THIRTEENTH QUARTERLY REPORT

Independent Monitor

for the

Detroit Police Department

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Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC

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SECTION ONE: INTRODUCTION

On October 5, 2009, the Honorable Julian Abele Cook, Jr., United States District Court Judge for the Eastern District of Michigan, Southern Division (the Court), appointed me to serve as the Independent Monitor of the Use of Force and Conditions of Confinement Consent Judgments in the case United States of America v. City of Detroit, Michigan (the City) and the Detroit Police Department (DPD) No. 03-77758, decided in June 2003. With this appointment and assisted by a team of highly respected professionals, I assumed responsibility for monitoring compliance with the requirements of these Judgments – the implementation of a compilation of generally accepted professional police and confinement policies, procedures, and related practices.

Our Team conducted our first quarterly site visit in November 2009, and has conducted subsequent site visits each subsequent calendar quarter. We have observed considerable change within the City and the Detroit Police Department during our engagement.

Similar to previous reports, the issuance of this report follows an onsite visit to assess and guide the Department's ongoing efforts. This report includes our assessment of the Department's compliance with each of the requirements contained in Judgments. Our findings are based on the results of discussions and meetings with City and DPD staff, observations of operational activities, inspections of facilities, and our review of documents and data covering the period of July 1, through September 30, 2012.

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

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

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

Verification of compliance with the many parts of the Consent Judgments requires the analysis of multiple instances of activity, reviewing cases, or observations of the practical application of policies and procedures. In those circumstances, our first option is to conduct an analysis-based on a review of all cases or data. Where that is not appropriate or possible, we rely on statistically valid samples of the population. To reach conclusions based on analyses of cases, a minimal standard must be met. To achieve compliance based on these analyses, we have determined that more than 94% of relevant indicators must conform to the provisions articulated in the Judgments.

The independent monitoring of two Consent Judgments is a complex process involving complex issues. The delivery of police services to a community – and the simultaneous retention of the public trust – are perhaps the most fundamental and sacred roles of government. In the course of our responsibilities, we shall endeavor at all times to fulfill our mandate in a manner consistent with these principles.

EXECUTIVE SUMMARY

This is our thirteenth quarterly report of the Independent Monitor in the case of United States of America v. City of Detroit No. 03-72258. The report is for the period of July 1, through September 30, 2012; and is based on our site visit of October 22, through October 26, 2012; and our subsequent analyses of relevant data from this period. Consistent with the practice we established in our first review, we continue to assess all requirements of both active Judgments for compliance. This includes 110 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. In this executive summary, I will review the levels of compliance found for the reporting period.

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

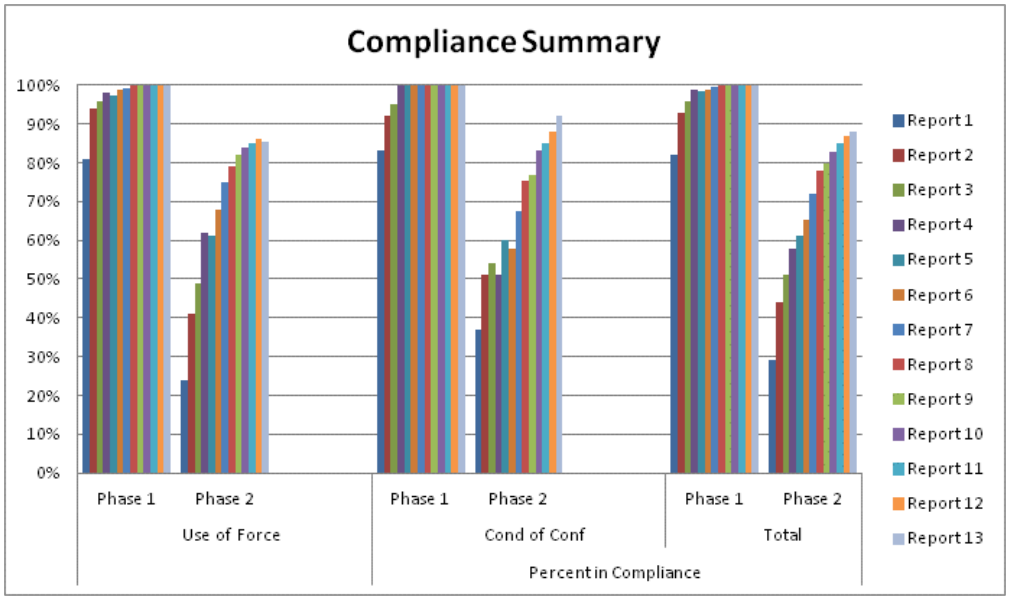
As noted above, the Department is again in Phase 1 compliance with all 110 (100%) of the Use of Force requirements. For the current reporting period, we also found the Department in Phase 1 and Phase 2 compliance (full compliance) with 94 (85%) of the 110 Use of Force requirements. One requirement, U25, which addresses the use of chemical spray, went from pending compliance to out of compliance. During this reporting period, one Use of Force requirement (U18, regarding the use of force policy) is again deferred.

As noted above, the Department is again in Phase 1 compliance with all 65 (100%) of the Conditions of Confinement requirements. This level has been maintained since the fourth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 60 (92%) of the 65 requirements – an increase of four from the previous reporting period. The current figures are presented in the table below.

	Thirteenth Quarterly Report Summary					
	Use of Force		**Cond of Conf**		**Total**	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirements	110	110	65	65	175	175
Pending Compliance	0	0	0	0	0	0
Not in Compliance	0	15	0	5	0	20
Deferred	0	1	0	0	0	1
In Compliance	110	94	65	60	175	154
Percent in Compliance	**100%**	**85%**	**100%**	**92%**	**100%**	**88%**

In summary, this is the sixth consecutive report in which we have found DPD in Phase 1 compliance with all (100%) of the 175 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 154 (88%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments. One additional compliance determination is deferred.

The chart below illustrates the levels of compliance achieved on both Judgments and across all 13 reporting periods.



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

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

The summary tables again highlight progress over the course of our 13 reports. The pattern, without a single overall decline, is noteworthy – particularly against the backdrop of continuing budgetary issues facing the City of Detroit, and the recent transition in the office of the Chief of Police. Stubborn compliance problems remain – particularly around investigations a critical police function. But I am confident, as is my Team, that those problems will be resolved.

It is important that the readers of this report appreciate, as we do, the context surrounding our work. In the face of challenging times for the City and the Department, the Detroit Police have made remarkable progress in implementing the reforms of these Consent Judgments.

Important tasks remain. These include achieving compliance with the remaining requirements and, of course, stabilizing and institutionalizing the reforms. Despite the progress noted, it is important not to underestimate the work ahead. It is instructive to look back to when this process began – now nearly a decade ago – to remind ourselves not just of the recent efforts that have been made – good as they are – but of the starting point, and the importance of not regressing. The Department is now under the leadership of Interim Chief Chester Logan, who has recently appointed an executive staff to assist the Department in both its anti-crime strategies and compliance with the Judgments. It will fall to them to inspire a new level of commitment to the reforms – a commitment that must flourish at a time when depleting resources and growing challenges shall be testing the resolve of the Department. Mayor Bing; Deputy Mayor Lewis; and the City's Counsel, Allan Charlton; have provided essential and unyielding support to the efforts of the Department and the monitoring process and for this, we are most grateful.

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Monitor

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Robin Busch-Wheaton, *Editor*

SECTION TWO:

COMPLIANCE ASSESSMENTS - THE USE OF FORCE AND ARREST AND WITNESS DETENTION CONSENT JUDGMENT

III. USE OF FORCE POLICY

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

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

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

This quarter, DPD reports that it enhanced its efforts toward compliance with the reporting and investigation requirements of uses of force and detainee injuries.[1]

> "These requirements have proven to be the most challenging for the DPD thus far. Currently, a patrol sergeant and a sergeant from the Office of Civil Rights are assigned to conduct supervisory training on a weekly basis on the proper completion of investigations of uses of force. In addition, additional focus was directed toward the effective implementation of documenting the delivery of meals to detainees and the cleaning of the

[1]DPD 36th Quarter Status Report, September 30, 2012.

holding cells. All of these topics were the focus of the Command Accountability Meetings during the quarter."

To assess compliance with the requirements relating to the issuance and carrying of authorized weapons and ammunition, we examined the investigations of critical firearm discharges by FI. During this reporting period, we reviewed documentation that included 13 critical firearm discharges.

The DPD selected the PR-24 collapsible baton as its impact device, and has provided training on its use to 604 members (25%) during the first quarter of the fiscal year. In the use of force reports we reviewed during this reporting period, there were no PR-24 related incidents where a subject was struck in the head. We reviewed instances of chemical spray deployments during this reporting period, and found that there were six cases in which chemical spray was utilized. A warning was articulated prior to its use in four of those cases.

During this reporting period, DPD continued its practice of issuing Roll Call Information Bulletins that are designed to improve member compliance with DPD policy reflecting the Consent Judgment requirements. Below are some examples of some of the pertinent bulletins relating to both Judgments; these were issued between June 28, and September 22, 2012

Date	Teletype No.	Subject
6/28/2012	12-0514	Responding Supervisor-Category One Use of Force/Detainee Injury Investigations
7/6/2012	12-0549	Prohibited Harassment or Discrimination Activity by Members
7/11/2012	12-0567	Distribution of Forms in the Management Awareness System
7/23/2012	12-0597	Supervisory Review of the Use of Force/Detainee Injury Report (UF-002)
7/27/2012	12-0618	Documentation of De-Escalation Tactics
8/17/2012	12-0706	Discontinuation of the Daily Video Review Log – Implementation of the In-Car Video Review Form
9/18/2012	12-0816	Traffic Stop/Subject Investigatory Stop Notification to Communications Operations Zone Dispatchers
9/22/2012	12-0825	Citizen Complaint Report (DPD 512) Available in MAS and its Confidentiality

A. General Use of Force Policy

CJ Requirement U14

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

Comments:

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

To assess Phase 2 compliance with this requirement, we reviewed completed use of force investigations, met with DPD staff, and observed relevant operational activities. We also determined that DPD generated 384 uses of force numbers during the last reporting period, and 324 during this reporting period. This is a 16% reduction in the numbers issued.

DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U15

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

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

Comments:

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

Our previous reviews of use of force reports found that they lacked sufficient documentation or specificity with regards to de-escalation and details of actual disengagement to make a definitive determination regarding Phase 2 compliance.[2] In the last reporting period, we found that 72% of the Command Level Investigations we reviewed contained sufficient explanations of officers' efforts to de-escalate or implement some of the disengagement responses suggested in U15c.

Command Level Investigations: During this reporting period, we reviewed 88 Command Level Investigations, which described the conduct of individuals against whom force was used and the corresponding response from the involved officers.[3] In evaluating de-escalation techniques utilized by the officers, we eliminated 27 incidents in which there were no opportunity to attempt de-escalation.[4] There were 61 cases evaluated; in 44 of them, we found evidence of some efforts

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[2] Twelfth Report of the Independent Monitor, issued September 15, 2012.

[3] We randomly selected 104 cases for review. Of the 104, 16 had no SIR investigations, leaving 88 cases for review; of the 16 cases eliminated, seven were assumed by Force Investigations; two were canine deployments with no contact, and seven were acquired targets, which do not require SIR investigations.

[4] Twenty-seven were eliminated: 10 in June; seven in July; and 10 in August. Cases that were eliminated included, but were not limited to, the subject fleeing as soon as he sees officers; subjects engaged in assaults as officers

at de-escalation (72%), the same percentage that we found during last reporting period. We continue to encourage DPD to emphasize the importance of de-escalation techniques as a means of avoiding violent confrontations between citizens and police, and to emphasize the importance of adequately documenting the steps taken by the officers to minimize the use of force. De-escalation efforts for the purposes of this requirement are those attempted prior to the force being used. Increased video/audio recordings of encounters with the citizens would prove beneficial in documenting compliance with this requirement.

During a meeting with CRIB personnel, we also recommended that CRIB insert a specific requirement for the first endorser of the Command Level Investigations – who is generally the Inspector – to specifically address this issue in all reviews. This added emphasis in the command review may encourage officers to make more de-escalation efforts before force is used; and, if they find it necessary to use force, to properly document their de-escalation efforts.

DPD is not in Phase 2 compliance with this requirement.

Force Investigations: During this reporting period, we reviewed 20 use of force investigations. We found five cases where officers inappropriately escalated force by using a choke hold, using head strikes (two separate events), discharging their firearm at a subject, and discharging their firearm at a moving vehicle. See U17.

DPD is not in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U16

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

Comments:

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

Use of Force Reports: To assess compliance for this reporting period, we reviewed 202 use of force reports, of which 184 were applicable to this paragraph. We found that 180 (98%) of the 184 included verbal commands and an opportunity to submit to arrest prior to the use of force; or provided a reason why the verbal command was not given.[5]

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arrived; subject striking officers without warning; detainee injury; canine apprehensions with no contact, and attempted suicides.

[5] The base was reduced from 202 to 184 by one canine deployment, 6 detainee injuries, and five instances of insufficient time; six commands issued by a lead officer.

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

Force Investigations: During this reporting period, we reviewed 20 force investigations and found that officers appropriately used verbal commands and provided an opportunity for subjects to submit to arrest prior to the use of force in four cases.

The requirements of this CJ paragraph were not applicable in the remaining cases, which involved vehicle pursuits ending in crashes, with fatalities and/or injuries to involved subjects; firearm discharges; or exigent circumstances in which opportunities to give verbal commands were not present. This represents a 100% compliance rate. DPD is in Phase 2 compliance with the Force Investigations portion of this paragraph.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U17

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

Comments:

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

Use of Force Reports: To assess compliance with this requirement for this reporting period, we reviewed 202 use of force reports and 88 Supervisory Investigation Reports (SIRs).[6] There were five cases in which a subject claimed that s/he was choked. In one of the cases, the investigating supervisor established that what had been utilized was a head restraint and not a chokehold, resolving the claim. The remaining four allegations remained unresolved, and there is no evidence that they were reported to Force Investigations.[7]

DPD remains in Phase 2 compliance with this paragraph.

Force Investigations: Our review of 20 force investigations for this reporting period identified one incident wherein a DPD officer used a choke hold to restrain a subject. The DPD investigation determined that the officer used excessive force. The officer is facing formal discipline.

DPD remains in Phase 2 compliance with this paragraph.

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[6] The terms Command Level Investigations and Supervisory Investigation Reports (SIRs) are used interchangeably throughout the quarterly report.

[7] Three allegations in June; one resolved, two were not and neither was reported to FI; one alleged choking in July which remained unresolved and was not reported to FI; one alleged choking in August which remained unresolved and which was not reported to FI. The failure to notify FI is addressed in the review of U35c.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U18

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

Comments:

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

Full Phase 2 compliance with this paragraph is dependent upon the effective field implementation of the requirements contained in paragraphs U14-17 and U19. We found DPD in Phase 2 compliance with U14, U16, U17, and U19, but not in compliance with U15; therefore, DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement U19

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

Comments:

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

Use of Force Reports: Our review of 202 use of force reports found no instances of any strikes to the head. DPD is in Phase 2 compliance for use of force reports in this paragraph.

Force Investigations: Our review of 20 investigations completed by Force Investigations revealed two instances that were relevant to this paragraph: one in which a DPD officer used a flashlight, and another in which an officer used the open palm of his hand, to strike subjects on the head. Both officers are facing formal disciplinary action.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U20

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

Comments:

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

DPD policy requires officers to attend and qualify at firearms training sessions in the six-month periods ending on December 31 and on June 30 of each year. During the six-month qualification period that ended on June 30, 2012, 98% of the DPD officers who were available to train attended firearms and qualified.

On September 30, 2012 – the mid-point of the current six-month qualification period – 1,172 of the 2,436 officers available to train attended firearms training and qualified. The DPD remains in Phase 2 compliance with this requirement; 98% of the officers available to train qualified during the six-month period that concluded in December 2011.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U21

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

Comments:

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

During the current six-month firearms qualification period (July 1, through December 31, 2012), no DPD members failed to qualify.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Firearms Policy

CJ Requirement U22

The firearm policy shall prohibit shooting at or from a moving vehicle except in exceptional circumstances. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle.[8]

Comments:

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

Use of Force Reports: During this reporting period, we reviewed 202 use of force reports and 88 Supervisory Investigation Reports (SIRs), and found no incidents involving officers firing at or from moving vehicles. DPD is in Phase 2 compliance for use of force reports in this requirement.

Force Investigations: During this reporting period, we reviewed 20 FI investigations, and found one incident involving an officer firing at a moving vehicle. In this case, the suspect vehicle was being pursued for traveling at a high speed; after crashing it into a DPD scout car, the driver moved the vehicle back and forth, striking an officer in the leg and impacting another scout car. The officer who was struck intentionally placed himself in the path of the moving vehicle and discharged one round from his DPD-issued firearm at the driver. The projectile missed its intended target, and the driver of the suspect vehicle was not injured. The DPD found the application of lethal force unjustified in this case.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U23

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

Comments:

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

During previous site visits, we found officers to be carrying authorized weapons and ammunition, and that the Department had implemented a procedure requiring the inspection of officers' weapons and ammunition as part of its required biannual firearms training program which officers are required to attend.

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[8] Amended by Court Order dated June 1, 2011; approved by the BOPC, November 3, 2011.

During firearms training, officers fire the ammunition that they are carrying and are issued a new supply of approved ammunition. Ammunition is also checked periodically at roll calls when other police equipment (e.g., handcuffs, chemical spray) is inspected.

During the last full six-month firearms qualification period that ended on June 30, 2012, 98% of DPD officers participated in the biannual qualifications, where they shot their old ammunition, which was replaced with authorized ammunition.

DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Intermediate Force Device Policy

CJ Requirement U24

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

Comments:

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

Use of Force Reports: During this reporting period, we reviewed 202 use of force reports, and found no strikes to the head with the designated intermediate force device (PR-24). DPD provided training on its use to 604 members (25%) during the first quarter of the fiscal year. DPD remains in Phase 2 compliance with this paragraph for use of force reports.

Force Investigations: During this reporting period, we reviewed 20 cases completed by FI; there was one case where an intermediate force device (PR-24) was used. The DPD officer in this case was exonerated in the use of the PR-24.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Chemical Spray Policy

CJ Requirement U25

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

a. *provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;*

b. *provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject;*

c. *obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis or heart ailment) that may be aggravated by chemical spray and if such signs are observed the subject shall be immediately conveyed to a local hospital for professional medical treatment; and*

d. *obtain the approval of a supervisor any time chemical spray is used against a crowd.*

Comments:

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

Use of Force Reports: To assess compliance for this reporting period, we reviewed 202 use of force reports and 88 Command Level Investigations. We found six deployments of chemical spray, with warnings or danger articulated in four (67%) of the cases[9]. This is a decrease from the 100% registered during the last reporting period. During our evaluation of decontamination requirements, we found that five (83%) of the six cases provided details of decontamination within 20 minutes of spraying or capture. This is a decrease from the 100% registered during the last reporting period.

There were no complaints of ill effects from the spraying noted in any of the six cases nor were any signs observed requiring transport to a local hospital for medical attention.

As we continue to note, the use of chemical spray by DPD officers is very limited; consequently, the Department's compliance numbers are affected by the failure of one or two officers to document their actions when using chemical spray.

Force Investigations: During this reporting period, we reviewed 20 cases completed by FI, and there were no cases of chemical spray being used during the arrest of a subject. DPD remains in Phase 2 compliance with the reporting of the use of chemical spray in the use of force investigations.

DPD is not in Phase 2 compliance with this paragraph.

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[9] There were two cases in August where the warnings were not properly documented. In one, the Officer does not document any warning in his 002 form or in Crisnet Report; when he is interviewed 15 days later he is asked a leading question regarding and responds that he provided a warning; in the second case there is no documentation of a warning in the 002 or Crisnet report but states in his interview that he gave a warning.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

CJ Requirement U26

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

Comments:

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

Use of Force Reports: To assess compliance with these requirements for this reporting period, we reviewed 202 use of force reports, and 88 use of force Command Level Investigations. No handcuffed individuals in a police vehicle were sprayed, and no sprayed individuals were placed face-down. DPD remains in Phase 2 compliance with this portion of the requirement.

Force Investigations: During our review of 20 force investigations, we found no instances of DPD officers using chemical spray on a subject who was handcuffed and in the police scout car. There were no incidents of DPD officers deploying chemical spray on a subject that was in a face-down position.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The issue of how best to determine DPD's efforts at deescalating and disengaging with respect to use of force situations remains a perplexing issue, and one that affects DPD's compliance with several of the requirements. As we have noted above, an improved reliance on body microphones and a strict requirement that officers utilize them when engaging Detroit citizens could prove beneficial to better documenting the de-escalation techniques. Unfortunately during this reporting period, DPD experienced major systemic issues with its new video/audio recording system, which has significantly reduced our ability to review many recordings. DPD advises that it is making the system operational again; we look forward to improvements during the next reporting period.
- DPD continues to provide improved documentation of officers' actions associated with their acquiring of a target when the acquiring of a target is the only force utilized. The districts/precincts are providing DPD 568 Forms that include references to the availability of video/audio recordings – and, if they exist – a detailed description of the contents.

Next Steps:

During the next reporting period, we will:

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

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

IV DOCUMENTATION, INVESTIGATION, AND REVIEW

A. General Investigations of Police Action

CJ Requirement U27

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

Comments:

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

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

Command Level Investigations: To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 202 use of force reports resulting in 88 SIRs.[10] There were no instances where a SIR was closed simply because a subject or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury. We also found sufficient justification for officers' conduct in 86 (98%) of the SIRs. We found one investigations that was closed prematurely, based on the amount of missing information submitted with the package.

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

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

During this reporting period, we reviewed 20 FI cases, and found them in compliance with the requirements. DPD is in Phase 2 compliance with the FI cases portion of this paragraph.

Office of the Chief Investigator: During our previous reviews of completed cases, we noted that while the case files generally contained sufficient facts to support a determination that justified or did not justify an officer's actions, there were several inconsistencies between investigators, and some cases lacked the necessary information to reach a proper determination. Additionally, we noted cases that were improperly administratively closed, and cases that were significantly overdue, impacting DPD's ability to reach appropriate conclusions many months after the alleged occurrence.

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 357 cases that were closed in July, August, and September 2012. (This represents a 38% decrease in closed cases over the previous reporting period.) Generally, the investigations established sufficient facts to support determinations that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.[11] We noted a significant decrease in the number of cases that appear to have been closed prematurely (from 16 cases during the previous reporting period, to nine cases during this reporting period). During this reporting period, three of these cases were closed administratively.

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[10] Many of the command-level investigations contained multiple use of force forms. Canine deployments with no contact, acquired target cases, and cases assumed by FI were removed from the numbers reported as SIRs.

[11] If an allegation appropriately received a finding of unfounded or not sustained, justification for the conduct was not assessed since, by definition, its occurrence was either refuted or not substantiated.

The three administratively closed cases each did not meet one of the five criteria for administrative closure (lack of sufficient details as to officers involved, lack of sufficient details as to facts surrounding the incident, lack of merit, or no allegation of misconduct *and* an uncooperative complainant). One involved force (handcuffs applied too tightly) and an allegation that officers left the complainant's children unattended. The other two cases stemmed from the execution of search warrants. In the first, the complainant alleged that the list of items seized was inaccurate. The complainant's dog was also shot during the incident. These allegations were inappropriately classified as "service complaints." In the second case, the complainant alleged damage to property. The investigator inappropriately characterized this as "innocence of the charge."

Two cases were closed prior to all involved personnel being interviewed. In one, a sergeant who was called to the scene to take the complaint ended up in a foot pursuit with the complainant. The investigator indicated that "Sgt. D[] was not interviewed since he answered after the alleged incident occurred." In the other, a target officer simply failed to show for her Garrity interview. This appropriately resulted in a sustained procedure charge, but she was never interviewed regarding her involvement in the original incident.

Four cases were closed prior to each allegation being addressed. In one case, allegations documented in the Citizen Complaint Report (CCR) were not investigated. In the others, we learned of additional, unaddressed allegations only by listening to interviews. These cases are further described in CJ Requirement U69.

While complainants failed to cooperate in 27% of the cases, their lack of cooperation was not a factor in the closing of these cases.

With an 81% compliance rate, the City is not in compliance with the OCI portion of this paragraph.

Internal Affairs Division Investigations: To assess Phase 2 compliance with this paragraph, we interviewed IAD supervisors and selected staff, and reviewed the 37 cases that were closed by IAD in July, August, and September 2012. We assessed the investigations for consistency with the procedures contained in applicable DPD directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation.

We found that all of the cases were sufficiently investigated – including five cases where the complainants and/or witnesses failed to respond to requests to be interviewed. In two of the five cases, the complainants withdrew the complaints and refused to participate with the prosecuting attorneys. All of the cases met the requirements of this paragraph.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U28

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

a. *documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvas of the scene to identify civilian witnesses;*

b. *thorough and complete interviews of all witnesses, subject to paragraph 31 below and an effort to resolve material inconsistencies between witness statements;*

c. *photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and*

d. *documentation of any medical care provided.*

Comments:

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

Command Level Investigations: During the last reporting period, we found that thorough and complete interviews were conducted in only 75% of the cases. In addition, of the cases we reviewed that contained material inconsistencies, supervisors attempted to resolve these inconsistencies in only 33%. Photos of officer or subject injuries were ordered in 83% of the cases where they should have been requested.

During this reporting period, we determined the following:

- There were three cases in which the investigating supervisor authorized, witnessed, or participated in the incident. This resulted in a 96% compliance rate. In 85 (96%) of the cases, the names of all of the officers involved or on the scene during the incident were included. In 84 (95%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted.

- Thorough and complete interviews were conducted in 74 (84%) of the cases. We continue to encourage supervisors to focus on the who, what, where, when, why, and how questioning used by journalists and other investigative writers for basic information gathering. DPD reports that "specific training relative to supervisory UOF investigating and this paragraph is a focal topic for the supervisory/leadership training block during the 2012-2013 annual training period." [12] The increase in compliance from 75% during the last reporting period, to 84% this reporting period, is encouraging. Continued critical reviews at the Command level can improve compliance with this requirement. Twenty-eight of the cases we reviewed contained material inconsistencies; supervisors resolved the inconsistencies in eight (28%) of these. In many of these cases, the inconsistencies were not identified or acknowledged, making resolution impossible.[13] We reiterate that it

[12] DPD 36th Quarter Status Report, September 30, 2012.

[13] Examples are incidents such as one in which an officer states he flashed his credentials before taking action; the subjects and witnesses state he advised he was an officer after throwing subject to ground; a choking allegation was not addressed and not resolved. Another example deals with the number of PR-24 strikes delivered by an officer. The subject states 7-10 on each leg and the sister reports 15 times; the officer states twice on one leg and once on the other; no other officers observed the strikes.

is incumbent on individuals involved in the command-level review to question material inconsistencies that are not addressed and resolved by the investigator, taking the appropriate corrective actions. First-line supervisors must conduct more critical reviews.

- In 61 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 53 (87%) of the cases. Sixty of the cases could have included documentation of medical care and all 60 (100%) did. Not all of the administered medical care was related to police actions. Thirteen of the cases involved care ranging from psychiatric evaluations to diabetes to a need for medications.

DPD issued Directive 201.11, *Use of Force and Use of Force and Detainee Injury Reporting/Investigation,* effective August 30, 2012, which addresses the requirements of this paragraph. CRIB personnel believe that the implementation of this directive, which consolidates many of the previously scattered policies, will have a positive impact on the investigations and documentation of the reports. We agree that it is an important step forward, but continue to emphasize the need for the critical review of completed investigations, especially at the first reviewing supervisory level. Inspectors and commanders are becoming more involved in the reviews and that is a positive step, but it is important that they ensure that levels below them are also complying with their responsibilities.

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

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

To assess compliance for this reporting period, we reviewed 20 force investigations.[14] The case files included complete documentation of the name and badge number of all officers involved in or on the scene of the various incidents, canvasses for civilian witnesses in all applicable cases, and any medical care that was provided.

The investigations contained witness interviews, both written and recorded. We noted continued improvement by FI in addressing material conflicts in investigations. Investigators used recorded statements and video evidence to address material inconsistencies and identify when officers or citizens were untruthful during an investigation. Photographs were taken as required. DPD is in Phase 2 compliance with the FI portion of this paragraph.

