

**THIRD QUARTERLY REPORT OF 2014
FROM THE
INDEPENDENT MONITOR
FOR THE VIRGIN ISLANDS POLICE DEPARTMENT**



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EXECUTIVE SUMMARY

This is the report of the Independent Monitoring Team (IMT) for the Third Quarter of 2014, July 1 through September 30. The IMT's last report, for the Second Quarter of 2014, highlighted challenges and opportunities introduced to the Consent Decree environment by two parallel sets of events, the Quarterly Goals mandate of the United States District Court and Independent Monitoring Team leadership transition. The report concentrated heavily on an immediate need to "Reset Compliance Strategy & Programming." It set forth the outlines of IMT intents with regard to compliance strategy plans, infrastructure development and capacity building, including information technology improvements to serve both VIPD and the IMT compliance operations. Innovations and modifications were already underway at that time. Still in progress, Second Quarter work by the VIPD and the IMT is cited as a primary factor in a Third Quarter characterized by robust activity and measurable accomplishment.

During the Third Quarter the IMT was on-site in the Virgin Islands, twice, back-to-back weeks in August and September, with its full team. Formal Monthly Consent Decree Meetings occurred in each of the three months of the Quarter. Our Police Practice Experts (PPEs) engaged continually with Work Group Chairs and Point Persons and the VIPD Compliance Coordinating Team. The newly formed Audit & Inspection Unit received start-up guidance. The IMT technical assistance work included support for Force Investigation Team planning and organization. Additional advisory work to help develop templates for supervisors to complete force investigations occurred. Guidance on misconduct complaints and allegations was constant. Our Virgin Islands-based Field Coordinator was present to observe and report on Monthly Meetings and trainings and followed up on several citizen inquiries. Topic-specific Department of Justice engagement occurred with frequency.

Quarter Three is most notable for several events that clarified the status of and influenced compliance priorities and programming. These were the Compliance Status Summit, a pre-hearing meeting with Judge Curtis Gomez, and the September 3rd U.S. District Court Evidentiary Hearing on VIPD Quarterly Goal Compliance. The hearing included testimony from the IMT, VIPD executives and staff, the United States Department of Justice CRT, and the Chief of the

Civil Division, Office of the Attorney General, USVI. A very important agreement was concluded with the VIPD. The Department has committed to conducting eight (8) system and process workflow mappings and evaluations to identify and remedy compliance barriers. These are: Use of Force Reporting; Use of Force Investigation; Shooting Investigation; Citizen Complaint System; Early Intervention Process; Discipline Process; Audit System; and Training Advisory Committee work.

The IMT is concerned about absence of response from the VIPD executive leadership to an issue of core significance to the VIPD officer training and behavior. It concerns possible confusion regarding "officer perception of threat" versus reasonable man perception of threat as a force standard. This consideration is of such significance that the IMT documented it in a letter to executive management (September 18, 2014). The IMT had not received a formal response from the Commissioner by the end of the Quarter. (Note: the matter remains unresolved as of the date of issue of this report, November 21, 2014.)

Compliance Status: Quarter Three, 2014

The VIPD has achieved Substantial Compliance for 31 paragraphs. Twenty (20) are not yet in Substantial Compliance. This is the first time in the history of the VIPD Consent Decree that more paragraphs have been in full compliance than have not. The work done at the Summit explains some of the surge in compliance.

- ☐ **Paragraphs In Substantial Compliance At The End Of Quarter Three, 2014 are: 31, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 61, 62, 63, 64, 65, 66, 70, 75, 76, 78, 79 and 80. (Note: Bolded/underlined paragraphs have training evaluated under paragraph 75 and implementation under paragraph 100.)**
- ☐ Paragraphs That Attained Substantial Compliance At The End Of Quarter Three, 2014 are: 41, 46, 51, 54, 55, 56, 61, 53, 65, 75, 76, 78, and 80.
- ☐ **Paragraphs Not In Substantial Compliance: 32, 33, 34, 35, 36, 37, 38, 44, 58, 59, 60, 69, 71, 72, 73, 74, 77, 81, 100, 101.**

Compliance/Non-Compliance patterns vary among Consent Decree paragraph groupings. Three groupings have a majority of paragraphs in Substantial Compliance: Citizen Complaints (15 of

17); Management Supervision (7 of 12); and Training (5 of 9). Measured by the Compliance/Non-Compliance ratio, the Use of Force Group continues to lag (4 of 11).

Summit Accomplishments

The IMT believes that the work done at the August, 2014 Summit positions all parties to pursue, achieve, confirm, and sustain Consent Decree intents and requirements more productively going forward. The primary accomplishments of the Summit collaboration included:

- **Complete and documented agreement on compliance status at the paragraph and for the first time, sub-paragraph level.**
- **Mutual agreement to introduce a new compliance threshold for the sub-paragraphs, “Partial Compliance.”**
- **Definition and documentation of impediments and barriers to paragraph and sub-paragraph compliance.**

Post-Summit Evaluation by the VIPD participants reinforce the IMT’s judgments of the value of the effort and its belief that a new and stronger platform is in place to support and leverage on-going compliance activity.

Compliance Barriers

The IMT’s Second Quarter Report recommended seven (7) actions, carefully selected for predictably positive impact on Consent Decree compliance and constitutional policing. Movement was discernible in several action areas during the past Quarter, unevenly. Receiving the most concentrated VIPD attention during the Third Quarter was the long-languishing start-up of the Audit & Inspections Unit. Not entirely ignored but not addressed nearly to the expectation of the IMT were the Force Investigation Team start-up. These considerations, and the continuing issue of gaps in supervisory accountability, must receive intensified VIPD action in Quarter Four.

Force and Citizen Complaint Case Analysis

The IMT's Third Quarter Review of Use of Force and Citizen Complaint allegations resurfaced patterns of errors or omissions that require continuing attention. These are: absence of supporting records in case packages; over-reliance on cut and paste language; violation of report submission deadlines; failure to interview all witnesses; failure to submit subject statements; tactical errors, without training/retraining recommendations; no RRRs or witness statements from (additional) offices at the scene; and absence of references to attempts to deescalate. The VIPD continues to work to remedy these patterns and omissions. The IMT continues to monitor and provide technical assistance.

VIPD Auditing Performance

The findings of the IMT review of the VIPD's First Quarter 2014 Audit deserve mention. The IMT was pleased to report that, overall, the VIPD audit performance advanced noticeably. Our response concluded that:

The 2014 First Quarter Audit and the Audit Report is materially superior to the previous audit and report. In its diagnostic dimension, presentation, simplicity and clarity it exhibits greater understanding of audit processes and suggests growing confidence by Work Group members. It is unmistakably closer to what an Audit is supposed to be and do – identify CD accomplishments and isolate shortfalls, setting them out for attention, response and re-auditing.

Advancements notwithstanding, this Audit, primarily a collection of separate components, conducted by four less than fully integrated Work Groups is observably uneven. The growth in the mechanics of auditing, analysis and presentation was not paralleled to nearly the same degree by CD outcomes – substantial compliance achievements during the First Quarter. However, the IMT finds the First Quarter effort highly encouraging. (Page 1.)

Cautionary Note

Third Quarter accomplishments energized compliance efforts. Important building blocks were put in place. Against this backdrop, we offer a cautionary note. Several sets of actions are in play or stand as commitments to pave the way to further and sustained compliance:

- Over 40 self-selected requirements, recommended in VIPD Audit Reports.
- About 30 impediments/barriers defined and documented at the Summit.
- Eight (8) system/process workflow mapping and evaluation exercises.

The magnitude of the VIPD compliance workload demands stability of the compliance team during and after Territorial and department leadership transition. The IMT has called attention to this need, repeatedly. We now urge that in the very near future the size and composition of the VIPD compliance team be reassessed. Enhancing the size of the team and composition (skill sets) may well be in order.

