

Seventh Quarterly Report
Independent Monitor
for the
Detroit Police Department



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Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC

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SECTION ONE: INTRODUCTION

This is the seventh quarterly report of the Monitoring Team in the case of United States of America v. City of Detroit (Case no. 03-72258). The report is based on our site visit of April 18, through April 22, 2011, and our subsequent analyses of relevant data. As with our previous reports, we assess compliance with all 175 of the requirements of the combined Use of Force (110 requirements) and Conditions of Confinement (65 requirements) Consent Judgments.

Based on our review of the Use of Force requirements, the Department is again in Phase 1 (policy) compliance with 109 (99%) of the 110 requirements. This is the same level as noted during the last reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 82 (74%) of the 110 Use of Force requirements, an *increase* of seven requirements. The specific changes are presented in a chart below.

Based on our review of the Conditions of Confinement requirements, the Department remains in Phase 1 compliance with all 65 (100%) of the requirements, as it was in the last three reporting periods. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 44 (68%) of the 65 requirements, an increase of six from the last report.

Overall, for this report, the Detroit Police Department is in Phase 1 compliance with 174 (99%) of the 175 monitored requirements; this represents an increase of one from the last report. The Department is in full compliance (that is, both Phase 1 and Phase 2 compliance) with 126 (72%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, an increase of 13 requirements, and up from 65% during the sixth reporting period. We also found the Department to be in pending Phase 2 compliance with six requirements. Four findings are deferred for this reporting period. The increase represents a nearly 11% improvement from the last report, and we are hopeful that this trend continues.

Executive Summary

This is our seventh quarterly report in the case of United States of America v. City of Detroit (Case no. 03-72258). The report is based on our site visit, which took place from April 18, through April 24, 2011, and our subsequent analyses of relevant data. Consistent with the practice we established in our first review, we continue to consider the totality of the requirements of both active Consent Judgments. This includes 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, and highlight what the Monitoring Team believes are some of the more significant findings, trends, patterns, and concerns that arose as a result of our evaluation.

The majority of this document is dedicated to the reporting of the assessment of compliance with the requirements of the Consent Judgments. Based on our review of the Use of Force requirements, the Department is in Phase 1 compliance with a total of 109 (99%) of the 110 requirements. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 82 (74%) of the 110 Use of Force requirements, an increase of seven requirements since the

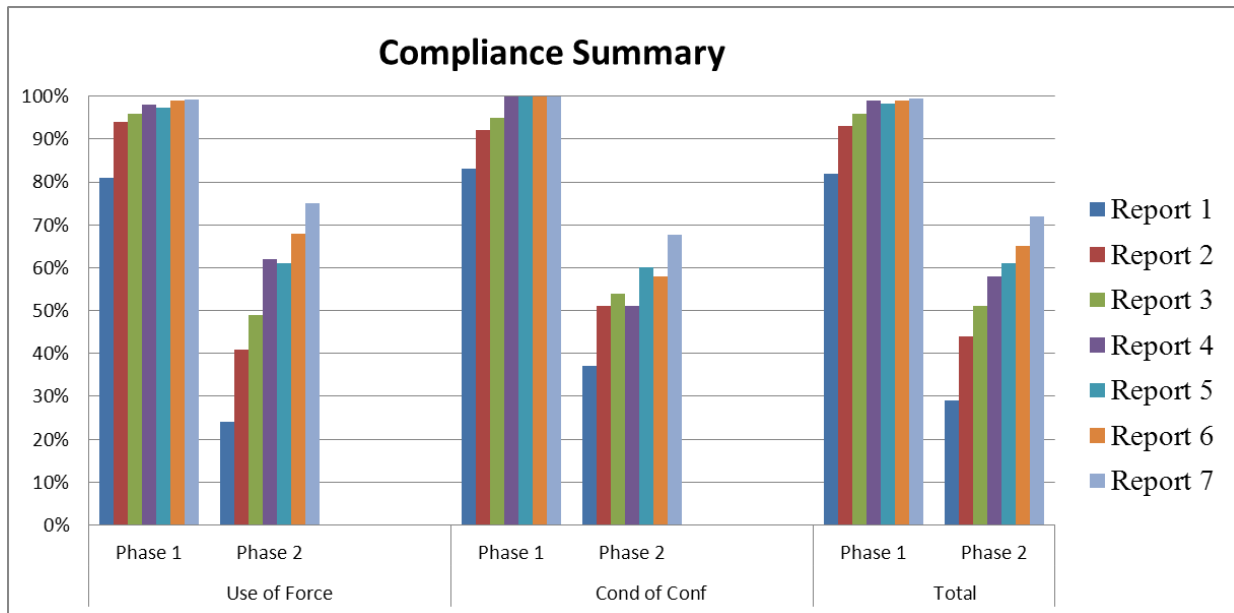
last reporting period. Six additional Use of Force requirements are reported as pending compliance, and two are deferred. Pending Compliance is reported when compliance has not been achieved but substantial progress toward compliance has been made. Deferred is reported when a lack of data or incomplete data temporarily preclude a full analysis. These increases are hopeful indicators that the Department is beginning to institutionalize its reform efforts.

Based on our review of the Conditions of Confinement requirements, the Department is in Phase 1 compliance with all (100%) of the 65 requirements, as it has been since the fourth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 44 (68%) of the 65 requirements. The current figures are presented in the table below.

Seventh Quarterly Report Summary						
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirements	110	110	65	65	175	175
Pending Compliance	0	6	0	0	0	6
Not in Compliance	1	20	0	19	1	39
Deferred	0	2	0	2	0	4
In Compliance	109	82	65	44	174	126
Percent in Compliance	99%	75%	100%	68%	99%	72%

Overall, the DPD is in Phase 1 compliance with 174 (99%) of the 175 monitored requirements. This is the same level as was reported for the last review period. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 126 (72%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, up from 65% during the sixth reporting period. We also found the Department to be in pending Phase 2 compliance with an additional six requirements, or 3% of the total. The increases in the “pending category” are positive trends that we hope shall continue during the duration of this process. Four compliance assessments (2%) are deferred. These changes across specific requirements are presented in a table below.

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



As the chart above shows, we continue to report increases in the total level of full compliance as we have for each of the previous visits following our initial report. For this, our seventh report, we have an increase of 13 requirements at the Phase 2 level.

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

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

The chart above summarizes improvement in compliance levels across our quarterly reports. Although we recognize the Department’s continued progress, we also note some issues that hamper that progress continued through this quarter. We have previously, and must again, emphasize the importance of proper documentation. This concern is relevant to both the original content of reports prepared by officers and to the review of those reports by supervisors. The absence of adequate documentation may, in fact, mask otherwise acceptable performance. Without clearer information, however, performance is impossible to fully judge. The

requirements for documentation are clear in the Consent Judgments; these issues have been raised in our reports since our first quarterly visit. During this reporting period, incomplete documentation affects compliance with the Use of Force requirements with regard to uses of force, reporting injuries, and the adequacy of investigations. Similarly incomplete or inadequate documentation in detention records significantly hampers the Department's progress on the Conditions of Confinement requirements. Improvements in meeting the mandated standards for reporting are needed for further progress toward full compliance.

For this report, as with our previous six reports, we considered the compliance status of each of the requirements laid out in the Consent Judgments. We provide our assessments of compliance levels and the justifications for our findings. We also highlight issues that we consider to be critical to the continued progress of the Department, especially in areas that we believe are of substantial seriousness and importance to the DPD's efforts to achieve compliance.

While we are pleased to note increased compliance across the time period covered in our reports, we believe the DPD's current progress is best seen as evidence that now is the time for the Department to redouble its efforts, to fully address the continuing problems that impede progress, and to aggressively move forward toward excellence in policing.

The progress we have noted for this reporting period is a testament to the Department's ability to bring about the changes essential to meeting the mandates of the judgments and to better service the community. There should be no doubt about the Department's technical and professional capabilities to advance its service deliveries and administrative oversight to the level of professionalism expected by the City leadership, the parties in this matter and the citizens of Detroit. I encourage the Department to seize on this momentum and assert the requisite leadership essential to positive change.



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

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

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

During our most recent site visit, we discussed the MAS system's ability to notify commands when a Command Level Investigation has not been submitted within the required ten-day time limit, but we remain unaware of any document that requires the command to react to that notice. Given that the Command Level Investigations are being submitted within the 10-day time limit in only 25% of the cases, we recommend that DPD review this MAS notification and develop a policy requiring the command to take documented appropriate actions that will ensure that they comply with the 30-day time limit. Our previous reviews of use of force reports found instances where officers fired at moving vehicles due to exigent circumstances; however, neither the Consent Judgment nor existing policy provides for exigent circumstance exceptions. The DPD has provided DOJ with a proposed policy revision authorizing an exception to the firing at a

moving vehicle prohibition when exigent circumstances exist during the incident. There was one instance during this reporting period where an officer fired at a moving vehicle; DPD determined that extenuating circumstances existed, and did not impose formal discipline for the involved officer.

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 of seven critical firearm discharges. Six were intentional and one was accidental. In one of the intentional discharges, the members were carrying unauthorized hollow point ammunition. The members discharged their firearms in a justified deadly force incident that led to fatally injuring the suspect. The two DPD members are facing formal disciplinary action in this case. Our review noted no issues with the number of rounds fired for this period. However, we noted in one case a conflict between the number of live rounds left in the magazine and in the chamber after inspection by a field officer and an FI investigator. DPD relied upon the inspecting officer's Crisnet report, and did not conduct a follow-up interview, in this instance. This type of conflict must be adequately addressed with the inspecting officer during the force investigation. In one other incident, the number of shots fired was accounted for – but all shell casings could not be recovered due to snow and icy conditions.

The DPD selected the PR-24 collapsible baton as its impact device and has provided training on its use to 1,943 (72%) of its personnel during the third quarter of this Fiscal Year. There were no strikes to the head noted during this quarter.

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

During this reporting period, there was one case in which chemical spray was utilized and a warning was not articulated prior to its use due to the exigent circumstances of the officer being assaulted. Decontamination of the person took place within 20 minutes, and the officers provided information as to where and how the decontamination occurred. The decontamination percentage dropped, however, below the >94% level, to 63%.¹ Once again, there were no reported instances of an officer spraying an unruly crowd or instances or allegations where officers sprayed a handcuffed individual or placed/kept a subject(s) in a face-down position after being sprayed.

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

¹ Of the nine cases reported, one had a subject who refused flushing, leaving eight cases. Of the eight cases, only five reported the times and locations of the flushing of the eyes.

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.

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this requirement, we reviewed completed use of force investigations, met with DPD staff, and observed relevant operational activities. During our previous site visit we reviewed, via MAS, the list of use of force numbers generated for 2010 and found that 1,487 numbers were issued for the year. During our most recent site visit, we ascertained that during the first calendar quarter of 2011, there were 318 use of force numbers generated. We will continue to monitor these numbers in subsequent visits. DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U15

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

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-3, Use of Force Continuum, effective May 5th, 2005. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

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

To assess compliance during this reporting period, we reviewed reports to determine the extent to which the policy requirements noted above are reflected in practice. We sampled 87 Command Level Investigations, and verified that they described the conduct of individuals against whom force was used, and described some efforts at de-escalation employed by the officers.³ In 98% of 85 investigations (UF002a) we reviewed, the supervisors noted that officers attempted to de-escalate their encounters utilizing verbal commands prior to resorting to force.⁴ However, with few exceptions, the reports lacked documentation beyond the use of verbal commands to establish the de-escalation and disengagement efforts required by subsection c. of this requirement. In 33 (39%) of the 85 cases reviewed, we were able to identify some actions on the part of the officers at implementing some of the disengagement responses suggested in U15c. However, in the remaining cases, officers did not document any de-escalation efforts that they may have made. It is possible that there are more efforts being made and the officers are simply not documenting them, but absent the documentation we have no way of establishing the Department's compliance.

DPD is not in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U16

The use of force policy shall reinforce that individuals should be provided an opportunity to submit to arrest before force is used and provide that force may be used only when verbal

² Report of the Independent Monitor, issued April 15th, 2011.

³ Command Level Investigations are also referred to as Supervisory Investigative Reports (SIRs)

⁴ Two of the Command Level Investigations were attempt suicides in the cell block areas, which don't incorporate any of the options or responses articulated in U15.

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-3, Use of Force Continuum, effective May 5th, 2005. The DPD remains in Phase 1 compliance with this requirement.

Comments:

Use of Force Reports: To assess compliance for this reporting period, we reviewed 165 use of force reports.⁵ We found that 161 (98%) 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. This is an improvement over last quarter's number and more consistent with the numbers we had been seeing in previous quarters. The DPD is in Phase 2 compliance with this portion of this paragraph.

Force Investigations: We reviewed eight investigations referred to DPD Force Investigation by OCI, and 11 internally generated force investigations routinely conducted by DPD. We found that one of the 19 total force investigations conducted by FI did not include a verbal command or an opportunity for a subject to submit to arrest prior to the use of force. This represents a 95% compliance rate. The DPD is in Phase 2 compliance with this portion of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U17

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force Detainee

⁵ There were a total of 180 use of force reports (002s) prepared. This number was reduced to the 165 cited above based on the 11 no-contact canine reports included in the base for which verbal commands were not given because a subject was not encountered, three attempt suicides, and one animal destruction, none of which included verbal commands.

Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this requirement.

Comments:

During the last reporting period, we reviewed use of force reports and investigations and found no cases in which a choke hold was applied. To assess compliance with this requirement for this reporting period, we reviewed 173 use of force reports, 80 completed Supervisory Investigation Reports (SIRs), and 19 completed FI investigations.⁶ There was one reported use of a choke hold in the cases we reviewed. The FI investigation determined that the officer's use of force in this case was excessive, and the Department initiated formal disciplinary action.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U18

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

Policy:

The policy relevant to this requirement is DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective June 27, 2005, and revised November 1, 2010. DPD remains in Phase 1 compliance with this requirement.

Comments:

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 the DPD in Phase 2 compliance with U14, U16, U17, and U19, but not in compliance with U15; therefore, Phase 2 compliance is deferred.

Compliance Status:

⁶ Many of the command-level investigations contained multiple uses of force forms, and 11 cases were assumed by Force Investigations.

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.

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. The DPD remains in Phase 1 compliance with this requirement.

Comments:

Use of Force Reports: Our review of 180 use of force reports found no instances of any strikes to the head.

Force Investigations: Our review of 19 completed force investigations revealed one instance where a DPD officer used their Department-issued firearm to strike a subject in the head. The FI investigation determined that the force used in this case was excessive, and the Department initiated formal disciplinary action.

The DPD is in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U20

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

Policy:

The policies relevant to this requirement are DPD Directive 304.1, Firearms, effective November 2010; and Special Order 11-07, Training, issued January 1, 2011, effective January 1, 2011. DPD is in Phase 1 compliance with this requirement.

Comments:

The Department requires its officers to attend and qualify at a firearms training session in the six-month period ending on December 31 and the six-month period ending on June 30 each year. During our previous site visit, we found that 97% of DPD officers attended and qualified during the firearms training session ending on December 31, 2010. We determined the Department to be in Phase 2 compliance with this paragraph.

During our most recent site visit, we found that during the first three months of the second six-month period in Fiscal Year 2011 (January 1, through March 31, 2011), 1,266 (47%) of the 2,686 officers available to train qualified at DPD firearms training. This is a slight increase from the same point last year, when DPD had trained 1,259 (46%) of its 2,727 officers available to be trained. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U21

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

Policy:

The policies relevant to this requirement are DPD Directive 304.1, Firearms, effective November 2010; and Special Order 11-07, Training, issued January 1, 2011, effective January 1, 2011. DPD remains in Phase 1 compliance with this paragraph.

Comments:

At the conclusion of the second six-month training period during Fiscal Year 2011 (from July 1, 2010, through December 31, 2010), the DPD removed firearms and police powers from the officers who failed to qualify. At the same time, 97% of the 2,727 officers available to train qualified at DPD firearms training. The DPD is conducting the second half of FY11 training, which is expected to be completed by June 30, 2011. Officers who do not qualify as required will be relieved of their police powers.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Firearms Policy

CJ Requirement U22

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

Policy:

The policy relevant to this requirement is DPD Directive 304.1, Firearms, effective May 2, 2005 and revised November 1, 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

Use of Force Reports: During this reporting period, we reviewed 180 use of force reports and 87 Supervisory Investigation Reports (SIRs), and found no incidents involving officers firing at or from moving vehicles.

Force Investigations: Our previous reviews of cases closed by Force Investigations found instances where officers fired at moving vehicles contrary to the prohibition in this CJ paragraph and the above-cited directive; however, the DPD found the officers' action justified due to the presence of exigent circumstances. During this reporting period, we reviewed 19 FI investigations for this requirement, and found one incident involving an officer firing at a moving vehicle. Again, the Department determined that exigent circumstances were present; accordingly, no formal disciplinary action was initiated. Although we agreed with the presence of exigent circumstances in these cases, we found neither this CJ paragraph nor the above-cited directive provided for an exigent circumstance exception.

The DPD provided the DOJ with proposed revised language to resolve this issue; the language will be presented to the Court for approval during the next reporting period. Accordingly, the DPD is in pending Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U23

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

Policy:

The policies relevant to this requirement are DPD Directive 304.1, Firearms, effective May 25, 2005, issued May 2, 2005, and revised February 1, 2008; and Special Order 11-07, Training, effective January 1, 2011. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, we found officers to be carrying authorized weapons and ammunition, and that the Department had implemented a procedure requiring the inspection of officers' weapons and ammunition as part of its required biannual firearms training program. During firearms training, officers fire the ammunition they are carrying at the time; following that, they are issued a new supply of approved ammunition. Since 99% of the officers participated in the biannual qualifications and were issued a limited selection of authorized ammunition, we found DPD in Phase 2 compliance with this paragraph.

During this reporting period, we observed that the DPD was again in compliance with its biannual firearms training (see U20); 97% of its officers qualified during the first six months of the year and replaced their ammunition during the training session. Accordingly, the DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Intermediate Force Device Policy

CJ Requirement U24

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 and revised November 1, 2010; and Training Directive 04-3, Use of Force Continuum, effective May 5, 2005. These directives identify the PR-24 as the authorized DPD impact device offering a less lethal method for apprehending and subduing violent and/or actively resisting subject(s); relate the PR-24 to the force continuum; and set forth training requirements for all officers. The DPD remains in Phase 1 compliance with this requirement.

Comments:

Use of Force Reports: During this reporting period, we reviewed 180 use of force reports and found that no strikes to the head with the designated intermediate force device (PR-24). In addition, we noted the DPD is at its three-quarter point in the present fiscal year training cycle and to date, 1,943 DPD members (72%) have attended PR-24 Training. DPD remains in Phase 2 compliance with this requirement.

Force Investigations: During this reporting period, we reviewed 19 cases completed by FI and found no cases where an intermediate force device (PR-24) was used.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Chemical Spray Policy

CJ Requirement U25

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

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008, revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

Use of Force Reports: To assess compliance for this reporting period, we reviewed 180 use of force reports and 87 Command Level Investigations. We found nine deployments of chemical spray, with warnings or danger articulated in all nine of the cases. This is consistent with the 100% registered in our last report. During our evaluation of decontamination requirements, we eliminated one case from consideration because the subject was provided multiple opportunities to decontaminate and chose not to do so. In evaluating the remaining eight cases, we found that in only five (62%) did the decontamination occur in the allotted 20 minutes. This is a significant decline in decontamination from the 100% we noted previously. Officers noted in all cases that windows were rolled down to allow for proper ventilation during the transport of subjects. Medical assistance was offered to four of the subjects requiring it, and they were transported to a hospital; four did not require medical attention. There were no reported instances of an officer spraying an unruly crowd, the spraying of a handcuffed individual, or the keeping of a sprayed individual face-down.

The use of chemical spray by DPD officers is very limited; consequently, the numbers are affected by the failure of one or two officers to document their actions when using chemical spray. It is critical that supervisors discuss the documentation of the times with their subordinates, as well as how and where the decontamination was conducted. DPD will retain its Phase 2 compliance status with this portion of the requirement; however, if the Department is unable to achieve a >94% level of compliance in the next reporting period, we will remove it from Phase 2 compliance.

Force Investigations: DPD remains in Phase 2 compliance with the reporting of the use of chemical spray in the use of Force Investigations. During this reporting period, we reviewed 19 cases completed by FI, and there was one case of chemical spray being used during the arrest of a subject. In this incident, a warning was not articulated due to the exigent circumstance of the officer being assaulted. The subject received appropriate decontamination within 20 minutes at the scene by flushing the subject's eyes with bottled water.

DPD is in Phase 2 compliance with this paragraph.

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.

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008, revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this requirement.

Comments:

To assess compliance with these requirements for this reporting period, we reviewed 180 use of force reports, 87 use of force Command Level Investigations and 19 cases completed by Force Investigations. We found no cases where chemical spray was used on a handcuffed individual in a police vehicle, nor was any subject placed in a face-down position in a police vehicle after being sprayed.

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

The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- In our last report, we noted that we reviewed a copy of a MAS report listing all of the use of force report numbers issued from January 1, through December 31, 2010, to include the current status of the cases – closed or pending. There were 1,487 reports listed, which is consistent with the numbers we expected to find. During our most recent site visit, we requested the numbers for the first quarter of the year, January 1, through March 31, 2011 and were provided a MAS document listing 318 cases. We will continue to monitor these numbers during subsequent visits.
- The issue of how best to determine DPD's efforts at deescalating and disengaging with respect to use of force situations remains a perplexing issue, and one that affects DPD's compliance with several of the requirements. We continue to recommend that the

Department improve its documentation of its de-escalation strategies, or the fact that none were used due to the particular circumstances. We also encourage DPD to continue to interact with the Monitoring Team to find a practical resolution to this issue.

- The continued documentation of how, when, and where subjects are sprayed with chemical spray, and then are decontaminated, is one which DPD must work on if the Department is to care for the subjects sprayed in the manner that Departmental policy and the Consent Judgment requires. This is an error that can be corrected with specific attention on the part of supervisors, and some re-instruction on their part as to how officers are to document the spraying and flushing time (military time is easiest), and the fact that officers can use water from the locations in which they find themselves to flush the eyes.
- It is critical that DPD develop an effective case management process to track force investigation timelines and task completion benchmarks.
- As of the third quarter of the training Fiscal Year, DPD had trained 73% of its officers in the proper use of force and 72% of its officers in the use of the PR-24, which fall slightly below the 75% expected at this time. While it is not unusual for the Department to be some percentage points behind where it should be, we want to ensure that the DPD continues to monitor attendance to ensure 100% compliance by the end of the next reporting period.

Next Steps:

During the next reporting period, we will:

- Continue to monitor the numbers of use of force reports generated during the next quarter, and if discrepancies are found, discuss same with DPD.
- Continue to discuss with DPD the issue of documenting de-escalation of use of force situations in an effort to identify a quantifiable methodology of measuring the effort.
- Continue to work with FI on case management issues to address the timeliness of FI's investigations.
- Discuss with FI measures to ensure that investigators comply with DPD policy mandates.
- Monitor the use of force and PR-24 training to ensure 100% compliance for the Training Fiscal Year.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
14	Revise use of force policies	In Compliance	In Compliance
15	The use of lethal, less lethal force	In Compliance	Not in Compliance
16	Opportunity to submit to arrest	In Compliance	In Compliance
17	Prohibit choke holds	In Compliance	In Compliance
18	Approval of policy	In Compliance	Deferred

19	Strike to the head-deadly force	In Compliance	In Compliance
20	Bi-annual firearms qualification	In Compliance	In Compliance
21	Failure to qualify with firearms	In Compliance	In Compliance
22	Prohibit firing at vehicles	In Compliance	Pending 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. INCIDENT 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.

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, and revised November 2010; Directive 102.4, Discipline/Misconduct Investigations, Section 102.4-6.1, effective July 1, 2008; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Directive 102.4, Standards of Conduct, and 102.6 Citizens Complaints, effective July 1, 2008, and revised November 2010; Office of the Chief Investigator, Standard Operating Procedure, revised July 1, 2010; and Internal Affairs Standard Operating Procedure, revised January 2011.

In addition, we reviewed the DPD 30th Quarter Status Report, dated March 31, 2011, which sets forth some of the corrective measures initiated by the DPD to achieve compliance with this paragraph.

DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess compliance with these requirements, we meet on a quarterly basis with Command, Internal Affairs, Force Investigations, OCI and other staff and in addition, review relevant investigative and other reports.

Command Level Investigations: During the sixth reporting period, we reviewed 173 use of force reports resulting in 80 SIRs (Command Level Investigations) and found DPD to be in Phase 2 compliance with requirements.⁷ To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 180 use of force reports resulting in 87 SIRs.⁸ 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 86 (99%) of the assessed investigations and SIRs. We found no investigations closed prematurely. DPD is in Phase 2 compliance with the Command Level Investigations 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. Many administrative closures were reopened pursuant to a Court order, adding to OCI's workload.

We also noted the efforts of the Backlog Squad. Five sergeants were added to OCI's workforce and only assigned cases not completed within the 90-day timeframe required by policy and the Consent Judgment. During the current reporting period, the Backlog Squad made significant, notable progress in completing investigations of the overdue cases assigned to the squad. The City was required to report its progress in this area to the Court on March 17, 2011. As of that date, only 18 of the 378 open investigations, or 5%, had been open more than 90 days. On the last date of the review period, March 31, only 16 of 322 open cases were past due.

Having fulfilled its mission, the Backlog Squad was disbanded, but OCI retained four of the five investigators detailed to the office from the Police Department. We note the Chief's commitment to OCI's mission by the continued deployment of these personnel. The additional manpower allowed the Chief Investigator to reorganize her investigative staff into four teams, each lead by a supervising investigator. She has also implemented new accountability measures for the team leaders to help ensure that quality investigations are completed and the Office does not backslide on its progress in cleaning up overdue cases. We spent an entire day with the

⁷ The term Command Level Investigations, and SIR Investigations, are used interchangeably throughout the report.

⁸ Many of the command-level investigations contained multiple use of force forms. Canine tracks with no contact and cases assumed by FI were removed from the numbers reported as SIRs.

Chief Investigator going over these changes, and also met with the supervising investigators to discuss these issues and provide feedback on specific cases from last quarter's review.

A consequence of the commendable progress made by the Backlog Squad and the rest of the investigators during this quarter is a review sample that was overpopulated with overdue cases containing additional problems resulting from long periods of inactivity. While we must note these issues, we are optimistic that if OCI ensures that its investigations are timely going forward, these issues will be addressed in future quarters.

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 537 cases that were closed in January, February, and March, 2011 (a 15% increase in closed cases over the previous quarter). With the exception of five cases that appeared to have been closed prematurely, the investigations established sufficient facts to support a determination that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.⁹ One case, a complaint of force by a mentally handicapped patient, was administratively closed without officer interviews based on the assessment of a hospital employee that the force used was not excessive. Two cases were closed because of the complainants' lack of cooperation. There were notations in the Significant Event Logs (SELs) correctly indicating that the cases did not meet the criteria for administrative closure, but they were nonetheless closed by this method. Another case was closed without the subject officer being interviewed because he was on FMLA leave. The case was already overdue, and the officer was due back within a couple of weeks of the closure. Another case was closed without officer interviews. While the officers were originally listed as unknown, they were potentially identified based on a review of activity logs, and should have been interviewed.

