitled, "Training Oversight and Development Report – Semi-Annual Review," dated December 2012, which documents the DPD's semi-annual review and evaluation of its training. The next such report will be completed in June 2013. Use of force and detention training are adequate.
- b. As noted above, during our July 2012 site visit, we examined the lesson plans for the Use of Force and Arrest and Detention training that are being used in the current training year (July 1, 2012, through June 30, 2013), and found them to be adequate for the training required. Training plans to present essentially the same training points during the next year but to use new scenarios based on real life DPD incidents. The new year's training scenarios and lesson plans will be approved in mid-June, 2013.
- c. DPD selected four new trainers who were assigned to the firearms range during the second quarter of 2012. The selections were based upon seniority as required by the union contract, but the new trainers were vetted through MAS for disciplinary records, sick leave, and use of force.
- d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions.
- f. Directive 304.5-3.4, revised July 10, 2012, places responsibility on the Commander of Training to conduct training needs assessments and Directive 304.5-6.2, requires that such assessments be conducted and documented every two years. As noted previously,

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in July and December 2012, the DPD conducted and documented training needs assessments. DPD has initiated new training and modified in-service training in order to address many of the deficiencies identified in the needs assessments that it has conducted. DPD plans to conduct a needs assessment before the next training year (July 1, 2013 through June 30, 2014).

The Department remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U108***

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

**Comments:**

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

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

We randomly selected 25 officers who were listed on the spreadsheet as having received and completed in-service training since July 1, 2012, through March 31, 2013. In order to complete their in-service training, these officers would have to attend and sign attendance sheets for four courses: Legal; Use of Force; PR-24; and Firearms Qualification. In addition, if the officer selected on the random sample list was a supervisor or investigator, they would have attended the Leadership In-Service as well. DPD was able to locate all (100%) of the expected signatures.

During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. Training has now entered all DPD training records for years 2003 through the present. During this reporting period, we selected the training records for the 25 officers in our random sample relating to Use of Force, Legal, PR-24 and Firearms Qualification, and checked the MITN system to see if they had been recorded. All (100%) were found to have been entered into MITN.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***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. During previous reviews, we found that DPD developed new scenarios utilizing DPD Internal Affairs incidents, and accepted them for incorporation into the Legal block of training. We reviewed all new scenarios and found them acceptable. We have reviewed all the lesson plans that were updated for the 2012-2013 training year and found them to be adequate. No additional scenarios or lesson plans were implemented during the first quarter of 2013.

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 January 15, 2013. Meetings are held quarterly. The DPD remains in compliance with U110.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement U111***

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

**Comments:**

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

This training is conducted by CRIB for both civilian and sworn personnel. The Department hired 10 new employees who were trained by CRIB during the first quarter of 2013. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

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

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

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*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 previous site visits, we assessed training policy directives, curricula, lesson plans, special orders, training needs assessment and teletypes, among other materials that were prepared to address the requirements of U112 during the 2012-2013 training year (July 1, 2012, through June 30, 2013). Our review showed that the course content requirements of U112 and all of its subparagraphs were met for all recruits and in-service trainees.

During this reporting period, we found that 1,587 (68%) of the 2,323 DPD officers available to train attended and completed the in-service blocks for Use of Force and Legal training in which the requirements for U112 are fulfilled. Three quarters of the training year was reached in March, and inasmuch as the DPD trained 68% of its officers, it is making satisfactory progress toward fulfilling 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*

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*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 (July 1, through December 31, 2012), 98% of the officers available to train attended firearms and qualified.

During this review, we found that 964 (41%) of the 2,323 officers available to train had attended firearms training and qualified.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

**D. Arrest and Police-Citizen Interaction Training*****CJ Requirement U114***

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

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



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- 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 were 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, 2011, through June 30, 2012), the Department trained 98% of its available members in its Use of Force in-service training and 99% in the Legal in-service training.

During this reporting period, we found that 1,587 (68%) of the 2,323 DPD officers available to train attended and completed the in-service blocks for Use of Force and Legal training in which the requirements for U114 are fulfilled. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

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

**Comments:**

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

DPD developed appropriate policies and lesson plans to comply with this provision, as well as a protocol to train all recruits, sworn members, confinement officers, investigators, and supervisors. All officers who attend the Use of Force and Legal in-service 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.)

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During the training year that ended on June 30, 2012, 98% of DPD members attended the Use of Force and 99% its Legal in-service training sessions and received this training. As noted in U114, 68% of DPD officers have attended the Use of Force training and the Legal training during the first three quarters of the new training year (July 1, 2012 – June 30, 2013).

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U116***

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

**Comments:**

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

DPD has incorporated these training requirements into its Use of Force and Legal lesson plans. During the 2011-2012 training year, the Department trained 98% of its officers in its Use of Force in-service training session and 99% in the Legal in-service.

In the first two quarters of the new training year, DPD remains in compliance, having trained 68% of its officers available to train in these in-services. The Department remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U117***

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

**Comments:**

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

Material witness training has been incorporated into the Use of Force and Legal lesson plans. As noted above (see U115), the DPD trained 98% and 99%, respectively, of its officers in the Use of Force and Legal in-service training during the last completed training year (July 1, 2011 through June 30, 2012).

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In the first two quarters of the new training year, DPD remains in compliance, having trained 68% of its officers available to train in these in-services. DPD remains 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, 2012, the Department trained 98% of its supervisors in its Supervisory Leadership and Accountability in-service.

During the first three quarters of the new training year (July 1, 2012 through March 31, 2013), 318 (65%) of the Department's 487 supervisors who were available to train attended the Leadership and Accountability in-service training.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U119***

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

**Comments:**

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

During the training year that ended on June 30, 2012, the DPD trained 98% of its supervisors and investigators at its annual Supervisory Leadership and Accountability in-service training. The

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DPD did not promote any personnel to the supervisor rank during the first three quarters of the new training year. As noted in U118, during the first three quarters of the new training year (July 1, 2012 through March 31, 2013), 318 (65%) of the Department's 487 supervisors who were available to train attended the Leadership and Accountability in-service training. DPD remains in Phase 2 compliance with this requirement.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement U120***

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***CJ Requirement U121***

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***CJ Requirement U122***

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

**Compliance Status:**

Phase 1: In Compliance

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

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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.*

**Compliance Status:**

Phase 1: In Compliance

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

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

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

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

During our first site visit in November 2009, we reviewed required directives, supporting logs, forms, and documentation relating to the operation of the detention facilities. Accompanied by key members of the DPD Office of Civil Rights personnel, we conducted our first tour of the Detroit Police Department's five facilities with holding cells and the Detroit Receiving Hospital.<sup>38</sup> We have repeated our tours and inspections of some or all of these facilities during each of our subsequent site visits, and have interacted with command and key detention staff at each facility.

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

During our visits to and inspections of the various facilities with holding cells, we are always accompanied by CRIB staff, and assisted by the cell block supervisors and compliance officers. These inspections included our entering and examining every holding cell, interviewing detention staff, and reviewing forms and logs. When we find errors, omissions or violations during the inspections we advise facility and CRIB staff immediately of our observations.

We have worked with DPD holding facilities staff to streamline reporting mechanisms and to offer alternatives to ensure that requirements are met and are consistent with policy.

Since the implementation of the virtual precinct concept earlier in 2012, citizens can report many more crimes by telephone rather than requiring that officers either respond to the scene or citizens travel to a District or Precinct. The virtual precinct reduced the number of police reports

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<sup>38</sup> Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts.

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that the desk supervisor previously had to review thus freeing the position up for other responsibilities. We will continue to monitor this change during our next report period.

Prior to forwarding documents requested for our quarterly reviews, CRIB personnel routinely review the documents before they are forwarded to us. During this review, CRIB typically identifies errors and/or omissions and forward corrective action notices to the various commands. Written responses are required. If appropriate supervisory review occurred and errors/omissions were initially identified and corrected at the District/Precinct level, that action would have a positive bearing on compliance.

DPD and MDOC (Michigan Department of Corrections) were in negotiations during this quarter to have the State house all DPD detainees after the initial probable cause determination and processing. An Interagency Agreement was signed by both parties the first week of April 2013, and the transfer should occur during this summer.

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

**III. FIRE SAFETY POLICIES*****CJ Requirement C14***

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

**Comments:**

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

The Fire Marshal Division of the Detroit Fire Department conducted its annual review and approved the Fire Safety Program (FSP) and the Comprehensive Emergency Preparedness Program (CEPP) for all DPD buildings containing holding cells on June 7, 2012. Fire Systems of Michigan conducted inspections of the sprinkler systems during this quarter. The semi-annual inspection was completed at all facilities during unannounced visits by the Audit Team during January 2013.

The next Fire Marshal's inspection is due in May 2013.

Accordingly, 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 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 all but one of them to be fully charged.

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C16***

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

**Comments:**

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

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

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***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 and documented on June 7, 2012. The next Fire Marshal's inspection is due in May 2013. DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C18***

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

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

**Comments:**

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

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 on June 7, 2012. DPD remains in Phase 2 compliance with the requirements of this paragraph.