Next Quarter

Judge Gomez has ordered that a second summit be conducted. Scheduled, tentatively, for November, the agenda is being developed but is not yet finalized. However, a goal by goal review of the pending Court established goals will be included. Likely topics include the force issues; the Force Review Board; planning, designing and documenting strategies and tactics to address the Compliance Barriers defined during Summit 1; functioning and effectiveness of the Early Intervention Process.

I. INTRODUCTION

This is the report of the Independent Monitoring Team (IMT) for the July through September Quarter, 2014. Third Quarter activity by all parties to the Consent Decree and the IMT was impressive in its intensity, spirit of collaboration, and productivity. While many requirements and expectations remain unfulfilled or partially fulfilled, the IMT has concluded that a compliance plateau has been reached and the VIPD Consent Decree performance capability has matured to the point where additional Consent Decree critical tasks and projects can be/have been recommended. These will be supported by the IMT technical assistance work, going forward.

Achievements of the Quarter include:

- **The Summit.** An intense two day event that concluded with a meticulously documented, mutually developed profile of and agreement on the status of Consent Decree compliance and noncompliance, anchored at the paragraph and sub-paragraph level. Impediments and barriers to compliance were documented as well.
- **Citizen Complaint & Use of Force Case Evaluation & Analysis.** The IMT's evaluation documents ten (10) patterns of errors and/or omissions. Many of these reinforce findings and observations cited in bi-weekly and monthly reports from the VIPD Audit Work Groups. The Department and the IMT continued and will continue to address and remedy the patterns, jointly.
- **Compliance Keys Progress.** The IMT's Second Quarter Report itemized a series of system development and policy enhancement actions, carefully selected and required to move the Consent Decree forward and promote and sustain constitutional policing. Three of the seven actions recommended are:
 - Establish a Force Review Board
 - Establish a Shooting Investigation Team
 - Establish the Audits & Investigations Unit

These three have "...self-evident and direct linkage to CD compliance" and do not pose particularly challenging planning and implementation requirements. Movement has occurred on all of these systems since the Summit, unevenly. Movement is discernible however. We anticipate that the VIPD Work Groups will report on programs next Quarter. Grouped with these

three was "Zero Tolerance for managerial and supervisory disregard for accountability under the CD agreement." This has been and remains a constant as a compliance key.

Three additional compliance key actions recommended concern (1) promotional preparation, readiness, and testing; (2) integrated academy, field, and in-service training that fosters constitutional policing values; and (3) community engagement in compliance activities. These will have direct impact on compliance as well, but are more complicated in transformation requirements. To our knowledge, no movement has occurred on these. In the case of integrated training practices, additional IMT evaluation remains to be done.

This report also comments on obligations emerging from an IMT-initiated agreement for the VIPD to conduct flow evaluations of Consent Decree critical operating systems. Like our Second Quarter Report, and as will be standard in all future Quarterlies, visual, easily digestible Compliance Summary Charts are included, with notations on change from the previous Quarter.

This report closes with a reality-check retrospective on the VIPD compliance "workload-resource equation." A by-product consequence of accelerating progress is a burgeoning set of new obligations for the VIPD and a growing portfolio of needed operational fixes and innovations.

II. THE SUMMIT

The IMT's Second Quarter was dominated by re-set activities. Having just taken control of the independent monitoring function, considerable time was devoted to infrastructure and capacity building, rethinking Consent Decree compliance tactics, and concentration on Consent Decree barriers, opportunities and remedies. Less than full and mutual VIPD, DOJ, and IMT concurrence on compliance status and threshold requirements was a material concern to all parties, as well as source of controlled, but nevertheless omnipresent disagreement. To address this condition head-on, as well as to leverage other issues and opportunities, the IMT arranged for and designed a Consent Decree Summit.

Conducted on August 26 and August 27, 2014 at the VITEMA facility, St. Thomas, US VI, key participants included the VIPD executive leadership, Work Group chairs and members, the Office of the US VI Attorney General, a representative from the Governor's Office, the VIPD Territorial Compliance Manager and Compliance Coordinator, and the entire IMT. Summit proceedings featured plenary components and break-off Work Group-IMT pairings to dissect compliance status.

Summit Accomplishments

The results and accomplishments of the Summit are documented in a report filed with the U.S. District Court one day after the completion of the Summit. The Executive Summary of that report, Compliance Requirements, August 15, 2014, is reproduced here:

This report summarizes the present status of the Territory of the Virgin Islands (VI) and the Virgin Island Police Department (VIPD) compliance with the Consent Decree (2008-158, as amended). It is the first time that compliance status has been presented down to the sub-paragraph level for all paragraphs.

This report is notable in that the compliance status was fully agreed to by the VIPD and the Independent Monitor. This has resulted from a productive collaboration at a Summit style meeting in St. Thomas, USVI, on August 26-27, 2014. The objectives or focused outcomes of that Summit were to:

- Confirm and document VIPD compliance status, each paragraph and sub-tasks.
- Confirm and document Substantial compliance standards and metrics.
- Identify compliance process barriers and solutions.
- Establish understanding of IMT plans for support, protocols, and technical assistance.

At the outset of the Summit there were 19 subparagraphs in Substantial Compliance. As a result of the exhaustive paragraph by paragraph review, utilizing a comprehensive set of worksheets that detail key status and documentation of all 53 operational Consent Decree paragraphs, IMT Monitoring Team was able to place an additional 12 paragraphs into Substantial Compliance, bring the current status level to 31 in Substantial compliance, 20 in Not In Substantial Compliance, and 2 in NA status.

Mutual agreement was also reached between the IMT and the VIPD to introduce a new classification at the sub-paragraph level only, of "Partial Compliance." The Partial Compliance plateau was set at 51% of those sub-

paragraphs that had a numeric threshold. This action acknowledges significant progress in sub-paragraph components, while the VIPD continued to work toward Substantial Compliance for the paragraph as a whole. Including the most recent designations of Substantial Compliance, the current status of the VIPD for the 53 operational paragraphs is as follows:

Table 1, Compliance, As of 08/28/14

Substantial Compliance	31
Not In Substantial Compliance	20
N/A	2

This constitutes the first time since the beginning of the Consent Decree that the VIPD was deemed by the monitors to have more paragraphs in Substantial Compliance than those Not In Substantial Compliance. The IMT Monitoring Team feels strongly, after the intense two days of the recent Summit, that the VIPD has begun to turn the corner and gain momentum while progressing toward overall compliance with the Consent Decree

While feeling comfortable with the above judgment call, we remain cognizant of the pending transition in Territorial leadership and its subsequent impact on the VIPD. Based on our information, it is entirely possible that much of the upper echelon of the department will retire or otherwise leave the police service. That said, we are heartened by the efforts of members of the various working groups who will in all likelihood remain in the department, as they have recently demonstrated a new found determination and expertise with seeking compliance. Their efforts during the Summit, specifically in coming prepared for the detail work and genuine dedication to the process should bode well for the future, provided some care is taken with the transition of senior leaders. We urge the Court to exercise its powers to support as seamless a transition as possible to protect the progress that has been made and the spirit recently.

Summit Evaluations

The IMT believes that the Summit process and products have energized both compliance programming and infused a new sense of spirit to the common effort. This judgment is based in part on participant evaluations of the Summit exercise. While only 13 of the 20 or so participants returned evaluations, we have no reason to dismiss the positive overall judgments.

A Post Summit Evaluation Instrument included scaled and open-ended items.

- **The average score on Question 1, Understanding of Compliance Status, was 4.3 (scale of 5.0).**
- **The average score on Question 2, Understanding of Compliance Standards (Thresholds), was 4.5.**

III. COMPLIANCE STATUS

Table 1 summarizes Paragraph Status at the end of the Third Quarter. Charts 1-4 display and add detail to the status of the VIPD compliance with Consent Decree requirements at the close of the Third Quarter. Chart 1 displays status overall, a simple count of paragraphs that are in compliance and those that are not. Chart 2, new to the Quarterlies, shows the movement of compliance effort. Chart 3 breaks down Chart 1, displaying status within Consent Decree paragraph classes. Chart 4 displays compliance by paragraph group and the policy-training-practice continuum.