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

Internal Affairs Division: To assess Phase 2 compliance with this paragraph, we reviewed the 28 cases that were closed by IAD in January, February, and March 2011. We assessed them 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.

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

DPD is in Phase 2 compliance with the IAD 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

⁹ 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.

lack of detail or required specificity in early cases, FI has addressed these issues with strengthened supervision and in-service training.

During this reporting period, we reviewed 19 FI cases, and found them to be completed satisfactorily. DPD is in Phase 2 compliance with the FI cases 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 canvass 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.*

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Directive 102.4, Discipline/Misconduct Investigations, Section 102.4-6.1, effective July 1, 2008; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: Our previous review of the SIRs noted that the investigations were in compliance with the requirement that prohibit the conducting of the investigations by supervisors who authorized, witnessed, or participated in the force that was used; with the requirement that the cases contained the names of all of the officers involved or on the scene during the incident in the report; that the investigating supervisor conduct a canvass to identify civilian witnesses or explain why a canvass was not conducted; and the documentation of medical care for the subjects of the use of force.

During that previous review, we also found that DPD was not in compliance with the requirements dealing with the thorough and complete interviews of all witnesses; and in resolving material inconsistencies; the ordering of photos of officer or subject injuries;

To assess compliance for this reporting period, we reviewed 87 SIRs and found the following:

- There were three instances in which the supervisor conducting the investigation authorized, witnessed, or participated in the incident (4%). Eighty-four (96%) cases contained the names of all of the officers involved or on the scene during the incident in the report, down from the 98% noted in our last report. In 82 (94%) cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted. This represents another slight drop from our previous finding of 95%. DPD is cautioned that this drop marks the second report in which we note a drop in the conduct of canvasses, dropping from 98% in the fifth quarterly report to 95% in the sixth quarterly report and now to 94% this quarter.
- We have previously noted that the thoroughness and completeness of interviews of all witnesses continues to be an issue for DPD. Thorough and complete interviews were conducted in 59 (68%) of the cases. This is a significant drop from the 78% registered last quarter, reflecting the Department's continuing problems conducting thorough and complete interviews. Issues that continue to plague the DPD in its efforts to achieve compliance in this area include: a failure to notify a supervisor from the scene when force is used, minimizing the supervisor's ability to interview witnesses at the scene; witnesses allowed to leave scenes before a supervisor arrives, and then they cannot be located; and officer and civilian witnesses simply not interviewed. The thoroughness issues have to deal with the failure to follow-up on answers provided by witnesses and the acceptance of general statements, either mirroring those of partner officers or regurgitating Crisnet reports. We have discussed the importance of providing training in the interview process for supervisors engaged in SIR investigations and strongly encourage DPD to provide that training as soon as possible. All officers present at a use of force incident and who may have witnessed the incident or who are involved in an incident should be interviewed.
- Twenty-eight cases contained material inconsistencies; the supervisors attempted to resolve the inconsistencies in eight (29%) of these. Again, this is a reduction from the 35% we found in the last reporting period. We continue to reiterate that it is incumbent on individuals involved in the command-level review to question material inconsistencies that are not addressed by the investigator and to take the appropriate corrective actions. First-line supervisors must conduct more critical reviews.
- Thirty-nine cases might have included photos taken of officer or subject injuries. The reports noted that photos were ordered in 23 (59%) cases. This is a reduction from the 70% previously registered. Fifty-three cases included documentation of medical care in the file. Not all medical care was related to police actions. Twenty-two of the cases were for medical care ranging from psychiatric evaluations to asthma to the need for medications. All subjects who should have received medical attention were provided it. We encourage DPD to conduct a critical review of its performance in complying with this requirement. While we previously commented on the progress the Department had made in this area, we recently observed a decline in performance. It may well be a bump in the road to compliance, but it is a bump that DPD must address.

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

Office of the Chief Investigator: We reviewed 100 randomly sampled OCI investigations. In 15 of these, involved officers were not identified by both name and badge number. In all but two

cases, diligent steps were taken to identify involved personnel. The other two were closed prematurely without identifying the officers. Canvasses were generally deficient, as outlined in CJ requirement U32. In three cases, potential witnesses were identified, but not interviewed. In one of these cases, the witnesses were security officers, and no effort was made to identify them through their employer. In another, a witness was contacted but was unable to talk at that time. The investigator did not attempt to re-contact the witness; rather a notation was made that he committed to call back but did not. In another, a passenger in a vehicle operated by the complainant was not interviewed. In three cases involving force complaints, photographs were not included (nor a reference to a reason for their absence). Additionally, in two other force complaints, medical information was not included even though there was a reference to treatment provided.

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

Internal Affairs Division Investigations: We reviewed all 28 IAD cases that were completed during this reporting period. The investigations consistently included the names and badge numbers of all officers involved in or on the scene during an incident. IAD expended particular efforts in identifying officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near the location. IAD now has the capacity to access recordings from in-car video storage from the Division's desktop computers. If any related evidence has been recorded, it can be requested from the Technical Services Unit. Witnesses were interviewed or gave written statements and the investigators made an effort to resolve inconsistencies between witness statements.

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

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

To assess compliance for this reporting period, we reviewed 19 force investigations.¹⁰ The case files included complete documentation of the name and badge number of all officers involved in or on the scene of the various incidents, canvasses for civilian witnesses in all applicable cases, and any medical care that was provided.

The investigations also contained witness interviews, both written and recorded.

Our review also revealed six investigations that contained no photographs of the subject's injuries as required by DPD policy. One investigation contained no photographs of the injured DPD officer. In one of these cases, DPD took corrective action by referring this deficiency to the Crime Services Section for training. The compliance rate for this section is 63%.

DPD is not in compliance with this Consent Judgment paragraph.

¹⁰ These investigations included one fatal and six non-fatal critical firearm discharge events.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U29

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

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Internal Affairs Standard Operating Procedure, revised January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: During the last reporting period, we found that in 69 (86%) of the 80 cases we reviewed, timely statements were taken from officers who were involved or who witnessed the incident, an improvement over the 79% noted in our last report. We also found that the interviews of complainants and witnesses were conducted at sites and times convenient for them in 78 (98%) of the 80 cases we reviewed, an improvement over the 96% we found in the last reporting period.

During this reporting period, we determined that in 84 (96%) of the 87 cases we reviewed, timely statements were taken from officers who were involved in or who witnessed the incident. This represents an improvement over the 86% noted in our last report, and a trend of continuing improvement in this area.

The interviews of complainants and witnesses were conducted at sites and times convenient for them in 85 (98%) of the 87 cases we reviewed, a percentage consistent with that registered last quarter.

The DPD Command Level Investigations remain in Phase 2 compliance with this paragraph.

Office of the Chief Investigator: During previous reporting periods, we noted a consistent issue 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. As mentioned earlier, our sample contained an inordinate number of past due cases – 85 – because of the efforts of the Backlog Squad and the other investigators to clear up these delinquent investigations. Officer interviews were timely in only 31 cases. In many cases, they were interviewed well after the 90-day timeframe in which the investigation should have been completed. Often, the Significant Event Logs showed long periods where no activity was documented. Complainants were identified as uncooperative in 36 of the investigations. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in most of these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. Timeliness issues notwithstanding, when interviews were conducted, they were administered and recorded in accordance with requirements.

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

Internal Affairs Division Investigations: During earlier reporting periods, we found that the DPD directive requiring timely statements from officers was inconsistently applied. Interviews of involved witness officers were often delayed with little justification other than unavailability. There were exceptions involving pending criminal proceedings against officers in some cases. However, it was apparent from the investigators' Case Supervision Sheets that efforts to set and keep appointments were disregarded by some of the officers. In many cases, officers were scheduled for furloughs after appointments had been made. Adherence to scheduled appointments improved during the previous two reporting periods; however, continued delayed interviews of officers continue to impact the quality of the interviews, and subsequently, the quality of the cases. Additionally, these delays affect compliance in CJ U36b, which requires that IAD investigations be completed within 90 days of an incident. Of the 28 cases we reviewed in this reporting period, timely statements were not taken in five cases. Interviews in one case were delayed due to a request from the Prosecuting Attorney to allow the criminal case to conclude. Interviews in the remaining four cases were not conducted due to lack of case management. In three of those cases, Extension Requests were not submitted. In the final case, IAD waited for 18 months for the complaining law enforcement agency to provide the criminal investigation documents, which never arrived.

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. In one case, a witness refused to be audiotaped. He signed the appropriate refusal statement.

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

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

To assess compliance with these requirements for this reporting period, we reviewed 19 closed FI cases, including one fatal and six non-fatal critical firearm discharges. We continue to find much the same as described above. Statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of non-police witnesses were generally taken in a timely manner, usually within minutes or hours of the event; however, in nine cases, statements that were taken from involved and witness officers under the provisions of Garrity were unnecessarily delayed.

Delays with the Garrity interviews of the involved officers in these cases ranged from 41 to 288 days from the date of the incident; only in two cases the officer's Garrity interviews were appropriately delayed due to consultation with the District Attorney. This compares with the last reporting period, when the Garrity interview delays of involved officers fell between 97 and 377 days from the date of the incident. Garrity interviews of witness officers ranged from 127 to 345 days from the date of the event. This is a significant increase over the last reporting period, when the Garrity interview delays of witness officers fell between 97 to 105 days from the date of the event. We previously noted that these delays were primarily attributable to the DPD adopted practice of awaiting the receipt of prosecution declinations from the District Attorney; however, that was not an issue with these cases, as only two were reviewed by the DA.

FI is cognizant of 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, could mitigate the accuracy and credibility of the information provided by officers.

FI investigators take officers' statements consistent with the provisions of Garrity (U31). All such statements relating to the 19 cases reviewed for this report were appropriately recorded. Accordingly, the DPD remains out of Phase 2 compliance with these requirements.

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.*

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Internal Affairs Standard Operating Procedure, revised January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Command-Level Investigations: The most recent CRIB Combined Audit Report contains the following comment: "Currently, within the DPD, interviews conducted during command investigations are not audio or video tape recorded. Therefore, the AT was unable to determine if leading questions were used during interviews that were conducted for the command investigations. The lack of written documentation of the interview questions or recorded statements in command investigations will prevent the DPD from obtaining compliance with U30a."

Our reviews of command level investigations for the first three reporting periods found little documentation of recorded interviews, written statements, or other evidence that DPD used leading questions that improperly suggested legal justifications for the actions of the officer(s). During the fourth reporting period, we found several cases in which a question-and-answer format was used to document officer interviews in the SIR, though there was no evidence that the questions that were asked were contrary to appropriate law enforcement techniques. During the fifth reporting period, we found that there were five cases where DPD asked leading questions in the question-and-answer format. During the sixth reporting period, we found one case where DPD asked leading questions in the question-and-answer format. There were no interviews via written questions contrary to appropriate law enforcement techniques.

During this reporting period, we found 36 cases in which the question-and-answer format was used to document officer interviews in the SIR, including one case in which the unorthodox style of providing a statement paragraph followed by the questions used to gather the information. In 13 (36%) of these cases, we found that the investigator had asked improper leading questions. There were no interviews via written questions contrary to appropriate law enforcement techniques.

DPD remains out of Phase 2 compliance with this portion of the paragraph.

Office of the Chief Investigator: During our previous site visits, we discussed plans to provide interview/interrogation training with the Executive Secretary to the Board of Police Commissioners and the Chief Investigator. During our most recent site visit, we were provided with a summary of the different training offerings for OCI personnel, including an overview of the training referenced in the Department's 30th Quarter Status Report. The student guide has segments on interviewing Department members and non-members, general investigative interviewing techniques, and Garrity.

As mentioned in our last report, in January 2011, OCI began supplying digitally recorded interviews for both sworn and civilian interviewees for a randomly selected subset of our review sample. During this period, we listened to interviews associated with 30 cases, each case typically having several interviews. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions. They also make a point to cover each allegation specifically if the civilian or officer witnesses do not mention the activity complained of, although sometimes follow-up questions are lacking. We identified only one instance of overtly leading questions being used. In this case, the investigator simply read the complaint form to civilian witnesses and then asked if what was read occurred.

Written questions were included in six cases. In each of these, the questions were appropriate and not contrary to accepted law enforcement practices.

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

Internal Affairs Division Investigations: During the first reporting period, our review of closed IAD investigations found that investigators asked leading questions in 16% of the randomly selected interviews we reviewed. In subsequent reporting periods, we found no evidence of the use of leading questions during interviews. To assess compliance with requirements for this reporting period, we reviewed all 28 investigations that were completed during this reporting period. We did not find any evidence in the case files that investigators conducted interviews via the use of written questions. In two cases, we looked for evidence in the case summary that the investigators had asked particular questions to clarify complainants' and witnesses statements, and or physical evidence, but failed to find it. We continue to recommend that the investigators receive training in conducting interviews for Internal Affairs investigations. DPD and the City are not in compliance with this portion of this requirement.

FI 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 67% of the interviews. Previously, we also noted that the interviews varied in thoroughness and were generally brief.

To assess compliance for this reporting period, we listened to eight randomly selected recorded

statements taken from police officers, and found that two interviews involved the use of leading questions. We are particularly concerned with the prevalent prefacing of questions with the phrase “do you remember” or “if you remember” or “do you have any remembrance of” or “do you recall,” which prompts an answer of “no” or “I do not remember” or “I do not recall.” We recognize that it can be difficult for interviewing investigators to refrain from asking questions that suggest answers, and we recognize the efforts of the DPD to address this issue through supervision and training. However, we emphasize the need for those efforts to continue and include a careful review and critique of all interviews in order to improve performance in this important area.

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 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).

Policy:

The policy relevant to this paragraph is DPD Training Directive 04-4, Garrity Protocol, dated February 9, 2006, and revised October 24, 2009. The directive provides criminal and administrative guidelines for investigators and supervisors regarding when statements should and should not be compelled from officers during internal investigations. DPD is in Phase 1 compliance with this paragraph.

Comments:

The protocol also requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview. Our reviews of SIR, FI, IAD, and OCI investigations found supervisors and investigators consistently and meticulously compliant with applicable Garrity requirements. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U32

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

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Internal Affairs Standard Operating Procedure, revised January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010. DPD is in Phase 1 compliance with this paragraph

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable directives; interviews with relevant staff; and a review of closed command-level, FI, IAD, and OCI cases.¹¹

Command Level Investigations: In our previous quarterly reports, we noted that the command level investigations we reviewed included precise descriptions of the facts and circumstances of the incidents with respect to the actions of the officers, complainants, and subjects; but that they lacked the requisite evaluations of many of the initial stops. We also noted that the investigations lacked supervisory evaluations of the officers' initial contacts to determine whether other decisions or tactics might have negated the need for a use of force. Few of the cases we reviewed contained photographs of injuries, either to the officers or the subjects.

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

In addition, we noted evaluations of whether or not an officer(s) complied with DPD policy in some, but not all, cases and recommended that in this context, the Judgment requires compliance with all applicable DPD policy – not simply the use of force policy. When evaluating uses of force, there was considerable variance in thoroughness among investigators. In fewer than half of the applicable cases, investigating supervisors made efforts to evaluate the officer's tactics. Finally, we found that considerably fewer than half of the cases we reviewed met the deadline for submission of the report.

During this reporting period, we examined 87 SIRs and found that 70 (80%) contained a precise description of the facts and circumstances of the incidents, as required by U32a, to include a detailed account of the actions of the subject(s), complainant(s), and officer(s). There is no change from the previous reporting period's percentage compliance. In 82 (98%) of 84 cases, investigators evaluated the initial stop, an increase over the 95% noted in the sixth reporting period.¹² In 64 (73%) of the cases, all relevant evidence, including circumstantial, direct and physical evidence, was reviewed. This is a drop from the 85% in the previous report. None of the 87 cases we reviewed disclosed any evidence that the fact that a subject or complainant pled guilty or was found guilty of an offense was considered as evidence of whether a DPD officer engaged in misconduct. There was also no evidence that this information was used to justify discontinuing the investigation.

Eighty-three (95%) of the investigations contained evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations, a decrease from the 98% reported last quarter. There was no evidence of the discounting of a witnesses statement merely because the witness had some connection to the subject or complainants.

¹¹ See U27 for all directives applicable to the requirements of this paragraph.

¹² Three of the 87 cases occurred in the cell block area and did not require that evaluation.

Seventy-three (85%) investigations contained evidence of an evaluation of whether or not an officer(s) complied with DPD policy. This is a reduction from the 90% achieved during the previous reporting period. As we found in previous reports, the investigators commented on the relationship of the use of force as it was applied in the case they reviewed. We do not believe that compliance with DPD policy is limited to compliance with DPD use of force policy. We assert that in this context, the Judgment requires compliance with all applicable DPD policy. This requirement presents an opportunity for supervisors to evaluate the performance of their subordinates in the field as it relates to their compliance with DPD policy, and in instances where there may be some deviation, to use the situation to re-instruct their subordinates on the prescribed method for performing the task at hand. Examples of violations not noted include the failure of an officer to prepare a Crisnet for 19 days; the failure to issue a paper gown to a potentially suicidal prisoner; failures to make force notifications from the scene; the failure of officers to prepare Use of Force 002s by the end of the shift; and investigators evaluating force in only 81 (96%) of the 84 SIRs requiring that evaluation.¹³ As previously noted, some of the evaluations were better than others. On the whole, most supervisors use sections of the policy as it relates to force and point out the instances of the application conforming to the policy.

There were 79 (94%) instances in which an investigating supervisor made an effort to evaluate an officer's tactics, a slight decrease from the 95% we found in the sixth reporting period.¹⁴ There were no allegations of misconduct uncovered in the investigations we reviewed. Seventy-seven of the 87 cases we reviewed reflected a reliance on the preponderance of evidence standard to reach a determination, a decrease from the 98% noted in the sixth quarterly report. Many of the issues identified affecting this standard involve the failure to review scout car or business videos; failure to interview witnesses; and missing interview details. In 26 of the 38 cases that required extensions, we found written documentation of the basis for extending the deadline of a report, to include corrections to reports, problems with inputting information into MAS, and witnesses being on furlough. There were five cases where extensions were a result of an investigator's vacation, furlough, or problems with workloads.

We found non-disciplinary/disciplinary corrective actions documented in 26 of the investigations we reviewed that required corrective actions. These corrective actions ranged from re-instruction to a negative Administrative Counseling Register (ACR) to a verbal counseling's to a written reprimand. Infractions include the late submission of SIR reports, the need to reinstruct on tactics and a failure to note a use of force in the Crisnet report.

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

¹³ Three of the cases were detainee injuries in which force was not used.

¹⁴ Three of the cases were detainee injuries in which force was not used.

During the current reporting period, we reviewed 100 randomly selected cases. Eighty-three of the complaints were lodged in 2010, with the remainder being received in this calendar year. Twenty-four cases were reassigned to the Backlog Squad. In all but two of the cases, there was a precise description of the facts and circumstances of the incident complained of. In one of these cases, the synopsis of an officer's interview appeared to be "cut and pasted" from another officer's interview. We listened to both interviews, and not all of the details in one were contained in the other, contrary to the synopses. During our site visits, we have advised OCI staff not to take such shortcuts with interview summaries. In four cases, all relevant evidence was not considered. For example, in one case, a complaint of non-response to a domestic disturbance call, potentially involved officers were not interviewed, despite being identified by a review of activity logs. In another, a complaint of an officer's failure to take action when a complainant was accosted by security guards, a witness' statement which supported the complainant's version of events was apparently not considered in determining the finding. In another case, a complaint of force that was administratively closed because of the complainant's failure to cooperate, arrest and detention reports should have been readily available to conduct the investigation.

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

In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.¹⁵ However, in the case mentioned above, we noted insufficient documentation to confirm that alleged uses of force were fully investigated or evaluated. In three cases, misconduct was appropriately discovered during the course of the investigation and ultimately sustained. One case involved truthfulness and failure to appear for interviews, and another resulted in a charge of failing to document a use of force. However, in three other cases, potential misconduct was not identified. Two involved sustained charges in which the involved officers denied the allegations. Since the allegations were appropriately sustained, we question why truthfulness charges were not also considered. In the third case, a use of force complaint, supervisory personnel did not initiate a force investigation per policy, and this was not identified as a potential policy violation.

In five cases, the preponderance of evidence standard was not used. This is based on our determination that not all potential evidence was considered, or different findings were warranted based on the documentation provided for our review.

Eighty-five of the cases we reviewed were not completed within the prescribed 90-day time period. Written requests for extension were submitted in 20 of these cases, frequently after the investigations were already overdue. Two of these requests mentioned furlough as a reason for the extension in contradiction of policy and this paragraph.

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

¹⁵ 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.

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. We discussed the importance of timely canvasses with OCI supervisory staff during our last two site visits. The Chief Investigator has recently instituted a policy that certain investigative steps such as complainant contact and canvassing be conducted within the first two weeks of being assigned an investigation.

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

Internal Affairs Division Investigations: The investigative packages are well-organized, and elements of the investigation are easy to locate. We found that the IAD investigations were conducted in a professional manner. With few exceptions, they were thorough. IAD command staff continues to make efforts to improve after reviewers discuss concerns with them. During this review of 28 completed investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence. In two of the cases we questioned the credibility determinations. In one of these cases, the in-car video system was operable, but had not been turned on for one month. In the other case, we believe that not enough credence was given to the complainant, who admitted to criminal acts that were not reported by the concerned officers. We found that the remaining 26 of the investigations were evaluated based on a preponderance of evidence and complainants or witnesses were not arbitrarily discounted.

We continue to have concerns not only with the extensions of investigation deadlines, but with the discovery, during this period, of investigations that are grossly overdue and extensions have not been requested. There is written documentation found in the Case Supervision Sheets when an extension is requested, but the new deadline date is still frequently missed. We have recommended the development of a case-tracking system to assist IAD in the timely management of the investigations. The IAD Standard Operating Procedures, Section 5-26, Supervisory Review and Monthly Reviews, contains provisions for reporting and tracking the progress of cases. Recently, IAD management adapted a computer program that allows the manager to view and comment on the Case Supervision Sheets for each case. Although this system does not provide a mechanism for date alerts, it allows the manager to electronically grant and document the reasons for granting extensions. During our most recent site visit, we determined that this system is not sufficiently robust to accomplish the case management needs of IAD. The absence of a computerized system does not prohibit the supervisors and managers from managing the caseloads of the investigators manually and through regular case review conferences. We will continue to monitor this effort by IAD.

There were no recommendations for non-disciplinary corrective action or disciplinary action in the 28 cases we reviewed during this reporting period.

Force Investigations: Our review of completed FI cases for previous reporting periods found them in compliance with the investigative requirements of this paragraph. Case files contained a description of the event, but did not consistently evaluate the initial stop and/or seizure. For the most part, FI evaluated direct and physical evidence, but the files did not contain sufficient circumstantial evidence. There were no instances where a subject's court-related appearances had any effect on the outcome of investigations. The files contained little reference to credibility determinations. Investigations contained reviews of tactics and identified officers' unrelated conduct violations, and referrals for intervention and findings were based on a preponderance of

evidence standard. In addition, any requested extensions of deadlines for reports were documented and when approved, specified a new deadline, usually within 15-30 days. There were no instances where extensions were requested due to an investigator's vacation or furlough.

To assess compliance for this reporting period, we examined 19 completed case files and noted the continued inclusion of a detailed account of the facts of the event.¹⁶ Investigators evaluated the initial stop/contact in each case and evaluated direct and physical evidence, and did a better job evaluating the presence or absence of any circumstantial evidence in a small number of cases. There were no instances where a subject's court-related appearances had any effect on the outcome of investigations. The files documented credibility determinations, but demonstrated the need for FI to provide additional training on this issue, and we will follow-up with FI on the status of this training. The training began in October 2010 and has continued through this reporting period. Investigations contained reviews of tactics and identified officers' unrelated conduct violations. Findings were based on a preponderance of evidence standard, and recommended referrals for disciplinary intervention were documented.

We note that requested extensions of deadlines for reports were documented. In addition, any requested extensions of deadlines for reports were documented; and when approved, specified a new deadline, usually within 15-30 days. This is a positive development; however, the practice of granting multiple extensions remains problematic and tends to circumvent the intent of this requirement. Sixteen of the 19 investigations we reviewed were untimely. No extensions were requested for three of the 16 investigations that were late. The remaining 13 investigations extensions were authorized ranging from five to 22 individual requests; despite their approval, the completed work product was very late in the majority of cases.

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U33

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

- a. investigations to be reviewed by the chain of command above the investigator;*

¹⁶ These investigations included one fatal and six non-fatal critical firearm discharge events.

- 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.*

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Internal Affairs Standard Operating Procedure, revised January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable directives; interviews with staff; and a review of closed command-level, FI, IAD, and OCI cases.¹⁷

Command Level Investigations: Our assessment for the previous reporting period found that in 79 (99%) of the 80 SIRs, there was a chain of command review above the investigator. The command review identified deficiencies in 15 cases that were sent back for corrections. In 13 of those cases, DPD corrected the deficiencies within seven days. There were two cases in which DPD identified issues with training or policy, or procedural implications. In one case, the supervisor conducting the investigation questioned the tactics utilized by the officers and the failure to activate lights during a pursuit. He recommended corrective action and retraining to address these shortcomings. In the other instance, the command review recommended an investigation and report, which would review the entire investigation and associated policy violations.¹⁸ There were three instances of corrective action and/or disciplinary action recommended when an investigator failed to conduct the investigation appropriately, ranging

¹⁷ See U27 for all directives applicable to the requirements of this paragraph.

¹⁸ An investigation and report is conducted on a Form 568 and may lead to further disciplinary actions.

from individual re-instruct to precinct retraining sessions to a misconduct report. No cases were identified in which the investigation was not evaluated appropriately by the reviewing supervisor. There were no disagreements with a finding or a departure from a recommended non-disciplinary corrective action or disciplinary action.

During this reporting period, we found that 86 (99%) of the 87 investigations, there was a chain of command review above the investigator. Deficiencies were identified in 13 of the cases, with eight (61%) requiring corrections within seven days of submission. In three of the cases, recommendations were made that training, policy, or procedural issues be referred to the appropriate DPD unit. These included a re-issue of a teletype regarding Crisnet preparation and sending a supervisor to SIR preparation training. We found six instances of corrective action being taken for investigations that were not conducted properly, to include re-instruction and training and the issuance of corrective memos and references to the SIR preparation guide. This requirement is one that addresses the responsibilities of the chain of command in reviewing the investigations, and it could use a special training program to assist the involved personnel in the conduct of these reviews. Many of these cases present opportunities for the development of additional training or enhanced procedural policies, but few of the command reviewers are taking advantage of the opportunity to submit the recommendations to the appropriate units.

DPD has not achieved Phase 2 compliance for the Command Level Investigations.

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 are usually not documented. Glaring deficiencies such as chronic timeliness issues, which would warrant counseling and/or discipline, are not addressed in writing.

For the current reporting period, we reviewed a random sample of 100 closed investigations. We were not able to substantiate a review by the chain of command in four cases due to missing or incomplete Significant Event Logs. In our last two reports, we noted that while there was some evidence that supervising investigators reviewed and returned investigations, we had no way of knowing why they were returned and what was corrected. The Significant Event Logs were simply stamped "To Investigator – Concerns." We found 23 such cases during this review. Since these cases were primarily the older cases – in many instances reassigned – we are hopeful that in future reviews of more current cases this practice will be addressed.