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**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. During the previous reporting period, we found that the sprinkler system at one precinct was out of order from September 19 to October 20, due to two broken sprinkler heads. The inability to deliver water in the event of a fire for a period of one month is unacceptable and places the Department's compliance rating in jeopardy. During this reporting period, we found all sprinkler systems in working condition. Additionally, we reviewed DPD 715 - Evaluation of the Operation of Holding Cells forms. There was no indication that sprinkler systems were out of order during the CRIB monthly inspections.

Fire Systems of Michigan and the Fire Marshal conduct the required inspections, which were last conducted in June 2012.

Because sprinkler heads are often broken by detainees in the holding cells – requiring the shutdown of the water delivery system – the DPD added language to the CEPP/FSP, under the auspices of the Fire Marshal, requiring that the detention staff perform visual fire inspections as an alternative when the fire detection system is disabled or not functioning.

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 C20***

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

**Comments:**

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

The DPD has been in Phase 2 compliance with this paragraph since the first reporting period. During our most recent inspection, we did not observe 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.*

**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.

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

**IV. EMERGENCY PREPAREDNESS POLICIES**

***CJ Requirement C23***

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

**Comments:**

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

As noted previously, Phase 2 compliance is related to and contingent upon the implementation of C24-25; DPD is in compliance with C25. Accordingly, we find this paragraph in compliance.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***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 this reporting period, that the shackles were fully accounted for and placed individually in crates, or hanging from hooks. We determined that the detention officers had sufficient handcuffs and/or shackles for use in the event of an evacuation, and that all of the detention officers that we interviewed were aware of DPD policy to retain the assigned holding cell keys on their persons.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement C25***

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

*At a minimum, the key control policies and procedures shall:*

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

**Comments:**

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

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

During our three previous inspections, we found that each district/precinct had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants' and sergeants' office. Teletype 11-0989, Holding Cell Facility Keys – Required Documentation, regarding inventory and assignment of keys by the 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. Subsequently, CRIB distributed Department Teletype 11-01395, which thoroughly explained the procedure for documenting the inventory and security of keys. When interviewed, the detention supervisors and officers appeared to have an understanding of their responsibility for key control.

During our most recent site visit, we determined that the supervisors and officers that we interviewed appeared to understand the process for inventory and control of the keys. The MAS Desk Blotter indicated that key inventories were entered in a timely manner.

DPD is now in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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



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

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

**Comments:**

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

DPD has previously had difficulties with this paragraph due to the requirements of C27-33. Those issues were addressed and subsequently this paragraph is now compliant.

During previous reporting periods, we reviewed all DPD's Audit Team's report of its findings of the Holding Cells and are in agreement with their findings as they have been similar to ours. The most recent audit we have reviewed of the holding cells was released on July 31, 2012 and the deficiencies noted, for the most part have been addressed. DPD released its Quarterly Status Report on March 31, 2013; we note that the Department's internal inspections of C26 and C32g continue to show that it is in compliance with both paragraphs. We are in agreement with DPD's assessment, as we have similar findings for the current reporting period. We have observed steady improvement during the past three reporting periods to address the deficiencies described in our reports.

Our inspections and review of the quarterly detainee file folders demonstrated progress in most areas; however, previous documentation of detainee medical information and release of medication continued to be problematic. DPD revised the Detainee Intake Form (DIS) with implementation on September 20, 2012. The document was approved by the Department's consulting physician on August 31, 2012. The new form is completed (via hand) by the processing officer during intake screening, streamlined, and has resolved the most pressing issues with documentation from the previous form. New guidelines for the completion of the revised DIS were issued to assist processing officers conducting screening of detainees. As a result of the implementation of the revised Detainee Intake Form, it was disabled from Livescan.

Medical referrals and the thoroughness of medication logs have also sustained improvement during this and the six previous reporting periods, and the documentation of the exchange of health information between shifts remains compliant. In previous reviews, holding cell personnel did not adequately list the medical needs of the detainees on the Platoon Daily Detail Summary (PDDSL); and the shift preparing or receiving the log failed to place the date or the time on the form. DPD has rectified this problem, and those forms are now complete, with the exception of the Second Precinct failing to identify and list the names of suspected crime partners on the PDDSL's. While four of the facilities are completing this form correctly, the Second Precinct is experiencing difficulty as its compliance rate for this reporting period is 88%. The overall compliance rate for all facilities is 96%.

During the current reporting period, we reviewed and inspected a random sample of 202 detainee file folders and observed personnel. We found that most DPD personnel are properly implementing these procedures in accordance with the DPD directives. However, with the small sample size in some instances, one employee can thwart compliance. We continue to note a few

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clerical errors and incomplete or missing documentation of medical information and medication logs.

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 19 instances where the detainee processing time did not meet the requirement (one with no explanation for the delay and in two cases the processing officer failed to mark the box indicating the late processing). Ten detainees were taken directly from the scene to DRH; four were arrested by other agencies; one refused to be processed and the other two detainees were combative and had to be placed in a holding cell until they calmed down.

There were three instances where DPD did not indicate a release of the remaining medications to the detainee at time of discharge or transfer to another facility; one instance where medical/mental health information was not transferred from the Detainee Information Sheet to the Detainee Information Form by the processing officer; eight medications were not administered timely (275 total medications administered); three detainees were incorrectly classified; nine pages of discharge instructions were missing (there were two cases where discharge instructions were entirely missing) and in one case the conveying officer did not place his signature on the Medical Referral Form of the conveyance back to the holding facility from DRH. There was one detainee file folder where the Medical Referral Form was not included in the packet and one detainee Hospital Form could not be located.

The critical issues for DPD to address at this time for maintaining compliance with the Medical and Mental Health Care Policies (C26-33) are: sanitary conditions of the holding facilities, and ensuring that remaining medications at the time of detainee release are either given to them or transferred with them to another facility. At this point, DPD needs to fill out the required forms completely to be in compliance with this paragraph. Compliance with this paragraph is dependent upon compliance with C27-C33.

DPD is now in compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C27***

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

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**Comments:**

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

The DPD Health Authority completed the annual review and approved the CMMHSP policies and directives. The DPD provided us with documentation indicating that the CMMHSP was approved on April 8, 2013, and the mental health portion was approved on March 13, 2013. DPD revised the Detainee Information Form with implementation on September 20, 2012 with written approval on August 31, 2012 by the Department's consulting physician.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C28***

*The prisoner screening procedure, at a minimum, shall:*

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

**Comments:**

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

During our review of documentation and July 2012 site visit, we found DPD in Phase 2 compliance with this requirement for the first time. For this reporting period, we observed few deficiencies. There remain minor clerical errors and occasionally incomplete or incorrect completion of required forms. With few exceptions personnel documented those instances where information was critical to the detainee's health care.

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. DPD processes detainees for Highland Park Police, Wayne State University Police, Detroit Public Schools Police, and the Michigan State Police. As we have noted in previous reports, many times DPD is

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late processing these detainees, due to the other agencies not presenting them to the holding facilities until the two hours from the time of arrest has passed. Any instance in which a detainee is screened more than two hours from the time of the arrest the processing officer is required to indicate the lateness on the face sheet of the DIF and should also indicate the reason for the lateness on the third page of the DIF under the "Comments Section." In each case, except one, staff had transported to DRH detainees needing medical attention within a reasonable time of the request or transported them directly from the scene for those detainees needing immediate attention.

There were 202 detainee file folders we reviewed that included 19 instances where the intake screening took more than two hours; however, in 10 of these cases, the arrestee was transported to DRH or another hospital directly from the scene. In one case, the processing officer indicated a backup of detainees to be processed as the cause for the delay (five detainees arrested at the same time); in four cases, the arrest was made by Michigan State Police, Highland Park Police or Wayne State University Police; and in one case, the processing was late and the reason for the delay was not documented. Occasionally there are operational issues at the facilities where screening may be delayed, due to safety of the detainee and employees or several detainees are brought into the facility at the same time.

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 and address those issues immediately. Compliance for processing detainees (C28d) within the two-hour requirement is 99%.

The Medical/Mental High Risk Logs (DPD 661) for this reporting period revealed that high-risk detainees were observed by staff and were compliant. We reviewed DPD 661 Forms for detainees who were maintained on suicide watch or should have been placed on constant supervision. In the sample reviewed for this quarter all detainees were properly identified who were at risk for committing suicide or placed on heightened observation. In one case, although the Risk Management Assessment Form clearly indicated the prisoner was likely to harm himself, the detainee was placed on 15-minute watch. The forms met the requirements for constant supervision as required by DPD policy. While reviewing documentation for C64b (supervisors to review video of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints) we reviewed two cases of suicide attempts by detainees and one self-inflicted injury by a detainee. In all instances video was reviewed and personnel followed proper procedures.

All facilities met or exceeded the requirement.

In some cases, medical professionals at DRH may recommend placing a detainee on constant watch or remove them from the watch (Risk Management Assessment Form from the Detroit Medical Center). 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. If there is any question whether a detainee should be monitored every 15 minutes or placed under constant observation; the detainee should be constantly monitored.