Overall Status

The VIPD has achieved Substantial Compliance for 31 paragraphs. Twenty (20) are not yet in Substantial Compliance.

- **Paragraphs In Substantial Compliance At The End Of Quarter Three, 2014 are: 31, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 61, 62, 63, 64, 65, 66, 70, 75, 76, 78, 79 and 80. (Note: Bolded/underlined paragraphs have training evaluated under paragraph 75 and implementation under paragraph 100.)**
- **Paragraphs That Attained Substantial Compliance At The End Of Quarter Three, 2014 are: 41, 46, 51, 53, 54, 55, 56, 61, 65, 75, 76, 78, and 80.**
- **Paragraphs Not In Substantial Compliance At The End Of Quarter Three, 2014 are: 32, 33, 34, 35, 36, 37, 38, 44, 58, 59, 60, 69, 71, 72, 73, 74, 77, 81, 100 and 101.**
- **Paragraphs For Which Compliance Is Not Applicable are: 31 and 39.**

This is the first time in the history of the VIPD Consent Decree that more paragraphs have been in full compliance than have not (Charts 1 and 2). The work done at the Summit explains the surge in compliance.

Compliance/Non-Compliance patterns vary among Consent Decree paragraph groupings. Chart 3 shows that three groupings have a majority of paragraphs in Substantial Compliance: Citizen Complaints, 15 of 17; Management & Supervision, 7 of 12; and Training, 5 of 9. Despite numerical compliance majorities, much work remains to be done in Management & Supervision and Training. Measured by the Compliance/Non-Compliance ratio, the Use of Force group continues to lag. At the end of the Second Quarter, only 3 of 11 paragraphs were in Substantial Compliance. At the close of Quarter Three, the number stands at 4 of 11.

Appendix A, Third Quarter 2014 Compliance Snapshot, is a record of paragraphs that are not yet in Substantial Compliance.

The Compliance Continuum

Chart 4, Compliance Levels by Phase, adds considerable dimension to the compliance status profile. For the Use of Force group, policy requirements have been met for every paragraph. Training has been successfully achieved for nine all (9) paragraphs that are applicable. The challenge now is to meet Practice Compliance requirements and thereafter to sustain those achievements. Only two (2) of the nine (9) have been satisfied.

The Citizens Complaint compliance continuum surpasses the Use of Force pattern. All 17 policy requirements have been satisfied, as have all applicable training requirements. Practice compliance is advancing well, with only three (3) unsatisfied requirements. The Management & Supervision Group record mirrors Citizen Complaints in Policy and Training. Practice is more of a challenge. The continuum pattern for the Training paragraphs is characterized by some deviation. Phase 2, Training, shows three (3) paragraphs that are not yet in compliance and five (5) of nine (9) Practice paragraphs still to be satisfied.

CHART 1

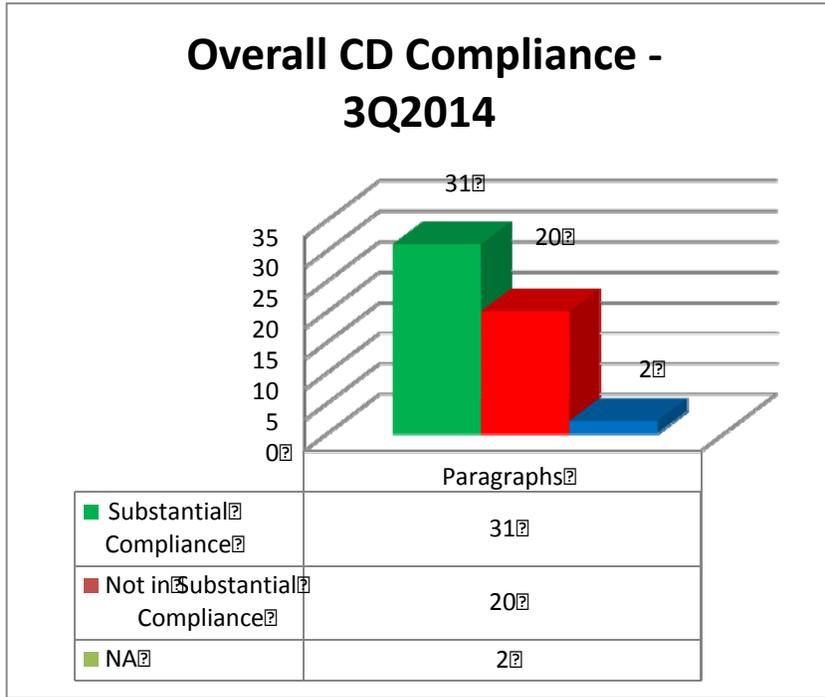


CHART 2

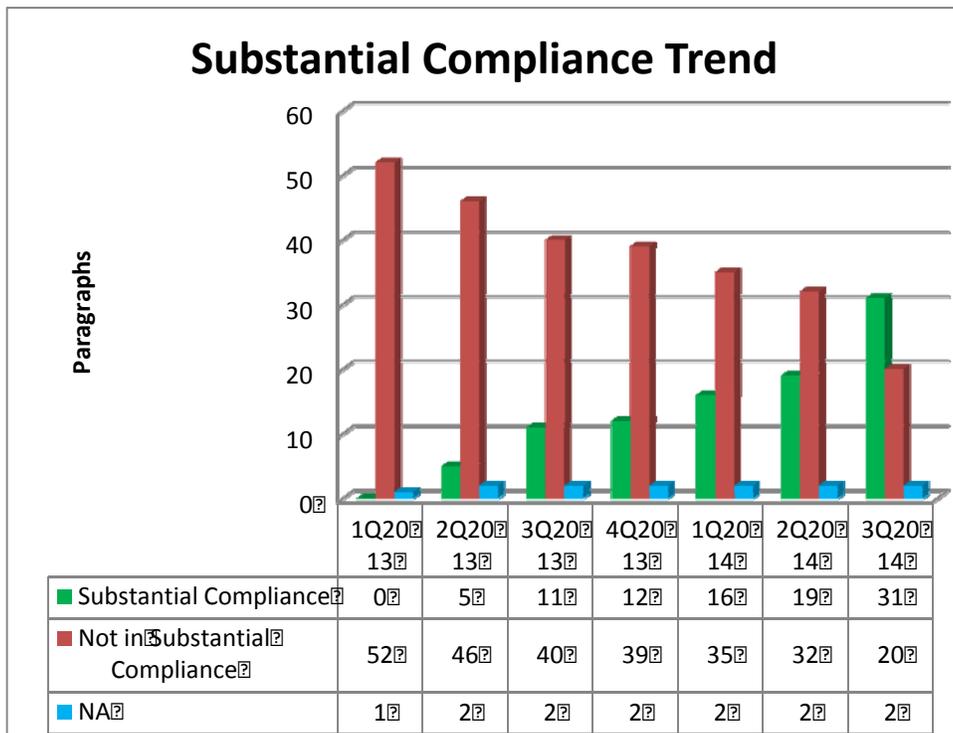
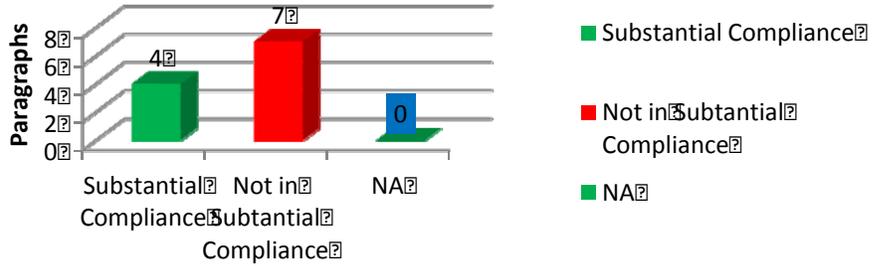
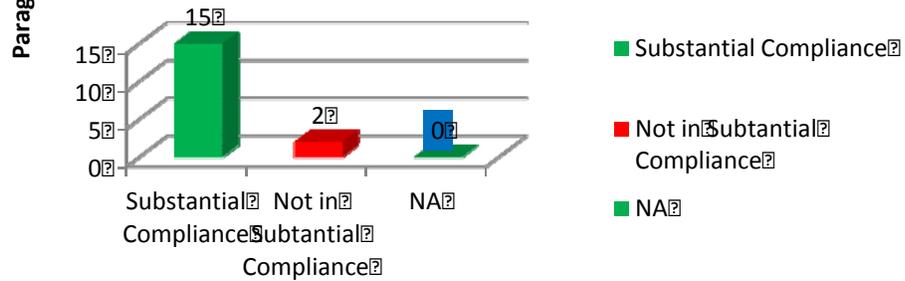