During this reporting period, 58 cases were returned for deficiencies. Most of the returns, however, were to correct typographical errors and formatting issues rather than to point out investigative deficiencies, which should be the primary focus of the review. As in past reviews, there is little evidence that failure to adhere to investigative timelines is addressed as an investigative deficiency. We found only one case in which an Administrative Counseling Record was issued to an investigator for chronic tardiness of cases. At least 16 other cases contained large gaps of inactivity that were not addressed in the material we reviewed. Both investigators and supervisors must be held accountable for this occurring, per the judgment requirements.

We reviewed one case where a reviewer disagreed with the recommended findings of the investigator. In this case, the Board of Police Commissioners appropriately changed a demeanor

finding from unfounded to sustained based on the officer's extensive history of similar complaints. The reasons were documented in writing in accord with the paragraph requirements.

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

Internal Affairs Division: During our first review of IAD cases, we discovered that supervisors infrequently used Case Supervision Sheets for the intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel. Supervisors typically reviewed and commented on these sheets late in the investigative process. After discussions with the command staff, IAD changed this process, and as a result, documentation had improved considerably. In the sixth reporting period, where we reviewed all 30 completed cases, the supervisors regularly documented concerns and approvals on the Case Supervision Sheets of the individual investigators. With few exceptions, they identified deficiencies in the investigations. During this reporting period, we reviewed the 28 completed cases for the quarter and found that the supervisors had missed or lost track of at least four cases where the cases had been returned to the investigator for correction.

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

Force Investigations: Our previous reviews of FI cases for compliance with these requirements 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. However, we noted that these references were generally found within the investigators notes or reports. Based on our discussions with FI staff, we were sufficiently satisfied that there is a detailed supervisory review of each investigation; however, we recommended that these reviews be more thoroughly documented.

To assess compliance for this reporting period, we reviewed 19 completed FI cases, and although we noted reference to chain of command reviews, and are sufficiently satisfied through interviews that supervisory reviews and evaluations are taking place, we continue to find no documentation verifying that the reviews are taking place and deficiencies are rectified consistent with the requirements of policy and this paragraph. Five cases revealed no documentation confirming that the investigator corrected deficiencies within the required seven-day period. DPD is not 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.

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

In our previous reports, we also discussed the findings of our review of auditable forms (UF002). We noted auditable forms were completed where targets were acquired, and that appropriate referral of firearm discharge events were made to FI for investigation.

During this reporting period, we reviewed 180 auditable forms (UF002), and found that 128 of the 180 forms (71%) were prepared correctly, documenting the prisoner injuries, uses of force, and allegations of uses of force. The forms include seven cases that were referred to FI/IA.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U35

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

- a. officers to notify their supervisors following any use of force or prisoner injury;*
- b. that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the supervisor shall interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;*
- c. the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury; and*
- d. IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation¹⁹*

¹⁹ Consent Judgment amendment, September 15, 2008.

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005

DPD is in Phase 1 compliance with this paragraph.

Comments:

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

During this reporting period, we reviewed 87 cases and found that in 85 (98%) of the cases a supervisor was notified following a use of force or a prisoner injury.

There were 13 instances in which the use of force involved a firearms discharge, a visible injury or a complaint of injury and a supervisor responded to all 13 (100%). Supervisors responded to other uses of force on a priority basis in 69 (93%) of the remaining 74 cases.²⁰ Reasons for not responding on a priority basis varied or are unknown, but in at least one case the reason given was that there had been no injury, which is not a criterion for responding to uses of force. We continue to emphasize the fact that in failing to respond supervisors frequently lose opportunities to interview witnesses or subjects who cannot be located at a later time. Of the 87 cases investigated, there were 81 cases which document that supervisors attempted to interview the subject on the scene or at the precinct/district (93%), an improvement over the 88% recorded in the previous report. In 80 of these cases, the supervisor examined the subject on the scene or at the District/Precinct for injuries and ensured that the subjects received the needed medical attention (92%) and improvement over the 80% recorded in the previous report. IAD was notified in seven cases, and assumed responsibility for those cases.

Our review of cases relevant to this requirement shows that, taken together, the majority of these reports did not meet these requirements. Though DPD is still not in compliance with these requirements, it is making progress, with most of the components of this requirement exceeding the 90% level. Closer attention to details could move the Department into compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

²⁰ In combination the supervisor's response to all uses of force is 82 out of the 87 cases, a combined 94%.

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 canvass 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.*

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: Our previous compliance reviews found that the majority of SIRs did not meet the 10-day time limit for completion of the preliminary investigation, and none included photographs of injuries to subjects or officers. Most, but not >94%, contained the required synopsis of the event. Although a majority of the reports included documentation of a canvass of the area and witness statements, those that did not provided no explanation of the reason for the failure to do so. The reports generally did not include profiles of the officers' prior uses of force and allegations of misconduct.

To assess compliance for this report, we reviewed the 87 completed UF002a command level investigations, and found 22 (25%) preliminary investigations completed within 10 days of the event. This is an increase from the 21% we found during the sixth reporting period, but still a very poor showing. Eighty-seven (100%) contained the required synopsis of the event, an improvement over the 98% registered in the last report. There were no photographs of injuries in the files.

In 82 (94%) of the cases, the canvass and witness information was included in the file, a slight decrease from the 95% reported in our sixth quarterly report. Officers' prior uses of force and allegations of misconduct were included in all 85 cases, a significant improvement over the 89% we found last quarter.²¹ Eighty-six of the cases reflected first-line supervisor evaluations (99%), no change from the sixth quarterly report. The final command use of force investigations were

²¹ Two of the cases were attempt suicide in the holding cell areas and as such would not require priors/history.

completed within 30 days in 54 (62%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 73 (84%) of the 87 cases.

We recommend that DPD either develop a more sophisticated system of tracking these cases or ensure that there is some formalized response to the existing MAS tracking system. We were advised during our most recent site visit that MAS sends a notice to the affected unit when the 10-day time requirement passes and a report is not submitted. Someone responsible for the SIR investigation – either the investigator, the first-line supervisor, or the inspector – should be required to submit a report to MAS at that time, identifying the issue and what the expectation is that they will comply with the 30-day time requirement. The DPD has not achieved Phase 2 compliance with this paragraph for the command level investigations.

Force Investigations: We previously reviewed completed FI cases for compliance with these requirements. The investigations included synopses of the events and witness statements, and demonstrated in each successive report, a marked improvement in thoroughness and documentation of canvasses for civilian witnesses. We noted that investigations lacked prior use of force, complaint, and misconduct history that could assist investigators when conducting interviews, making credibility determinations, or developing recommendations regarding training or supervisory intervention. In our sixth quarterly report, we commented on the efforts of investigators to obtain officers' prior histories/profiles for inclusion as part of the investigations, but noted that it appeared such efforts were made to satisfy the requirements of this paragraph, rather than as an investigative objective. We also noted the lack of required photographs of injuries.

To assess compliance for this reporting period, we reviewed 19 completed FI cases.²² Each included a synopsis of the event and applicable witness statements; however, six files contained no photographs of officer or subject injuries. We noted the inclusion of officers' prior histories/profiles in the files, which is a positive step in the investigatory process.

Sixteen of the 19 cases we reviewed were untimely. Notably, of the 19 cases, one case was from 2008 and three other cases from 2009. The remaining cases were from 2010 except for one 2011 case. There were 2 cases referred to FI from OCI that were already over four months old at the time of reassignment. The FI investigation was untimely from the beginning.

Seven of the cases reviewed for this report involved critical firearm discharges: one involved one fatality; a second resulted in an injury to an unarmed citizen; and in the remaining five, no one was injured. Our review of these cases found that while each contained investigative challenges, the basis for delaying interviews with officers or for prolonging the related investigation beyond the prescribed time limit was unclear; however, these investigations took from three months to two years and seven months to complete which compare with a timeframe of five to 12 months during the previous reporting period.²³

²² These investigations included one fatal and six non-fatal critical firearm discharges.

²³ Consent Judgment paragraph U38 requires the completion of critical firearm investigations within 30 days of the event, except where a Garrity interview is required. In those cases, the completion may be deferred until 30 days following the declination or completion of the criminal prosecution.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U37

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

Policy:

The policies relevant to this requirement are 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed one fatal and six non-fatal critical firearm discharge investigations. JIST was notified in, and responded to, five of the seven cases, and one case was not compliant with requirements. The second case was an accidental discharge handled by another jurisdiction. DPD should ensure that the appropriate JIST notifications and responses are made and included in future investigative reports.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U38

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

- a. the investigation to account for all shots fired, all shell casings, and the locations of all officers at the time the officer discharged the firearm;*

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

Policy:

The policies relevant to this paragraph are 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed seven completed critical firearm discharge investigations (one fatal and six non-fatal), and are satisfied with the investigative findings relative to the number of shots fired in each case. However, in one of the cases, investigators determined that the involved officers were carrying unauthorized hollow point ammunition. FI properly identified and documented the DPD policy violations. The DPD has initiated formal disciplinary action in this case.

The investigations reviewed described the locations of the officers and four cases provided an actual diagram indicating the location of the officers. In one case, the evidence technician's report noted that a crime scene sketch was forthcoming; however, the sketch was not included in the documents we assessed.

In another case, the evidence technicians failed to collect shell casings from the scene based upon the condition of the casings, and their location in the vacant residence where the shots were allegedly fired at DPD officers. The incident occurred around 10:00 p.m., under the cover of darkness. The casings were not collected and preserved – only photographed, and the photographs have no evidentiary value. DPD evidence technicians are not trained experts in ballistics. Despite the shell casings' condition, DPD should have collected and preserved them for analysis, should a weapon possibly used in the shooting incident be recovered. We have requested the photographs for review, but DPD has not provided them to date. In this same incident, the number of rounds contained in the subject officer's weapon conflicted with the FI investigator's findings in the force investigation, and this was not appropriately addressed with the officer who initially examined the weapon, and whose Crisnet report was relied upon.

Four of the five remaining discharges were intentional, and one was accidental. The accidental discharge occurred in another jurisdiction, and the documents submitted for review did not contain reports from the investigating agency. The locations of shell casings were noted. There were no other evidentiary issues of concern pertinent to the requirements of this paragraph. This incident does not reflect negatively on DPD's internal investigation because the Department had no authority over the other agency's investigation.

These cases were closed in a timeframe of five months to two years and seven months, clearly outside of the 30-day requirement. All of the cases included Garrity interviews; however, two cases had a short delay, and one case was delayed over a year due to a DA declination, which was not an issue in the other three cases.

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.

Policy:

The policy relevant to this paragraph is DPD Special Order 09-13, issued March 2, 2009. This policy established the Command-Level Force Review Team (CLFRT) to evaluate all critical firearm discharges and in-custody deaths, but did not establish selection criteria for Team members, and was therefore not in compliance with CJ requirements. This issue was addressed with the issuance of replacement policy, Special Order 11-02, effective January 1, 2011. This order specifies the members of the Team by rank and position who are determined by the Chief of Police to “have the qualifications to perform the executive level evaluation of the investigations of critical firearm discharges and in-custody deaths.” DPD is in Phase 1 compliance with this paragraph.

Comments:

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

During this reporting period, the CLFRT convened on seven occasions to evaluate seven critical firearm discharges.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U40

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

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

Policy:

The policy relevant to this paragraph is DPD Special Order 09-13 (March 2, 2009), which was replaced with DPD Special Order 11-02, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

To assess compliance with requirements for this reporting period, we examined the seven completed CLFRT reports – seven involving critical firearm discharges. We noted documentation of interviews with and the participation of investigating officers during the meetings. However, we also noted that the timeframe between the date of the events and the CLFRT reviews ranged from approximately five months to two years and seven months, which is in excess of the prescribed requirements.

The CLFRT assessments continue to include a review of officers' compliance with DPD directives, but generally indicate agreement with the recommendations of FI. The Chief signed off on only one of the seven reports within the required 14 days.

We have previously noted the DPD's positive movement towards compliance with these and other CJ requirements; however, we again assert that the CLFRT needs to conduct and document more probative and in-depth reviews of these serious cases. We continue to find the DPD in pending compliance with this paragraph; however, DPD should expeditiously implement improvements to this process to avoid a future finding of non-compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U41

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

Policy:

DPD revised Directive 101.9, Special Purposes Committees, which covers the Command Level Force Review Team (CLFRT), to address this Consent Judgment paragraph; the revision is pending approval. The revision addresses the previous policy that was deficient and did not adequately address the requirements of U41.

DPD is in Phase 1 compliance with this paragraph.

Comments:

The CLFRT Chair previously prepared an annual report and critique of critical firearm discharges and in-custody deaths. These reports are due by May of the year following the year under review. Accordingly, the DPD remains in compliance with this paragraph.²⁴

We received the CLFRT annual report during the previous reporting period, as required. The report, prepared by Force Investigations, included a description of investigative processes; case summaries; and various analyses of fatal and non-fatal firearm discharges, in-custody deaths, and pursuits. As we noted, the report indicated a downward trend in critical firearm discharges during the latest five-year period. After peaking at 59 in 2006, DPD recorded 38 critical firearm discharges in 2009. There were no fatal shootings in 2009 after peaking at nine in 2006. The most common encounter involved armed subjects.

Although the report was comprehensive, it did not include an analysis of the data to detect patterns or problems, or the absence thereof, nor did it contain any findings or recommendations from the CLFRT Chair to the Chief, as required. However, DPD advised us that this would be addressed. Accordingly, we found the DPD in continued compliance pending receipt of a supplemental report containing the above-described required information. We received and reviewed the supplementary report during this reporting period. It outlines issues with injuries due to critical firearm discharges resulting from fragments or ricochet rounds, the discharging of firearms at moving vehicles, and officers reaching into vehicles during traffic stops, resulting in their subsequently being dragged and injured.

²⁴ On January 28, 2009, the Court amended this paragraph to require the DPD to provide the Monitor with a copy of the annual review and critique of critical firearm discharges within five months after the end of the year reported on.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The failure to conduct quality investigations within prescribed timelines remains a critical issue. Some recommended methods for improvement of Command Level and Force Investigations include the implementation of the various training programs previously mentioned and the implementation of a more sophisticated case management system that will alert commanders to expiring suspense dates. The formal documentation of reasons for delays in the completion of timely investigations could also assist the Department in identifying problem areas requiring its attention.
- As previously noted, the most vital component to the Command Level investigative process is a critical review of the work product by the supervisory personnel. Our reviews of the investigations showed that first-line supervisors need to perform more critical reviews than currently being performed. In instances where corrective action is recommended regarding the quality of the investigations, the recommendations have originated with inspectors or commanders rather than the first-line supervisor.
- The Chief Investigator has restructured its office into four teams and emphasized the accountability of the team leaders/supervising investigators for the work performed by their personnel. As previously noted, the most vital component to the investigative process is a critical review of the work product by the supervisory personnel. In OCI and FI, supervising investigators must hold their personnel accountable not only to timelines, but also for conducting thorough investigations. Case deficiencies must be clearly identified, and the full range of corrective measures should be available depending on the circumstances.
- OCI has been improving its case management system, and we encourage OCI to continue along this course. The additional functionality will provide useful tools for both investigators and supervisors. The system should enhance, but not be a substitute for, frequent interaction between the two.
- The Department must place emphasis on officers notifying supervisors when force is used; in turn, supervisors must respond when notified absent a more pressing priority. Our reviews of auditable forms found that, in some instances, officers do not believe that they need to make the notification absent excessive force, which is not the case. In at least one instance, a supervisor explained that because there was no injury or complaint of injury, he was not required to respond to the use of force. CRIB is aware of these issues and is working on procedures that might remedy the problems.

Next Steps:

During the next reporting period, we will:

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

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

V. ARREST AND DETENTION POLICIES AND PRACTICES

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

The DPD revised its investigatory stop-and-frisk policies to appropriately define investigatory stops and reasonable suspicion and supported this effort by frequent Roll Call Training. 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, investigatory stop-and-frisk, witness identification and questioning policies, and all reports in which an arraignment warrant is not sought. Compliance review in this area thus draws heavily on the detailed records required in this section.

DPD has made significant progress in documenting Investigatory Stops, Detainee Registration and following their internal Witness Identification policies. 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. We have found that in a few instances, the failure to prepare the required auditable form has kept DPD out of compliance with certain paragraphs. Supervisory and command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

For the fifth reporting period, DPD assigned a commanding officer (lieutenant) to coordinate the efforts of the different districts/precincts and other investigative operational units in their reviews of witness identification and questioning policies. This strategy has been successful and should be continued, as we found the applicable CJ paragraph in compliance for the previous two reporting periods.

A. Arrest Policies

CJ Requirement U42

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

Policy:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with requirements of this paragraph.

Comments:

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.

Policy:

See U42 above.

Comments:

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 102 arrest case files. The review included Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all cases, sufficient probable cause for the arrest was present, and supervisory approval occurred within 12 hours of the arrest.

When an officer is not seeking an arraignment warrant, the Department is required to complete Auditable Form U004 (effective September 2009). Of the 102 arrest cases we reviewed, the Department did not seek a warrant in 20. In all cases, the required auditable form was completed. In five cases, although the auditable form was completed, the officers who completed the forms did not indicate the date or time the arraignment warrant was not sought. DPD policy requires that an auditable form be completed within 12 hours of the event.

DPD's compliance with this paragraph is dependent upon probable cause to arrest and timeliness in preparing the required auditable form. The DPD's compliance rate for this reporting period is 96% for the three separate and distinct requirements of this Judgment. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Investigatory Stop Policies

CJ Requirement U44

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

Policy:

The policy relevant to these requirements is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2011. In addition, the DPD issued Administrative Message 11-0151, Roll Call Training Stop and Frisk, on January 28, 2011, with instructions that it be read at roll calls. The message emphasized the following actions: (1) recording the investigatory stop-and-frisk; (2) documentation of supervisory review; (3) supervisory documentation of all investigatory stops and/or frisks within 24 hours; and (4) identification of stops/frisks unsupported by reasonable suspicion. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement U45

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

Policy:

See U44 above.

Comments:

In our six previous reports, we determined that DPD was not in compliance with the provisions of this paragraph. DPD's efforts in traffic and investigatory stops have come into compliance, while progress with Terry stops (frisks) had leveled to less than 70%. Our reviews showed that officers did not articulate reasonable suspicion with frisks, and that supervisors did not properly check the officers' Daily Activity Log entries. During the current reporting period, we found that DPD personnel have made significant progress in documenting investigatory stops. We also noted that some supervisors, when reviewing officers Daily Activity Logs, have checked off each investigatory stop on their subordinates' logs to ensure accuracy. This good practice should be continued.

To assess compliance for this reporting period, we reviewed 336 officers' Daily Activity Logs completed on three randomly selected dates.²⁵ Each district provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles.

Our review yielded 41 investigatory stops, of which 39 indicated a lawful purpose and the remaining two failed to describe the reasons for the investigatory stop. An auditable form was not completed for the two stops that did not articulate a purpose for the stop. In all but two instances, supervisors reviewed all stops within the required timeframe. DPD's compliance rate for investigatory stops only (excluding frisks, traffic stops, and required auditable forms) this reporting period is 96%.

The logs included 205 traffic stops, and our review indicated that 6 did not contain sufficient information to justify the stop, which is a basic requirement. For example, there were situations where the officer issued a summons for driving without a license or proper insurance without providing any additional information describing what violation occurred or what investigatory purpose was necessary for the initial stop. Supervisors reviewed 205 traffic stops in a timely fashion, marking their signatures, and dates and times of review. In six cases, the supervisor signed, dated, and timed the log more than 24 hours after submission by the officer and four of these violations were by the same supervisor. While DPD officers have made progress by articulating reasonable suspicion for traffic stops more consistently, we continue to find the Daily Activity Log entries difficult to read or understand. DPD's compliance rate for traffic stops is 95%.

During this reporting period, we reviewed the 59 frisks appearing on officers' Daily Activity Logs. Our review indicated that 51 of the frisks articulated reasonable suspicion, and eight failed to describe the rationale for the frisk. Officers are required to fill in the Recap of Activity portion of the log to indicate their total daily activities and also mark the "Frisk" box in the narrative portion of the report. This is a tool for the supervisor to locate and review the frisks that occur by their subordinates. It is not being used by supervisors, in that we occasionally note

²⁵ For this review, we randomly selected Daily Activity Logs completed on January 13, February 4, , and March 1,, 2011.

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

Of the eight frisks that failed to articulate reasonable suspicion, five were by officers who asked the detainee for verbal consent to search (pat down) if reasonable suspicion for a frisk did not exist. We believe that this method of conducting a Terry stop by DPD does not meet the intent of the Consent Judgment. During our most recent site visit, the Parties held a meeting to discuss DPD’s request that consent searches (frisks) met the legal requirements of the Consent Judgment.

During this reporting period, we found that all frisks were documented by the end of the officers’ shifts. In one case, supervisory review was late. Supervisory review improved during the current reporting period. There were no Investigatory Stop and Frisk Exception Forms (Auditable Form UF003) included in the case report packets. We inquired with DPD to learn if there were any auditable forms relating to this paragraph that were completed for this reporting period. Although there is evidence of some progress with articulating reasonable suspicion by DPD officers, the Department’s compliance rate for frisks this quarter increased to 87%.

In previous audits, the Audit Team recommended a number of steps to ensure compliance with the Department’s stop-and-frisk policies that include retraining officers and reviewing all stop-and-frisk situations by supervisors and command personnel in a timely fashion. A review of in-car video of frisks by the training staff and commanders may be helpful in ensuring legal authority exists for the frisks. It does not appear that commanding officers review the investigatory stops, as we have not reviewed an Activity Log of an officer with any comments by command personnel, or reviewed any documents that indicate that command personnel have questioned the lack of auditable forms generated by supervisors.

We have not received any auditable forms (Stop and/or Frisk Exception form, DPD UF-003, effective October 31, 2009) from supervisors indicating that they have challenged an improper investigatory stop-and-frisk during any of our previous reviews. As noted above, Administrative Message 11-0151, issued on January 28, 2011, emphasizes recording of investigatory stops/frisks by officers. We note that the Department took corrective action as a response to the audits.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not 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.

Policy:

The policy relevant to this paragraph is DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Policy:

The policy relevant to this paragraph is DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U48

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

Policy:

The policy relevant to this paragraph is DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During the previous reporting period, we reviewed interviews and interrogations from the Northeastern, Eastern, and Southwestern Districts and the Narcotics Unit; and found them in Phase 2 compliance with these requirements.

To assess compliance with these requirements for this reporting period, we expanded our review to include the Twelfth, Tenth, Eighth, and Sixth Precincts, and the DPD's Central Investigative Operations function.

We reviewed the Twelfth Precinct's IOU case files, which contained a random sample of 58 witness/interrogation interviews. Fifty-seven interviews/interrogations met the requirement, and contained the proper documentation and supervisory review within prescribed timeframes. In one case, the supervisory review was late. All commands made adjustments during the previous reporting period to address the lack of timeliness in supervisory review, and its progress is evident. During this reporting period, the Twelfth Precinct achieved a compliance rate of 99% with this paragraph.

We reviewed a random sample of 27 Tenth Precinct case files containing 36 interviews/interrogations, and found 35 cases meeting the requirement. In one case, there was no ending time listed for the interview; and in the same case, a supervisor failed to review the report. The Tenth Precinct's compliance rate for this paragraph is 98%.

We also reviewed a random sample of 34 Eighth Precinct case files containing 55 interviews/interrogations conducted on the proper form. Of these 55, the time of supervisory approval was in red ink on one of the forms in handwriting that was different from the approving supervisor's. In another, the interview lasted for 30 minutes with only three questions asked, with two of the questions eliciting only a one-word answer. This may have been excessive for the duration of the interview. The Eighth Precinct's compliance rate for this paragraph is 97%.

We reviewed a random sample of 29 Sixth Precinct case files IOU that resulted in 43 interviews/interrogations. There was a time missing and lacking supervisory review on one of the interviews; however, the appropriate auditable form was completed. In one instance, the supervisory review was late and did not contain the required auditable form. The Sixth Precinct's compliance rate for this paragraph is 98%.

We reviewed a random sample of 32 case files from Central's IOU and located 59 interviews and interrogations. Two cases did not contain the required supervisory review. Central's compliance rate is 97%.

All five Investigative Operations Units were in compliance. DPD's overall compliance rate for this quarter is 98%.

We reviewed all instances of conveyances to DPD facilities for the purposes of interviews or interrogations during the current quarter. There were 29 such conveyances, and 28 of those were in full compliance with the requirements of the paragraph. In the one exception, the witness failed to place the date and time on the form at the conclusion of the interview. This omission should have been noticed by the interviewing officer or supervisor. DPD's compliance rate for conveyances is 95%.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Prompt Judicial Review Policies

CJ Requirement U49

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

Policy:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U50

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

Policy:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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, all but two met the 48-hour requirement. In one instance, we could not locate the required auditable form in the case packet. DPD's compliance rate with this requirement is 98%.

DPD is in continued Phase 1 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.

Policy:

The policies relevant to this paragraph are DPD Directives 202.1, 202.1-7.2, and 202.1-8.1, Arrest, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess compliance with the requirements for this reporting period, we reviewed the same documents referenced in U50. Of the 102 arrest case reports we reviewed, there were 52 that began at the initial arrest and concluded in arraignment. We excluded cases that involved warrant arrests, juvenile arrests, some traffic cases, and situations where the offender was able to post bond or taken directly to court. In 22 cases, the arrest occurred during a domestic violence event, and we have found that the prosecutor typically denies the arraignment due to insufficient evidence to proceed or the victim refuses to prosecute.

There were 23 cases where the arraignment occurred after 48 hours from the time of the initial arrest. In all 23 cases, an auditable form was completed, including 12 that were due to those involving extraordinary circumstances. In two cases, the delay occurred due to the warrant submittal to the prosecutor being delayed; however, an auditable form had been timely prepared in both cases. When the commanding officer reviews the auditable form, they must inspect the document to ensure that the OIC is dating or placing the time the event was recognized. On January 11, 2011, we reviewed a Departmental Message that indicated UF-004/007 had been combined and put into MAS. The new form has a designated box for the OIC to place the date and time the form is generated. If is utilized properly, issues should be resolved.

DPD's compliance rate with this requirement for the current reporting period is 100% – a significant improvement over the previous reporting period. In our previous reports, we determined that Department personnel occasionally delay completing the warrant submittal unnecessarily (although it is within the 48-hour timeframe), and thus arraignments are often delayed. Although we are seeing fewer unnecessary delays overall, DPD must strive to submit the documentation in a more timely fashion. We observed that some entities within DPD have successfully addressed the problem of submitting the warrant request timely.

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

E. Hold Policies

CJ Requirement U52

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

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

Policy:

The policy relevant to these requirements is DPD Directive 305.2, Detainee Registration, effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U53

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

Policy:

The policy relevant to these requirements is DPD Directive 305.2, Detainee Registration, effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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 92%.

