Miami Police Department
Independent Reviewer
Eighth Report
February 2019 - May 2019

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Introduction

This is the eighth assessment report, covering four months of activity, completed as a component of the Agreement entered into by the Department of Justice and the City of Miami in April of 2016. The Agreement is the result of a request, by the Miami Police Department (MPD) and others, to have the Department of Justice review a series of police shootings that occurred between the years of 2008 and 2011. Not only were the uses of force examined, the associated investigations and relationships with the community were considered as well. The investigation resulted in the Agreement referenced above that mandates the MPD to satisfy clear and measurable requirements in a number of delineated areas within the organization and out in the community. While the obligations are clear, the Miami Police Department retained the flexibility to design, develop, and implement solutions appropriate for the community it serves. The MPD took advantage of the time span between investigation and finalizing the Agreement to implement a number of changes that would begin to satisfy some of the requirements. The overarching goal of this Agreement is to ensure "that police services continue to be delivered to the people of the city in a manner that fully complies with the Constitution and laws of the United States, effectively ensuring public and officer safety, and promotes public confidence in the MPD."[1]

As the Independent Reviewer, I have been tasked with overseeing the successful implementation of the Agreement. As stipulated in the Agreement, compliance with a material requirement mandates that the City has: (a) incorporated the requirement into policy; (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement; (c) verified that the requirement is being carried out in actual practice. In the final analysis, MPD bears the burden of demonstrating compliance with the Agreement.

The Agreement also required the City to assemble a Community Advisory Board (CAB), consisting of a cross section of Miami residents, to "provide oversight and feedback on policies and practices pertaining to use of deadly force to the MPD and to the Independent Reviewer."[2] The CAB was created shortly after the Agreement was instituted and holds public meetings in a different area of the city each month, in addition to regular committee meetings. The CAB continues to develop and evolve in its stated role. The CAB has expanded its role beyond the use of deadly force, taking an active part in learning about the varied roles and responsibilities of the MPD. This information is in turn communicated with the public through the aforementioned regularly scheduled and publicized meetings, as well as through its daily interactions with civilians. Rodney Jacobs, an attorney for the Civilian Investigative Panel, continues to perform in the role of liaison and administrative support for the board.

Members of the CAB have continued to dedicate time and effort towards learning the varied responsibilities and tasks performed by the MPD, in addition to acting as a conduit between the

[1] City of Miami Legislation; Resolution R-16-0206 Agreement Between DOJ/City of Miami

[2] Agreement United States Department of Justice and City of Miami

police department and the community. This role is satisfied, in part, by providing information, fielding complaints and hosting public meetings. Although there have been several changes in the board's composition, all members are dedicated to the stated mission of the CAB. As has been the case since inception, the CAB still struggles to engage the community in a meaningful way, as the meetings are sparsely attended regardless of the location.

This report contains progress made between February 2019 and May 2019 in the areas required in the Agreement; Policy Review and Implementation, Supervision, Specialized Units, Training, and Community Oversight.

Compliance Ratings

As indicated, the Agreement mandates that the Independent Reviewer provide a report every four months outlining MPD's compliance with Agreement requirements. The ratings below represent the current assessment of compliance and are included to provide MPD and the civilians of Miami with a clear and accurate summary of the progress to date, as well as any areas that may remain in need of attention and action.

The definition of each rating is as follows:

- Substantial Compliance – indicates that most or all components of a specific category or requirement have been satisfied.[3]
- Compliance Rating Pending – indicates that significant progress has been made, but additional time may be needed for assessment in the specific area.[4]
- Partial Compliance – indicates that compliance has been achieved on some components of the requirements or category, but significant work remains, or extended time is needed for audits.
- Non-Compliance – indicates that most components of a requirement or category have not been met.

Settlement Agreement Area	Status of Compliance

[3] The MPD/DOJ Agreement states that the Independent Reviewer shall exclude assessments of the sections that have been determined to be in Substantial Compliance. This does not preclude re-visiting those areas if, after discussion with MPD/DOJ, the Independent Reviewer deems it necessary. Audits will continue as needed.
[4] This compliance rating was added in the Fourth Report. The sequence of ratings has been changed to more accurately reflect progressive achievement.

II. POLICY REVIEW/IMPLEMENTATION	Substantial Compliance
a. Revision and Development	Substantial Compliance
b. Action Plan	Substantial Compliance
c. Training	Substantial Compliance
III. OFFICER INVOLVED SHOOTINGS	Substantial Compliance
a. Firearm Discharge Review	Substantial Compliance
b. Administrative Investigations	Substantial Compliance
c. Incident Tracking System	Substantial Compliance
d. High Liability Board	Substantial Compliance
IV. SUPERVISION	Substantial Compliance
a. Accountability	Substantial Compliance
b. Tactical Operations Section	Substantial Compliance
c. Span of Control	Substantial Compliance
V. SPECIALIZED UNITS	Substantial Compliance
a. Assignment Criteria	Substantial Compliance
b. Documentation	Substantial Compliance
c. Oversight	Substantial Compliance
VI. TRAINING	Substantial Compliance
a. DOJ Training	Substantial Compliance
b. Firearms Training	Substantial Compliance
c. In Service Training	Substantial Compliance
VII. COMMUNITY OVERSIGHT	Substantial Compliance
a. Create Community Advisory Board	Substantial Compliance

b. Facilitate Activities and Communication	Substantial Compliance

Work Completed During Seventh Reporting Period

February 2019 - May 2019

Work completed by the Independent Reviewer includes the following:

a. Participated in conference calls with DOJ.
b. Continued close working relationship with Agreement Compliance Coordinator Major Mike Gonzalez.
c. Completed one site visit.
d. Continued to review updated policies and procedures.
e. Met with command staff and stayed in contact with Chief Colina.
f. Received Body Worn Camera updates from Special Projects Coordinator Orlando Aguilera.
g. Reviewed the Internal Affairs Assessment completed by Hillard Heintze.
h. Received updates from the Internal Affairs staff on a number of issues including investigations of officer involved shooting and body worn camera violations.
i. Reviewed MPD's responses to recommendations from the Hillard Heintze report.
j. Received update from Training personnel.