Office of the Chief Investigator: During this reporting period, we reviewed 100 randomly sampled OCI investigations. All of the cases were investigated by investigators who did not authorize, witness, or participate in the incidents being investigated. In nine cases, involved officers were not identified by both name and badge number. Three cases were transferred to Internal Affairs based on the allegations and before steps were taken to identify the officers involved. In one case, the officers were apparently known but not identified by name and badge

[14] These investigations included nine critical firearm discharge events and five vehicle pursuits.

number in the investigative summary. In the remaining cases, OCI took diligent steps to identify involved personnel. If they were not identified, they were listed as "unknown."

Canvasses were generally deficient, as outlined in U32. We did not identify any cases in which investigators failed to attempt to contact potential witnesses. As noted above, two cases were closed prior to all involved personnel being interviewed. In many cases, witnesses refused to cooperate, but investigators documented their steps to try to obtain statements.

In all but two of the cases alleging excessive force that were retained by OCI (one case was transferred to the Wayne County Sheriff's Office), photographs were referenced where appropriate. In most of the cases, force could not be substantiated and use of force documentation, including photographs, did not exist. In 11 cases, it was appropriate to reference medical care; and in all but two, the documentation was included in the investigative packages.

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

Internal Affairs Division Investigations: We reviewed all 37 cases that were completed by IAD during this reporting period. The investigations consistently included the names and badge numbers of all officers who were involved in or on the scene during an incident. IAD expended particular efforts in identifying officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near the location. IAD now has the capacity to access recordings from in-car video storage from the division's desktop computers. If any related evidence has been recorded, it can be requested from the Technical Services Unit within a 90-day period. In an effort to resolve the allegations, in-car video was requested in six of the cases. Only one recording was available, and it was used to successfully conclude the case and exonerate the officers. We also found in the cases that we reviewed that witnesses were interviewed, and that the investigators made an effort to resolve inconsistencies between witness statements.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U29

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

a. *officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);*

b. *whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and*

c. *that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.*

Comments:

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

Command Level Investigations: During the last reporting period, we found that in 87% of the cases we reviewed, timely statements were taken from officers who were involved or who witnessed the incident. We also found that the interviews of complainants and witnesses were conducted at sites and times convenient for them in 98% of the cases we reviewed.

During this reporting period, we determined that in 74 (84%) of the 88 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident. This percentage is lower than the 87% noted in our last report. The interviews of complainants and witnesses were conducted at sites and times convenient for them in 86 (98%) of the 88 cases we reviewed. This is the second consecutive reporting period in which DPD failed to maintain the timely statements of involved officers at the >94% level; and consequently, DPD has been removed from Phase 2 compliance status.

DPD is not Phase 2 compliance for use of force reports.

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

To assess compliance with these requirements for this reporting period, we reviewed 20 closed FI cases, and continued to find much the same as described above. Statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of non-police witnesses were generally taken in a timely manner, usually within minutes or hours of the event; however statements from involved officers or witness officers under the provisions of Garrity were sometimes unnecessarily delayed.

Our review found that Garrity interviews of involved officers in five cases ranged from 62 to 507 days from the date of the incident. In addition, we found three cases involving Garrity interviews of witness officers ranged from 105 to 411 days from the date of the incident. We have discussed with FI our concern regarding interview delays for a host of reasons – not the least of which is credibility. As we have previously noted, officers' recollections of the facts, weeks and months after an event, particularly one involving the use of deadly force, are

externally and perhaps significantly affected by news accounts and their interactions with friends, family, and colleagues, and thus, often altered. The practice of delaying interviews, for whatever reason, mitigates the accuracy and credibility of the information provided by officers. In addition, aside from investigative reasoning regarding the delaying of interviews of involved officers, we find no legitimate basis to delay interviews of witness officers; quite the contrary, there is a compelling need to interview all witnesses – including witness officers – in an expeditious manner.

As reported, the delays discussed above often result from the desire to await a declination decision from the District Attorney. Accordingly, we examined 20 cases closed by FI during this reporting period, and found six where a prosecutorial decision from the Wayne County District Attorney's Office was sought with the following results:

- Three of the six cases involved critical firearm discharge events, and the other three cases involved allegations of excessive use of force.
- Five of six cases included Garrity interviews conducted by FI prior to the prosecutorial decision by the District Attorney.
- One of the six cases includes a request for a prosecutorial decision that is still pending receipt. The one prosecutorial decision pending as of September 30, 2012 is 63 days.
- One of the six cases included Garrity interviews completed within 30 days after the prosecutorial decision was rendered or completion of the criminal prosecution as required by paragraph U38.

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

DPD is not in Phase 2 compliance with this portion of this paragraph, with a compliance rate of 75%.

Office of the Chief Investigator: During previous reporting periods, we noted ongoing issues with untimely interviews, particularly of officers. Interviews of sworn personnel frequently take place many months after the incident complained of. Often, no reason is given for the delay other than the difficulty in scheduling the interviews. We noted that complainant/witness and officer interviews were, with limited exceptions, properly recorded.

During this reporting period, we reviewed 100 randomly sampled investigations. Timely interviews of involved parties, particularly officers, continue to be an issue. In 17 of the cases we reviewed, employee interviews were untimely. This represents a 53% reduction when compared to the last reporting period, and it is a direct result of OCI addressing its backlog of cases. Most of these cases were closed in July and August, when the last of the backlogged cases were approved and thus ended up in our sample.

Complainants were identified as uncooperative in 27 of the investigations we reviewed. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. When complainants and witnesses were available for interviews, they were recorded, either over

the telephone or in person. Timeliness issues notwithstanding, when interviews were conducted, they were administered and recorded in accordance with requirements. We noted one instance in which an otherwise cooperative complainant refused a recorded statement, but she provided a detailed written statement.

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

Internal Affairs Division Investigations: During earlier reporting periods, we found that the DPD directive requiring timely statements from officers was inconsistently applied. Interviews of involved witness officers were often delayed with little justification other than unavailability. There were exceptions involving pending criminal proceedings against officers in some cases.

During this reporting period, timely interviews were appropriately conducted in all of the 37 cases that we reviewed.

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U30

The DPD and the City procedures for all investigatory interviews shall prohibit:

a. *the use of leading questions that improperly suggest legal justifications for the officer's(s') actions when such questions are contrary to appropriate law enforcement techniques; and*

b. *the use of interviews via written questions when it is contrary to appropriate law enforcement techniques*.

Comments:

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

Command-Level Investigations: During the last reporting period, we found 81 cases (94%) in which the question-and-answer format was used to document officer interviews in the SIR; in six (7%), investigators asked improper leading questions.

During this reporting period, we found that in 83 (94%) of 88 cases, the question-and-answer format, without the use of leading questions, was used to document officer interviews in the SIR. In six (6%) of these cases, the investigator utilized leading questions. There were no interviews via written questions contrary to appropriate law enforcement techniques.

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

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

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

To assist with the assessment of compliance for this reporting period, we listened to six randomly selected recorded interviews of police officers. We noted that, although the interviews were not primarily based on leading questions, the use of leading questions has not been entirely eliminated. We have a continuing concern with the tendency of some interviewing officers to preface questions with "Do you remember…do you recall" or similar phrases, which tend to prompt "I do not remember…I do not recall" responses. While recognizing that interviewing skills must be acquired through training and experience and also that the DPD has attempted to address these issues, the overall quality of the interviews remains marginally acceptable. Accordingly, we encourage the DPD to seek comprehensive interview training and also to carefully supervise and critique all interviews in order to avoid a future non-compliant finding.

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

Office of the Chief Investigator: OCI supplied digitally recorded interviews for both sworn and civilian interviewees for a randomly selected subset of our review sample. During this reporting period, we listened to 106 interviews (74 employees, 32 citizens) associated with 26 cases. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions. We continue to note some OCI investigators using "Do you recall," rather than simply directly asking a question. This occurred mainly in the older cases in our sample, since we have been encouraging OCI to address this poor interviewing technique for several reporting periods.

During this reporting period, we noted two instances in which leading questions were used. This is a notable improvement over past reporting periods. Written questions were included in two cases, although it is probable that they were used to structure interviews in most, if not all, of the cases involving interviews. In each case, the questions we reviewed were appropriate and in keeping with accepted law enforcement practices.

We note a wide disparity in the interviewing skills of OCI's investigators, and have recommended that supervising investigators either observe the interviews conducted by OCI's investigators or listen to the recordings, in order to identify training needs and provide appropriate, individualized corrective measures. We advised the Chief Investigator that during this reporting period, we would review a list of interviews monitored by the supervising investigators. The supervising investigators provided documentation that they either observed, or reviewed recordings of, interviews in 63 cases during the reporting period.

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

Internal Affairs Division Investigations: Since the first reporting period, we have found no evidence of the use of leading questions during IAD interviews. During this reporting period, we reviewed all 37 investigations that were completed by IAD, and again, did not find any indication that investigators conducted interviews via the use of leading questions. In all cases, we sought evidence in the case summary that the investigators had asked particular questions to clarify complainants' and witnesses statements, and/or physical evidence.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U31

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

Comments:

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

The directive provides criminal and administrative guidelines for investigators and supervisors regarding when statements should and should not be compelled from officers during internal investigations. In addition, it requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview.

The protocol also requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview.

Our reviews of SIR, IAD, FI, and OCI investigations found supervisors and investigators compliant with applicable Garrity requirements. Each case contained documentation that officers were advised of their rights, and each officer interview we listened to began with an on–the-record acknowledgement of Garrity rights. However, we continue to note unnecessary delays of interviews with both involved and witness officers due to a misconception that these interviews *must* be delayed pending the completion of a criminal review. This practice mitigates the credibility of both the interviews and the investigations.

Despite this, DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U32

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

a. *a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;*

b. *a review of all relevant evidence, including circumstantial, direct and physical evidence;*

c. *that the fact that a subject or complainant pled guilty or was found guilty of an offense shall it justify discontinuing the investigation;*

d. *reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant*

e. *an evaluation of whether an officer complied with DPD policy;*

f. *an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;*

g. *all administrative investigations to be evaluated based on a preponderance of the evidence standard;*

h. *written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and*

i. *any recommended non-disciplinary corrective action or disciplinary action be documented in writing.*

Comments:

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

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

Command Level Investigations: During the current reporting period, we found the following:

- The data reflects a precise description of the facts and circumstances of the incident, including a detailed account of the subject(s) or complainants and officer(s) actions in 63 (72%) of the investigations, an increase from the 64% registered during the last reporting period. Some of the issues that continue to adversely affect compliance in this area include: insufficient details in any of the interviews; no information as to how the prisoners were handcuffed; interviews that appear almost verbatim from officer to officer; officers providing statements which are evasive and nebulous, and investigators not asking follow-up questions; investigators failing to address discrepancies between

officer statements; and investigators failing to interview complainants/victims.[15] In 86 (99%) of the cases, an evaluation of the initial stop or seizure was conducted.[16]

- In 37 (59%) of the cases, all of the relevant evidence – including circumstantial, direct, and physical evidence – was reviewed.[17] This is a decrease from the 72% we found during the last reporting period. A major issue with the newly acquired recording system occurred, which prevented the video/audio recordings during most of the quarter for all units equipped with the new equipment. The setback appeared to also affect recording in holding facilities. We were able to identify at least 31 cases that were affected by the breakdown, and have eliminated them from the count as well. During a briefing with the individuals responsible for making the system operational again, DPD advised us that the issue had been identified and that the Department was taking steps to rectify the problem. We continue to assert that the review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations and consequently we continue to recommend, in the strongest of terms, that DPD initiate all of the corrective actions necessary to ensure that encounters are captured in both video and audio recordings. Every effort should be made to review video/audio recordings prior to the submission of the SIR. The failure to have these reviews conducted prior to the submission of the final report is an unacceptable practice. In the use of force investigations, we find that audio recordings are more integral to the investigations than video recordings as uses of force routinely occur out of line of sight of the cameras. DPD is encouraged to explore all current technologies that could enhance audio recordings, to include body-worn audio recorders.[18] Eighty-six (98%) of the investigations contained evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations. This is an increase from the 97% we found during the last reporting period. Eighty-three (94%) of the investigations contained an evaluation of whether or not an officer complied with DPD policy. This is an increase from the 91% we found during the last reporting period. The primary issues impacting on compliance with this requirement continue to include the failure to document officers not recording the shift (no audio recordings of citizen contacts), the officers failing to make force notifications from the scene, officers not utilizing the zone dispatcher to notify of the use of force, and officers not completing their 002 forms in a timely fashion or supervisors not approving them in a timely basis. As previously noted, this failure to deal with policy violations can be corrected through more critical reviews of the investigative work product, getting the issues corrected before submission to MAS. Eighty-four (100%) of

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[15] This is not an all-inclusive list.

[16] One of the 88 cases was NA as it was a DI that occurred in the rear of the prisoner van with no evaluation to conduct. The base was reduced to 87.

[17] Twenty of the units had no equipment installed.

[18] *The Future is Near: Getting ahead of the Challenges of Body-Worn Video,* The Police Chief Magazine, September 20, 2012 issues, p. 54.

the 84 cases that we reviewed contained an evaluation of the use of force.[19] Officers' tactics were evaluated in 81 (94%) of the 86 cases reviewed, an increase from the 89% we found during the last reporting period.[20] There were no cases with misconduct identified.

- Eighty-six (98%) of the 88 cases were evaluated on a preponderance of the evidence standard. This is a increase from the 95% that we found during the last reporting period. Sixty-eight of the cases (77%) had no extension request; of the remaining 20 cases, 15 (75%) contained documentation of the delays, either by a formal extension request or by notations in the file reflecting submission dates, return for corrections dates, and final submission dates. Of the 15 cases in which there were requested extensions, seven cases included references to investigators vacations/furloughs. We continue to urge DPD to provide guidance to the various commands regarding the importance of properly documenting the extensions and the returns of reports for corrections routinely documented in the Timeline section of the SIRs. Documents returned for corrections should reflect the new due dates. There were 69 SIRs in which corrective action might have been taken; corrective action was documented in 66 (96%) of the investigations, an increase from the 83% recorded during the last reporting period. Inclusive in the corrective action were misconduct investigations, negative administrative counseling registers, re-instructs, re-training, written reprimands, and verbal counseling.

DPD is not in Phase 2 compliance with the Command Level Investigations portion of this requirement.

Force Investigations: Our review of completed FI cases for previous reporting periods found them to be in overall compliance, but we noted cases wherein there was no evaluation of the initial stop and/or seizure; no reference to the presence or absence of circumstantial evidence; and a lack of reference to the conducting of credibility determinations.

To assess compliance for this reporting period, we examined 20 completed case files and noted the continued inclusion of a detailed account of the facts of the event.[21] Investigators evaluated the initial stop/contact in each case, but need to more thoroughly evaluate available direct, circumstantial, and physical evidence. For example, investigators need to review related police reports; medical documentation for injured subjects; and autopsy reports. Investigators miss opportunities to complete thorough and factual investigations when evidence is obtained and not properly analyzed. This also includes the lack of satisfactory ballistics examinations. Lastly, command/supervisory personnel are reviewing a number of these investigations and are rendering findings based upon incomplete information.

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

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[19] Four cases were eliminated, as they were detainee injuries or attempted suicides, with no use of force.

[20] Two cases were eliminated; they were detainee injuries in which tactics played no role.

[21] These investigations included nine critical firearm discharge events and five vehicle pursuits.

The files documented some reasonable credibility determinations, but demonstrated the need for FI to continue to provide training on this issue. We found that investigations contained reviews of tactics and identified officers' unrelated conduct violations. Findings were based mostly on a preponderance of evidence standard, and recommended referrals for disciplinary intervention were documented.

We found that investigations contained reviews of tactics and identified officers' unrelated conduct violations. Findings were based mostly on a preponderance of evidence standard, and recommended referrals for disciplinary intervention were documented.

We noted during this assessment that extensions were requested and documented in two cases. Nonetheless, despite the lack of requested extensions, only five (25%) of the 20 submitted FI cases were timely; extensions should have been requested and documented in the other 15 cases. We recognize the challenges inherent with effective case management, and recognize the continued efforts of DPD – particularly IAD and FI staff – to address them. Regardless, it is difficult to justify the approval of deadline extensions to conduct interviews, obtain an officer's discipline history, obtain videotapes relating to an event, or locate complainants or subjects weeks or months after an incident.

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

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

During the current reporting period, we reviewed 100 randomly selected cases. Five complaints were lodged in 2011. Ninety-five cases were received – and closed – in 2012. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. However, we noted three cases in which additional allegations were raised during interviews, but not documented or addressed. In one case, a complainant described in great detail a threatening gesture made by one of the officers. In the summary of his statement, the investigator wrote, "Mr. M[] stated there were no threats made to him…" In two other cases, witnesses complained of force and/or profanity directed at them; these were not documented as separate allegations.

We did not note any cases in which OCI did not consider the relevant evidence available in a case. We observed that investigators generally explore the availability of video evidence in cases where it is appropriate. In 45 cases, investigators inquired as to the availability of video. In 34, or 76%, of these cases, video evidence was not available. This is concerning, given the large monetary and resource investment that DPD has made in this technology. We continue to recommend that investigators inquire about video as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of the video before it can be acquired. In addition, there were two other cases in which video evidence might have been available, but OCI did not document any efforts to obtain it.

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

In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.[22]

In two cases, OCI failed to discover potential misconduct. In one, it appeared that an off-duty officer took enforcement action on behalf of an acquaintance in a landlord-tenant dispute. In the other, a complaint originating from a holding cell, two separate detainees indicated that officers ignored pleas for medical assistance and placed cardboard over the observation window so that the detainees could not see the officers.

In 13 cases, the preponderance of evidence standard was not used. This is based on our determination that not all potential evidence was considered, or different findings were warranted based on the documentation provided for our review. For example, allegations that were unfounded or exonerated by investigators would more appropriately be classified as not sustained based on the information in the case file.

Twenty-nine of the cases we reviewed were not completed within the prescribed 90-day time period. Written requests for extension were submitted in only nine of these cases. None of the requests mentioned workload as a reason for the extension in contradiction of policy and this paragraph. As a rule, the extension requests do not adequately identify why the extensions are required. During the reporting period, OCI eliminated its backlog, and OCI command has announced its goal to render extension requests obsolete. They will not be necessary as long as cases are completed within the prescribed time period.

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

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

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

Internal Affairs Division Investigations: Our review during this reporting period found that the IAD investigative packages continue to be well organized, and elements of the investigation are easy to locate. We found that the IAD investigations were conducted in a professional manner. The supervisor meets with the investigators every two weeks to discuss the case progress and grant extensions when necessary. During this review of 37 completed IAD investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence. There were 12 cases that exceeded the 90-day requirement. All 12 cases were delayed due to the criminal court process. In those cases, extensions were requested and appropriately granted.

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[22] If an allegation appropriately received a finding of unfounded or not sustained, evaluation of policy compliance was not assessed since, by definition, its occurrence was either refuted or not substantiated.

Appropriate credibility determinations were made in all of the cases, and ultimately the determinations were made using the preponderance of evidence standard. In four of the 37 investigations, additional DPD policy violations were identified and sustained.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U33

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

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

b. *the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;*

c. *the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;*

d. *appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and*

e. *a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.*

Comments:

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

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

Command Level Investigations: Our assessment for this reporting period found that in 88 (100%) of the 88 SIRs reviewed there was a chain of command review above the investigator. DPD identified deficiencies in 86 (98%) of the 88 cases, with 75 (85%) requiring corrections within seven days of submission. In 11 of the cases, DPD made recommendations that training, policy, or procedural issues be referred to the appropriate DPD unit. In 12 instances, the final reviewing authority referred the matter to an appropriate DPD unit. There were 12 instances of DPD taking corrective action for investigations that were not conducted properly; the corrective action included re-instruction, training, and the issuance of corrective memos. There were three instances where appropriate actions were taken for investigations that had not been evaluated appropriately by the reviewing supervisor. As we have previously mentioned, the review of SIRs by the command level remains the most critical step in the conduct of these investigations. As previously noted, DPD reports that specific training relative to supervisory UOF investigating

is a focal topic for the supervisory/leadership training block during the 2012-2013 annual training period. With specific training and more critical reviews of the investigations during the command review, DPD should be able to improve the quality of investigations conducted at the command level. It is incumbent on the Inspectors and Commanders to continue to ensure that deficiencies in the investigations are corrected, and to consult the appropriate units if any procedural or tactical issues are identified.

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

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

To assess compliance for this reporting period, we reviewed 20 completed FI cases. Although we are sufficiently satisfied, based on our discussions with FI staff, that supervisory reviews and evaluations are occurring, we were unable to find some supporting documentation referred by FI as Case Review Sheets. We recommend that these reviews be more thoroughly documented. Considering the fact that 15 of the cases we reviewed were late, correcting deficiencies within seven days in these investigations is insignificant for the purpose of compliance with this paragraph. Only 25% of the cases we reviewed were timely.

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

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

For the current reporting period, we reviewed a random sample of 100 closed investigations. During this reporting period, 50 cases were returned for deficiencies. Most of these were for spelling, grammar, and formatting. In 21 of the cases, deficiencies were either missed or not corrected within seven days. These include lack of investigative activity for long periods of time, as well as many of the issues cited above, such as investigative shortcomings and failure to submit proper extension requests.

We did not review any cases in which a reviewer disagreed with the recommended findings of the investigator.

The City is not in Phase 2 compliance with this portion of the paragraph.

Internal Affairs Division Investigations: During this reporting period, the IAD supervisor used the case management system, Case Trax, to record any deficiencies and instructions in the investigators' progress notes. All of the investigations were reviewed and approved by the chain of command above the investigators within the required timeframe.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

B. Use of Force and Prisoner Injury Investigations

CJ Requirement U34

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

Comments:

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

In the last reporting period, we found that 83% of the auditable forms (UF002) forms we reviewed were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms included 15 cases that were referred to FI/IAD.

During this reporting period, we reviewed 202 auditable forms, and found that 168 (83%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include eight forms that were referred to FI/IAD, and 10 in which the officers acquired a target.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U35

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

a. *officers to notify their supervisors following any use of force or prisoner injury;*

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

c. *the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury; and*

d. *IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation.*[23]

Comments:

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

During the last reporting period, we found that in 97% of the Command Level Investigations cases we reviewed, a supervisor was notified following a use of force or a prisoner injury. Supervisors responded to 100% of cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury. Supervisors responded to other uses of force on a priority basis in 95% of cases. In combination, a supervisor responded to 97% of the cases that we reviewed. Ninety-five percent of the cases reflected supervisory efforts to interview the subject, either on the scene or at the district. In 95% of the cases, the supervisor examined the subject on the scene or at the district/precinct for injuries, and ensured that the subjects received the needed medical attention. Force Investigations was notified in 22 cases, and assumed responsibility for seven cases.

During this reporting period, we reviewed 88 Command Level Investigations cases and found that in 86 (97%), a supervisor was notified following a use of force or a prisoner injury. There were 32 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury; and a supervisor responded to all of them. Supervisors responded to other uses of force on a priority basis in all (100%) of the remaining 56 cases. In combination, a supervisor responded to 88 (100%) of the 88 cases reviewed, an improvement over the 97% registered in the last reporting period.

In 85 (96%) of the 88 cases, a supervisor interviewed the subject at the scene, at the district/precinct, or at DRH.[24] Also in 86 (98%) of the 88 cases, a supervisor examined the subject for injury and ensured that the subject received needed medical attention.[25] Force Investigations (FI) was notified in 27 of the cases, and assumed responsibility for eight of them. We note that there were five choking allegations, one of which was resolved during the investigation; four remained unresolved and there is no evidence that they were reported to Force Investigations. We would suggest to DPD that any allegations of choking be communicated to FI, allowing them to determine if they need to respond or allow the Command to investigate. Continued failures to advise FI of choking allegations will jeopardize the Phase 2 compliance.

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

Force Investigations: Our review of 20 FI cases relevant to this requirement shows that officers failed to report the use of force to supervisors as required in no cases.

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[23] Amended by Court Order dated September 15, 2008

[24] In some instances, a subject is moved to the District/Precinct or DRH due to circumstances at the scene or the health of the subject.

[25] In some instances, a subject is moved to the District/Precinct or DRH due to circumstances at the scene or the health of the subject.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U36

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

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

b. *IAD investigations to be completed within 90 days of the incident; and*

c. *copies of all reports and command investigations to be sent to IAD within 7 days of completion of the investigation.*

Comments:

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

Command Level Investigations: In the last reporting period, we found that 88% of the Command Level Investigations were completed within 10 days of the event. Ninety-nine percent of the investigations contained the required synopsis of the event. There were four photographs of injuries in the files. In 92% of the cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 99% of the cases. Ninety-seven percent of the cases reflected first-line supervisor evaluations. The final command use of force investigations were completed within 30 days in 84% of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 98% of the cases.

During this reporting period, we found that 78 (89%) of the preliminary investigations were completed within 10 days of the event, an increase over the previous reporting period's 88%. Eighty-eight reports (100%) included a synopsis of the incident. There were photographs of injuries in 12 of the files.

In 84 (95%) of the cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 88 cases (100%). Eighty-eight of the 88 cases (100%) reflected first-line supervisor evaluations. The final command use of force investigations were completed within 30 days in 77 (87%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 85 (96%) of the 88 cases.

Cases failing to meet the 30-day requirement ranged from 32 to 43 days after the incident. We recognize that some cases may be quite complex, but our review of the delayed cases did not find

them to be particularly complex. DPD has not achieved Phase 2 compliance with this paragraph for the Command Level Investigations.

Force Investigations: To assess compliance for this reporting period, we reviewed 20 completed FI cases.[26] Fifteen of the 20 cases we reviewed were untimely. Our review of the untimely cases revealed a troubling pattern, in which FI conducted a portion of the investigations soon after the event, but then took from several months to more than three years to complete the actual investigative reports. None of these cases included any justification for investigators to require several months or even years to complete a report long after the investigative work had been completed.

We continue to recommend that DPD closely evaluate case management and related issues, including staffing, and more closely monitor FI investigators' time management and report preparation to more expeditiously complete these investigations.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U37

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

Comments:

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

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

[26] These investigations included nine critical firearm discharges and five vehicle pursuits.

CJ Requirement U38

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

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

b. *the investigator to conduct and preserve in the investigative file all appropriate ballistic or crime scene analyses, including gunshot residue or bullet trajectory tests; and*

c. *the investigation to be completed within 60 days of the incident. If a Garrity statement is necessary, then that portion of the investigation may be deferred until 30 days from the declination or conclusion of the criminal prosecution.*[27]

Comments:

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

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

In addition, we noted that while the locations of officers were generally described, diagrams depicting their positions were not consistently included in the case files. We also expressed concern regarding the absence of gunshot residue and DNA collection and analysis. The DPD advised that gunshot residue analysis is no longer available; that DNA analysis is limited and that there are significant delays in ballistics analyses, which are conducted by the State Crime Lab. These have been – and remain – issues mitigating the ability of FI to conduct complete and timely critical firearm discharge investigations. And finally, we have repeatedly expressed concern with the failure to complete these investigations within the prescribed 30-day time limit.

To assess compliance with requirements for this reporting period, we reviewed nine completed critical firearm discharge investigations, none of which involved fatalities. One case contained a discrepancy between the number of rounds (ammunition) officers were carrying at the time of the event and the number of rounds they are required to carry by policy. This discrepancy illustrates the need for investigators to document DPD policy violations relating to the carrying of a specified amount of ammunition and the need for DPD to take corrective action.

[27] Consent Judgment amendment April 23, 2012.

The investigations that we reviewed described the locations of the officers; however, the diagrams that were included did not specifically indicate them. The locations of shell casings were noted. Additional evidentiary issues of concern pertinent to the requirements of this paragraph include: the failure of FI to reconcile the number of shots believed to have been fired and an accounting for all shell casings; and the failure of FI to collect and submit DPD firearms for ballistic testing, and to conduct gunshot residue tests in three cases where residue testing would have been an investigative aid in the case. In one case, the officer overseeing the investigation neglected to submit collected ballistics evidence to the MSP lab for analysis due to the involved officers' acknowledgement that they fired the shots, and the facts that no weapons were recovered, and no one was injured. The lack of an adequate crime search for weapons was apparent. Lastly, the investigation failed to address the conflicts involving the officers' ammunition count with shell casings collected at the scene.

We also are concerned that ballistic testing and analysis was not conducted on recovered spent shell casings due to the procedures and protocols of the State Lab; we are further concerned that certain firearms evidence was not submitted to the State Lab for testing due to the DPD practice of only submitting evidence for ballistic testing/analysis when there is an injury due to gunfire and/or unless the Prosecutor's Office requested it.

Only two, or 22%, of the nine critical firearm discharge investigations we reviewed were timely. These cases were closed in a timeframe of one month to three years – a range of time well outside of the 60-day requirement.