To assess compliance with these requirements for this reporting period, we reviewed 102 Detainee Input Sheets, and found a total of 53 holds/warrants listed on the forms. In eight cases, the hold exceeded 48 hours prior to being cleared. We found that in five cases, an auditable form had been completed in a timely fashion. Auditable forms for the violations were not included in the case packets in three instances. DPD is required to complete an auditable form when a hold/warrant is not cleared within 48 hours of the time it is identified. There are two separate and distinct parts to this particular requirement. With few exceptions, the majority of the Detainee Input Sheets did not indicate a "date cleared" in the appropriate location (box), although the actual time of release (hold/warrant cleared) is indicated in Section (3), the Final

Charging, and Disposition and Release portions of the form, which indicates when the detainee is released from custody. As we have noted previously, the lack of DPD personnel properly indicating the date and time holds/warrants are identified and cleared continues to be a problematic for the Department. DPD's compliance rate for this requirement is 95%.

We found that supervisors are not ensuring that the Detainee Input Sheets are completed in a timely fashion as it relates to warrants/holds being cleared, and that the required auditable forms are not submitted for a commander's review. These deficiencies have, in the past, served as the basis for DPD's performance in this area. These errors can be corrected by ensuring that officers fill in the date/time boxes on the form and complete the auditable form when required.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. RESTRICTION POLICIES

CJ Requirement U54

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

Policy:

The policy relevant to this paragraph is DPD Directive 305.2, Detainee Registration, effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U55

The DPD shall require that such restrictions be documented and reviewed at the time the restriction is issued and reevaluated each day in which the restriction remains in effect. The

DPD shall document on an auditable form any violation of the restriction policy by the end of the shift in which the violation occurred.

Policy:

The policy relevant to this paragraph is DPD Directive 305.2, Detainee Registration, effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed 102 case files and did not find any any restrictions for this quarter. DPD personnel advise us that restricting a detainee's access to visitors, attorneys, and the use of telephone privileges rarely occurs. Personnel may impose a telephone restriction when a detainee makes threatening or harassing calls to individuals outside the facility. There are payphones in each holding facility for the detainees' use. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

G. Material Witness Policies

CJ Requirement U56

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

Policy:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U57

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

Policy:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in compliance with this paragraph.

Comments:

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed all of DPD's requests to the Court for taking a material witness into custody for the period of October 1, through December 31, 2010. The auditable form, approved by a supervisor, was attached to the Court order in only one case presented to the Court. The Court order was issued by a Judge in the 36th District Court of the State of Michigan prior to the witnesses' detention. DPD's compliance rate with this paragraph for the current reporting period is 100%.

The Department has only been out of compliance with these requirements once in our previous six reporting periods.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

H. Documentation of Custodial Detention

CJ Requirement U58

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

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

h. the individual's custodial status, e.g., new arrest, material witness or extradition.

Policy:

The policy relevant to this requirement is DPD Directive 305.2, Detainee Registration, effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in compliance with this paragraph in all of the previous reporting periods. To assess Phase 2 compliance with these requirements for this reporting period, we reviewed a random sample of 102 arrest case files where a Detainee Input Sheet was completed that contained personal information about the detainee, charges, holds/warrants, and other supporting data. The contained documents included Detainee Input Sheets, Warrant Verification Logs, Arraignment Logs, and Livescan forms. In the majority of the instances, the: (a) individual's personal information; (b) crime[s] charged; (c) date and time of arrest and release; (d) time and date the arraignment was submitted; (f) time and date of arraignment, if applicable; (g) time and date each warrant was lodged and cleared; and (h) individual's custodial status; were listed on one of the applicable forms.

In seven cases, the officer failed to include relevant detainee personal information under U58a. We examined the 102 cases for compliance with the eight individual requirements, and found an overall compliance rate of 99%, accounting for the issues noted above.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

I. Command Notification

CJ Requirement U59

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

Policy:

The policy relevant to these requirements is DPD Directive 202.1, Arrests, effective July 1, 2008 revised November 11, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

In our previous reports, we did not find the DPD in Phase 2 compliance with this requirement, noting the lack of auditable forms, the lack of documented reasonable suspicion for frisks, and an inadequate supervisory review of Officer's Daily Activity Logs.

In our review of 102 arrests during this reporting period, we determined that all the arrests properly documented probable cause. In addition, we reviewed officers' Daily Activity Logs, investigatory stop-and-frisk, and checked for the presence of auditable forms (Form UF003, Investigatory Stop and/or Frisk Exception Form, effective date October 31, 2009). We found no completed auditable forms for eight of the 59 frisks that lacked documented reasonable suspicion. We also found an inadequate supervisory review of Daily Activity Logs to ensure that reasonable suspicion existed prior to the frisks.

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 he/she has reasonable suspicion to believe that the suspect may have the means to do harm. Although officers articulated reasonable suspicion for a majority of the stops, the remainder documented no basis for the frisk. While supervisors do review the officers' Daily Activity Logs, they are not challenging officers to document the stops/frisks. The officers, in some cases, are only noting the stops. There were no completed DPD forms (DPD UF003, Investigatory Stop and/or Frisk Exception Form) included in the case report packets we reviewed.

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

There were 41 investigatory stops (excluding frisks and traffic stops), of which 39 were based on a documented investigatory purpose. Two of the stops did not articulate reasonable suspicion. We were unable to locate any auditable forms. There were no auditable forms generated for the commander to review.

There were 20 cases where documentation was completed that indicated an arraignment warrant was not sought and an auditable form completed. In all 20 cases, a commanding officer approved the form and attached his/her signature including the date of review. In one case, the commanding officer's review was five weeks late. We have seen significant progress with commanders' oversight as it relates to warrants not served. DPD's compliance rate for commanders' review of warrants not served is 95%.

We also reviewed 251 witness/interrogation interviews from the Tenth, Twelfth, Eighth, and Sixth Precincts and Central's Investigative Operational Unit. Seven of these did not meet the requirement in the documentation by the officer of the interview form (DPD 103) or the failure to generate the auditable form by the supervisor. This is the second reporting period in which DPD field commands have generated auditable forms for violations of witness identification policy. It is the commander's responsibility to ensure these forms are completed.

Although the Department has made progress with commanders' reviews of warrants not sought and witness identification and questioning policies, DPD remains not in compliance with investigatory stops due to the lack of auditable forms being forwarded for review. Detroit's Police Chief, at the Monitor's exit interview on April 22, 2011, emphasized the lack of auditable forms on investigatory stops to his command staff.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U60

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

Policy:

The policies relevant to these requirements are DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010; and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 and revised March 3, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess compliance with these requirements for this reporting period, we reviewed 102 arrest case reports, of which 84 were submitted to the Prosecutor's Office and 52 went to arraignment. There were 23 cases where the arraignment occurred more than 48 hours after the arrest. In all cases but two, the request for the warrant was submitted in a timely fashion. In 12 cases, the late arraignment was due to extraordinary circumstances; and in two cases, the officer failed to submit the warrant request to the prosecutor within 48 hours. In 22 cases, there was appropriate command review. In one instance, command review occurred 30 days late. We noted that the Department sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints. DPD's compliance rate for this portion of the requirement is 96%.

Of the 53 hold/warrants we identified, there were eight holds that were not cleared within the required 48 hours. An auditable form was not generated for the three holds occurring in January; therefore, the commander was unable to conduct a review. It is the commander's responsibility to ensure that the required auditable forms are generated for those personnel under their command. DPD's compliance for this portion of the requirement is 95%.

There were no “restrictions” placed on detainees this quarter.

Auditable forms for witness identification policies were in compliance.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- As we previously noted, on January 11, 2010, the Chief Judge of the 36th District Court of the State of Michigan announced the discontinuance of evening felony arraignments conducted at the 36th District Court. This has, in effect, further burdened DPD’s ability to have detainees arraigned and to meet the requirement that arraignment occur within 48 hours of arrest. In addition to this edict from the District Court, the cutoff time for submitting prisoner information to the Court has been moved back to 10:30 a.m., restricting DPD’s ability to provide prompt judicial review.
- We reviewed a DPD Administrative Message (Teletype 10-04118) dated November 22, 2010, noting that several precincts/districts were delaying the faxing of prisoner information to Court Liaison just before the “cut off” time, thus creating delays in arraignment.
- We have found that DPD policy requires written documentation of all investigatory stops and frisks, but our review indicated that the officers often fail to articulate “reasonable suspicion.” The supervisory monitoring of stops and frisks has been an ongoing issue since the beginning of the Consent Judgments. We have yet to receive an auditable form from a supervisor for any investigatory stop that did not conform with DPD policy or the conditions of this paragraph.
- Commanders must ensure auditable forms are completed when necessary and forwarded promptly to them for review.

Next Steps:

During the next reporting period, we will:

- Meet with DPD’s Civil Rights Integrity Bureau (RIB) to discuss our stop-and-frisk concerns. Completeness, accuracy, and timeliness of all reports and auditable forms continue to affect field units and the quality of administrative review.
- Review other investigative units (Commercial Auto Theft, Domestic Violence, Child Abuse, and Narcotics) to determine their compliance with interrogations, interviews, conveyances, and material witness policies.

- Observe the personnel who are responsible for the detainee booking process; and interview them regarding their process and procedures for detailing detainee information, including when holds/warrants are identified and cleared; and how they can assist in the probable cause review as a back-up for the probable cause verification normally completed on the Crisnet report.
- Inquire with DPD if any additional processes have been put in place 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. This issue remains a problem in a few instances.

	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	Deferred
45	Written account of stops and frisks	In Compliance	Not in Compliance
46	Revise witness policies	In Compliance	In Compliance
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	In Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	In Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting telephone access	In Compliance	In Compliance
55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	In Compliance
57	Custody of material witnesses-court order	In Compliance	In Compliance
58	Arrests and detention record requirements	In Compliance	In Compliance
59	Required written review of violations	In Compliance	Not in Compliance
60	Required written review of violations	In Compliance	In Compliance

VI. EXTERNAL COMPLAINTS

The stated mission of the Internal Affairs Division (IAD) is to ensure 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 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 Chief Investigator and the Supervising Investigators assigned to OCI. We discussed OCI's efforts to address the aging cases in general and the Backlog Squad's activities in particular. The Backlog Squad has been so successful in addressing the past due cases that the squad was disbanded during the current reporting period. Four members remain in OCI – a credit to the Chief's commitment to the Office – and were deployed to one of four newly constituted investigative teams. The Chief Investigator briefed us on her reorganization of the investigative staff and the various accountability measures she is implementing to ensure quality, timely investigations moving forward. We also discussed specific cases from our last quarterly report.

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.

Policy:

The policies relevant to this requirement are DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; IAD Standard Operating Procedures, Sections 1 and 3; and OCI Standard Operating Procedure, effective July 1, 2010. These policies establish the jurisdictional responsibility of the DPD (Internal Affairs Division) and OCI. IAD is charged with the prevention, discovery, and investigation of criminal allegations and allegations of serious misconduct against Department members and City employees who are assigned within the DPD. IAD is responsible for all external complaints alleging possible criminal misconduct. OCI investigates non-criminal allegations of misconduct against DPD personnel in the following categories: arrest; demeanor; entry; harassment; force, as it relates to threats; property; search; and service. The city and DPD are in Phase 1 compliance with this paragraph.

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U62

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

- a. informing persons that they may file complaints regarding the performance of any DPD employee;*

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

Policy:

The policy relevant to these requirements is the Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010). This SOP vests responsibility for DPD's informational campaign with OCI and OCI's Community Affairs Coordinator. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

During our most recent site visit, we inspected the Office of the Chief Investigator, the Northeastern, Eastern and Central Districts; Schaefer Annex; and the Sixth, Eighth, and Twelfth Precincts. We found the appropriate citizen complaint posters, forms, and brochures in place. We contacted desk officers and field officers at each site, and they were able to provide citizen complaint forms and brochures.

We also inspected three City libraries (Monteith Branch, Thomas Jefferson Branch, and Wilder Branch) and two Neighborhood City Halls (Central and Eastern Neighborhood). We found the appropriate posters on display and supplies in order. Each location had an adequate supply of complaint forms and informational brochures, and staff was familiar with the process to obtain replenishments.

Both DPD and OCI conduct community outreach programs designed to inform citizens of the complaint process and the procedures for filing complaints. The Board of Police Commissioners website allows the public to file complaints against the police online. The City of Detroit broadcasts public service announcements that describe the complaint process. DPD provided us with the broadcast schedule for the week of our site visit.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U63

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

Policy:

The policy relevant to this requirement is DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010. This policy requires all officers to carry informational brochures and contact forms in their vehicles at all times when on duty. The policy further outlines each officer's responsibility with respect to the complaint process and officers' interactions with citizens. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

During this reporting period, we randomly selected both desk officers and patrol officers in the Northeastern, Eastern, and Central Districts; Schaefer Annex; and the Sixth, Eighth, and Twelfth Precincts, and asked to produce complaint forms and brochures. They were able to do so in each case. We also inspected the complaint logbooks in each location. In one location, the logbook was blank for a complaint form that had apparently been filled out for a complainant. In most facilities, personnel pre-number the logbooks to correspond with the numbered complaint forms distributed to the facilities; this is a practice we encourage.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

A. Intake and Tracking

CJ Requirement U64

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

Policy:

The policies relevant to DPD's compliance with the Intake and Tracking paragraphs are : DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, November 2010; IAD Standard Operating Procedures, Sections 1 and 3; and OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004; and July 1, 2010); establish the jurisdictional responsibility of the DPD (IAD) and the Board of Police Commissioners (OCI). DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, November 2010, IAD Standard Operating Procedures, Section 3, and OCI Policy, Section 8, describe the intake and tracking policy as defined by the Consent Judgment. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Our review of 28 IAD and 100 OCI investigations for this report again found that complaints were filed using all of the communication methods identified in this requirement. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U65

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

Policy:

The policies relevant to this requirement are Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010); DPD Directive 102.6, Citizen Complaints, effective July 1, 2008; and IAD Standard Operating

Procedures, Section 1 and 3, revised November 2009. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

We reviewed 28 IAD and 100 OCI cases for this reporting period. We again found no instances where personnel accepting complaints reported any opinions regarding the mental capacity or veracity of the complainant. In two instances, it was noted that the complainants appeared to have been drinking and were being assessed at DRH. The responding investigators had them sign the "Under the Influence" form. We found that this comment regarding physical condition comports with policy and this requirement.

DPD and the City are in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U66

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

Policy:

The policies relevant to this paragraph are DPD Directive 102.6, Citizen Complaints, effective July 1, 2008; IAD Standard Operating Procedures, Section 1 and 3; and OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010). DPD is in Phase 1 compliance with this paragraph.

Comments:

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

For this reporting period, we reviewed 28 IAD and 100 OCI investigations. All investigations contained the required information. The letters also provided case-specific identifiers for the complainant to reference when contacting either IAD or OCI. DPD and the City are in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. External Complaint Investigations

CJ Requirement U67

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

- a. provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*
- b. permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*
- c. refer all complaints to the appropriate agency within five business days of their receipt;*
- d. require that the complainant shall be periodically kept informed regarding the status of the investigation;*
- e. develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*
- f. implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*
- g. require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*
- h. require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon 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.²⁶*

Policy:

The policies relevant to this requirement are DPD Directive 102.6, Citizen Complaints, effective July 1, 2008; IAD Standard Operating Procedures, revised November 2009; and OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010). DPD is in Phase 1 compliance with this paragraph.

²⁶ Consent Judgment amendment, September 15, 2008.

Comments:

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases. Two cases were transferred to IAD and five cases were transferred to Force Investigation. The IAD cases alleged theft and inappropriate touching. The Force Investigation cases all alleged excessive force. In one case, Force Investigation was conducting a parallel investigation to OCI's. OCI's case was administratively closed once this was discovered, although it took several months to arrive at this conclusion.

Eight cases were resolved informally, and all met the criteria as they involved service complaints or claims of innocence. However, in two of these cases, an inordinate amount of time elapsed before they were closed (six months each, even though one was deemed eligible for informal resolution upon initial assignment to the investigator).

Twenty-nine cases in our sample were administrative closed, including those informally resolved and those transferred to other investigative units. We determined that three were inappropriately closed via this process. Two involved force allegations, and one was a demeanor complaint. We note that in two of these cases, supervising investigators indicated in the Significant Event Logs that the cases were not appropriate for administrative closure. At some point, those decisions were unfortunately reversed.

Only 15 of the 100 cases we reviewed were completed within 90 days. As mentioned previously, the efforts of all personnel, including the Backlog Squad, to address the overdue cases resulted in an inordinate number being closed in this quarter. As in previous reports, we noted many had long gaps of time in which no apparent activity took place. A supervisor formally counseled an investigator for failing to adhere to timelines in only one case. Eight of the 100 cases we reviewed were not referred to OCI within five business days, as required by DPD policy. This is an improvement over the 21 such cases identified in our last review.

In all but four cases, we noted efforts to keep the complainant informed of case progress. Often, this correspondence involved attempts to encourage uncooperative complainants to participate in their investigations. In all but one case, 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 last two site visits, we confirmed ongoing in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we continue to encourage OCI to explore training specific to their responsibilities, in order to address knowledge and skill gaps that impact the quality of its investigations. During this review period, all personnel were trained in legal updates and external complaint investigations.

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

Internal Affairs Division: 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 have discovered significant delays in transferring appropriate cases from OCI to IAD. We reviewed 28 IAD cases during the current reporting period, and determined that one had been referred by OCI and arrived at IAD 18 business days after the complaint was filed.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training.

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

Our review determined that IAD is in compliance with the notifications to complainants upon the closure of all investigations, but there was no indication in any files that complainants received status updates on cases while under investigation, or cases that were extended beyond 90 days.

IAD's ability to complete all investigations within 90 days remains problematic. During our current review of 28 investigations, 13 exceeded the 90-day time limit. Of those, eight were delayed due to awaiting the prosecutor's decision or excessive numbers of officers and witnesses involved. The remaining five cases were not managed; in three cases, extensions were not requested.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U68

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

- 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;²⁷ 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.*

Policy:

²⁷ Consent Judgment amendment July 18, 2003.

The policy relevant to this requirement is DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010. This policy mandates compliance with the timelines outlined in this paragraph. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, as in our past reviews, the external complaint review process was completed within the appropriate timeframes. We continue to see some reports where the Chief Investigator and/or the Board of Police Commissioners are not dating their signatures, indicating the date of review. We can generally make reasonable assumptions on review dates or glean this information from other sources such as the Significant Event Log. We also reviewed correspondence between OCI and the Chief's Office showing timely transfer of cases once the Board approves them.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U69

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

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

Policy:

The policies relevant to this requirement are DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; Training Directive 04-4 Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Internal Affairs Standard Operating Procedures, revised January 2011; OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010). DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous assessment of compliance with these requirements, we found that IAD cases were generally appropriately resolved with the stated dispositions based on the findings of the investigator.

For the current 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 believe that, in one instance, an inappropriate determination was reached regarding an allegation of force. The investigation revealed that the only force used was by security personnel – not DPD officers. The allegation should have been unfounded rather than exonerated. In three other cases, appropriate findings were not attributed to each allegation. Two were improperly administratively closed, and thus, no findings were rendered. In the third, the complainant made allegations in his interview that were not on the initial Citizen Complaint Report. These included the alleged theft of his wallet and cell phone, seizure of medications, and intimidation while in court. These allegations were not addressed in the investigation, and we only learned of them by listening to interviews.

In addition, we reviewed all 28 IAD cases that were completed during this quarter, including internal and external complaints. All contained the required dispositions.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

We examined 28 closed IAD cases and 100 closed OCI cases for the period of January 1, through March 31, 2011. Our review disclosed that the following issues continue to require attention:

- *IAD Case Tracking:* IAD has recently adopted a computer program to aid in tracking its cases. While the system does not alert the users to deadlines, it does allow for communication between the investigator and supervisor.
- *Timeliness of Investigations:* While the Backlog Squad accomplished its mission, OCI's adherence to the 90-day time limit for investigations will continue to be an issue without increased supervisory accountability. The Chief Investigator has taken steps to address this issue. We will be closely monitoring DPD's progress in this area.
- *OCI Case Management:* The Department continues to make incremental progress on a reliable case-tracking system that alerts the supervisors to deadlines and extensions for cases. OCI staff experiences a lack of technological support, and responsibility for the system rests with an investigator who also manages a caseload of investigations. While

we regularly caution that a case management system can never be a substitute for regular supervisor/investigator interaction, it can be a useful tool to facilitate this communication. OCI should continue to develop its in-house system given the current lack of a centralized solution deployed in all of the investigative units (OCI, IAD, Force).

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 2011.
- Verify the length and content of in-service training offered to OCI and IAD personnel.
- Review any enhancements to OCI’s case management system, and results of the field-testing that was underway during our recent site visit.
- Review results and any adjustments to the restructuring and systemic changes implemented by the Chief Investigator during this review quarter.

¶	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	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 is taking steps to achieve implementation. The revised foot pursuit policy was posted on the Department's website in December 2010, and approved by the Board of Police Commissioners in January 2011.

CJ Requirement U70

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

Policy:

The policies relevant to this requirement are DPD Directive 101.1, Directive System, effective July 1, 2008, and revised November 1, 2010; and DPD Directive 404.1, Definitions, effective July 1, 2008, and revised November 1, 2010. The DPD 30th Quarter Status Report, issued March 31, 2011 identifies the controlling policies and training directive associated with this requirement. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD CRIB Planning Unit is responsible for reviewing and updating all current policies and for ensuring that revisions are consistent with the requirements of the Consent Judgment. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U71

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

Policy:

The policy relevant to this requirement is DPD Directive 101.1, Directive System, effective July 1, 2008, and revised November 1, 2010. 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD 30th Quarter Status Report, issued March 31, 2011, states that during this reporting period, the DPD integrated the Command Level Force Review Team (CLFRT) Special Order, 11-02, into the Special Purpose Committees Directive, 101.9, and integrated the Training Special Order, 11-07, into the Training Directive, 304.6. These policies are pending review and approval by the Chief of Police and the BOPC. The CLFRT and Training Special Orders were effectively disseminated through MAS.

During our most recent site visit, we were informed by DPD that the Department had forwarded three proposed policies to the Board of Police Commissioners for its review and approval, and that DPD had also posted the documents to the Department's website for citizen review and comments. As the results of this submission and posting will occur in the next reporting period, we will comment further on the documents at that time. We are pleased to note DPD's continued adherence to the process and to its integration of special orders into the directive system, allowing for citizen input to the process.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U72

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

Policy:

The policy relevant to this requirement is DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance for this report, we reviewed the training data for the third fiscal quarter. As of March 31, 2011, 1,969 (73%) of the members have received the use of force training, which incorporates the Code of Conduct.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement 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.

Policy:

The policy relevant to this requirement is Special Order 10-03, effective January 1, 2010, which sets forth the 1:10 ratio of supervisors to officers in patrol and specialized units, and specifically requires the assignment of each officer to a specific sergeant. Accordingly, sergeants are accountable for the conduct and performance of officers assigned to them and for preparing the required performance evaluations. The DPD reinforced these requirements through a Roll Call Training Bulletin.²⁸

DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous site visit, we found the DPD staffing levels at 123 platoons (96%) of the 128 platoons at the 15 commands on three randomly selected days were in compliance with U73. During this reporting period, we again sampled three randomly selected days during the quarter under examination. A total of 124 platoons (97%) of 128 deployed at 14 commands were in compliance with U73.²⁹ DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U74

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

Policy:

²⁸ The DPD issued Teletype 10-00617, containing Roll Call Training 10-05 – Span of Control – Supervision: To Be Read at All Roll Calls From Platoon One, Saturday, February 13, 2010; through Platoon Three, Friday, February 19, 2010.

²⁹ The Command, *Gang Enforcement*, was merged into *Narcotic Enforcement*.

The policy relevant to this requirement is DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we reviewed the training data for the third fiscal quarter. As of March 31, 2011, 1,969 (73%) of the members have received the use of force training, which incorporates the Code of Conduct.

Our review of Command Level Investigations identified one case in which an off-duty officer drew his weapon and acquired a target on a gas station attendant who the officer believed was drawing a weapon. His conduct was reported to FI, who assumed responsibility for the investigation. OCI, FI, and IAD investigations during this reporting period found no cases wherein a DPD officer reported misconduct on the part of another DPD officer.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U75

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

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

Policy:

The policy relevant to this requirement is DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and revised November 1, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Our review of Command Level Investigations identified one case in which an off-duty officer drew his weapon and acquired a target on a gas station attendant who the officer believed was drawing a weapon. His conduct was reported to FI, who assumed responsibility for the investigation. There is no indication that this officer requested any assistance; in fact, it was the station owner that requested the police response. There is no indication in the information available in the Command Level Report documents that the officer was impaired or under the influence of alcohol.

The DPD 30th Quarter Report notes that the new letter to the Michigan Association of Chiefs of Police (MACO) was sent January 11, 2011.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U76

The DPD shall revise its policies regarding prisoners to:

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

Policy:

The policies relevant to this requirement are Directive 305.4, Holding Cell Areas, effective May 9, 2005 and revised effective March 1 2010; and Directive 305.7, Transportation of Detainees, effective May 9, 2005 and revised effective May 1 2010. DPD's 29th Quarter Report, dated December 31, 2010, identifies the controlling policies for this requirement.

DPD remains in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we reviewed the training data for the third fiscal quarter. As of March 31, 2011, 1,969 (73%) of the Department's members have received the use of force training, which incorporates the Code of Conduct.

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed all 87 Command Level Investigations completed during this reporting period. Each of the cases that

we reviewed met the requirements. DPD remains in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U77

The DPD shall develop a foot pursuit policy to:

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

Policy:

The policy relevant to this requirement is DPD Directive 202.7, Foot Pursuits, effective July 1, 2008, and revised November 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we reviewed the training data for the third fiscal quarter. As of March 31, 2011, 1,969 (73%) of the members have received the use of force training, which incorporates the reporting requirements of the Foot Pursuit Policy.

We reviewed seven foot pursuits during this quarter. There were two cases in which reinforcements were requested. Two of the cases involved foot pursuits on individuals who had been armed, though each of the subjects discarded their weapons during the pursuit. All seven pursuits were documented on the use of force 002 form.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- DPD is making progress toward full compliance in this area, and we see no major issues that suggest concerns about continued progress in this area. DPD must, of course, continue to ensure that all personnel receive the necessary training related to the requirements.
- DPD must continue to adhere to the requirement of allowing citizen input into the Directive system by posting proposed directives or revisions to directive to the website.

Next Steps:

During the next reporting period, we will:

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

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

Policy:

The policies relevant to this requirement are DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and the documents that are mandated as part of the Department's risk management plan. DPD remains in Phase 1 compliance with this paragraph.

Comments:

This paragraph provides a summary of requirements detailed in paragraphs U79-99. Each of the system's components is evaluated separately in the materials that follow. The Data Input Plan, Report Protocol, and Review Protocol have been recognized as sufficient since they were developed under the previous monitor, and they continue to be regarded that way with their recent revisions. The implementation of these requirements is moving forward with the Department's work on MAS. This is reflected in the advancements toward full compliance noted in our last report. However, since this requirement is regarded as reflecting a summary of the related requirements, our finding here reflects the outstanding compliance issues noted in the reviews below.