A site visit was completed on April 25, 2019.

As stated in the Seventh MPDt Independent Review report, it is the opinion of this Independent Reviewer that the MPD has achieved Substantial Compliance in categories outlined in the Agreement. Members of the MPD have worked diligently to satisfy and maintain all requirements in each category of the Agreement. As outlined, the Agreement must remain in effect until 2020. The remaining months should be used to ensure that MPD maintains all progress achieved during this period of oversight.

Since becoming the Miami Police Chief, Jorge Colina has remained an active part of the DOJ oversight process. He is focused on ensuring that MPD realizes its mission of working collaboratively with the community to make Miami "a place where all people can live, work, and visit safely without fear." He is a hands-on leader who actively works to improve his organization every day through effective communication, stellar training, accountability, collaborative and effective partnerships with the community, rigorous oversight and supervision, along with a mandate that everyone be treated with dignity and respect.

Major Gonzalez, of the Professional Compliance Section, has remained a consistent point of

contact and oversight. All members of the MPD, from the chief to patrol officers and civilian employees have been helpful, transparent, and eager to improve their organization. Patrick Kent and Cynthia Coe have remained consistent members of the DOJ team.

Work completed during this evaluation period involved document review, including; polices, training updates, FRB Reports, HLB Reports, After-Action Reports, Assignment/Roster Reviews, as well as Internal Affairs reports.

Updates were received from Major Ibalmea of the Internal Affairs Section. All backlogged officer- involved shooting investigations have been closed, with the exception of one involving MPD, MDPD and FBI personnel. The official clearing of these cases was a remarkable accomplishment, as some had languished for years. As noted in the beginning of Agreement oversight, the MPD, the Florida Department of Law Enforcement (FDLE) and the State Attorney's Office (SAO) all entered into an agreement, which allowed FDLE to take the lead on officer-involved shooting investigations. This process has worked well on all levels, not the least of which is the investigative objectivity and the timely completion of investigations.

Many of the recommendations made by the Hillard Heintze assessment have been implemented by the IAS as indicated by the assessment response attached further in this report.

Body Worn Camera Project Manager Orlando Aguilera provided an overview on progress to date.

An update from the Training Section was received, indicating progress made on MAT/MAST. The MAT/MAST continues to be highly valued by all personnel who attend.

Audits of training, specialty teams, supervisory oversight and departmental compliance to all areas of the Agreement will continue.

Agreement Progress to Date

In this section, progression and observations will be discussed for six of the areas covered in the Agreement:

II. POLICY REVIEW AND IMPLEMENTATION:

The MPD continues to develop, update, and implement policies based on constitutional policing principles and best practices. During this evaluation period, a few policies were reviewed although they did not directly apply to areas of the Agreement: D.O. 14 Chapter 1 Uniform, Equipment & Dress, D.O. 6 Chapter 3 Health Services Detail, and D.O. 15 Chapter 11 Tourniquet.

The Professional Compliance Section (PCS) has a robust cadre of officers that guide the process of policy and procedure reviews, updates and creation. The PCS also oversees the High Liability Review and the Firearms Review Board presentations. These reviews are discussed in detail

further into this report. Having successfully achieved national accreditation for the Miami Police Department from the Commission on Accreditation for Law Enforcement Agencies (CALEA) earlier in 2018, the PCS continues to oversee the daunting task of gaining national accreditation for both the Communication Section and the Training Section of the department. The significance of these achievements deserves acknowledgement and acclaim.

An update was received from Orlando Aguilera on progress made in the Body Worn Camera (BWC) program. As previously indicated, all officers below the rank of sergeant in the Patrol Districts have been issued BWC's and have received training in their use and the associated policy. Although improvements have been made, as officers become accustomed to the cameras and their usage, there are still instances in which officers do not properly activate or deactivate them. MPD has developed a form that allows officers to note instances in which officers have failed to activate properly the camera, inaccurate video classification, malfunctions, etc. The testing phase of the video management program Performance by Axon has concluded. Although the program was well received and liked, the pricing was prohibitive, so the decision was made to complete the tasks associated with Axon Performance in-house. The MPD has developed a Sharepoint system that allows for tracking of mandated video review by supervisors.

The MPD has increased the number of Video Retrieval Specialists to two, but they are still having difficulty filling the additional two budgeted positions. Public Record Requests for BWC video footage continue to increase. The MPD is to be commended for their ability to keep up with the requests, despite the lack of personnel. Hopefully it will be able to find relief through additional reviewers and improved processes.

The Internal Affairs Section personnel continue to review all BWC video associated with complaints and the Training Section reviews video associated with actions or practices that are judged to be unsafe, as well as monthly random reviews.

It is the opinion of the Independent Reviewer that MPD has met the threshold for Substantial Compliance in the area of Policy Review and Implementation. This area should be audited for the remainder of the Agreement's life to ensure continued compliance.