When a detainee's medical or mental health status changes, detention staff should update the documents accordingly and indicate the date and time of the new information. With the revised

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DIF, detainee's medical information has been disabled from the Livescan system. Overall, we found that DPD had a 94% compliance rate with this paragraph due to the compliance of C28e (C28a, b, and c had previously been in compliance). There were 66 instances where the Detainee Input Sheet indicated that the arresting or transporting officer listed a mental or medical issue with the detainee. In 65 cases, the processing officers in the facilities transferred this information to the Detainee Information Form. DPD's compliance rate for C28e this reporting period is 99%, an increase from the previous reporting period.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement 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 202 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 a few key areas, including:

- Fifty nine referrals of detainees in need of medical or mental health care to DRH or another local hospital and all were within policy, with the following exceptions: in one case the Medical Referral Form was not included in the file folder and in another instance it took over nine hours for the detainee to be transported to DRH after the request was made.
- One case in which the intake screening was not conducted within the two-hour timeframe and where no operational delay was indicated.
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner. Thirty-nine detainees had medications disbursed (275 individual dosages); and in eight instances, the dosages were not administered within a reasonable time according to the prescription schedule. In one case where medications were to be dosed to a detainee every 12 hours, the detainee only received the morning dose on two consecutive days.

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- Sixty-six instances where detainee medical information was listed by the arresting officer on the Detainee Input Sheet; and in one case, the processing officer did not transfer that information to the Detainee Information Form.
- Fifty-nine detainees who were sent to the Detroit Receiving Hospital for treatment or medication; in all but two, discharge instructions were included in the detainee file folders. In the 57 remaining detainees we found three instances where one or more pages of the discharge instructions were missing. For all detainees who went to DRH for treatment or medication verification we reviewed 248 individual pages of discharge instructions.
- Written prior supervisory approval was issued for all decisions made in response to acquired medical information.
- The required Hospital Prisoner Form was included in all but one of the detainees who were sent to DRH.
- Of 202 classifications of detainees into the holding facilities after screening, 199 were correctly classified.
- There were 13 Detainee Custodial Transfer Logs (detainees transferred to other DPD holding facilities) completed in the sample and one did not contain the receiving Cell Block Supervisors signature.

Overall, we found that 98% were in compliance with this paragraph – the same as the previous reporting period. DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C30***

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

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

**Comments:**

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

During our previous site visits, our inspections of the Detroit Receiving Hospital and the five DPD facilities that maintain holding cells disclosed satisfactory levels of sanitation in similar



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degrees at all of the sites with a trend toward improvement. During our most recent site visit, we found all facilities to be in compliance.

During our most recent inspection, we inspected the Personal Protective Equipment (PPE) kits from each of the five holding facilities. Each kit has a list of the contents of the packets to facilitate a rapid response if needed. In one of the kits there was one item missing and when we advised staff of the issue it was replaced immediately as the item was in storage in the facility. As with the first aid kits any item used should be replaced immediately. 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. Administrative Message (Teletype 12-1124), released on December 14, 2012, stressed the importance of holding cell cleaning and sanitation.

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.



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During previous reporting periods, our reviews of DPD form 661, Detainee Medical/Mental Health Monitoring and form 659a, Platoon Daily Detainee Summary Form; indicated that required detainee health information – such as whether a detainee is taking medication or has a medical condition – was not always being documented and communicated between consecutive shifts. This issue has now been addressed as our reviews indicate compliance.

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 fewer errors than in our previous reports; however, the logs from the Second Precinct indicate the major deficiencies were for failing to properly identify Suspected Crime Partners (88% compliant). It should be noted that form DPD 659a was amended during the ninth reporting period to indicate for each detainee whether medications are prescribed. Detainee medications are captured on the Medication Disbursement Log (DPD 664). DPD is now appropriately capturing information and listing the medical/mental needs of the detainee on the form. All districts/precincts with holding cells, with the exception of the Second Precinct, are compliant with this paragraph with compliance rate at 97% or above. The overall compliance rate (C31c) for all holding cell facilities is 96%, a decrease of 1% from the previous reporting period.

DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C32***

*The DPD shall develop a prescription medication policy in consultation with qualified medical and mental health professionals that ensures prisoners are provided prescription medication as directed. The policy shall be approved in writing by qualified medical and mental health professionals and shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the policy within three months of the DOJ's review and approval. Thereafter, the policy shall be reviewed and approved in writing by qualified medical and mental health professionals at least annually and prior to any revisions to the program. At a minimum, the policy shall:*

- a. indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*
- b. require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*

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- 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 had previously been addressed with the exception of C32g, prescription release information.

During the current reporting period, in our review of 202 detainee file folders, we found few instances where the DPD failed to record essential detainee and staff information. We noted, for example, that the medication logs on detainees who had been released showed that three detainees were not given their unused medications, although just above where the detention officer signs the form is a box that should be checked indicating the release. DPD, as a result of our inquiry, did determine that one of the detainees did receive their medication upon release but the failure here is the lack of documentation by personnel.

There were 39 detainees who received medications while confined in a DPD holding facility. There were a total of 275 individual dosages administered by DPD personnel. There were eight instances where the medications were not disbursed timely and in one case a detainee should have received his medication every 12 hours; however, it was disbursed once a day for two consecutive days. DPD personnel timely disbursed prescribed medications to detainees 96% of the time. We examined the Platoon Daily Detainee Summary logs, which are used to ensure that detainee health information is exchanged and communicated between shifts. During a previous 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.

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. Our inspection of medication cabinets and medications for detainees at the districts/precincts

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maintaining holding cells revealed that all was satisfactory in the location of the cabinets and storage of medications.

DPD has addressed the previous failures with the requirements of C32g, and had achieved compliance with this paragraph for the past two reporting periods. The Department must continue to focus on the concerns related to the documentation of medication disbursements and release of medications when a detainee is released or transferred; C32a through 32f are in compliance. The compliance rate for C32g is 92%, compared to the 98% we found in the last reporting period. All subsets of this paragraph, with the exception of C32g, exceed the  $\geq 94\%$  requirement. A failure of personnel to accurately record the release of medications to detainees in our next report will remove DPD from compliance.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C33***

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

**Comments:**

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

During 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 was knowledgeable regarding the use of the clothing and where the appropriate clothing was stored.

We find DPD in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C34***

*The DPD shall remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars.*

**Comments:**

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

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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, and did not observe any hazards that could affect detainees or staff.

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
26	Prisoners' medical/mental health conditions	In Compliance	In Compliance
27	Medical/mental health screening program	In Compliance	In Compliance
28	Medical/mental health screening procedures	In Compliance	In Compliance
29	Medical protocols	In Compliance	In Compliance
30	Infectious disease policy required	In Compliance	In Compliance
31	Prisoner health information protocol required	In Compliance	In Compliance
32	Prescription medication policy required	In Compliance	In Compliance
33	Clothing-suicide prevention	In Compliance	In Compliance
34	Removal of suicide hazards	In Compliance	In Compliance

**VI. PRISONER SAFETY POLICIES**

***CJ Requirement C35***

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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***CJ Requirement C36***

*The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:*

- a. establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and*
- b. require that security screening information is documented and communicated between consecutive shifts.*

**Comments:**

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

DPD Form 659A (Platoon Daily Detainee Summary Log [PDDSL]), revised August 2011, is used to record information on detainees with medical conditions or special needs. During this reporting period, we reviewed Eastern District logs that contained 495 entries. Eastern's compliance rate for the month of February was 93%. All of the deficiencies were for failures to mark the "Other" alert column on a detainee with a Criminal Sexual Conduct charge. The Eastern District's compliance rate with this paragraph is 97%, a 1% increase from the last reporting period.

We reviewed Northeastern District's logs containing 485 entries. The Northeastern District's compliance rate with this paragraph is 97%, a 1% decrease from the last reporting period.

We reviewed Sixth Precinct's logs containing 336 entries. The Sixth Precinct's compliance rate with this paragraph was 97%, which is the same as the last reporting period.

We reviewed Twelfth Precinct logs containing 217 entries. The Twelfth Precinct's compliance rate with this paragraph for this reporting period is 98%, a 1% decrease over the last reporting period.

We reviewed Second Precinct logs containing 479 entries. The Second Precinct's compliance rate with this paragraph is 88% for this reporting period, a 7% decrease from the last reporting period. The major deficiencies were for failure to properly identify Suspected Crime Partners (SCPs). The DPD form 659a, Platoon Daily Detainee Summary Log clearly states, "the name(s) of the SCP shall be listed in the 'Comment' section of this form."

The average for all districts/precincts during this reporting period is 96% compliance for the 2,012 log entries, a decrease of 1%.

DPD is in Phase 2 compliance with this paragraph. However, Second Precinct must meet the required  $\geq 94\%$  compliance rate during the next reporting period to remain in compliance with this requirement.

**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 an apparent compliance rate of 100%. Reporting numbers are very low for DRH due to low population counts. During this reporting period, which spans 144 hours of documentation per month, only four detainees were present in the holding cells for a total period of eight hours.

