

APPENDIX
Warren Police Department
Settlement Agreement Compliance Chart

Section II. UOF Policies and Practices.

1. The City shall maintain UOF policies that:
 - a. define terms clearly;
 - b. define “force” as that term is defined in this Agreement;
 - c. incorporate a use-of-force model that relates the force options available to officers to the types of conduct by individuals that would justify the use of such force, and that teaches disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units as appropriate responses to a situation, and that requires the use of a verbal warning before the use of force, when possible;
 - d. state that, whenever possible, individuals should be allowed to submit to arrest before force is used;
 - e. state that the use of excessive force shall subject officers to discipline, possible criminal prosecution, and/or civil liability;
 - f. ensure that sufficient less lethal alternatives are available to all patrol officers; and
 - g. explicitly prohibit the use of choke holds and similar carotid holds except where deadly force is authorized.

Status	Substantial compliance – ongoing obligation – no change
Analysis	As noted in previous compliance letters, WPD’s current, finalized force policies comply with the terms of the Settlement Agreement (Agreement). In addition to finalizing its critical incident policy, WPD continued to review its use-of-force policies at least semi-annually, ensuring continued compliance with applicable laws and nationally accepted practices.
Technical Assistance	We recommend that WPD continue to improve and update its use-of-force policies as case law and national best practice continue to develop.

2. For the duration of this Agreement, WPD shall ensure that its use-of-force policy meets the above criteria. If notified by DOJ that WPD’s policies do not meet the above criteria at any point during the term of this Agreement, WPD shall revise its policies consistent with the above criteria and submit the revised policy to DOJ for approval. DOJ will review and comment on WPD’s revised use-of-force policies. WPD shall further revise its use-of-force policies consistent with the DOJ comments, and WPD shall resubmit the

revised policies to DOJ for its consideration for approval. WPD shall not implement any revisions to its use-of-force policies unless approved by DOJ. Once the DOJ has approved these policies, WPD shall immediately implement any revisions. Within thirty days of DOJ’s approval of WPD’s revised use-of-force policies, WPD shall retrain all WPD officers on the revised policies, and shall keep a written record of such training of all existing and new WPD employees as part of each employee’s personnel file.

Status	Substantial compliance – ongoing obligation – no change
Analysis	As noted above, WPD’s use-of-force policies currently comply with the requirements of the Agreement.
Technical Assistance	We recommend that WPD continue to improve and update its use-of-force policies as case law and national best practice continue to develop.

- WPD represents that every uniformed WPD officer is provided an intermediate force weapon. WPD shall continue to provide every uniformed WPD officer with an intermediate force weapon, which all uniformed officers shall carry on their person at all times while on duty and may be used when appropriate under law and policy. WPD has previously selected the telescoping baton as WPD’s current assigned intermediate force device for all sworn officers. WPD may select a different intermediate force weapon, provided that WPD make the selection uniform across all sworn officers. WPD shall incorporate its selected intermediate force weapon into WPD’s force policy, and shall continue to train all its sworn officers on an annual basis on the proper use of the selected intermediate force weapon.

Status	Substantial compliance – ongoing obligation – no change
Analysis	WPD issues the collapsible baton—sometimes called and ASP—and oleoresin capsicum (OC) spray to all of its officers and issues Electronic Control Weapons (ECWs) to 43 of its 61 officers. WPD has reviewed its policies on its intermediate force weapons and has determined that no changes are needed, and DOJ agrees. In addition, during its annual in-service training in March, April, and May of 2017, WPD retrained its officers on all use-of-force policies, including appropriately using assigned intermediate weapons. WPD also incorporated scenario-based training during its annual in-service training, stressing de-escalation tactics and use of intermediate weapons, when appropriate. WPD therefore remains in substantial compliance with this Agreement provision.
Technical Assistance	WPD should ensure that its training concerning critical incidents includes an understanding of when the use of intermediate weapons becomes a critical incident owing to the potential for serious bodily injury.

Section III. Evaluation, Documentation, and Review of UOF

1. WPD requires all uses of force to be documented in writing. Each WPD officer involved in a use-of-force incident shall separately complete a use-of-force report, or a separate addendum to the original use-of-force report. Each officer shall indicate on his or her respective report each and every type of force he or she used or was a party to. Each officer involved in a use-of-force incident shall include in his or her report a narrative description of the events preceding the use of force, a description of the force used, and a description of the care given after force was used. All use-of-force reports shall indicate whether or not the subject on whom force is used was restrained or not at the time force was used. WPD shall ensure that WPD officers complete and submit all use-of-force reports within twenty-four hours of the end of the shift on which a use of force occurs.

Status	Substantial compliance - ongoing obligation – no change
Analysis	<p>DOJ evaluated all 68 “response to resistance” (i.e., use-of-force) reports that WPD provided for 2017. WPD requires its officers to document each incident in its Blue Team software. In each use-of-force report, we noted continued improvement in report writing. Officers’ narratives in these reports are generally thorough, and officers avoid using canned jargon and adequately describe the levels of force used and the events preceding to using force.</p> <p>With rare exception officers consistently and timely completed use-of-force reports with all the requisite information, including a description of events preceding the use of force; a description of the care provided afterward; and whether subjects on whom force was used were restrained at the time.</p> <p>In the rare occasions where officers did not provide adequate narratives, officers’ chain of command (i.e., Field Supervisor, Turn Commander, or Captain) identified the deficiencies and required officers to supplement their Blue Team entries (i.e., RR 2017-0005; RR 2017-0026; and RR 2017-29).</p> <p>During the past year, WPD also prioritized developing and implementing a policy that outlines the investigative procedures for officer-involved shootings and other critical incidents. After working collaboratively with the Department of Justice (DOJ) throughout the year, WPD approved a critical incident policy in March 2018, replacing the former officer-involved shooting policy. The new policy provides clearer guidance for investigating all critical incidents and identifying the kinds of investigations that WPD will conduct when there is a critical incident.</p> <p>WPD received union approval and intends to release the policy through PowerDMS, a computer program that enables WPD to track which officers have read the new policies. WPD also uses the program to test officers’ knowledge of the policies. WPD expects all officers to review the policy and complete an open-book test by June 1, 2018.</p> <p>WPD remains in substantial compliance with this provision of the Agreement.</p>

Technical Assistance	<p>We commend WPD’s chain of command for scrutinizing officers’ narratives and supervisory reviews. We however note a persistent issue concerning the timeliness of investigations submitted to Division Commanders for review. While these delays have not affected the ultimate decision on appropriateness of force, we suggest that WPD carefully review all Blue Team entries, ensuring that Turn Commanders submit their reviews to Division Commanders within 72 hours, unless a Turn Commander seeks an extension to extend the 72-hour deadline.</p> <p>WPD should implement a training plan and curriculum so that it can provide training to all Department members regarding changes to investigative procedures for officer-involved shootings and other critical incidents by June 1, 2018.</p>
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2. Officers shall notify their immediate supervisors following all uses of force or upon the receipt of an allegation of excessive force. Upon such notification the immediate supervisor of the involved officer(s) shall promptly respond to the scene, examine the subject for injury, interview the subject, and ensure that the subject receives needed medical attention. When a Sergeant is involved in a use of force or an allegation of excessive force, the Lieutenant on duty shall be the immediate supervisor. The Chief of Police, or his or her designee, shall promptly respond to the scene of any use of deadly force.

Status	Substantial compliance – ongoing obligation – no change
Analysis	<p>As noted in previous reports, officers consistently notify their immediate supervisors after they have used force against a subject, and supervisors have responded promptly to the scene to conduct the ensuing investigation. Supervisors also consistently have examined and interviewed subjects, identified and interviewed witnesses, and assessed whether subjects involved in a use of force required medical attention.</p> <p>Accordingly, WPD remains in substantial compliance with this provision of the Agreement.</p>
Technical Assistance	<p>WPD should continue to monitor its Blue Team entries, ensuring that officers report all use-of-force incidents and that Field Supervisors promptly respond to the scene.</p>

3. The immediate supervisor shall review, evaluate, and document each use of force in the supervisor’s review section of the use-of-force report including his or her determination of whether or not the officer’s actions were within WPD policy, and whether or not the force used was objectively reasonable. Any officer or supervisor who used force during the incident, or whose conduct led to an injury, or who authorized conduct leading to the use of force or allegation of excessive force, will not be eligible to review the incident.