III. OFFICER INVOLVED SHOOTINGS:

A focus of the Agreement was to close successfully the backlog of open Officer Involved Shooting cases at the MPD. Internal Affairs Section Major Ibalmea and his staff were able to close these cases. The cases were then heard by the Firearms Review Board (FRB), each of which are outlined below. As a reminder, the FRB is a function overseen by the Professional Compliance Section. FRB's are attended by MPD staff members who review cases for violations, officer safety issues, equipment or training needs, investigative breakdowns and supervisory oversight. In addition, personnel from training attend to observe for any future training needs, as well as breakdowns between past training and officer practice.

Below are the cases and associated findings by the FRB:

- On March 26, 2012, an individual on a bicycle and armed with a handgun attempted to rob a woman at a gas station. Miami Police Robbery Detectives and Tactical Robbery Unit members responded to the area in search of the suspect. Responding officers located the suspect and a chase ensued. During the foot pursuit, the suspect turned towards a lieutenant and sergeant brandishing the firearm. Both officers discharged their firearms striking the suspect in the femur and shoulder. The suspect was transported to the hospital and treated for his injuries. A stolen Glock Model 22 with a missing serial number was recovered at the scene. On May 24, 2014, the suspect pled guilty to Attempt Armed Robbery and Possession of a Firearm by a Convicted Felon and sentenced to prison. He was released from prison on February 12, 2019.

  On March 22, 2019, the Miami-Dade State Attorney's Office provided a closeout memo stating that since the officers were the only witnesses to the incident and they declined to provide sworn statements there was insufficient evidence to determine whether the officers were legally justified in their use of deadly force. The Firearms Review Board found that the involved officer's actions leading up to the shooting and the discharge of their firearms was in compliance with departmental policy.

- On April 28, 2016, an officer was approached by a female wearing a nightgown, drenched in blood and carrying a toddler. As the officer was calling for medical assistance and getting details from the victim, the suspect approached him with a knife. The officer unholstered his firearm and gave verbal commands to the subject, ordering him to drop the knife. The officer placed himself between the victim and suspect, as he attempted to move a safe distance away. The suspect continued advancing towards the officer and, in fear for his life and that of the victim, he shot the suspect three times. The suspect was pronounced deceased at the scene. The victim was transferred to the hospital where she died from her injuries. The toddler was transported to the hospital where she was treated for a lacerated spleen and liver.

  The Miami-Dade Police Department provided a closeout memo stating that the officer was legally justified in the discharge of his firearm and that no charges would be filed. The Firearms Review Board found that the involved officer's actions leading up to the shooting and the discharge of their firearms complied with

departmental policy.

- On May 22, 2017, MPD received a call indicating that a female was on the ground and a male was standing over her with a knife. Officers were dispatched and upon arrival found that the suspect had fled the scene. As the investigation continued, an officer used his marked unit to block off the roadway at the scene. The suspect returned to the scene and rammed the police car with his own car. The suspect exited the car and approached the officer with a knife in his hand. The officer gave the suspect several orders to stop and drop the knife, which were ignored. The officer fired two shots striking the suspect in the chest.

  The Miami-Dade State Attorney's Office provided a closeout memo stating that it was reasonable to believe that the officer considered it necessary to use deadly force based on the menacing actions of the suspect. The FRB found that the involved officer's actions leading up to the shooting and the discharge of their firearms was in compliance with departmental policy.

- On August 13, 2017, an officer exited his police vehicle upon arriving at his residence, following his shift, and heard a 'pop'. As he crossed the street to investigate, he saw a subject aggressively breaking the side window of a vehicle. The officer heard a woman screaming for help from inside the vehicle. The suspect crawled through the broken window and began to stab the female inside. The victim was able to push the suspect off her, allowing the officer a clear shot at the suspect. The officer shot the suspect three times. The suspect looked at the officer and then attempted to stab the victim again, at which time the officer shot him again. As the suspect collapsed onto the victim, she took the knife from the suspect and handed it to the officer, who helped the severely injured victim from the car.

  On November 29, 2018, the Miami-Dade State Attorney's Office provided a closeout memo stating that the officer was justified in using deadly force. The FRB found that the involved officer's actions leading up to the shooting and the discharge of their firearms was in compliance with departmental policy.

- On October 06, 2017, FBI agents attempted to serve an arrest and search warrant on an individual for Attempted Robbery. The subject locked himself in a bedroom and advised that he had a firearm. The suspect fled through a window and committed two car-jackings before jumping into the Miami River. As Hostage Negotiators established a dialogue with the suspect, he indicated that he would not be taken alive. After going under water several times, the suspect aimed a firearm at officers on

scene. Officers from different agencies opened fire, including two MPD officers and the suspect was fatally wounded.

On October 22, 2018, the Miami-Dade State Attorney's Office provided a closeout memo indicating that the shooting officers were legally justified in their use of deadly force. The FRB found that the involved officer's actions leading up to the shooting and discharging their firearms complied with departmental policy.

- On December 17, 2017, officers responded to a report of a stolen vehicle. The owner of the car approached the officers and advised that her on again/off again boyfriend had stolen her car and she knew where it was located. Officers approached the stolen vehicle and illuminated the driver/suspect who fled, which lead to a pursuit. The suspect crashed the car into a residence and fled on foot. Officers set up a perimeter and as an officer was canvassing one of the posts, the suspect ran at him. The officer observed the suspect pulling a gun from his waistband and pointing it in his direction. The officer discharged his firearm one time and observed the suspect fall. A second officer on scene heard the gunshot and observed the suspect reaching into his waistband. Believing the suspect had shot the other officer, the second officer shot the suspect several times. The suspect was transported to the hospital for treatment.