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

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U39

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

Comments:

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

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

The DPD failed to submit six CLFRT reports that met the time limitations for completion during this reporting period. Should the DPD fail to submit the CLFRT reports as required for a second and subsequent assessment period, this requirement will be removed from compliance.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U40

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

a. *complete its review of critical firearm discharges that result in injury and in-custody deaths within 21 days from the completion of the investigation and require the Chief of Police to complete his or her review of the team's report within 14 days;*[28]

b. *comply with the revised review of investigations policies and procedures;*

c. *interview the principal investigators; and*

d. *prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol*.

Comments:

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

The DPD failed to submit six CLFRT reports that met the time limitations for completion during this reporting period. Should the DPD fail to submit the CLFRT reports as required for a second and subsequent assessment period, this requirement will be removed from compliance.

DPD is in Phase 2 compliance with this paragraph.

[28] Amended by Court Order dated April 23, 2012.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U41

The commanding officer of Force Investigation or other appropriate DPD executive designated by the Chief of Police shall annually review critical firearm discharges and in-custody deaths in aggregate to detect patterns and/or problems and report his or her findings and recommendations, including additional investigative protocols and standards for all critical firearm discharge and in-custody death investigations, to the Chief of Police. A copy of the report shall be submitted to the Monitor within five months after the end of the year reported on.[29]

Comments:

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

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

We received the CLFRT 2011 annual report on June 6, 2012. The report, prepared by Force Investigation, included a description of investigative processes; case summaries; and various analyses of fatal and non-fatal firearm discharges, in-custody deaths, and pursuits. As in previous reports, the report indicated a downward trend in critical firearm discharges during the latest six-year period. After peaking at 59 in 2006, DPD recorded 30 critical firearm discharges in 2011. There were two fatal shootings in 2010, after peaking at nine in 2006. The most common encounter involved armed subjects.

The CLFRT made recommendations to revise the policy dealing with the Discharging of a Weapon at or from a Moving Vehicle; directed officer safety training after detecting a pattern of officer reaching inside vehicles to turn off the ignition during traffic stops, which were resulting in officers being dragged by the vehicle as operators attempted to escape; and recommended the Training Commander re-assess instruction relating to dealing with subjects with mental conditions and/or subjects who display symptoms of Excited Delirium. In addition, the report addressed the issue of unintentional/accidental discharges by officers. There were three total listed in the report – one of which occurred off-duty. The accidental discharge information has been communicated to the CLFRT by FI for further evaluation. In the interim, all officers involved in the accidental discharges were found negligent and directed to Firearms Training for additional instruction on proper weapon handling and firearm safety.

The Department is in Phase 2 compliance with this paragraph.

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[29] Amended by Court Order dated January 28, 2009.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The failure to conduct quality investigations within prescribed timelines remains a critical issue. We continue to assert that a more sophisticated case management program would prove beneficial. We again emphasize the need to provide formal documentation of reasons for delays in the completion of investigations. Many cases indicate that they are returned for corrections, but do not explain what is needed to be corrected, nor what new time limits have been established for re-submission.
- OCI successfully addressed its backlog of cases during this reporting period. Our review samples during the last several reporting periods were populated with scores of closed, backlogged cases. This reporting period's sample included 13 such cases. These cases were replete with deficiencies – many related to timeliness issues, and many related to investigative shortcuts apparently taken to expeditiously address the backlog. Now that the backlog has been addressed, OCI must shift its focus to addressing the qualitative deficiencies we have identified and discussed during each of our site visits. While this report documents some success in these areas, there are still many opportunities for improvement.
- DPD needs to provide more attention to the quality of interviews; some lack details regarding the incident and exactly how the officers on the scene responded to the incident; investigators armed with new information from interviews seldom re-interview officers to resolve differences. Video and audio recordings must be reviewed as part of the investigative process; the Department needs to place greater emphasis on the appropriate use of the body microphones to capture interactions between officers and the public/subjects. Supervisors need to ensure that activity logs are properly completed with respect to the video and audio capabilities; and when equipment is inoperative, the proper documentation should be prepared and commented on in the investigation. Consideration should be given to the use of body worn audio recorders.
- We have previously mentioned the fact that the DPD does not have a formalized practice of forwarding complex/faulty investigations to the Training Division and/or the Policy Section for review to ensure that both units are aware of the situations officers are confronting in the streets. The reviews of the use of force reports reflects some tactical concerns that would be best addressed through a critical review by tactical personnel at the Training Bureau. Improved tactics will improve interactions with the public; even more importantly, they will improve officer safety. The review of these cases by those specialized units could result in enhanced training curricula or improved DPD policies.
- The DPD has ongoing ballistics issues involving critical firearm discharges investigated by FI. These issues are significant and continue to mitigate the quality and thoroughness

of these investigations. The DPD needs to develop an expeditious resolution to this important issue.

Next Steps:

During the next reporting period, we will:

- Continue to assess compliance, paying particular attention to the thoroughness and completeness of investigations, their review by supervisors, and compliance with the timelines.
- The new Chief Investigator assumed her duties during this reporting period. We note that she has already had a very positive impact on OCI operations, and we look forward to working with her as she addresses the remaining challenges to achieving full compliance.

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

V. ARREST AND DETENTION POLICIES AND PRACTICES

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

The DPD revised its investigatory stop-and-frisk policies to appropriately define investigatory stops and reasonable suspicion and supported this effort by frequent roll call training and two Administrative Messages issued in January and April 2011. As a result of additional emphasis by the Department on investigatory stops/frisks, DPD has been in compliance in this area for three consecutive reporting periods. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy establishes that a material witness can only be taken into custody by obtaining a Court order prior to such taking.

The revised policies and procedures in this area require significant documentation and reviews by supervisors. Command notification is required in all instances where there exists a reported violation of DPD arrest, holds/warrants, investigatory stop-and-frisk, witness identification and questioning policies, and all reports in which an arraignment warrant is not sought. While previous compliance has been achieved in these areas, we have noted during this and the two previous reporting periods the inability of personnel to indicate holds over 48 hours on the Warrant Tracking Form. This has been problematic in that when command review occurs, the commanders had relied solely on whether the OIC had indicated on the Warrant Tracking Form the hold status of the detainee. Due to previous compliance, the current issues stem from combining the general investigative units that were previously housed in the districts and precincts into two central facilities. Compliance review in this area thus draws heavily on the detailed records required in this section.

DPD has made significant progress in documenting Investigatory Stops, Detainee Registration and following their internal witness identification policies during the previous four reporting periods. DPD had been in compliance with its investigatory stop policies for three consecutive reporting periods; in order to remain in compliance, supervisory personnel must ensure the preparation of auditable forms when reasonable suspicion is not properly articulated for the stop. During this reporting period, DPD's ability to articulate reasonable suspicion with frisks and the lack of supervisory review has placed the Department in jeopardy of not being in compliance during our next assessment.

The Department's ability to document and timely prepare warrant submittals to the prosecutor had been problematic, in that the failure to do so caused other violations of policy. (See U50, U51, and U53.) We have found that in a few instances, the failure to prepare the required auditable form or timely review by a commanding officer has kept DPD from compliance with certain paragraphs. Supervisory and command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

In the fifth reporting period, DPD assigned a commanding officer (lieutenant) to coordinate the efforts of the different districts/precincts and other investigative operational units in their reviews of witness identification and questioning policies. This strategy has been successful, as we have

found the applicable CJ paragraph in compliance for eight consecutive reporting periods. This strategy may prove successful in other areas such as investigatory stops and command review.

All paragraphs under the Arrest and Detention Policies and Practices require supervisory and command review. On August 7, 2012, Administrative Message (Teletype 12-066) mandates a 12-hour work shift for police officers in the field and the holding facilities. However, sergeants and higher level ranks will remain on eight-hour shifts. Since adequate supervisory and command review has been major issues for compliance purposes, it appears that consistency of supervision for field personnel could jeopardize DPD's ability to monitor subordinates' activity.

A. Arrest Policies

CJ Requirement U42

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U43

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

Comments:

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

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 106 arrest case files. The review included Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all cases sufficient probable cause for the arrest was present.

In all cases but two, supervisory approval occurred within 12 hours of the arrest. In these cases, the time of approval was not listed on the Crisnet report and/or the reviewing supervisor in the holding facility failed to list the date/time (required) of the probable cause approval on the Detainee Information Sheet.

When an officer is not seeking an arraignment warrant, the Department is required to complete Auditable Form U004, Warrant Tracking Hold Form (effective September 2009). Of the 106 arrest cases we reviewed, the Department did not seek a warrant in 19. In all of the cases except one the required auditable form was completed in a timely basis. In the one exception the auditable form was completed five weeks after the arrest.

We did review an arrest packet that was not in our sample where the arrestee was held for six days in a homicide case. There were numerous errors made by the OIC and the reviewing supervisor failed to conduct a proper review. If the supervisor had conducted the required review those issues could have been addressed and not 46 days after the event when the auditable form was completed. This detainee, after six days, was released and a warrant not sought. After reviewing this case with the Commander of Homicide during our on-site visit corrective action or discipline will be taken with the employee and supervisor.

We are observing more Corrective Action Notices being issued when DPD discovers violations of policy. DPD's compliance with this paragraph is dependent upon probable cause to arrest and timeliness in preparing the required auditable forms.

DPD's compliance rate for this reporting period is 97%, an increase from the last reporting period's 96%, for the three separate and distinct requirements of this paragraph. DPD has been in compliance with Phase 2 of this paragraph in all our previous reports.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Investigatory Stop Policies

CJ Requirement U44

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

Comments:

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

Phase 2 compliance is related to and contingent upon the implementation of U45.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U45

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

Comments:

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

In our tenth quarterly report, we determined that DPD was in compliance with the provisions of this paragraph; this was the first reporting period that DPD achieved compliance in this area. DPD had previously come into compliance with traffic and investigatory stops. In the last reporting period, DPD's compliance rate for frisks was 96%.

Unlike the two previous reporting periods, we noted that officers have significantly declined in their ability to articulate reasonable suspicion with frisks, and that some supervisors are not properly checking the officers' Daily Activity Log entries. During the current reporting period, as in our previous review, we found that DPD personnel have made significant progress in documenting investigatory stops. We continue to find that some supervisors, when reviewing officers' Daily Activity Logs, checked or circled each frisk on their subordinates' logs or completed an auditable form when the frisk was not articulated. This sound accountability practice by DPD supervisory personnel should be continued.

Due to settling a previous litigation, DPD issued Training Directive 12-03 on January 12, 2012 reinforcing Detroit City Code 38-1-3 as it pertains to the loitering ordinance. The new guidelines clearly define the rights of the individual and provide clarity to personnel when enforcing loitering violations.

To assess compliance for this reporting period, we reviewed 322 officers' Daily Activity Logs completed on three randomly selected dates.[30] Each district/precinct provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles or in vehicles stopped in places where a police inquiry was warranted.

Our review yielded 75 investigatory stops, of which 72 indicated a lawful purpose. We observed and noted in previous reports that supervisors are now more thorough in their reviews of officers' Daily Activity Logs and would complete auditable forms for violations; that is no longer the case, as we did not review any auditable forms (traffic stops, investigatory stops or frisks) for this reporting period. Most of the investigatory stops involved subjects being in a park after posted hours, entering premises/property without owner's permission, and loitering. In all instances, supervisors reviewed all investigatory stops within the required timeframe. DPD's

[30] For this review, we randomly selected Daily Activity Logs completed on July 5, August 3, and September 1, 2012.

compliance rate for investigatory stops only (excluding frisks and traffic stops) during this reporting period is 96%, a decrease from the 100% registered in the last reporting period.

The logs included 166 traffic stops, and our review indicated that five did not contain sufficient information to justify the stop, which is a basic requirement. For example, the officers failed to describe the initial necessity or purpose of the traffic stop. Supervisors reviewed all traffic stops in a timely fashion, marking their signatures, and dates and times of review.

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

During this reporting period, we reviewed 51 frisks appearing on officers' Daily Activity Logs. We found that 45 of the frisks met the requirement. There were six cases where the officers failed to articulate reasonable suspicion for the frisks. Supervisors reviewed the logs in each of these instances but failed to note that they did not describe reasonable suspicion for the frisk. On one of the officer's frisks the reason for the frisk was articulated as "administrative search." The sergeant evidently believes that this description describes reasonable suspicion or merely approved the Activity Log without reviewing it. One scout car team of three officers began each frisk description with "furtive gestures" without further explanation for the reason for the frisk.

On July 28, 2011, DPD issued an Administrative Message (Teletype #11-0925) to be read at 10 consecutive roll calls instructing supervisors how to address consent frisks by officers. Another Administrative Message (Teletype 11-1497) was issued on December 24, 2011 emphasizing the importance of officers describing the frisk and supervisors' responsibilities completing the auditable form when required.

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

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

During this reporting period, we found that all frisks were documented by the end of the officers' shifts. The Department's compliance rate for frisks during this reporting period is 88%.

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

A review of in-car video of frisks by the training staff and commanders is helpful in ensuring that legal authority exists for the frisks. In our eleventh quarterly report, we noted that supervisors conducted in-car video review of their subordinates' investigatory stops and frisks.

During other previous reporting periods, we reviewed auditable forms (Stop and/or Frisk Exception form, DPD UF-003, effective October 31, 2009) from supervisors indicating that they had challenged an improper investigatory stop-and-frisk. Supervisors should review all in-car video of investigatory stops/frisks when the legality of the stop is in question. As noted above, Administrative Message 11-0151, issued on January 28, 2011; Administrative Message 11-0477, issued on April 22, 2011; and a subsequent Administrative Message 11-1497, issued on December 22, 2011; emphasized the recording of investigatory stops and frisks by officers and supervisory review. We note that OCR continues to send Corrective Action Notices to the various commands when they review our document request for Daily Activity Logs; however, this responsibility lies with the individual commands, and commands need to take action immediately when the violations occur.

In previous reporting periods we found in a few cases where auditable forms were completed after they were requested by the Monitoring Team and reviewed by DPD personnel. DPD personnel have been trained; this is no longer a training issue but one of *accountability*. Command personnel must ensure that their sergeants/lieutenants are reviewing investigatory stops and taking action when it occurs. The failure here is supervisory and command review. First-line supervisors are the key personnel in ensuring that all investigatory stops are in compliance with policy. DPD's compliance rate for frisks is 88%, a decrease from the 96% we found during the previous reporting period. DPD's overall compliance rate for all investigatory stops and frisks increased from 96% to 98% during this reporting period. Conducting frisks that follow appropriate guidelines and meet established law is an important part of this paragraph and must be compliant.

If DPD is not in compliance with investigatory stops (frisks) during the next reporting period, we will remove the Department from compliance.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Witness Identification and Questioning Policies

CJ Requirement U46

The DPD shall revise its witness identification and questioning policies to comply with the revised arrest and investigatory stop policies. The DPD shall prohibit the seizure of an individual without reasonable suspicion, probable cause or consent of the individual and require that the scope and duration of any seizure be narrowly tailored to the reasons supporting the police action. The DPD shall prohibit the conveyance of any individual to another location without reasonable suspicion, probable cause or consent of the individual.

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U47

The DPD shall develop the revised witness identification and questioning policies within three months of the effective date of this Agreement. The revised policies shall be submitted for review and approval of the DOJ. The DPD shall implement the revised witness identification and questioning policies within three months of the review and approval of the DOJ.

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U48

The DPD shall document the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD shall review in writing all interviews, interrogations and conveyances and document on an auditable form those in violation of DPD policy within 24 hours of the interview, interrogation or conveyance.[31]

Comments:

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

During the last reporting period, we reviewed interviews and interrogations from the Central District, the Sixth Precinct, Homicide, and the Tenth Precinct; and found them in Phase 2 compliance with these requirements.

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

[31] Amended by Court Order dated June 1, 2011

interrogations, and conveyances within 24 hours, compared to the 12 hours previously mandated by the paragraph.

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

We reviewed 114 interviews/interrogations (DPD Form 103, revised April 2019) at Central District (East) and found 111 in compliance. The four interviews/interrogations not in compliance had three without ending interview times that were not discovered by the supervisor when they approved the report, and one interview/interrogation that did not contain supervisory review.

We reviewed 87 interviews/interrogations from the Second Precinct (West) and found two that did not contain supervisory review. DPD's compliance rate for interviews/interrogations for both the East and West investigative facilities this quarter is 97%.

We reviewed 34 interviews/interrogations from the Sex Crimes Unit and found all in compliance.

We reviewed all (18) witness conveyances from Homicide during the reporting period and found them in compliance. During our review of general investigative units witness interviews, for the first time we discovered a witness conveyance not from homicide. Due to the nature of homicide investigations, witness conveyances are generally exclusive to more serious crimes. DPD's compliance rate for this paragraph is 98%.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Prompt Judicial Review Policies

CJ Requirement U49

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U50

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

Comments:

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

Due to a few case reports involving traffic, probation violations, and warrant arrests that are handled by other means, or where the arrestee is taken directly to court, we reviewed 85 case reports that eventually were submitted to the Prosecutor's Office for arraignment. The documentation supporting this review included Crisnet reports, Warrant Verification Logs, Arraignment Sheets, Detainee Input Sheets, and Warrant Tracking Hold Forms. Of the 85 cases we reviewed where an arraignment warrant was submitted, all but three met the 48-hour requirement. One of the cases contained the required auditable form, but the OIC indicated a 16:45 arrest time, when the actual arrest was made at 04:45. This error put the warrant submittal to the prosecutor past the 48-hour requirement, and the OIC failed to indicate the submittal was late. The time entry error caused the commander reviewing the form not being aware of the lateness. In another case, an auditable form was generated for the arraignment exceeding the 48-hour requirement but not for the warrant being submitted to the prosecutor on time. When the commanding officer reviewed the auditable form the arrest time and time of the warrant submittal was clear and she should have made notice it was in violation. In the remaining case the auditable form was completed for failing to submit the warrant request timely and lateness of arraignment, but it was completed 48 hours late. DPD's compliance rate with this requirement remains at 97%.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U51

The DPD shall document on an auditable form all instances in which the request for an arraignment warrant is submitted more than 48 hours after the arrest. The DPD shall also document on an auditable form all instances in which it is not in compliance with the prompt judicial review policy and in which extraordinary circumstances delayed the arraignment. The documentation shall occur by the end of the shift in which there was: 1) a failure to request an arraignment within 48 hours, 2) a failure to comply with the prompt judicial review policy, or 3) an arraignment delayed by extraordinary circumstances.

Comments:

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

To assess Phase 2 compliance with these requirements, we reviewed the same documents referenced in U50. Of the 106 arrest case reports we reviewed, there were 85 that began at the initial arrest and in which a warrant was submitted to the Prosecutor's Office for arraignment. There were three cases where there were issues with the submittal of warrants to the prosecutor. We excluded cases that involved warrant arrests, juvenile arrests, and traffic cases.

There were 62 detainees who went to arraignment and 35 of these where the arraignment occurred more than 48 hours from the time of the initial arrest. In all cases except one, an auditable form was completed timely. In one other case, a sergeant approved and signed the auditable form instead of a commanding officer. As in the last reporting period, there were three instances where the warrant submittal to the prosecutor was late or did not exist. When the commanding officer reviews the auditable form, s/he must inspect the document to ensure that the OIC is dating or placing the time the event was recognized. On January 11, 2011, we reviewed a Departmental Message that indicated UF-004/007 had been combined and entered into MAS. The new form has a designated box for the OIC to place the date and time the form is generated and areas to indicate the time the warrant was submitted and the detainee arraigned. If the commanding officer reviews the dates and times of the events prior to approval, determining compliance is straightforward. We have observed that the new form is being utilized properly and the before mentioned issues have been resolved.

DPD's compliance rate with this requirement for the current reporting period is 96%, an increase from the previous quarter's 95%. In our previous reports, we determined that Department personnel occasionally delay completing the warrant submittal unnecessarily (although it is within the 48-hour timeframe), and thus arraignments are often delayed. Our reviews determined that occasionally a full workday (Monday through Friday) elapses prior to those documents being processed and forwarded to the Prosecutor's Office, or they are submitted at the last hour. DPD must strive to submit the documentation to the Prosecutor's Office in a more timely fashion.

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

E. Hold Policies

CJ Requirement U52

The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. This policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged in the current arrest shall not delay this process.

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U53

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

Comments:

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

In previous reporting periods, DPD was not in Phase 2 compliance with this paragraph, due to holds/warrants not being cleared and the auditable form not being prepared. In the last reporting period, the Department's compliance rate with this requirement was 86%.

To assess compliance with the requirements, we reviewed 106 Detainee Input Sheets, and found a total of 52 holds/warrants listed on the forms. In our previous reports, we noted satisfactory completion of the auditable forms for those holds exceeding 48 hours and the detainee still in custody. Form (DPD UF004-007, revised June 2009) was created and contains appropriate indications for officers to identify more than one violation of the Prompt Judicial Review Policies. DPD personnel must be aware that if an arraignment occurs more than 48 hours after an arrest and the detainee has an outstanding hold/warrant, there is a likelihood that the warrant may not be cleared within the requirement and both boxes should be checked. There can also be an issue if the warrant submittal for the outstanding arrest is denied by the prosecutor and there is a hold on the detainee. In these cases, DPD has an expectation that the hold(s) will be addressed at the arraignment on the current charge; and if the warrant is denied, the detainee may be presented to the judge at the next available arraignment opportunity.

Our review of the data requested in our sample during this reporting period indicated a reversal of DPD's previous progress. Of the 52 holds during the reporting period, six of them were not in compliance. All six simply were not indicated on the Warrant Tracking Form, when in most cases, the arraignment occurring after 48 hours from time of arrest was marked or the warrant denied mark was indicated.

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

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

As we have noted previously, the lack of DPD personnel properly indicating the date and time that holds/warrants are identified/cleared and generating the required auditable forms for violations continues to be problematic for the Department. If personnel would properly complete the required information contained on the Detainee Input Sheet, the existing problems would be resolved. DPD's compliance rate for this requirement remains is at 89%, an increase from the 86% registered during the last reporting period. This is the second consecutive reporting period in which DPD has not been in compliance with this paragraph; therefore, it is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

F. RESTRICTION POLICIES

CJ Requirement U54

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U55

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

Comments:

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

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed 106 arrest case files and did not identify any restrictions. During our most recent site visit, we reviewed one restriction that was active and in compliance. DPD personnel advise us that restricting a detainee's access to visitors, attorneys, and the use of telephone privileges rarely occurs. Personnel may impose a telephone restriction when a detainee makes threatening or harassing calls to individuals outside the facility. There are payphones in each holding facility for the detainees' use. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

G. Material Witness Policies

CJ Requirement U56

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U57

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

Comments:

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

To assess Phase 2 compliance with this paragraph, we reviewed all of DPD's requests to the Court for taking a material witness into custody for the period of July 1, through September 30, 2012. The auditable form, approved by a supervisor, was attached to the Court order in the two cases presented to the Court. The Court order was issued by a Judge in the 36th District Court of the State of Michigan prior to the witnesses' detention.

As a result of some issues discovered during our April 2012 site visit relating to where all material witness documentation should be held, DPD issued Teletype 12-322 (April 27, 2012) formalizing a process that ensures that the Office of Civil Rights will serve as the repository for these forms. In addition, DPD issued Roll Call Informational Bulletin (12-17) reinstructing personnel the required procedure for filing these forms. DPD's compliance rate is 100%.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

H. Documentation of Custodial Detention

CJ Requirement U58

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

a. the individual's personal information;

b. the crime(s) charged;

c. the time and date of arrest and release;

d. the time and date the arraignment was submitted;

e. the name and badge number of the officer who submitted the arraignment;

f. the time and date of arraignment; was lodged and cleared, if applicable;

g. the time each warrant was lodged and cleared, if applicable; and

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

Comments:

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

DPD has been in compliance with this paragraph in all of the previous reporting periods. To assess Phase 2 compliance during this reporting period, we reviewed a random sample of 106 arrest case files where a Detainee Input Sheet was completed that contained personal information about the detainee, charges, holds/warrants, and other supporting data. We used the 62 cases where an arraignment occurred to determine compliance due to all eight elements of this paragraph being included. The contained documents included Detainee Input Sheets, Warrant Verification Logs, Arraignment Logs, and Livescan forms. In the majority of instances, the: (a) individual's personal information; (b) crime[s] charged; (c) date and time of arrest and release; (d) time and date the arraignment was submitted; (f) time and date of arraignment, if applicable; (g) time and date each warrant was lodged and cleared; and (h) individual's custodial status; were listed on one of the applicable forms.

In four cases, the officers failed to include all relevant detainee personal information (U58a) on the Detainee Input Sheet. All other required information was properly documented. We examined each case for compliance with the eight individual requirements, and found an overall compliance rate of 99%, the same as in the last reporting period. DPD has been in compliance with this paragraph in all previous reporting periods.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

I. Command Notification

CJ Requirement U59

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

Comments:

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

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

In our review of 106 arrests during this reporting period, we determined that all properly documented probable cause. In those situations where a warrant is not sought or a warrant is denied on an arrestee, supervisors should scrutinize the arrest packets to ensure that the elements required for a valid arrest are documented.

We reviewed 51 frisks, and determined that 45 met the requirement; however, the supervisors did not complete the required auditable forms for any of the violations. In recent reporting periods, DPD has generated auditable forms for violations of this paragraph relating to frisks. The failure of supervisors to review and recognize frisks in violation of policy and to complete the required auditable forms continues to be problematic for DPD with maintaining compliance with U45. In order to be lawful, a stop must be supported by reasonable suspicion and narrowly tailored in scope and duration to the reasons supporting the seizure. During a limited seizure, the officer may conduct a frisk if s/he has reasonable suspicion to believe that the suspect may have the means to do harm. While supervisors *do* review the officers' Daily Activity Logs, they should also be challenging officers to articulate the *reason* for the stops/frisks. The officers, in some cases, are only noting the stops.

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

There were 75 investigatory stops (excluding frisks and traffic stops), of which 72 were based on a documented investigatory purpose.

There were 19 cases where documentation was completed indicating that an arraignment warrant was not sought and auditable forms were completed and contained appropriate command review. In one of the cases the auditable form was completed five weeks after the arrest and corrective action was taken. In all cases, a commanding officer approved the form and attached his/her signature including the date of review. We have observed DPD's progress with commanders' oversight as it relates to warrants not served.

We reviewed 235 witness/interrogation interviews from Central Investigative Command and the Sex Crimes Unit. The Department has made progress with commanders' reviews of warrants not sought and witness identification and questioning policies. We reviewed 19 auditable forms (warrants not served, witness interviews and investigatory stops) under this paragraph that were sent to commanders for review or prepared by commanders. Under this paragraph, DPD commanders have seven days to review the requirements from time of receipt; compliance should not be an issue.

DPD's compliance rate with this requirement for this reporting period is 98%, an increase over the 80% registered in the last reporting period.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U60

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

Comments:

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

To assess compliance for this reporting period, we reviewed 106 arrest case reports, of which 89 were submitted to the Prosecutor's Office and 62 went to arraignment. There were 41 cases where the arraignment occurred more than 48 hours after the arrest.

In all but three cases, the request for the warrant was submitted in a timely fashion. In one instance an auditable form was completed and command review occurred. There was no command review in the other two cases, as the auditable form had not been prepared.

In the 62 cases that went to arraignment, 35 of these were arraigned more than 48 hours after arrest, and auditable forms were completed. In the only exception, a sergeant conducted the commander's review. We noted previously that OCR sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints. DPD's compliance rate for this portion of the requirement is 98%.

Of the 52 hold/warrants that we identified, there were 21 holds that were not cleared within the required 48 hours. In 15 instances, the Warrant Tracking Form was properly completed and forwarded to the commander for review; in six cases, the "hold" box was not marked indicating a hold over 48 hours. There were two material witnesses taken into custody during this reporting period, and all required auditable forms were completed.

Under this paragraph, there were a total of 53 auditable forms reviewed by the commander. In one instance the command review was signed off by a sergeant. The paragraph requires a commanding officer review. During a previous site visit, we met with the commanders and advised them of the issue with late reviews. In the event of a commander's absence from the district or precinct, the on-duty commanding officer (lieutenant or above) has the authority to review and sign off on the auditable forms. They serve as precinct commanders during that timeframe.