Status	Substantial Compliance - ongoing obligation – no changes
Analysis	<p>In 2017, WPD supervisors responded to and reviewed 68 use-of-force incidents (up from last year’s total of 41 and slightly lower than the totals from 2015 (71) and 2014 (77)). In each incident, a supervisor assessed the officer’s actions and determined whether the levels of force applied complied with WPD’s policies (e.g., Use of Force; ECW; Weapons; etc.) and whether the officer’s actions were objectively reasonable under the standards articulated in <i>Graham v. Connor</i>, 490 U.S. 386 (1989).</p> <p>In our assessment of these use-of-force reports and their chain-of-command reviews, we generally agreed with the supervisors’ conclusions regarding compliance with policy and adherence to <i>Graham</i>. We however are troubled with the inconsistency and incompleteness of many supervisory reviews. We note concerning variability in the quality of reviews completed during the review period. Although each review stated the specific factors under <i>Graham</i> (i.e., severity of the crime at issue, whether the subject poses and immediate threat to the safety of officers or others, and whether the subject is actively resisting or attempting to evade arrest by flight), many of these reviews were superficial and of poor quality. Many chain-of-command reviews barely assessed each factor of <i>Graham</i> thoroughly. Although we do not conclude that the variable quality of these investigations takes WPD out of compliance with this provision at this time, the variable quality of these investigations is nevertheless a concern.</p> <p>WPD generally has ensured that Field Supervisors involved in or witnessing use-of-force incidents have not then been responsible for investigating the same incidents. During this reporting period, we did however identify a use-of-force incident in which an involved supervisor completed a supervisory review of the incident, even though the involved supervisor witnessed and authorized the action of officers involved in using force (RR 2017-043).</p> <p>To its credit, a WPD Division Commander responsible for reviewing that use-of-force incident, recognized this error and directed that another Turn Commander complete the investigation. We commend WPD for <i>self-identifying</i> this supervisory error and are encouraged that WPD is building durable accountability measures to ensure adherence to WPD policy and the requirements of the Agreement.</p> <p>We also recognize that WPD has established a Use-of-Force Review Board so that it could review each use-of-force incident approved by the officer’s chain of command. We reviewed all of the Board’s findings, noting similar concerns with the quality and thoroughness of these reviews. It appears that the Force Review Board is not consistently critically assessing whether the officer’s actions are within policy and determining whether the need for additional training or policy revisions exist. Although we conclude that WPD is still in compliance with this provision, the inconsistent quality of the Force Review Board assessments is a concern.</p>

Technical Assistance	<p>WPD should conduct an internal assessment of all of its Turn Commander reviews, identifying those reviews where supervisors fail to thoroughly assess each explicit factor of <i>Graham</i>. WPD should then consider conducting command-level trainings on chain-of-command reviews. WPD should use actual cases in an interactive, problem-solving format, focusing on analysis. WPD should also consider incorporating RR 2017-043 in its supervisory training scenarios so that other supervisors do not repeat the same error in the future.</p> <p>WPD should also consider developing a step-by-step guide for all command-level reviews, creating a checklist that logically organizes elements that should be included in each supervisory use-of-force review. By standardizing command-level reviews, WPD can ensure consistency, which would result in a higher quality of reviews.</p> <p>Moving forward, WPD should ensure that supervisors make thorough assessments for each type of force used by an officer. In addition, a WPD captain must specifically review the quality of each supervisory review of a use-of-force incident and must ensure that the supervisor has properly reviewed the force according to WPD policy, including an appropriate analysis under <i>Graham</i>. Where a supervisor’s review appears superficial, the Captain should return the use-of-force packet to the supervisor for corrections.</p> <p>We further recommend that all Board reviews address whether the force use is within policy, gives rise to any training needs, and identifies any need to revised policies or practices.</p> <p>Lastly, we recommend that the Chief of Police, who has the sole authority to approve or disapprove the Board’s reviews and/or recommendations, not participate in the Boards discussions on whether use-of-force investigations comport with WPD policies. The Chief should not participate because his participation: (1) could create a conflict of interest, because the Chief is also ultimately responsible for approving or declining the recommendations of the Board; or (2) could undermine the credibility of the Board as being a neutral, information-seeking Board.</p>
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4. Supervisors shall conduct a review of all uses of force or an injury resulting from a use of force by any officer under their command. As part of this review, supervisors shall interview all witnesses to a use-of-force incident or an injury resulting from a use of force.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	In 2017, supervisors generally conducted adequate reviews and assessments of uses of force or injuries resulting from use-of-force incidents. When supervisors’ initial reviews failed to meet expectations, WPD’s chain of command appropriately required such supervisors to provide corrected review. Supervisors have also

	consistently identified and interviewed both officer and civilian witnesses to use-of-force incidents.
Technical Assistance	None at this time.

- Consistent with the requirements of the collective bargaining agreement and/or other applicable authority, supervisors shall ensure that all officer witnesses provide a statement regarding use-of-force incidents. Officers shall not be permitted to see one another's statements prior to submission of their own statement. Supervisors shall ensure that all use-of-force reports identify all officers who were involved in the incident or were on the scene when it occurred. Supervisors shall ensure that all reports indicate whether an injury occurred, whether medical care was provided, and whether the subject refused medical treatment. Supervisors shall ensure that all reports include contemporaneous photographs or videotapes taken of all injuries at the earliest practicable opportunity, both before and after any treatment. Supervisors shall document their review of the use-of-force report in the supervisor's review section of every use-of-force report. Supervisors shall record therein their evaluation of the basis for the use of force, a determination of whether the officer's actions were within WPD policy, and whether the force used was objectively reasonable.

Status	Substantial compliance - ongoing obligation – no change
Analysis	<p>In 2017, WPD supervisors consistently ensured that officers involved in use-of-force incidents, as well as those officers who witnessed use-of-force incidents, provided written narratives describing the uses of force and the events precipitating the uses of force. Consistent with previous findings, nothing suggests that officers are sharing narratives. As previously stated, use-of-force reports, which WPD maintains in its Blue Team software program, consistently identified all officers involved in or present at an incident.</p> <p>The reports also consistently indicated whether an injury occurred and whether medical care was provided or refused. In addition, WPD reports contained photographs of subjects' injuries (when injuries occurred). Although we noted variability in the quality of use-of-force reviews, we note that supervisors appropriately reviewed and assessed uses of force, determining whether force was objectively reasonable and complying with WPD policy. Accordingly, WPD remains in compliance with this provision.</p>
Technical Assistance	We reiterate the importance of addressing variability in the quality of all use-of-force reviews, and we recommend that WPD consider developing and implementing a use-force-review template for investigations.

- The Parties agree that it is improper for WPD personnel conducting reviews of use-of-force incidents to ask officers or other witnesses leading questions that

improperly suggest legal justifications for officers’ conduct when such questions are contrary to appropriate law enforcement techniques. In each use-of-force review, WPD shall consider all relevant evidence including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations, if feasible. WPD will make all reasonable efforts to resolve material inconsistencies between witness statements.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	WPD supervisors reviewing use-of-force incidents have avoided using leading questions during their investigations. Supervisors have also reliably considered all relevant evidence when assessing an officer’s use of force, made credibility determinations where needed, and resolved material inconsistencies. Accordingly, WPD remains in compliance with this provision of the agreement.
Technical Assistance	None at this time.