  On July 5, 2018, the Miami-Dade State Attorney's Office provided a closeout memo indicating that the officer's actions were justified and that no criminal charges would be filed. The FRB found that the involved officer's actions leading up to the shooting and discharging their firearms complied with departmental policy.

- On May 28, 2018, two officers working an extra duty assignment were approached by a citizen who advised that there was a subject, armed with a firearm, beating up some females around the corner. As the officers responded to the scene they encountered a hysterical woman running towards the officers and yelling 'That's him. Stop him'. Officers approached the subject and ordered him to stop and show his hands. The subject ignored the commands and walked away. As the officers continued to give commands the suspect turned towards them with his hand in his waistband, as if he were reaching for a weapon, One of the officers engaged the subject with his firearm drawn and fired at the suspect once as he felt his life was in danger. The second officer fired one shot at the subject after the first officer fired. Both officers continued to order the subject to show his hands and get on the ground. The subject complied and was taken into custody. Neither officer's shot hit the subject and no weapon was found on the him.

The Miami-Dade State Attorney's Office did not respond to the scene, as it did not fit call-out standards. As a result, there was no closeout memo generated. The Firearms Review Board found that the involved officer's actions leading up to the shooting and the discharge of their firearms complied with departmental policy, although there were a several officer safety concerns.

As discussed in previous reports, the High Liability Board (HLB) is a function of the Professional Compliance Section (PCS) and is an example of MPD's continued commitment to review established policies and training curriculum for compliance, non-compliance and/or the need for revisions to improve police service to the community. Participants include staff members, commanders from the Professional Compliance Section, Training and Personnel Development Section, the Legal Advisor, and a rotational supervisor. Personnel associated with the incident also attend, most often with the exception of the actual officers involved. In an effort to be more efficient and mindful of staff schedules, Major Gonzalez has added additional reviews and changed the meetings to quarterly, allowing the same number of cases to be reviewed, just in a compressed format. The following HLB's were held during this evaluation period:

- On September 11, 2018, an officer located a vehicle that had been involved in an armed carjacking and attempted a traffic stop. A second officer responded as a back-up and, as he exited his marked police car, the suspect accelerated striking the marked police car and fleeing the scene. Several officers engaged in a pursuit of the vehicle that traveled along several roadways, crossed a median, and drove the wrong way before traveling back across the median and crashing into several vehicles at US-1 and SW 16th Street. An officer placed a police vehicle in front of the car-jacking vehicle to prevent escape. Several officers approached the vehicle and pulled the defendant out, taking him into custody without further incident. As officers stabilized the scene, the suspect vehicle caught fire, eventually engulfing the police vehicle as well. After a thorough review, the HLB concluded that the incident was not compliant with departmental policies and training. Some areas identified as in need of attention and/or training and improvement included the fact that several officers did not activate their body worn cameras at the initiation of the traffic stop and pursuit. Additionally, the subsequent stop was not properly conducted as a felony stop, officers utilized poor muzzle discipline during the final approach to the suspect vehicle, and there were several violations of the MPD Pursuit Policy. It was recommended that the Training Unit utilize the video recordings, as well as the reports from the incident, during In-service and recruit training to address the areas for improvement.

- On October 23, 2018, officers responded to a call involving domestic violence. A woman returned to her apartment to find her boyfriend intoxicated and agitated. He became violent and punched the victim in the face and arm. Once the suspect passed

out, the victim escaped and fled to her brother's convenience store to call 911. The call was dispatched as an incident of domestic violence, where the suspect was intoxicated and passed out, with possible access to a weapon. Responding officers arrived on scene to find another officer, who had arrived unannounced, holding the victim's son at gunpoint behind the property. The victim's brother took the officers to the home and let them in the apartment. The suspect was taken into custody after a brief struggle. The HLB found that the incident complied with department policies and training, however there were areas identified for improvement. The board found that a BOLO could have been provided to responding officers with a description of the suspect. In addition, communication between responding officers and dispatchers could have been better, as well as coordination and tactics displayed by involved officers. The board also advised that videos and reports associated with this incident be reviewed with officers during In-service training.

- Lastly, on October 29, 2018, an officer observed a vehicle blocking an alleyway. When the officer ran a check on the tag it revealed that they tag was not assigned to that vehicle. A traffic stop was conducted and, upon approach, the officer observed the occupant rummaging through the center console. When asked to exit the car and put his hands on the roof, the officer observed that the suspect had a fist clenched as if to conceal an item. When asked to reveal what was in his hand, the suspect showed what appeared to be a marijuana cigarette. The suspect exited the car and as the officer advised him to put his hands behind his back for handcuffing, he resisted by tensing his arm. A struggle ensued during which the officer directed the suspect to the ground. In doing so, the officer lost control of his radio. The officer ended up punching the suspect twice in the face to gain control and handcuff the suspect. After thorough review, the board determined that the officer should have called for back-up upon learning that the tag was not assigned to the vehicle. In addition, use of a less lethal weapon, appropriate handcuffing techniques and proper radio retention procedure may have changed the scenario.