DPD's overall compliance rate for this paragraph is 98%, an increase over the 96% that we found in the last reporting period. There was one restriction placed on detainees during this reporting period.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The delay of warrant request to the Prosecutor's Office often delays the arraignment for more than 48 hours; and thus, if there is a hold attached to the warrant, both the arraignment and the hold require an auditable form creating additional work for DPD personnel and the opportunity for failure. We have stressed this issue with DPD in previous site visits and our quarterly reports.
- If warrant submittals to the prosecutor were made within 24 hours of arrest the number of holds and arraignments would be reduced significantly; thus reducing the number of auditable forms by a similar margin.
- Our review of investigative stops found that officers often fail to articulate "reasonable suspicion" in accordance with DPD policy requiring written documentation of all investigatory stops and frisks. The supervisory monitoring of stops and frisks has declined during the previous two reporting periods due to a few sergeants being lax during their reviews of subordinates' work. During previous reporting periods, we received auditable forms for violations of the investigatory stop policies but this quarter did not receive any. Supervisors must carefully review officers' Daily Activity Logs and complete auditable forms when they are required.
- District/precinct commanders must ensure that auditable forms are completed and forwarded promptly for their review, and advise their lieutenants that they have the authority to review and sign auditable forms under C60 in their absence.
- District/precinct commanders must not allow sergeants to review and approve auditable forms that the commander is required to review. During the previous reporting period, an investigator (not a supervisor) approved 16 witness interview forms; and in this quarter, a sergeant approved an auditable form for a violation of the prompt judicial review policy when command review is required.
- The most critical issues affecting DPD in complying with the Arrest and Detention paragraphs is the inability of sergeants to review investigatory stops and complete the auditable form when the violation occurs and the failure of the OIC to indicate on the Warrant Tracking Hold Form those situations when a detainee is held for more than 48 hours on an outstanding hold/warrant. It is not OCR's responsibility to issue corrective action in the districts/precincts. All issues and violations of policy should be addressed in the individual commands by the Commander's prior to being reviewed by OCR and then the Monitor.

Next Steps:

During the next reporting period, we will:

- Meet with DPD's Civil Rights Integrity Bureau (CRIB) to discuss our investigatory stop concerns, and the timeliness of commanders' reviews as it relates to auditable forms that require daily review. Completeness, accuracy, and timeliness of all reports and auditable

forms continue to affect field units and the quality of administrative review. We will discuss issues remaining concerning personnel who are not authorized to review and approve forms.

- Review other investigative units to determine their compliance with interrogations, interviews, conveyances, and material witness policies. During our April site visit, DPD had drafted a plan to centralize its general investigative units and the plan was implemented during this reporting period and should have resolved the issue of timeliness with command reviews of auditable forms and the inability of some OIC's to properly complete the Warrant Tracking Hold Form (UF004-007). While command reviews have been exceptional, the ability of personnel completing the form needs to improve.
- Observe personnel who are responsible for the detainee booking process; interview them regarding procedures for detailing when holds/warrants are identified and cleared; and inquire as to their role in ensuring how auditable forms are prepared in a timely fashion. Our review of documentation for this reporting period indicated a high number of instances where holds exceeded the 48-hour requirement and where the Warrant Tracking Forms were not completed. We advised CRIB of this issue during our July and October 2012 site visit.
- Meet with the commanders of each district and precinct to discuss issues relating to auditable forms and their role in ensuring compliance. During our visits in the field, we have had only one district/precinct commander to ask our Team members what we have found during our inspections.
- Inquire with DPD if any additional processes have been enacted to address the dilemma that occurs when a hold has been previously placed on an arrestee, and the warrant request to the Prosecutor's Office on the current charge has been denied. The concern for DPD in these instances creates a delay in presenting the hold for arraignment within 48 hours only on the basis of the hold. In our reviews, this issue has been and remains a problematic, in that holding cell personnel tend to utilize the time of release on clearing a hold – rather than simply writing in the date and time in the space provided on the form. In a few cases, we are finding that when an arraignment occurs more than 48 hours after the arrest and the OIC is completing the auditable form for the late arraignment, the OIC is failing to mark the box on the same form for a hold not being cleared. In some cases, a sergeant is reviewing the auditable form and not ensuring that the OIC (who prepared the document) is marking the hold over 48-hour box. This issue has not been resolved.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
42	Define and prohibit arrest without probable cause	In Compliance	In Compliance
43	Review all arrests for probable cause	In Compliance	In Compliance
44	Revise investigatory stop-and-frisk policy	In Compliance	In Compliance
45	Written account of stops and frisks	In Compliance	In Compliance

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

VI. EXTERNAL COMPLAINTS

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

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

During our most recent site visit, we examined the investigative procedures employed by IAD for consistency in the application of procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation. The IAD Standard Operating Procedures were revised in January 2011 to include Section 5-8, Case Tracking.

The Office of the Chief Investigator (OCI) is the investigative arm of the Board of Police Commissioners (BOPC). OCI is responsible for investigating non-criminal external complaints. The Board has plenary authority over citizen complaints. OCI operates independently of the Detroit Police Department and is led by a civilian Chief Investigator who is appointed by the BOPC. OCI is staffed with a combination of civilian and sworn investigators who assist in the

investigation of citizen complaints. OCI's mission is to provide meaningful and objective investigations of citizen complaints of police misconduct.

OCI investigates non-criminal allegations of misconduct against Detroit Police Department personnel for the following: Arrest; Demeanor; Entry; Harassment; Force; Procedure; Property; and Search and Seizure. OCI employees are required to accept complaints from any source and by any method of communication including in writing, verbally, in person, by mail, by telephone, by facsimile, or by electronic mail. Members of the public may also file complaints at the BOPC office or at BOPC meetings.

During our most recent site visit, we met with the BOPC Staff, the Acting Chief Investigator, and supervising investigators assigned to OCI. We discussed the status of overdue investigations in general, and the implementation of the recently adopted backlog elimination plan. We also attended case review meetings with all investigative staff.

CJ Requirement U61

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

Comments:

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

The established policies and procedures set forth the jurisdictional responsibility of the DPD IAD and OCI.

IAD is charged with the prevention, discovery, and investigation of criminal allegations and allegations of serious misconduct against Department members and City employees who are assigned within the DPD. IAD is responsible for all external complaints alleging possible criminal misconduct.

OCI investigates non-criminal allegations of misconduct against DPD personnel in the following categories: arrest; demeanor; entry; harassment; force; property; search; and service. The established policies and procedures also provide guidance for receiving, recording, tracking, referring, and investigating complaints.

Both IAD and OCI track each open, pending, and closed case by the unique case identifier that is placed on all relevant documentation regarding the specific external complaint and provided to each citizen upon lodging a complaint. Each entity uses a computerized database to record data that is developed concerning external citizen complaints. OCI and IAD continue to enhance the databases; investigators and supervisors now have the ability to make case notes directly into the database. OCI is required to compile a summary of its investigations annually. These summaries are distributed throughout the DPD, to the Board of Police Commissioners, and to the

public. In addition, the City displays informational posters in the public areas of all police facilities and public libraries. The City sponsors community meetings and runs public service announcements concerning how to file a citizen's complaint against the police. Through OCI, the Board of Police Commissioners maintains a community outreach coordinator, who attends meetings and makes presentations at the request of community organizations or public forums. The Board of Police Commissioners website provides access to an OCI fact sheet on external police complaints. The BOPC website also allows the public to file complaints online.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U62

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

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

b. *distributing complaint forms, fact sheets and informational posters at City Hall, OCI, all DPD precincts, libraries, on the internet and, upon request, to community groups and community centers;*

c. *broadcasting public service announcements that describe the complaint process; and*

d. *posting permanently a placard describing the complaint process, with relevant phone numbers, in the lobby of each DPD precinct*

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

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

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

We also inspected two libraries: Bowen Branch and Campbell Branch. We found the appropriate posters on display, and adequate supplies of complaint forms and brochures. Employees were well versed on the process for securing replacements.

Both DPD and OCI conduct community outreach programs designed to inform citizens of the complaint process and the procedures for filing complaints. The Board of Police Commissioners website allows the public to file complaints against the police online. The City of Detroit broadcasts public service announcements that describe the complaint process. DPD provided us with the broadcast schedule for the week of our site visit. We also reviewed the October 2012 External Information Campaign Audit of All Districts, which was provided to us during our most recent site visit.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U63

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

Comments:

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

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

During this reporting period, we randomly selected both desk officers and patrol officers in the Northeastern and Eastern Districts; and the Second and Twelfth Precincts, and asked them to produce complaint forms and brochures. They were able to do so in each case.

In April, 2012, DPD issued Teletype #12-0300, advising Department employees that the Citizen Complaint Report (CCR), DPD 512, was available in MAS, and that supervisors should no longer use hard copy versions of the report. The form in MAS is to be routed to the member's inspector or commander, who will electronically approve the CCR and forward same to OCI. The teletype also requires that the supervisor taking the complaint document the complaint information in the "electronic desk blotter," and that each command maintains a supply of paper forms in the event MAS becomes inoperable. Paper forms can only be used, however, in such circumstances.

In each location, we reviewed the electronic desk blotters and noted that complaint information was appropriately recorded. We also inspected the supply of paper forms and record books, to be used in the event that MAS is unavailable. Command officers who were interviewed indicated that now that the system has been in operation for a while, some of the difficulties previously reported have been addressed. There also appears to be a greater comfort level with using the system.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

A. Intake and Tracking

CJ Requirement U64

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

Comments:

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

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

Our review of 37 IAD and 100 OCI investigations for this reporting period again found that complaints were filed using all of the communication methods identified in this requirement. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U65

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

Comments:

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

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

We reviewed 37 IAD and 100 OCI cases for this reporting period. We again found no instances where personnel accepting complaints reported any opinions regarding the mental capacity or veracity of the complainant.

DPD and the City are in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U66

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

Comments:

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

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

For this reporting period, we reviewed 37 IAD and 100 OCI investigations. All investigations contained the required information. The letters also provided case-specific identifiers for the complainant to reference when contacting either IAD or OCI. DPD and the City are in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. External Complaint Investigations

CJ Requirement U67

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

a. *provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*

b. *permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*

c. *refer all complaints to the appropriate agency within five business days of their receipt;*

d. *require that the complainant shall be periodically kept informed regarding the status of the investigation;*

e. *develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*

f. *implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*

g. *require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*

h. *require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.*[32]

Comments:

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases. Six cases were transferred to IAD, and one case was transferred to the Wayne County Sheriff's Office. Five of the IAD cases involved allegations of theft, and one involved the filing of a false report. All were appropriate referrals. The referral to Wayne County involved an allegation of excessive force. The complainant was arrested by the multi-jurisdictional Auto Theft Task Force, and it was determined that the subject officer was a sheriff deputy. No DPD officers were involved in the arrest. While the transfer was appropriate, it was not referred until four months after the complaint was lodged. Five of the transfers to IAD were not timely, and took between 13 and 40 days to complete.

Nine cases were resolved informally. One of the nine cases did not meet the criteria for an Informal Complaint Resolution (ICR), as it did not involve complaints of inadequate service or innocence of the charge. The complainant alleged that officers inappropriately shot her dog and confiscated her personal firearms. She further alleged that the firearms were being held by DPD for punitive reasons, and should have been returned. OCI classified this as an "innocence of the charge" case, despite the fact that the complainant was not charged with any violation of law.

Six cases in our sample were administratively closed. We determined that three were inappropriately closed via this process. One involved force (handcuffs applied too tightly) and an allegation that officers left the complainant's children unattended. The other two cases stemmed from the execution of search warrants. In the first, the complainant alleged that the list of items seized was inaccurate. The complainant's dog was also shot during the incident. These allegations were inappropriately classified as "service complaints." In the second case, the

[32] Amended by Court Order dated September 15, 2008.

complainant alleged damage to property. The investigator inappropriately characterized this as "innocence of the charge."

Seventy-one of the 100 cases we reviewed were completed within 90 days, a notable increase from the 37 timely cases during the last review period. Most of the overdue cases were in our July sample. OCI successfully eliminated its backlog of cases during the reporting period, and as of this writing OCI has posted several weekly reports with no cases overdue.

All of the 100 cases we reviewed were referred to OCI within five business days as required by DPD policy; most cases were transferred within one to three days. However, we noted the untimely transfer of cases from OCI to IAD, as described earlier.

In most cases, we noted efforts to keep the complainant informed of case progress. Often, this correspondence involved attempts to encourage uncooperative complainants to participate in their investigations. However, we identified 13 cases in which complainants did not receive update letters after 45 days as required by OCI policy. In all applicable cases, the complainants were notified of the disposition of their cases, and if any allegations were sustained, they were advised that the case was referred to the Chief of Police for appropriate corrective action.

During our previous site visits, we verified ongoing in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we continue to encourage OCI to explore training specific to OCI's responsibilities, in order to address knowledge and skill gaps that impact the quality of its investigations. The Chief Investigator developed and delivered two excellent training classes: Effective Time and Case Management Techniques, and Conducting the Canvass. Additionally, all personnel received training regarding the Insight Video System, so that they can verify if video is available for a case without going through Tech Support. We also verified that newly hired investigators received appropriate pre-service training.

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

Internal Affairs Division Investigations: IAD Standard Operating Procedures do not specifically permit or encourage informal resolution due the nature of their investigative jurisdiction of alleged criminality and/or serious misconduct lodged against Department personnel. Accordingly, IAD investigates and makes findings in each case.

IAD Standard Operating Procedures and OCI policy require that all complaints be referred to the appropriate agency within five business days of their receipt. Historically, we discovered significant delays in transferring appropriate cases from OCI to IAD. During the current reporting period, we reviewed 37 IAD cases, and determined that one case had been referred by OCI. That case was received at IAD 17 business days after it was filed at OCI. The allegation was Assault and Battery/Domestic Violence against a DPD Criminal Investigator.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. IAD is current in its training requirements. Training on "Statement Analysis" was recently provided to the entire unit plus some members of OCI and Homicide, courtesy of the FBI.

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

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

During our current review of 37 investigations, 12 exceeded the 90-day time limit. Of those, the reviewer determined that six were delayed at the Wayne County Prosecutor's Office awaiting decision to prosecute, and four cases were in State or Federal Court. In the remaining two, one case involved long-term medical fraud, and one case involved embezzlement occurring over a three-year period, which required extensive investigations and resulted in criminal prosecution. All delays were documented and approved by the supervisor. There were no cases that were inappropriately delayed during this period.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U68

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

a. *the Chief Investigator or his/her designee to complete review of OCI investigations within 7 days of completion of the supervisor's review;*
b. *the Board of Police Commissioners to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review;*[33] *and*
c. *the Chief of Police or his or her designee to complete his or her review of external complaints within 7 days of completion of the BOPC's review.*

Comments:

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

During this reporting period, both the Acting Chief Investigator and then the newly appointed Chief Investigator reviewed all investigations submitted to them within the prescribed seven-day period.

During this reporting period, the Board of Police Commissioners took longer than 45 days to review 161 cases. The Board took between 46 and 235 days to complete the reviews of these cases. Seventeen of these cases involved sustained allegations.

During our most recent site visit, we also reviewed correspondence between OCI and the Chief's Office showing timely transfer of cases once the Board approves them.

[33] Amended by Court Order dated July 18, 2003.

The City remains in Phase 2 compliance with this paragraph. However, if compliance is not achieved during the next reporting period, the City will fall out of compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U69

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

a. *"Unfounded," where the investigation revealed no facts to support that the incident complained of actually occurred;*

b. *"Sustained," where a preponderance of the evidence shows that the alleged conduct did occur and the actions of the officer violated DPD policies, procedures or training;*

c. *"Not Sustained," where there are insufficient facts to decide whether the alleged misconduct occurred; and*

d. *"Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.*

Comments:

During this reporting period, we reviewed 100 randomly selected OCI cases. For purposes of this paragraph, we evaluated the determination of finding based on the information in each case file. We found four cases in which allegations did not receive appropriate dispositions. In these cases, we learned of the additional allegations by listening to the complainants' interviews, as they were not mentioned on the original CCR. The allegations were not identified or addressed in the case summaries. As noted in our previous reports, we are concerned with the frequency of this, as we listen only to a small subset of interviews. This is what drives our insistence that supervising investigators either observe interviews conducted by their investigators or listen to recordings afterwards.

Four cases were improperly either administratively or informally closed. Therefore, findings were not reached in these cases. We do not concur with the findings assigned to one or more allegations in 13 cases. At least four involved allegations of improper demeanor. In one, the allegation should have been sustained based on the statements of a partner officer, who supported the complainant's assertions. In another, the officer basically admitted to the allegation but the finding was not sustained. In still another, the complainant's allegations appeared to be verified by an independent witness, and this should have resulted in a sustained finding. And finally, demeanor allegations should have been sustained against an Emergency Services Operator, based solely on the recording of the phone calls between her and the complainant.

We disagreed with unfounded findings in at least five cases. Not sustained findings would have been more appropriate. In four of these cases, there were no independent witnesses or other evidence to support that the allegations did not occur. In the fifth, the interaction was caught on video, but the recording did not start until after the point at which complainant alleged that unnecessary force occurred. The video therefore did not refute the allegation as the investigator claimed.

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

In addition, we reviewed all 37 IAD cases – including internal and external complaints – that were completed during this reporting period. During earlier reviews, there were dispositions in each of the investigations. We did not always agree with the dispositions, especially those that were derived from faulty interviews and/or the failure to gather pertinent evidence. When we discussed this issue with IAD personnel, IAD advised that it was making efforts to correct the problems.

During this reporting period, all investigations contained the required dispositions. Included in the 37 investigations were 50 allegations of misconduct. The following is a breakdown of the dispositions of the 50 allegations: 27 sustained; 14 not sustained; nine unfounded, and none exonerated. Based on our review of the investigative documents, we are in agreement with the dispositions. IAD is in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues:

We examined 37 closed IAD cases and 100 closed OCI cases for the period of July 1, through September 30, 2012. Our review disclosed that the following issues continue to require attention:

- *IAD Case Tracking:* During the first quarter of 2011, IAD adopted a computer program to aid in tracking its cases. While the system does not alert the users to deadlines, it does allow for communication between the investigator and supervisor. The supervisor recently incorporated a computerized calendar into the process, which notifies her when an assignment date has been reached. Also, cases that are submitted to the Prosecuting attorneys are tracked, and updates are requested on a regular basis. IAD appears to have eliminated the backlog of overdue cases, with the exception of those cases that are awaiting disposition or prosecution at the Prosecutor's Office. The IAD manager recently met with members of the Wayne County Prosecutor's Office to discuss the viability of the cases still awaiting decisions. Additionally, the Information Technology Unit created a computer program at IAD to consolidate the Garrity interview schedules for all of the investigators.

- *Quality v. Quantity of OCI Investigations:* As noted in our past several reports, OCI has been steadily working to address an extremely large backlog of cases. The quality of their investigations suffered, both because of long periods of inactivity and because of the pressure to complete these investigations and get them off of the books. OCI has eliminated the backlog and as of this writing, OCI has no overdue cases. OCI's Chief Investigator and its Supervising Investigators must now turn their attention to addressing the quality of investigations. During every site visit, we discuss numerous cases in detail from our most recently completed assessment. We note many deficiencies that can be addressed with a thorough review of the cases and independent verification of the content of interviews.

Next Steps:

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of October, November, and December 2012.
- Verify implementation of and adherence to the backlog elimination plan filed with the Court.

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
61	Revise external complaint policies	In Compliance	In Compliance
62	Information campaign re complaints	In Compliance	In Compliance
63	Officers carry information/contact forms	In Compliance	In Compliance
64	Policy to define complaint intake/track	In Compliance	In Compliance
65	Permit factual account, no opinion	In Compliance	In Compliance
66	Unique identifier for complaints	In Compliance	In Compliance
67	Revision of complaint investigations	In Compliance	Not in Compliance
68	Time limits for review of investigations/complaints	In Compliance	In Compliance
69	Required finding categories specified	In Compliance	Not in Compliance

VII. GENERAL POLICIES

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

CJ Requirement U70

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

Comments:

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

The DPD CRIB Planning Unit is responsible for reviewing and updating all current policies and for ensuring that revisions are consistent with the requirements of the Consent Judgment. With the effective dissemination of Directive 404.1, Definitions, it has ensured that all terms are clearly defined. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U71

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

Comments:

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

The DPD 36th Quarter Status Report, issued September 30, 2012, reports that during the 13th quarter, the following revisions to Consent Judgment-related directives were disseminated to all members: 102.3, *Code of Conduct*, effective July 24, 2012; 201.3, *Domestic Violence*, effective July 11, 2012; 303.3, *In-Car Video*, effective August 4, 2012; 304.5, *Training,* effective July 10,

2012; 305.4, *Holding Cell Area,* effective July 6, 2012; and 305.8, *Detainee Food Service/Hygiene Items,* effective July 19, 2012.
Also disseminated to all members was Directive 201.11, *Use of Force and Detainee Injury reporting and Investigation,* a new directive that was presented to the BOPC and posted on the website. This directive was approved on August 30, 2012 and became effective on that same date.
In addition to those directives, we were also advised that DPD 103.5, *Secondary Employment,* was presented to the BOPC and was posted on the website. It was approved July 12, 2012 and was effective on that date. Directive 305.2, *Detainee Registration,* a revision, was presented to the BOPC and posted on the website; it was approved on July 26, 2012 and was effective on that date.
The two new directives and the revision to 305.2 were presented to the BOPC and posted on the website.[34] The DPD did not present the remaining directive revisions to the BOPC or post them on the website as these revisions were not substantive in nature.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U72

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

Comments:

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first quarter of FY 12-13. As of September 30, 2012, 604 members (28%) received the use of force training, which incorporates the methods for dealing with this requirement.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

[34] DPD 201.11, *Use of Force and Detainee Injury Reporting and Investigation;* and DPD 103.5, *Secondary Employment*.

CJ Requirement U73

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

Comments:

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

During the last three reporting periods, we found that 98%, 100%, and 98%, respectively, of the randomly selected platoons and specialized units were in compliance with the required 1:10 ratio of supervisors to officers in patrol and specialized units on the dates surveyed.

During this reporting period, we again surveyed Daily Details for three days selected at random (Monday, July 23; Tuesday, August 21; and Wednesday, September 12, 2012). We found that of the 145 platoons deployed on the three days, 141 (97%) were in compliance with the required 1:10 span of control ratio.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U74

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

Comments:

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first quarter of FY 12-13. As of September 30, 2012, 604 members (28%) received the use of force training, which incorporates the methods for dealing with this requirement.

We reviewed no cases during this reporting wherein officer misconduct was or should have been reported.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U75

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

a. *provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;*

b. *prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and*

c. *provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyzer, and/or blood tests.*

Comments:

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first quarter of FY 12-13. As of September 30, 2012, 604 members (28%) received the use of force training, which incorporates the methods for dealing with this requirement.

On January 19, 2012, the letter to the Michigan Association of Chiefs of Police (MACO), requesting that member agencies notify DPD IAD of any off-duty actions involving DPD members in their respective jurisdictions was sent. A copy of the letter was provided to the Monitoring Team.

DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U76

The DPD shall revise its policies regarding prisoners to:

a. *require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;*

b. *require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and*

c. *prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.*

Comments:

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first quarter of FY 12-13. As of September 30, 2012, 604 members (28%) received the use of force training, which incorporates the methods for dealing with this requirement.

We also reviewed all 88 Command Level Investigations completed during this reporting period. There were eight cases that occurred in holding facilities. In six of the cases, we found no evidence of arresting/transporting officers accompanying prisoners into the holding cell area (75%). Two of the cases, or 25%, were in violation of the prohibition of entering the cell area. DPD is cautioned that violations of this nature in the next quarter could result in the loss of the Phase 2 compliance status.

DPD remains in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U77

The DPD shall develop a foot pursuit policy to:

a. *require officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g., lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;*

b. *emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;*

c. *emphasize the danger of pursuing and engaging a subject with a firearm in hand; and*

d. *require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report.*

Comments:

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

To assess Phase 2 compliance for this report, we reviewed the training data for the first quarter of FY 12-13. As of September 30, 2012, 604 members (28%) received the use of force training, which incorporates the methods for dealing with this requirement.

We reviewed 17 foot pursuits during this reporting period. There were 10 cases in which officers considered alternatives to foot pursuits. Eight of the cases involved foot pursuits of individuals who were armed, though the subjects discarded their weapons during the pursuit. Sixteen of the foot pursuits were documented on the appropriate Use of Force 002 Form.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- DPD must make an effort to keep officers involved in the arrest or transport of detainees out of the holding cell areas, as this is prohibited by the Judgment and policy.

Next Steps:

During the next reporting period, we will:

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

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

VIII. MANAGEMENT AND SUPERVISION

This portion of the Use of Force Consent Judgment addresses several key management areas including the development of a risk management system, audit requirements, including in-car cameras, personnel evaluations, and the reduction of a backload of disciplinary cases. Thirteen of the 28 requirements in this section address the development and use of a comprehensive risk management system.

During this reporting period, the use of video cameras by DPD was severely disrupted due to technical failures that prevented video from being uploaded successfully to the central server where it is stored. Consequently, the storage in the patrol cars quickly filled to capacity, and the mobile units could not store new videos.

The technical failures resulted from issues related to the Department's gradual replacement of the Insight Video System (IVS) with the more advanced Data911 Video System (D911). The new system presents important improvements that are expected to result in better quality video and audio, as well as enhanced management tools.

By the time of our July 2012 site visit, the mechanical problem had been detected and repaired. Uploading had begun again and indications were that the system was working.

A. Risk Management Database

CJ Requirement U78

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

a. a risk management database (discussed in paragraphs 79-90);

b. a performance evaluation system (discussed in paragraph 91);

c. an auditing protocol (discussed in paragraphs 92-99);

d. regular and periodic review of all DPD policies; and

e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

Comments:

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

This paragraph provides an overview of the requirements for the development and implementation of the risk management system, which is described in detail in paragraphs U79-99; and the other requirements relating to management and supervision. Progress in particular areas reflected in those requirements is noted in the separate assessments below.

In our last report, DPD was found in compliance with this requirement for the first time. That was achieved with the Department's use of data normed by the number of arrests made by each officer as part of the process of selection for risk management review. Achieving compliance with this requirement brought the Department into compliance on all risk management related requirements.

The Department has continued using normed data as part of the process of selection for review by supervisors. The use of that data remains important and supports a finding of continued compliance. The Department now must move forward with building the norming process into documentation and into the computerized selection and review process which will move the process away from its temporary, "done by hand" status as described below. Maintaining compliance will require the continued success with the collection and storage of data, its use, including normed data to identify outliers, competent reviews by supervisors, and appropriate use of monitoring and intervention consistent with the reduction in risk.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U79

The DPD shall enhance and expand its risk management system to include a new computerized relational database for maintaining, integrating and retrieving data necessary for supervision and management of the DPD. Priority shall be given to the DPD obtaining an established program and database. The DPD shall ensure that the risk management database it designs or acquires is adequate to evaluate the performance of DPD officers across all ranks, units and shifts; to manage risk and liability; and to promote civil rights and best police practices. The DPD shall regularly use this data for such review and monitoring.

Comments:

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

There are no changes in the compliance status of this requirement. Phase 2 compliance with this requirement was recognized following extensive testing of MAS, from which we concluded that the system was capable of meeting the risk management requirements as specified in the Consent Judgment. The Department has continued to work on particular aspects of system development and implementation. To consider compliance we review monthly MAS status reports. For the reporting period, we also review the monthly command reviews documenting the use of MAS and we examine the results of PEERS reviews. As noted below, this material also included PEERS that were returned to supervisors as insufficient. For the current reporting period, we again examined the use of the system, including the input of data, the use of that data, and the identification and review of officers exceeding thresholds established in the system. Based on our review of the continued development and use of this system, we again recognize the achievement of Phase 2 compliance with this paragraph.

We have some concern that the norming process and the use of normed data are not yet fully incorporated into the risk management system. Data norming is not yet reflected in policy and not yet programmed in into the computer system. The system now functions with the use of corrective action notices initiated manually based on analysis of normed data, instead of review notices sent automatically by computer. DPD is in the process of incorporating the needed changes into the computer system.

During our meetings with the Department for the quarterly review we also discussed the need to consider the repeated review cases in which intervention is not successful at changing behavior. The Department recognizes the need to identify these, be sure supervisors and administrators are aware of them and to develop alternative approaches to risk reduction in those cases.