- For each use-of-force incident, a WPD Captain will timely evaluate each use of-force review supervisors conducted for such incident, identify any deficiencies in those reviews, and require supervisors to timely correct any deficiencies. WPD shall hold supervisors accountable for the quality of their reviews. WPD shall take appropriate non-disciplinary corrective action and/or disciplinary action whenever a supervisor fails to conduct a timely and thorough review of a use of force, or neglects to recommend appropriate corrective action, or neglects to properly implement appropriate corrective action.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	<p>Generally, the Captains’ reviews of use-of-force incidents and other supervisory reviews are complete and thorough. These reviews are thoughtful and critical. We also have recognized a positive trend wherein the Captains’ reviews have identified deficiencies in use-of-force packets, requiring their subordinates to make the requisite changes.</p> <p>We recognize that WPD assigned a new Captain to oversee the Emergency Services Division in August 2017. This transition did not create an appreciable degradation in the quality of the Captain’s reviews. We noted that the new Captain consistently identified and returned use-of-force reviews that were vague, lacked substance, or failed to contain sufficient <i>Graham</i> reviews. The new Captain also identified unreasonable delays in submitting use-of-force incidents and counseled officers for failing to adhere to review timelines. We will continue to monitor these reviews to ensure that a consistent application of high-quality reviews continue at WPD. WPD remains in substantial compliance with this provision of the Agreement.</p>

Technical Assistance	WPD captains should continue to diligently identify and address deficiencies and discrepancies in use-of-force packets.
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IV. Citizen Complaint Process.

A. Public Information

1. WPD has developed and implemented a program to inform persons that they may file complaints regarding the performance of any officer. The complaint form is presently available at www.warren.org, the City’s website. The City also presently makes complaint forms and directions for submitting complaints publicly available at all governmental properties. The City has proceeded to make the public aware of the complaint form process. During the performance of this Agreement, WPD shall continue to make complaint forms, directions on submitting complaints, and informational materials publically available at government properties including, but not limited to: WPD headquarters, all City public libraries, the Office of the Director of Public Safety, the Internet, and, upon request, to community groups and community centers.

Status	Substantial compliance – ongoing obligation – no change
Analysis	WPD’s complaint form has been available online and elsewhere throughout the community for the past three years. Individuals wishing to pick up copies of the complaint form may also pick up a copy at the following locations: (1) the lobby of the Police Department; (2) the Warren Public Library; (3) The office of the Director on Safety and Services of the City of Warren; and (4) The Urban Leagues. WPD also requires it officers to keep complaint forms in their patrol vehicles so that they can give forms to community members who wish to file a complaint. We recognize WPD’s continued commitment to the civilian-complaint process. WPD remains in substantial compliance with this provision of the Agreement.
Technical Assistance	None at this time.

2. Within 30 days of the effective date of this agreement, WPD shall permanently post in a public space at WPD headquarters a placard describing the complaint process and include the relevant phone numbers. WPD shall require all officers to carry informational brochures and complaint forms in their official vehicles at all times while on duty. If a citizen objects to an officer’s conduct, that officer will inform the citizen of his or her right to make a complaint. Officers shall not discourage any person from making a complaint.

Status	Substantial compliance – ongoing obligation – no change
Analysis	WPD continues to maintain a placard at the police department that includes relevant contact numbers and describes the complaint process. WPD officers also carry complaint forms in their patrol cars while on duty that officers supply to members of the community who wish to file a complaint. WPD also provided training during its 2017 in-service training instructing officers to avoid discouraging civilians from making complaints and, when necessary, informing civilians of the right to make a complaint.
Technical Assistance	None at this time.

B. Means of Filing and Tracking of Complaints

1. WPD shall continue to maintain clear complaint acceptance and complaint resolution policies and procedures. WPD shall ensure that all officers are trained in acceptance of complaints. Training on the complaint acceptance policy and procedure will be a part of in-services to all officers at the implementation of this Agreement.

Status	Substantial compliance - ongoing obligation – no change
Analysis	WPD maintains a complaint policy that clearly describes the complaint process (Public Complaints, Policy Number 07-001). WPD has trained all officers on the proper procedures to accept and resolve complaints, including updating complainants on the status of investigations. WPD included a three-hour block of instruction on public complaints during its 2017 in-service training, and it provides updates as needed during roll-call trainings throughout the year.
Technical Assistance	None at this time.

2. The complaint-acceptance policy shall specify that WPD shall accept complaints in writing or verbally, in person or by mail, telephone (or TDD), facsimile, electronic mail, or drop box. The policy shall require that all WPD employees accept complaints and promptly deliver them to a supervisor. The policy shall state that an employee accepting a complaint may describe facts that bear upon a complainant’s demeanor and physical condition but may not express opinions regarding his/her mental competency or veracity. The complaint-resolution policy shall require that WPD resolve each complaint in writing.

Status	Substantial compliance – ongoing obligation – no change
Analysis	WPD revised its complaint policy in 2015, and then trained its officers on the

	revised policy in 2016, followed by annual and roll-call trainings in 2017. The current policy meets all the requirements of this paragraph. The current policy also provides WPD with clear guidance regarding how it accepts, investigates, and resolves complaints. We also note that current policy requires WPD to notify each complainant in writing after it concludes each investigation. WPD thus remains in substantial compliance with this provision of the Agreement.
Technical Assistance	None at this time.

3. WPD shall refer copies of allegations of misconduct against WPD to WPD’s Internal Affairs Unit (“IA”) within three business days of receipt of a complaint. Within 90 days of the effective date of this Agreement, WPD shall institute a centralized numbering and tracking system for all complaints. Immediately upon receipt of a complaint, WPD shall assign each complaint a unique identifier, which WPD shall provide to the complainant. WPD shall track in a database each complaint according to the basis for the complaint (e.g., excessive force, discourtesy, improper search, etc.).

Status	Substantial compliance – ongoing obligation – no change
Analysis	<p>WPD’s public complaint policy requires officers to forward public complaints to the on-duty Turn Commander by the end of their shift; Turn Commanders then must also forward the complaint to Internal Affairs by the end of their shift. The policy makes clear that no more than 72 hours may elapse between the time the complaint is filed and the time it is forwarded to Internal Affairs. In our 2017 review of complaints, we note that WPD complied with the 72-hour timeline in each instance.</p> <p>WPD also uses a centralized tracking system for all complaints in which each complaint is assigned a unique identifying number. The Policy and Training Review Board also analyzes complaint trends, among other indicators, to help guide training and policy development. Accordingly, WPD complies with the requirement of this provision.</p>
Technical Assistance	None at this time.

C. Investigation of Complaints

1. WPD shall investigate every complaint of employee misconduct.

Status	Substantial compliance - ongoing obligation – no change
Analysis	In 2017, WPD received 16 complaints alleging employee misconduct. Of the 16

	<p>complaints, four involved rudeness; one involved excessive force; one involved an unlawful search; two involved dereliction of duty; one involved unlawful seizures; and seven involved unprofessional conduct. For each complaint, an investigator identified and interviewed witnesses, contacted the complainant, and interviewed the involved officer. WPD's Internal Affairs officers conducted thorough investigations, assessing whether the officer's actions violated WPD policy and procedures.</p> <p>In addition to conducting thorough investigations, Internal Affairs officers assessed each complaint for search or seizure violations and reviewed officer histories before making recommendations to Division Commanders. We note that WPD sustained four of the 16 complaints filed in 2017, all sustained complaints involved indecent, profane, or harsh language (<i>See</i> IA 2017-0014, IA 2017-0013, IA 2017-2012, and IA 2017-0003).</p> <p>WPD remains in substantial compliance with this provision.</p>
Technical Assistance	<p>We recommend that WPD take a closer look at the trend of complaints involving rudeness and unprofessionalism. We commend WPD for sustaining complaints against officers for using indecent, profane, or harsh language where a preponderance of the evidence supported a sustained finding. Because of the overall volume of rudeness and unprofessionalism complaints, we suggest that WPD include a block of instructions during annual training to address these issues in the department.</p>

2. WPD shall explicitly prohibit from investigating an incident any officer involved in that incident.

Status	Substantial compliance - ongoing obligation – no change
Analysis	<p>WPD's current complaint policy makes clear that no officer involved in an incident that is the subject of an investigation may conduct the investigation. WPD's practice has followed this policy provision. In 2017, WPD did not assign an officer to investigate an internal affairs complaint if that same officer was involved in the underlying incident. Accordingly, WPD remains in substantial compliance with this provision.</p>
Technical Assistance	None at this time.