CHART 3

Overall Compliance for Group 1 (Para 31-41) Use of Force 3Q2014

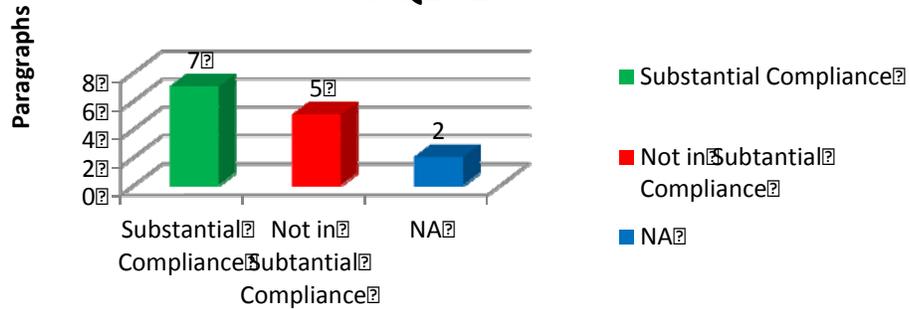


Overall Compliance for Group 2 (Para 42-58) Citizen Complaints 3Q2014

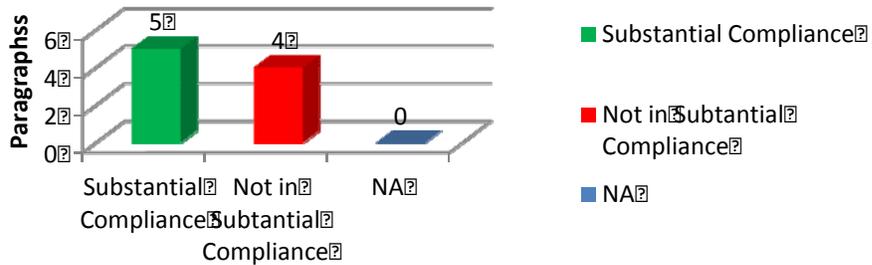


**CHART 3
(Continued)**

**Overall Compliance for Group 3
(Para 59-72)
Management & Supervision
3Q2014**



**Overall Compliance for Group 4
(Para 73-81)
Training
3Q2014**



**CHART 3
(Continued)**

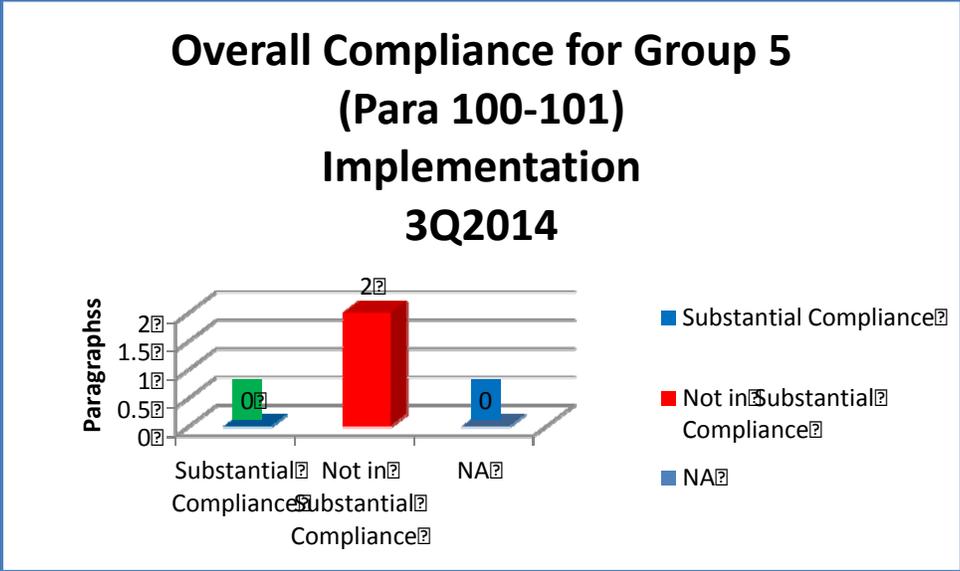
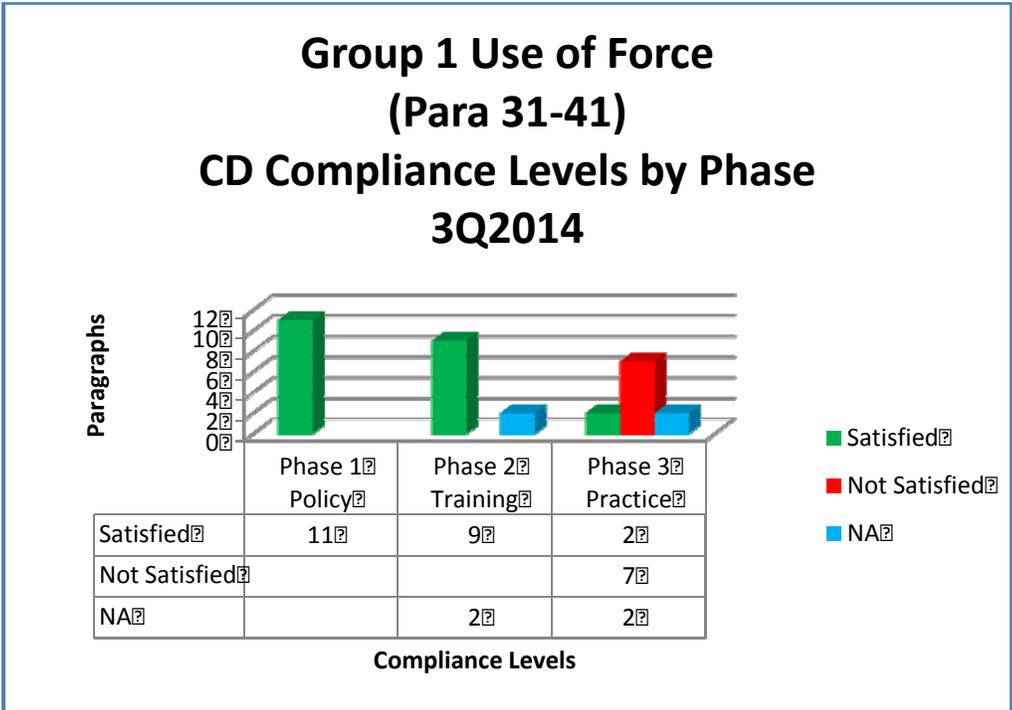
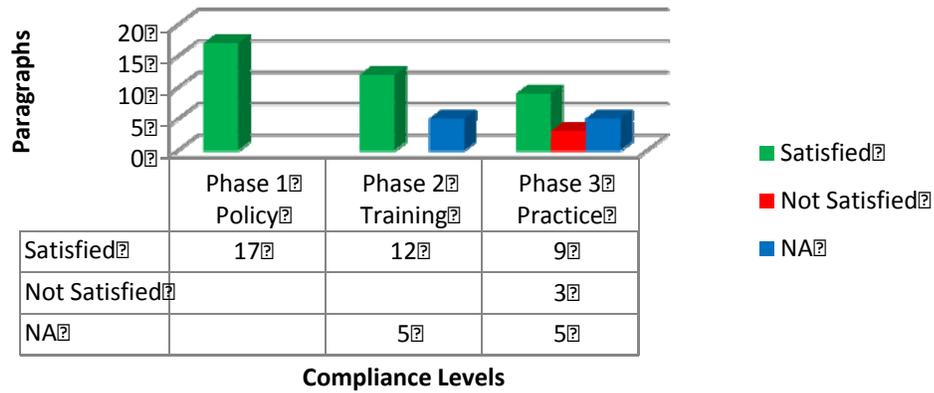