The Department will develop an approach to addressing this issue. The recognition of the importance of this reflects the Departments approach to continued analysis and their commitment to continuous improvement of the risk management process.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U80

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

a. *all use of force reports and use of force investigations;*

b. *all canine deployments;*

c. *all canine apprehensions;*

d. *all canine bites;*

e. *all canisters of chemical spray issued to officers;*

f. *all injured prisoner reports and injured prisoner investigations;*

g. *all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct" or "interfering with a city employee;"*

h. *all firearm discharge reports and firearm discharge investigations;*

i. *all incidents in which an officer draws a firearm and acquires a target;*

j. *all complaints and complaint investigations, entered at the time the complaint is filed and updated to record the finding;*

k. *all preliminary investigations and investigations of alleged criminal conduct;*

l. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City, or its officers, or agents, resulting from DPD operations or the actions of DPD personnel, entered at the time proceedings are initiated and updated to record disposition;*

m. *all vehicle and foot pursuits and traffic collisions;*

n. *all reports regarding arrests without probable cause or where the individual was discharged from custody without formal charges being sought;*

o. *all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion;*

p. *all reports regarding interviews, interrogations or conveyances in violation of DPD policy;*

q. *the time between arrest and arraignment for all arrests;*

r. *all reports regarding a violation of DPD prompt judicial review policy;*

s. *all reports regarding a violation of DPD hold policy;*

t. *all restrictions on phone calls or visitors imposed by officers;*

u. *all instances in which the DPD is informed by a prosecuting authority that a declination to prosecute any crime was based, in whole or in part, upon concerns about the credibility of a DPD officer or that a motion to suppress evidence was granted on the grounds of a constitutional violation by a DPD officer;*

v. *all disciplinary action taken against officers;*

w. *all non-disciplinary corrective action required of officers, excluding administrative counseling records;*

x. *all awards and commendations received by officers;*

y. *the assignment, rank, and training history of officers; and*

z. *firearms qualification information of officers.*

Comments:

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

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

	U80 Data Requirements – Quarterly Department Totals					
Subtask	**Text**	**7/1-9/30, 2011**	**10/1-12/31, 2011**	**1/1-3/31, 2012**	**4/1-6/30, 2012**	**7/1-9/30, 2012**
a	use of force reports	278	254	237	334	267
a	use of force investigation	132	100	95	118	107
b	canine deployments	15	15	6	7	3
c	canine apprehension	6	4	0	1	2
d	canine bites	0	0	0	0	1
f	injured prisoner reports	13	18	9	17	16
g	injured prisoner investigations	13	18	9	17	15
g	force and arrests for resisting arrest	116	99	101	120	126
g	force and arrests for assault on an officer	58	36	43	65	52
g	force and arrests for disorderly conduct	42	27	14	31	21
g	force and arrests for interfering with city employee	32	11	5	16	12
h	firearm discharge reports	7	6	10	8	15
h	firearm discharge investigations	7	4	7	8	15
i	officer draws a firearm & acquires target	18	12	30	43	21
j	Complaints	307	264	272	232	286
k	investigations of criminal misconduct by officers	15	0	10	0	0
l.	criminal proceedings against members	0	2	1	3	3
l.	all civil lawsuits	8	34	25	18	48
m	vehicle pursuits	42	81	45	40	21
m	foot pursuits	14	14	9	35	16
m	traffic collisions	34	35	43	36	28
n	reports of arrests w/o probable cause	2	10	0	0	0
n	individuals discharged from custody w/o charges	N/A	555	509	610	529
o	investigatory stops and frisks w/o reasonable suspicion	Frisks=146 Stops=54	Frisks=63 Stops=10	Frisks=21 Stops=12	Frisks=13 Stops=6	Frisks=2 Stops=6
p	reports of interviews, interrogation, or conveyances in viol of policy	Interviews=33, Interrogation=15 Conveyances=4	Interviews=18, Interrogation=10, Conveyances=0	Interviews=11, Interrogation=6, Conveyances=0	Interviews=0, Interrogation=0, Conveyances=0	Interviews=1, Interrogation=0, Conveyances=0
r	reports of violations of prompt judicial review	891	841	848	829	765
s	reports of violation of DPD hold policy	134	97	111	189	350
t	reports of restrictions on phone calls or visits	27	1	15	18	15
u	report of declination to prosecute due to police conduct or suppressed evidence	0	0	0	0	0
v	disciplinary action taken against officers	37	42	70	15	41
w	non-disciplinary corrective action	188	299	463	131	228

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

The quarterly review of these data provides a means by which the Department can assess DPD activity and also examine the quality of information entered into MAS. This analysis continues to indicate that the appropriate data are collected and entered into the risk management system.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U81

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

Comments:

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

As noted in our past four reports, DPD has resolved issues around reporting information regarding citizens connected with reported incidents. That data continues to be entered into MAS appropriately. The data on officers also continues to be reliably entered and maintained.

DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U82

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

a. *detail the specific fields of information to be included and the means for inputting such data (direct entry or otherwise);*

b. *specify the unit responsible for inputting data, the deadlines for inputting the data in a timely, accurate, and complete manner;*

c. *specify the historical time periods for which information is to be input and the deadlines for inputting the data in an accurate and timely fashion; and*

d. *requires that the data be maintained in a secure and confidential manner.*

Comments:

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

There are no changes in the compliance status of this requirement. The Department's revised Data Input Plan was approved by the Department of Justice in a letter dated June 9, 2011. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U83

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

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U84

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

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

b. *the reviewing supervisor to document whether he or she took non-disciplinary corrective action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;*

c. *supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;*

d. *precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor's assessment and analysis of information in the risk management database and the corrective action taken by supervisors;*

e. *appropriate DPD supervisors to review and evaluate, on a regular basis but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;*

f. *commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;*

g. *that the information in the database be accessible to commanders, supervisors and the BPC;*

h. *that the information in the database is considered when evaluating a DPD employee for transfer or promotion;*

i. *commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;*

j. *commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;*

k. that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and

l. that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.

Comments:

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

There are no changes in the compliance status of this requirement. As noted in our last report, the Review Protocol was revised, submitted for review and approved by DOJ on June 9, 2011. Interviews with staff assigned to MAS continue to support the conclusion that the review process is being implemented consistent with policy. To further assess that, we examine all Personnel Evaluation and Enhancement Review Sessions (PEERS) completed and signed off in the reporting period for the quarter. The data comparing this reporting period to the previous reporting period are presented below.

PEERS and Their Outcomes					
	July-Sept 2011	Oct-Dec	Jan-March 2012	April-June 2012	July 1-SePt 30
Total PEERS	93	77	63	68	58
No Action Needed	65 (70%)	67 (87%)	53 (84%)	55 (81%)	41 (84%)
Monitoring	10 (11%)	7 (9%)	8 (13%)	8 (12%)	6 (12%)
Other/Pending	18 (19%)	4 (5%)	2 (3%)	5 (7%)	2 (4%)
PEERS returned for correction or completion	N/A	9 supervisors 33 reviews	12 supervisors 13 reviews	3 supervisors 5 reviews	3 supervisors 5 reviews

In 58 completed PEERS, supervisors and command staff found no need for action in 41 (84%) of cases. They assigned officers to be monitored in six (12%) of cases. They did not report taking informal action (training recommendations, additional review) in any cases. Two cases had not completed the process during the reporting period. Overall, the outcomes of the PEERS are similar to those of the last reporting period. Recommendations for monitoring were the result of approximately the same percentage of reviews across the three reporting periods.

The figures above continue to make it clear that MAS is being utilized. Our review of PEERS again indicates that many supervisors appear to be thorough in their reviews, and command personnel appear to scrutinize PEERS decisions appropriately. As part of the quality control process, the Risk Management Unit continuously examines the PEERS processes for delays, incomplete reviews and insufficient detail or inappropriate outcomes. When concerns arise, the unit issues corrective action notices (CANs) to supervisors. The risk management unit also

critically reviews reports of monitoring that result from PEERS reviews. They identify inadequate interventions or documentation and seek corrections.

In previous reports, we expressed our concern that the volume of cases where no intervention is needed could indicate that the system is not sufficiently efficient at identifying officers engaged in high-risk behavior. Those concerns are being addressed as the Department moves forward with the selection of officers for review based on normed data and moves away from using a set number of indicators as the selection criteria. The Department has also developed a process of reviewing cases identified for review to assure that the process is focused on officers displaying patterns of risk relevant behavior. The two processes noted here should continue to allow the Department to focus its resources appropriately.

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U85

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

Comments:

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

During the current reporting period, there have been no changes that would affect the compliance status with this requirement. The Department continues its processes of development and improvement of the risk management system in a manner consistent with expectations. It is in the process of incorporating norming procedures in its governing documents and the operation of the computerized database. It produces regular reports of the system status and any revisions or improvements that have been made. These are discussed during our quarterly site visits.

DPD continues to be in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U86

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

Comments:

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

There are no changes in the compliance status of this requirement. DPD has addressed the need for a common control number or other equally effective means of connecting information across reports of a single incident by developing an algorithm to link documents in the database. The system links documents using as many as nine variables. These include such elements as identifying information on officers and civilians involved in the incident, the date of the event, and the Crisnet number. DPD also incorporated a box to check to retrieve "related documents" directly on the appropriate MAS computer screens. This has proven a successful solution to this technical problem.

DPD continues to be in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U87

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

Comments:

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

There are no changes in the compliance status of this requirement. The Phase 2 compliance finding for this requirement remains unchanged. The required data are accessible through MAS, and the five-year retention policy on personal information is in place.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U88

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

a. *By January 24, 2008, the City shall have ready for testing a beta version of the risk management database consisting of: 1) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for the purposes of checking the risk management database.*

b. *The risk management database shall be operational and fully implemented by July 24, 2008.*

c. *The parties and the independent monitor shall meet on a monthly basis to discuss what actions have been taken during the previous month toward development of the new risk management database.*

d. *The defendant shall present to the plaintiff and the independent monitor, on a monthly basis, evidence of satisfactory progress sufficient to justify a conclusion that completion of the new risk management database by August 11, 2008 remains feasible. If at any time the plaintiff concludes that successful completion of the project within the timeframes described in this paragraph is unlikely, the plaintiff shall so notify the Court and the defendant. Within sixty days after receipt of such notice, the defendant shall issue an RFP to develop or complete development of the new risk management database as was required by 88c. of this Consent Judgment before it was amended. In that event, the requirements of paragraphs 88.d., 88.e., 88.f., and 88.g. of this Consent Judgment before it was amended shall be enforced, with dates adjusted as follows: the Review Protocol (paragraph 88.d.) shall be issued within five months after issuance of the RFP; the defendant shall select the contractor (paragraph 88.e) within seven months after issuance of the RFP; the beta version (paragraph 88.f) shall be ready for testing within fifteen months after issuance of the RFP; and the risk management database shall be operational (paragraph 88.g) within twenty-six months after issuance of the RFP.*[35]

e. *By May 31, 2004, the DPD shall select the contractor to create the risk management database.*

f. *By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in*

[35] Amended by Court Orders dated November 9, 2007, and July 22, 2008

testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.

g. *The risk management database shall be operational and fully implemented by December 31, 2005.*

Comments:

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

There are no changes in the compliance status of this requirement. All of the timeframes and dates specified in the original Consent Judgment and later extended by the Court have expired. Currently, DPD files MAS update reports on a monthly basis. These reports document continued progress in the development and implementation of the risk management system. The schedule set by this requirement is recognized as obsolete; and its original intention has been met and is monitored through the monthly MAS reports produced by the Department.

Accordingly, DPD is, again, in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U89

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

Comments:

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

There are no changes in the compliance status of this requirement. In accordance with the Consent Judgment, DPD developed and used the Interim Management Awareness System (IMAS) that later developed into the current system (MAS). With progress on the current system, the need for IMAS was superseded. Therefore, DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U90

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

Comments:

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

There are no changes in the compliance status of this requirement. The Department has revised the key documents required for the risk management system. It submitted the revised Data Input Plan, Review Protocol, and Report Protocol to the Department of Justice and the changes were approved as noted in a letter from DOJ dated June 9, 2011. With that, the Department demonstrated compliance. We will continue to monitor the risk management system to ensure that any other significant changes are handled in a manner consistent with this requirement. DPD is currently incorporating descriptions of its data norming process in the relevant policies. These are not yet ready for review but will be reviewed in our next report.

The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Performance Evaluation System

CJ Requirement U91

DPD shall ensure that performance evaluations for all DPD employees below the rank of Deputy Chief occur at least annually and include, but are not limited to, consideration of the following:[36]

a. *civil rights integrity;*

b. *adherence to law, including performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States; and*

[36] Amended by Court Order dated October 4, 2004

c. *supervisor's performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force, arrests, care of prisoners, prisoner processing, and performance bearing upon honesty and integrity.*

Comments:

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

DPD has been in Phase 2 compliance with this paragraph for the past eight reporting periods. To verify continued compliance for the current reporting period, we again examined a random sample of 125 evaluations drawn from all a list of all personnel. Our review verified that more than 94% of reviews were current and properly completed with original narratives, references to "no change in status," or references to material in MAS. Four evaluations were excluded since they were not completed due to the probationary status of the employees or extended leave. One evaluation was not accounted for in the final sample.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Oversight

CJ Requirement U92

The DPD shall develop a protocol for conducting annual audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.[37]

Comments:

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

Phase 2 compliance is dependent on compliance with the requirements of U93-97. The audit protocol was revised, and all audits are scheduled. The audits submitted for review were governed by the previous protocol revision. We review all required audits and found them thorough and complete with corrective action notices and plans where needed. Accordingly, the DPD continues in Phase 2 compliance with this requirement.

[37] Amended by Court Order dated October 4, 2004

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

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

Comments:

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

The DPD is in Phase 2 compliance with this requirement. All audits contain the appropriate sign-offs by unit commanders. We examined signoff sheets covering the chain of command for September and we verified the review by the Chief through examination of the summary audit briefing signoffs dated October 23, 2012. New audits and resulting corrective action reports were completed according to the Audit Protocol schedule. Annual audits are once again scheduled for July completion and will be reviewed in our next report.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U94

The DPD shall conduct regularly scheduled annual audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a statistically valid sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.[38]

Comments:

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

There are no changes in the compliance status of this requirement. The DPD is in Phase 2 compliance with this requirement. Audits on use of force, prisoner injuries, and allegation of

[38] Amended by Court Order dated October 4, 2004

misconduct were completed in July and were followed by corrective action reports when necessary. As part of the audit protocol, new audits are scheduled for January 2013.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U95

The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that review a statistically valid sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.[39]

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U96

The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.[40]

Comments:

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

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[39] Amended by Court Order dated October 4, 2004.

[40] Amended by Court Order dated October 4, 2004.

The DPD has been in Phase 2 compliance with this requirement since the second reporting period. Custodial detention audits of all relevant facilities were completed on schedule and were reviewed for the previous report. Corrective action reports were reviewed at that time.

The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U97

The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.[41]

Comments:

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

There are no changes in the compliance status of this requirement. The Department has been in Phase 2 compliance with this requirement since the second reporting period. In the most recent audit cycle, complaint and complaint investigation audits were completed on schedule; and corrective action reports and plans were completed based on the audits. The Department remains in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U98

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

Comments:

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

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[41] Amended by Court Order dated October 4, 2004

On March 9, 2012, a roll call message was disseminated throughout the DPD that reminded officers and supervisors that supervisors were required to review one in-car video segment for each patrol car for each shift. This policy was in effect during our July 2012 site visit. During that review, we sampled three precincts on three different dates to determine how many cars with operational video units had actually been deployed and how many had random reviews had been conducted. We found that 162 equipped units were deployed in the three districts on the three days in our survey. A total of 138 video reviews were recorded. This was the first review in which less than 94% of the required random reviews were detected. Accordingly, we carried DPD in Phase 2 compliance for the period to be examined again in this review.

While the numbers in our past audits were in compliance; and, as a result, the DPD has been found in Phase 2 compliance, the reviews produced few substantive results for the DPD. We noted in our last report that reviews where a supervisor simply randomly selects and views an event that has been recorded are helpful in confirming that the video equipment is operational and that, to some extent, it is being used. A better review technique would be for supervisors to select an event that occurred during the shift that requires video to be recorded and confirm that it was, in fact, recorded. The March 9, 2012 roll call message referred to above specifies that the segment reviewed shall be one that reflects officer and citizen contact as indicated on the officer's activity log. We viewed this as a positive step in the supervision of the mobile video program that could enhance its management. We suggested to DPD management that fewer, but higher quality reviews, should provide DPD management with a more accurate picture of the use of the MVS.

On August 17, 2012, in an administrative message read at all roll calls, DPD announced a change in its random review policy. The new policy addressed the following:

1. Discontinued daily reviews and use of the DPD713a form;
2. Required shift supervisors to conduct a more detailed review using the new DPD713b form for 4 traffic stops each month;
3. Set a schedule for the reviews to be conducted; and
4. Advised supervisors how to handle situations when the reviewed event did not upload properly.

The new review procedure was implemented on August 17, 2012, with the introduction of the new policy. A total of 89 reviews were attempted and recorded on the new form DPD713b. The serious technical failure encountered by DPD that affected the whole MVS system during the reporting period (see the discussion in the following section, *Use of Video*) made videos unavailable to be reviewed by supervisors. Only 12 (14%) of the 89 new reviews found both video and audio.

While the technical failure disrupted the review process, the few that were conducted successfully, led us to conclude that the new procedures can lead to a much improved process. In the few reviews where video and audio were available, the supervisors commented on the officers' tactics, safety, deportment and use of video. Commanders in the chain of command also reviewed the DPD713bs and signed off on them. If the video system is stabilized, the new procedures for review should produce a clear picture of officers' compliance with procedures relating to mobile video and of command accountability.

A second important step was taken that is expected to greatly improve the random review process. The source for traffic stop data has been the Traffic Court where, for the first time, information on paper tickets is electronically recorded. The process lacks timeliness and has often been inaccurate. DPD has been unable to use the traffic stop data to select the events to be reviewed by supervisors. DPD Dispatch now records traffic stop data in the CAD system. This should produce timely automated information that will accurately show the car, officers and times for traffic stops and other events that could be reviewed. DPD anticipates supervisors will be able to use the data generated by Dispatch to select events to be reviewed.

As a result of the technical failure, we have been unable to measure compliance with the new random review procedures during this reporting period. Accordingly, DPD will be held in compliance and we will review the requirement in January 2013, after the system has been recovered.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U99

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

Comments:

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

DPD has been in Phase 2 compliance with this requirement since the second reporting period. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the August 8, 2112 quarterly meeting involving DPD and members of the Prosecutor's Office. Consistent with previous meetings, a wide range of topics discussed is reported in the meeting minutes including those relating to arrestee identifiers, vehicle forfeiture, court attendance, warrant requests, open Internal Affairs cases, and other police operations. The next meeting is scheduled for November 14, 2012.

The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Use of Video Cameras

CJ Requirement U100

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

Comments:

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

MVS equipment, particularly older units, is subject to breaking down and requiring repair. As a result, the total number of operational units at any one time varies. In July 2012, DPD estimated that it had about 303 MVS units operational. The complement of MVS equipment actually installed and operational remained the same, about 300 vehicles, since July 2011.

In the past, we have reviewed the IT Bureau's response to requests for repair service to the MDVR-equipped cars. DPD failed to respond to our request for data showing repairs to MDVR equipment during the period June 1, through August 31, 2012. The technical issues the IT Bureau confronted during the past quarter and its efforts to deal with the uploading to servers, however, was the most consequential repair issue handled by DPD during the reporting period.

The installation of the new MDVR D911 units has been completed in 92 cars. In addition, DPD has acquired 1,250 new microphones for the new MDVRs. This will allow the Department to assign a microphone to each patrol officer. Once the equipment is assigned, officers will be required to arrive for duty with a charged microphone. They will then be able to attach the microphones to their uniforms rather than place them in chargers in their patrol cars. The possibility that an officer might "forget" to put the microphone on when s/he exits the car will be eliminated. Microphones will then operate automatically and switch on when an officer opens the door and exits the car. DPD has been found in compliance with this requirement. It will be continued in Phase 2 compliance until our January 2013 review.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U101

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

a. *activation of scout car video cameras at all times the officer is on patrol;*

b. *supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and*

c. *that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.*

Comments:

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

During past site visits, we found:

a. The DPD MVS cameras are set to operate 100% of the time on patrol. Full video is 24-30 frames per second; MVS units are set to capture one frame of video per second at all non-emergency times. The equipment is set so that whenever the emergency lights are activated, the units switch to full-video mode and capture 28 frames per second. As noted above, the Department now erases the one frame a second video after it has been stored for 24 hours.

b. While supervisory review of videotapes involving injuries to a prisoner or an officer, uses of force, vehicle pursuits, and external complaints is required, DPD has made strides in providing these data for our review but has not yet been able to provide comprehensive data identifying all such incidents. The technical failure of the system overwhelmed the DPD during the past quarter.

c. DPD preserves and retains videos when it is able to upload them successfully in the central server, as required by U101c.

U101b requires that video be activated for each of the incidents specified and that supervisors conduct a review of the video where one is available. The impact of the technical failure described in the Use of Video Cameras severely retarded progress the following areas.

- **Pursuits:** During our July 2012, review we found that 75% of the cars involved in pursuits equipped with operational MDVRs produced videos of the pursuit but only 41% recorded audio. While audio is critical in most other areas where we measure compliance with the requirements that deal with MVS, pursuits are one area where audio may not be critical. DPD did not provide pursuit data for the past quarter.
- **Uses of Force:** We reviewed 55 instances involving use of force where video would be expected and found only 25 (45%) had video. We were not provided data regarding injuries to officers and defendants.
- **Injuries:** DPD was unable to produce a report that identified a comprehensive list of incidents involving injuries to officers or subjects in which MVS should have been recorded.
- **External Complaints:** DPD did not provide data for our review of Internal Affairs Division investigations. OCI data was provided. And showed that overall during the quarter reviewed DPD closed 216 cases and conducted 91 (42%) video reviews. The chart below reflects the monthly reviews.

OCI VIDEO REVIEWS Month	Cases Closed	Video Reviews	% Reviewed
July	60	21	35%
August	95	48	51%
September	61	22	36%
	216	91	42%

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U102

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

Comments:

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

During past reporting periods, we selected a random sample of more than 100 traffic stops for each of the three months in the quarter under review. Since, in the past, we experienced difficulty obtaining data for the last month of the reporting period, we adopted a three-month period beginning four months before the review. DPD has never achieved Phase 2 compliance with this requirement. During our most recent site visit, we found the following:

- **Traffic Stops:** 76% of the traffic stops in our last review contained video, but only 58% contained audio.
- **Vehicle Searches and Canine Deployments:** During our July 2012 onsite review of the previous three-month period, we found that 50% of DPD searches where a canine was deployed were recorded in video. During the third quarter of 2012 (July, August, and September 2012), the Department conducted 15 canine searches of vehicles. Of these, 11 DPD cars were equipped with operational MDVRs. We found that six (55%) had video, and four (36%) had audio.

DPD failed to produce data for review of motor vehicle stops, consents to search a vehicle or vehicle searches. DPD is not in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

E. Discipline

CJ Requirement U103

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

Comments:

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. For this reporting period, we reviewed all 126 disciplinary cases that were closed during the quarter. There is no backlog of cases and case flow is being managed sufficiently, as noted below. During the current reporting period, a total of 69 new disciplinary cases were opened. We also established that all previously noted resources remain in place to support compliance with this requirement at this time.

It is also worth noting that the Disciplinary Unit has introduced other procedures that will can expedite cases and prevent backlogs. These include voluntary mediation as an alternative to trial boards and, most recently, restorative practices for resolving low-level discipline issues. These provide positive approaches to addressing administrative requirements while also holding officers accountable for their behavior.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U104

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

Comments:

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. For this reporting period, we reviewed all 126 disciplinary cases that were closed during the quarter. All disciplinary proceedings met the established timelines and were consistent with this requirement. As of the

end of September, there are no cases remaining open that predate 2011. For 2011, a total of 20 cases remained open, down just one from the last reporting period; and 136 cases were open from this year (2012) at the end of this reporting period. The status of all open cases is tracked by the disciplinary unit and reported quarterly. All open 2011 and 2012 cases reflect appropriate scheduling and steps toward closure.

As noted above, the disciplinary unit now has a process of assessing cases and, when viewed as appropriate, sponsoring the voluntary mediation of those cases. That process is continuing and the unit is now also joined by a restorative justice process intended to provide a way of addressing patterns of lower level problematic behavior. The number of cases in these categories is small but growing.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U105

The DPD shall create a disciplinary matrix that:

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

Comments:

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 126 disciplinary cases that were closed during the quarter. The disciplinary matrix is provided for use at disciplinary trial boards. All decisions this reporting period fell within the matrix and were consistent with this requirement. DPD continues to be in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
78	Comprehensive Risk Management Plan	In Compliance	In Compliance
79	Improve risk management system	In Compliance	In Compliance
80	Database requirements (a-z)	In Compliance	In Compliance
81	Database to include officer information	In Compliance	In Compliance
82	Data Input Plan (a-d)	In Compliance	In Compliance
83	Report Protocol for database (a-c)	In Compliance	In Compliance
84	Review Protocol for database (a-l)	In Compliance	In Compliance
85	Use modules to ensure work progress	In Compliance	In Compliance
86	Common control number required	In Compliance	In Compliance
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	In Compliance	In Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	In Compliance
91	Annual officer review criteria specified	In Compliance	In Compliance
92	Protocol for conducting audits	In Compliance	In Compliance
93	Audit results to Chief and commanders	In Compliance	In Compliance
94	Annual audits-use of force	In Compliance	In Compliance
95	Annual audits-probable cause/stop-and-frisk	In Compliance	In Compliance
96	Annual audits-detention practices	In Compliance	In Compliance
97	Annual audits-external complaints	In Compliance	In Compliance
98	Random reviews of in-car camera videos	In Compliance	In Compliance
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	In Compliance	In Compliance
101	Revision of video camera policy	In Compliance	Not in Compliance
102	Record all vehicle stops, searches, etc.	In Compliance	Not in Compliance
103	Elimination of disciplinary case backlog	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance
105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance

IX. TRAINING

During this site visit, we visited the Detroit Police Training Center and interviewed the Training Commander and key members of the training staff. During our July 2012 site visit, we reviewed a variety of memoranda and policy material for use during the 2012-2013 Training Year (July 1, 2012, through June 30, 2013). There have been no substantive changes in the policies that pertain to Training; the training directive 304.5 was revised on July 10, 2012, to address minor numbering typographical errors. DPD continues to make progress in addressing the Consent Judgment training-related requirements. For over two years, the Department has achieved compliance with all training-related requirements and, as we have noted in our recent reports, DPD should now take steps to ensure that the changes it has made are institutionalized and accepted throughout the organization.

A. Oversight and Development

CJ Requirement U106

The DPD shall coordinate and review all use of force and arrest and detention training to ensure quality, consistency and compliance with applicable law and DPD policy. The DPD shall conduct regular subsequent reviews, at least semi-annually, and produce a report of such reviews to the Monitor and the DOJ.

Comments:

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

The required review was conducted in June 2012, and documented in a DPD report entitled, "Training Oversight and Development Report – Semi-Annual Review, July 2012." This report – the seventh such report to be issued – contained the evaluation of use of force, arrest, and detention training; and covered all elements of this requirement. The report is prepared twice each year, and the next such report will be produced in December 2012.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U107

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

a. *ensure the quality of all use of force and arrest and detention training;*

b. *develop use of force and arrest and detention training curricula;*

c. *select and train DPD officer trainers;*

d. develop, implement, approve and oversee all training and curricula;

e. establish procedures for evaluating all training curricula and procedures; and

f. conduct regular needs assessments to ensure that training governing use of force and arrest and detention are responsive to the knowledge, skills and abilities of the officers being trained.

Comments:

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

To assess compliance with this requirement for this reporting period, we met with the new Training Director and staff and reviewed training records. DPD training complies with the Michigan Law Enforcement Council's standards and Michigan law. With regard to subparagraphs a-f, during the past year, we found as follows:

a. During our July 2012 site visit, we reviewed the revised lesson plans that are being used in the 2012-2013 training cycle. In addition, during previous site visits, we reviewed the new use of force scenarios that are being deployed; and the report entitled, "Training Oversight and Development Report – Semi-Annual Review," dated July 2012, which documents the DPD's semi-annual review and evaluation of its training. The next such report will be completed in December 2012. Use of force and detention training are adequate.

b. As noted above, during our July 2012 site visit, we examined the lesson plans for the Use of Force and Arrest and Detention training that are being used in the current training year (July 1, 2012, through June 30, 2013), and found them to be adequate for the training required.

c. DPD selected no new trainers during the second quarter of 2012.

d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions.

Directive 304.5-3.4, revised July 10, 2012, places responsibility on the Commander of Training to conduct a training needs assessment. Directive 304.5-6.2, *Needs Assessment,* requires that such an assessment be conducted and documented every two years. As noted previously, in July and December 2011, the DPD conducted and documented training needs assessments. DPD has initiated new training and modified in-service training in order to address many of the deficiencies identified in the needs assessments that it has conducted.