3. WPD shall complete all investigations of officer misconduct within 40 days of the earlier of WPD's receipt of a complaint or WPD's discovery of alleged officer misconduct, unless the Chief of Police extends that deadline in writing at the written request of the assigned investigator. The Chief of Police may permit only one extension at a time of no more than 30 days per extension, and shall not permit more

than a maximum of two possible extensions. The Chief of Police shall record, as part of the investigative file for the incident, his or her basis for granting or denying the request for extension. WPD shall provide written notice to the complainant of any extensions.

Status	Substantial compliance – ongoing obligation – no change
Analysis	In 2017, WPD completed the investigations for all 16 complaints filed during that year in a timely manner. In three of the 16 investigations, Internal Affairs officers sought a 30-day extension from the Chief of Police. In each of these investigations, the Chief approved the extension request. The Chief’s extension approvals were consistent with the terms of the Agreement and WPD’s complaint policy. Where investigations took longer than 20 days, all complainants were provided with an update on the status of the investigation at approximately the 20-day mark. WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

4. Within 90 days of the effective date of this agreement, WPD shall adopt a single policy concerning the investigation of misconduct complaints, regardless of whether the investigation is conducted by IA or a chain-of-command supervisor. WPD shall apply a preponderance of the evidence standard to the evaluation of all allegations contained in a complaint or collateral misconduct discovered during the course of investigating a complaint.

Status	Substantial compliance – ongoing obligation – no change
Analysis	As noted above, WPD’s revised complaint policy thoroughly describes WPD’s process for accepting, investigating, and resolving all allegations of misconduct. Its complaint policy makes clear that investigators must apply a preponderance of the evidence standard when making a finding regarding allegations contained within a complaint or other collateral misconduct discovered during an investigation. In all 16 complaints filed and investigated during 2017, WPD has appropriately applied this standard. Accordingly, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

5. The personnel participating in IA have presently been trained on the factors to consider when evaluating complainant or witness credibility, examination and interrogation of accused officers and other witnesses; identifying misconduct even if

it is not specifically named in the complaint; and using the preponderance of the evidence standard as the appropriate burden of proof.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	<p>As noted in previous compliance reports, WPD’s internal affairs officers have been effectively trained regarding the proper procedures to apply while investigating complaints, including those procedures specified in this Settlement Agreement provision. Consistent with past practices, WPD has encouraged its Internal Affairs officers to seek and attend external trainings.</p> <p>In 2017, we note that Internal Affairs officers attended various external trainings, focused on improving investigative skills. The Internal Affairs sergeant attended two training courses – one course was hosted by the Columbus, Ohio Police Department, covering internal investigations and another course hosted by the Ohio Peace Officer Training Academy, covering investigating civilian complaints and officer misconduct for supervisors. The Internal Affairs lieutenant attended the FBI’s National Academy, covering various topics. Accordingly, WPD remains in substantial compliance with this provision.</p>
Technical Assistance	We continue to encourage all WPD investigators to engage in continuing education courses regarding the proper execution of investigations.

- IA or chain-of-command investigators assigned to the investigation of complaints shall interview all witnesses to the incident who are capable of being identified through the exercise of reasonably diligent investigation. All interviews of WPD employees regarding the incident shall be recorded (audio or video). All interviews of non-WPD employees regarding the incident shall be recorded (audio or video), unless the interviewee specifically requests not to be recorded. If an interviewee requests not to be recorded, WPD shall secure a written declination of recording executed by the interviewee. An interviewee’s refusal to have an interview recorded will not relieve WPD of its obligation to interview all witnesses to an incident giving rise to a complaint. Consistent with the requirements of the collective bargaining agreement and/or other applicable authority, the assigned investigators shall ensure that all officer witnesses provide a statement regarding the incident. Officers shall not be permitted to see one another’s statements prior to submission of their own statement. For all allegations involving injury to a person, the assigned investigator shall obtain contemporaneous photographs or videotapes of all injuries at the earliest practicable opportunity, both before and after any treatment, including cleansing of wounds.

Status	Substantial compliance - ongoing obligation – no change
Analysis	Of the 16 complaints filed and investigated in 2017, WPD took appropriate steps to locate and interview any individuals who may have witnessed the incidents in

	<p>question. WPD policy requires all interviews of WPD employees to be recorded. WPD policy also requires all interviews of non-employees to be recorded as well, unless the non-employee requests not to be recorded. WPD adhered to these policy requirements throughout 2017. WPD also ensured that all witness officers required to provide a statement did so without having access to other officers' statements.</p> <p>Of the 16 complaints filed and investigated in 2017, one alleged that the complainant suffered an injury (red marks around complainant's neck) (<i>See IA 2017-0001</i>). We note that WPD conducted a concurrent excessive force investigation involving the same facts and circumstances involved in this complaint (RR 2017-029), finding that the officer's conduct was within WPD policy and complied with the constitutional standards for use of force as announced in <i>Graham</i>.</p> <p>WPD policy makes clear that, for all allegations involving an injury to a person, WPD must obtain contemporaneous photographs or video footage of any alleged injury at the earliest practical opportunity, both before and after treatment. In this incident, we note that WPD took photographs of the complainant's injuries and also accepted photographs that the complainant provided, taken shortly after the alleged incident. WPD uploaded both sets of photographs into its IA Pro system. Accordingly, we find WPD remains in substantial compliance with this provision.</p>
<p>Technical Assistance</p>	<p>None at this time.</p>

7. In each misconduct investigation, WPD shall consider all relevant evidence including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations, if feasible. WPD specifically shall not give an automatic preference for an officer's statement over a non-officer's statement, nor will WPD disregard a witness' statement merely because the witness has some connection to the complainant. WPD will make efforts to resolve material inconsistencies between witness statements.

<p>Status</p>	<p>Substantial compliance - ongoing obligation – no change</p>
<p>Analysis</p>	<p>In each of the 16 complaints filed in 2017, we note that WPD thoroughly conducted its investigations and did not give more weight to an officer's version of events. In all incidents where the investigator had only the officer's word against the complainant's, the investigator determined the finding to be "inconclusive" (defined as a finding where "there are insufficient facts to decide whether the alleged misconduct occurred"). In all complaint investigations, WPD also consistently considered all relevant evidence. WPD worked to resolve material inconsistencies between witness statements. We therefore conclude that WPD remains in substantial compliance.</p>

Technical Assistance	None at this time.
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8. During a misconduct investigation, WPD will continue to investigate all relevant police activity, including each use of force (i.e., not just the type of force complained about). The investigation shall also evaluate any searches or seizures that occurred during the incident. WPD shall not close an investigation simply because the complaint is withdrawn or the alleged victim is unwilling or unable to provide medical records or proof of injury or the complainant will not provide additional statements or written statements; rather, WPD shall continue its investigation as necessary to determine whether the original allegation(s) can be resolved based on the information, evidence, and investigatory procedures and techniques available. In each investigation, the fact that a complainant pled guilty or was found guilty of an offense will not be considered as evidence of whether a WPD officer used or did not use a type of force, nor will it justify discontinuing the investigation.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	<p>During 2017, we note that only one complainant alleged that a WPD officer used excessive force (RR 2017-029), and no complainants described incidents where excessive force may have been identified as collateral misconduct. Four of the 16 incidents complained of entailed searches and five of the 16 incidents involved seizures. In those incidents where there was either a search or a seizure, WPD investigated the searches and seizures, irrespective of whether the searches or seizures were the reason of the individual’s complaint, concluding that all searches and seizures were lawful.</p> <p>In addition, WPD’s IA investigators use a template for their investigative reports that include a section that requires investigators to state whether any searches or seizures took place during the incident. This was helpful in tracking the number of searches or seizures involving civilian complaints that occurred in 2017, and it also allowed WPD to carefully assess the legality of officer conduct.</p> <p>During 2017, no complainants withdrew their complaints. Even if this had occurred, WPD policy would have required WPD to complete an investigate of any allegation. All complaints were resolved based on the information, evidence, and investigatory techniques available. Thus, WPD remains in substantial compliance with this provision.</p>
Technical Assistance	None at this time.