CHART 4

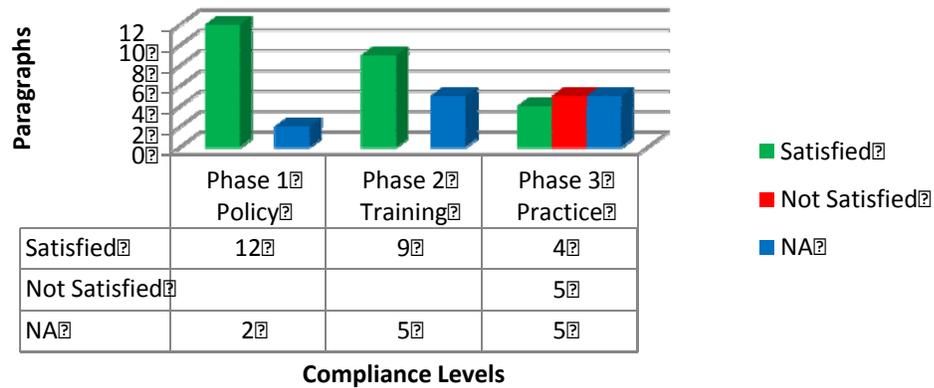


**CHART 4
(Continued)**

**Group 2 Citizen Complaints
(Para 42-58)
CD Compliance Levels by Phase
3Q2014**

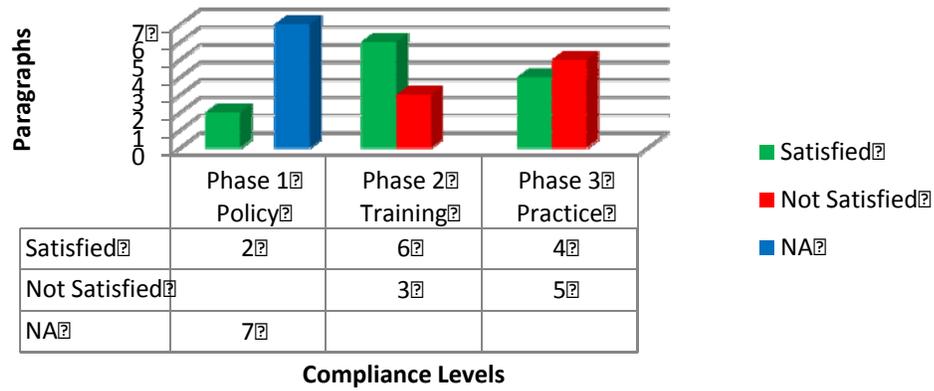


**Group 3 Management & Supervision
(Para 59-72)
CD Compliance Levels by Phase
3Q2014**



**CHART 4
(Continued)**

**Group 4 Training
(Para 73-81)
CD Compliance Levels by Phase
3Q2014**



**Group 5 Implementation
(Para 100-101)
CD Compliance Levels by Phase
3Q2014**



Collectively, this Quarter's compliance data profile parallels that of Quarter Two in several respects. The Policy Phase has been accomplished in full. Review and updates must be completed as conditions warrant and IMT monitoring will continue. Full compliance with the Training mandates is reachable. Practice execution and sustainability, arguably the most challenging phase has advanced. It will/must dominate compliance activity for the future.

IV. ON-GOING COMPLIANCE EFFORTS: REMOVING BARRIERS

Equaling in value the clarification of compliance status and thresholds at the Summit was definition and documentation of impediments and barriers to paragraph compliance. This work puts 30 impediments into play. The impediments are enumerated in several documents, including the 10-1-14 First Quarter Audit Response filing. Our Audit Report calls for VIPD progress reporting in subsequent quarters. The impediments are also documented in Appendix A of this report.

The compliance barriers are familiar, most being breakdowns that are cited every Quarter. The most common and continuously resistant Use of Force compliance issues are failure to report force, supervisor failures to investigate and evaluate force incidents, investigations content/completeness, failure to report force contemporaneously with incidents and in-car video purchase and installation delay, timely supervisory response to Use of Force scenes, failure of Zone Commanders to conduct thorough reviews and force analyses, and management oversight shortfalls for Commanders, including recognition of tactical and training failures.

Risk Management issues of paramount compliance concern include timely follow-up to action plans, documentation of remediation for noted shortfalls, and an array of discipline considerations, including a need to request and document extensions. For Citizen Complaint compliance, timeliness of investigations and discipline practices throughout the system remain as well.

The list of impediments to Training paragraphs compliance is lengthy and less subject to quick fixes, generally, than many in the other paragraph groupings. They differ, also, in relative need for specialized expertise to design remedies. Training impediments include: lack of

comprehensive and analytical review of outcomes – in the field, absence of coordinated training priorities and agendas among the chiefs and command officers, absence of a comprehensive plan for roll call training, under use of Power DMS – failure to load data and insufficient leadership and consistent command accountability training for supervisors.

The systematic exercise to identify and record impediments at the Summit is expected to yield compliance advancements. The potential of the achievement can be leveraged. The next step will be to fashion remedies for the identified weaknesses. This work will begin at the next mini-summit, scheduled for November, 2014 and will be reported on in a report to be prepared by the IMT for submission to the DOJ immediately after the mini-summit.

V. USE OF FORCE CASE ANALYSIS

During this reporting period the IMT PPEs reviewed VIPD case files. The cases included Use of Force and Citizen Complaints allegations and Automobile Accidents involving VIPD personnel. Observations on needed improvement are noted below. Many of the observations repeat those provided in bi-weekly or monthly audits by the VIPD and the Audit Work Groups themselves. The observations indicate a further need for supervisors and command personnel to use checklists during review and processing of cases and to supply all of the attendant documentation required by the Consent Decree.

The PPEs found that reports display the following patterns of errors or omissions:

1. Case files did not contain supporting reports such as the 1A Form or in the case of arrests, the Arrest Report itself.
2. Both officer and supervisor reports contained patterned or cut and paste language rather than original wording to document both the event and the investigation.
3. Management of the review process by supervisors and command personnel was intermittent and spotty, and often ignored, with time limits for completion of reports more often exceeded than in compliance with policy, required items missing, and incomplete packages.
4. In many cases the investigations either failed to interview all witnesses, both VIPD personnel and civilians, or if interviewed, no recordings were available or noted as

required, depending on type of case. In one case the recording was not accomplished until a Deputy Chief ordered it.

5. Statements from the subject(s) were not obtained. No notations of why they were not obtained or not included in the report were given.
6. In several cases, the force used was either "Hand Control" or "Hard-hand Control." These cases were completed in a generally acceptable time frame and with most steps completed regarding the involved VIPD personnel. Inclusion of witness interviews, an evaluation of the incident or analysis of force use, and/or required statements from the supervisor and concurrence in the analysis and findings from commanders and management were generally absent. This may indicate a view that these uses of force are routine and do not require as much attention as more serious ones. The IMT recommends that VIPD give the same level of effort to these cases as all other Use of Force reviews.
7. In some cases, the reports identified tactical errors by the officers but contained no mention of reported training needs or follow-up with the Training Academy staff for either remedial training or updates to existing training courses. Documentation pertaining to resolution of training or tactical issues was not found in the files.
8. Many of the reports did not describe attempts by officers to deescalate the incident or to use verbal control techniques, such as "verbal judo," to obtain voluntary compliance or behavior modification.
9. Several reports indicated additional officers were on the scene but did not contain any RRRs or witness statements from these officers.
10. Few cases indicated any effort to either follow-up with witnesses or obtain statements from them as part of the investigation.