The needs assessment conducted in the second quarter of 2012 did not evaluate the impact of the training that was introduced during the past year in order to correct deficiencies that were identified in previous needs assessments. As we observed in our last report, the needs assessment process should not only identify Departmental performance weaknesses, but it should assess the success or failure of training that has been implemented in the past to address significant performance weaknesses. DPD Training advised that the next needs assessment will be conducted in March 2013, a year earlier than required by 304.5-6.2. This is a positive step; a solid needs assessment can

ensure that training remains responsive to the real problems the Department is encountering.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U108

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

Comments:

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

DPD captures data relating to its in-service training, and records it on a spreadsheet. Since the spreadsheet is used by the Department to determine if all of its officers have attended the required in-service training sessions, we have conducted audits of its accuracy during the current and past reporting periods. In the past, to verify the accuracy of the Department's training records, we have selected a random sample of 100 officers and reviewed sign-in sheets for each course the officers were recorded as attending. Since the DPD has been in compliance with this requirement for two years, we have reduced the sample to 25 officers and their 100 class sign-in lists.

We randomly selected 25 officers who were listed on the spreadsheet as having received and completed in-service training during the period of July 1, through September 30, 2012. In order to complete their in-service training, these officers would have to attend and sign attendance sheets for four courses: Legal; Use of Force; PR-24; and Firearms Qualification. DPD was able to locate all 100 of the expected signatures. During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. Training has now entered all DPD training records for years 2003 through the present. During this reporting period, we selected the 100 training records for the 25 officers in our random sample relating to Use of Force, Legal, PR-24 and Firearms Qualification, and checked the MITN system to see if they had been recorded. All (100%) were found to have been entered into MITN.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U109

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

Comments:

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

DPD training directives and lesson plans properly direct and instruct on the relevant provisions of the Consent Judgment. During our previous reviews, we found that DPD developed new scenarios utilizing DPD Internal Affairs incidents, and accepted them for incorporation into the Legal block of training. We reviewed all the new scenarios and found them acceptable. We have reviewed all the lesson plans that were updated for the 2012-2013 Training Year and found them to be adequate.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U110

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

Comments:

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

The DPD met with the City Law Department pursuant to this requirement on September 28, 2012. Meetings are held quarterly. The DPD remains in compliance with U110.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U111

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

Comments:

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

Recruits receive this training, which is conducted by CRIB, after they complete their state certification exams and before they graduate from the Academy. During our July 2012 review, we found that all recruits were trained in this Agreement during the second quarter of 2012. The Department had no new hires (either civilian or officers) to train during the third quarter of 2012. The four new civilian employees hired during the reporting period received the training from CRIB in two-hour sessions conducted on May 9, 2012.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Force Training

CJ Requirement U112

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

a. *The DPD's use of force continuum; proper use of force; decision making; and the DPD's use of force reporting requirements;*

b. *The Fourth Amendment and other constitutional requirements, including recent legal developments;*

c. *Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper use of force decision making, including the use of deadly force;*

d. *The circumstances in which officers may draw, display, or point a firearm, emphasizing:*

    i. *Officers should not draw their firearm unless they reasonably believe there is a threat of serious bodily harm to the officer or another person;*

    ii. *The danger of engaging or pursuing a suspect with a firearm drawn; and*

    iii. *That officers are generally not justified in drawing their firearm when pursuing a subject suspected of committing only a misdemeanor;*

e. *The proper use of all intermediate force weapons;*

f. *Threat assessment, alternative and de-escalation techniques that allow officers to effect arrests without using force and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized units or even letting a subject temporarily evade arrest may be the appropriate response to a situation, even when the use of force would be legally justified;*

g. *Interacting with people with mental illnesses, including instruction by mental health practitioners and an emphasis on de-escalation strategies;*

h. *Factors to consider in initiating or continuing a pursuit;*

i. *The proper duration of a burst of chemical spray, the distance from which it should be applied, and emphasize that officers shall aim chemical spray only at the target's face and upper torso, and*

j. *Consideration of the safety of civilians in the vicinity before engaging in police action.*

Comments:

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

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

During this reporting period, we found that 604 (25%) of the 2,436 DPD officers available to train attended and completed the in-service blocks in which the requirements for U112 are fulfilled. Twenty-five percent of the training year was reached in September, and inasmuch as the DPD trained this percentage of its officers, it is making progress toward fulfilling this requirement.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Firearms Training

CJ Requirement U113

The DPD shall develop a protocol regarding firearms training that:

a. *Ensures that all officers and supervisors complete the bi-annual firearms training and qualification;*

b. *Incorporates professional night training, stress training (i.e., training in using a firearm after undergoing physical exertion) and proper use of force decision making training in the bi-annual in-service training program, with the goal of adequately preparing officers for real life situations;*

c. *Ensures that firearm instructors critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling procedures at all times; and undergoing physical exertion) and proper use of force*

decision making training in the bi-annual in-service training program, with the goal of adequately preparing officers for real life situations;

d. *Incorporates evaluation criteria to determine satisfactory completion of recruit and in-service firearms training, including:*

e. *Maintains finger off trigger unless justified and ready to fire;*

f. *Maintains proper hold of firearm and proper stance; and*

g. *Uses proper use of force decision making.*

Comments:

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

The requirements specified in U113 are addressed in the Department's firearms training, which officers are required to attend and qualify in every six months. During the previous six-month firearms qualification period (January 1, through June 30, 2012), 98% of the officers available to train attended firearms and qualified.

During this review, at the halfway point in the six-month firearms training period, we found that 1,172 (48%) of the officers available to train had attended firearms training and qualified. No officers failed and were placed in "no gun" status.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Arrest and Police-Citizen Interaction Training

CJ Requirement U114

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

a. *The DPD Arrest, Investigatory Stop and Frisk and Witness Identification and Questioning Policies;*

b. *The Fourth Amendment and other constitutional requirements, including:*

c. *Advising officers that the "possibility" that an individual committed a crime does not rise to the level of probable cause;*

d. *Advising officers that the duration and scope of the police-citizen interaction determines whether an arrest occurred, not the officer's subjective, intent or belief that he or she affected an arrest; and*

e. *Advising officers that every detention is a seizure, every seizure requires reasonable suspicion or probable cause and there is no legally authorized seizure apart from a "Terry stop" and an arrest; and*

f. *Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper police-community interactions, including scenarios which distinguish an investigatory stop from an arrest by the scope and duration of the police interaction; between probable cause, reasonable suspicion and mere speculation; and voluntary consent from mere acquiescence to police authority.*

Comments:

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

Use of Force, Search, and Detention training were taught in the eight-hour Use of Force in-service training and, until the current year, in the four-hour Arrest Procedures in-service training. The Arrest Procedures session has been discontinued as a separate course, and is now being addressed in the Use of Force and Legal blocks of instruction. Annual training is provided by DPD in its in-service training program for officers and supervisors. During the last training year (July 1, 2011, through June 30, 2012), the Department trained 98% of its available members in its Use of Force in-service training and 99% in the Legal in-service training.

We found that 604 (25%) of DPD's 2,436 officers available to train attended both the Legal and Use of Force in-service training blocks during the first quarter of the new training year (July 1, 2012 through June 30, 2013). DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

E. Custodial Detention Training

CJ Requirement U115

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

Comments:

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

DPD developed appropriate policies and lesson plans to comply with this provision, as well as a protocol to train all recruits, sworn members, confinement officers, investigators, and supervisors. All officers who attend the Use of Force and Legal in-service training receive the detention training specified by this requirement. Officers who serve in the detention cell areas are required to receive *additional* annual detention officer training, which is more specifically related to detention responsibilities. (See C73.)

During the training year that ended on June 30, 2012, 98% of DPD members attended the Use of Force and 99% its Legal in-service training sessions and received this training. As noted in U114, 25% of DPD officers attended the Use of Force training and the Legal training during the first quarter of the new training year.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U116

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

Comments:

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

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

In the first quarter of the new training year, DPD remains in compliance, having trained 25% of its officers available to train in these in-services. The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U117

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

Comments:

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

Material witness training has been incorporated into the Use of Force and Legal lesson plans. As noted above (see U115), the DPD trained 98% and 99%, respectively, of its officers in the Use of Force and Legal in-service training during the first quarter of the new training year.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. Supervisory Training

CJ Requirement U118

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

Comments:

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

The DPD fulfills Consent Judgment requirements U118-122 through its annual Supervisory Leadership and Accountability in-service training that is required for both supervisors and investigators. During the training year that ended on June 30, 2012, the Department trained 98% of its supervisors in its Supervisory Leadership and Accountability in-service.

During the first quarter of the new training year (July 1, 2012 through June 30, 2013), 113 (22%) of the Department's 507 supervisors who were available to train attended the Leadership and Accountability in-service training.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U119

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

Comments:

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

The DPD did not promote any personnel to the supervisor rank during the first quarter of the new training year. As noted in U118, during the first quarter of the new training year, 113 (22%) of the Department's 507 supervisors attended the Supervisory and Leadership in-service training. During the Training Year that ended on June 30, 2012, the DPD trained 98% of its supervisors

and investigators at its annual Supervisory Leadership and Accountability in-service training. DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U120

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

Comments:

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

The Department's Supervisory Leadership and Accountability in-service training session addresses this requirement. During the previous reporting period, we found that DPD had provided this training to 98% of its supervisors during the training year that ended on June 30, 2012. During the first quarter of the new training year, the Department provided this training to 22% of its supervisors.

The DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

G. Investigator Training

CJ Requirement U121

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

Comments:

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

The training required by U121 is delivered in the DPD Supervisory and Leadership Accountability in-service training, which is attended by both supervisors and investigators. During this the previous reporting period, we found that DPD had provided this training to 98% of its supervisors during the training year that ended on June 30, 2012. During the first quarter of the new training year, the Department provided this training to 22% of its supervisors.

The Department is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U122

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

Comments:

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

The training required by U122 is delivered in the DPD Supervisory and Leadership Accountability in-service training, which is attended by both supervisors and investigators. During the previous reporting period, we found that DPD had provided this training to 98% of its supervisors during the training year that ended on June 30, 2012. During the first quarter of the new training year, the Department provided this training to 22% of its supervisors.

The Department is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

H. Field Training

CJ Requirement U123

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

Comments:

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

The DPD conducted a training class for its Field Training Officers in April 2011, in which it trained three new FTOs and recertified another. The Department has not conducted a certification or recertification class since April 2011. DPD currently has 118 FTOs assigned throughout the Department.

As we noted during previous on-site review, 33 probationary officers graduated on April 13, 2012, and entered the FTO Program. These officers remain in the FTO Program for one year from the date of their graduation from the Police Academy, or 18 months from their date of hire,

whichever is shorter. No other probationary officers have entered the FTO Program. Since the DPD has 118 FTOs, additional FTOs are not needed at this time.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

SECTION THREE:

COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT

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

During our first site visit in November 2009, we reviewed required directives, supporting logs, forms, and documentation relating to the operation of the detention facilities. Accompanied by key members of the DPD Office of Civil Rights personnel, we conducted our first tour of the Detroit Police Department's five facilities with holding cells and the Detroit Receiving Hospital.[42] We have repeated our tours and inspections of some or all of these facilities during each of our subsequent site visits, and have interacted with command and key detention staff at each facility.

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

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

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

During our July 2012 site visit, CRIB (OCR) advised us that in the near future the duties of the cell block supervisor (CBS) and the desk supervisor would be merged into one position for efficiencies of operation. That proposal was not implemented, and the responsibilities of the

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

CBS were clearly defined in the revised Department Rank Structure Policy, giving that position sole authority over the operations of the holding cell areas.

Since the implementation of the virtual precinct concept earlier in 2012, citizens can report many more crimes by telephone rather than requiring that officers either respond to the scene or citizens travel to a District or Precinct. The virtual precinct reduced the number of police reports that the desk supervisor previously had to review thus freeing the position up for other responsibilities. We will monitor this change during our next report period.

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

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

III. FIRE SAFETY POLICIES

CJ Requirement C14

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

Comments:

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

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

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

Accordingly, DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C15

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

Comments:

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

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

During this reporting period, we reviewed DPD 716, Fire Extinguisher Monthly Inspection/Inventory, and DPD 703, Fire Drill Documentation Forms, for all of the districts/precincts with holding cells; and determined that all facilities are in compliance with these requirements. We also examined a sample of the fire extinguishers at each holding facility, and found them all to be fully charged.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C16

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

Comments:

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

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

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C17

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

Comments:

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

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

During our most recent site visits to each district/precinct that maintains holding cells, we found documentation of the Fire Marshal's inspections. The most recent inspections were conducted and documented on June 7, 2012. The next Fire Marshal's inspection is due in May 2013. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C18

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

a. *Ensure that the activation of any individual smoke alarm sounds an alarm throughout the building;*

b. *ensure that prisoners in holding cells have an adequate means of reporting emergency conditions to DPD staff immediately;*

c. *ensure that automated back-up power systems exist for all buildings containing holding cells that are capable of providing immediate power for emergency lighting, exit signs, fire alarm and smoke detection systems in the event of an electrical power failure through batteries or an emergency generator; and*

d. *reduce the likely spread of smoke and fire throughout the buildings by means of stairwells, garages, hazardous rooms and exposed pipes, such as ensuring that fire doors in stairwells are closed.*

Comments:

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

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

As previously noted, we visited each district/precinct that maintains holding cells, and determined that the DPD has made the required structural, electronic, and mechanical upgrades within the facilities. We also noted that Fire Systems of Michigan and the Fire Marshal conducted and documented inspections of suppression systems on June 7, 2012. DPD remains in Phase 2 compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C19

The DPD shall ensure that fire safety equipment is routinely tested, inspected and maintained, including the sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatuses.

Comments:

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

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

The Fire Safety Plan places responsibility for ensuring the required testing, inspections, and maintenance of the various systems, fire extinguishers, emergency lighting and signs, and equipment with the DPD Office of Facilities Management. During this reporting period, we found that the sprinkler system at one precinct was out of order from September 19, to October 20 due to two broken sprinkler heads. The inability to deliver water in the event of a fire for a period of one month is unacceptable and places the Department's compliance rating in jeopardy. Should there be two consecutive quarterly periods of non-compliance, the Phase 2 section of this paragraph will be classified as not in compliance. At another precinct, the sprinkler system was out of order for three days. Additionally, during the CRIB Audit Team inspection in July 2012, sprinkler systems were found inoperable in three precincts. (See C66.)

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

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

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C20

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

Comments:

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

The DPD has been in Phase 2 compliance with this paragraph since the first reporting period. During our most recent inspection, we did not find any persons smoking in unauthorized areas. Also, during our review of all of the monthly inspections on DPD 715 - Evaluation of the Operation of Holding Cells, we found no documentation that any smoking had been observed in the facilities.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C21

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

Comments:

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

Our inspection of the holding facilities found that each district/precinct was equipped with at least one yellow storage cabinet, located in the garage area, for flammable and combustible liquids. We checked the cabinets, and found flammable materials and gas storage containers.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C22

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

Comments:

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

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

IV. EMERGENCY PREPAREDNESS POLICIES

CJ Requirement C23

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C24

The DPD shall develop a comprehensive emergency preparedness program that is approved in writing by the Detroit Fire Department. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the programs within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan. At a minimum, the emergency preparedness program shall:

a. *include an emergency response plan for each building that contains holding cells identifying staff responsibilities in the event of fire-related emergencies and other emergencies, including notification responsibilities, evacuation procedures and key control procedures (discussed below); and*

b. *require performance and documentation of fire drills for all buildings containing holding cells on all shifts every six months (documentation shall include the start and stop times of each drill, the staff members who participated in the drill, a summary of the drill, and an evaluation of the success of the drill).*

Comments:

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

The CEPP identifies staff responsibilities in the event of a fire emergency to include notifications, evacuation, and key control procedures. (See C15.)

The DPD achieved full compliance in the second and subsequent reporting periods as it increased the frequency of fire drills to the 100% level required by policy. During this reporting period, we determined that the fire drills were again conducted according to policy at the 100% level.

Following our recommendations that the detention evacuation equipment be stored in the immediate vicinity of the holding cells so that it is readily accessible to officers, we found, during the last reporting period, that the shackles were fully accounted for and placed individually in crates, allowing for easy access. During our most recent inspection, we found that the shackles were easily accessible. We determined that the detention officers had sufficient handcuffs and/or shackles for use in the event of an evacuation, and that all of the detention officers that we interviewed were aware of DPD policy to retain the assigned holding cell keys on their persons.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C25

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

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

a. *provide for emergency identification of keys by touch;*

b. *and require routine inventory, testing and maintenance of keys and locks.*

Comments:

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

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

During our two previous inspections, we found that each district/precinct had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants' and sergeants' office. Teletype #11-0989, Holding Cell Facility Keys – Required Documentation, regarding inventory and assignment of keys by the cellblock supervisor, had been distributed. This policy directed the cellblock supervisor to conduct an inventory of the keys at the commencement and the conclusion of his/her tour of duty and document same in the MAS Desk Blotter.

During a previous site visit, we found that CRIB had distributed Department Teletype #11-01395, which thoroughly explained the procedure for documenting the inventory and security of keys. When interviewed, the detention supervisors and officers appeared to have an understanding of their responsibility for key control. However, another set of keys was lost in December 2011. This required lock changes for all exterior doors at the precinct.

During our most recent site visit, we determined that the supervisors and officers that we interviewed appeared to understand the process for inventory and control of the keys. The MAS Desk Blotter indicated that key inventories were entered in a timely manner. Earlier this year while reviewing a random sample of key control inventories, we found that a set of keys had been taken home by one of the detention officers. This was discovered and properly documented, and the officer returned the keys to the district within the hour.

DPD is now in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

V. MEDICAL AND MENTAL HEALTH CARE POLICIES

CJ Requirement C26

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

Comments:

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

During all previous reporting periods, we found DPD not in Phase 2 compliance with this paragraph.

During previous reporting periods, we reviewed all DPD's Audit Team's report of its findings of the Holding Cells and are in agreement with their findings as they have been similar to ours. The most recent audit of the holding cells was released on July 31, 2012 and the deficiencies noted, for the most part have been addressed. We have observed steady improvement during the past year to address the deficiencies described in our reports.

Our inspections and review of the quarterly detainee file folders demonstrated progress in most areas; however, previous documentation of detainee medical information and release of medication continued to be problematic. There were issues and deficiencies with the Detainee Intake Form, DPD 651, by not including the typed name of the arresting and transporting officers or transferring medical information acquired from the arresting or transporting officers. DPD revised the Detainee Intake Form (DIS) with implementation on September 20, 2012. The document was approved by the Department's consulting physician on August 31, 2012. The new form is handwritten, streamlined and should resolve some of the issues with documentation from the previous form. New guidelines for the completion of the revised DIS were issued to assist processing officers conducting screening of detainees. As a result of the implementation of the revised Detainee Intake Form, it was disabled from Livescan.

Medical referrals and the thoroughness of medication logs have also sustained improvement during this and the four previous reporting periods, and the documentation of the exchange of health information between shifts has been in compliance for some time. In previous reviews, holding cell personnel did not adequately list the medical needs of the detainees on the Platoon Daily Detail Summary (PDDSL); and the shift preparing or receiving the log failed to place the date or the time on the form. DPD has rectified this problem, and those forms are now complete, with the exception of completing the new medications portion of the form that was recently added. While four of the facilities are completing this form correctly, the remaining facility is having difficulty but has improved recently in its documentation.

During the current reporting period we reviewed and inspected a random sample of 193 detainee file folders and observed personnel. We found that a few personnel are still not properly implementing these procedures in accordance with the DPD directives. We continue to note a few clerical errors and incomplete or missing documentation of medical referral (conveying officers dates/times) and medication logs.

In order to assess compliance with this paragraph, we reviewed those issues that had a direct impact on identification and response to a detainee's medical or mental health conditions. We found 17 instances where the detainee processing time did not meet the requirement, no release of medication was indicated, no transfer of medical/mental health information transferred to the Detainee Information Form, failing to provide the discharge instructions or the conveying officer failing to indicate their name or the date/time of the conveyance back to the holding facility from DRH.

The three critical issues for DPD to address at this time for compliance purposes with the Medical and Mental Health Care Policies (C26-33) are: sanitary conditions of the holding facilities; the capture of the medical/mental health information initially obtained by the arresting officers being transferred to the Detainee Information Form; and ensuring that remaining medications at the time of detainee release are either given to them or transferred with them to another facility. At this point, DPD needs to fill out the required forms completely to be in compliance with this paragraph. Compliance with this paragraph is dependent upon compliance with C27-C33.

DPD is now in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C27

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

Comments:

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

The DPD Health Authority completed the annual review and approved the CMMHSP policies and directives. The DPD provided us with documentation indicating that the CMMHSP was approved on February 17, 2012, and the mental health portion was approved on February 29, 2012. DPD revised the Detainee Information Form with implementation on September 20, 2012 with written approval on August 31, 2012 by the Department's consulting physician.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C28

The prisoner screening procedure, at a minimum, shall:

a. *enable the DPD to identify individuals with medical or mental health conditions, including infectious diseases, chronic conditions, including disabilities, ambulatory impairments, mental health conditions, and drug/alcohol withdrawal;*

b. *identify persons who are at risk of committing suicide, persons who have been on heightened observation for suicide risk at any time during a past incarceration and persons who have any medical contraindications for the use of chemical sprays,*

c. *require that the DPD follow a standard intake procedure for each individual entering DPD custody;*

d. *require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*

e. *incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

Comments:

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

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

Occasionally an arrestee is taken directly to DRH from the scene, and the two-hour screening mandate from time of arrest to processing does not meet the requirement. DPD processes detainees for Wayne State University Police, Detroit Public Schools Police, and the Michigan State Police. We have noted that many times DPD is late processing these detainees, due to the other agencies not presenting them to the holding facilities until the two hours from the time of arrest has passed. Any instance in which a detainee is screened more than two hours from the time of the arrest the processing officer should so indicate the reason on the DIF. In each case, staff had transported to DRH detainees needing medical attention within a reasonable time of the request.

There were 17 instances where the intake screening took more than two hours; however, in six of these cases, the arrestee was transported to DRH or another hospital directly from the scene. In two cases, the processing officer indicated a backup of detainees to be processed as the cause for the delay; in one case, the arrest was made by Michigan State Police; one detainee was combative, and in seven cases, the processing was late and the reason for this was not

documented. Occasionally there are operational issues at the facilities where screening may be delayed due to safety of the detainee and employees. While on-site we reviewed a file folder (DIS) where we observed no entry for the time of screening.

Many of these issues would be resolved if personnel would complete all the information the forms require and the OIC approving the form investigate those in violation of the two-hour requirement at the conclusion of the detainee processing and address those issues immediately. Compliance for processing detainees within the two-hour requirement is 97%.

The Medical/Mental High Risk Logs (DPD 661) for this reporting period revealed that high-risk detainees were observed by staff and were compliant. We reviewed DPD 661 Forms for detainees who were maintained on suicide watches and all of them properly specified "constant supervision." The forms met the requirements for constant supervision as required by DPD policy. In the Sixth Precinct a detainee was placed on suicide watch (constant observation) per DRH staff. A note on one platoon's monitoring sheet indicated that due to a lack of staffing in the precinct they were unable to provide constant monitoring for this detainee. This is a serious violation of DPD policy and should not occur in the future.

In one other case, a detainee indicated that he had ideations of suicide within the past two weeks. The detainee was appropriately placed in an observation cell but not constantly monitored; however, personnel indicated 'he was "near visual (sight) and sound of holding cell personnel." DPD policy requires direct visual observation. As a result of this exception, personnel were re-instructed on the requirements of Directive 305.1-5.26. All facilities met or exceeded the requirement.

In some cases, medical professionals at DRH may recommend placing a detainee on constant watch or remove them from the watch. In these cases, DPD personnel need to indicate these changes in the comment section of the High Risk Log or on the form when they have returned to the holding facility. If there is any question whether a detainee should be monitored every 15 minutes or placed under constant observation; the detainee should be constantly monitored. This is the fourth consecutive reporting period in which we have found DPD in compliance with C28b.

During this reporting period, we continued to find some of the problems we observed in the past. These deficiencies included missing or incorrect dates/times on forms and logs and forms and logs not filled out completely. When a detainee's medical or mental health status changes, detention staff should update the documents accordingly and indicate the date and time of the new information. Note: With the revised DIF, detainee's medical information has been disabled from the Livescan system. Overall, we found that DPD had a 94% compliance rate with this paragraph due to the compliance of C28e (C28a, b, and c had previously been in compliance). There were 49 instances where the Detainee Input Sheet indicated that the arresting or transporting officer listed a mental or medical issue with the detainee. In 46 cases, the processing officers in the facilities transferred this information to the Detainee Information Form. The three cases where the processing officers failed to transfer the medical/mental information as required by policy all occurred in the Second Precinct. DPD's compliance rate for the quarter is 94%.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C29

The medical protocols, at a minimum, shall:

a. *identify the specific actions the DPD shall take in response to the medical information acquired during prisoner screening or detention, including the need for emergency care, hospitalization, prescription medication and/or intensive monitoring; and*

b. *require prior supervisory review and written approval, absent exigent circumstances, of all decisions made in response to acquired medical information.*

Comments:

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

The DPD was not in Phase 2 compliance with this paragraph in previous reporting periods.

During this reporting period, we reviewed a sample of 193 detainee file folders, and inspected each of the districts/precincts that maintain holding cells and the Detroit Receiving Hospital. We continue to find that staff did not follow policy in several key areas, including:

- There were 56 referrals of detainees in need of medical or mental health care to the Detroit Receiving Hospital and all were within policy with one common exception: the officer transporting the detainee back to the holding facility from DRH failing to list the date/time of return.
- There were seven cases in which intake screenings were not conducted within the two-hour timeframe.
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner. Forty-six detainees had medications disbursed; and in two instances, the dosages were not administered according to schedule. DPD administered several hundred dosages to detainees during this reporting period.
- There were 49 instances where detainee medical information was listed by the arresting officer on the Detainee Input Sheet and in three cases the processing officer did not transfer that information to the Detainee Information Form. There were 56 detainees who went to the Detroit Receiving Hospital; all but two discharge instructions were included in the detainee file folders.
- Written prior supervisory approval was issued for all decisions made in response to acquired medical information.
- The required Hospital Prisoner Form was included in 55 of the 56 detainees who went to DRH.

- There were 193 classifications of detainees into the holding facilities after screening and 187 were correctly classified.

Overall, we found that 97% were in compliance with this paragraph – a slight increase from the 96% we found during the last reporting period. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C30

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

a. establish appropriate housing for prisoners believed to have infectious diseases; and

b. mandate measures the DPD shall take to prevent the spread of infectious diseases, including proper handling and disposal of bio-hazardous material.

Comments:

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

During our previous site visits, our inspections of the Detroit Receiving Hospital and the five DPD facilities that maintain holding cells disclosed satisfactory levels of sanitation in similar degrees at all of the sites with a trend toward improvement. During our most recent site visit, we found all facilities once again – and the previous issues with the documentation of cleaning logs – in compliance.

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

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C31

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

a. *require that prisoner's health information is recorded at intake and thereafter immediately readily available to all relevant medical and transporting personnel in a manner consistent with the relevant federal and state confidentiality statutes;*

b. *require that prisoner health information is continually updated to incorporate any additional relevant information acquired during his or her detention;*

c. *require that relevant prisoner health information is documented and communicated between consecutive shifts, such as whether a prisoner is taking medication or has a medical condition; and*

d. *require that prisoner health information travel with prisoners who transferred to another facility.*

Comments:

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

During previous reporting periods, our reviews of DPD form 661, Detainee Medical/Mental Health Monitoring and form 659a, Platoon Daily Detainee Summary Form; indicated that required detainee health information – such as whether a detainee is taking medication or has a medical condition – was not always being documented and communicated between consecutive shifts. Issues remain with staff properly documenting medications on the new reporting form.

As noted above our reviews of these documents is important to ensure that the detainees' health needs are met, and for the purposes of staff safety. This information must be documented, updated, and communicated between the initial shift receiving the detainee and the subsequent shifts until the detainee is released. It is critical for the oncoming shift to indicate the date and time they receive the Platoon Daily Detainee Summary and to acknowledge its accuracy to assure the continuity of health monitoring for detainees requiring it.