9. For each allegation, the assigned investigator shall make a written recommended determination to the Division Commander as to whether: (1) the police action was in compliance with policy, training and legal standards regardless of whether the

complainant suffered harm; (2) the incident involved misconduct by any officer; (3) the use of different tactics should or could have been employed; (4) the incident indicates a need for additional training, counseling or other non-disciplinary corrective measures; and (5) the incident suggests that WPD should revise its policies, training, or tactics. WPD shall ensure that assigned investigators' reports contain a written recommended determination on each of these elements.

Status	Substantial compliance - ongoing obligation – no change
Analysis	<p>We note that WPD continues to consistently evaluate allegations to assess all five elements included in this provision. As we mentioned earlier, WPD created an investigative template that its internal affairs investigators use. This tool has been an asset in assisting WPD in ensuring constituency in its investigations, and eliminating variability in assessments.</p> <p>WPD's internal affairs investigators consistently make findings and recommendations that are well-reasoned, and the Division Commanders consistently assess these findings and recommendations, providing thoughtful discipline recommendations to the Chief. Division Commanders also consistently make helpful determinations regarding the need for new tactics, training, or policy changes, among other issues. The Chief thereafter reviews the recommendations and timely informs the officers of his finding. Thus, WPD remains in substantial compliance with this provision.</p>
Technical Assistance	None at this time.

10. The misconduct-investigation policy shall require that WPD reach a separate investigative finding for each allegation. WPD shall ensure that a separate recommended investigative finding is reached and recorded in the assigned investigator's report for each allegation of employee misconduct. Each allegation in an investigation shall be resolved by making one of the following investigative findings:
- a. "Unfounded," where the investigation determines, by a preponderance of the evidence, that no facts to support that the incident complained of actually occurred;
 - b. "Sustained," where the investigation determines, by a preponderance of the evidence, that the person's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;
 - c. "Inconclusive," where the investigation determines, by a preponderance of the evidence, that there are insufficient facts to decide whether the alleged misconduct occurred; and

- d. “Exonerated,” where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate WPD policies, procedures, or training.

Status	Substantial compliance - ongoing obligation – no change
Analysis	As previously noted, each investigator’s report has an “Allegations” section that numerically lists each allegation, and the “Conclusion” section contains a sub-section devoted to each allegation that includes a finding and an explanation for the finding. Accordingly, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

11. IA shall track and monitor chain-of-command investigations to ensure timely and thorough completion of investigations.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	As noted in previous reports, WPD subjects even minor complaints to full internal affairs investigations rather than chain-of-command investigations. WPD therefore has not had any chain-of-command investigations that have been untimely or which internal affairs did not track. We note that, in 2017, internal affairs completed all investigations in a timely manner.
Technical Assistance	None at this time.

12. Within one week of completion of the IA’s review of the investigative file, the Captain in command of the personnel at issue shall, in writing, either accept or reject the recommended findings, or return the investigative report for further IA investigation, and shall set forth, in the investigative file, his or her basis for doing so unless referred to the Chief of Police for further action.

Status	Substantial compliance - ongoing obligation – no change
Analysis	In 2017, the Captain in charge of the officer who was the subject of the complaint reviewed the investigator’s recommended findings on time in every incident. Thereafter, internal affairs forwarded the recommended findings to the Chief for final approval; his reviews were likewise careful and complete, and he imposed discipline or corrective measures where appropriate, with explanations justifying those actions (<i>See</i> , for example, IA number 2017-13, where the Chief recommended that an officer receive an evaluation for his unprofessional conduct).

	WPD has consistently completed its reviews on time and in a sufficient manner. Accordingly, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

13. WPD shall keep all non-anonymous complainants informed periodically regarding the status of the complaint investigation. Within one week of the completion of the investigation, WPD shall notify, in writing, all non-anonymous complainants of the investigation's outcome, including an appropriate statement regarding whether any non-disciplinary corrective action or disciplinary action was taken.

Status	Substantial-compliance - ongoing obligation – no change
Analysis	In 2017, WPD consistently informed complainants regarding the status of internal investigations. WPD also informed each complainant about the outcome of the investigation within one week of concluding each investigation. WPD remains in substantial compliance with this provision of the Agreement.
Technical Assistance	None at this time.

14. Subject to the protection against self-incrimination in criminal proceedings for statements compelled consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967), but without withholding non-compelled statements or compelled statements that may be used in a criminal proceeding against a person other than the compelled witness, WPD shall make a written referral of all allegations of criminal misconduct by WPD employees to the City, County, or Federal Prosecuting Attorney or other appropriate agency for possible criminal prosecution, pursuant to that prosecutor's own prosecutorial discretion, as soon as allegations of criminal conduct are reported to IA or are uncovered by the assigned investigator. WPD shall ensure the referral of all allegations of criminal conduct by WPD employees to the appropriate criminal prosecutor within one day of WPD's discovery of those allegations of criminal conduct. The misconduct-investigation policy shall continue to require the completion of an administrative investigation irrespective of the initiation or outcome of criminal proceedings, with the appropriate coordination with the criminal matter.

Status	Substantial compliance – ongoing obligation – no change
Analysis	WPD received no complaints during 2017 alleging criminal misconduct. WPD's complaint policy dictates that, if the Chief determines that the misconduct, if true, would violate criminal law, the Chief will meet with the city's law director, who will determine whether to initiate a criminal investigation. WPD's policy clarifies that administrative investigations must be conducted concurrently with any criminal

	investigation and that any information gathered as a result of <i>Garrity</i> statements must not be disclosed to criminal investigators or prosecutors. The current policy also makes clear that <i>Garrity</i> warnings are only necessary and should only be given where an officer refuses to provide a voluntary statement during an administrative investigation. WPD has adhered to this requirement.
Technical Assistance	None at this time.

V. Management and Supervision

A. Risk Management System

1. Within 150 days of the effective date of this Agreement, WPD shall develop and implement an early intervention system, i.e., a risk management system, to include either a computerized relational database or paper system for maintaining, integrating, and retrieving information necessary for supervision and management of WPD. WPD will regularly use this data to promote civil rights and best police practices; to manage risk and liability; and to evaluate the performance of WPD officers across all ranks, units, and shifts.

Status	Substantial compliance - ongoing obligation – no change
Analysis	As noted in previous DOJ reports, WPD uses IAPro as its Early Intervention System (EIS) database, which allows WPD to maintain and organize information needed to assess, supervise, and manage WPD’s officers. WPD also uses IAPro’s BlueTeam software, which allows officers to enter use-of-force reports and other information from their patrol cars. WPD also updated its EIS policy to, among other things, define a critical firearm discharge; clarify which Supervisors were tasked with certain duties by distinguishing between Field Supervisors, Turn Commanders, and Division Commanders consistently; and describe, in detail, the EIS administrator’s duties. WPD has been effectively using the EIS to evaluate the performance of its officers. Accordingly, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

2. The risk management system shall collect and record the following information for each officer:
 - a. all uses of force;
 - b. the number of canisters of chemical spray used by officers;
 - c. all discharges of conductive energy devices;

- d. all injuries to prisoners;
- e. all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct," or "obstruction of official business";
- f. all firearm discharges, both on- and off-duty, including unintentional discharges, but excluding discharges in planned training exercises or hunting;
- g. all complaints (and their dispositions);
- h. all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City and its officers, or agents, resulting from WPD operations or the actions of WPD officers;
- i. all incidents involving the pointing of a firearm at a person (if any such reporting is required);
- j. all discipline and non-disciplinary corrective action taken against officers; and
- k. all positive personnel reviews, commendations, awards, etc.;

Status	Substantial compliance – ongoing obligation – no change
Analysis	Under the Settlement Agreement and WPD policy, WPD tracks each of the above indicators through its EIS. In addition, WPD policy requires that EIS also track chronic absenteeism as well as all vehicle pursuits and accidents. WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

3. The risk management system shall include, for the incidents included in the database, appropriate identifying information for each involved officer (e. g., name, badge number, shift and supervisor) and civilian (e.g., race, ethnicity or national origin, if available).

