

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiffs,

v.

Case No. 03-CV-72258

HONORABLE JULIAN ABELE COOK

CITY OF DETROIT,

Defendant.

_____ /

QUARTERLY REPORT OF THE INDEPENDENT MONITOR FOR THE
DETROIT POLICE DEPARTMENT ISSUED JULY 16, 2007

**REPORT OF
THE INDEPENDENT MONITOR
FOR THE
DETROIT POLICE DEPARTMENT**



KROLL

*Office of the Independent Monitor
of the Detroit Police Department*

**REPORT FOR THE QUARTER ENDING
MAY 31, 2007**

ISSUED JULY 16, 2007



Office of the Independent Monitor
of the Detroit Police Department

REPORT OF THE INDEPENDENT MONITOR
FOR THE QUARTER ENDING MAY 31, 2007
ISSUED JULY 16, 2007

EXECUTIVE SUMMARY

On June 12, 2003, the United States Department of Justice (DOJ) and the City of Detroit (City) (collectively, the parties) filed two Consent Judgments with the United States District Court for the Eastern District of Michigan (Court).¹ The Consent Judgments were negotiated and agreed to by the parties. On the same date, the parties filed a motion indicating the joint selection of an Independent Monitor, subject to the Court's approval, to "review and report on the City and the DPD's [Detroit Police Department's] implementation"² of the Consent Judgments. On July 18, 2003,³ the Court entered both Consent Judgments. On July 23, 2003, after hearing testimony concerning qualifications, the Honorable Julian A. Cook, Jr., U.S. District Court Judge, appointed Sheryl Robinson Wood, with the assistance of Kroll, Inc., as the Independent Monitor in this matter. This is the fifteenth quarterly report of the Independent Monitor.⁴

The two Consent Judgments contain a total of 177 substantive paragraphs with which the City and the DPD must substantially comply. The City and the DPD have achieved compliance with the policy components of the vast majority of paragraphs in both Consent Judgments, a significant accomplishment.⁵ There are a number of paragraphs that are "policy only" paragraphs with which the City and the DPD will remain in compliance unless a revision is made that does not meet the terms of the Consent Judgments.⁶ These 13 compliant "policy only" paragraphs are: U14-17, U19, U20, U42, U44, U46-47, U52, U54, and U56. There are also several paragraphs that require the City and the DPD to take a specific action and, once compliant, these paragraphs will generally remain in compliance; the DPD has complied with 11 such paragraphs or subparagraphs: U82-84; U88a, b, d, and e; C22; C34; C44; and C46. Significantly, the DPD has been in overall compliance for two substantive quarters with 18 paragraphs or subparagraphs of the Consent Judgments.⁷

¹ The two judgments are the Use of Force and Arrest and Witness Detention Consent Judgment (UOF CJ) and the Conditions of Confinement Consent Judgment (COC CJ).

² UOF CJ at paragraph U124 (hereinafter UOF CJ paragraphs will be referenced by "U"). COC CJ at paragraph C79 (hereinafter COC CJ paragraphs will be referenced by "C").

³ The "effective date" of the Consent Judgments.

⁴ The Monitor's quarterly reports may be found on the Internet at www.kroll.com/detroit.

⁵ These paragraphs are identified in the comments column of the Report Card attached as Appendix B to this report. Pursuant to paragraphs U133 and C88 and various other paragraphs, these paragraphs also require implementation, which must also be in compliance for the DPD to achieve overall substantial compliance.

⁶ For these "policy only" paragraphs, implementation is separately evaluated under another substantive paragraph.

⁷ These paragraphs and subparagraphs -- U57, U62b, U62c, U62d, U63, U66, U71, U92, U99, U110, C20, C34, C39, C42a, C43, C45, C61 and C65c -- are substantive paragraphs that are on a regular and periodic review schedule; this list does not include "policy" only paragraphs and other paragraphs and subparagraphs with which the DPD will generally remain in compliance once compliance is achieved.



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Each quarter, the Monitor examines a certain number of substantive paragraphs. During the fifteenth quarter, which ended on May 31, 2007, the Monitor examined a total of 85 paragraphs or subparagraphs (62 paragraphs or subparagraphs of the UOF CJ and 23 paragraphs or subparagraphs of the COC CJ). Of these, the City and the DPD complied with 17 and failed to achieve compliance with 50; the Monitor did not complete its evaluation⁸ of 18 paragraphs or subparagraphs.⁹

Overall, the City and the DPD are in compliance with 54 paragraphs out of 177 to date.