We reviewed DPD log 659a, Platoon Daily Detainee Summary, in the five districts/precincts that maintain holding cells; and found fewer errors than in our previous reports. Of the errors we found, the most prevalent is the failure of DPD personnel to mark the prescribed meds column and the Medicine Cabinet checkbox on the form. It should be noted that form DPD 659a was amended during the ninth reporting period to indicate for each detainee whether medications are prescribed. It is apparent from our observations that staff is not, in some cases, completing this section of the form and supervisory personnel are not catching the omissions. Detainee medications are captured on the Medication Disbursement Log (DPD 664). DPD's ability to capture information and list the medical/mental needs of the detainee on the form is exceptional

in almost every case. DPD has been in compliance for C31a, b, and d. (See C36). The Second Precinct (formerly Southwestern District), Northeastern District, and the Sixth Precinct's logs were again exceptional for the two previous reporting periods. The overall compliance rate (C31c) for all holding cell facilities is 96%, an increase from the 94% registered during the previous reporting period.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C32

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

a. *indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*

b. *require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*

c. *require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*

d. *require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*

e. *require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*

f. *require that injected medications are administered as prescribed and in a safe and hygienic manner; and*

g. *require that unused mediations prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

Comments:

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

During all of the previous reporting periods, at the five districts/precincts that maintain holding cells, we found Medication Logs missing critical detainee and staff information. In prior reviews detainee dosages, dosing times, signatures, the names of the persons administering the

medications, and prescription release information did not always appear on the logs. Those issues had previously been addressed with the exception of C32g, prescription release information. As a result, we found the DPD not in Phase 2 compliance with this paragraph.

During the current reporting period, in our review of 193 detainee file folders, we found few instances where the DPD failed to record essential detainee and staff information. We noted, for example, that the medication logs on detainees who had been released showed that two detainees were not given their unused medications; although just above where the detention officer signs the form is a box that should be checked indicating the release.

There were 46 cases where medications were disbursed to detainees. In two instances, it was unknown if the remaining medication was released to the detainee or transferred with them to another facility due to personnel not indicating the status on the form. The failure of personnel releasing medications to detainees upon release occurred at the Second Precinct and the Eastern District. We examined the Platoon Daily Detainee Summary logs, which are used to ensure that detainee health information is exchanged and communicated between shifts. During a previous reporting period, DPD included a section on the PDDSL to indicate if detainees on a monitoring status were taking medications. This serves as an immediate alert for the CBS at the beginning of the shift that informs him/her if any detainees are on medication.

During our most recent site visit, we checked all active detainee file folders in all facilities for those detainees who were on medication or on a monitoring status. Each of the medication disbursement logs were reviewed and matched with the medication contained in the medication storage cabinet. We found that the prescribed medication for each detainee was properly stored. We did not find any medication left in the cabinet from detainees who had already been released as we had found in previous inspections. Our inspection of medication cabinets and medications for detainees at the districts/precincts maintaining holding cells revealed that all was satisfactory in the location of the cabinets and storage of medications.

Based on the noted improvements in our Twelfth Quarterly Report, we found DPD in pending Phase 2 compliance with this paragraph. DPD has addressed the previous failures with the requirements of C32g and has become compliant with this paragraph. The Department must continue to focus on the concerns related to the documentation of medication disbursements; C32a through 32f are in compliance. The compliance rate for C32g is 96%, compared to the 87% we found in the last reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C33

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

Comments:

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

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

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

We find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C34

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

Comments:

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

During all of our previous site visits, we conducted comprehensive inspections of each of the five districts/precincts that maintain holding cells, as well as the Detroit Receiving Hospital cells.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

VI. PRISONER SAFETY POLICIES

CJ Requirement C35

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C36

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

a. *establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and*

b. *require that security screening information is documented and communicated between consecutive shifts.*

Comments:

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

DPD Form 659A (Platoon Daily Detainee Summary Log [PDDSL]), revised August 2011, is used to record information on detainees with medical conditions or special needs. During this reporting period, we reviewed Eastern District logs that contained 512 entries. The most common errors noted continue to be failures to mark the "Prescribed Meds" column and failures to identify Suspected Crime Partners (SCPs) in the comments section as required by the Department. The Eastern District's compliance rate with this paragraph is 94%, a 7% increase from the last reporting period.

We reviewed Northeastern District logs containing 475 entries. As in the second quarter, errors involved failure to mark the prescribed meds column and the improper marking of alert boxes. The Northeastern District's compliance rate with this paragraph is 97%, a 1% increase from the last reporting period.

We reviewed Sixth Precinct logs containing 811 entries. The Sixth Precinct's compliance rate with this paragraph remains at 96%, the same as the last reporting period.

We reviewed Twelfth Precinct logs containing 376 entries. A common error is the failure to mark the "Prescribed Meds" column, especially for suspected crime partners. In the July

documents, six of the 10 errors in the "Prescribed Meds" column were related to the failure to mark this column for SCPs. In September, seven of the 12 errors in the "Prescribed Meds" column were related to the same issue with SCPs. The elimination of these 13 errors would have raised the Precinct's compliance rate by 4%. The Twelfth Precinct's compliance rate with this paragraph remains at 92%, the same as the last reporting period.

We reviewed Second Precinct (formerly Southwestern District) logs containing 392 entries. The district's compliance rate with this paragraph is 99% for this reporting period, a 1% increase from the last reporting period.

The average for all districts/precincts during this reporting period is 96% compliance for the 2,566 log entries, an increase of 2%. The failure of holding personnel to mark the "Prescribed Meds" column and Suspected Crime Partner errors continue to be the major documentation deficiencies in this portion of the Consent Judgment.

DPD is in Phase 2 compliance with this paragraph. However, additional effort is needed to correct excessive recording errors in the Twelfth Precinct, the only facility to fall below the required 94% compliance rate. Eastern District met the 94% compliance requirement for the first time in four reporting periods. They are commended for their improved status and for the evidence of supervisory monitoring for accuracy on its July report.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C37

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

a. *require that cell checks on the general population are performed at least twice per hour and that cell checks of prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and*

b. *require detention officers to document relevant information regarding the performance of cell checks in an auditable log.*

Comments:

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

The duties of cell block supervisors (CBS) and detention officers relating to well-being checks are established by DPD policy. Supervisors are required to walk through the holding cell areas four times per shift to check on the well-being of the detainees. Detention officers are required to make similar visual checks every 30 minutes (or every 15 minutes for high-risk detainees). Their observations are documented on the Detention Cell Check Log (DPD 659).

At the Detroit Receiving Hospital (DRH), 15-minute well-being checks are entered on the DPD 659 Form when holding cells are occupied. The review of the DPD 659 forms from DRH this

reporting period indicated an apparent compliance rate of 99%. Only one time check was missed. However, reports were not provided from Platoon One for September 1 and from Platoon 3 for September 3. Reporting numbers are very low for DRH due to low population counts. During this reporting period, only 13 of 51 shifts reported having a detainee in the holding cells.

General population well-being checks are entered on the DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on DPD Form 661 (Mental Health High Risk Monitoring MHHRM). During the current reporting period, our review of 255 Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 100% compliance rate (rounded percentages). Only the Second Precinct, with a 98% compliance rate, failed to achieve a 100% score. During each tour of duty, detention officers are required to make cell checks every 30 minutes (16 checks daily), and supervisors every two hours (four checks daily).

For the periods of July 10-15, August 20-25, and September 1-5, 2012, we reviewed logs for 10 detainees who required a 15-minute MMHRM watch, reported on Form DPD 661. No MMHRM logs were submitted from the Second Precinct for this reporting period.

All districts met or exceeded the required >94% compliance standard for cell checks. Documentation errors were reduced in the Eastern District and the Twelfth Precinct during this reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C38

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

Comments:

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

During this reporting period, potentially serious monitoring errors occurred in the Sixth Precinct with two detainees. In July, one detainee was on suicide watch per hospital evaluation from July 13, through 16, 2012. Two checks were missed by Platoon 2 on July 13, and two checks were missed by Platoon 3 on July 14. A note on the Second Platoon monitoring sheet for July 14 stated that "manpower issue would not allow an officer for constant monitoring." On July 15, First Platoon, a notation requires "Monitor Only." On the same date, Third Platoon, a notation requires "Constant Monitor."

Beginning on September 3, another detainee was placed on constant observation at DRH at 19:15 hours. The next day, Platoon Three recorded only 30-minute observations from 16:30 hours to the end of the shift. There was no back page submitted for this date, so the duration of

this monitoring is unknown. Detainees on suicide watch require constant monitoring. Manpower issues do not relieve the Department from its responsibility – or its liability – should a detainee harm him/herself.

With the exception of these issues in the Sixth Precinct, all districts met or exceeded the required >94% compliance standard. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

CJ Requirement C39

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

Comments:

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

During this reporting period, we evaluated all districts/precincts for general cleanliness and sanitation. The cleanliness levels in most areas were satisfactory. The Second and Sixth Precincts had been freshly painted prior to our visit. Eastern District continues to have issues with dirty floors around the toilets in the cells due to the inadequate lighting in the toilet areas. Many of the concrete benches in the Sixth and Twelfth Precincts and the Eastern and Northeastern Districts have corroded or have been damaged over time and are no longer capable of adequate cleaning and disinfection.

Documentation of holding cell cleaning was improved during this reporting period, particularly in the latter two months of the quarter as the facilities became more accustomed to the new reporting system using desk blotter entries. It was also commendable to see supervisory oversight of these entries, with follow-up actions as deemed necessary. Credit was given for missed documentation when supervisory oversight and follow-up was reported. Department-wide, the holding cell cleaning compliance documentation improved from 73% in July to 99% in September.

The improved documentation for this reporting period – and the overall cleanliness level of the facilities observed during our most recent site visit – brings the Department into compliance for this reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C40

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

Comments:

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

DPD Directive 305.4 (effective July 6, 2012) is the relevant document for this section; this document is reviewed on an annual basis. Additional documents have been issued to command staff for guidance purposes to ensure consistency in cleaning methods and procedures. The Holding Cell Compliance Committee (HCCC) has issued detailed cell block cleaning instructions that cover procedures, schedules, and documentation.

The Department continues to have to use whatever chemicals the City provides it to accomplish cleaning and disinfection tasks. The lack of standardization of chemicals used in the facilities prevents officers from being trained in the appropriate application and chemical contact times necessary for adequate disinfection. In one instance, we observed an officer's notation that no floor cleaner was available. He indicated that he used bleach to mop the floor. This reveals a lack of training for staff because bleach has no cleaning properties whatsoever and its disinfection capabilities are negated by exposure to soiling. Therefore, the officer's efforts not only failed to clean the floor, it provided little to no disinfection as well, depending on the level of soiling on the floor. The Department should pursue a standardized procurement and distribution system for chemicals used in the various holding facilities. It is impossible to properly train staff in the proper mixing and application of chemicals when different chemicals are randomly supplied to the sites.

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

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C41

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

Comments:

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

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

Based on the Holding Cell Facility Logs (DPD 702), OCR prepares a monthly spreadsheet listing all current outstanding repairs and their status. Items on this spreadsheet are reviewed monthly by the HCCC. During this reporting period, HCCC meeting agendas were reviewed and confirmed that current facility repairs were being discussed.

During our evaluation of this reporting period's Facility Maintenance Logs, we reviewed all logs from each of the five districts/precincts that maintain holding facilities and matched those repair requests to the master tracking log maintained by OCR. This section of the Consent Judgment requires "timely performance of routine maintenance." Compliance with this requirement remains challenging due to the age of the facilities and furnishings and the lack of availability of replacement parts. We continue to find satisfactory response times in addressing repair issues.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C42

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

Comments:

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

No HVAC issues were identified during our most recent site visit. As we toured the holding cells each day, we checked the temperatures in the cell areas, and found the temperatures in each of the holding facilities to be within the limits established by the Department (between 66°F and 85°F). Measured temperatures in the cell blocks were in the 74°F – 81°F range. Ventilation ducts continue to be heavily clogged with dust and debris that impede the flow of air into the holding cells.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C43

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

Comments:

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

During our most recent inspection, we found only isolated instances of malfunctioning lights, toilets, and sinks. Repairs are being made promptly when parts are available. The facilities and the equipment are old and outdated. It can be difficult to locate replacement parts for some of the toilet and sink units. When these malfunctions occur in the holding cells, the cells are taken out of service and signage is posted on the front of the cell to prevent usage until repairs are completed. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C44

The DPD shall ensure that lighting in all cell block areas is maintained at an appropriate level for all tasks related to the housing of DPD detainees, including but not necessarily limited to, security, safety, cleaning and disinfection of housing areas.[43]

Comments:

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

As in past visits, during our most recent site visit, lighting levels were determined to be marginally sufficient in the cell areas. In the Eastern District, the toilet areas are particularly dark; these areas were not adequately cleaned at the time of this inspection. This lighting deficiency is also present in some of the cells in the Sixth Precinct. Command staff are looking into ways to improve lighting conditions in the toilet areas where light levels are particularly dim. Consideration is being given to removing part of the wall separating the bench and toilet areas. DPD is in Phase 2 compliance with this paragraph at this time.

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[43] Amended by Court Order dated April 23, 2012.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C45

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

Comments:

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

No issues were identified during our most recent site visit. All prisoners had access to toilets and potable water at all times. Cells with plumbing deficiencies were not being used and signage was posted accordingly. Based on the published directive and our observations of conditions of the physical plant in the district/precinct holding cells, DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C46

The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.

Comments:

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

All Hepa-Aire purifiers have been permanently removed from the district/precinct holding cell areas. DPD is in full compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
39	Clean and maintain holding cells	In Compliance	In Compliance
40	Holding cell cleaning policy required	In Compliance	In Compliance
41	Holding cell maintenance policy required	In Compliance	In Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance

43	Repair broken/malfunctioning cell elements	In Compliance	In Compliance
44	Insure sufficient cell lighting	In Compliance	In Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance
46	Hepa-Aire purifiers comply with standards	In Compliance	In Compliance

VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES

CJ Requirement C47

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

Comments:

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

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C48

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

Comments:

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

The provisions of this requirement are covered in DPD 305.1, Detainee Intake, and DPD 305.5, Detainee Health Care. An annual review of these policies was conducted on February 17, 2012, and approved by qualified medical and mental health professionals.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

IX. FOOD SERVICE POLICIES

CJ Requirement C49

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C50

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

a. *require that the meal plan is initially approved in writing by a qualified dietician and, hereafter, is reviewed and approved in writing by a qualified dietician at least every year, or prior to any revisions to the program;*

b. *require that all food is stored and handled in a sanitary manner;*

c. *ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons; and*

d. *ensure that food service is provided to all prisoners who are held over six hours.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix B. DPD's Detainee Food Service and Hygiene Items Policy 305.8, was reviewed and approved by the Detroit Department of Health and Wellness Promotion, dated March 22, 2012.

In June, the Department instituted a new reporting system for documenting the feeding of detainees. Meal service is now documented electronically on the Department's Desk Blotter, by the Cell Block Supervisor in each holding cell facility.

During the current reporting period, we reviewed Daily Detainee Meal & Hygiene Logs, DPD form 663, for the periods of July 10-15, August 20-25, and September 1-5, 2012. As with the new holding cell cleaning documentation, the new food service documentation was greatly improved during this reporting period. Credit was given for missed documentation when supervisory oversight and corrective actions were reported. A review of the districts' use of the new forms revealed compliance rates ranging from 100% in the Twelfth Precinct to 75% in the Eastern District, with an overall compliance rate of 92% for the reporting period. Department-wide, the holding cell feeding documentation improved from 84% in July to 98% in September.

The only issue of note occurred in the Eastern District where meat sandwiches had been left out on the cell door food slots at 9:30 hours. When questioned, an officer confirmed that the breakfast meal had been served at 6:00 hours. Leaving potentially hazardous food products out at room temperature violates safe food practices and increases the risk of pathogen growth and resulting foodborne illness. This practice also violates the Department's Food Service Policy 305.8-5.3, paragraph 5, which states, "Within one-half (1/2) of an hour after each meal service the detention personnel shall make sure that all containers are collected and disposed of in the proper trash receptacle. Detainees shall not be allowed to retain any containers beyond this time."

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

The improved documentation for this reporting period – and the overall compliance level with detainee feeding practices observed during our most recent site visit – bring the Department into compliance for this reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

50	Food service policies and practices	In Compliance	In Compliance

X. PERSONAL HYGIENE POLICIES

CJ Requirement C51

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

Comments:

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

In the current reporting period, we inspected each area where the hygiene kits are stored to determine if the kits were readily available, and found that in all five facilities there were an adequate number of hygiene kits to distribute to detainees when needed. Feminine hygiene products were also available in all sites. Our interviews with the PDOs demonstrate an understanding of the importance of providing personal hygiene items to the detainees on a daily basis.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

CJ Requirement C52

The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

Comments:

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

During the last reporting period, we reviewed 14 incidents occurring at detention facilities. Two of the cases were attempted suicides, and one was a detainee injury in which no force was utilized. Thirteen of the 14 cases should have had video reviews, but only eight had details of the reviews (62%) utilizing facility and handheld camera recordings.

During this reporting period, we also examined eight SIRs regarding incidents occurring at detention facilities. Three of the cases were attempted suicides, two of which required the officers to use force to extract the detainee. Seven of the eight cases should have included video

reviews; four (57%) had sufficient reviews utilizing facility and handheld camera recordings.[44] Three had no reviews or poor reviews.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C53

The DPD shall revise and augment its policies regarding prisoners to require that:

a. *officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;*

b. *absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and*

c. *the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.*

Comments:

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

All districts/precincts that maintain holding cells are equipped with some level of videotaping/digital recording equipment that is linked to a camera system that monitors hallways and common areas as well as most, but not all, cells. In addition to the mounted video equipment, the detention districts/precincts have been issued handheld cameras that can be used for planned extractions. Our visits to the various holding facilities found that supervisors were aware of the handheld cameras and had received some training in their use. All supervisors contacted during our most recent site visit were aware of the cameras' location, and were aware of the need to check the recorders to ensure that the batteries were functional. In the previous reporting period, we found that there were 14 SIR investigations of incidents occurring in detention facilities cases; only two of these cases were cell extractions.

During this reporting period, we reviewed eight cases occurring in DPD detention facilities. Five of the cases contained information regarding detainees who had previously demonstrated recalcitrant or resistant behavior.[45] In two (40%) of those cases involving these detainees, appropriate precautions were taken, to include the summoning of a supervisor and the utilization of additional officers.

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[44] One case was in a cellblock that had no cameras.

[45] There was one case in July and four cases in August. There were no holding facility cases reviewed in June.

Of the eight cases reviewed, three were cell extractions, one in July and two in August. In all three cases a supervisor was notified and was present. The supervisors assessed the need to use force on the detainees confined to a cell – to include directing the use of force and ensuring the incident was videotaped – in just one (33%) of the cases, the attempted suicide in July where force had to be used to move him from the cell. There was also an attempted suicide in August in which force had to be used to move the detainee from the cell, and there was no preplanning for that extraction; in the other August case, there was a supervisor and additional officers present, but there is no indication that any preplanning was done nor that the handheld camera was utilized.

In reviewing the remaining five cases involving uses of force on detainees, we find that they are primarily uses of force involving detainees refusing to cooperate during processing or detainees being placed in their cells from the processing area. These are incidents that mostly occur spontaneously; and consequently, do not allow for preplanning. There are instances, however, in which the detainee's behavior during the processing is such that supervisors should be notified; and plans should be made to have sufficient officers present to move the detainee into a cell with the minimum force possible.

Video was available and reviewed in four of the eight cases, including one in which the handheld camera was utilized.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C54

The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Comments:

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

We found the DPD in deferred Phase 2 compliance status during the first reporting period, and in Phase 2 compliance during subsequent reporting periods.

During our visits to detention facilities during the most recent site visit, we did not observe any prisoners handcuffed to benches or fixed objects. Our review of DPD 715 forms (Evaluation of the Operation of Holding Cells), question 22 ("Were any detainees observed handcuffed to an object?") and Office of Civil Rights monthly inspections, did not reveal any instances during the reporting period in which detainees were handcuffed to fixed objects.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
52	Use of force policies	In Compliance	Not in Compliance
53	Revise policy re use of force with prisoners	In Compliance	Not in Compliance
54	Handcuffing of prisoners to benches	In Compliance	In Compliance

XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW

CJ Requirement C55

The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Comments:

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

We found the DPD out of Phase 2 compliance with this paragraph during all of the previous reporting periods.

During the last reporting period, we reviewed 14 incidents involving uses of force in holding cells and two attempted suicides. All 14 cases had SIR investigations completed. Four missed the 10-day requirement, and five missed the 30-day requirement. Eight (57%) of the 14 cases included video reviews.

During this reporting period, we requested eight cases. Three were attempted suicides and one was a detainee injury. Eight of the cases made the 10-day requirement, and two of the eight missed the 30-day requirement. Four (50%) of the eight cases included acceptable video reviews. As with the SIR investigations involving uses of force outside of the detention facilities, we continue to encourage staff to conduct more critical reviews of the investigations. There was only one case in which the handheld camera was utilized. There were no in-custody deaths in the cell block areas.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C56

The DPD shall require that all uses of force occurring in the DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

Comments:

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

During the last reporting period, we commented on the video reviews, noting that 13 of the 14 cases had opportunities for video recording and reviews. Eight of the 14 cases contained acceptable reviews of the recordings. During this reporting period, we found that seven of the eight cases had opportunities for video recordings and reviews.[46] Four (57%) contained acceptable reviews; three contained no reviews or poor reviews. The handheld camera was used in only one of the incidents. Our review of the SIR investigations found that they suffered from the same deficiencies identified in the field SIR investigations.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C57

The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

Comments:

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

During the last reporting period, we reviewed two attempted suicides and a detainee injury.

During this reporting period, we reviewed three attempted suicides and one injury detainee injury. Two of the attempted suicides required minimal force to remove the detainees from the cell. The attempted suicides and the detainee injury were investigated in conformity with the requirements in C57. The detainees involved in the three attempted suicides were promptly transported to DRH for treatment.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The issues that impact the quality of use of force investigations as described in the Use of Force section of the Consent Judgment are applicable to the use of force investigations of incidents occurring in the cell block area. The remedies we have recommended in those areas remain constant for the Conditions of Confinement requirements. Timely and thorough investigations, coupled with critical command level reviews, are the keys to

[46] One incident occurred in an area with no cameras.

achieving compliance. We have noted improvements in video review and the use of the handheld portable cameras.

Next Steps:

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Monitor the supervisory review of video captured in the detention areas, and, where appropriate, monitor the use of handheld cameras in each detention facility.
- Conduct field visits to various detention facilities to verify the Department's adherence to policy requirements.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
55	Use of force investigations	In Compliance	Not in Compliance
56	Use of force investigations	In Compliance	Not in Compliance
57	Injury to prisoner investigations	In Compliance	In Compliance

XIII. EXTERNAL COMPLAINTS

CJ Requirement C58

The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.

Comments:

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

We found DPD in Phase 2 compliance with this paragraph during all of the previous reporting periods.

During this reporting period, the Department closed two complaints originating from detention facilities, both in September. All complaints were accepted and processed in accordance with DPD policy. Both contained demeanor and procedure allegations, and one also involved alleged excessive force. OCI retained investigation of the cases. While there were issues associated with the investigation of these complaints (see C59), DPD is in Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C59

The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.

Comments:

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

We found the DPD in Phase 2 compliance with this paragraph during the first reporting period, but not in compliance during successive reporting periods.

OCI closed two complaints originating from detention facilities during the reporting period. Both were completed within 90 days. In one case, a detainee complained that his insulin and needles were discarded. The investigator exonerated DPD's disposing of the needles, but never addressed the insulin issue. In the other, some of the findings should have been sustained based on the statements of an independent witness – another detainee. Additionally, a subject officer was not interviewed in this case, and we deemed it closed prematurely.

In summary, the detention cases exhibited many of the issues delineated in CJ requirements U27-33, impacting DPD's compliance with this requirement. DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues:

- The issues that impact the quality of use of force investigations and OCI investigations, as outlined in CJ requirements U27–33 and U61–69 are also evident in the cases reviewed for requirements C58–59. As these issues are addressed Department-wide, we hope to see a positive impact on the subset of cases originating from detention facilities.

Next Steps:

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Check, in applicable cases, for the appropriate use of handheld cameras, now that they are deployed in all detention facilities.
- Conduct field visits to various detention facilities to verify members' knowledge of and the Department's adherence to policy requirements.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
58	Receipt of external complaints	In Compliance	In Compliance
59	Investigation of external complaints	In Compliance	Not in Compliance

XIV. GENERAL POLICIES

CJ Requirement C60

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

Comments:

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

We found the DPD in Phase 2 compliance in all of the previous reporting periods. That status continues in this reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C61

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

Comments:

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

See U71. The DPD is in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
60	Clearly define all terms in policies	In Compliance	In Compliance
61	Policy changes available to community	In Compliance	In Compliance

XV. MANAGEMENT AND SUPERVISION

CJ Requirement C62

The DPD shall routinely evaluate the operation of the holding cells to minimize harm to staff and prisoners.

Comments:

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

During this reporting period, CRIB staff inspected all of the facilities with holding cells and the DRH each month and documented their findings on Form 715 Evaluation of the Operation of Holding Cells. Upon review of the completed forms we found that all forms contained critical findings – e.g., broken toilets and sprinkler heads, and inoperable video cameras. Requests for repairs had been made and were documented on the maintenance log. All 715 forms were complete with all of the required signatures.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C63

The DPD shall operate the holding cells in compliance with DPD's comprehensive risk management plan including implementation of:

a) the risk management database;

b) the performance evaluation system;

c) the auditing protocol;

d) regular and periodic review of all DPD policies; and

e) regular meetings of the DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

Comments:

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

Phase 2 compliance with this requirement is unchanged since the last report. The components of this requirement incorporate compliance requirements detailed in the Use of Force Consent Agreement and are applicable across the Department's patrol and holding cell personnel. These include U91 with regard to personnel evaluations, U92-U99 which address audit requirements, policy review and monthly risk related reviews and U78-90 which establish requirements for the risk management database. Our findings of compliance with those requirements inform the finding with C63.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C64

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

a. *the installation and continuous operations of video cameras in all prisoner processing areas of the DPD holding cells within one year of the effective date of this Agreement;*[47]

b. *supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;*

c. *that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and*

d. *that the DPD conduct and document periodic random reviews of prisoners processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoners processing area video recording equipment to confirm that it is in proper working order.*

Comments:

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

During our previous inspections of holding cells, we observed the operation of video cameras in all processing areas and throughout the holding facilities. We noted that CRIB and/or detention staff conducts monthly random reviews of videos in processing areas as well as specific reviews when a use of force incident occurs.

During our January 2011 site visit, the Parties determined that video cameras were not required outside of the processing areas. During our previous site visits, the video cameras in all of the districts/precincts that maintain holding cells were operational in the processing areas.

During our most recent site visit, the Eastern District was unable to pull up archived processing area video and at the Northeastern District personnel advised that the ability to pull up archived video was sporadic. We reviewed 44 Detainee Processing Area Video Forms (DPD-713, revised 05/12) from all five facilities and found 27 where the facility was able to review archived video. In the remaining 17, the comments on the form ranged from video not working, system would not allow access, no video available to no archived video in the Insight Net system. The majority of the incidents occurred at the Eastern District and the Second Precinct

We reviewed DPD documentation that indicated the issues with archived video was first documented in June 2012. We received a memorandum where service tickets from DPD were

[47] Amended by Court Order dated June 1, 2011.

placed with the City's ITS Department to order equipment to fix the existing problems and four weeks later a response had not been received.

On November 6, 2012 we received a response that indicated DPD and the City's ITS Department had come to an agreement that the Department could make direct purchases of technical equipment regarding the operation of video in the processing areas of the holding facilities. After our October 2012 site visit, additional meetings were held between DPD and the City's ITS to ensure that all video operational requests from DPD would be given high priority. During the next quarters review we will check the five facilities for compliance.

DPD has purchased handheld video cameras to achieve compliance with C53, subparagraph c, which states: "The DPD shall revise and augment its policies regarding prisoners to require that: c. the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped." Personnel in the five facilities were able to activate the handheld cameras. This equipment should be routinely checked to ensure its operability.

During this reporting period, we reviewed 13 cases, within or at the holding facilities that involved a use of force or a prisoner injury. In two cases, there were preplanned extractions where the handheld video camera should have been utilized but was not. In another case a supervisor in the holding facility attempted to review processing area video on three different occasions for one use of force incident and the video was unavailable.

Commanding officers are taking a more active role in use of force and prisoner injury investigations in the holding facilities by making inquiries about the use of video as an evidentiary and management tool.