The 2018 Internal Affairs Section report indicated that Miami Police Officers made 22,132 arrests during the year, there were 246 Citizen Complaints, 602 Public Records Requests, 247 Response to Resistance Reports, 261 Records of Formal Counselling, 30 employees were Relieved of Duty and 20 employees were either terminated or resigned in lieu of termination.

As has been discussed in previous reports, the MPD hired the firm of Hillard Heintze to complete an independent and objective review of the Internal Affairs Section (IAS). The findings of that assessment have been outlined. The response to those findings by MPD IAS is attached as an addendum to this report[5].

[5] See attached Internal Affairs Section report.

The Blue Team Early Intervention – Incident Tracking System dashboard has been deployed throughout the department as the primary tracking system and has provided, to first line supervisors, a real time assessment of issues associated with their subordinates. The continued use of this program will allow supervisors to deal with issues as they occur rather than awaiting the delay of accumulation and reporting under the prior system. The department is continuing the use of EI Pro and expects implementation in the near future.

The final aspect of this section to be brought into compliance involved the backlog of open Officer Involved Shooting investigations from years past. Major Ibalmea and his staff have worked in conjunction with the State Attorney's Office to successfully close out these cases, as indicated by the FRB closeout summaries listed above. Therefore, it is the opinion of the Independent Reviewer that MPD has met the threshold for Substantial Compliance in the area of Officer Involved Shootings.

IV. SUPERVISION:

Audits show that MPD continues to maintain a span of control to a sergeant supervisor for every eight officers with the same schedule. The Tactical Robbery Detail has one sergeant supervising six officers The Felony Apprehension Team also has one sergeant supervising six officers and both sergeants work the same shift as their officers. The SWAT team has two sergeants who supervise eight officers each and also work the same shift. Documentation reviewed during this evaluation period showed no violations of span of control.

Lieutenants and Captains are involved and active in the daily operations of those under their supervision and the Staff Duty Officer continues to be available and responsive to any issues that require oversight.

Supervisors continue to rate the Miami Agreement Supervisor Training (MAST) favorably.

Patrol District Commanders continue to be required to conduct monthly meetings with their Field Duty Lieutenants and first line supervisors in an effort to provide vital information to line officers, as well as obtain feedback to be shared up the chain of command for informational and evaluation purposes. It was confirmed that these meetings are conducted as required.

By all observations the level and quality of supervision provided in the Patrol Districts and the Tactical Operations Section are in keeping with the requirements of the Agreement. Additional interviews and audits will be completed to ensure required standards are maintained.

It is the opinion of the Independent Reviewer that MPD has met the threshold for Substantial Compliance in the area of Supervision. This area will continue to be audited to ensure sustained compliance moving forward.

V. SPECIALIZED UNITS:

Audits indicate the appropriate span of control is being maintained on SWAT, the Tactical Robbery Unit and the Felony Apprehension Team. All team members continue to maintain minimum team requirements and the department follows policy for filling openings on each of the teams. In addition, activity and after-action reports have been reviewed and appear to be in compliance.

It continues to be the opinion of the Independent Reviewer that MPD has met the threshold for Substantial Compliance in the area of Specialized Units.

VI. TRAINING:

Major Um Set Ramos continues to command the Training and Personnel Department and by all accounts is doing an excellent job.

The 2018/19 MAT was concluded in May 2019 with sessions being held bi-weekly and comprised of 27 hours of training.

As indicated, the 2018/19 MAT/MAST training has been split into one day for firearms qualifications and two for training. The deadly force policy is reviewed, followed by a discussion of relevant cases and issues. Use of Force decision making is discussed and practiced through scenario-based training. Taser inspection, training, and qualification that includes officers

practicing de-escalation dialogue with trainers and providing clear instructions prior to deploying tasers.

The Training Unit continues to review one video per NET area, with an accompanying form recommendation for identification of tactical violations and/or training implications. The reviews focus on communication skill, any discourtesy, de-escalation techniques and training needs. In addition, the Training Unit has asked the Internal Affairs Unit to consult with them prior to closing any investigations that may include or identify training opportunities or policy violations.

Training provided during 2019 includes Citizen Encounters (Applications of Use of Force), Leading Without Rank for FTO's (Command Presence), Winning Back Your Community (De-escalation), Identification of Armed Gunman (NIJ/DOJ), Active Shooter Training, and Civilian Leadership Course. The Active Shooter Training will focus on the investigation and on-scene management of mass casualty events. Ballistic Shield and Rifle Qualification Course training is also scheduled.

Implicit Bias training has been a focus of the MPD and a request from the Civilian Advisory

Board. In response Training Major Um Set Ramos provided Implicit Bias training for department personnel this year, a copy of the Lesson Plan is attached for reference.

All personnel encountered during this evaluation period continued to rate the MAT and MAST very high, commenting on the relevance and value of the scenario-based training, as well as other aspects.

The Training section has been rated as being in Substantial Compliance.

VII. COMMUNITY OVERSIGHT:

In compliance with the Agreement and as one of the first deliverables, MPD formed a Community Advisory Board (CAB), whose mission is to provide oversight and feedback to MPD and the Independent Reviewer, in addition to providing a conduit between the community and MPD.

The CAB, with the oversight of Rodney Jacobs J.D., has continued to engage the public through monthly neighborhood meetings throughout the City of Miami, meetings that usually include a presentation on a specific function of the Miami Police Department. The various CAB committees are focused on specific areas of the department and report their findings at the monthly meetings.

The Community Oversight section has been deemed to be in Substantial Compliance.