This quarter, the Monitor assessed the DPD's compliance with UOF CJ requirements relative to the implementation of the Department's revised Use of Force policy which was previously approved by DOJ. As identified by both the DPD's Audit Team and the Monitor, the Department has not effectively documented its uses of force in order to demonstrate effective implementation of the policy. Furthermore, the Monitor assessed the Department's compliance with UOF CJ requirements regarding the conduct of general, use of force and prisoner injury investigations. The DPD's Audit Team and the Monitor agreed that the Department has not substantially implemented any of the investigative requirements except for the Garrity protocol (paragraph U31). The Department's implementation efforts were inconsistent across the board, with some of the investigations meeting the requirements of the UOF CJ and just as many, if not more, failing to meet the requirements.

In regards to critical firearm discharges and in-custody deaths, the Monitor assessed the DPD's compliance with the UOF CJ requirements regarding the conduct of investigations by the DPD's Joint Investigative Shooting Team and reviews by the command level force review team (DPD's Board of Review). The Department continues to struggle with carrying out the requirements of the critical firearm discharge investigative protocol. Furthermore, the Department is still only convening a Board of Review when there is a fatal shooting as opposed to reviewing all critical firearm discharges and in-custody deaths, as required by the UOF CJ. Furthermore, the Monitor has not received the Department's annual review of critical firearm discharges and in-custody deaths for 2005 or 2006.

⁸ The paragraphs for which the Monitor has not yet completed its evaluation are generally "implementation" paragraphs, for which the DPD has now complied with the related policy requirements. In these instances, the Monitor's testing of implementation is currently taking place and has not yet been completed. There are varying reasons why the assessments have not yet been completed, including the dates documents were requested and/or submitted and the availability of information relevant to making the assessment. In addition, the Monitor times its reviews of certain topics to coincide with its review of DPD audits that cover those topics; the Monitor will generally defer its assessment of compliance with the topics if its review of the related audit has not been completed.

⁹ For each of these paragraphs, the Monitor's review and findings as of the end of the quarter are included in this report. The Monitor is mindful that this report is issued some 45 days after the end of the quarter. Therefore, for paragraphs assessed during the current quarter, the Monitor will make every effort to mention significant developments that occurred after the end of the quarter in footnotes throughout the report. For those paragraphs that were not assessed during the current quarter, developments that occurred during the current quarter or after the quarter's end will generally be fully reported on in the next quarter in which the applicable paragraph is under review.

The Monitor assessed the Department's compliance with the UOF CJ requirements regarding review of arrests and documentation of stops and frisks, interviews and interrogations, and arrests. Although the Department has maintained its efforts to review arrests for probable cause and is still close to being in compliance with those requirements, the DPD has not effectively implemented the documentation requirements for review of all stops and frisks and interviews and interrogations or for the creation of auditable documentation of each custodial detention. Furthermore, the Commanding Officer's reviews of all violations of DPD policies on arrests and stops and frisks are essentially not taking place at all.

The DPD continued to effectively hold meetings with prosecutors and with the City Law Department concerning the issues identified in the UOF CJ. In regards to the development of the Management Awareness System, the Department continued to make progress in keeping with the new deadlines agreed upon by the parties and reported in the Monitor's Report for the Quarter Ending February 28, 2007.

During this quarter, the Monitor completed its review of the remaining seven audits that were submitted by the DPD AT on January 31, 2007¹⁰: the *Prisoner Injury Audit*, *Use of Force in Holding Cells Audit*, *Prisoner Injury in Holding Cells Audit*, *Allegations of Misconduct in Holding Cells Audit*, *Fire Safety Audit*, *Emergency Preparedness Program Audit*, and *Detainee Safety Programs and Policies Audit*. The Monitor found that the *Prisoner Injury in Holding Cells*, *Allegations of Misconduct in Holding Cells*, *Fire Safety*, and *Emergency Preparedness Program Audits* were in compliance. The *Prisoner Injury* and *Use of Force in Holding Cells Audits* were found to be in non-compliance primarily because the DPD's Audit Team either did not adequately evaluate or report on significant issues or incorrectly analyzed certain issues. The lack of participation by a Holding Cell Compliance Committee member in the conduct of the *Detainee Safety Audit* is the primary reason for that audit being found in non-compliance. In regard to audit reporting requirements, the Department has not yet implemented the requirement to issue written reports that examine consistency throughout the DPD on the results of each audit to the Chief of Police and to all District or specialized unit commanders. Furthermore, given that the DPD's Audit Team and the Holding Cell Compliance Committee members conducted and submitted 12 audits between January 31, 2007 and April 14, 2007, all of which included numerous valid recommendations to further the DPD towards compliance, the DPD should take more affirmative and timely action with respect to its own audit findings. The DPD should also actively consider recommendations made in audits conducted in prior time periods. In any event, the Monitor commends the DPD Audit Team for submitting the *Arrest Audit* and the *Custodial Detention Practices Audit* in April 2007, several months before their due dates. This indicates that the Audit Team has begun to stagger the conduct and submission of their audits, which will greatly improve the audit review process and further enhance the quality of the audits.