One case, UOFT-2014-0017, was highlighted by the reviewer as insufficient from the officer level through to management. It was missing most of the associated reports (1A Forms, Arrest Report), did not include an RRR, had violations of time limits for review and completion (over 6 months), supervisory response to the scene, and justification for the arrest was questionable. The VIPD investigated this case, found it insufficient, and was determining what remedial actions should be taken. The IMT is tracking this case and will review and respond to whatever action the VIPD takes. We hope that the VIPD recognizes the significance of the absence of supervisory response, to this case in particular and force cases as a class. Many of these shortcomings have been the subject of previous reports by both the VIPD and IMT staffs. We have agreed with the VIPD to review this case and provide technical assistance at the mini-summit in November.

The IMT intends to increase attention to case review during the next quarter and to remedial training and disciplinary results to determine if training and disciplinary actions are actually

being accomplished and what impact, if any, retraining and discipline have on future incidents with affected personnel.

VI. K-9 DEPLOYMENT REPORTING

During the Third Quarter the IMT received the results of the VIPD's Inspection of Canine Reporting (July 29, 2014). The implications of the content of the Inspection memo for use of force reporting and use of force evaluations persuade us to comment.

The inspection was conducted to determine whether all canine deployments were reported as required and reported with "a reasonable level of accuracy and completeness." While the IMT is encouraged by the initiative of the Audit Unit, it is disappointing that the effort did not succeed in producing clear, definitive and valid findings. "In reviewing the 911 Call History Report Listing for any neglect or failure of any Canine Officers to report tactical deployments, there were several issues that were discovered that hindered the process. The issues discovered hinder the accuracy and completeness of the inspection report....For the Canine Inspection of the Second Quarter to be conducted with a reasonable level of accuracy and completeness all missing reports need to be prepared and submitted immediately." (Letter of July 29, 2014 from Lieutenant Colbourne to Director Griffin.) For the record, the missing reports total 30 of 87 required, 35%. (From this data we can speculate that the VIPD K-9 deployments approach 350 annually and that about 120 records cannot be reconciled.)

The findings failure notwithstanding, we can report a welcome and a tangible response to deployment reporting policy violations. In response to the IMT's e-mail inquiry of July 30, Chief Darren Foy reported immediate remedial actions including a letter to officers who failed to file reports, administrative investigation of officers and supervisors violating the Chief's Directive to file, and a pledge to institute a weekly report to correct the breakdown in internal checks and balances designed to permit accurate auditing.

The mixed bottom line of this K-9 Deployment Reporting Inspection is that the VIPD Consent Decree Compliance Team has initiated self-correction actions. Less positive is that until the policy violations and data issues are eliminated, force evaluation and force management

constraints remain present. The IMT expects that Chief Foy will keep us updated on progress and results of his well conceived fixes. Last, given the sizeable report reliability gap, the IMT has to wonder how accurate the K-9 Bite Ratio data is – an IPro’s report out.

VII. COMPLIANCE KEYS PROGRESS

The IMTs Second Quarterly Report recommended seven (7) actions selected for predictably positive impact on Consent Decree compliance, constitutional policing, and best practices conditions in the VIPD, beyond Consent Decree specific considerations. Four (4) have what the IMT considers to be "...self-evident and direct linkage to CD compliance." These are: the Force Review Board; the Shooting Investigations Team; the Audit & Inspections Unit; Zero Tolerance for managerial and supervisory disregard for accountability obligations under the CD agreement. The report went on to state "Still direct, but more complicated in transformation requirements" are the following:

- Ensure promotional preparation, readiness and a productive testing scheme.
- Ensure and sustain an integrated academy, field and in-service training regimen that fosters the values and understanding of constitutional policing.
- Engage community members in compliance activities. (pps. 17 & 18.)

A start-up level of the VIPD activity/progress is reportable for several of the actions recommended, all in the first direct-linkage set: Force Review Board, Force Investigation Team, and Audit & Inspections Unit.

The Force Review Board

The IMT provided technical assistance to Captain Duggan, the Force Work Group chairperson. The IMT forwarded carefully selected examples of policies and procedures to develop a Force Investigation Team (FIT) capable of completing detailed analysis of force incidents that would fall under its purview. Captain Duggan has taken this action under her personal review, with

several individuals selected from the VIPD supervisory staff, and will report on the committee's progress during the October 29, 2014 monthly meeting.

The Force Investigation Team

The IMT provided technical assistance to Captain Duggan by providing examples of an Organizational Plan and Operations Manual to implement a Force Investigation Team. Captain Duggan has selected her team members to undertake a review and evaluation of those documents and will oversee the development of recommendations to VIPD executive leadership to implement the FIT Team. The IMT expects to have a review of the status at our monthly meeting on October 29, 2014. Note that shooting investigations will be conducted by the FIT. There will not be separate teams.

Audit & Inspection Unit

The Commissioner of the VIPD recently decided to implement the Audit & Inspection Unit (AIU), VIPD Policy 2.07. He established it with only one full-time member, the unit commander. A directive that remains unpublished at the time of this writing authorizes the temporary assignment of up to five personnel for up to six months to conduct the audit and inspections program. This plan is certainly not what the IMT expected when the Commission announced in the last court session that the unit would be implemented.

In the view of the IMT, single person staffing with temporary duty personnel is clearly deficient and does not recognize the importance of and relationship between a robust and comprehensive audit and inspection program and the department's continued progress toward full compliance with the Consent Decree. Assignment of one full-time member, the commander, who is responsible for supervising and managing the function as well as actual conduct of audits does not ensure that the unit will be able to fulfill its assigned mission. Based on the extensive experience that the IMT members have with audit units and a review of other law enforcement agencies, we were expecting an initial staffing of at least a commander and two to three auditors. We acknowledge that the unit will require some stand-up organizational time. To do so, however, without full-time staffing levels jeopardizes the initiation of system-focused audits (discussed in our recent letter to the Commissioner), oversight and direct staffing assistance to

the on-going audit working groups, as well as beginning department-wide, bi-annual unit level inspections. None of this is possible with only one full-time member and a rotating, part-time staffing of individuals who have their own unit level responsibilities.

The IMT understands the Commissioner's stated concerns with staffing shortages. We also feel that at least one full staffer can be assigned by transferring the Compliance Coordinator to the AIU. This should not diminish his responsibilities as the coordinator, inasmuch of that work is attributed to the transmittal of documentation between the VIPD and the IMT. If this is accomplished, initial planning and organization could be accomplished and then one or two additional personnel could be added at the beginning of the new year as the program transitions to operational activity.

The IMT urges the department to reconsider staffing of the AIU and to recognize that investment of resources now will enhance the department progress toward Consent Decree compliance in 2015. The IMT has already begun providing technical assistance to the AIU commander and is committed to continuing that assistance as the unit moves toward operational capabilities.

VIII. COMPLIANCE KEY AUGMENTATION

The IMT supplemented the Second Quarter Compliance Key package with a request to the VIPD to position itself to conduct a long-standing Consent Decree compliance program need for systems evaluations. The governing objective and principal value of this work is to find and remedy breakdowns in the VIPD Consent Decree critical systems and processes. To be examined and analyzed are:

- Use of Force Reporting System
- Use of Force Investigation
- Citizen Complaint System
- Early Intervention Process
- Disciplinary Process
- Audit System
- Training Advisory Committee Functioning

Our rationale for calling for an augmented set of diagnostics is stated in our recent letter of October 15, 2014.

"(The) IMT believes that our current focus on individual paragraphs and sub-tasks will be enhanced by looking at such paragraphs and sub-tasks in the context of the management of the larger systems within which they operate. Specifically, by identifying all steps necessary for each of these systems (person responsible, action necessary, associated timeline) and any accompanying obstacles/solutions, VIPD will continue to move towards compliance and maintain current compliance status. By looking at the systems, it should be easier to identify obstacles which may impact multiple sub-tasks and paragraphs; and may cross over multiple systems. Thus, a proposed solution may impact multiple working groups and would be most effectively, and efficiently, addressed through an additional team of VIPD leaders/managers representing VIPD Consent Decree (CD)-wide concerns."