General population well-being checks are entered on the DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on DPD Form 661, Detainee Medical/Mental Health Monitoring (DMMHM) logs. During the current reporting period, our review of 6,021 entries in the Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 99.6% compliance rate. All of the districts/precincts scored 99% or better for each monitoring period. The Second Precinct is commended for scoring 100% for each month of the reporting period. The Department corrected previous problems with unreadable time stamps. No records were submitted during this reporting period that were not readable.

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 C38***

*The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on site remote observation of all observation cells while they are occupied.*

**Comments:**

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

For the periods of January 25-30, February 15-20, and March 1-6, 2013, we reviewed logs for 14 detainees who required a 15-minute or constant observation watch, reported on Form DPD 661 (DMMHM Log). Numerous errors were noted with the documentation of checks every 15 minutes as required by the Consent Judgment. In the Northeastern District, one detainee had eight late or missed checks on Platoon 1, on February 8, 2013. Another detainee's record indicated nine missed checks between 18:30 on March 6, 2013 and 07:30 on March 7, 2013. On March 7, 2013, another detainee's record revealed nine missed checks between 00:00 and 08:00.

Other types of errors occurred also. One detainee's record indicates that he was admitted to the holding facility on March 6 at 19:15 (Platoon 3) and was immediately placed on constant observation because of a suicide attempt four months prior to this arrest. He was also evaluated at the hospital, although the log does not indicate when the evaluation occurred. The next three Platoon logs indicate that he was placed on mental 15-minute monitoring. Then on March 8, 2013, at 00:15 (Platoon 1), the log shows the detainee back on constant observation. There is no justification in the logs that would have supported the change in evaluation status.

In the Sixth Precinct, one detainee was placed on constant observation during his stay on January 25-26, 2013. He was not evaluated at the Detroit Receiving Hospital (DRH), and the only reason given on the Form 661 was "suicide risk." Another detainee was on mental 15-minute watch from January 25, 2013 at 14:25 until the following day at 17:15. No monitoring logs were submitted for the period of January 25 at 18:30 through January 26 at 00:30.

All districts met or exceeded the required  $\geq 94\%$  compliance standard for 15- or 30-minute cell checks. However, the Northeastern District should strive to improve monitoring accuracy and subsequent documentation.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
35	Security procedures to ensure safety	In Compliance	In Compliance
36	Prisoner security screening program	In Compliance	In Compliance
37	Procedures for cell checks required	In Compliance	In Compliance
38	On-site remote observation of cells	In Compliance	In Compliance



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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. The cleanliness level in the holding areas was satisfactory. Lighting continues to be an issue in areas where there is no direct light source in the toilet areas. Many of the concrete benches in the Sixth and Twelfth Precincts and the Eastern and Northeastern Districts have corroded or have been damaged over time and are no longer capable of adequate cleaning and disinfection.

Documentation of holding cell cleaning was improved overall during this reporting period. Each of the District/Precincts averaged between 98-100% compliance for this reporting period.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C40***

*The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.*

**Comments:**

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

DPD Directive 305.4 (effective January 9, 2013) 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 cover procedures, schedules, and documentation.

This requirement addresses the design and implementation of a cleaning policy for all holding cells. It also requires the routine cleaning and supervisory oversight of cleaning of the cells and nearby areas. The policy is in place and is adequate. The application of this policy has improved since our last site visit.

Automated chemical dispensers (ACD) were installed in the Sixth Precinct and the Eastern District and were in use by staff. The new system was working well in the Sixth Precinct. The supplier provided training to some members of the staff and “train the trainer” classes have been instituted to ensure adequate training of all staff on all shifts. Some Eastern District staff

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indicated they had received no training on the use of the ACD units; this was disputed by other officers.

While touring the Twelfth Precinct, we observed a bottle of bleach beside a bottle of ammonia on the floor in a housekeeping closet. Both of these products are extremely toxic and should not be present in a correctional environment, especially in close proximity to each other. Should these products come into contact with each other, a violent chemical reaction will occur, creating an explosion, fire, and the release of toxic fumes that can be fatal if inhaled. We requested that staff remove these products from the facility immediately, and asked for the removal of all bleach products in each of the districts/precincts. No other containers of ammonia were observed.

Also during our most recent site visit, we met with the director of the Detroit General Services Division regarding the difficulties the Department has in obtaining timely responses to requests for supplies and maintenance. Following our meeting, we learned that the City had approved two additional maintenance positions, which should improve the City's response to maintenance needs in the Police Department.

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.

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 reporting period, HCCC meeting agendas were reviewed and confirmed that current facility repairs were being discussed.

This section of the Consent Judgment requires "timely performance of routine maintenance." Compliance with this requirement remains challenging due to the age of the facilities and furnishings and the lack of availability of replacement parts. We continue to find satisfactory response times in addressing repair issues when staff and parts are available.

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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 C42***

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

**Comments:**

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

No HVAC issues were identified during our most recent site visit. As we toured the holding cells each day, we checked the temperatures in the cell areas, and found the temperatures in each of the holding facilities to be within the limits established by the Department (between 66°F and 85°F). Measured temperatures in the cell blocks were in the 70°F – 75°F range.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C43***

*The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.*

**Comments:**

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

During our most recent inspection, we continued to find only isolated instances of malfunctioning lights, toilets, and sinks. Repairs are being made promptly when parts are available. 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 are taken out of service and signage is 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

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***CJ Requirement C44***

*The DPD shall ensure that lighting in all cell block areas is maintained at an appropriate level for all tasks related to the housing of DPD detainees, including but not necessarily limited to, security, safety, cleaning and disinfection of housing areas.*<sup>39</sup>

**Comments:**

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

As in past visits, during our most recent site visit, lighting levels were determined to be marginally sufficient in the cell areas. In the Eastern District, the toilet areas are particularly dark; these areas were not adequately cleaned at the time of this inspection. This lighting deficiency is also present in some of the cells in the Sixth Precinct. DPD is in Phase 2 compliance with this paragraph at this time.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C45***

*The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.*

**Comments:**

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

No issues were identified during our most recent site visit. All prisoners had access to toilets and potable water at all times. Cells with plumbing deficiencies were not being used and signage was posted accordingly. 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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<sup>39</sup> Amended by Court Order dated April 23, 2012.

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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	In Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance
46	Hepa-Aire purifiers comply with standards	In Compliance	In Compliance

**VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES**

***CJ Requirement C47***

*The DPD shall ensure that persons with disabilities are provided with reasonable accommodations.*

**Comments:**

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

No issues were identified during our most recent site visit. The Northeast District (NED) is the designated ADA-compliant holding facility; all detainees with disabilities requiring special accommodations are housed in this facility. A wheelchair is available at NED for detainee use as needed. During our most recent site visit, we found that detention staff in the districts/precincts continue to demonstrate competency in the use of Telecommunications Devices for the Deaf (TDD). In addition, the TDD equipment was working properly in all sites. DPD detention staff are now required, per policy, to conduct tests on a monthly basis to ensure the equipment is

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working properly. In each holding facility, detention staff were able to demonstrate the use of the equipment.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C48***

*The DPD shall develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy shall be approved in writing by qualified medical and mental health professionals. Thereafter, the program shall be reviewed and approved in writing by qualified medical and mental health professionals at least every year and prior to any revisions to the program.*

**Comments:**

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

The provisions of this requirement are covered in DPD 305.1, Detainee Intake, and DPD 305.5, Detainee Health Care. These policies were reviewed and approved by qualified medical and mental health professionals on April 8, 2013 and March 13, 2013 respectively.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
47	Reasonable accommodation for disabled	In Compliance	In Compliance
48	Detention of persons with disabilities	In Compliance	In Compliance

**IX. FOOD SERVICE POLICIES**

***CJ Requirement C49***

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

**Comments:**

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

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C50***

*The DPD shall develop and implement a food service policy that shall be approved in writing by a qualified sanitarian. At a minimum, the food service policy shall:*

- a. require that the meal plan is initially approved in writing by a qualified dietician and, hereafter, is reviewed and approved in writing by a qualified dietician at least every year, or prior to any revisions to the program;*
- b. require that all food is stored and handled in a sanitary manner;*
- c. ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons; and*
- d. ensure that food service is provided to all prisoners who are held over six hours.*

**Comments:**

The DPD is in Phase 1 compliance with this paragraph. See Appendix B. DPD's Detainee Food Service and Hygiene Items Policy 305.8, was revised by the Detroit Police Department, dated January 9, 2013.

During the current reporting period, we reviewed Desk Blotter logs for the periods of January 25-30, February 15-20, and March 1-6, 2013. Food service documentation improved slightly during this reporting period. We considered instances of missed documentation to be in compliance if supervisory oversight and corrective actions were reported. However, a review of the districts' Desk Blotter logs for meal service documentation revealed compliance rates ranging from 100% in the Twelfth Precinct, 99% in the Eastern District and the Sixth Precinct, and 97% in the Second Precinct Northeastern District. The Department's overall compliance rate was 98% for this reporting period. All District/Precincts are in compliance with this paragraph.