Conclusion

As the Independent Reviewer, I have found MPD to be open, transparent and accommodating throughout the process of fulfilling the requirements of the Agreement. All staff members that I have encountered are committed to improvements that will allow them to better serve their community while being open and transparent. In addition, all members of the MPD have been fully engaged and dedicated to the successful implementation of all elements of the Agreement. It is my opinion that the Miami Police Department has fulfilled the requirements of the Agreement and that the remainder of time left in the assessment period be utilized to audit specific areas to ensure continued compliance.

CITY OF MIAMI, FLORIDA

INTER-OFFICE MEMORANDUM

TO : Jorge R. Colina
Chief of Police

FROM : Major Jesus Ibalmea
Commander
Internal Affairs Section

DATE : January 18, 2019 FILE : PER 6-7

SUBJECT : Hillard Heintze MPD Internal Affairs Assessment Response

REFERENCES :

ENCLOSURES:

In August 2018, Hillard Heintze conducted an objective and independent assessment of the Miami Police Department's Internal Affairs processes and procedures from 2015 through 2018.

On November 14, 2018, Hillard Heintze provided the Miami Police Department with their final report outlining their assessment and recommendations for the Internal Affairs Section to adopt in order to improve its operations, efficiencies and outcomes.

The Internal Affairs Section continuously strives for excellence and in doing so, we consider best practices and recommendations and implement them to our daily processes and procedures. Below you will find changes the Internal Affairs Section implemented prior to the assessment as well as following the assessment's recommendations, along with ongoing internal reviews in order to improve our process and efficiency.

Internal Affairs Policies and Training

1.1 Update MPD's IA Section SOP Manual, including the policies and procedures, for handling IA complaints to incorporate relevant best practices or emerging best practices.

- *The Internal Affairs Section has made changes to its department policies and standard operating procedures to incorporate best practices; however, we are currently in the process of making additional updates. Upon completion of the updates, the policy will be presented to the Policy Review Committee for approval.*

1.2 Conduct a review of MPD's policies and procedures to determine how to incorporate internal and external procedural justice throughout the department.

- *Reviews of MPD policies and procedures are conducted by the Policy Development Unit of the Professional Compliance Section in conjunction with input from the IAS. However, if the IAS identifies a need for a policy update, the information is forwarded to the PCS.*

1.3 Eliminate the exceptions for accepting a complaint and require acceptance of all complaints so they document whether a subsequent investigation is required.

- *In accordance with MPD policies and standard operating procedures, all complaints made shall be documented on a complaint form (R.F. 121) which*

documents whether an investigation is required. Additionally, MPD accepts all complaints from any source.

1.4 Eliminate any use of the wording that defines a complaint as not being legitimate. Such a term is not good for community transparency and external procedural justice when MPD should accept and address all complaints. "No Further Action Needed" or "inquiry" could be considered when describing why a complaint will not be investigated.

- *Effective October 1, 2018, the Internal Affairs Section categorizes complaints which do not require further investigation as, "No Further Action Needed."*

1.5 Review and revise the IA SOP Manual for opportunities to streamline requirements, parse out critical policies as stand-alone documents, and revise or eliminate practices and procedures that are no longer used or necessary.

- *See 1.1.*

1.6 Develop and implement a discipline matrix or disciplinary guidelines based upon progressive discipline so there is fairness and transparency in the disciplinary process and consistency when determining discipline for sustained misconduct cases.

- *A scale of progressive penalties currently exists in the MPD policies. Additionally, all discipline is reviewed and approved by the Department Disciplinary Review Board and the City Attorney's Office. Discipline is issued in accordance with progressive discipline for fairness and transparency.*

1.7 Make every effort to send new investigators out to receive IA training either prior to beginning work with the IA Unit or shortly thereafter to minimize the amount of on-the-job training.

- *Upon new investigator's acceptance to the IAS, that investigator will attend the first available training course. All investigators have attended IA training with the exception of two (2) recently transferred investigators, who are currently enrolled to attend the first available training course. Additionally, those who have previously worked in the IAS and have now returned, are sent to the course as a form of refresher training.*

1.8 Ensure that all current investigators receive training on interview techniques and avoid using leading questions during interviews.

- *Investigators who have not attended an Interviews and Interrogation Course will attend one as soon as available. Additionally, those investigators wishing to attend a refresher course will attend one as soon as it becomes available. In house training is also conducted to address the importance of not asking leading questions.*

1.9 Provide additional formal training regarding the roles and responsibilities of supervisors and command officers to help them proactively manage their subordinates' work performance and prevent or address behaviors that could lead to misconduct.

- *The IAS instructs a training session in M.A.S.T., which all department supervisors and middle managers are required to attend. Among other topics, the training session covers how to prevent, identify, and investigate officer misconduct.*

1.10 Reinforce the IA investigations processes with MPD personnel and create as much transparency as possible when conducting IA investigations. This includes helping

supervisors understand the importance of asking appropriate probative questions when called upon to conduct interviews regarding complaints.

- *Upon being promoted, all first-line supervisors must attend training, which includes a session on conducting IA investigations. Additionally, once an IA investigation is assigned to a supervisor, a specific IAS sergeant is assigned to that supervisor to assist throughout the investigation, up to and including, drafting questions for the interview(s).*

Procedures for Handling Internal Affairs Complaint Intake and Investigations

2.1 Revisit the practice of having lower-level "S" cases investigated by the unit commander of that employee and then returned to the IA Unit within 90 days for their review. If this practice is not revisited, update the IA Section manual to outline the current practice.