Accordingly, DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U79

The DPD shall enhance and expand its risk management system to include a new computerized relational database for maintaining, integrating and retrieving data necessary for supervision and management of the DPD. Priority shall be given to the DPD obtaining an established program and database. The DPD shall ensure that the risk management database it designs or

acquires is adequate to evaluate the performance of DPD officers across all ranks, units and shifts; to manage risk and liability; and to promote civil rights and best police practices. The DPD shall regularly use this data for such review and monitoring.

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

After extensive development and a rigorous test of MAS in September 2010, we concluded that the system could be capable of meeting the risk management requirements as specified in the Consent Judgment. DPD has now been in pending Phase 2 compliance with this paragraph for two quarters, which have provided the opportunity for DPD to demonstrate the system's capabilities. The Department has continued to make progress on system development, training, and implementation. In the current reporting period, we also extensively examined the use of the system, including the input of data, the use of that data, and the identification and review of officers exceeding thresholds established in the system. Based on that review, we now recognize the achievement of Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U80

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

- a. *all use of force reports and use of force investigations;*
- b. *all canine deployments;*
- c. *all canine apprehensions;*
- d. *all canine bites;*
- e. *all canisters of chemical spray issued to officers;*
- f. *all injured prisoner reports and injured prisoner investigations;*
- g. *all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct" or "interfering with a city employee;"*
- h. *all firearm discharge reports and firearm discharge investigations;*
- i. *all incidents in which an officer draws a firearm and acquires a target;*

- j. *all complaints and complaint investigations, entered at the time the complaint is filed and updated to record the finding;*
- k. *all preliminary investigations and investigations of alleged criminal conduct;*
- l. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City, or its officers, or agents, resulting from DPD operations or the actions of DPD personnel, entered at the time proceedings are initiated and updated to record disposition;*
- m. *all vehicle and foot pursuits and traffic collisions;*
- n. *all reports regarding arrests without probable cause or where the individual was discharged from custody without formal charges being sought;*
- o. *all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion;*
- p. *all reports regarding interviews, interrogations or conveyances in violation of DPD policy;*
- q. *the time between arrest and arraignment for all arrests;*
- r. *all reports regarding a violation of DPD prompt judicial review policy;*
- s. *all reports regarding a violation of DPD hold policy;*
- t. *all restrictions on phone calls or visitors imposed by officers;*
- u. *all instances in which the DPD is informed by a prosecuting authority that a declination to prosecute any crime was based, in whole or in part, upon concerns about the credibility of a DPD officer or that a motion to suppress evidence was granted on the grounds of a constitutional violation by a DPD officer;*
- v. *all disciplinary action taken against officers;*
- w. *all non-disciplinary corrective action required of officers, excluding administrative counseling records;*
- x. *all awards and commendations received by officers;*
- y. *the assignment, rank, and training history of officers; and*
- z. *firearms qualification information of officers.*

Policy:

The policies relevant to this requirement are DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and the Data Input Plan, noted in U82, which has recently been revised. Based on these documents, DPD is in Phase 1 compliance with this paragraph.

Comments:

In our last report, we noted that the development of MAS had advanced sufficiently to allow us to focus our inquiries into the data on verifying the presence of specific information. This led to a finding of pending Phase 2 compliance with this paragraph. Prior to that, we had been concerned with ascertaining whether the mandated broad categories of data could be accommodated by the system. For this reporting period, we conducted a more focused inquiry in which we examined the specific reports that were available and the detail of the information they contained. Our analysis found that the expected information was present for all the mandated data categories. We will continue to focus our inquiries on this level of detail during our next site visit. Our current finding renews the status of pending Phase 2 compliance, with the expectation that a test yielding a similar outcome next quarter will result in a finding of full compliance. We exercise caution here simply to allow replication of our results and to minimize the likelihood of falling back from full compliance in the future.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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).

Policy:

The policies relevant to this requirement are DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and the Data Input Plan, noted in U82. Based on these documents, DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in Phase 1, but not in Phase 2, compliance with this requirement since our first site visit. We assigned a finding of pending Phase 2 compliance with this paragraph in our last two quarterly reports, based on our largely successful test during the fifth reporting period. We continued that finding in our last report as the Department was finalizing the data entry and storage processes. We noted particular concerns relating to collection and storage of information regarding civilians. After consideration of that issue during our most recent site visit, and locating the relevant data in MAS, we now recognize Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U82

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

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Department has revised its Data Input Plan, which had been approved by the Department of Justice under the previous monitor. The revision has been submitted to and approved by DOJ during the current reporting period. The major revisions are reflected in several appendices that provide detailed information on the data input and storage process. These appendices include: a list of data tables in the relational database and a summary of data input requirements which describe the sources of data collected; the schedule for entry; and the party designated as responsible for data submission. The appendices also include a case scenario that illustrates the matching process used to satisfy the common control number related concern described in requirement U86.

DPD is in pending Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.*

Policy:

The policy relevant to this requirement is Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

As is true of the Data Input Plan discussed above, the Report Protocol was originally approved by DOJ under the previous monitor. A revised version of the document was submitted and approved by DOJ during the current reporting period. The new version recognizes that, in light of the technological advancements of MAS, some reports are expected to be producible directly from the system at any time, on an as-needed basis. During our most recent site visit, we examined the system's ability to produce the required reports and now report a finding of Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U84

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

- a. *that when an officer or group of officers pass a threshold established in the Report Protocol the officer's(s') supervisor shall review all information in the risk management database regarding the officer(s), together with other relevant information;*

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

Policy:

The policy relevant to this requirement is Policy Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Review Protocol is the third major MAS-related document required by the Consent Judgment. This critical document provides an important guide for how the system is to work. Like the Data Input Plan and Report Protocol, this document was originally approved by DOJ under the previous monitor and, like the other documents, a revised version has been submitted and approved by DOJ during the current reporting period. In our last report, we reviewed a draft version of this document and held DPD out of compliance until revisions were complete.

For this reporting period, DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U85

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Department continues to be in Phase 2 compliance with this requirement. The Department has continued to make progress on the development of the system over the past year, and during the current reporting period. As noted in our last report, this requirement outlines an essential problem-solving process that is expected to prevent delays in the development of the risk management system. Although progress since the inception of this Agreement has not been timely, it is also clear that substantial progress is now occurring. That progress is sufficient to demonstrate an expeditious problem-solving process as it was envisioned much earlier in the history of this Agreement.

During our most recent site visit, we met with key staff, examined data in the system, and followed up with the review of key documents. All of these reviews indicate that full compliance with this requirement is continuing.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U86

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. The specific issue of a common control number or equally effective system is addressed in the revised Data Input Plan. This is sufficient to support a finding of Phase 1 compliance with this paragraph.

Comments:

During our last reporting period, DPD addressed the need for a common control number or other equally effective means of connecting information across reports of a single incident by developing an algorithm to link documents in the database. The system now links documents using as many as nine variables. These include such elements as identifying information on officers and civilians involved in the incident, the date of the event, and the Crisnet number. An illustration provided in the Data Input Plan links seven documents using this system. DPD has also incorporated a box to check to retrieve “related documents” directly on the appropriate MAS computer screens.

We have repeatedly noted that the common control number problem presents technical challenges. These challenges have been addressed through the identification of an equally effective approach to linking documents, as allowed by this Agreement. During our most recent site visit, we reviewed the system’s ability to link reports in the MAS database that are connected to a single incident. The chosen solution to this problem appears to meet the requirements. However, we plan to review the appropriate data regarding this solution further before we render a more complete determination.

For this reporting period, DPD is in pending Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U87

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Phase 2 compliance finding for this requirement remains unchanged. Previously identified problems of linking personnel data to MAS were resolved prior to our last report. The required data are accessible through MAS, and the five-year retention policy on personal information is in place.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U88

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

- a. By January 24, 2008, the City shall have ready for testing a beta version of the risk management database consisting of: 1) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for the purposes of checking the risk management database.*
- b. The risk management database shall be operational and fully implemented by July 24, 2008.*
- c. The parties and the independent monitor shall meet on a monthly basis to discuss what actions have been taken during the previous month toward development of the new risk management database.*

- d. *The defendant shall present to the plaintiff and the independent monitor, on a monthly basis, evidence of satisfactory progress sufficient to justify a conclusion that completion of the new risk management database by August 11, 2008 remains feasible. If at any time the plaintiff concludes that successful completion of the project within the timeframes described in this paragraph is unlikely, the plaintiff shall so notify the Court and the defendant. Within sixty days after receipt of such notice, the defendant shall issue an RFP to develop or complete development of the new risk management database as was required by 88c. of this Consent Judgment before it was amended. In that event, the requirements of paragraphs 88.d., 88.e., 88.f., and 88.g. of this Consent Judgment before it was amended shall be enforced, with dates adjusted as follows: the Review Protocol (paragraph 88.d.) shall be issued within five months after issuance of the RFP; the defendant shall select the contractor (paragraph 88.e) within seven months after issuance of the RFP; the beta version (paragraph 88.f) shall be ready for testing within fifteen months after issuance of the RFP; and the risk management database shall be operational (paragraph 88.g) within twenty-six months after issuance of the RFP.³⁰*
- 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.*

Policy:

The policy relevant to this requirement is DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

All of the timeframes and dates specified in the original Consent Judgment and later extended by the Court have expired. Currently, DPD files MAS update reports on a monthly basis. These reports document continued progress in the development and implementation of the risk management system.

³⁰ Consent Judgment amendments, November 9, 2007, and July 22, 2008.

As noted above, the Department has demonstrated clear and continued progress on MAS over the past five reporting periods. Although no firm deadline for the entire system has been established, it appears that this progress will continue in a timely fashion. That being the case, this requirement is clearly one that should be reexamined and perhaps replaced by a requirement that notes that we will continue to review advancements in MAS to ensure that progress continues. In the meantime, the obsolete overall schedule continues to dictate compliance findings.

Accordingly, DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U89

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U90

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. This policy, and the related Data Input Plan and Review Protocol, acknowledge the need for periodic revisions and present the general process to be undertaken to accomplish that goal.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Compliance with this paragraph is changed from not in compliance to pending for this reporting period. The documentation of the system in the Review Protocol includes descriptions of the process of using the system and its updating and revision, thus meeting the requirements of Phase 1 compliance. Although full implementation of MAS is underway but not complete, DPD has, in fact, submitted proposals for change to DOJ for review and approval. These have included revisions of the Data Input Plan, Review Protocol, and Report Protocol. These revisions permit a finding of pending compliance with the caveat that we will monitor the implementation of the changes discussed to ensure that they are consistent with expectations.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

B. Performance Evaluation System

CJ Requirement U91

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

³¹ Consent Judgment amendment, October 4, 2004.

- 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.*³²

Policy:

The policy relevant to this requirement is Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in Phase 2 compliance with this paragraph for the past five reporting periods. To verify continued compliance for the current reporting period, we examined a random sample of 100 personnel evaluations drawn from employees of DPD's specialized units and assignments. 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.*³³

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

³³ Consent Judgment amendment, October 4, 2004.

Policy:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion schedule for upcoming audits. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

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

Policy:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion schedule for upcoming audits. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD is in Phase 2 compliance with this requirement. All audits contain the appropriate sign-offs by unit commanders. We verified the review by the Chief through examination of the summary audit briefing signoff memorandum dated March 15, 2011.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U94

*The DPD shall conduct regularly scheduled annual audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a statistically valid sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.*³⁴

Policy:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion schedule for upcoming audits. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD is in Phase 2 compliance with this requirement. Audits on use of force, prisoner injuries, and allegation of misconduct were completed last July; and new audits are scheduled for this coming July.

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.*³⁵

Police:

³⁴ Consent Judgment amendment, October 4, 2004.

³⁵ Consent Judgment amendment, October 4, 2004.

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion schedule for upcoming audits. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Stop and frisk audits were completed last July and new audits are schedule for this coming July. The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U96

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.*³⁶

Policy:

See U92 – Audit Protocol above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Custodial detention audits of all relevant facilities were completed last July and new audits are schedule for this coming July. The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

³⁶ Consent Judgment amendment, October 4, 2004.

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.³⁷

Policy:

See U92 – Audit Protocol above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The city has been in Phase 2 compliance with this requirement since our second quarterly report. A new audit in this area is not due until the fall of this year. This is reflected in the active audit schedule. 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.

Policy:

The policy relevant to this requirement is DPD Directive 303.3, revised on February 22, 2010. Directive 303.3 requires supervisors to review one randomly selected video for every MVS-equipped car on every shift and to document the results on the supervisor's activity log.

DPD is in Phase 1 compliance with this paragraph.

Comments:

³⁷ Consent Judgment amendment, October 4, 2004.

During the past year, DPD has made progress in successfully installing MVS equipment throughout the Department and has exceeded its goal of equipping 300 scout cars with MVS since October 2010. During the current reporting period, we interviewed the Deputy Chief for Technology, and reviewed MAS. During the current reporting period (January 1, 2011, through March 31, 2011), DPD supervisors reviewed 10,356 videos.

We attempted to sample three platoons on three different dates in two precincts to determine how many cars with operational video units had actually been deployed and had random reviews conducted. DPD was unable to locate the data we requested.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U99

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

Policy:

The policy relevant to this requirement is Special Order 11-07 Training, Effective January 11, 2007. This order expires on December 31, 2011, and is currently being incorporated into DPD's policy directives. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in Phase 2 compliance with this requirement since our second quarterly report. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the February 9, 2011 meeting involving DPD and the members of the prosecutor's office. The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Use of Video Cameras

CJ Requirement U100

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

Policy:

The policy relevant to this requirement is DPD Directive 303.3, In Car Video, effective June 21, 2004, and revised February 22, 2010. This policy requires DPD officers in precincts where operational MVS systems have been placed to ensure that the audio/video equipment is working properly at the beginning of their shift, check the equipment, and record the results of their inspection on the Officer's Daily Activity Log. The Department remains in Phase 1 compliance with this paragraph.

Comments:

DPD has made progress in repairing its non-functioning MVS equipment. Since this equipment, particularly the older units, is subject to breaking down and must be repaired, the total number of units deployed at any one time varies. We determined that as of April 18, 2011, 303 DPD cars were equipped and operational.

As noted above, during this reporting period, we interviewed DPD Technology Bureau staff and reviewed maintenance logs and other records relating to the repair and installation of MVS equipment. We found that during the three-month period, the DPD IT Bureau responded to 612 requests for service – 99% of which were resolved.

During our fifth quarterly review, we found that the DPD had completed work on its request for proposals to acquire new, upgraded MVS equipment. The Department has begun to receive the new equipment, which it expects will be more durable and provide enhanced management support to enable DPD supervisors to monitor the use of the equipment more effectively. For instance, as the computers will remain on and are locked in the trunk, officers will be unable to tamper with the equipment or turn it off. In addition, each officer will be assigned his/her own microphone and charger. The system will activate the microphone when the lights are on and when the back door to the car is opened, and while officers can mute their microphones, if they do so, it is recorded and reported automatically. If the system cannot record audio when an officer moves too far away from the car, that fact is also recorded and reported. The new cars will also be equipped with Global Positioning System (GPS), which can show where a car was located when a recording was taken.

The Department has received a total of 92 new units, 46 of which have been installed in its cars. Another 40 new MVS systems have been ordered. The IT staff is focusing on upgrading the precinct/district wireless sites so that they can receive and upload the data from the new MVS equipment. DPD expects to upgrade its wireless transmission system at its local precincts and districts from 54 MB to 300 MB, about a 600% increase.

The Department is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U101

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

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

Policy:

The policy relevant to this requirement is Directive 303.3, In Car Video, effective June 21, 2004, and revised February 22, 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

During our most recent site visit, we found:

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

During this reporting period, we found that the capabilities of MVS have been extended throughout the Department. A total of 303 cars are operational with systems that are set to operate all the time when the officer is on patrol; systems are set to record one frame per second during routine operations, and to accelerate to full video when traffic stops or other events to be recorded occur.

We conducted a review of Crisnet reports to identify pursuits during the current reporting period. Twenty-six such incidents occurred during this reporting period. The video recordings had been deleted from the system for three pursuits that occurred in early January – more than 90 days before our most recent site visit. Of the remaining 23, four did not involve vehicles with operational MVS systems. Sixteen (84%) of the remaining 19 MVS equipped vehicles recorded video during the pursuits. This is an improvement over the last quarter, when we found that 73% of the pursuits were recorded on video. We have arranged with DPD that future videos relating to pursuits will be saved until we have had an opportunity to view them. The Department is in Phase 2 compliance with U101a and U101c. It is not yet in compliance with U101b.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U102

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

Policy:

The policy relevant to this requirement is DPD Directive 303.3, In-Car Video, effective June 21, 2004, and revised February 22, 2010.

DPD remains in Phase 1 compliance with this paragraph.

Comments:

As of this reporting period, 303 of DPD's MVS systems are operational. The Department is now upgrading the wireless receivers at the various precincts and districts to ensure that the new MVS units, when installed, will function properly.

During this reporting period, we reviewed a random sample of 100 traffic stop records from each month of the quarter under review (January, February, and March, 2011). In January, 79% of the records contained video; in February, 70% contained video; and in March, 77% contained video.

Since it was clear that DPD had not reached a level of compliance in recording video, we measured audio only in March, when only 35 of 99 records (35%) contained audio. The Department needs to improve in MVS recording, particularly in the area of audio recording.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

E. Discipline

CJ Requirement U103

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

Policy:

The policy relevant to this requirement is DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010; and the related DPD Discipline Matrix (DPD22a). DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 132 disciplinary cases that were closed during the quarter. We also established that all previously noted resources remain in place to support compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U104

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

Policy:

The policy relevant to this requirement is DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010; and the related DPD Discipline Matrix (DPD22a). DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report (see Appendix 5 for details). For this reporting period, we reviewed all 132 disciplinary cases that were closed during the quarter. All disciplinary proceedings met the established timelines and were consistent with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U105

The DPD shall create a disciplinary matrix that:

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

Policy:

The policy relevant to this requirement is DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010; and the related DPD Discipline Matrix (DPD22a). DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 132 disciplinary cases that were closed during the quarter. All disciplinary decisions fell within the matrix and were consistent with this requirement. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- ***Risk Management and the Status of MAS:*** DPD continues to make progress on MAS. Critical issues noted in the past have been addressed well. In particular, the Command Accountability Meetings play a valuable role in identifying and addressing problems related to the risk management system. The Department's monthly updates also serve a valuable purpose. These innovative processes provide useful means for assuring continuous improvement. We support their ongoing use of this purpose. Likewise, we are pleased to see the efforts to integrate MAS into a comprehensive risk management approach. The link between risk management responsibilities and the Civil Rights Integrity Bureau (CRIB) has helped move this agenda forward.

SEVENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT

July 9, 2011

- ***In-car Video Progress:*** The DPD has reached 100% of its goal of making 300 units of MVS equipment operational. We are now focusing on the ability of the Department to gain compliance with the requirements that the units be activated where appropriate by its officers.
- ***Discipline:*** There is no backlog of disciplinary cases and cases are now resolved within the established timelines and with sanctions that fall within the expected range. The Department is also now examining the use of disciplinary data in relation to the risk management process. We will continue to monitor the disciplinary process to ensure that no similar problems arise.

¶	Requirements	Phase 1 – Policy	Phase 2 Implementation -
78	Comprehensive Risk Management Plan	In Compliance	Not in Compliance
79	Improve risk management system	In Compliance	In Compliance
80	Database requirements (a-z)	In Compliance	Pending Compliance
81	Database to include officer information	In Compliance	In Compliance
82	Data Input Plan (a-d)	In Compliance	Pending 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	Pending Compliance
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	Not in Compliance	Not in Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	Pending 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	Not in Compliance
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	In Compliance	In Compliance
101	Revision of video camera policy	In Compliance	Not in Compliance
102	Record all vehicle stops, searches etc.	In Compliance	Not in Compliance
103	Elimination of disciplinary case backlog	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance

105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance
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IX. TRAINING

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the Training Commander and a sergeant. We also reviewed a variety of memoranda and policy material and lesson plans used in recruit and in-service training.

During the current reporting period, the DPD placed Training under the CRIB.

From our initial reviews until now, the Department has made progress in the development of training policy, the association of DPD training needs to what is taught, and the methodology of instruction. We have seen improvement in the manner and content of training, in general, and in recordkeeping in support of training. As we noted in our last report, during the past year, the primary challenge in Training was for the DPD to obtain full participation in its in-service training programs. It did so first with its bi-annual firearms training program in January 2010, in which 99% of the officers available to be trained attended and qualified. In July 2010, we determined that the DPD trained 99% of its available personnel in its in-service programs. Since compliance can be determined annually after June 30, 2011, when the current Fiscal Year has ended, we are now monitoring DPD's progress towards remaining in compliance for the next year.

During our most recent site visit, we assessed each of the component areas of review and discussed several deficiencies that have been discussed in our reports and to DPD leadership – including use of force, incident documentation, investigation and review, arrest and detention policy, and Departmental practices. Significantly, many of these areas were also identified by the Training Division in its recent needs assessment report. This sort of self-assessment, that identifies problematic areas and structures training to address them, is critically important for an organization to be effective.

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.

Policy:

The policies relevant to this requirement are DPD Directive 304.2-Section 6.1; and Special Order 11-07, Training, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD report, "Training Oversight and Development Report – Semi-Annual Review, December 2010," addresses requirement U106. We found during our last site visit that this report, the fourth such report to be issued, contains the evaluation of use of force, arrest, and detention training; and covers all elements of this requirement. A number of the deficiencies that we found in our review were also identified by the Training Division in this needs assessment. The Department will produce its next needs assessment during the next reporting period.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U107

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

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this paragraph for this reporting period, we met with the Training Director and staff at the Training Center, and reviewed training records. We found that the 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. In previous reporting periods, we found that DPD lesson plans (Use of Force, July 3, 2009; Arrest and Search and Seizure, May 14, 2007; Detention Officer Training, May 30, 2007) addressed this requirement. These lesson plans are now undergoing revision based largely on the needs assessment referred to in U106.
- b. The DPD use of force and arrest and detention training curricula are consistent with the required standards.
- c. One officer was selected for the Firearms Training Unit. This selection was made according to the union contract, which governs assignment of new training personnel. This contract requires that trainers be selected on the basis of seniority – rather than ability, instructional ability, or expertise.
- d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions. A fourth evaluation report for the past operational year (dated December 2010) was produced by the Training Committee chaired by the Commander of Training.
- f. The DPD Training Committee documented its efforts in a January 2011 report to implement its plan to complete the Department’s assessment of training needs for the next operational year. The Training Committee is headed by the Commander of Training; and includes the Deputy Chief who oversees Training, the Commander of the Criminal Investigations Bureau, the Commander of Risk Management, the Commander of CRIB, the Police Legal Advisor, and three members from the Patrol Operations Bureau (rank unspecified). Significantly, many of the areas identified by the Monitoring Team were identical to the deficiencies identified by Training independently in its needs assessment. DPD is now working to revise its lesson plans to address the issues identified in its needs assessment report.

The Department has identified and analyzed key deficiencies, and made amendments to its training curricula in order to rectify the problems it identified. Based on the Department’s progress, we find DPD 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.

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

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

During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. DPD has entered data on all of its training into the MITN System for years 2005 through 2010. The Department has partially completed data entry for the years 2003 and 2004.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U109

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During the first reporting period, we found that the DPD training directive and lesson plans properly direct and instruct on the relevant provisions of the Consent Judgment.³⁸ We found that DPD had developed 10 scenarios utilizing Internal Affairs incidents, and accepted them for incorporation into use of force training. DPD developed another 12 scenarios for its legal training. The legal scenarios are based on both national and local cases that illustrate various legal issues. Our review of training curricula, lesson plans, and scenarios show that they instruct and convey the requirements of the Consent Judgment and DPD policy. The Department remains in Phase 2 compliance with this paragraph. We will review future changes and report on their compliance in coming quarterly evaluations.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U110

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

The DPD met with the City Law Department pursuant to this requirement on February 2, 2011. Meetings are held quarterly. The DPD remains in compliance with U110.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

CJ Requirement U111

The City and the DPD shall distribute and explain this Agreement to all DPD and all relevant City employees The City and the DPD shall provide initial training on this Agreement to all City

³⁸ See Training Oversight and Development Report, Summer, 2009.

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.

Policy:

The policy relevant to this requirement is Special Order 11-10, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

Recruits receive this training after they complete their state certification exams and before they graduate from the Academy. Civilian employees receive this training from CRIB. No new civilian employees were hired during the current reporting period.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Force Training

CJ Requirement U112

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

- a. The DPD's use of force continuum; proper use of force; decision making; and the DPD's use of force reporting requirements;*
- b. The Fourth Amendment and other constitutional requirements, including recent legal developments;*
- c. Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper use of force decision making, including the use of deadly force;*
- d. The circumstances in which officers may draw, display, or point a firearm, emphasizing:*
 - i. Officers should not draw their firearm unless they reasonably believe there is a threat of serious bodily harm to the officer or another person;*
 - ii. The danger of engaging or pursuing a suspect with a firearm drawn; and*
 - iii. That officers are generally not justified in drawing their firearm when pursuing a subject suspected of committing only a misdemeanor;*
- e. The proper use of all intermediate force weapons;*

- f. Threat assessment, alternative and de-escalation techniques that allow officers to effect arrests without using force and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized units or even letting a subject temporarily evade arrest may be the appropriate response to a situation, even when the use of force would be legally justified;*
- g. Interacting with people with mental illnesses, including instruction by mental health practitioners and an emphasis on de-escalation strategies;*
- h. Factors to consider in initiating or continuing a pursuit;*
- 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.*

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

In past site visits, we reviewed training policy directives, curricula, lesson plans, special orders, and teletypes, among other materials purported to address the requirements of U112 during Fiscal Year 2011 (July 1, 2010, through June 30, 2011).³⁹ Our review showed that the course content requirements of U112 and all of its subparagraphs were met for all recruits and in-service trainees. In July 2010, we found that 99% of available members had been trained in use of force for that training year.

During our most recent site visit, our observations for the first three quarters of the new training year show that at the end of the last quarter (March 31, 2011) 2,048 DPD officers (76% of its complement of 2,686 members listed as "available to train") had attended use of force training. This is 5% ahead of last year's rate in which 1,957 officers (71% of the 2,727 officers available to train) were trained at the same point in the year.

As the Department met the 94% or greater requirement for the prior year and remains on a course to train its complement of officers this year, the Department remains in Phase 2 compliance with this paragraph.

³⁹ For our assessment, we reviewed lesson plans, instructor guides, student guides, handouts, and other materials as follows: Firearms Lesson Plan and associated guides and materials, dated January 24, 2008; PR-24 Basic Course 2007; Internal Affairs Lesson Plan and associated guides and materials; dated September 12, 2008; Use of Force Lesson Plan and associated guides and materials, dated July 3, 2009; Detention Officer's Training Lesson Plan and associated guides and materials, dated May 30, 2008 and; Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated May 14, 2007.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Firearms Training

CJ Requirement U113

The DPD shall develop a protocol regarding firearms training that:

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

Policy:

The policies relevant to this requirement are Special Order 10-02, Training, effective January 16, 2010; and Special Order 11-07, Training, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

Following the completion of the last training year, the Department had trained 99% of its members for that year and sustained compliance in both six-month segments of the year. We found that during the first six-month period of Fiscal Year 2011 (July 1, through December 31, 2010), 2,651 officers (97%) of the 2,727 officers then available to train qualified at DPD firearms training. An additional 107 officers were “not available” due to medical situations or military leave. Fifteen officers were placed in “no gun” status until they qualified. All 15 subsequently qualified.