The Detention Refrigeration Log, DPD form 655, is used to capture daily refrigerator temperatures and weekly cleaning and sanitization information on a monthly basis. This revised form was implemented on June 7, 2012, Department-wide. During this reporting period, we found documentation that the refrigerators had been cleaned weekly and refrigerator temperatures were satisfactory. Expiration dates on the food were up to standard. All districts were 100% compliant with the refrigeration logs.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance



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¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
49	Ensure sanitary food storage and service	In Compliance	In Compliance
50	Food service policies and practices	In Compliance	In Compliance

## **X. PERSONAL HYGIENE POLICIES**

### ***CJ Requirement C51***

*The DPD shall ensure that personal hygiene items should include; soap, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and feminine hygiene products. The DPD shall implement this provision within one month of effective date of this Agreement.*

#### **Comments:**

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

In the current reporting period, we inspected each area where the hygiene kits are stored to determine 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. Detainees indicated they had no problems obtaining personal hygiene items when needed.

The DPD's compliance rate with this requirement is 100%. Accordingly, we find the Department in Phase 2 compliance with this paragraph.

#### **Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

### ***CJ Requirement C52***

*The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.*

#### **Comments:**

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

During the previous reporting period, we examined 11 SIRs regarding incidents occurring at detention facilities. All of the cases were in compliance with DPD's use of force policies and procedures. Two of the cases were attempted suicides, one of which required the officers to use

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force to extract the detainee. Nine of the 11 cases should have included video reviews; nine (100%) included sufficient reviews utilizing facility and handheld camera recordings.<sup>40</sup>

During this reporting period, we examined eight SIRs regarding incidents occurring at detention facilities. All of the cases were in compliance with DPD's use of force policies and procedures. Two of the cases were attempted suicides. All eight of the cases included video review; in one instance, following the initial review, the investigating supervisor was unable to conduct a follow-up review due to technical difficulties. This issue was reported the Technical Support Unit.

DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C53***

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

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

***Comments:***

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

All districts/precincts that maintain holding cells are equipped with some level of videotaping/digital recording equipment that is linked to a camera system that monitors hallways and common areas as well as most, but not all, cells. In addition to the mounted video equipment, the detention districts/precincts have been issued handheld cameras that can be used for planned extractions. Our visits to the various holding facilities found that supervisors were aware of the handheld cameras and had received some training in their use. All supervisors contacted during our most recent site visit were aware of the cameras' location, and were aware of the need to check the recorders to ensure that the batteries were functional. In the previous

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<sup>40</sup> Two cases were not applicable; in one, there was no equipment installed in an interview room; and in the second, there was a technical problem that was reported to Tech Support.

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reporting period, we found that there were eight SIR investigations of incidents occurring in detention facilities cases; only three of these cases were cell extractions.

During this reporting period, we reviewed eight cases occurring in DPD detention facilities. One of the cases was a detainee injury in which no force was required or used; two others were attempt suicide cell extractions and minimal force was utilized. In six of the eight cases, information regarding detainees who had previously demonstrated recalcitrant or resistant behavior was available.<sup>41</sup> Four of the cases in which force was used were cell extractions. The remaining four incidents occurred either in an interview room, the processing area, or as the officers attempted to place a detainee in a cell. In six (75%) of those eight cases, appropriate precautions were taken, to include the summoning of a supervisor and the utilization of additional officers.

Of the eight use of force cases, four were cell extractions.<sup>42</sup> Supervisors were notified and were present at all four extractions. The handheld camera was not utilized in any of the cell extractions. In reviewing the remaining four cases involving uses of force on detainees, we find that they are primarily uses of force involving detainees refusing to cooperate during processing or detainees being placed in their cells from the processing area. Supervisors were notified and were present at the four non-cell extraction incidents. Sufficient personnel were also present to deal with the situations. Video was available and reviewed in the eight cases, including one non-cell extraction in which the handheld camera was 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.*

**Compliance Status:**

Phase 1: In Compliance

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

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
52	Use of force policies	In Compliance	In Compliance

<sup>41</sup> There were three cases in December, two cases in January, and one in February.

<sup>42</sup> Two in December, one at Eastern District and one at the Northeast District; one in January at Eastern District; and one in February at the Second Precinct.

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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 last reporting period, we requested 11 cases. Two were attempted suicides, one of which required the use of force to resolve and three were detainee injuries. Nine of the cases made the 10-day requirement (82%), and 10 (91%) of the 11 met the 30-day requirement. Of the nine cases that could have included video review, all included acceptable reviews. 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 only one case in which the handheld camera was utilized. There were no in-custody deaths in the cell block areas.

During this reporting period, we reviewed eight cases. Two were attempted suicides, both of which required the use of force to resolve and one was a detainee injury with no force utilized. Seven of the cases made the 10-day requirement (87%), and six (75%) of the eight met the 30-day requirement. All eight cases included acceptable reviews. 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 only one case in which the handheld camera was utilized; not a cell extraction. There were no in-custody deaths in the cell block areas.

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 C56***

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

**Comments:**

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

During the last reporting period, we found that nine of the 11 cases had opportunities for video recordings and reviews.<sup>43</sup> Nine (100%) contained acceptable reviews; DPD is in Phase 2 compliance with this paragraph.

During this reporting period, we found that all of the eight cases had opportunities for video recordings and reviews. Eight (100%) contained acceptable reviews; DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C57***

*The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.*

**Comments:**

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

During the last reporting period, we reviewed two attempted suicides and three detainee injuries. One of the attempted suicides required minimal force to remove the detainees from the cell. The attempted suicides and the detainee injury were investigated in conformity with the requirements in C57. The detainees involved in the two attempted suicides were promptly transported to DRH for treatment.

During this reporting period, we reviewed two attempted suicides and one detainee injury. The two attempted suicides required minimal force to remove the detainees from the cell. The attempted suicides and the detainee injury were investigated in conformity with the requirements in C57. The detainees involved in the two attempted suicides were promptly transported to DRH for treatment.

DPD is in Phase 2 compliance with this paragraph.

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<sup>43</sup> One incident had no equipment installed in the area, and the other experienced technical difficulties which were reported to Tech Support.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***Critical Issues:***

- The issues that impact the quality of use of force investigations as described in the Use of Force section of the Consent Judgment are applicable to the use of force investigations of incidents occurring in the cell block area. The remedies we have recommended in those areas remain constant for the Conditions of Confinement requirements. Timely and thorough investigations, coupled with critical command level reviews, are the keys to achieving compliance. We have noted improvements in video review and the use of the handheld portable cameras.

***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	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.

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During this reporting period, the Department closed four complaints originating from detention facilities – two in January, one in February, and one in March. All complaints were accepted and processed in accordance with DPD policy. Three involved demeanor and procedure allegations, and one involved missing property – a cell phone. OCI retained investigation of the cases.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C59***

*The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.*

**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. Two were closed more than 90 days after complaints were made. In one case involving a demeanor allegation, there was no reference to checking for video evidence. While we realize that not all areas of the holding facilities are monitored by video cameras, this must be a necessary investigative step for complaints emanating from these facilities. In another case, the investigator requested video recordings 82 days after the complaint was lodged, and then closed the case without ever receiving the results.

In summary, the detention cases exhibited some of the issues delineated in CJ requirements U27-33, impacting DPD's 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:***

- 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 C58-59. As these issues are addressed Department-wide, we hope to see a positive impact on the subset of cases originating from detention facilities.



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***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

**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.

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**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

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

**XV. MANAGEMENT AND SUPERVISION**

***CJ Requirement C62***

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

**Comments:**

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

During this reporting period, CRIB staff inspected all of the facilities with holding cells and the DRH each month and documented their findings on Form 715 Evaluation of the Operation of Holding Cells. Upon review of the completed forms, we found that all forms contained critical findings – e.g., broken toilets and sprinkler heads, and inoperable video cameras. Requests for repairs had been made and were documented on the maintenance log. All 715 forms were complete with all of the required signatures.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***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.*

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**Comments:**

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

Phase 2 compliance with this requirement is unchanged since the last report. The components of this requirement incorporate compliance requirements detailed in the Use of Force Consent Judgment and are applicable across the Department's patrol and holding cell personnel. These include U91 with regard to personnel evaluations, U92-U99 which address audit requirements, policy review and monthly risk related reviews and U78-90 which establish requirements for the risk management database. Our findings of compliance with those requirements are reflected in the finding with regard to C63.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C64***

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

- a. the installation and continuous operations of video cameras in all prisoner processing areas of the DPD holding cells within one year of the effective date of this Agreement;<sup>44</sup>*
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;*
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and*
- d. that the DPD conduct and document periodic random reviews of prisoners processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoners processing area video recording equipment to confirm that it is in proper working order.*

**Comments:**

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

During our previous inspections of holding cells, we observed the operation of video cameras in all processing areas and throughout the holding facilities. We noted that CRIB and/or detention staff conducts monthly random reviews of videos in processing areas as well as specific reviews when a use of force incident occurs.

During our January 2011 site visit, the Parties determined that video cameras were not required outside of the processing areas. During our previous site visits, the video cameras in all of the districts/precincts that maintain holding cells were operational in the processing areas.

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<sup>44</sup> Amended by Court Order dated June 1, 2011.