¹⁰ The *Medical and Mental Health*, *Environmental Health and Safety* and *Food Safety Audits* were assessed by the Monitor during the Quarter Ending February 28, 2007. Additional information on the assessment of the *Medical and Mental Health Audit* is reported herein.

In regards to training, the DPD submitted two lesson plans this quarter: *Supervisory Leadership and Accountability Lesson Plan* on April 14, 2007 and *Law of Arrest Search and Seizure Lesson Plan* on May 15, 2007.¹¹ In addition, the majority of the DPD's instructors have not yet received instructor development training and most of the officer training records dating back to the effective date of the Consent Judgments have not yet been entered. The Monitor assessed the Annual Use of Force, Firearms Training Protocol and Arrest and Police Citizen Interaction training requirements finding the DPD in non-compliance with them. The *Law of Arrest Search and Seizure Lesson Plan* showed marked improvement from previous plans but did not address all of the requirements in the UOF CJ related to Arrest and Police Citizen Interaction. The Monitor previously reported that the DPD's *Use of Force Lesson Plan* did not contain all of the relevant requirements in the UOF CJ.¹² The DPD has not yet resubmitted a Firearms lesson plan. The Monitor is encouraged to hear about the DPD's plans for its Roll Call Training Delivery Program and the previously mentioned E-Learning Platform and looks forward to the launch of both programs.

The Monitor assessed the Department's compliance with several Consent Judgment requirements related to the implementation of the Comprehensive Medical and Mental Health Screening Program. Specifically, the DPD has failed to effectively implement the Comprehensive Medical and Mental Health Screening Program in the areas of prisoner screening, medical protocols, infectious disease control, exchange of prisoner health information and prescription medication policy. The DPD has effectively implemented the provision of suicide clothing and the removal of suicide hazards. The Monitor also assessed the DPD's compliance with the COC CJ requirements concerning accommodations for and detention of persons with disabilities, finding the Department in non-compliance.

¹¹ The Monitor provided written memoranda on these two lesson plans on June 27 and 29, 2007, after the end of the quarter.

¹² Although the Monitor previously reported on its evaluation in the Report for the Quarter Ending November 30, 2006, a written memorandum reiterating the Monitor's findings was belatedly issued to the DPD on June 27, 2007.



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- A. Acronyms Frequently Utilized in Quarterly Reports Issued by the Independent Monitor
- B. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Judgments as of the Quarter Ending May 31, 2007



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SECTION ONE: INTRODUCTION

I. BACKGROUND

On June 12, 2003, the DOJ and the City filed two Consent Judgments with the United States District Court for the Eastern District of Michigan. The Consent Judgments were negotiated and agreed to by the parties. On the same date, the parties filed a motion indicating the joint selection of an Independent Monitor, subject to the Court's approval, to "review and report on the City and the DPD's implementation" of the Consent Judgments. On July 18, 2003, the Court entered both Consent Judgments. On July 23, 2003, after hearing testimony concerning qualifications, the Honorable Julian A. Cook, Jr., U.S. District Court Judge, appointed Sheryl Robinson Wood, with the assistance of Kroll, Inc.,¹³ as the Independent Monitor in this matter. This is the fifteenth report of the Independent Monitor.

In the first quarterly report, for the quarter ending November 30, 2003, the Monitor¹⁴ outlined the history of the DOJ investigation, the Technical Assistance (TA) letters and the DPD's reform efforts. The Monitor also summarized the complaint filed against the City and the DPD and the overall content of the Consent Judgments.¹⁵ The Monitor's duties and reporting requirements were also described.

As the Consent Judgments require that the DPD achieve and maintain substantial compliance for a specified period of time,¹⁶ the Monitor will review the paragraphs on a periodic schedule over

¹³ The primary members of the Monitoring Team are Joseph Buczek, Jerry Clayton, Penny Cookson, Hazel de Burgh, Ronald Filak, Thomas Frazier, Marshall Johnson, Denise Lewis, Terry Penney, and Sherry Woods.

¹⁴ The word "Monitor" will be used to describe both the Monitor and the Monitoring Team throughout this report.

¹⁵ Complaint, Case no. 03-72258. The complaint, Consent Judgments and TA letters are publicly available at http://www.usdoj.gov/crt/split/documents/dpd/detroit_cover_2.html.

¹⁶ Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance shall not constitute substantial compliance. Paragraphs U149 and C106.

the life of the Consent Judgments.¹⁷ The paragraphs that were scheduled for review during the fifteenth quarter, which ended on May 31, 2007, are assessed in this report.¹⁸

II. MONITOR'S ROLE

The Monitor's role is to conduct compliance assessments,¹⁹ make recommendations, provide TA and report on the DPD's progress toward substantial compliance with the Consent Judgments on a quarterly basis. The Monitor carries out this role with a healthy respect for the critical role the Department plays in enforcing the law and the significant risks taken by DPD officers each day. The Consent Judgments, which are orders of the Court, are meant to improve the overall policing in the City of Detroit by remedying the unconstitutional conduct alleged by the DOJ in its complaint filed against the City and the DPD. The Consent Judgments can only be modified by court order.