During the first half of this six-month period, DPD trained 1,134 or 42%, of its officers; at the same point last year, it had trained 1,071, or 39%, of its officers. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Arrest and Police-Citizen Interaction Training

CJ Requirement U114

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

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

Use of Force, Search, and Detention training comprise an eight-hour block on use of force; and a four-hour block on arrest, search, and detention. Annual training is provided by DPD in its in-service training program for officers and supervisors. During the last fiscal year (July 1, 2009,

through June 30, 2010) the Department trained 99% of its available members and achieved compliance with this paragraph.

We noted in our last quarterly report that the Department was not yet in compliance with the requirement that each member who makes a stop-and-frisk creates a written document that details the factors leading to such action and illustrating the legal justification. Though we saw this primarily as a supervisory issue, we discussed our observation with the Training and Risk Management commanders for their consideration and action. We were informed that these issues will receive appropriate attention in their ongoing training needs assessment. We found that the needs assessment was responsive to these issues and specifically addressed Use of Force De-Escalation Techniques; Detainee Processing Forms; Documentation of Stop and Frisk; Documentation of Use of Force; In-Car Video; and Felony Traffic Stops. DPD Training is now revising the lesson plans for next year's in-service training and will incorporate additional training to address these deficiencies.

During our most recent site visit, we found that at the end of the third quarter of FY 2011, the DPD had trained 2,052 officers or 77% of its members in arrest procedures, as compared to 1,954 or 71% members for the same period of last year, for a 5% increase in the rate of training. The 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.

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

In previous reporting periods, we found that the DPD had 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.⁴⁰ All officers who attend use of

⁴⁰ Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated May 14, 2007; Detention Officer Training Lesson Plan, dated May 30, 2008.

force in-service training receive the detention training specified by this requirement. Officers who serve in the detention cell areas are required to receive *additional* annual detention officer training, which is more specifically related to detention responsibilities (see C73). During the last training year period, 99% of members met all of these requirements. Our observations for the first three quarters of the new training year show that at this point (March 31, 2011) 1,969 Detroit officers (77% of its members listed as “available to train”) had attended use of force training. This is 5% ahead of last year’s rate, in which 1,954 officers (71%) were trained at the same point in the year.

Our review found that DPD in-service training afforded to all officers meets the requirements of U115. 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.

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

Our last review found that the DPD had incorporated these training requirements into its use of force lesson plan, that it was meeting its training obligation and had trained greater than 94% of its members during the past training year. As noted above (see U115), DPD is training officers at a higher rate this year than last and is expected to again exceed training >94% of its officers.

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.

Policy:

The policies relevant to this requirement are DPD Training Directive 04-1, Confinement of Material Witnesses, effective March 21, 2005; and Special Order 11-07, Training, effective January 1, 2011. DPD remains in Phase 1 compliance with this paragraph.

Comments:

DPD arrest policies are articulated in DPD Directive 202.1, Arrests, effective July 1, 2008. Departmental policy clearly states, “[O]nly a court has the authority to decide whether an individual is a material witness, and whether that material witness should be committed to jail pending his or her testimony.”

Material witness training has been incorporated into the use of force lesson plan. As noted above (see U115), the DPD is well on its way to meeting the requirements of training >94% of its officers in use of force during this training year.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. Supervisory Training

CJ Requirement U118

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD fulfills Consent Judgment requirements U118-122 through its annual in-service training for supervisors. The Department came into Phase 2 compliance with this paragraph when it trained >94% of its supervisors in its annual in-service training program, which we documented in our fourth quarterly report. During Fiscal Year 2010 (July 1, 2009, through June 30, 2010), the DPD had trained 650 (99%) of its 652 supervisors.

We are now tracking DPD efforts to comply during Fiscal Year 2011. During the first three quarters of Fiscal Year 2011, DPD trained 471, or 73%, of its current complement of 668 DPD supervisors. At the same point last year, the Department had trained 451, or 47%, of its then complement of 652 supervisors.

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.

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD did not promote any personnel to the supervisor rank during the past quarter. As noted in U118, during Fiscal Year 2010, the DPD trained 99% of its supervisors at its annual in-service training course. As we reported in U118, it appears that the Department will remain in compliance at the end of this training year. 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.

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The Department's Supervisory and Leadership Accountability in-service training addresses this requirement. The Department trained 99% of its supervisors in the past year through its annual supervisory and leadership in-service training. The DPD is in Phase 2 compliance with this requirement, and it appears that it will remain in compliance for the current year. (See U118.)

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

G. Investigator Training

CJ Requirement U121

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The training required by U121 is delivered in the DPD supervisory and leadership in-service which is attended by both supervisors and investigators. In July 2010, we found that the DPD delivered this training to 99% of its supervisors during its Fiscal Year 2010 Supervisory Leadership and Accountability Training Program. The Department is in Phase 2 compliance with U121, and as described above (see U118), is making satisfactory progress towards remaining in compliance during Fiscal Year 2011.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U122

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

Policy:

The policy relevant to this requirement is Special Order 11-07, Training, effective January 1, 2011. This policy replaced Special Order 10-02, which addressed requirement U122. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During our fourth quarterly review, we found that the Department trained 99% of its supervisors in the past year in its Supervisory Leadership and Accountability in-service training, which addresses handling external complaints; and in its Use of Force in-service training, which addresses the role of the OCI and Internal Affairs. Inasmuch as U122 is one of the requirements that can only be measured annually, we are now monitoring the DPD's progress to determine if the Department is proceeding satisfactorily to remain in compliance during the current Fiscal Year (FY 2011, July 1, 2010, through June 30, 2011). We found that during the first three quarters of Fiscal Year 2011, the Department maintained progress towards its Supervisory Leadership and Accountability and Use of Force in-service training programs. (See U112 and U118.) The Department is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

H. Field Training

CJ Requirement U123

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

Policy:

The policies relevant to this requirement are the Department Standard Operating Procedures Manual Field Training Program, effective January 1, 2011; and Special Order 11-07, Training, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we found that the DPD had not selected or trained any additional FTOs during the last quarter. DPD has 118 trained FTO officers. The Department currently has only six probationary officers in training. These officers came from other departments and did not require basic training.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 Implementation
106	Review use of force and detention training	In Compliance	In Compliance
107	Develop training	In Compliance	In Compliance
108	Maintain training records	In Compliance	Not in Compliance
109	Lesson Plans and Objectives	In Compliance	In Compliance
110	Meetings with City Law Department	In Compliance	In Compliance
111	Explain agreement to employees	In Compliance	In Compliance
112	Annual use of force training	In Compliance	In Compliance
113	Firearms training	In Compliance	In Compliance
114	Training re arrests and citizen interaction	In Compliance	In Compliance
115	Custodial detention training	In Compliance	In Compliance
116	DPD arraignment policy training	In Compliance	In Compliance
117	Material witness training	In Compliance	In Compliance
118	Supervisors training in reports	In Compliance	In Compliance
119	Leadership accountability training	In Compliance	In Compliance
120	Risk assessment training	In Compliance	In Compliance
121	Interview training	In Compliance	In Compliance
122	External complaint training	In Compliance	In Compliance
123	FTO training	In Compliance	In Compliance

Critical Issues:

- Our tracking in this current reporting period has indicated that attendance has increased in each of the in-service programs that constitute the 2011 in-service training program. The Department is well on its way to remaining in compliance with the training requirements.
- During this review, we identified several issues with which the DPD has contended. We noted that several of these issues were also identified by DPD Training in its needs assessment. We understand that the Department is now modifying its lesson plans for next year's in-service program to address these needs. We will be interested in determining how well the DPD addresses these issues in its revision of its training.

Next Steps:

During the next reporting period, we will review:

- Lesson plans modified for the new fiscal year's in-service training.
- New or revised policy directives that have been developed for the Consent Judgment requirements relating to training.
- The list of officers selected to serve as trainers, and the documentation regarding their selection and training as trainers.
- The training record system and any training needs assessment that has been conducted.
- A random sample of officers who have attended in-service training to determine if the training is documented in training records.
- Documentation of the development of scenarios derived from local incidents used in instruction.
- Documentation of meetings with the City Law Department.
- Documentation that the City and the DPD distributed the Consent Judgments to all DPD and all relevant City employees, and trained them on its content.
- A list of officers and supervisors who have attended in-service for Fiscal Year 2011 as of June 30, 2011, to determine if the DPD is in compliance (>94% attendance) with the several Consent Judgment training requirements.
- A random sample of officers, supervisors, and, if appropriate, detention personnel who are required to be trained in several subjects (see requirements U114-122), and their training records to determine if they, in fact, received the training set forth in these requirements.
- A list of all supervisors, and a count of supervisors, who have completed supervisor training during Fiscal Year 2011 as of June 30, 2011, which we will compare against the number who attended supervisory training during Fiscal Year 2010.

- A list of all supervisors promoted during the past quarter and the dates they received the training required by the Consent Judgment.
- Documentation of field training officer selection and training.

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.⁴¹ We have repeated our tours and inspections of some or all of these facilities during each of our subsequent site visits, and have interacted with command and key detention staff at each facility.

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

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

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

Use of Force and Restraints: DPD is required to implement policies for the investigation of uses of force in detention facilities, consistent with their general use of force requirements.

⁴¹ Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts.

While policies are in place, the same deficiencies noted in field investigations are present in those investigations specific to detention facilities. During this reporting period, DPD acquired hand-held video equipment for use in each of the facilities in which they house detainees.

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.

Policy:

The policies relevant to this requirement are the 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 developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The Fire Marshal reviews the FSP annually and also conducts regular and periodic (annual) inspections of holding cells; the most recent review was conducted in November 2010. Accordingly, the DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C15

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

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴² The DPD is in Phase 1 compliance with this paragraph.

Comments:

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 all of the fire extinguishers at each holding facility, and found them all to be fully charged.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

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.

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴³ The DPD is in Phase 1 compliance with this paragraph.

⁴² The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

⁴³ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

Comments:

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

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C17

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

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁴ The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

During our most recent site visits to each district/precinct that maintains holding cells, we found documentation of the Fire Marshal's inspections. The most recent inspections were conducted in November 2010. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁴⁴ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

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.*

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁵ The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

As previously noted, we visited each district/precinct that maintains holding cells, and determined that the DPD has made the required structural, electronic, and mechanical upgrades within the facilities. We also noted that Fire Systems of Michigan and the Fire Marshal conducted and documented inspections of suppression systems in November 2010. The DPD remains in Phase 2 compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁴⁵ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

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.

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁶ The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

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

Fire Systems of Michigan and the Fire Marshal conduct the required inspections, which were last conducted in November 2010. The Fire Safety Practices and Policies audit for the reporting period ending January 31, 2011, was conducted by the Office of Civil Rights Audit Team, and members of the Holding Cell Compliance Committee from the Detroit Fire Department and the Independent Qualified Source, as required by Paragraph 66 of the Conditions of Confinement Consent Judgment. A review of the audit documents during this reporting period indicated that maintenance problems were discovered in four of the five facilities. As noted above, the DPD Office of Facilities Management is responsible for the maintenance of these systems. DPD Form 702, Maintenance Log, instituted by the Holding Cell Compliance Committee in January 2011, ensures that all maintenance issues are documented and tracked at the Civil Rights Integrity Bureau. The weekly testing of emergency generator power supply systems is documented on Form 715 - Evaluation of the Operation of Holding Cells, which is supported by the printouts of weekly testing completed and generated by DTE Energy.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁴⁶ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

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.

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁷ The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this paragraph since the first reporting period. During our most recent inspection of the holding cell areas, we found no trace of smoking in the facilities. During our review of all of the monthly inspections on DPD 715 - Evaluation of the Operation of Holding Cells, we found no documentation that any smoking had been observed in the facilities.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C21

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

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁸ The DPD is in Phase 1 compliance with this paragraph.

⁴⁷ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

⁴⁸ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C22

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

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁹ The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁴⁹ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

¶	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.

Policy:

The policies relevant to this requirement are the Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP), which was approved on November 29, 2010; and DPD Directive 305.4, effective March 2010. DPD Directive 305.4 provides guidelines and procedures for the operation of holding cells, and the CEPP includes an emergency response plan for each district/precinct (see C24) and a key control system requirement (see C25). DPD is in Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of C24-25; accordingly, our compliance finding is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C24

The DPD shall develop a comprehensive emergency preparedness program that is approved in writing by the Detroit Fire Department. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the programs within three months of DOJ's review and approval. Thereafter, the

program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan. At a minimum, the emergency preparedness program shall:

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

Policy:

The policies relevant to this requirement are the Detroit Police Department Comprehensive Emergency Preparedness Plan and DPD Directive 305.4 cited in C23 above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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.

During the fifth reporting period, we reviewed Form 703, Fire Drill Documentation, and observed notations on the forms at two districts indicating that during the fire drills, personnel were not able to find the leg shackles to secure the detainees in the event of a building evacuation. As noted previously, evacuations without shackles could lead to a serious breach of security for the officers and the community. We also confirmed that the shackles were missing or placed in cabinets in such disarray that it would be difficult to retrieve them quickly for an evacuation. We inquired with the staff about the missing shackles, and were told that they were being used by the transportation van. We also questioned the validity of the Fire Drill Documentation data, if the shackles were not available.

Following our recommendations that the detention evacuation equipment be stored in the immediate vicinity of the holding cells so that it is readily accessible to officers, we found, during the sixth reporting period, that the shackles were fully accounted for and placed individually in crates, allowing for easy access. We found that this continues to be the case during this reporting period.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C25

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

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

Policy:

The policies relevant to this requirement are the Detroit Police Department Comprehensive Emergency Preparedness Plan and DPD Directive 305.4 cited in C23 above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

We continue to note that DPD form 715 (Evaluation of the Operation of the Holding Cells) needs to be updated. While the Department revised the form in October 2010, the form still does not elicit some critical information, including: the number of key sets at each location; where the keys are stored; and who has possession of them. In addition, the Emergency Evacuation Procedures Manual (or “red book”) does not reflect the number of key sets assigned to each detention facility.

During our most recent inspection, we found that each districts/precincts had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants’ and sergeants’ office. The CEPP directs that “the cell block supervisor to conduct an inventory of the keys at the commencement and the conclusion of his or her tour of duty and document same in the desk blotter.” At one facility, the key inventory had not been put into the desk blotter four hours after the shift had begun. The key assignments were among a stack of notes to be input into the desk blotter because there had been a disturbance in the holding cells earlier in the shift.

In the four districts/precincts where the supervisor has each detention officer sign for his/her set of keys on a log, we continued to observe problems. At one district/precinct, we attempted to locate the daily key inventory in the desk blotter and found it difficult to locate among the other entries. Lack of key control jeopardizes detainees, officers, and the public. We discovered that, on occasion, officers had accidentally taken the keys home at the end of their shifts.

We expect that by the next reporting period, the Department will have updated the DPD form 715 and the CEPP to reflect the specific number of keys assigned to the individual facilities and a reliable method for key inventory.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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

V. MEDICAL AND MENTAL HEALTH CARE POLICIES

CJ Requirement C26

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

Policy:

The policies relevant to this requirement are DPD Directive 305.1, Detainee Intake Assessment; Directive 305.5, Detainee Health Care and; Directive 403.2, Infectious Disease Control Plan, all effective May 9, 2005. These policies were reviewed and updated by a qualified health care professional and revised accordingly on February 5, 2010 and February 4, 2011. DPD remains in Phase 1 compliance with this paragraph.

Comments:

During all previous reporting periods, we found DPD not in Phase 2 compliance with this paragraph. Our inspections, along with our review of the quarterly detainee file folders, revealed multiple issues and deficiencies in this area including: clerical errors; incomplete or missing documentation of medical referral and medication logs; missing signatures; missing

documentation of required supervisory reviews; and the lack of a documented exchange of health information between consecutive shifts.

In the last reporting period, we found that only 82% of the detainee file folders we reviewed were in compliance with this paragraph.

During the current reporting period, we reviewed a random sample of the detainee file folders, and inspected detainee file folders and observed personnel while onsite. We again found that the personnel are still not properly implementing these procedures in accordance with the DPD directives. We continue to identify clerical errors, incomplete or missing documentation of medical referral and medication logs, missing signatures, missing documentation of required supervisory reviews, and the lack of a documented exchange of health information between consecutive shifts.

DPD remains not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C27

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

Policy:

See C26 above - DPD Directive 305.5, Detainee Health Care. This directive, along with forms and logs, comprises the Comprehensive Medical and Mental Health Screening program (CMMHSP). The DPD remains in Phase 1 compliance with requirements.

Comments:

During the current period, the DPD Health Authority completed the review and approved the CMMHSP policies and directives. The DPD provided us with documentation during our most recent site visit. The 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 individuals entering DPD custody;*
- d. require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*
- e. incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

Policy:

The policies relevant to this requirement are DPD Directive 305.1, Detainee Intake Assessment; Directive 305.5, Detainee Health Care and; Directive 403.2, Infectious Disease Control Plan, all effective May 9, 2005. These policies were reviewed and updated by a qualified health care professional and revised accordingly on February 5, 2010 and February 4, 2011. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last six reporting periods, we found the DPD not in Phase 2 compliance with this requirement. We observed deficiencies including clerical errors; missing signatures of police detention officers and supervisors; and incomplete or incorrect completion of required forms. In more than a few cases, we found that detainee intake screenings were not conducted within two hours of a detainee's arrest. In one troubling incident during our last site visit, staff had not conducted an intake screen on a particular detainee for over 12 hours. When the detention staff finally completed the intake process and housed the detainee in a cell, we reviewed the detainee's file folder, and learned that the detainee had serious medical and mental health issues and the detainee was on medications. The staff did not follow DPD policy that requires referring the detainee to DRH.

During our most recent site visit, we witnessed in Northeastern District, that the supervisor and detention staff did not follow policy regarding a detainee with critical medical needs. During the screening process, information about the detainee's condition (diabetes) was uncovered and noted, but the medication(s) that the detainee was prescribed, dose, and frequency were not documented. In the "Action Taken" section, the "yes" box was checked for the detainee to be referred for medical assessment at DRH. However, when we reviewed detainee files on the following day, we noted that the DPD detention staff had not conveyed the detainee to DRH for treatment or assessment. When we inquired about the detainee's medical status, the on-shift Cell Block Supervisor (CBS) learned from the detainee that he required injected insulin twice daily. We reviewed the DPD log 659a, Platoon Daily Detainee Summary, completed by Platoon One, which did not list the detainee as being a medical health risk. Additionally, the detainee's file folder did not have the appropriate alert sticker (red) affixed to its exterior.

We reviewed the Cell Check Logs (DPD 659) for this reporting period, and found 95% in compliance for general population checks. The Medical/Mental High Risk Logs (DPD 661) for this reporting period revealed that 95% of high-risk detainees were observed by staff.

During this reporting period, in our review of a random sample of 375 detainee file folders, we continued to find some of the problems we observed in the past. These deficiencies included only limited exchange of pertinent health information between shifts; missing signatures on logs/forms; forms and logs not filled out correctly, including Medical Treatment/Medication Logs; Medical Referral Forms 660 missing from detainee file folders; and several cases where detainees should have been referred to DRH, but were not. We also found, as in past reporting periods, that medical and mental health information is not being updated in the Livescan system. We continue to recommend to CRIB that it develops and implements a process so that when a detainee's medical or mental health status changes, detention staff update the system accordingly.

Overall, we found that DPD had an 82% compliance rate with this paragraph in the current reporting period. The DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C29

The medical protocols, at a minimum, shall:

- a. identify the specific actions the DPD shall take in response to the medical information acquired during prisoner screening or detention, including the need for emergency care, hospitalization, prescription medication and/or intensive monitoring; and*
- b. require prior supervisory review and written approval, absent exigent circumstances, of all decisions made in response to acquired medical information.*

Policy:

See C26 above - DPD Directive 305.1, Intake Assessment. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has not met Phase 2 compliance with these requirements in the previous reporting periods.

During the current reporting period, we reviewed a sample of 375 detainee file folders, and inspected each of the districts/precincts that maintain holding cells and the Detroit Receiving Hospital. We continue to find that staff did not follow policy in several key areas, including:

- Untimely referral, or lack of referral, of detainees in need of medical or mental health care to the Detroit Receiving Hospital;
- Cases in which intake screenings were not conducted within the required two-hour timeframe following arrests;
- Required red medical alert stickers missing from detainee file folders;
- Medical referrals not completed correctly;
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner;
- Medical referral forms missing from detainee file folders;
- Health information not being updated in Livescan;
- Supervisors' signatures missing on forms regarding the health information of detainees requiring medical care;
- Hospital Prisoner Forms not completed properly; and
- Detroit Receiving Hospital discharge instructions missing.

Overall, we found that 82% were in compliance with this paragraph – the same percentage as we found during the last reporting period. The DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C30

The DPD shall develop and implement policy regarding infectious disease control (IDC) in consultation with medical health professionals. The policy shall be reviewed and approved in

writing by qualified medical health professionals at least every year after implementation and prior to any revisions to the policy. At a minimum, the policy shall:

- 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.*

Policy:

See C26 above – DPD Directive 403.2, Infectious Disease Control Plan. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous site visits, our inspections of the Detroit Receiving Hospital and the five DPD facilities that maintain holding cells disclosed poor levels of sanitation in similar degrees at all of the sites with a trend toward improvement. The DPD has not yet achieved Phase 2 compliance with this paragraph.

During our most recent site visit, we again inspected all districts/precincts with holding cells and the DRH. We found in the Eastern District and the Sixth Precinct that the cleanliness of the holding cell areas and cells was satisfactory. The Northeastern District continued to be deficient in its sanitation practices; the cleanliness of its sinks and toilets is inadequate. The DPD should follow and complete the instructions in the Holding Cell Cleaning Log which is critical to DPD's ability to be in compliance with this paragraph. Due to the condition of the Northeastern District's facilities, DPD's compliance rate with this requirement is 84%. (See details, C39, C40.)

We reviewed 47 Holding Cell Cleaning logs from the five facilities, with seven days on each log, for a total of 329 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors approval designated. In every instance, the cleaning officer checked the box in the appropriate place.

We found that the Personal Protective Equipment (PPE) kits were in order and included an adequate supply of the required contents. Our inspection of the first aid kits uncovered some expired contents, but we have seen some improvement by the detention staff in this area. We continue to recommend that detention staff open the first aid kits on a regular basis to verify that the contents have not expired.

We continued to observe that staff have food and drinks in the holding cell areas. The DPD Directive 403.2-5-1-8, Precaution Strategies, requires that staff do not eat, drink, smoke, apply cosmetics or lip balm, handle contact lenses, or store food or drink in work areas where there is a reasonable likelihood of significant exposure to infectious diseases. We recommend that the DPD take appropriate action to remedy these violations of policy.

An effective infectious disease control plan must account for the sanitation and maintenance of all plumbing and equipment; physical plant cleanliness; and documentation that a plan to maintain the physical plant is being implemented in the holding cell areas and holding cells. The DPD Infectious Disease Policy 403.0, Section 403.2-6.3, Statements 1-6, Department

Equipment, vehicle or facility, affirms the importance of building maintenance and cleaning and decontamination of the facility.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C31

The DPD shall develop and implement a protocol for updating and exchanging prisoner health information. At a minimum, this protocol shall;

- a. require that prisoner's health information is recorded at intake and thereafter immediately readily available to all relevant medical and transporting personnel in a manner consistent with the relevant federal and state confidentiality statutes;*
- b. require that prisoner health information is continually updated to incorporate any additional relevant information acquired during his or her detention;*
- c. require that relevant prisoner health information is documented and communicated between consecutive shifts, such as whether a prisoner is taking medication or has a medical condition; and*
- d. require that prisoner health information travel with prisoners who transferred to another facility.*

Policy:

See C26 above – DPD Directive 305.5, Detainee Health Care. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, our reviews of DPD form 661, Mental Health High Risk Log; form 661a, Medical Health High Risk Log; 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 being documented and communicated between consecutive shifts.

Our most recent inspection revealed that sharing relevant health information between shifts, as required by this paragraph, remains inconsistent. This practice is important to ensure that the detainees' health needs are met, and for the purposes of staff safety. This information must be documented, updated, and communicated between the initial shift receiving the detainee and the subsequent shifts until the detainee is released.

During our most recent site visit, we reviewed DPD log 659a, Platoon Daily Detainee Summary in the five districts/precincts that maintain holding cells, and found errors, including missing signatures between shifts, critical detainee health information missing, and a lack of comments in the “comment” section on the forms. DPD’s overall compliance rate for the Platoon Daily Detainee Summary completion for this quarter increased to 90% due to the performance by the Southwestern District. (See C36.)

We also reviewed 144 DPD forms 661/661a that required a 15-minute watch. While the entries were made in a timely fashion, we found that the date, time, and reason for the removal from the watch were recorded in only 136 of the 144 cases. Though this is an improvement that we attribute in part to the revised and combined DPD Form 661/661a, the DPD needs to continue to ensure that its detention personnel complete the forms correctly.

In addition, during this current reporting period, we continued to find numerous deficiencies in the documentation of important health information in the detainee file folders. The problems included clerical errors, incomplete or missing documentation for Medical Referral Form and Medication Logs, missing signatures, missing documentation of required supervisory reviews, the lack of a documented exchange of health information between consecutive shifts, and missing updated health information in Livescan.

Overall, we found that 82% were in compliance with this paragraph – the same percentage that we found during the previous last reporting period.

DPD remains not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C32

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

- a. indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*
- b. require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*
- c. require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*

- d. require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*
- e. require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*
- f. require that injected medications are administered as prescribed and in a safe and hygienic manner; and*
- g. require that unused medications prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

Policy:

See C26 above - DPD Directive 305.5, Detainee Health Care. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During all of the previous reporting periods, at the five districts/precincts that maintain holding cells, we found numerous Medication Logs missing critical detainee and staff information. Detainee dosages, dosing times, signatures, the names of the persons administering the medications, and prescription release information frequently did not appear on the logs. As a result, we found the DPD out of Phase 2 compliance with this paragraph.

During the current reporting period, in our review of 375 detainee file folders, we continued to find many instances where the DPD failed to record essential detainee and staff information. We noted, for example, that medication logs on detainees who had been released were missing signatures of detention staff and detainees; therefore, it was unclear whether detainees received their medications, or were given their unused medications at the time of release. Some of the files did not include detainee medication logs and signatures of PDOs and detainees when medications were administered. We also found instances where DPD did not obtain medications from pharmacies in a timely manner, resulting in detainees missing critical dosing times for their medications. We recommend that CRIB enact a policy and process for addressing these sorts of problems.

We also examined the Platoon Daily Summary logs, which are used to ensure that detainee health information is exchange and communicated between shifts, and found missing signatures between shifts, critical detainee health information missing, and blank comment sections on the forms. We found 90% of the logs in compliance – a slight improvement from the last reporting period, when we found 84% of them in compliance.

Our inspection of medication cabinets and medications for detainees at the precincts/districts maintaining holding cells revealed that everything was satisfactory in the location of the cabinets and storage of medications.