Status	Substantial compliance - ongoing obligation – no change
Analysis	Pursuant to WPD’s EIS policy, WPD continues to include the appropriate identifying information for both officers and civilians. WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

4. Within 210 days of the effective date of this Agreement, WPD shall prepare a protocol for using the risk management system.

Status	Substantial compliance - ongoing obligation – no change
Analysis	As noted above in Section V.A.1, WPD has revised its EIS policy and has trained its officers on the revisions. WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

5. At a minimum, the protocol for using the risk management system shall include the following provisions and elements:
- a. The protocol is comprised of the following components: data storage, data retrieval, reporting, data analysis, pattern identification, supervisory assessment, supervisory intervention, documentation and audit.
 - b. The protocol will require the risk management 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 officers in a unit.
 - c. The protocol will require the system to generate reports on a monthly basis describing the data and data analysis and identifying individual and unit patterns.
 - d. The protocol will require that WPD Captains, Lieutenants, and supervisors review, on a regular basis but not less than quarterly, system reports, and evaluate individual officer, supervisor, and unit activity.
 - e. The protocol will require that WPD Captains, Lieutenants, and supervisors initiate intervention for individual officers, supervisors and for units based on appropriate activity and pattern assessment of the information contained in the risk management system.
 - f. The protocol will require that intervention options include discussion by Captains, Lieutenants, supervisors, and officers; counseling; training; and supervised, monitored, and documented action plans and strategies designed to correct inappropriate activity.
 - g. The protocol will specify that actions taken as a result of information from the risk management system be based on all relevant and appropriate information, including the nature of the officer’s assignment, crime trends and crime

problems, and not solely on the number or percentages of incidents in any category of information recorded in the risk management system.

- h. The protocol will require that WPD Captains, Lieutenants, and supervisors promptly review the risk management system records of all officers recently transferred to their sections and units.
- i. The protocol will require that WPD Captains, Lieutenants, and supervisors be evaluated on their ability to use the risk management system to enhance effectiveness and reduce risk.
- j. The protocol will require that the risk management system be managed and administered by IA. IA will conduct quarterly audits of the risk management system to ensure that analysis and intervention are taken according to the process described above.
- k. The protocol will require regular reviews, at no less than quarterly intervals, by appropriate managers of all relevant risk management system information to evaluate officer performance citywide, and to evaluate and make appropriate comparisons regarding the performance of all WPD units in order to identify any significant patterns or series of incidents.

Status	Substantial compliance - ongoing obligation – no change
Analysis	<p>WPD’s current EIS policy incorporates the above requirements. WPD has effectively implemented and has adhered to the requirements of its policy. In accordance with the Agreement and WPD policy, an EIS administrator manages WPD’s EIS. The same person currently also serves as head of Internal Affairs. The EIS administrator identifies an employee for review whenever BlueTeam generates an alert, based on the criteria listed in V.A.2 above. The officer’s Field Supervisors review the alert and assign an intervention plan, if appropriate, which is approved up the officer’s chain of command, including the chief. The appropriate supervisor within the officer’s chain of command then implements the plan. The EIS administrator reviews and assures the implementation of the plan.</p> <p>Supervisors further review the EIS “dashboard,” which provides them with information regarding each of their officers and those officers’ status for each data point tracked by the EIS system on a daily basis. Supervisors use this information to identify potential issues affecting their unit or an individual officer.</p> <p>The EIS administrator also generates monthly reports compiling EIS data grouped according to WPD divisions, shifts, and units, and sorted by date and names of officers triggering any alert. The EIS administrator uses this data to identify trends and patterns affecting individual officers or groups of officers that may require intervention.</p> <p>WPD has also constructed and uses an audit checklist that the EIS administrator completes on a monthly basis. WPD uses this checklist to ensure that the EIS</p>

	<p>administrator generates monthly reports regarding EIS data, analyzes the data, and reviews intervention plans. At the end of the quarter, the EIS administrator completes an additional section of the checklist that requires the administrator to verify what intervention plans, if any, are incomplete; and that a quarterly report of relevant, department-wide EIS information has been prepared for and reviewed by the Chief. The quarterly report includes the EIS administrator’s analysis of alerts for that quarter, according to officer, shift, unit, and division, and the administrator’s determination regarding what, if any, notable patterns have emerged that might require a response from WPD. The Chief signs off on the report and may include additional instructions for the administrator in light of information contained in the report.</p> <p>In 2017, there were 151 alerts. DOJ assessed WPD’s response to about 20 percent of these alerts. All of the alerts that DOJ reviewed listed the type of incident, provided a brief description of the incident, and indicated the outcome or disposition of the incident. Although it appeared that supervisors assessed each incident to determine whether an Intervention Plan was necessary, the alert recommendation form was filled out incorrectly. Supervisors indicated that they reviewed each incident in each alert report form. Many supervisors failed to properly document their recommendations on the alert form. In some instances, supervisors recommended no action, noting no policy violations, but their assessments of the underlying incidents showed clear policy violations in some of those incidents. WPD should revise this oversight tool and ensure that supervisors correctly document and note their interventions. Although we conclude that WPD is still in compliance with this provision, supervisors need to improve their documentation, clearly note policy violations, and justify why the action they took to remedy the situation was appropriate.</p>
<p>Technical Assistance</p>	<p>We recommend that WPD take a closer look at its alert recommendations form. It appears that supervisors have not correctly documented these forms, concluding that there were no underlying policy violations when the incidents reviewed showed clear policy violations. Supervisors should better document that though policy violations occurred, they have already been remedied and do not give rise to a current pattern of behavior meriting a new intervention.</p>

6. WPD shall maintain all personally identifiable information about an officer included in the risk management system during the officer’s employment with WPD for at least five years. Information necessary for aggregate statistical analysis will be maintained indefinitely in the risk management system. WPD shall enter information into the risk management system in a timely, accurate, and complete manner, and maintain the data in a secure and confidential manner. WPD shall input new or changed information, if any new or changed information addressing the aforementioned risk management categories exists, at least on a monthly basis, if not sooner, subject to the confidentiality provisions of Section 149.43 of Ohio Revised Code and current collective bargaining agreements.

Status	Substantial compliance – ongoing obligation – change from partial compliance
Analysis	As noted above in Section V.A.1, WPD has revised its EIS policy and has trained its officers on the revised policy. The revised policy memorializes the requirements of the provision, which the policy assigns as tasks for the EIS administrator. Pursuant to the requirements of this provision and WPD’s revised policy, WPD consistently enters information into its EIS in a timely, accurate, and complete manner, and maintains that information in a secure manner. Accordingly, WPD remains in compliance with this provision.
Technical Assistance	None at this time.

7. WPD shall either purchase the risk management system off the shelf (and customize the system, if necessary to meet the requirements of this agreement), or WPD may develop and implement its own risk management system. In either case, WPD shall adhere to the following schedule:
 - a. Within 210 days of the effective date of this Agreement, WPD will submit a protocol for using a risk management system to DOJ for review and approval. WPD will share drafts of this document with DOJ to allow DOJ to become familiar with the document as it develops and to provide informal comments on it. WPD and DOJ will together seek to ensure that the protocol receives final approval within 30 days after it is presented for review and approval.
 - b. Within 270 days of the effective date of this Agreement, WPD shall prepare, for the review by and subject to the approval of DOJ, a plan for including appropriate fields and values of new and historical data into the risk management system (the "Data Input Plan"). The Data Input Plan will identify the data to be included and the means for inputting such data (direct entry or otherwise), the specific fields of information to be included, the past time periods for which information is to be included, the deadlines for inputting the data, and the responsibility for the input of the data. The Data Input Plan will include historical data that is up to date and complete in the risk management system. WPD and DOJ will together seek to ensure that the protocol receives final review and approval within 30 days after it is presented for approval.
 - c. Within 270 days of the effective date of this Agreement, subject to the review and approval of DOJ, WPD will issue a Request for Proposal (“RFP”) for the design and implementation of the risk management system consistent with this Agreement, or WPD will set forth parameters for its own development and implementation of a risk management system constructed by WPD.
 - d. Within 360 days of the effective date of this Agreement, or later with the agreement of DOJ, WPD will select the contractor to design and implement the risk management system, or, if WPD has chosen to construct its own risk

management system, WPD will contract for all the necessary components for such an in-house risk management system by this time.