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During our January 2013 inspection, we reviewed 37 Detainee Processing Area Video Forms, and found five instances where video was not available for review. In two of the instances, occurring on October 29, 2012, the technical issues of retrieving the archived video was being addressed by DPD and the City. In three of the reviews on December 4, 2012, the video could not be accessed by the holding facility. We have observed that not all staff in the holding facilities are familiar with the mechanisms of retrieving archived video, and recommend that OCR be notified immediately when a supervisor cannot retrieve those videos.

During this reporting period we reviewed 36 Detainee Processing Area Video Forms (DPD-713, revised 05/12) from each of the five holding facilities and found that the Eastern District and the Northeastern District are still experiencing problems accessing archived video. On January 9, 2013, the Eastern District was unable to access archived video on three separate occasions; and on March 31, 2013, between the hours of 02:00 and 04:00, the district was able to view only one hour of the two-hour timeframe.

The Northeastern District reported that they were unable to review archived video on January 9, 2013 on two separate occasions and on March 31, 2013 they reported that retrieval was sporadic. The issues with retrieving archived video has been ongoing at both the Eastern and Northeastern Districts since July 2012 when we could not review the archived video while conducting our on-site assessment. We were assured at that time that a relatively inexpensive fix would correct the ongoing problems. The Second Precinct, the Sixth Precinct and the Twelfth Precinct have not had problems with retrieving the video.

DPD has purchased handheld video cameras to achieve compliance with C53, subparagraph c, which states: "The DPD shall revise and augment its policies regarding prisoners to require that: the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped." Personnel in the five facilities were able to activate the handheld cameras. This equipment should be routinely checked to ensure its operability.

During this reporting period, we reviewed eight cases, within or at the holding facilities that involved a use of force or a prisoner injury. In one case, there was a preplanned cell extraction where the handheld video camera should have been utilized but was not. Fortunately, a camera previously installed in the cell had captured the incident on video. Corrective action was taken in this case. In another case a detainee refused to exit a scout car and a supervisor retrieved the handheld camera and videoed the vehicle extraction. In all other cases involving a use of force or detainee injury where video was available, the supervisor reviewed the video and included it in the findings of the report. Video is generally available for review immediately after an incident, however, if the review is conducted several weeks in the past it is sporadic at the Eastern and Northeastern District. Commanding officers are taking a more active role in use of force and prisoner injury investigations in the holding facilities by making inquiries about the use of video as an evidentiary and management tool.

The ability to pull up archived video at two of the holding facilities has not improved and should be addressed by DPD immediately. DPD is not in Phase 2 compliance with this paragraph due to the remaining issues previously described in C64c. In January 2013, the Department advised that they had addressed the hardware issues and was working on correcting the minor bugs remaining in the system. Issues still remain in the system and DPD should find and implement a

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solution. Many of the issues of storing archived video should be resolved when the Michigan Department of Correction begins housing DPD detainees later this year. DPD's compliance rate for subset C64c is 89%; all other subsets are in compliance.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: Not in Compliance

***CJ Requirement C65***

*The DPD shall conduct regularly scheduled semiannual audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including;*

- a. reviewing a statistically valid sample of command, IAD, and Homicide Section investigations;*
- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;*
- c. evaluating the preservation and analysis of the evidence;*
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;*
- e. evaluating the appropriateness of the investigator's conclusions; and*
- f. issuing a written report regarding the findings of the audit.<sup>45</sup>*

**Comments:**

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

The CRIB Audit Team completed and issued its Combined Use of Force and Allegations of Misconduct in Holding Cells Investigations Audit for the audit period ending January 31, 2013. We reviewed the audit for that reporting period; and found that the Audit Team conducted a comprehensive audit regarding uses of force, injuries to prisoners, and allegations of misconduct in holding cells. The respective command staff were notified of the deficiencies and responded

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<sup>45</sup>Amended to reflect the below stipulated language contained in the Court order of April 15, 2009:

The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant, and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take nondisciplinary corrective action or disciplinary action.

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to the Command Action Notices with non-disciplinary corrective action and/or training as appropriate. The next semi-annual audit will have been completed by July 31, 2013.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C66***

*The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with fire detection, suppression and evacuation program, including:*

- a. testing a sample of smoke detectors and sprinklers;*
- b. testing the back-up power systems;*
- c. reviewing a sample of fire equipment testing and maintenance records; and*
- d. issuing a written report regarding the findings of the audit.*

**Comments:**

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

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

The CRIB audit team conducted the semi-annual Fire Safety Practices and Policies Audit that was completed for January 31, 2013. The audit was comprehensive and indicated that deficiencies were discovered relating to fire safety. The Audit Team found broken sprinkler heads at three of the precincts with holding cells, an open Fire Door at one district, and cigarette butts on the ground at all districts/precincts. The respective command staff were notified of the deficiencies and responded to the Command Action Notices with non-disciplinary corrective action and/or training as appropriate. The next audit is scheduled to be completed on July 31, 2013.

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. Our current findings are documented in C14-22.

Accordingly, we continue to 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 C67***

*The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;*

- a. reviewing a sample of key and fire equipment maintenance and inventory records; interviewing selected detention officers about their participation in fire drills and on their responsibilities under emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and*
- b. issuing a written report regarding the findings of the audit.*

**Comments:**

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

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

The CRIB Audit team completed the Comprehensive Emergency Preparedness Program audit for the period ending January 31, 2013. We confirmed that the DPD met the requirements for performance and documentation of requirements of this paragraph. The Audit Team conducted tabletop exercises to determine the knowledge and skills of the personnel working in the Detention areas. The percentage of total correct answers was 97%, Department-wide. The next semi-annual audit is scheduled for July 31, 2013.

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 districts/precincts 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 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;*



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- b. observing intake screening interviews to assess thoroughness;*
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*
- d. issuing a written report regarding the finding of the audit.*

**Comments:**

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

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

The most recent approval letter for the Comprehensive Medical/Mental Health Screening Program (CMMHSP) was signed by a medical and mental health Professional from the City's Health Department on February 29, 2012.

The most recent semi-annual audit was completed for January 31, 2012. The audit is comprehensive and addresses the deficiencies by issuing Command Action Notices to the appropriate command staff. Included in the audit are the responses from the commanders, indicating training or issuance of non-disciplinary or disciplinary notices. The Audit Team found deficiencies again in C26, C28, C28d, C29, C29a, C31, C31c, C32, C32e, and C32g, Department-wide. The next semi-annual audit is scheduled for July 31, 2013.

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.*

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**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 January 31, 2013. We reviewed the current audit independently, and found that many of the deficiencies founded are similar to our findings during our inspections. The audit team determined that there were deficiencies at the Twelfth, Sixth, and Second Precincts – specifically in C35 and C36. The next semi-annual audit is scheduled for July 31, 2013.

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

***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.

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The CRIB Audit Team completed its first combined semi-annual audit of the Environmental Health and Safety Program, Detainee Food Services and Personal Hygiene Policies and issued their findings on January 31, 2012. The audits were combined for efficiency reasons. They cover C70-71 and focus on Paragraphs C34, C39-45, and C49-51. Additionally, CRIB staff conducts monthly audits of the elements of this paragraph and documents the results on DPD Form 715 Evaluation of the Operation of Holding Cells. We reviewed the current Audit Team Report from January 31, 2013 and found it to be comprehensive. The Audit Team listed one area of concern, C41, Documentation of Maintenance Requests and Repairs. There were continuing deficiencies found at the Second, Sixth, and Twelfth Precincts. 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 for the paragraph are discussed above in C39-46. The next semi-annual audit is scheduled for July 31, 2013.

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

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C71***

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

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

**Comments:**

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

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

The CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on January 31, 2012. This was the first combined audit that also included Personal Hygiene Policies and Environmental Health and Safety Policies. We found the audit to be comprehensive and meeting the requirements for performance and documentation of requirements of this and the previous paragraph, C70. We reviewed the results of the audit that was conducted for January 31, 2013, and as stated in the previous paragraph, found it to also be comprehensive.

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We continue to visit the five districts/precincts 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 next semi-annual audit is scheduled for July 31, 2013.

The DPD remains in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C72***

*The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.*<sup>46</sup>

**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 January 31, 2013. The audits included are Medical and Mental Health Program and Policies; Combined Environmental Health and Safety; Detainee Food Service and Personal Hygiene Practices; Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program. We also reviewed the Corrective Action Notices from the commands that were submitted prior to February 15, 2013. The next set of audits is due to be completed by

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<sup>46</sup> Amended by Court Order, dated April 15, 2009.

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July 31, 2013. We will report on these audits in our third quarterly report. 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 continue to be 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	Not in Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit	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 steadily improved in this area. In our January 2011 review, we found for the first time that DPD was in compliance with this requirement. The Department continued throughout 2011 and 2012 in compliance; over 95% of the officers who were assigned to detention duties in 2011 had been trained in detention as required.

During our April 2013 site visit, we interviewed Training staff and randomly sampled the Daily Details for precincts and districts where detention responsibilities are fulfilled. Our survey

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involved three randomly selected days (Sunday, January 6; Monday, February 25; and Tuesday, March 6, 2013). We found that 162 (97%) of 167 officers and supervisors who fulfilled detention duties during the three days had received detention training during the past year.