With the deficiencies aforementioned, we continue to find the DPD out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C33

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

Policy:

See C26 above - DPD Directive 305.1, Detainee Intake Assessment. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the previous reporting periods, we found that detention personnel were generally familiar with where the appropriate clothing items, paper gowns and/or suicide smocks, were stored. Our inspections revealed ample inventory of appropriate clothing.

During our most recent inspections in all five districts and precincts with holding cells, we found sufficient inventory of paper gowns and/or suicide smocks. The staff we interviewed were knowledgeable regarding the use of the clothing and where the appropriate clothing was stored.

We find the 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:

During all of our previous site visits, we conducted comprehensive inspections of each of the five districts/precincts that maintain holding cells, as well as the Detroit Receiving Hospital cells. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
26	Prisoners’ medical/mental health conditions	In Compliance	Not in Compliance
27	Medical/mental health screening program	In Compliance	In Compliance
28	Medical/mental health screening procedures	In Compliance	Not in Compliance
29	Medical protocols	In Compliance	Not in Compliance
30	Infectious disease policy required	In Compliance	Not in Compliance
31	Prisoner health information protocol required	In Compliance	Not in Compliance
32	Prescription medication policy required	In Compliance	Not in Compliance
33	Clothing-suicide prevention	In Compliance	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.

Policy:

The policies relevant to this requirement are DPD Directive 305.1, Detainee Intake, effective May 9, 2005, and revised February 5, 2010; Directive 305.2, Detainee Registration; Directive 305.3, Detainee Personal Property, effective May 20, 2010; DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008, and revised March 20, 2010; Directive 305.5, Detainee Health Care, effective May 20, 2010; Directive 305.7, Transportation of Detainees; effective May 20, 2010; and Directive 305.8, Detainee Food Service and Hygiene, effective May 9, 2005, and revised March 20, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of staff and inmate safety measures required by C36-38; accordingly, our compliance finding is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C36

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

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

Policy:

The policy relevant to this requirement is DPD Directive 305.1, Detainee Intake, effective May 9, 2005, and revised February 5, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD Form 659A, revised August 2008, is used to record information on detainees with medical conditions or special needs. During this reporting period, we reviewed 54 Eastern District logs that contained 521 detainee entries, and found that in four instances, the officer did not enter the time that s/he prepared or received the report. All detainee information was included on the form. The Eastern District's compliance rate with this paragraph is 93%, a slight decrease from the previous reporting period.

We reviewed 53 Northeastern District logs that contained 291 detainee entries, and found three lacking the date of preparation or receipt by the incoming shift. One supervisor failed to indicate a required comment in the comments section of the report on one of the forms. The Northeastern District's compliance rate with this paragraph is 93%, an increase from the previous reporting period.

We reviewed 98 Sixth Precinct logs that contained 469 detainee entries. Six of these did not include the time the form was either prepared or received; and in three cases, an entry was not made as to the detainee's status in the comments section of the form where it is required. The Sixth Precinct's compliance rate with this paragraph is 91%, a slight decrease from the previous reporting period.

We reviewed 51 Twelfth Precinct logs that contained 415 detainee entries; of these, 15 did not indicate the times of receipt or preparation by the officer. Three individuals were responsible for 13 of these omissions. All detainee entries had appropriate medical/mental comments listed in the appropriate space. The Twelfth Precinct's compliance rate with this paragraph is 71%, a decrease from the previous reporting period.

We reviewed 71 Southwestern District logs that contained 457 detainee entries. We found three detainee entries that did not contain any comments referring to the detainee's medical or special needs in the comments section of the form, as required. In one case, the supervisor failed to list the time he received the report from the previous shift. During this reporting period, the Southwestern District made significant progress in this area; its compliance rate with this paragraph is 95%.

The failure of holding cell personnel not properly documenting the date and time of preparation or receiving DPD Form 659A remains the only obstacle to compliance with this paragraph. DPD's overall compliance rate for this reporting period increased to 90% due to the improved performance by the Southwestern District. Despite this, DPD is not yet in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C37

The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, the procedures should:

- a. require that cell checks on the general population are performed at least twice per hour and that cell checks of prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and*
- b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.*

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Sections 4.2 4.3 and 7.4, effective February 1, 2008, and revised March 20, 2010. This policy establishes the duties of the cell block supervisors (CBS) and detention officers relating to well-being checks in compliance with this paragraph. DPD is in Phase 1 compliance with this paragraph.

Comments:

Supervisors are required to walk through the holding cell areas four times per shift to check on the well-being of the detainees. Detention Officers are required to make similar visual checks every 30 minutes (or every 15 minutes for high-risk detainees). Their observations are documented on the Detention Cell Check Log (DPD 659).

At the Detroit Receiving Hospital, 15-minute well-being checks are entered on the DPD 659 form when holding cells are occupied. General population well-being checks are entered on the DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on either the DPD 661 (Mental Health High Risk Monitoring) or the DPD 661a (Medical Health High Risk Monitoring Log). Both forms – DPD 661/661a – have been combined into one single form, DPD 661. This change was implemented on October 13, 2010 and issued through an Administrative Message, Teletype 10-2998.

During the current reporting period, our review of 303 Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 95% compliance rate. This is the same that we found during the previous reporting period. During each tour of duty, detention officers are required to make cell checks every 30 minutes (16 checks daily) and supervisors every two hours (four checks daily). We reviewed 6,060 individual time entries during this quarter. There were 13 late cell checks – three by more than an hour – and five supervisory checks were not timely. In these five cases, we noted that the individuals were reprimanded or counseled for their failure to document the required supervisory check of the cell block every two hours.

We observed during our most recent site visit that in some of the facilities, the processing officer is responsible for conducting the holding cell checks. In some instances where cell checks were late, the processing officer would indicate on the cell check log that the reason for the late check was due to processing detainees. We recommend that DPD rectify this situation.

We had not previously requested Detention Cell Check Logs from the Detroit Receiving Hospital. There were no detainees being held at DRH in our three previous visits to the facility. However, while at the facility in April 2011, we observed one detainee being held. We reviewed 21 Cell Check Logs for the first three weeks of April, and noted that 37 times had been entered on the form. Twenty-three time checks were within policy and 14 violated policy. In our future document request, we will also request these forms from the DPD unit assigned to this location.

We reviewed a total of 141 cases for the period of January 1, through March 31, 2011 that required a 15-minute watch. These included those detainees on medication. While the entries were made in a timely fashion, we found that the date, time, and reason for the removal from the watch were recorded in 139 of the 141 cases. There were four cases where the supervisor authorizing the watch failed to place their name, signature or badge in the appropriate box available for that purpose. There was one late cell check and in one instance the type of watch was not indicated.

DPD is in Phase 2 compliance with this paragraph. We attribute the Department's progress to the revised and combined DPD Form 661/661a, and the emphasis placed (DPD Administrative Message, Teletype 10-2998, issued October 7, 2010) on DPD personnel to complete the forms.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C38

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

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 4.3, effective February 1, 2008, and revised March 20, 2010. Directive 305.1-3.8, effective May 9, 2005, and revised February 5, 2010, specifies that constant supervision is required when a detoxification/safety cell (observation cell) is used to house a suicidal detainee. Directives 305.1-3.16 authorize the use of any single cell as an observation cell to house a suicidal detainee, and it requires constant supervision. DPD is in Phase 1 compliance with this paragraph.

Comments:

As previously noted, the DPD continues to be out of compliance with its policies in that detainees on suicide watches are often not placed on constant supervision. During this reporting period, of the 21 DPD 661 forms (for detainees who were maintained on suicide watches) that we reviewed, 17 specified “constant supervision,” and four specified a 15-minute watch. Even if a detainee is under constant supervision, personnel are required to make notations on the log every 15 minutes. We have noted that in previous reporting periods, officers have marked both constant and 15-minute watches on suicidal detainees. We found a few reports during this reporting period that indicated both constant and 15-minute watches. DPD’s compliance rate with this paragraph is 81%.

There seems to be some confusion regarding what necessitates a constant watch; we noted being suicidal, having previous suicidal attempts, and having suicidal thoughts listed on the form in the “Reason for Starting Monitoring” section of the report. We have seen identical language describing the reason for monitoring, yet some personnel choose to mark 15-minute watch and others will mark constant watch without any other information listing specifically why that designation was given. There should be more consistency among Departmental personnel when making these determinations. We understand that retrieving medical information from the Detroit Receiving Hospital may be difficult. However, the comments section of the form is not being utilized to its full potential.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
35	Security procedures to ensure safety	In Compliance	Deferred
36	Prisoner security screening program	In Compliance	Not in Compliance
37	Procedures for cell checks required	In Compliance	In Compliance
38	On-site remote observation of cells	In Compliance	Not in Compliance

VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

CJ Requirement C39

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

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, and revised March 20, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During previous inspections, we found that the Twelfth Precinct set the benchmark for facility cleanliness. As of this reporting period, we note that the Southwestern District has improved significantly in this area. During our April 2011 site visit, we inspected all vacant cells at all five facilities on three separate days. We found that graffiti is non-existent throughout the facilities, and we did not observe trash in any cells. The least satisfactory areas were offices in the cell blocks where detainees are not housed; the accumulation of dirt in those spaces is attributable to staff. The cleanliness of the cells at the Eastern District and the Sixth Precinct were satisfactory. The Northeastern District was again not quite up to standard in the cleanliness of the sinks and toilets. The Twelfth Precinct had used a buffer on the plumbing fixtures in the cells, and the results were positive. The Detroit Receiving Hospital was uncharacteristically dirty and cluttered during our fourth site visit; its cells were clean during our fifth and sixth site visits. During our most recent site visit, the cells were clean.

During this reporting period, we reviewed 47 Holding Cell Cleaning logs from the five facilities, with seven days on each log, for a total of 329 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors' approval designated. In every instance, the cleaning officer checked the box in the appropriate place. This was an improvement from our previous reviews, when some officers simply drew a line through the first entry to the last, leaving the reviewer unclear regarding whether or not the cell was cleaned.

At the top of DPD form 701, Holding Cell Cleaning Log, revised August 2008, the form clearly indicates "place a check mark under the duty performed." Although all of the entries contained a Cell Block Supervisor's signature, nine did not contain the time that the form was approved by the CBS, and one failed to list the date and time of approval. DPD's compliance rate with this paragraph is 97% for proper documentation of the forms, an increase over the previous quarter of 96%.

Due to the condition of the Northeastern District's facilities, DPD's overall compliance rate with this paragraph is 84%. There are five holding cell facilities among the districts/precincts, and a smaller facility at the Detroit Receiving Hospital. In order to be found in compliance with this requirement, all facilities must be in compliance.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C40

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

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, and revised March 20, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Cell block supervisors are required to conduct inspections at the beginning of their shifts and to correct any noted discrepancies. Holding cell areas must be cleaned daily and documented in the Holding Cell Cleaning Log (DPD 701). Detention officers must clean cells immediately after they are vacated (DPD 305.4(4)); however, it has been difficult to locate those instances on the logs where a cell was vacated and immediate cleaning took place.

During the current reporting period, we found that 96% of the DPD 701 Forms (Holding Cell Cleaning Log) were in compliance. We are finding that some facilities take pride in their ability to maintain a safe environment for detainees, and others have made significant progress and are now in compliance. Sanitation appears to be satisfactory on paper, but our inspection in one district revealed that while the previous conditions we noted have improved considerably, the cleanliness of some of the cells and common areas remain at unacceptable levels. Although the documentation of the cleanliness of the holding cells indicates that DPD is in compliance, our recent inspection by three Monitoring Team members indicates otherwise.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C41

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

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 20, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Platoon 1 Cell Block Supervisor is responsible for conducting a weekly maintenance inspection and for documenting discrepancies in the Facilities Maintenance Log (DPD 702). The Platoon 1 Cell Block Supervisor is required to submit repair orders via e-mail to the Facilities Maintenance Department.

During previous reporting periods, our review of DPD 702 Forms found them to be out of compliance, due either to the construction of the form, or the failure to indicate when critical holding cell repairs were completed. As noted previously, the new form, DPD 702, will likely resolve problems with documentation. Through conversations with DPD personnel, we had indicated the above-noted problem with completion dates of necessary repairs to the facilities being documented. The new form contains a section on the report for Facilities Maintenance or the CBS indicating when the reported repairs are completed.

As a result of those conversations and a subsequent meeting on January 28, 2011, OCR began preparing a spreadsheet specifying all current outstanding repairs and their status at all DPD holding cell facilities. The listed items are derived from each HC facility logs submitted to the Monitor and OCR. The OCR/HCCC also committed to including all outstanding repairs as an agenda item for discussion at each monthly HCCC meeting. We reviewed HCCC meeting agendas for January 20, and February 16, 2011 during our most recent site visit and confirmed that current facility repairs are being discussed. In addition, an individual from Facilities Maintenance is required to attend.

During our evaluation of this reporting period's Facility Maintenance Logs, we reviewed all logs from each of the five districts/precincts that maintain holding facilities and matched those repair requests to the master tracking log maintained by OCR. There were 35 requests for repairs, of which only five had not been reconciled. The repairs that had not yet been completed are listed on the spreadsheet with a repair date to be completed within 30 days of notification. There was one listed repair with an excessive time of completion. The spreadsheet prepared by OCR containing completed or outstanding repairs is a tool that should serve DPD well. During the next reporting period, we will review the April 2011 OCR spreadsheet to ensure that the projected dates for completion of the repairs have been achieved.

DPD's compliance in this area is 97%. Full compliance requires DPD to amend their current policy (DPD 305.4, Holding Cell Areas) to include the changes noted above. We were notified

on February 8, 2011 that the necessary changes had been made and we verified the change was implemented during our most recent site visit.

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.

Policy:

The policy relevant to this paragraph is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 20, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During our most recent inspections of all five facilities, we checked the thermometers in the holding cell areas and found the temperature in each cell block within established limits (between 66 and 80 degrees). The temperature gauges are located in conspicuous places for convenient monitoring. Our interviews with cell block supervisors and inspection of the facilities revealed that they checked the temperature upon assuming the shift. Based on our review of the above-referenced directive and our observations, the DPD is in Phase 2 compliance with the requirements of this Consent Judgment 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.

Policy:

The policy relevant to this paragraph is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 20, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

In previous reviews we have found critical repairs to cells noted on the Maintenance Log, but the logs did not note when or if they were completed. As we noted previously, the DPD was in the process of implementing a more effective maintenance repair tracking system, and effective June 8, 2010, this system became functional. However, issues remained with the ability to track when repairs were completed. (See C41.)

DPD has revised its policy to more effectively track repairs in all facilities. The Holding Cell Compliance Committee has an agenda item during its monthly meeting to discuss and resolve all existing repair issues.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C44

The DPD shall ensure that lighting in all cell block areas is sufficient to reach 20 foot candles of illumination at desk level and in personal grooming areas.

Policy:

The policy relevant to this paragraph is Directive 305.4 Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 26, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

We inspected all five district/precinct holding cells and the Detroit Receiving Hospital, and found that supplemental lighting has been retrofitted at each location. The DPD Facilities Management Staff conducted light level tests in the five districts/precincts that maintain holding cells, and at the Detroit Receiving Hospital. In each case, the light levels in the cells and adjacent areas exceeded 20-foot candles at desk level. The DPD is in continued full compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C45

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

Policy:

The policy relevant to this paragraph is Directive 305.4, Holding Cell Areas, Section 7, effective February 1, 2008, and revised March 26, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Our inspection of the district/precinct holding cells during this reporting period determined that all prisoners had access to toilets and potable water at all times. Based on the published directive and our observations of conditions of the physical plant in the district/precinct holding cells, the DPD is in full compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C46

The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.

Policy:

The policy relevant to this paragraph is Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 26, 2010, Security, Heating, Lighting, Ventilation and Conditions. This policy requires that weekly security and maintenance inspections shall be conducted in the following areas: holding cell bars, locks; windows; walls; floors, ventilator covers, protective screens, doors, toilets; sinks; and lighting. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD staff advised, and our inspections of the district/precinct holding cells confirmed, the removal of all Hepa-Aire purifiers. The DPD is in full compliance with the requirements of this 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	Not in Compliance
40	Holding cell cleaning policy required	In Compliance	Not 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.

Policy:

The policies relevant to this requirement are the Comprehensive Medical and Mental Health Screening Program (CMMHSP) and DPD Directives 305.1, Detainee Intake and Assessment, and 305.5, Detainee Health Care, effective May 9, 2005. These policies were updated and approved in writing by a qualified medical and mental health professional on February 5, 2010 and again on February 4, 2011. The variance between the requirements of 305.1 and actual practice pertaining to Telecommunications Devices for the Deaf (TDD) noted in our previous two visits was corrected with a policy revision during this reporting period. The DPD is in Phase 1 compliance with this paragraph.

Comments:

In our previous inspections, we found that the CMMHSP was inconsistently implemented by the DPD detention staff. The DPD did not have a process in place to check the TDD equipment to

ensure that the TDD equipment was functional and that the DPD staff was proficient in the use of the TDD equipment.

During our most recent inspection, we found that detention staff in the precinct/district with holding cells demonstrated competency in the use of Telecommunications Devices for the Deaf (TDD). In addition, the TDD equipment was working properly. This has been accomplished by the development of an effective testing protocol. DPD detention staff is now required per policy to conduct tests on a monthly basis that demonstrate the equipment is working properly and confirm that detention staff can demonstrate the use of the equipment.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C48

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

Policy:

The policy relevant to this requirement is DPD Directive 305.1-7, Detainee Intake/Assessment, effective May 9, 2005. The DPD revised this policy on February 5, 2010 in consultation with a qualified medical and mental health professional from the Detroit Department of Health and Wellness Promotion (DHWP) and again February 4, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

Except for issues relating to the use of Telecommunications Devices for the Deaf (TDD), the DPD has been in continuous compliance with the requirements of this paragraph. During the last four reporting periods, the DPD failed to satisfactorily demonstrate that the TDD equipment located in precincts/districts was functional and that the detention staff was proficient in the use of the equipment. According, we found the DPD not in Phase 2 compliance with this paragraph during that period.

During the current reporting period, we visited the five districts/precincts that maintain holding cells, and found that the detention staff demonstrated competency in the use of Telecommunications Devices for the Deaf (TDD) and the equipment was working properly in all five districts/precincts with holding cells. The DPD satisfactorily developed an effective testing

protocol during this period. The DPD detention staff now is required per policy to conduct tests on a monthly basis that demonstrate the equipment is working properly and confirm that detention staff can demonstrate the use of the equipment.

This change in policy and demonstration of competencies in practice by staff in the use of the TDD system now places the DPD in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

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.

Policy:

The policy relevant to this requirement is DPD Directive 305.8, Detainee Food Service, effective May 9, 2005 and revised March 20, 2010. This policy requires that detainee meals are stored properly and served in a sanitary manner in accordance with state and local health codes. This directive was developed in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP). DPD Directive 305.8, Detainee Food Service and Hygiene Items log, was last reviewed and signed by DHWP on February 4, 2010. During the current reporting period, the DPD implemented a revised Detainee Meal and Hygiene Items Log, DPD 663, effective July 5, 2010. We received documentation of this revision, Administrative Message, Teletype 10-02497.

The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C50

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

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

Policy:

The policy relevant to this requirement is DPD Directive 305.8, Detainee Food Service Hygiene Items, effective May 9, 2005, and revised June 12, 2010. This directive was developed in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP). The most recent revised and implemented Detainee Meal and Hygiene Items Log, DPD 663, was effective July 5, 2010. We received documentation of this revision, Administrative Message, Teletype 10-02497 dated July 2, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

During the current reporting period, we reviewed a random sample of 2750 entries on DPD 663 form Daily Detainee Meal and Hygiene Items Log. Our review indicated that 2663 of these entries were in compliance and 87 were not. The most common failures occurred when the supervisor failed to document the date and/or time. In 12 cases, the type of meal was not indicated; and in 32 instances, documentation was lacking for those detainees released from custody. We found DPD was 97% in compliance, an improvement from the 95% we found in the previous reporting period.

We also reviewed 15 (105 days) Refrigeration Logs during this reporting period. We found that in every instance the refrigerators had been cleaned weekly. The refrigerator temperatures and expiration dates on the food were up to standard. In addition, we verified that all districts/precincts that maintain holding cells that we inspected had an adequate number of alternative meals available for detainees with religious or dietary needs.

DPD remains in Phase 2 compliance with this paragraph. DPD must ensure that the detention staff has an adequate number of alternative meals onsite, and that the meals are stored in a clean and sanitary environment to maintain this status.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

X. PERSONAL HYGIENE POLICIES

CJ Requirement C51

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

Policy:

The policy relevant to this requirement is DPD Directive 305.8, Detainee Food Service and Hygiene Items, effective May 9, 2005, and updated on March 15, 2010. In addition, the DPD developed and employs the Daily Detainee Meal and Hygiene Items Log (DPD log 663) to document that hygiene items are provided to each detainee. During the current reporting period, the DPD revised DPD log 663. We received documentation of the revision, Administrative Message, Teletype 10-02497, effective July 5, 2010, and a copy of the revised log.

DPD remains in Phase 1 compliance with this paragraph.

Comments:

In the current reporting period, we reviewed a random sample of 2750, Meal and Hygiene Logs. We checked the column that indicates if Hygiene Kits were requested or provided, and found that DPD personnel make them available to detainees. We inspected each area where the meals are stored to see if the kits were readily available, and found that in all five facilities there was an adequate number of hygiene kits to distribute to detainees when needed.

Our interviews with the PDOs show an understanding in the importance of providing personal hygiene items to the detainees on a daily basis.

The DPD’s compliance rate is 97%, an improvement from the 95% we found in the previous reporting period.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

CJ Requirement C52

The DPD shall require that any use of force on prisoners in holding cells complies with the DPD’s use of force policies and procedures.

Policy:

The policies relevant to this requirement are DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005, revised effective March 1 2010; and Directive 304.2, Use of Force, effective June 27, 2006, and revised November 1, 2010.

DPD is in Phase 1 compliance with this requirement.

Comments:

We found the DPD in deferred Phase 2 compliance with this paragraph in the first reporting period, and not in compliance in subsequent reporting periods.

During this reporting period, we reviewed 13 incidents occurring at detention facilities, 10 uses of force, and three suicide attempts.⁵⁰ There were two incidents at the Sixth Precinct; three at the Eastern District; and five at the Northeastern District. One of the attempt suicides occurred at the Twelfth Precinct, one at the Southwestern District, and one at the Eastern District.

The review of the three suicide attempts found that in one instance, no force reports were prepared, but following a review of the cell block log, a precinct administrator determined that a report should be prepared. The Precinct Commander prepared an extensive document recommending noting the absence of training or policy to deal with attempts such as this one and submitted same for appropriate action. In the second suicide attempt, there was an issue with the untimely transport of the subject to DRH. The incident occurred at 4:00 a.m., and he was not transported to the hospital till 5:20 a.m. In the third suicide attempt, there were discrepancies regarding whether or not the detention staff knew or should have known the subject was suicidal, which would have affected his placement in the appropriate cell area.

⁵⁰ This included seven incidents in December; six incidents in January; and no incidents in February.

The use of force cases in the cell block areas suffer from the same deficiencies as those outside the facilities: late reports; no review of available videos; and less than critical reviews at the command level. With the exception of the previously noted documentation of issues, no other comments were submitted for consideration by appropriate units.

DPD must make a more concerted effort to compel supervisors to review videos when they conduct these investigations. Out of the 13 cases we reviewed, we could only ascertain video reviews prior to submission of the completed investigation in four of the cases, and in one of those there were no details provided regarding its contents. In one case, there was no video capability in the area of the incident.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C53

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

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

Policy:

The policies relevant to this requirement are DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005, revised effective March 1, 2010; and Directive 304.2, Use of Force, effective June 27, 2006, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

All districts/precincts that maintain holding cells are equipped with videotaping/digital recording equipment that is linked to an extensive camera system that monitors hallways and common areas as well as most, but not all, cells. During our last site visit, we were informed that in addition to the mounted video equipment the detention districts/precincts have now been issued handheld cameras that can be used for planned extractions. In reviewing the 10 use of force incidents occurring during this reporting period, there were only four cases which could be

evaluated against this requirement. The remaining seven cases were spontaneous in nature and did not allow time to comply with the sub-sections of this requirement.

Of the four cases, there was one case in which the officer recognized the belligerence of the subject being processed and stopped the processing, placing the subject in a cell until he calmed down; in the other three cases the officers took actions without regard to the requirement.

DPD remains 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.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.1, effective March 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

We found the DPD in deferred Phase 2 compliance status during the first reporting period, and in Phase 2 compliance during subsequent reporting periods.

During our visits to detention facilities during the most recent site visit, we did not observe any detainees handcuffed to fixed objects. Additionally, our review of DPD 715 forms (Evaluation of the Operation of Holding Cells) for the reporting period did not reveal any affirmative responses to question 22 (Were any detainees observed handcuffed to an object?).

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
52	Use of force policies	In Compliance	Not in Compliance
53	Revise policy re use of force with prisoners	In Compliance	Not in Compliance
54	Handcuffing of prisoners to benches	In Compliance	In Compliance

XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW

CJ Requirement C55

The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective March 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

We found the DPD out of Phase 2 compliance with this paragraph during all of the previous reporting periods.

During this reporting period, we reviewed 10 incidents involving uses of force in holding cells. The use of force case investigations in the cell block areas suffer from the same deficiencies as those outside the facilities: late reports; no review of videos; and less than critical reviews at the command level.

There were also three cases of attempted suicides and no in-custody deaths in the cell block area.⁵¹

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C56

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

Policy:

⁵¹ The attempted suicides are discussed in more detail in C52.

The policies relevant to this paragraph are DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010; and Directive 304.2, Use of Force, effective June 27, 2006, and revised November 1, 2010. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

As noted in requirement C52, the use of force cases in the cell block areas suffer from the same deficiencies as those outside the facilities: late reports; no review of videos; and less than critical reviews at the command level. With the exception of the previously noted documentation of issues, no other comments were submitted for consideration by appropriate units.

DPD has to make a more concerted effort to get supervisors to review videos when they conduct these investigations. Of the 13 cases we reviewed, we could only ascertain that there were video reviews prior to submission of the completed investigation in four of the cases; in one, there were no details provided regarding its contents.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C57

The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010. This policy requires the reporting and investigation of all injuries occurring within detention facilities. We found the DPD in Phase 1 compliance with this paragraph during the previous reporting periods.

Comments:

There were no injury reports submitted for review during this reporting period. The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
55	Use of force investigations	In Compliance	Not in Compliance
56	Use of force investigations	In Compliance	Not in Compliance
57	Injury to prisoner investigations	In Compliance	In Compliance

Critical Issues:

- The issues which impact the quality of use of force investigations as described in the Use of Force section of the Judgment are applicable to the use of force investigations of incidents occurring in cell block area. The remedies we have recommended in those areas remain constant for the Conditions of Confinement requirements. Timely and thorough investigations, coupled with critical command level reviews, are the keys to achieving compliance.

Next Steps:

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- 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.

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.

Policy:

The policies relevant to these requirements are DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective March 2010 and 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010. These policies require the acceptance and processing of external complaints regarding incidents occurring in the holding cells. The DPD is Phase 1 compliance with this paragraph.

Comments:

We found the DPD in Phase 2 compliance during all of the previous reporting periods.