IX. VIPD AUDITING PERFORMANCE

Just prior to the close of the Second Quarter of 2014, the IMT filed a Review & Recommendations of and for the VIPD audit work conducted during the First Quarter of 2014. We were pleased to report that, overall, VIPD audit performance advanced noticeably. We anticipate that future audits will build on the success of the First Quarter improvements.

The IMTs Review noted at the outset:

The 2014 First Quarter Audit and the Audit Report is materially superior to the previous audit and report. In its diagnostic dimension, presentation, simplicity and clarity it exhibits greater understanding of audit processes and suggests growing confidence by Work Group members. It is unmistakably closer to what an Audit is supposed to be and do – identify CD accomplishments and isolate shortfalls, setting them out for attention, response and re-auditing.

Advancements notwithstanding, this Audit, primarily a collection of separate components, conducted by four less than full integrated Work Groups is observably uneven. The growth in the mechanics of auditing, analysts and presentation was not paralleled to nearly the same degree by CD outcomes – substantial compliance achievements during the First Quarter. However, the IMT finds the First Quarter effort highly encouraging. (Page 1.)

Realizing that further and continuing improvement is contingent upon stability of Work Group membership during election-inspired transition in the VIPD leadership and organization and staffing, the observable evolution of talent and experience in the VIPD Audit cadre must be preserved and nurtured. Anything less risks (perhaps guarantees) a setback to compliance progress.

X. A PERSPECTIVE ON VIPD COMPLIANCE WORKLOAD

The Court-ordered Quarterly Goals compliance schedule presents the VIPD with new and needed clarity regarding priorities and deadlines. It also mounts the pressure to perform – and perform well. Against this backdrop the IMT believes it to be useful to comment on VIPD’s compliance workload, which for several reasons, including Summit work, is becoming easier to focus more clearly. At the same time, several sets of actions and processes are in play or stand as commitments to pave the way for compliance. These include:

- Over 40 VIPD self-selected action requirements, introduced as recommendations and documented in the last two VIPD Audit Reports.
- About 30 Impediments defined and documented at the August Summit.
- Eight system/process workflow mapping and evaluation exercises.

This list of actions totals seventy-eight (78). Although there is redundancy in the actions, the workload is sobering. The IMT has already declared a cautionary note regarding need for stability and retention of the VIPD compliance staff experience. This achievement alone would not be regarded as sufficient by the IMT. We urge the VIPD to supplement the current team – not just in number but in skill sets. The work flow analyses, for example, should be in the hands of management analysts. Some of the Training issues argue for acquisition of professional resources.

How well the VIPD Compliance Team is resourced dictates and will continue to dictate pace and quality of Consent Decree substantial compliance and constitutional policing throughout the Territory. The coming transition in gubernatorial and VIPD leadership is a uniquely opportune time to revisit resource considerations.

XI. VIPD STATUS REPORT #20

The IMT received Status Report #20 on October 7, 2014. Our comments and recommendations follow.

Training

□ **Paragraph 73**

We are disappointed that movement toward a more engaged and active Training Advisory Committee has not taken place. There is no comprehensive review of the effects and outcomes of training within the department. We fully expected that during this Quarter, the Committee would have been organized to the point that there was an established plan, policy or agenda. The department has a responsibility to evaluate how effective academy, roll call, in service and remedial training, is in improving officer performance. This is critical when it involves employees whose performance is not improving despite discipline and additional training.

We cannot stress strongly enough that the establishment and operation of the Training Advisory Committee should be a priority.

□ **Paragraph 74**

The IMT has not seen an update to the initial activity involving roll call training. Following command officer orientation, we've not seen reports delineating what training has taken place, what training is planned nor the establishment of any criteria to evaluate the effect of roll call training.

The IMT believes that the kind of continuing shortcomings we see in administrative investigations as well as common mistakes that continue in use of force reporting would be high on the list of topics for upcoming roll call training.

We are monitoring Power DMS for the initiation of roll call training record keeping and have not seen any. We are disappointed that more effort has not been devoted to entering more data into Power DMS.

As part of quarterly goal setting, we suggest that specific Power DMS data entry be established. Other means of data entry should also be explored. The mandate of entering two previous years of departmental training information as well as current and ongoing training is a daunting one. We think that have a road map on how to get there would help. (This recommendation is equally applicable to Paragraph 76.)

□ **Paragraph 77**

The IMT is concerned that there appears to be no systematic recording of remedial training. This is extremely important for those cases where

remedial training is recommended in lieu of disciplinary action. Until recently, there was no record keeping. We don't know if there are employees who, when remedial training was recommended, actually attended and successfully completed that remedial training.

The current method of tracking, while an improvement, involves a series of back and forth messages between the Police Chief and the Training Director to ensure that a record is created. We previously suggested that the Training Bureau establish a category of training dedicated to remedial training. The Police Commissioner instructed the Training Director at our most recent mini-summit to create a training category in Power DMS to track remedial training.

We continue to place an emphasis on the importance of remedial training record keeping for two primary reasons. When commanders are working with employees who have been identified in IAPro as requiring specific attention by their supervisors, it is important for them to know the training history of the subordinate when organizing a performance improvement plan.

The second primary reason is for Command Officers who are recommending discipline for violations of policy and procedure. It's important to consider whether previous training and re-training has or has not been effective in improving performance. Any new decisions must include accurate, reliable information to make that decision relevant to the performance on the employee.

The IMT strongly encourages the establishment of a remedial training category and the entry of all available records for the past two years.

□ **Paragraph 79**

There are several issues in this paragraph that IMT believes should be of interest to the Training Advisory Committee. The Committee can help the department by considering all of the training implications as they review the effect of training throughout operations personnel. Certain of the items in this paragraph concern the Constitutional use of force, de-escalation, dealing with emotionally disturbed persons and simulator training.

We believe that all of these issues should be a part of the ongoing agenda of the Training Advisory Committee and that the Committee add context to the discussion of how the training is received and carried out by operations personnel.

The IMT is particularly concerned about the VIPD's deadly force class room and simulator training. We are in receipt of information concerning certain officers' perceptions about when and under what circumstances they could resort to deadly force. This was borne out during simulator training.

We've asked the Commissioner to make inquiries about this but, to date, have received no report on his findings.

□ **Paragraph 80**

While the VIPD has achieved substantial compliance in this paragraph, there are continuing problems related to the timely and complete investigations into citizen complaints.

Training must play a role in the solution to this problem. The VIPD should be exploring ways to use training to improve the agency performance in this area. We have spoken about the need to look across Bureau lines as a way to bring more comprehensive solutions to implementation issues. This is a good example of how necessary this kind of coordination is.

The IMT recommends that the Consent Decree Administrator look at reducing force and citizen complaint related problems or poor performance through a more robust training effort.

□ **Paragraph 81**

While we encourage the continued efforts to provide leadership training to supervisors and command officers, we've not yet seen how the lessons learned are being applied to operations personnel. We know that participants attend training but we don't see any coordination to ensure that the lessons learned make their way into the activities and behaviors of personnel in the field.

For some time, training conducted through the FBINAA has been discussed. We would urge making it among the highest of priorities of the department.

Citizen Complaint Process

Paragraph 44

The IMT also recognized that the VIPD has continued to reduce the number of outstanding/overdue cases. However, the final step of discipline for superiors/management personnel who continue to fail to address this issue has been threatened for a prolonged period of time. While the IMT has seen some limited discipline in this area, it continues to emphasize the fact that unless supervisors and management personnel are held accountable for their responsibilities, the VIPD will have a challenging time maintaining CD compliance.

Paragraph 49

While still considered in compliance, the VIPD must maintain vigilance, particularly in the area of Police Commissioner notification of excessive force and constitutional law violations.