- *IAS may assign minor complaints, such as driving or parking complaints, to the unit commander of the employee for investigation. Such complaints will be returned to the IAS within ninety (90) days. Additionally, this has been updated in the IAS SOP's.*

2.2 Require initial notification in writing to the accused employee when a complaint is received rather than waiting until an interview of that employee is required. This will help satisfy the interest of transparency in the process in addition to the conclusion letter provided to the employee.

- *Effective January 1, 2019, all complaints, except those criminal in nature and/or on unknown officers, will require an initial notification to the accused employee, notifying him/her that he/she is a principal in an investigation. Cases criminal in nature will not require a notification in an effort to preserve the integrity of the investigation.*

2.3 Include a checklist in each case folder and complete this checklist for all IA cases investigated to ensure quality, consistency and fairness.

- *IAS investigators must complete a checklist for all IA cases investigated. Additionally, the checklist has been updated to include the preservation of all associated Body Worn Camera footage at the onset of the investigation.*

2.4 Ensure that, when appropriate, arrest, incident and property reports are obtained and physical areas of the incident are canvassed for other civilian witnesses or surveillance videos to reveal other potentially relevant evidence during IA investigations.

- *As part of the IA investigation checklist, investigators must obtain all documents, B.W.C., surveillance videos and physical evidence associated to the investigation. Additionally, the investigator must conduct an area canvass to identify unidentified witnesses, evidence and/or surveillance video(s).*

2.5 Ensure that if templates for complainant letters or investigative summaries are used by IA investigators that all information is correct for that particular case file.

- *When using templates, IAS investigators must ensure all the information is correct for that particular case file. Additionally, all letters and documents are reviewed by the IAS chain of command prior to being sent and/or finalized.*

2.6 Consider whether preliminary investigative steps are warranted, even in cases in which the complainant withdrew the complaint. Such proactive steps may lead the MPD to

improve its officers or update its policies, training or practices and procedures rather than waiting for a reactive moment to do so.

- *Although a complainant may withdraw a complaint, the IAS will continue an investigation if a violation is identified and/or if there is enough information to proceed without the complainant's statement.*

2.7 Ensure that all IA cases, not just sustained ones, articulate the reason for their adjudication or why no further action was taken after the preliminary review.

- *The language on the R.F. 121 Complaint Form has been modified to include specific language to articulate why the complaint/investigation does not require further action.*

2.8 Ensure that all IA cases articulate in writing the reason for the disciplinary action implemented and is included in the IA file, and that the narrative clearly identifies the review of the employee's past history and the progressive discipline considered, thereby helping to ensure discipline adheres to the standards of progressive discipline and that the discipline is thorough, fair, objective, and consistent.

- *All IAS case summaries articulate the reason for the disciplinary action, as well as the description of the policies which were violated. The IAS investigative case file also includes the IA profile and disciplinary profile of the involved employee, to ensure all discipline is fair, objective and consistent in accordance with progressive discipline. This process is also reviewed by D.D.R.B. and Labor Relations to ensure fairness and transparency.*

2.9 Move toward having all IA investigative files and components electronically entered, uploaded and stored. Although IA is currently making this transition, this should be a consistent and permanent practice.

- *The IAS currently stores the majority of its files and components electronically. We continue to move toward having all IA investigative files and components electronically entered, uploaded and stored.*

Internal Affairs Oversight and Accountability

3.1 Ensure that the first-line supervisors in their respective units review all arrest reports for quality, including spelling, grammar, and thoroughness, and that they include all personnel on scene, actions taken and articulation of actions.

- *This responsibility falls under the first-line supervisor's immediate supervisor; however, the IAS will address any issues involving errors on reports associated to an IAS investigation.*

3.2 Ensure that IA investigators are automatically conducting a query for body-worn camera video footage in every case to review such footage for corroborating statements of any and all parties.

- *The intake detective is required to conduct a query for B.W.C. and preserve all available associated footage at the time that a complaint is received. Additionally, investigators will also conduct a query upon receiving case to ensure all footage is preserved. This process includes placing an indefinite hold on the footage to prevent it from being discarded and/or viewed by others during the course of an open investigation.*

3.3 Include a review of the aforementioned findings and recommendations in supervisors' oversight of an IA case investigation to ensure appropriate, thorough and quality investigations are conducted.

- *The IAS sergeant assigned to the investigating supervisor (See 1.10) conducts a review of the findings and recommendations to ensure appropriate, thorough and quality investigations are conducted. Additionally, all findings and summaries are reviewed by the IAS chain of command prior to the completion of the investigation.*

3.4 Consider relieving the IA Unit from handling any future criminal investigations. Instead, assign these cases to the appropriate CID Unit to avoid conflict between the investigation of a criminal case and its subsequent administrative investigation. The IA Unit should continue monitoring such criminal investigations on behalf of the Chief of Police to ensure they are being handled appropriately. This would also allow IA Unit personnel to focus on their own investigative caseload.

- *The IAS handles criminal cases involving officers who are on duty at the time of the incident and the CID Unit takes the lead on cases where the officer is off duty. Every effort is made to keep the criminal and administrative cases separated.*

3.5 Consider assigning the investigation of all officer-involved shootings to the appropriate CID Unit rather than the IA Unit, ensuring that those most adept at handling the investigation of shooting incidents and crime scene analysis conduct the investigations. Having the IA Unit conduct these investigations is a heavy lift for an IA Unit and does not provide the independence needed for the administrative investigation.