DPD is in Phase 2 compliance with this paragraph due to previous compliance. If the processing area archived video cannot be repaired and accessed during our January 2013 site visit, DPD will be placed in non-compliance status with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C65

The DPD shall conduct regularly scheduled semiannual audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including;

a. *reviewing a statistically valid sample of command, IAD, and Homicide Section investigations;*

b. *evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;*

c. *evaluating the preservation and analysis of the evidence;*

d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;

e. evaluating the appropriateness of the investigator's conclusions; and

f. issuing a written report regarding the findings of the audit.[48]

Comments:

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

The CRIB Audit Team completed and issued its Combined Use of Force and Allegations of Misconduct in Holding Cells Investigations Audit for the audit period ending July 31, 2012. We reviewed the audit for that reporting period; and found that the Audit Team conducted a comprehensive audit regarding uses of force, injuries to prisoners, and allegations of misconduct in holding cells. The respective command staff were notified of the deficiencies and responded to the Command Action Notices with non-disciplinary corrective action and/or training as appropriate. The next semi-annual audit will have been completed by January 31, 2013

Accordingly, we continue to find the DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C66

The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with fire detection, suppression and evacuation program, including:

a. testing a sample of smoke detectors and sprinklers;

b. testing the back-up power systems;

c. reviewing a sample of fire equipment testing and maintenance records; and

d. issuing a written report regarding the findings of the audit.

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[48] Amended to reflect the below stipulated language contained in the Court order of April 15, 2009:

> The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant, and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take nondisciplinary corrective action or disciplinary action.

Comments:

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

The DPD established an active Holding Cell Compliance Committee that meets monthly and collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB audit team conducted the semi-annual Fire Safety Practices and Policies Audit that was completed for July 31, 2012. The audit was comprehensive and indicated that deficiencies were discovered relating to fire safety. The Audit Team found broken sprinkler heads at three of the precincts with holding cells, no hydrostat testing and expired tags on several fire extinguishers. The next audit is scheduled to be completed on January 31, 2013.

During this reporting period, we inspected the five districts/precincts that maintain holding cells, and examined the policies and practices related to Departmental fire safety. Our current findings are documented in C14-22.

Accordingly, we continue to find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C67

The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;

a. *reviewing a sample of key and fire equipment maintenance and inventory records; interviewing selected detention officers about their participation in fire drills and on their responsibilities under emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and*

b. *issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit team completed the Comprehensive Emergency Preparedness Program audit for the period ending July 31, 2012. We confirmed that the DPD met the requirements for performance and documentation of requirements of this paragraph. The Audit Team conducted tabletop exercises to determine the knowledge and skills of the personnel working in the Detention areas. The percentage of total correct answers was 95%, the same as the last audit period. The next semi-annual audit is scheduled for January 31,2013.

The DPD developed and published a Comprehensive Emergency Preparedness Program (CEPP) addressing safety and security, as required. The CEPP includes an emergency response plan for each district/precinct (see C24) and a key control system requirement (see C25).

During our most recent inspection of all districts/precincts that maintain holding cells, we examined the policies and practices related to the Emergency Preparedness Program. Our findings are discussed above in C23-25.

The DPD has conducted and documented fire drills, as required. Accordingly, we continue to find the DPD in Phase 2 compliance with these requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C68

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

a. *reviewing a sampling of hospitals referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;*

b. *observing intake screening interviews to assess thoroughness;*

c. *reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*

d. *issuing a written report regarding the finding of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The most recent approval letter for the Comprehensive Medical/Mental Health Screening Program (CMMHSP) was signed by a medical and mental health Professional from the City's Health Department on February 29, 2012.

The most recent semi-annual audit was completed for July 31, 2012. The audit is comprehensive and addresses the deficiencies by issuing Command Action Notices to the appropriate command staff. Included in the audit are the responses from the commanders, indicating training or issuance of non-disciplinary or disciplinary notices. The Audit Team found deficiencies in C26, C28, C28d, C29, C29a, C31, C31c, C32, C32e, and C32g. The next semi-annual audit is scheduled for January 31, 2013.

During this reporting period, we visited the five districts/precincts that maintain holding cells, and examined the policies and operational practices related to the Medical and Mental Health Program. Our findings are discussed above in C26-34.

We conclude that the DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C69

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate detainee safety programs and policies, including;

a. *reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;*

b. *reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell checks logs are receiving supervisory review and written approval; and*

c. *issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed and issued its audit results for the Detainee Safety Program on July 31, 2012. We reviewed the current audit independently, and found that many of the deficiencies founded are similar to our findings during our inspections. The next semi-annual audit is scheduled for January 31, 2013.

Additionally, we independently reviewed the operational implementation of policies and practices related to the Detainee Safety Program during our visits to all five districts/precincts that maintain holding cells and the DRH. Our findings are discussed in C35-38.

We conclude that the DPD has met the requirements for performance and documentation of the requirements of this paragraph. Accordingly, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C70

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

a. *inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks, and toilets are operable;*

b. *reviewing a sampling of cleanings and maintenance logs to ensure they are properly maintained and reflected the scheduled performance of the requisite cleaning and maintenance tasks;*

c. *reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;*

d. *observing whether holding cells are free of any potential suicide hazards; and*

e. *issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed its first combined semi-annual audit of the Environmental Health and Safety Program, Detainee Food Services and Personal Hygiene Policies and issued their findings on January 31, 2012. The audits were combined for efficiency reasons. They cover C70-71 and focus on Paragraphs C34, C39-45, and C49-51. Additionally, CRIB staff conducts monthly audits of the elements of this paragraph and documents the results on DPD Form 715 Evaluation of the Operation of Holding Cells. We reviewed the current Audit Team Report from July 31, 2012 and found it to be comprehensive. The Audit Team listed three areas of concern. They were: a.) Timely Performance of Routine Maintenance; b.) Documentation in Holding Cell Cleaning Logs; and c.) Documentation in Meal Logs. We continue to conduct inspections separately on operational implementation of policies and practices of the five districts/precincts with holding cells and the DRH. Our findings for the paragraph are discussed above in C39-46. The next semi-annual audit is scheduled for January 31, 2013.

DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C71

The Holding cell Compliance Committee shall conduct regularly scheduled semiannual audits of all building containing holding cells to evaluate the food service program, including:

a. *reviewing a statistically valid sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;*

b. *assuring that food is handled in a sanitary manner; and*

c. *issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on January 31, 2012. This was the first combined audit that also included Personal Hygiene Policies and Environmental Health and Safety Policies. We found the audit to be comprehensive and meeting the requirements for performance and documentation of requirements of this and the previous paragraph, C70. We reviewed the results of the audit that was conducted for July 31, 2012, and as stated in the previous paragraph, found it to also be comprehensive.

We continue to visit the five districts/precincts that maintain holding cells. We examined the implementation of the policies and practices related to the food service program and hygiene practices. Our findings are discussed in C49-50.

The next semi-annual audit is scheduled for January 31, 2013.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C72

The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and

specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.[49]

Comments:

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

The CRIB is mandated under this Consent Judgment paragraph to provide written reports for the Chief of Police and specified commanders. In previous reporting periods, we found that the various reports and field responses were unacceptable, in that these reports were specific to the district/precinct and did not receive sufficient attention. The CRIB conducted a review of the audit process, and subsequently changed the audit process to focus on individual commands. These command-specific audits were anticipated to result in clearer command accountability and increased awareness to issues that are identified through the audit process.

For the last reporting period, we received and reviewed the command-specific audits for the period ending July 31, 2012. The audits included are Medical and Mental Health Program and Policies; Combined Environmental Health and Safety; Detainee Food Service and Personal Hygiene Practices; Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program. We also reviewed the Corrective Action Notices from the commands that were submitted prior to August 15, 2012. The next set of audits is due to be completed by January 31, 2013. We will report on these audits in our next quarterly report. Although we find the audits to be comprehensive and accurate, we cannot recommend that they be conducted on an annual basis due to the excessive number of repeat deficiencies that continue to be discovered.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
62	Evaluation of holding cell operation	In Compliance	In Compliance
63	Operate cells in compliance with risk plan	In Compliance	In Compliance
64	Augment policy regarding video cameras	In Compliance	In Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit	In Compliance	In Compliance

[49] Amended by Court Order dates April 15, 2009

69	Detainee safety audits required	In Compliance	In Compliance
70	Environmental health/safety audits	In Compliance	In Compliance
71	Food service program audits required	In Compliance	In Compliance
72	Audit results to Chief and Commanders	In Compliance	In Compliance

CJ Requirement C73

The DPD shall provide comprehensive pre-service and in-service training to all detention officers.

Comments:

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

During past site visits, we have conducted surveys to evaluate the comprehensiveness of training provided to detention officers, and determine the Department's compliance with its policies requiring that officers who are assigned detention duties have been afforded detention training. DPD steadily improved in this area. In our January 2011 review, we found for the first time that DPD was in compliance with this requirement. The Department continued throughout 2011 and 2012 in compliance; over 95% of the officers who were assigned to detention duties in 2011 had been trained in detention as required.

During this reporting period, we again randomly sampled three days (Monday, July 23; Tuesday, August 21; and Wednesday, September 12, 2012) and found that 210 (96%) of the 219 officers and supervisors who worked in detention duties on those three days had completed the Detention Officer Course within the past 12 months.

We noted in our three previous reviews, supervisory authority over the cellblock area in the Central District is not clearly defined on the Daily Details. Again we found in nine Central District Daily Details that we reviewed, that no supervisor was clearly listed as assigned to supervise the officers handling detention duties. The Central District does not have a cellblock, but designates officers to handle detention duties at Detroit Receiving Hospital. We again found that in the nine Daily Details none of the supervisors of the officers handling detention duties in the Central District had received detention training within the past year.

The DPD remains in compliance with C73 but, while the failure to denote the detention supervisor on the Daily Detail is not *technically* a violation of this requirement, we note again that it is an undesirable trend that needs to be corrected. Further, supervisors for the officers assigned to detention duties should also have undergone detention officer training.

The Department is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C74

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

Comments:

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

In July 2011, we found that DPD had completed the entry of all training records since 2003 into the Michigan MITN automated records system. During this reporting period, we verified the accuracy of the DPD Training records (see U108) and their entry into the MITN system. DPD was able to produce an accurate and current list of officers and supervisors who received in-service training. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C75

The DPD shall provide all detention officers, supervisors of detention officer and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

a. *Emergency response plans and notification responsibilities;*

b. *Fire drills and use of fire extinguishers and other fire suppression equipment;*

c. *Key control drills and key control policies and procedures; and*

d. *Responding to emergency situations, including scenarios detention officers likely will experience.*

Comments:

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

Although DPD detention training adequately addresses the requirements of C75, we found in previous reporting periods that the Department continued to assign officers and supervisors who had not been trained in detention duties. In our January 2011 review, we found for the first time that DPD was in compliance with the requirement that only officers trained in detention be assigned to such duties. Since 2011, our reviews determined that over 95% of the officers who were assigned to detention duties had been trained in detention, as required.

During this site visit, we found that 96% of the officers working in detention duties had received the required training.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C76

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

a. *prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;*

b. *recording, updating and transferring prisoner health information and medications*

c. *the prescription medication policy, including instructions on the storage, recording and administration of medications; and*

d. *examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.*

Comments:

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

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. Since our random review of training files during this reporting period showed that 96% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C77

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:

a. *the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;*

b. *protocols for performing, documenting and obtaining supervisory review of holding cell checks;*

c. *protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and*

d. *examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.*

Comments:

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

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. Since our random review of training files during this reporting period showed that 96% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C78

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

a. *cell block cleaning and maintenance protocols; and*

b. *sanitary food preparation and delivery protocols.*

Comments:

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

This requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee. Since our random review of training files during this reporting period showed that 96% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
73	Pre-service and in-service training	In Compliance	In Compliance
74	Maintain records training	In Compliance	In Compliance
75	Emergency preparedness training	In Compliance	In Compliance

76	Medical/mental health training	In Compliance	In Compliance
77	Detainee safety programs training	In Compliance	In Compliance
78	Environmental, safety, and hygiene training	In Compliance	In Compliance

APPENDIX A: Use of Force – Directives/Policies

USE OF FORCE POLICY	
14	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
15	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
16	See paragraph #15 above.
17	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
18	DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
19	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
20	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011 which replaced DPD Directive 304.1, effective November 2010; and Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
21	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011, which replaced DPD Directive 304.1, effective November 2010, and in Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
22	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010, and August 4, 2011).
23	See paragraph #22 above. Also, Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
24	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 (revised November 1, 2010); DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
25	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008 (revised November 1, 2010); and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012.
26	See paragraph #25 above.
INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW	
27	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 102.6 Citizens Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011); Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Office of the Chief Investigator, Standard Operating Procedure, July 1, 2010; and Internal Affairs Standard Operating Procedure, January 2011.
28	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force

	& Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; and
29	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 203.3, Notifications, effective February 22, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure, (January 2011); and Office of the Chief Investigator Standard Operating Procedure (July 1, 2010).
30	See paragraph #29 above.
31	Training Directive 04-4, Garrity Protocol, dated February 9, 2006 (revised October 24, 2009).
32	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure (January 2011); and Office of the Chief Investigator Standard Operating Procedure (July 1, 2010).
33	See paragraph #32 above.
34	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 304.1, Firearms, effective May 2, 2005 and revised August 4, 2011 (revised September 27, 2012); and Training Directive 11-01, Reporting/Documenting The "Acquiring of a Target" effective August 4, 2011, Training Directive 11-01a, Reporting/Documenting The "Acquiring of a Target" Audio/Video Review of the Incident, effective April 11, 2012
35	See paragraph #34 above and DPD Directive 203.3, Notifications, effective February 22, 2012.
36	See paragraph #34 above.
37	See paragraph #34 above. Also DPD Joint Incident Shooting Team Standard Operating Procedures and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005.
38	See paragraph #37 above.
39	DPD Special Order 09-13, Command Level Force Review Team (CLFRT) dated March 2, 2009, replaced with DPD Special Order 11-02, effective January 1, 2011; and DPD Directive 101.9, Special Purposes Committees, effective February 22, 2012 (revised September 27, 2012).
40	See paragraph #39 above.
41	See paragraph #39 above.
ARREST AND DETENTION POLICIES AND PRACTICES	
42	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 2010.
43	See paragraph #42 above.
44	See paragraph #42 above (202.1); 202.2, Search and Seizure, effective May 2, 2005; revised November 2010; 203.9, Custodial Questioning, effective November 20, 2010; and 404.1, Definitions, effective November 20, 2010.
45	See paragraph #42 above.
46	DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010 (revised November 17, 2011).

47	See paragraph #46 above.
48	See paragraph #46 above.
49	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010.
50	See paragraph #49 above.
51	See paragraph #49 above.
52	DPD Directive 305.2, Detainee Registration, and effective September 12, 2005 (revised July 26, 2012).
53	See paragraph #52 above.
54	See paragraph #52 above.
55	See paragraph #52 above.
56	DPD Directives 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) and 305.2, Detainee Registration, effective September 12, 2005 (revised July 26, 2012). Also Training Directive #04-01, Confinement of Material Witness, effective March 1, 2005.
57	See paragraph #56 above.
58	See paragraph #56 above.
59	See paragraph #56 above.
60	DPD Directive 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010); and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 3, 2010).
EXTERNAL COMPLAINTS	
61	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010); IAD Standard Operating Procedures, Sections 1 and 3 (January 2011); and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004, and July 1, 2010) (revised July 6, 2012).
62	Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (revised April 29, 2004, and July 1, 2010).
63	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011).
64	See paragraph #61 above. Also see DPD Directive 102.6.
65	See paragraph #63 above.
66	See paragraph #61 above.
67	See paragraph #61 above.
68	See paragraph #65 above.
69	See paragraph #61 above. Also DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-4 Garrity Protocol, effective February 9, 2006 (revised October 24, 2009).
GENERAL POLICIES	
70	DPD Directives 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and 404.1, Definitions, effective July 1, 2008 (revised November 1, 2010).
71	DPD Directive 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012). The DPD also utilizes a Protocol for Proposed Policy Revisions; an SOP outlining

	procedures for posting proposed policies to the website; and a flow chart (Visio-DPD Policy Flow Chart) that tracks the movements of proposed policy revisions through the Department and public review.
72	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012).
73	On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units.[50] Also Directive 101.10, Organization and Management, effective March 30, 2011.
74	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) revised July 24, 2012).
75	See paragraph #74 above. Also DPD Directive 304.1, Firearms, effective May 2. 2005 (revised November 1, 2010 and August 4, 2011) (revised September 27, 2012).
76	Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised effective March 1 2010) (revised July 6, 2012) and 305.7, Transportation of Detainees, effective February 29, 2012.
77	DPD Directive 202.7, Foot Pursuits, effective July 1, 2008 (revised November 1, 2010) (revised May 26,2011).
MANAGEMENT AND SUPERVISION	
78	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010).
79	See paragraph #78 above.
80	See paragraph #78 above.
81	See paragraph #78 above. Also see the DPD Data Input Plan, approved by the Department of Justice, June 9, 2011.
82	See paragraph #81 above.
83	See paragraph #78 above.
84	See paragraph #78 above.
85	See paragraph #78 above.
86	See paragraph #81 above.
87	See paragraph #78 above.
88	See paragraph #78 above.
89	See paragraph #78 above.
90	See paragraph #81 above.
91	DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010).
92	DPD Audit Protocol, effective September 30, 2011. Annual revision required.
93	See paragraph #92 above.

[50] Section I, Paragraph of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

94	See paragraph #92 above.
95	See paragraph #92 above.
96	See paragraph #92 above.
97	See paragraph #92 above.
98	DPD Directive 303.3, In-Car Video, effective March 8, 2012 (revised September 4, 2012).
99	DPD Directive 304.5 Training, effective May 13, 2011 (revised July 10, 2012).
100	DPD Directive 303.3, In-Car Video, effective March 8, 2012 revised September 4, 2012).
101	See paragraph #100 above. Also, Teletype #11-1468, Roll Call Informational Bulletin, Use of Department Issued In-Car Video Equipment and Body Microphones.
102	See paragraph #100 above.
103	DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and the related DPD Discipline Matrix (DPD22a).
104	See paragraph #103 above.
105	See paragraph #103 above.
TRAINING	
106	DPD Directive 304.5, Training, effective May 13, 2011 (revised July 10, 2012).
107	See paragraph #106 above.
108	See paragraph #106 above.
109	See paragraph #106 above.
110	See paragraph #106 above.
111	See paragraph #106 above.
112	See paragraph #106 above.
113	See paragraph #106 above. Also Directive 304.1, Firearms, effective August 4, 2011 (revised September 27, 2012).
114	See paragraph #106 above.
115	See paragraph #106 above.
116	See paragraph #106 above.
117	See paragraph #106 above.
118	See paragraph #106 above.
119	See paragraph #106 above.
120	See paragraph #106 above.
121	See paragraph #106 above.
122	See paragraph #106 above.
123	See paragraph #106 above.

APPENDIX B: Conditions of Confinement – Directives/Policies

FIRE SAFETY POLICIES	
14	DPD Comprehensive Emergency Preparedness Plan (CEPP), which includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was approved by DOJ on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on June 7, 2012. Also, DPD Directive 305.4, Holding Cell Areas, effective April 21, 2011.
15	See paragraph #14 above.
16	See paragraph #14 above.
17	See paragraph #14 above.
18	See paragraph #14 above.
19	See paragraph #14 above.
20	See paragraph #14 above.
21	See paragraph #14 above.
22	See paragraph #14 above.
EMERGENCY PREPAREDNESS POLICIES	
23	DPD Comprehensive Emergency Preparedness Plan (CEPP), effective May 2011 and DPD Directive 305.4, effective April 21, 2011 (revised July 6, 2012).
24	See paragraph #23 above.
25	See paragraph #23 above.
MEDICAL AND MENTAL HEALTH CARE POLICIES	
26	DPD Directives 305.1, Detainee Intake Assessment; effective May 2, 2012; 305.5, Detainee Health Care and; effective February 22, 2012; 403.2, Infectious Disease Control Plan, effective February 29, 2012, reviewed and updated by a qualified health care professional on February 17, 2012 and February 29, 2012 as required. DPD Directive 305.5 cited above along with forms and logs, comprises the Comprehensive Medical and Mental Health Screening program (CMMHSP).
27	See paragraph #26 above (DPD 305.5).
28	See paragraphs #26.
29	See paragraph #26 above (DPD 305.1).
30	See paragraph #26 above (DPD 403.2).
31	See paragraph #26 above (DPD 305.5).
32	See paragraph #26 above (DPD 305.5).
33	See paragraph #26 above (DPD 305.1)
34	See paragraph #26 above.
PRISONER SAFETY POLICIES	
35	DPD Directives 305.1, Detainee Intake, effective May 2, 2012; Directive 305.2, Detainee Registration (revised July 26, 2012); Directive 305.3, Detainee Personal Property, effective May 20,

	2010 (revised November 3, 2011); DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008, and revised September 30, 2011 (revised July 6, 2012); Directive 305.5, Detainee Health Care, effective February 22, 2012; Directive 305.7, Transportation of Detainees; effective February 29, 2012 and Directive 305.8, Detainee Food Service and Hygiene, effective May 2, 2012 (revised July 19, 2012).
36	See paragraph #34 above (DPD 305.1)
37	See paragraph #34 above (DPD 305.4).
38	See paragraph #34 above (DPD 305.1 and 305.4).
ENVIRONMENTAL HEALTH AND SAFETY POLICIES	
39	DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008 (revised September 30, 2011) (revised July 6, 2012). Annual review and revision required.
40	See paragraph #39 above.
41	See paragraph #39 above.
42	See paragraph #39 above.
43	See paragraph #39 above.
44	See paragraph #39 above.
45	See paragraph #39 above.
46	See paragraph #39 above.
POLICIES CONCERNING PERSONS WITH DISABILITIES	
47	DPD Directives 305.1, Detainee Intake and Assessment, effective May 2, 2012 February 29, 2012; and 305.5, Detainee Health Care, effective February 22, 2012, approved and updated by a qualified medical and mental health professional on February 17, 2012 and February 29, 2012. Also the Comprehensive Medical and Mental Health Screening Program (CMMHSP).
48	See paragraph #47 above (DPD Directive 305.1).
FOOD SERVICE POLICIES	
49	DPD Directive 305.8, Detainee Food Service, effective May 2, 2012 (revised July 19, 2012). Also, the Detainee Meal and Hygiene Items Log, DPD 663, effective July 5, 2010.
50	See paragraph #49 above.
PERSONAL HYGIENE POLICIES	
51	See paragraph #49 above.
USE OF FORCE AND RESTRAINTS POLICIES	
52	DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1, 2010) (revised July 6, 2012) and 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012.
53	See paragraph #52 above.
54	See paragraph #52 above.
INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW	
55	DPD Directives 304.2, Use of Force, effective March 19, 2012; and 305.4, Holding Cell Areas,

	effective May 9, 2005 (revised March 1, 2010) (revised July 6, 2012) and DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012.
56	See paragraph 55 above. Also DPD Directive 304.2, Use of Force, effective March 19, 2012 and DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012.
57	See paragraph #55 above.
EXTERNAL COMPLAINTS	
58	See paragraph #55 above. Also see DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011).
59	See paragraph #58 above.
GENERAL POLICIES	
60	DPD Directive 404.1, Definitions, effective November 2010.
61	DPD Directive 101.1, Written Directive System, effective November 2010 (revised May 2, 2012).
MANAGEMENT AND SUPERVISION	
62	DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised April 21, 2011) (revised July 6, 2012).
63	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010); DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010); and DPD Audit Protocol, effective September 30, 2011.
64	See paragraph #62 above.
65	DPD Audit Protocol meeting generally accepted government auditing standards (GAGAS), effective August 31, 2008 (revised October 31, 2010 and September 11, 2011).
66	See paragraph #65 above.
67	See paragraph #65 above.
68	See paragraph #65 above.
69	See paragraph #65 above.
70	See paragraph #65 above.
71	See paragraph #65 above.
72	See paragraph #65 above.
TRAINING	
73	Directive 304.5, Training, effective May 13, 2011(revised July 10, 2012).
74	See paragraph #73 above.
75	See paragraph #73 above.
76	See paragraph #73 above.
77	See paragraph #73 above.
78	See paragraph #73 above.

APPENDIX C: Acronyms

The following is a listing of acronyms frequently used in our quarterly reports.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO/PDO	Detention Facility Officer
DDHWP	Detroit Department of Health and Wellness Promotion

DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigations (*interchangeable with* FIS)
FIS	Force Investigation Section
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
FY	Fiscal Year
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement
RFP	Request for Proposals
RMB	Risk Management Bureau

SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
UOF	Use(s) of Force
USAO	United States Attorney's Office
WCPO	Wayne County Prosecutor's Office
WCJ	Wayne County Jail

APPENDIX D: Monitoring Team

Robert S. Warshaw, *Monitor*

Chief (Ret.) Charles D. Reynolds, *Deputy Monitor*

Lieutenant Colonel (Ret.) J. Rick Brown

Evaluates compliance with U16-17 and U19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U37-41, Review of Critical Firearm Discharges and In-Custody Deaths.

Division Chief (Ret.) Rachel M. Burgess

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; and U67-69, External Complaint Investigations; C14-22, Fire Safety Policies; C23-25, Emergency Preparedness Policies; C60-61, General Policies; and C65-72, Management and Supervision.

Commander (Ret.) John M. Girvin

Evaluates compliance with U27-33, General Investigations of Police Action; U61-63, External Complaints; U64-66, Intake and Tracking; U67-69, External Complaint Investigations; and C58-59, External Complaints.

Chief (Ret.) Eduardo Gonzalez

Evaluates compliance with U14-19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U70-72 and U74-77, General Policies.

John M. Klofas, Ph.D.

Evaluates compliance with U78-90, Risk Management Database; U91, Performance Evaluation System; U92-97, Oversight; and U103-105, Discipline.

Leonard F. Rice, M.E.S., R.S.

Evaluates compliance with C39-46, Environmental Health and Safety Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; and C51, Personal Hygiene Policies.

Chief (Ret.) Billy R. Riggs

Evaluates compliance with U42-43, Arrest Policies; U44-45, Investigatory Stop Policies; U46-48, Witness Identification and Questioning Policies; U49-51, Prompt Judicial Review Policies; U52-53, Hold Policies; U54-55, Restriction Policies; U56-57, Material Witness Policies; U58, Documentation of Custodial Detention; U59-60, Command Notification; C26-34, Medical and Mental Health Care Policies; and C64, Management and Supervision Policies.

Asst. Director (Ret.) Joseph R. Wolfinger

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; and U123, Field Training.

Robin Busch-Wheaton

Editor

APPENDIX E: Detroit Police Department Management Dashboard Data

The table below presents data on measures relevant to the requirements set forth in the Consent Judgments. The data were compiled by the Detroit Police Department, and are displayed for presentation by the Monitoring Team. These data are presented here with the consent of the Police Department and serve simply as a means to provide information relevant to issues raised in the Consent Judgments.

Dashboard Data: Detroit Police Department 10/11-9/12

	Oct-11	Nov	Dec	Jan-12	Feb	March	April	May	June	July	August	Sept	12 month graph
Total Arrests	2940	2553	2403	2503	1749	1984	1926	2294	1960	1827	1728	1460	
Number of Events per 1000 Arrests													
Uses of Force	40.14	25.46	29.55	23.17	46.31	49.40	63.86	64.08	32.65	49.26	63.08	46.58	
Firearms Discharge	1.70	0.00	0.42	1.20	1.14	1.51	0.52	2.62	0.51	3.28	3.47	2.05	
Citizen Complaints	37.07	31.73	30.79	39.55	46.31	46.37	32.19	44.03	35.20	67.87	54.40	46.58	
Traffic Crashes	3.40	5.88	4.16	6.39	5.15	9.07	4.67	6.10	6.63	3.83	3.47	10.27	
Civil Litigation	2.72	5.88	4.58	4.00	1.14	6.55	4.15	4.36	0.00	10.95	13.31	3.42	
Vehicle Chases	8.16	14.49	8.32	5.99	8.58	9.07	8.31	5.23	6.12	2.74	4.05	6.16	
Disciplinary Action Closed Date	7.14	3.53	4.99	7.19	16.01	12.10	1.56	3.92	1.53	5.47	14.47	4.11	
Arrests for Assault and Battery on a PO	4.76	5.48	3.33	3.20	9.15	9.58	8.83	14.39	7.65	10.40	10.42	10.27	
Resisting or Obstructing Arrests	17.01	10.58	9.16	9.59	21.73	19.66	21.81	20.49	15.82	21.35	29.51	24.66	
Disorderly Conduct Arrests	5.10	2.74	2.08	3.20	1.14	2.02	3.12	7.41	4.08	3.28	5.21	4.11	
Interfering Arrests	2.04	1.57	0.42	1.20	0.57	0.50	1.56	3.49	2.55	3.83	2.89	0.00	
Total Consent Judgment noted Arrests (above 4)	28.91	20.37	14.98	17.18	32.59	31.75	35.31	45.77	30.10	38.86	48.03	39.04	