Paragraph 58

We wish to reinforce the statement in our 08/29/14 filing with the District Court: "while the IMT has seen improvement in identifying the need for additional training and forwarding same, there continues to be very limited documentation that these issues are being properly addressed in a timely fashion and appropriately documented."

Management & Supervision

Paragraph 59

As mentioned in an earlier Citizen Complaint paragraph, the IMT continues to emphasize the fact that unless supervisors and management personnel are held accountable for their responsibilities, the VIPD will have a challenging time maintaining CD compliance. Regarding this particular paragraph, the IMT anticipated that by holding managers accountable, the VIPD will move closer to initial compliance.

Additionally, the IMT anticipates that resolving IT issues, considered a priority by the VIPD, will move initial compliance forward.

Paragraph 60

The IMT appreciates the VIPD efforts this Quarter to attempt to capture information on all prisoner injuries. The IMT also appreciates that this is a "work in progress" which we anticipate will be monitored by the VIPD through their quarterly audits.

The IMT hopes that the described directive/protocol for the Records Bureau regarding prisoner injuries will become operational during the Fourth Quarter of 2014. Additionally, we anticipate that we will receive the Training Bureau's first report regarding the OC inventory effort and the K-9 report concerning deployment/utilization during this Quarter

Finally, the IMT is pleased that the Memorandum of Agreement was approved by the PC this Quarter and forwarded to the VI Attorney General. The IMT would encourage the VI Attorney General to finalize this process as soon as possible, so as to assist the VIPD to reach initial compliance with this paragraph. The IMT further encourages the VIPD to finalize a Memorandum of Agreement with VITEMA if deemed necessary to move this paragraph into initial compliance.

□ **Paragraph 61**

The IMT wishes to emphasize that the interest in off-site access to IAPro is to improve efficiency of monitoring activities, thus minimizing costs to the VIPD for the same activities.

The IMT acknowledges that the Citizen Complain Form has been modified to address paragraph concerns. The IMT encourages the VIPD to complete the distribution process so that the VIPD can receive full credit for its efforts.

□ **Paragraph 64**

The IMT recognizes the challenges associated with the introduction of an EIP system. However, we have also been very frustrated by the slow progress and apparent lack of attention by management personnel to such a process. At this time, the IMT believes that the VIPD management personnel have started to show progress. We believe that supervisors and managers will continue to need assistance to continue/complete this process. The IMT recognizes that this could include a number of one-on-one or small group meetings and we repeat our offer(s) to assist in this effort.

The IMT anticipates review and implementation of the RMS/EIP data review form this Quarter,

The IMT applauds the on-going VIPD efforts to identify alternative interventions (such as the one described regarding the VIAG). As this

effort moves forward, the VIPD needs to build a process to assess the effectiveness of the various interventions utilized.

While a working relationship with UVI sounds positive, the IMT would caution the VIPD about the anticipated limitations of an intern in the area of EIP analysis. While an intern may be helpful with data input and other administrative functions, the VIPD still needs to move forward and fill the positions described. The discussion regarding the hiring of the requisite personnel have continued for a prolonged period of time. The VIPD will not be able to reach compliance in this area without these capabilities.

The IMT will continue to monitor the progress of the VIPD in the area of the arrest database (which has also been the subject of prolonged discussions and slow progress) and the arrest/use of force ratios, which appear to be moving forward.

While the IMT applauds the VIPD efforts to clearly identify which supervisors are completing timely investigations and which are not, we continue to be concerned and continue to emphasize the fact that unless supervisors and management personnel are held accountable for their responsibilities, the VIPD will have a challenging time maintaining CD compliance.

□ **Paragraph 65**

The IMT emphasizes that the interest in off-site access to IAPro is to improve efficiency of monitoring activities, thus minimizing costs to the VIPD for the same activities.

□ **Paragraph 70**

The IMT will continue to review the VIPD audits for adherence to the disciplinary matrix. We will also continue to review hearing files and, if considered an efficient/effective use of time, will selectively review hearings.

□ **Paragraph 71(c)**

The IMT cautions that extensions should only be granted for appropriate, documented reasons.

□ **Paragraph 72**

The IMT looks forward to reviewing Work Group monthly audits/inspections.

Use of Force

□ **Executive Summary**

During this quarter the IMT provided technical assistance to the VIPD Force Work Group chairperson on both the Organization and Procedures for implementing a Serious Use of Force investigation team.

The IMT is hopeful that the Force Work Group will start setting a plan and deadlines in addition to the selection of personnel to accomplish the tasks being assigned. The IMT envisions implementing a plan outlining the process for the implementation of the tasks: when the policy will be finished in its written form, dates for the process, i.e., completed by the policy committee, re-reviewed by the work group submitted to the AC then on to the commissioner for signing, dates for the curriculums development, selection of personnel, training schedules. Implementation can be active on many different fronts but dates for completion of the processes should be deliverable by the VIPD.

During this reporting period the Force Group chairperson undertook some additional requirements for the templates related to the work that was accomplished at the Summit. The changes have not yet been seen by the IMT but we are anxious to see the implementation of these templates as our review of force cases during this quarter had disclosed that the patterns identified in our previous audits of cases (as well as in the VIPD's audits) have not shown improvement in previously identified deficiencies.

□ **Paragraph 31**

The VIPD revised and signed copies of the OC & Pursuit policies, drafts of which the IMT reviewed and commented on, had not been received by the end of the Third Quarter.

□ **Paragraph 33**

During this reporting period the IMT reviewed a sample of force cases for compliance with this paragraph. We found that the identification of "each and every use of force" was either not identified nor was each equally identified by the investigating supervisor nor evaluated by the supervisor or the department. We believe that there may be some confusion on the part of supervisors and officers on these requirements.

Officers are responsible for reporting each and every force use applied during a force event. As an example, if the officer uses a Taser during an incident the officer would be responsible for identifying each cycle applied during the event. The supervisor would be responsible to investigate each cycle for being appropriately applied consistent with applicable federal and territorial laws, as well as VIPD policy, training and tactics. UOF 2014-0017, UOF 2014-0022 & UOF 2014-0021. Video and audio taped statements are still not being provided to the IMT from force reviews conducted in the zones. They are provided when the review is conducted by the IAB. This is perhaps because the VIPD is still working on the implementation of the in car video cameras. We encourage them to work to accomplish the introduction of this valuable tool as soon as possible.

□ **Paragraph 100**

This paragraph calls for the Territory of the Virgin Islands and the VIPD to implement each and every provision of the Agreement as the term is defined in the Agreement (Paragraph 30).

For purposes of measuring implementation, certain paragraphs or paragraph sub-components have been moved to paragraph 100. Those paragraphs are 31, 39, 40, 47, 50, 52, 53, 62, 64 and 70. Regardless of where the paragraphs appear, the monitors and the VIPD remain focused on the evaluation and monitoring of these paragraphs and sub-paragraphs. (Mini-Report 082914 as filed with the court.)

XII. NEXT QUARTER

By request of Judge Gomez, a second summit (mini-summit) will be conducted, November, 2014. The agenda is only in the early discussion and design stage. Compliance status is certain to be revisited. Action to address compliance barriers is likely to receive greater emphasis. During the first summit the focus was on defining them. With this platform in place, more time would be available to focus on remedies.

Technical assistance to support the AIU will occur. During Quarter three we surveyed use-of-force analysis, and evaluation research and studied the VIPD's IAPro capacity to supply data for analysis. We hope to begin to develop VIPD force and constitutional policing profiles and measurements.

VIPD compliance programming has proceeded with minimal public/community engagement. It is time to ramp-up this important dimension of organizational transformation. At least preliminary discussions are now timely to fashion a strategy.

The IMT will use its networking capacity to solicit low-cost/no-cost federal resources for the VIPD to supplement compliance resources. Training opportunities will receive priorities, in subject matters such as procedural justice and police response to special populations, those with mental health and behavioral disorders in particular.

Last, the IMT is planning a design event to focus on defining an initial and priority set of outcome measures and develop a start-up plan for the VIPD to supply required data and diagnostics.