- *Officer-involved shooting incidents that are criminal in nature are now handled by FDLE with an IA lead investigator assigned to shadow and conduct the administrative investigation.*

3.6 Conduct a quarterly audit of all IA case investigations and their disciplinary outcomes and identify patterns and trends of areas that could be improved within policy, training, or practices and procedures, and to help ensure accountability.

- *The IAS will conduct a quarterly audit of all IA case investigations and their disciplinary outcomes to identify patterns and trends in areas that could be improved regarding policy, training, or practices and procedures, and to ensure accountability. If any areas of improvement are identified, the findings will be forwarded to the appropriate unit. Additionally, we are currently exploring different programs and upgrades available in order to facilitate the identification of patterns.*

3.7 Conduct an assessment of Department members' use of the IA Pro and Blue Team Systems. This should include an assessment of both the broader MPD team and the IA Unit's use of the IA case management and tracking practices for IA investigations, including the case assignment, timeliness, status, and any emerging trends and patterns that could be reviewed.

- *IA Pro is currently only used by the IAS members. The IAS chain of command uses it for case management and tracking purposes. Blue Team is primarily used by all Department supervisors, middle-managers and staff for Use of Force reports. In 2018, the IAS launched a pilot program to assess the paperless use of its Incident Tracking System Quarterly Memorandum, which*

yielded positive results. All ITS Quarterly Memorandums are now processed via Blue Team as well.

3.8 Conduct an assessment of MPD's EIS to ensure the appropriate and efficient use and management of the system and to help identify at-risk behavior prior to employee misconduct. This would include identifying the appropriateness of the performance indicators, thresholds and handling the alert notifications, as well as conducting a periodic review of such notifications and their documentation.

- *The IAS has activated the Early Intervention Dashboard on Blue Team, which allows all supervisors, middle managers and staff to view all subordinates in their purview to help identify at-risk behavior prior to employee misconduct and/or personal hardships an employee may be enduring. The IAS is currently exploring the possibility of acquiring EI Pro, which will be used by all MPD supervisors, middle managers and staff to further help in the detection of EI indicators for MPD employees. Additionally, the IAS is in the process of updating the SOP's, which will require all supervisors and staff to review EI Pro and/or EI Dashboard every tour of duty. Additionally, MPD is in the process of modifying the window of time for performance indicators/thresholds, to allow for real-time identification of trends and patterns.*

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LESSON PLAN

Title: Implicit Bias Based Training

Course Time: 18 Minutes

Target Group: Sworn Police Personnel

Prepared By: Dr. Richard Holton

Learning Goals:

The goal of this course is to introduce the concept of implicit bias and to demonstrate how implicit biases can impact the perception and behaviors of officers. The course, through a series of interactive exercises, allows officers to experience how implicit bias works and to discuss how implicit bias can impact their own perceptions and actions.

Introduction:

The purpose of this course is to lay the foundations of biases and stereotypical beliefs and behavior that can have a critical effect on police community relations in the 21st Century, and to understand the policy and expected behavior of the Miami Police Department as it relates to biased based profiling. It introduces line officers and supervisors to the fundamental principles that all, even well-intentioned people have biases, and that having biases is a normal human function. Biases are often unconscious or "implicit", thus influencing choices and actions with conscious thinking or decision-making based upon stereotype can be unsafe, ineffective and unjust.

Training Objectives:

At the end of this course of instruction, the participant will be able to:

a. Understand biases are normal and that all people, even well-intentioned people have biases

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b. Understand how unconscious' or implicit biases works in the human mind

c. Describe the impact of bias on officers' perceptions and behaviors

Lesson Plan:

I. Biases and Departmental Order 15, Chapter 4: (Slide #2,3)

a. MPD Policy

b. All people have biases

c. Implicit

d. Explicit

II. Fair and Impartial Policing: (slide #4)

a. Effective in solving crimes

b. Review facts impartially

c. Remain safe and vigilant

d. Promote community trust and legitimacy

III. The Challenge: (Slide# 5)

a. Leave preconceived notions at the door

b. Reflection on the meaning of an effective "police officer"

c. Recognizing life experiences and expertise utilized in the workplace

IV. Fundamental Concepts of Human Bias :(Slide #6)

a. Bias as a normal human attribute

b. Bias as unconscious or implicit

c. Manifestation of bias through stereotypes

d. Bias and its influence on actions

e. Bias and its effect on perception

V. Understanding Implicit Bias :(Slide #7)

a. Who are we most likely to prejudge

b. Ambiguous Stimuli

c. Stereotyping

VI. Identifying stereotypes exercise: (Slides # 9, 10, 11)

VII. Bases which people may be stereotyped and treated differently: (Slide # 12)

a. Income

b. English language abilities

c. Gender

d. Age

e. Religious Affiliation

f. Profession

g. Sexual orientation

VIII. Video: (Mistaken Identity -4:51 minutes)

IX. Questions:

X. Closing:

Provide the Adult Learner an opportunity to ask additional questions or comments regarding the material that was provided during this course.

REFERENCES:

Fair and Impartial Policing Training of Trainers (T.O.T.) Manual

Miami Police Department: Training & Development Section, Departmental Order 15, Chapter 4 (**CALEA 1.2.9 a**)

Video: Bodycam Video shows police confront man picking up trash outside building, (YouTube, retrieved May 20, 2019) https://www.youtube.com/watch?v=tYachnFjylA&t=1112s

PowerPoint, audio visual aids required