The Department closed 14 complaints originating from detention facilities during the reporting period: three in January; four in February; and seven in March. All complaints were accepted and processed in accordance with DPD policy. The majority of the complaints were received via telephone or walk-in to OCI, after the complainant had left a detention facility. However, four were taken from complainants while still in custody. OCI retained investigation of all of the complaints. One case – a claim that keys were not returned to a detainee – was appropriately handled via informal resolution. The keys were used in an assault and were held in evidence until the case was disposed of. While there were issues associated with the investigation of these complaints (see C59), DPD is in Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C59

The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010; and Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010. These directives require the investigation and review of all external complaints regarding incidents occurring in the holding cells. The DPD is in Phase 1 compliance with this paragraph.

Comments:

We found the DPD in Phase 2 compliance with this paragraph during the first reporting period, but not in compliance during successive reporting periods.

The Department closed 14 complaints originating from detention facilities during the reporting period. Only one was completed within 90 days, and yet only two contained requests for extensions. Four of these cases were reassigned to the Backlog Squad. Video was checked in four out of five cases where it was appropriate to do so. In one case, a finding of unfounded for a demeanor allegation should have been not sustained. Only the complainant and the member were present when the act allegedly occurred. In summary, the detention cases exhibited many of the issues delineated in CJ requirements U27-33, impacting DPD's compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	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

Critical Issues:

- The issues that impact the quality of use of force investigations and OCI investigations, as outlined in CJ requirements U27–33 and U61–69, are also evident in the cases reviewed for requirements C52–59. As these issues are addressed Department-wide, we hope to see a positive impact on the subset of cases originating from detention facilities.

Next Steps:

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Check, in applicable cases, for the appropriate use of handheld cameras, now that they are deployed in all detention facilities.
- Conduct field visits to various detention facilities to verify members’ knowledge of and the Department’s adherence to policy requirements.

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.

Policy:

The policy relevant to this requirement is DPD Directive 404.1, Definitions, effective November 2010. The DPD has incorporated these terms in various directives and other official documents throughout the term of this Agreement. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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.

Policy:

The policy relevant to this requirement is DPD Directive 101.1, Written Directive System, effective November 2010. This policy sets forth the procedure for developing, publishing, distributing, and updating policy and procedures within the DPD (Also see U-71). The DPD is in Phase 1 compliance with this paragraph.

Comments:

During our most recent site visit, we inquired with DPD regarding any changes to Departmental policies since our last site visit. We were provided with a list of 34 directives identified as revised. We determined that the majority of them do not contain substantive or procedural changes and are, in fact, revised in name only. The majority of "revisions" are simply annual reviews required by DPD. (Also see U71.)

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

XV. MANAGEMENT AND SUPERVISION

CJ Requirement C62

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

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005, and updated on April 21, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During the last reporting period, we learned that CRIB implemented a new procedure for completing the 715 forms. CLOs are now responsible for completing the forms once per month – not daily. Also during the last reporting period, the DPD provided us with our requested sample of 715 forms for evaluation of the five districts/precincts that maintain holding cells. All of the 715 forms we received were signed by the Compliance Liaison Officers (CLO). However, we did not receive any documents for the DRH.

During the current reporting period, CRIB staff inspected Operation of Holding Cells monthly utilizing Form 715, Evaluation of the Operation of Holding Cells. All of the inspections were completed for the precinct/districts, and the 715 forms were submitted for documentation; once again, there were no inspection forms for DRH, as required by this paragraph.

We find the DPD not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not 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.*

Policy:

Phase 1 compliance with this requirement is governed by policies related to the use of force, and relating to the risk management system (U78-90), personnel evaluations (U90), and audits (U92-99). Each of these requirements is in Phase 1 compliance for this reporting period. Findings regarding those requirements, therefore, also apply here. In addition, the DPD developed an auditing tool that follows the generally accepted government auditing standards (GAGAS).

Comments:

With regard to personnel evaluations, requirements to sustain Phase 2 findings in U90 are also relevant here. Evaluations of detention personnel are included in our sample drawn for regular review. Procedures requiring audits of holding facilities are also included under the general audit requirements (U92-99). Findings of Phase 2 compliance in these areas, therefore, also apply to the related subsections of this requirement (sections b, c).

Under the Consent Judgment, U78-90 establish the standards for the Phase 2 requirements of the risk management system. As was true with regard to Phase 1, our findings regarding those requirements are also relevant here. Although we note progress with MAS during this reporting period, the current status of the system does not yet support a finding of Phase 2 compliance. (See U78.) DPD continues to conduct reviews of holding cell issues as part of its regular Command Compliance Review Meeting.

As noted, DPD meets the requirements for full compliance on some parts of this paragraph, but full compliance with the whole requirement depends on successful implementation of the risk management system. Although we note progress on that system, it does not yet support a finding of full or pending compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C64

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

- a. the installation and continuous operations of video cameras in all processing areas of the DPD holding cells within one year of the effective date of this Agreement;*
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;*
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and*

- d. *that the DPD conduct and document periodic random reviews of prisoners processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoners processing area video recording equipment to confirm that it is in proper working order.*

Policy:

The policy relevant to this requirement is DPD Directive 305.4-6.3, Video-Taping Use of Force, reviewed and updated on April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

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. Our inspection of four districts/precincts that maintain holding cells revealed that the video cameras were working in three out of the four districts/precincts' processing areas. In the Twelfth Precinct, we asked the detention staff to demonstrate that they could view the cell areas on the computer screens, but they could not. That same afternoon, we asked CRIB staff to demonstrate the same, and they were able to view the holding cell areas on the computer screens.

During our most recent inspection, the video cameras in all of the districts/precincts that maintain holding cells were operational in the processing areas. DPD advised that the Department has purchased handheld video cameras to achieve compliance with C53, subparagraph c, which states: "The DPD shall revise and augment its policies regarding prisoners to require that: c. the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped."

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C65

The DPD shall conduct regularly scheduled semiannual audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including;

- a. *reviewing a statistically valid sample of command, IAD, and Homicide Section investigations;*

- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;*
- c. evaluating the preservation and analysis of the evidence;*
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;*
- e. evaluating the appropriateness of the investigator's conclusions; and*
- f. issuing a written report regarding the findings of the audit.⁵²*

Policy:

The DPD, using generally accepted government auditing standards (GAGAS), developed an Audit Protocol policy in accordance with the above requirements, effective August 31, 2008. The protocol established an audit schedule; described the audit terms; specified the roles and responsibilities of Audit Team members; described the various audits, including the one required by this paragraph; and described the reports required. The protocol was reviewed and updated, effective October 31, 2010. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

For the previous reporting periods ending July 31, 2009; January 31, 2010; and July 31, 2010; the Civil Rights Integrity Bureau (CRIB) Audit Team conducted the required Combined Uses of Force Investigations Audits.⁵³

During the current reporting period, on January 31, 2011, the CRIB Audit Team completed and issued its Combined Use of Force Investigations Audit. We reviewed the audit for this reporting period.

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

⁵² 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.

⁵³ The Civil Rights Integrity Bureau (CRIB), headed by a Deputy Chief was established in 2003. Upon the retirement of the Deputy Chief holding that position, the command was changed to the Office of Civil rights (OCR) headed by a Commander. In November 2009, CRIB was re-established, again headed by a Deputy Chief. OCR is presently a sub-unit within CRIB. The acronyms CRIB and OCR are used interchangeably in this report.

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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last reporting period, we received and reviewed the Fire Marshal's annual report, completed and released on November 29, 2010.

During the current reporting period, we reviewed the Fire Safety Practices and Policies Audit that was completed and released on January 31, 2011.

In addition, we inspected the five districts/precincts that maintain holding cells, and examined the policies and practices related to Departmental fire safety. (See C14-22.)

The Fire Safety Program requires fire drills to be conducted on each shift twice each year. Our onsite review of Log 703 revealed that all units were 100% in compliance with this requirement.

Fire extinguishers are also required to be inspected and inventoried monthly. Our review of Log 716 Fire Extinguisher Monthly Inspection/Inventory Report revealed that all units were in 100% compliance. We conducted a visual check at each unit, and all fire extinguishers were charged and up to date.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C67

The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;

- a. reviewing a sample of key and fire equipment maintenance and inventory records; interviewing selected detention officers about their participation in fire drills and on their 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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Comprehensive Emergency Preparedness Program audit conducted by the HCCC and the CRIB Audit Team for the period ending January 31, 2010.

During the current reporting period, we reviewed the Comprehensive Emergency Preparedness Program audit conducted by the HCCC and the CRIB Audit Team for the period ending January 31, 2011. We confirmed that the DPD met the requirements for performance and documentation of requirements of this paragraph.

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

During our most recent inspection of all precincts/districts that maintain holding cells, we examined the policies and practices related to the Emergency Preparedness Program. Our findings are discussed above in C23-25.

The DPD has conducted and documented fire drills, as required.

Accordingly, we continue to find the DPD in Phase 2 compliance with these requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C68

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

- a. reviewing a sampling of hospitals referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;*
- b. observing intake screening interviews to assess thoroughness;*
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*
- d. issuing a written report regarding the finding of the audit.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Medical and Mental Health Program and Policies Audits conducted by the HCCC and the CRIB Audit Team for the reporting periods ending July 31, 2009, to January 31, 2010, and July 31, 2010.

During the current reporting period, we reviewed the Medical and Mental Health Program and Policies Audits conducted by the HCCC and the CRIB Audit Team for the periods ending January 31, 2011. The audit was command-specific, which identified in detail deficiencies and made recommendations for corrective action and accountability at the command level. We found the audits to continue to uncover many of the same deficiencies we have found during our quarterly reviews and inspections.

We visited the five precincts/districts 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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Detainee Safety Program and Policies Audits for the periods ending July 31, 2009, January 31, 2010, and July 31, 2011.

During the current reporting period, the CRIB Audit Team completed and issued its audit results for the Detainee Safety Program on January 31, 2011. We reviewed the current audit independently, and found that many of the deficiencies founded are similar to our findings during our onsite inspections.

Additionally, we independently reviewed the operational implementation of policies and practices related to the Detainee Safety Program during our visits to all five districts/precincts that maintain holding cells and the DRH. Our findings are discussed in C35-38.

We conclude that the DPD has met the requirements for performance and documentation of the requirements of this paragraph.

Accordingly, we find the 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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Environmental Health and Safety Program Audit for the period ending January 31, 2010 and July 31, 2010.

During this reporting period, the CRIB Audit Team completed its audit of the Environmental Health and Safety Program and issued their findings on January 31, 2011. We reviewed the team's results. We continue to conduct inspections separately on operational implementation of policies and practices of the five districts/precincts with holding cells and the DRH. Our findings are discussed above in C39-46.

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 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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

Previously, the CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on July 31, 2010. We found the audit reports to be complete and thorough.

During current reporting period, the CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on January 31, 2011. We found the audit to be comprehensive and meeting the requirements for performance and documentation of requirements of this paragraph.

We continue to visit the five precincts/districts that maintain holding cells. We examined the implementation of the policies and practices related to the food service program and hygiene practices. Our findings are discussed in C49-50.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C72

The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months

*thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.*⁵⁴

Policy:

The DPD developed an Audit Protocol, effective August 31, 2008 (see C65). The protocol was reviewed and updated effective October 31, 2010 to require that commanders take disciplinary or non-disciplinary action where appropriate. Accordingly, the DPD remains in Phase 1 compliance with this paragraph.

Comments:

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

During previous reporting periods, the CRIB completed the required audits for the period ending July 31, 2010. We reviewed the efficiency of the revised process to ensure that appropriate corrective action was taken in response to the deficiencies identified during the audits. We received the command-specific Corrective Action Plans (CAP) from the five districts/precincts and DRH. In the past, we did not always receive specific command corrective action plans. We felt that the CAP format was insufficient. Our review revealed deficiencies, including missing signatures on employee reprimands and inconsistency in the format of a CAP. We found it difficult to ascertain the course of action taken by the commander in correcting the findings in the audits. We recommended that CRIB develop a standardized Correction Action Plan template created to assist the commanders in more expansively addressing the deficiencies/issues identified in the command-specific audits. In response, CRIB developed a new electronic format.

During the last reporting period, we met with CRIB to discuss the new format. DPD advised that these adjustments were implemented so that the commanders/inspectors can respond within the audit report timeframe. This new format places all the critical information in one document, which makes the process more efficient.

⁵⁴ Consent Judgment amendment, April 15, 2009.

For the current reporting period, we received and reviewed the command-specific audits for the period ending January 31, 2011. The audits included are Medical and Mental Health Program and Policies; Environmental Health and Safety; Detainee Food Service and Personal Hygiene Practices; Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program. In addition, we reviewed the command-specific corrective action plans (CAP) that are now incorporated into the new reporting process. Our assessment of the new process finds that it meets the requirements of this paragraph.

The 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
62	Evaluation of holding cell operation	In Compliance	Not in Compliance
63	Operate cells in compliance with risk plan	In Compliance	Not in Compliance
64	Augment policy regarding video cameras	In Compliance	In Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit	In Compliance	In Compliance
69	Detainee safety audits required	In Compliance	In Compliance
70	Environmental health/safety audits	In Compliance	In Compliance
71	Food service program audits required	In Compliance	In Compliance
72	Audit results to Chief and Commanders	In Compliance	In Compliance

XVI. TRAINING

CJ Requirement C73

The DPD shall provide comprehensive pre-service and in-service training to all detention officers.

Policy:

The policies relevant to this requirement are Special Order 11-07, Training, effective January 1, 2011; and Teletype 09-3481, issued September 24, 2009. DPD is in Phase 1 compliance with this paragraph.

Comments:

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. In April 2010, we found that only 78% of the supervisors and officers who served in detention duties on randomly selected days during the quarter under review were trained as required. In July 2010 and October 2010, we conducted the similar surveys for randomly selected days and found better results; the October survey revealed that 91% of the officers who were assigned detention duties on the randomly selected days had received the detention training.

During our January 2011 site visit, we again presented the Department with randomly selected days during the quarter under review and identified the officers who worked in detention duties on these days. We found that all officers and supervisors who had worked in detention on the selected days had received detention training. During the current reporting period, we again sampled officers and supervisors who worked in detention on three randomly selected days and found that 100% had received the required detention training.

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.

Policy:

The policy relevant to this requirement is DPD Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During this past site visit, as in our past reviews, we noted that the DPD has made progress in capturing and automating training information. Since the effective date of the Consent Judgments, all years except 2003 and 2004 have been entered into the Michigan MITN system.

DPD is not in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C75

The DPD shall provide all detention officers, supervisors of detention officer and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- a. *Emergency response plans and notification responsibilities;*
- b. *Fire drills and use of fire extinguishers and other fire suppression equipment;*
- c. *Key control drills and key control policies and procedures; and*
- d. *Responding to emergency situations, including scenarios detention officers likely will experience.*

Policy:

The policy relevant to this requirement is DPD Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

Although DPD detention training adequately addresses the requirements of C75, we found in our previous reviews that the Department continued to assign officers and supervisors who had not been trained in detention duties. In October 2010, our review found that 91% of the officers who were assigned to detention duties had received detention training on our randomly selected days. In January 2011, we found that 100% of DPD officers serving in detention duties had attended the required detention training.

During this reporting period, we again found that 100% of DPD officers serving in detention duties had attended the required training. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C76

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

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

Policy:

The policy relevant to this requirement is DPD Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, we found that this requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee.

Since detention training addresses the requirements of C76, and greater than 94% of officers serving in detention duties have received this training, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C77

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

- a. the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;*

- b. protocols for performing, documenting and obtaining supervisory review of holding cell checks;*
- c. protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and*
- d. examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.*

Policy:

The policy relevant to this requirement is DPD Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD detention training addresses the requirements of C77. We found that 100% of officers serving in detention duties on the randomly selected days of our sample received this training.

DPD remains 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.*

Policy:

The policy relevant to this requirement is DPD Special Order 11-07, Training, effective January 1, 2011. The DPD is in Phase 1 compliance with this paragraph.

Comments:

This requirement addresses training to be afforded to all detention officers, supervisors and members of the Holding Cell Compliance Committee. Since our random review of training files

during this reporting period showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 Implementation
C73	Pre-service and in-service training	In Compliance	In Compliance
C74	Maintain records training	In Compliance	Not In Compliance
C75	Emergency preparedness training	In Compliance	In Compliance
C76	Medical/mental health training	In Compliance	In Compliance
C77	Detainee safety programs training	In Compliance	In Compliance
C78	Environmental, safety, and hygiene training	In Compliance	In Compliance

Appendix A: History and Methods

An historical overview and methodological review will be repeated as an appendix in all of our reports.

On October 5, 2009, the Honorable Julian Abele Cook, Jr., United States District Court Judge for the Eastern District of Michigan, Southern Division, issued an order appointing me to serve as the Independent Monitor of the Use of Force and Conditions of Confinement Consent Judgments resulting from the case of United States of America v. City of Detroit (Case no. 03-72258). I, along with my distinguished colleagues, am honored by the trust and confidence that the Court has vested in us.

Our assembled Team consists of exceptional law enforcement, corrections, consulting, and research expertise. The full Team conducted its first site visit from November 16, through November 20, 2009; our second visit from January 25, through January 29, 2010; our third site visit from April 19, through April 23, 2010; our fourth site visit from July 18, through July 23, 2010; our fifth site visit from October 18, through October 22, 2010; and our sixth site visit from January 24, through January 28, 2011. Our seventh site visit, connected with this report, took place between April 18, through April 22, 2011.

Our compliance review efforts benefit from the experience of the Department and the many people who have worked diligently to bring the Department into compliance with the Consent Judgments. We also recognize the Department's recommitment to this undertaking evidenced by some significant developments that have taken place since our engagement in this process. The Detroit Police Department's staff, especially the men and women of the Civil Rights Integrity Bureau, has contributed greatly to our understanding of the Department as we complete our assessments. With regard to the requirements of the Consent Judgments, our plan for our quarterly reports is to consider, to the extent possible, the compliance status of the entire collection of requirements. This includes a total of 110 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. These numbers do not include subsections. In later reports, we may append our protocols and instead focus special attention on particular areas of the Judgments.

As with our earlier reports, the body of our report is comprised of our assessments of compliance with the individual requirements of the Consent Judgments. We begin the report of our analyses with a narrative statement for each of the major areas of the Use of Force Judgment. In the Conditions of Confinement Judgment, there shall be only one introductory narrative statement at the beginning of that portion of our report.

The introductory narratives are followed by each of the requirements in the section, as specified in the Judgments. Each requirement is followed by comments regarding the current status of compliance, and then by a summary notation of Phase 1 and Phase 2 compliance. As the Department achieves and maintains Phase 1 and Phase 2 compliance, we will move a description of the requirement to the Appendix of the report.

A statement of "Critical Issues" follows the reviews of the requirements in each major section of the Judgment. A brief statement of "Next Steps" follows in which we describe a plan of work for the next site visit, including a discussion of the data we plan to review. Finally, a table summarizes the compliance finding for that particular section of the Judgment.

The major task of the Monitor is to determine the status of the Detroit Police Department's compliance with the requirements of the Use of Force and Conditions of Confinement Consent Judgments. Our experience in previous monitorships reflects our commitment to the collection and analyses of data and to the reasonable interpretation of the requirements specified in the Consent Judgments.

To accomplish this, the Monitoring Team makes quarterly visits to Detroit to work with the Department's compliance team, known as the Civil Rights Integrity Bureau (CRIB), and other staff of the agency, in their field offices, on the streets, or at the offices that the Monitoring Team occupies when onsite in the City. We use these visits to collect and evaluate material, prepare for work to be done between visits, and inform the Parties and the Court with status information when meetings or hearings for that purpose are convened. Team members also interview key participants and observe Departmental practices. Throughout the process, we review agency policies and procedures, and collect and analyze data using appropriate sampling and analytic procedures. The results of the compliance examinations are reported quarterly to the Court and the Parties.

Our Team determines compliance through an examination of policies and implementation of practices that support each requirement in the Consent Judgments. Compliance is measured by first determining if a policy or set of procedures has been established to support each Consent Judgment requirement. Having determined that an appropriate policy has been established, we then determine if that policy has been effectively implemented.

Based on this process, we report the degree of compliance with Consent Judgment requirements on two levels. We first report if policy compliance has been met. Compliance with policy requirements is known as **Phase 1 compliance**. We also report the extent to which required policies have been implemented. Implementation-level compliance is reported as **Phase 2 compliance**.

In general, to achieve full compliance requires that both Phase 1 and Phase 2 compliance are achieved; that is, an appropriate policy must be both adopted and effectively implemented. We recognize, however, that some areas of the Consent Judgments require substantial work and time to achieve implementation and we, therefore, believe that it is appropriate to recognize when substantial progress towards implementation has occurred. Accordingly, under some limited circumstances, a third level of compliance, "Pending Compliance" may be appropriate.

- **In Compliance:** This is reported when policy requirements are met (Phase 1) or effective implementation of a requirement has been achieved (Phase 2).
- **Pending Compliance:** This is reported when it cannot be said that compliance has been achieved, but substantial progress toward compliance has been made. A requirement will be given this status for only two successive quarters at which time the status shall be changed to "Not in Compliance," unless compliance has been achieved.
- **Not in Compliance:** This finding is reserved for circumstances where compliance has not been achieved and substantial progress has not been made.

Many parts of the Consent Judgments require the analysis of multiple instances of activity, cases, or observations. In those circumstances, analysis is based on a review of all cases or data, or, when appropriate, on statistically valid samples of the population. To reach conclusions based on analyses of cases, a minimal standard must be met. To achieve compliance based on these

analyses, we have determined that more than 94% of relevant indicators must conform to the provisions articulated in the Agreement.

While the >94% standard is reasonable under almost all circumstances, we recognize that there are conditions under which it may not accurately demonstrate the Department's compliance-related work. We appreciate the value of circumstances where corrective measures have been initiated through the command and supervisory structure, but may not yet be fully reflected in the data being analyzed. There are also circumstances where the number of events to be analyzed is limited, and a 6% error rate may overly influence the statistical result. Under these and similar instances, we may report a finding of "Pending Compliance" with the expectation that the limiting conditions will be rectified for future reviews.

This methodology supports a sound and rigorous review of the Department's compliance with the requirements of the Consent Judgments. We recognize, however, that the high demands of this methodology may not be fully realized in all elements of all reviews. There will be circumstances in which we will be unable to fully determine the compliance status of some requirement due to a lack of data, incomplete data, or other reasons which do not support completion of our work in a manner consistent with timely reporting. Under such circumstances we will opt not to compromise our methodology by forcing a conclusion regarding compliance levels. Instead, we will report a finding as "**Deferred.**" This finding is not intended to reflect negatively on the agency or to otherwise imply insufficient progress. It is intended to ensure that the process is data-driven, but at all times, is conducted fairly. It is also expected that a more complete assessment of compliance in the area in question will be determined in the next report. Our compliance assessment methodology directs the Monitoring Team in our work and underlies the findings presented in this report. We fully expect that this methodology will govern our work throughout our tenure in this project. Any consideration of revision or change of this methodology will, of course, be presented to the Parties and the Court.

APPENDIX B: Acronyms

The following is a listing of acronyms frequently used in our quarterly reports.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO/PDO	Detention Facility Officer

DHWP	Detroit Department of Health and Wellness Promotion
DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigation (<i>interchangeable with FIS</i>)
FIS	Force Investigation Section
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
FY	Fiscal Year
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement
RFP	Request for Proposals

**SEVENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

July 9, 2011

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

APPENDIX C: Monitoring Team

Robert S. Warshaw, *Monitor*

Chief (Ret.) Charles D. Reynolds, *Deputy Monitor*

Lieutenant Colonel (Ret.) J. Rick Brown

Evaluates compliance with U37-41, Review of Critical Firearm Discharges and In-Custody Deaths.

Division Chief (Ret.) Rachel M. Burgess

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

Commander (ret.) John M. Girvin

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; U67-69, External Complaint Investigations; C52-54, Use of Force and Restraints Policies; C55-57, Incident Documentation, Investigation, and Review; and C58-59, External Complaints.

Elizabeth F. Gondles, Ph.D.

Evaluates compliance with C26-34, Medical and Mental Health Care Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; C51, Personal Hygiene Policies; C62-72, Management and Supervision; and C73-78, Training.

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.

Chief (Ret.) Melvin C. High

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; and U123, Field Training.

John M. Klofas, Ph.D.

Evaluates compliance with U78-90, Risk Management Database; U91, Performance Evaluation System; U92-97, Oversight; and U103-105, Discipline.

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; C35-38, Prisoner Safety Policies; C39-46, Environmental Health and Safety Policies.

Asst. Director (Ret.) Joseph R. Wolfinger

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; and U123, Field Training.

Robin Busch-Wheaton, *Editor*

APPENDIX D: 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 displayed for presentation by the Monitor. These data are presented here with the consent of the Police Department and serve simply as a means to provide information relevant to issues raised in the Judgments. The presentation of these data is not required by the Consent Judgments.

Dashboard Data: Detroit Police Department 2010-2011																
	10-Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan-11	Feb	March	Graph
Total Arrests	3108	2751	3074	3052	3012	2937	2634	2629	2397	2309	2115	1871	1932	1741	2175	
Number of Events per 1000 Arrests																
Uses of Force	33.78	35.26	33.51	32.77	35.52	39.50	28.85	29.29	47.98	33.78	41.61	43.83	47.62	32.74	51.95	
Firearms Discharge	1.93	1.09	0.00	0.33	0.00	0.00	2.28	0.00	5.01	1.73	0.95	0.53	0.52	1.15	1.38	
Citizen Complaints	52.45	49.07	58.23	50.79	44.16	49.03	51.25	63.90	57.57	19.92	60.05	57.72	70.39	55.14	57.01	
Traffic Crashes	4.83	6.91	2.60	2.62	3.32	4.43	3.04	8.37	3.75	3.03	6.15	7.48	5.69	5.74	5.52	
Civil Litigation	3.54	8.36	2.60	2.62	2.66	6.47	0.76	3.80	0.00	0.00	5.20	6.41	7.25	3.45	2.30	
Vehicle Chases	2.57	1.82	4.88	3.60	1.99	2.04	1.52	3.80	4.17	2.60	5.20	11.76	6.73	5.17	5.98	
Disciplinary Action Closed Date	29.28	12.00	23.42	22.28	30.21	35.75	18.22	22.44	53.40	19.49	8.51	22.98	56.94	52.84	23.45	
Arrests for Assault and Battery on a PO	5.79	7.63	7.16	4.59	5.98	6.13	4.94	6.85	6.26	3.90	9.46	8.55	2.59	3.45	6.44	
Resisting or Obstructing Arrests	10.30	12.36	14.64	9.17	13.61	16.00	7.97	10.27	15.02	15.16	9.46	18.17	17.08	9.19	20.69	
Disorderly Conduct Arrests	7.72	1.82	6.83	4.59	3.98	5.45	1.90	4.56	7.93	1.73	5.67	2.14	8.80	1.72	5.06	
Interfering Arrests	0.97	1.45	2.28	0.98	3.65	2.38	0.38	1.90	2.92	0.43	0.95	0.53	2.59	1.72	3.22	
Total Consent Judgment noted Arrests (above 4)	24.77	23.26	30.90	19.33	27.22	29.96	15.19	23.58	32.12	21.22	25.53	29.40	31.06	16.08	35.40	