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, for the first time, DPD had completed the entry of all training records since 2003 into the Michigan MITN automated records system. During our most recent site visit, we again verified the accuracy of the DPD Training records (see U108) and their entry into the MITN system. DPD was able to produce an accurate and current list of officers and supervisors who received in-service training. DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C75***

*The DPD shall provide all detention officers, supervisors of detention officer and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:*

- a. *Emergency response plans and notification responsibilities;*
- b. *Fire drills and use of fire extinguishers and other fire suppression equipment;*
- c. *Key control drills and key control policies and procedures; and*
- d. *Responding to emergency situations, including scenarios detention officers likely will experience.*

**Compliance Status:**

Phase 1: In Compliance

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

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***CJ Requirement C76***

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

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

**Comments:**

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

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. In our January 2013 review, we found that all (100%) members of the Holding Cell Compliance Committee received this training. As noted in C73, we found in our random survey that 97% of the officers and supervisors serving in detention duties received the required annual detention training. DPD is in Phase 2 compliance with this paragraph.

**Compliance Status:**

Phase 1: In Compliance

Phase 2: In Compliance

***CJ Requirement C77***

*The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:*

- a. the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;*
- b. protocols for performing, documenting and obtaining supervisory review of holding cell checks;*
- c. protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and*



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- 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 we determined that all (100%) members of the Holding Cell Compliance Committee and our random review of training files during this reporting period showed that 97% 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.*

**Compliance Status:**

Phase 1: In Compliance

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

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
73	Pre-service and in-service training	In Compliance	In Compliance
74	Maintain records training	In Compliance	In Compliance
75	Emergency preparedness training	In Compliance	In Compliance
76	Medical/mental health training	In Compliance	In Compliance
77	Detainee safety programs training	In Compliance	In Compliance
78	Environmental, safety, and hygiene training	In Compliance	In Compliance

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## **APPENDIX A: Use of Force – Directives/Policies**

<b>USE OF FORCE POLICY</b>	
14	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
15	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
16	See paragraph #15 above.
17	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
18	DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
19	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
20	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011 which replaced DPD Directive 304.1, effective November 2010; and Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
21	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011, which replaced DPD Directive 304.1, effective November 2010, and in Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
22	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010, and August 4, 2011).
23	See paragraph #22 above. Also, Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
24	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 (revised November 1, 2010); DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
25	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008 (revised November 1, 2010); and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
26	See paragraph #25 above.
<b>INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW</b>	
27	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 102.6 Citizens Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised December 29 2012); Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Office of the Chief Investigator, Standard Operating Procedure, July 1, 2010; and Internal Affairs Standard Operating Procedure, January 2011.

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28	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; and
29	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 203.3, Notifications, effective February 22, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure, (January 2011); and Office of the Chief Investigator Standard Operating Procedure (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 March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure (January 2011); and Office of the Chief Investigator Standard Operating Procedure (July 1, 2010).
33	See paragraph #32 above.
34	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 304.1, Firearms, effective May 2, 2005 and revised August 4, 2011 (revised September 27, 2012); and Training Directive 11-01, Reporting/Documenting The "Acquiring of a Target" effective August 4, 2011, Training Directive 11-01a, Reporting/Documenting The "Acquiring of a Target" Audio/Video Review of the Incident, effective April 11, 2012
35	See paragraph #34 above and DPD Directive 203.3, Notifications, effective February 22, 2012.
36	See paragraph #34 above.
37	See paragraph #34 above. Also DPD Joint Incident Shooting Team Standard Operating Procedures and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005.
38	See paragraph #37 above.
39	DPD Special Order 09-13, Command Level Force Review Team (CLFRT) dated March 2, 2009, replaced with DPD Special Order 11-02, effective January 1, 2011; and DPD Directive 101.9, Special Purposes Committees, effective February 22, 2012 (revised September 27, 2012).
40	See paragraph #39 above.
41	See paragraph #39 above.
<b>ARREST AND DETENTION POLICIES AND PRACTICES</b>	
42	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 2010 (revised December 6, 2012 and March 7, 2013).
43	See paragraph #42 above.
44	See paragraph #42 above (202.1); 202.2, Search and Seizure, effective May 2, 2005; revised November 2010; 203.9, Custodial Questioning, effective November 20, 2010 (revised February 6, 2013); and 404.1, Definitions, effective November 20, 2010.
45	See paragraph #42 above.

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46	DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010 (revised November 17, 2011 and February 6, 2013).
47	See paragraph #46 above.
48	See paragraph #46 above.
49	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010 (revised December 6, 2012 and March 7, 2013).
50	See paragraph #49 above.
51	See paragraph #49 above.
52	DPD Directive 305.2, Detainee Registration, and effective September 12, 2005 (revised July 26, 2012).
53	See paragraph #52 above.
54	See paragraph #52 above.
55	See paragraph #52 above.
56	DPD Directives 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) (revised December 6, 2012 and March 7, 2013) and 305.2, Detainee Registration, effective September 12, 2005 (revised July 26, 2012). Also Training Directive #04-01, Confinement of Material Witness, effective March 1, 2005.
57	See paragraph #56 above.
58	See paragraph #56 above.
59	See paragraph #56 above.
60	DPD Directive 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) (revised December 6, 2012 and March 7, 2013); and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 3, 2010 and January 9, 2013).
<b>EXTERNAL COMPLAINTS</b>	
61	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised December 29, 2012); IAD Standard Operating Procedures, Sections 1 and 3 (January 2011); and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004, and July 1, 2010) (revised July 6, 2012).
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) (revised April 13, 2011) (revised December 29, 2012).
64	See paragraph #61 above. Also see DPD Directive 102.6 (revised December 29, 2012).
65	See paragraph #63 above.
66	See paragraph #61 above.
67	See paragraph #61 above.
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).

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<b>GENERAL POLICIES</b>	
70	DPD Directives 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and 404.1, Definitions, effective July 1, 2008 (revised November 1, 2010).
71	DPD Directive 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012). The DPD also utilizes a Protocol for Proposed Policy Revisions; an SOP outlining procedures for posting proposed policies to the website; and a flow chart (Visio-DPD Policy Flow Chart) that tracks the movements of proposed policy revisions through the Department and public review.
72	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012) (revised December 6, 2012).
73	On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units. <sup>47</sup> Also Directive 101.10, Organization and Management, effective March 30, 2011.
74	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012) (revised December 6, 2012).
75	See paragraph #74 above. Also DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010 and August 4, 2011) (revised September 27, 2012).
76	Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised effective March 1 2010) (revised July 6, 2012 and January 9, 2013) and 305.7, Transportation of Detainees, effective February 29, 2012.
77	DPD Directive 202.7, Foot Pursuits, effective July 1, 2008 (revised November 1, 2010) (revised May 26, 2011).
<b>MANAGEMENT AND SUPERVISION</b>	
78	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010).
79	See paragraph #78 above.
80	See paragraph #78 above.
81	See paragraph #78 above. Also see the DPD Data Input Plan, approved by the Department of Justice, June 9, 2011.
82	See paragraph #81 above.
83	See paragraph #78 above.
84	See paragraph #78 above.
85	See paragraph #78 above.
86	See paragraph #81 above.
87	See paragraph #78 above.
88	See paragraph #78 above.
89	See paragraph #78 above.

<sup>47</sup>Section I, Paragraph of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

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90	See paragraph #81 above.
91	DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010).
92	DPD Audit Protocol, effective September 30, 2011. Annual revision required.
93	See paragraph #92 above.
94	See paragraph #92 above.
95	See paragraph #92 above.
96	See paragraph #92 above.
97	See paragraph #92 above.
98	DPD Directive 303.3, In-Car Video, effective March 8, 2012 (revised September 4, 2012 and March 7, 2013).
99	DPD Directive 304.5 Training, effective May 13, 2011 (revised July 10, 2012).
100	DPD Directive 303.3, In-Car Video, effective March 8, 2012 revised September 4, 2012 and March 7, 2013).
101	See paragraph #100 above. Also, Teletype #11-1468, Roll Call Informational Bulletin, Use of Department Issued In-Car Video Equipment and Body Microphones.
102	See paragraph #100 above.
103	DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and the related DPD Discipline Matrix (DPD22a).
104	See paragraph #103 above.
105	See paragraph #103 above.
<b>TRAINING</b>	
106	DPD Directive 304.5, Training, effective May 13, 2011 (revised July 10, 2012).
107	See paragraph #106 above.
108	See paragraph #106 above.
109	See paragraph #106 above.
110	See paragraph #106 above.
111	See paragraph #106 above.
112	See paragraph #106 above.
113	See paragraph #106 above. Also Directive 304.1, Firearms, effective August 4, 2011 (revised September 27, 2012).
114	See paragraph #106 above.
115	See paragraph #106 above.
116	See paragraph #106 above.
117	See paragraph #106 above.
118	See paragraph #106 above.

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119	See paragraph #106 above.
120	See paragraph #106 above.
121	See paragraph #106 above.
122	See paragraph #106 above.
123	See paragraph #106 above.