- e. Within 450 days of the effective date of this Agreement, WPD will have ready for testing a beta version of the risk management system consisting of: (i) any necessary hardware and operating systems, configured and integrated with WPD’s existing automated systems; (ii) any necessary data base software installed and configured; (iii) data structures created, including interfaces to source data; and (iv) the use-of- force information system completed, including historic data. DOJ will have the opportunity to participate in testing the beta version using use-of-force data and test data created specifically for purposes of checking the risk management system.
- f. Within 540 days of the effective date of this Agreement, the risk management system will be operational and fully implemented.

Status	Substantial compliance - ongoing obligation – no change
Analysis	WPD’s EIS remains operational, and it therefore remains in substantial compliance with this provision of the agreement.
Technical Assistance	None at this time.

- 8. Prior to implementation of the new risk management system, WPD will continue to use existing databases and resources to the fullest extent possible, to identify patterns of conduct by WPD officers or groups of officers.

Status	Substantial compliance – no change
Analysis	WPD’s EIS is fully operational. This provision therefore is no longer applicable.
Technical Assistance	None at this time.

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

Status	Substantial compliance – ongoing obligation – no change
Analysis	WPD has not proposed to add, subtract, or modify any data tables, fields, etc.

	during 2017. WPD has agreed to submit any such proposals to DOJ before implementation.
Technical Assistance	We encourage WPD to continue assessing its EIS, ensuring that WPD modifies the system, where appropriate, to increase the system's efficiency and effectiveness.

B. Oversight

1. WPD shall develop a protocol for utilizing the risk management system to conduct audits of all WPD officers' performance and management of risk. Each supervisor charged with conducting audits shall use the protocol. The protocol will establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency, and cover all WPD shifts and units.

Status	Substantial compliance - ongoing obligation – no change
Analysis	As noted above in Section V.A.5, WPD supervisors review on a daily basis an EIS “dashboard,” which shows them, at a glance, information regarding each of their officers and the officers' status for each data point tracked in the EIS system. Supervisors use this information to identify issues or potential issues regarding each of their officers as well as to make comparisons to and between entire shifts and units. The EIS administrator also completes an audit checklist on a monthly basis affirming that WPD has produced monthly reports compiling EIS data, sorted according to shifts, units, and divisions, and has analyzed the data to identify problematic trends or patterns. As also noted above, at the end of each quarter, the EIS administrator completes an additional section of the checklist that, among other things, requires the administrator to verify that a quarterly report of relevant, and that department-wide EIS information has been prepared for and reviewed by the Chief. According, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

C. Discipline

1. The Chief of Police shall have just cause to dispense appropriate discipline when he/she determines, based on the outcome of an administrative investigation, that a preponderance of evidence demonstrates that a violation of WPD policy has occurred.

Status	This Chief of Police is applying this standard in the appropriate situations. Based on our reviews, we have not release to conclude that WPD had deviated from this standard.
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2. WPD will continue to follow the disciplinary process in place in the collective bargaining agreements (“CBAs”). WPD shall ensure that its disciplinary procedures

penalize uses of excessive force, improper searches and seizures, discrimination, or dishonesty, and reflect the seriousness of those infractions. WPD will impose appropriate punishment for violations when WPD believes the officer’s misconduct exhibits a lack of fitness for duty. WPD shall submit this revised process for the review and approval of DOJ.

Status	Substantial compliance – ongoing obligation – no change
Analysis	<p>In 2017, WPD has consistently reviewed community complaints and use-of-force incidents, imposing appropriate discipline when appropriate. In all cases where discipline was appropriate, first-line supervisors counseled officers for matters such as using profanity, failing to activate on-body-recording devices, and displaying belligerent, disrespectful, and unprofessional conduct.</p> <p>We note that an officer was suspended for 24 days for using disrespectful language and exhibiting unprofessional conduct (IA 2017-0013). WPD’s action regarding this matter illustrate its commitment to enforcing its policies and holding officers accountable for conduct inconsistent with the standards of the agency.</p> <p>WPD’s commitment to ensuring that its internal accountability systems are meaningful is a major reason why it remains in substantial compliance with this provision of the Agreement.</p>
Technical Assistance	None at this time.

- Absent exceptional circumstances, WPD will take disciplinary corrective action when an appropriate disciplinary matrix indicates that imposition of discipline should take place. In a case where discipline has been imposed on an officer, WPD must also consider whether non-disciplinary corrective action also is required. Whenever discipline is warranted, WPD shall impose discipline within the timeframe permitted by WPD’s CBAs and applicable statute.

Status	Substantial compliance – ongoing obligation – no change
Analysis	<p>As we noted above, WPD imposed disciplinary measures where appropriate throughout 2017. WPD also considered non-disciplinary matters where appropriate, such as requiring an officer to re-attend training regarding specific subjects. Although WPD does not currently use a disciplinary matrix, we note that WPD has imposed discipline in a consistent and reasonable manner. WPD remains in substantial compliance with this provision.</p>
Technical Assistance	None at this time.

VI. Training

A. Management Oversight

1. WPD shall continue to ensure that its use-of-force training complies with applicable laws and WPD policy. WPD may continue to seek technical assistance from DOJ on the content and conduct of WPD's use-of-force training.

Status	Substantial compliance – ongoing obligation – no change
Analysis	<p>WPD conducted its annual in-service training for 2017 during March, April, and May. WPD covered the following topics during its in-service training: use-of-force policies, including topics such as the use of less-lethal weapons; defensive tactics; interacting with people in crisis; and hands-on use-of-force decision-making scenarios.</p> <p>WPD brought in an outside mental health provider to conduct its crisis intervention training, and all instructors, both in-house and external, exhibited proficiency in the subject areas. WPD supplemented its annual in-service training, by using rolls calls on multiple occasions to cover topics related to force, civilian complaints, and revised force policies. WPD also used an outside vendor to provide all supervisors with additional training on force and supervisor liability. In 2017, WPD also sent five additional officers through a 40-hour Crisis Intervention Training (CIT) course, bringing its total of CIT officers to 47 out of 61. As noted above, WPD also sent its Internal Affairs lieutenant to the FBI National Academy for an 11-week course.</p> <p>The policies and procedures on which WPD trained its officers are current and consistent with applicable laws. WPD remains in substantial compliance with this provision.</p>
Technical Assistance	None at this time.

2. WPD's director of training shall, consistent with applicable law and WPD policy:
 - a. ensure the effectiveness of all use-of-force training by implementation of competency-based written examinations covering the use-of-force policies and requiring a minimum passing score of 90% for all WPD officers;
 - b. develop and implement use-of-force training curricula;
 - c. select and train WPD officer trainers;
 - d. develop, implement, approve, and oversee all in-service training;
 - e. in conjunction with the Chief of Police, develop, implement, approve, and oversee a patrol division roll call protocol designed to effectively inform officers of relevant changes in policies and procedures;
 - f. establish procedures for evaluating all training curricula and procedures; and

- g. conduct regular needs assessments to ensure that use-of-force training is responsive to the knowledge, skills, and abilities of the officers being trained.