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## **APPENDIX B: Conditions of Confinement – Directives/Policies**

<b>FIRE SAFETY POLICIES</b>	
14	DPD Comprehensive Emergency Preparedness Plan (CEPP), which includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was approved by DOJ on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on June 7, 2012. Also, DPD Directive 305.4, Holding Cell Areas, effective July 6, 2012 (revised January 9, 2013).
15	See paragraph #14 above.
16	See paragraph #14 above.
17	See paragraph #14 above.
18	See paragraph #14 above.
19	See paragraph #14 above.
20	See paragraph #14 above.
21	See paragraph #14 above.
22	See paragraph #14 above.
<b>EMERGENCY PREPAREDNESS POLICIES</b>	
23	DPD Comprehensive Emergency Preparedness Plan (CEPP), effective May 2011 and DPD Directive 305.4, effective April 21, 2011 (revised July 6, 2012 and January 9, 2013).
24	See paragraph #23 above.
25	See paragraph #23 above.
<b>MEDICAL AND MENTAL HEALTH CARE POLICIES</b>	
26	DPD Directives 305.1, Detainee Intake Assessment; effective May 2, 2012; 305.5, Detainee Health Care and; effective February 22, 2012; 403.2, Infectious Disease Control Plan, effective February 29, 2012, reviewed and updated by a qualified health care professional on February 17, 2012 and February 29, 2012 as required. 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.
<b>PRISONER SAFETY POLICIES</b>	
35	DPD Directives 305.1, Detainee Intake, effective May 2, 2012; Directive 305.2, Detainee Registration (revised July 26, 2012); Directive 305.3, Detainee Personal Property, effective May 20, 2010 (revised November 3, 2011); DPD Directive 305.4, Holding Cell Areas, effective February 1,

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	2008 (revised July 6, 2012 and January 9, 2013); Directive 305.5, Detainee Health Care, effective February 22, 2012; Directive 305.7, Transportation of Detainees; effective February 29, 2012 and Directive 305.8, Detainee Food Service and Hygiene, effective May 2, 2012 (revised July 19, 2012 and January 9, 2013).
36	See paragraph #34 above (DPD 305.1)
37	See paragraph #34 above (DPD 305.4).
38	See paragraph #34 above (DPD 305.1 and 305.4).
<b>ENVIRONMENTAL HEALTH AND SAFETY POLICIES</b>	
39	DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008 (revised July 6, 2012 and January 9, 2013). Annual review and revision required.
40	See paragraph #39 above.
41	See paragraph #39 above.
42	See paragraph #39 above.
43	See paragraph #39 above.
44	See paragraph #39 above.
45	See paragraph #39 above.
46	See paragraph #39 above.
<b>POLICIES CONCERNING PERSONS WITH DISABILITIES</b>	
47	DPD Directives 305.1, Detainee Intake and Assessment, effective May 2, 2012 (revised February 29, 2012); and 305.5, Detainee Health Care, effective February 22, 2012, approved and updated by a qualified medical and mental health professional on February 17, 2012 and February 29, 2012. Also the Comprehensive Medical and Mental Health Screening Program (CMMHSP), reviewed by the Consulting Department Physician, April 8, 2013.
48	See paragraph #47 above (DPD Directive 305.1).
<b>FOOD SERVICE POLICIES</b>	
49	DPD Directive 305.8, Detainee Food Service, effective May 2, 2012 (revised July 19, 2012 and January 9, 2013).
50	See paragraph #49 above.
<b>PERSONAL HYGIENE POLICIES</b>	
51	See paragraph #49 above.
<b>USE OF FORCE AND RESTRAINTS POLICIES</b>	
52	DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1, 2010) (revised July 6, 2012 and January 9, 2013) and 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012.
53	See paragraph #52 above.
54	See paragraph #52 above.
<b>INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW</b>	

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55	DPD Directives 304.2, Use of Force, effective March 19, 2012; and 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1, 2010) (revised July 6, 2012 and January 9, 2013) and DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012.
56	See paragraph 55 above. Also DPD Directive 304.2, Use of Force, effective March 19, 2012 and DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012.
57	See paragraph #55 above.
<b>EXTERNAL COMPLAINTS</b>	
58	See paragraph #55 above. Also see DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised December 6, 2012).
59	See paragraph #58 above.
<b>GENERAL POLICIES</b>	
60	DPD Directive 404.1, Definitions, effective November 2010.
61	DPD Directive 101.1, Written Directive System, effective November 2010 (revised May 2, 2012).
<b>MANAGEMENT AND SUPERVISION</b>	
62	DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised April 21, 2011) (revised July 6, 2012 and January 9, 2013).
63	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010); DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010); and DPD Audit Protocol, effective September 30, 2011.
64	See paragraph #62 above.
65	DPD Audit Protocol meeting generally accepted government auditing standards (GAGAS), effective August 31, 2008 (revised October 31, 2010 and September 11, 2011).
66	See paragraph #65 above.
67	See paragraph #65 above.
68	See paragraph #65 above.
69	See paragraph #65 above.
70	See paragraph #65 above.
71	See paragraph #65 above.
72	See paragraph #65 above.
<b>TRAINING</b>	
73	Directive 304.5, Training, effective May 13, 2011(revised July 10, 2012).
74	See paragraph #73 above.
75	See paragraph #73 above.
76	See paragraph #73 above.
77	See paragraph #73 above.

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78	See paragraph #73 above.
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## **APPENDIX C: Acronyms**

*The following is a listing of acronyms frequently used in our quarterly reports.*

<b>ACRONYM</b>	<b>DEFINITION</b>
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFE	Detainee File Folders
DFO/PDO	Detention Facility Officer
DDHWP	Detroit Department of Health and Wellness Promotion

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DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital
EMS	Emergency Medical Services
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigations ( <i>interchangeable with FIS</i> )
FIS	Force Investigation Section
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
FY	Fiscal Year
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement

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RFP	Request for Proposals
RMB	Risk Management Bureau
SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
UOF	Use(s) of Force
USAO	United States Attorney's Office
WCPO	Wayne County Prosecutor's Office
WCJ	Wayne County Jail



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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; 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 C35-38, Prisoner Safety Policies; C39-46, Environmental Health and Safety Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; and C51, Personal Hygiene Policies.

**Chief (Ret.) Billy R. Riggs**

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

**Asst. Director (Ret.) Joseph R. Wolfinger**

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U73, Pre-Service and In-Service Training for all Detention Officers; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; U123, Field Training; C73, Pre-Service and In-Service Detention Training; C74, Retention of Detention Officer Training Records; C75, Detention Officer Emergency Preparedness Training; C76, Detention Officer Medical/Mental Health Training; C77, Detainee Safety Programs and Policies; and Environmental Health and Safety and Hygiene Training.

**Robin Busch-Wheaton**

*Editor*

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## APPENDIX E: Detroit Police Department Management Dashboard Data

The table below presents data on measures relevant to the requirements set forth in the Consent Judgments. The data were compiled by the Detroit Police Department, and are displayed for presentation by the Monitoring Team. These data are presented here with the consent of the Police Department and serve simply as a means to provide information relevant to issues raised in the Consent Judgments.

Dashboard Data: Detroit Police Department 4/12-3/13												
	April	May	June	July	August	Sept	Oct	Nov	Dec	2013 January	February	March
Total Arrests	1976	2294	1960	1827	1728	1460	1481	1508	1423	1386	1244	1703
Number of Events per 1000 Arrests												
Uses of Force	63.86	64.08	32.65	49.26	63.08	46.58	47.94	72.94	28.81	49.78	61.90	36.99
Firearms Discharge	0.52	2.62	0.51	3.28	3.47	2.05	5.40	2.65	0.00	1.44	4.02	1.17
Citizen Complaints	32.19	44.03	35.20	67.87	54.40	46.58	74.27	39.12	54.81	66.38	28.94	29.36
Traffic Crashes	4.67	6.10	6.63	3.83	3.47	10.27	7.43	3.98	9.84	6.49	8.84	7.63
Civil Litigation	4.15	4.36	0.00	10.95	13.31	3.42	6.08	5.97	7.73	1.44	1.61	0.00
Vehicle Chases	8.31	5.23	6.12	2.74	4.05	6.16	7.43	7.29	5.62	3.61	2.41	7.05
Disciplinary Action Closed Date	1.56	3.92	1.53	5.47	14.47	4.11	1.35	0.00	0.70	25.25	8.84	0.00
Arrests for Assault and Battery on a PO	8.83	14.39	7.65	10.40	10.42	10.27	14.18	24.54	7.73	15.15	18.49	3.52
Resisting or Obstructing Arrests	21.81	20.49	15.82	21.35	29.51	24.66	16.21	33.82	18.97	19.48	19.29	25.25
Disorderly Conduct Arrests	3.12	7.41	4.08	3.28	5.21	4.11	2.03	5.97	4.92	0.72	8.84	0.00
Interfering Arrests	1.56	3.49	2.55	3.83	2.89	0.00	2.70	3.98	0.70	0.72	0.00	1.17
Total Consent Judgment noted Arrests (above 4)	35.31	45.77	30.10	38.86	48.03	39.04	35.11	68.30	32.33	36.08	46.62	29.95