Status	Substantial compliance - ongoing obligation – no change
Analysis	<p>In 2016, WPD developed and implemented a policy, outlining WPD’s processes for developing, implementing, maintaining, and reviewing WPD policies, procedures, and training. This policy outlined the functions of the newly created Policy and Training Review Board, described the frequency and method used for reviewing and revising all policies, and listed the duties of the Training Director, which included those listed in this Agreement provision. The policy also described the processes associated with in-service, roll-call, and external training.</p> <p>In 2017, we note that WPD required all officers to achieve a score of 90% on a written use-of-force examination, which included multiple choice, true/false, and fill-in-the blank questions (of 61 officers who took the use-of-force written test, all passed on the first try). The training director successfully managed WPD’s 2017 training initiatives, including in-service and roll-call training; and ensured that WPD instructors were knowledgeable regarding the subject matters they taught.</p> <p>The policy also outlines procedures for evaluating use-of-force training curricula; and conducting semi-annual reviews of use-of-force training and policies. The training review analyzed use-of-force incidents; public complaints; calls for service; current and emerging legal issues; trends in law enforcement; officer feedback; and other areas of need that the Board deemed helpful.</p> <p>The Board conducted its reviews and provided its reports to the Chief in July and December 2017. The July report recommended that WPD finalize and implement a Critical Incident policy, review and revise its emergency vehicle operations (i.e., pursuits) policy, and determine the difference between prolonged and multiple ECW applications. The December report reiterated the recommendations of the July report and added additional recommendations, including incorporating more traffic-stop scenarios during use-of-force training; providing better guidance on open carry/carrying concealed weapon encounters, and incorporating scenario-based exercising involving identifying lethal threats.</p> <p>The Chief signed off on both reports, and though WPD is still finalizing its 2018 in-service training materials, WPD has confirmed with DOJ that it plans to cover the recommended topics.</p> <p>WPD’s new training policy also requires the Board to develop an annual training plan, to be completed and submitted to the Chief for approval before December 1 of the calendar year preceding the training. The Chief granted an extension on this plan in 2017 because the Director of Training was on extended leave attending the FBI National Academy until December 18, 2017. The Board later submitted the plan and Chief approved it on December 29, 2017. Among other things, the plan is based on the Board’s analysis of trends and issues of concern in use-of-force</p>

	incidents, public complaints, calls for service, officer feedback, and other areas. It includes a list of proposed in-service training topics as well as a list of suggested external training courses that the Board suggests would be useful to WPD officers. WPD accordingly remains in compliance with this provision of the Agreement.
Technical Assistance	None at this time.

- WPD shall provide training consistent with WPD policy, law, and current best police practices, and will ensure that only mandated objectives and approved lesson plans are taught by instructors. WPD policy requires a minimum of 40 hours per calendar year of training for each sworn officer. WPD will continue to ensure that each officer receives training in use of force and other matters for a minimum of 40 hours per calendar year for each sworn officer. WPD will make best efforts to train each work shift as a team in their use-of- force training.

Status	Substantial compliance – ongoing obligation – no change
Analysis	As noted previously in this report, WPD conducted in-service training in April, May, and June of 2017. Each officer underwent the training for one week, or 40 hours. Topics included: the proper use of force, crisis intervention, active shooter, Blue Courage, vehicle pursuits, and defensive tactics. All officers participated in multiple hands-on scenarios that allowed them to apply proper use-of-force decision making. WPD’s Policy and Training Review Board reviewed the training and determined that it was consistent with WPD policy as well as applicable laws and best practices; DOJ agrees. WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

- WPD will continue to utilize written records of lesson plans and other training materials, and continue to maintain records of training each officer has received.

Status	Substantial compliance - ongoing obligation – no change
Analysis	Pursuant to its new Policies and Training policy, within 30 days of completing training, WPD enters information regarding all training classes for all officers into its records management system (RMS), called IDNetwork. The system tracks and can sort data by officer name, type of training, date of training, location, hours, and cost. The system does not have a field for instructor name, but where the instructor name is known, WPD enters it into a “remarks” field. WPD maintains lesson plans, tests, and objectives for in-house classes on file. WPD has also established a

	depository on a shared server where supervisors can upload training suggestions based on reviews of community complaints and use-of-force investigations. Thus, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

B. Curriculum

1. The director of training shall review all use-of-force training and use-of-force policies on at least a semi-annual basis to ensure compliance with applicable laws and WPD policy. The director of training shall produce a written record of this review. The director of training will consult with the City’s Law Department on any additions, changes and/or modifications regarding use-of-force training or policies to ensure compliance with applicable law.

Status	Substantial compliance - ongoing obligation – change from partial compliance
Analysis	<p>As noted above in section VI.A.2, WPD’s Policies and Training policy outlines procedures for evaluating use-of-force policies and training curricula annually. The policy also requires WPD’s Policy and Training Review Board to conduct semi-annual reviews of use-of-force training and consider revising such training based on a review of, among other things: use-of-force incidents, public complaints, calls for service, legal issues, law enforcement trends, and officer feedback. Upon completion, the Board is to prepare a report, subject to the Chief’s review and approval, describing all training recommendations. Upon the Chief’s approval, WPD’s training director must implement the recommendations.</p> <p>Likewise, WPD’s Policies and Training policy requires the Board to conduct semi-annual reviews of use-of force and related policies, including: emergency vehicle operations, firearms, use of force, less-lethal weapons, hobble restraint, and officer-involved shootings. Upon completion of each review, the Board must issue a report to the Chief that describes, among other things: which policies the Board reviewed; whether the policies are compliant with applicable laws, best police practices, and other WPD policies and procedures; and whether any additions or modifications to policies are needed. The Chief must approve or disapprove of the recommendations and direct any further approved action to be taken.</p> <p>Also as already noted in section VI.A.2, the Board provided two such semi-annual reports, one in July and the other in December, both of which contained recommendations and assessments for use-of-force training and policies. The reports listed several recommendations for in-service training, to be implemented for 2018, including specific emphasis on finalizing its critical incident policy, revising its emergency vehicle operations policy, determining the difference between prolonged and multiple ECW applications, and incorporating more scenario-based exercises during annual training. The reports also included an</p>

	assessment of WPD’s force and force-related policies and findings as to whether each was consistent with law and best police practices. As noted in the reports, the Board found all WPD force policies to be consistent with relevant law, but it recommended changes for some policies to bring them in line with best police practices. 2017 marks the second year that WPD has compiled semi-annual reviews of its use-of-force policies and training—a requirement that is now memorialized in WPD’s training policy.
Technical Assistance	None at this point.

2. WPD shall provide all recruits, officers, supervisors, and managers with training on use of force at least annually. Such training shall include and address the following topics:
 - a. WPD’s use-of-force policy, as described in this Agreement;
 - b. proper use-of- force decision making;
 - c. WPD’s use-of-force reporting requirements;
 - d. the Fourth Amendment and other constitutional requirements;
 - e. examples of scenarios faced by WPD officers that illustrate proper use-of-force decision making;
 - f. interactive exercises that emphasize proper use-of-force decision making;
 - g. de-escalation techniques that encourage officers to make arrests without using force, and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized units, or delaying arrest may be the appropriate response to a situation even when the use of force would be legally justified;
 - h. threat assessment; and
 - i. appropriate training on conflict management.

Status	Substantial compliance - ongoing obligation – no change
Analysis	WPD’s 2017 in-service training covered all the topics required by this provision, including: use-of-force policy updates, practical applications of force, scenario-bases trainings, de-escalation techniques, and conflict management. In May 2017, DOJ and its subject-matter expert attended sessions of WPD’s annual training and also observed various scenario-based trainings. In addition, WPD’s revised force policy provides much greater detail regarding the importance of de-escalation and proper de-escalation techniques. WPD also has provided crisis intervention training for 47 of its 61 officers.

	<p>WPD typically provides this specialized training annually and plans to eventually have all of its officers CIT trained.</p> <p>In addition, WPD sent several of its officers to 41 different external trainings, including Advanced Emergency Vehicle Operations Training, FBI National Academy, Advanced Building Clearing, and Responses to Death and Homicide Scenes.</p>
Technical Assistance	<p>We recommend that WPD build in time in its training schedule so that the officers volunteering to complete CIT training can enroll and complete the courses before December 31, 2018.</p>