III. EFFORTS TOWARD COMPLIANCE

During the fifteenth quarter, the Monitor continued to test the DPD's implementation of the policies that it has successfully disseminated and to review audits conducted by the DPD's AT. For the paragraphs assessed under the UOF CJ this quarter, the DPD's compliance rates are not improving in many areas, such as the implementation of its use of force (UOF) policy and its investigative procedures, as well as its review of critical firearm discharges. In the arrest and detention area, the DPD has not substantially implemented the documentation and supervisory review requirements. Nevertheless, the quality of the DPD Audit Team's (AT) audits continues to improve as well as the Department's development of lesson plans.

Under the COC CJ, the DPD continues to work toward the implementation of the DOJ-approved Comprehensive Medical and Mental Health Screening Program (CMMHSP). The DPD has not yet achieved compliance with the majority of the requirements of the program. One of the challenges that the DPD continues to face is fully implementing the various forms and logs

¹⁷ The initial duration of the COC CJ was eight quarters. As previously reported, on December 27, 2004, the Court issued an order granting the City's motion for a two-year extension of the COC CJ; however, the Court did not extend the internal deadlines required under the COC CJ. The Monitor has developed a review schedule for the COC CJ paragraphs under the two-year extension; the schedule is incorporated into the Report Card accompanying this report. The minimum duration of the UOF CJ is twenty quarters. The Monitor's review schedule does not affect the due dates mandated by the Consent Judgments for the City and the DPD.

¹⁸ As previously mentioned, for the paragraphs under review for this quarter, the Monitor makes every effort to report on significant matters that have taken place after the end of the quarter, although this is not possible in every instance. These occurrences appear in footnotes throughout the report.

¹⁹ Paragraphs U138 and C93 require that the Monitor regularly conduct compliance reviews to ensure that the City and the DPD implement and continue to implement all measures required by the Consent Judgments. The Monitor shall, where appropriate, employ sampling techniques to measure compliance.



required by the policies. The Department has achieved compliance with the provision of suicide clothing and remains in compliance with the requirement to remove suicide hazards.

The Monitor previously reported that the City and the DPD are working on retrofitting the holding cells in the districts on a rolling basis; and the following anticipated completion dates were provided in the Monitor's Report for the Quarter Ending February 28, 2007:

Table 1 - Schedule for Renovation of Holding Cells

Facility	Anticipated Completion Dates
Southwestern District (Schaefer Station)	April 2007
Northeastern District	December 2007
Western District	December 2007
Northwestern District	December 2007
Eastern District	Determination Pending

The City recently filed a motion asking that both Consent Judgments be extended until the year 2011 primarily due to what the City contends was an under-estimation in the consent judgments regarding the amount of time to attain compliance, as well as economic factors that were not foreseen at the time the judgments were negotiated.²⁰ The Monitor assumes that the proposed completion dates for retrofitting of the facilities with holding cells will also be extended but has not yet received any further information.

IV. METHODOLOGIES

The *Methodologies to Aid in Determination of Compliance with the Consent Judgments* (the *Methodologies*) generally outline the methods that will be employed by the Monitor to determine compliance by the City and the DPD with each substantive provision of the Consent Judgments. The Monitor has submitted final copies of the *Methodologies* for both Consent Judgments to the parties. Any future modifications to the methodologies will generally be made on a paragraph-by-paragraph basis.

Under the *Methodologies*, the DPD will generally be assessed as compliant when either a reliable audit has been submitted that concludes compliance or at least 94% compliance is achieved for a statistically valid random sample²¹ of incidents from as recent a period as is practicable.

²⁰ Page 9 of *Defendant City of Detroit's Motion to Extend Consent Judgments Regarding Use of Force and Arrest and Witness Detention and Conditions of Confinement* filed with the court on June 20, 2007.

²¹ If the total population of incidents is so small that the process of selecting a statistically valid random sample would take longer to perform than to evaluate 100% of the incidents in the population, 100% testing will be performed.

In the course of conducting compliance assessments, among various other activities, the Monitor conducts interviews of various City and DPD personnel and other individuals. It is the Monitor's general practice, unless otherwise noted, to use matrices to ensure that the same general questions and subject matter are covered in interviews and document reviews.

Under certain circumstances, the Monitor may elect to rely on audits submitted by the DPD in assessing compliance with substantive paragraphs of the Consent Judgments. In doing so, the Monitor evaluates the audit to determine if it is compliant with the applicable audit paragraph requirements of the Consent Judgments. If the Monitor determines that the audit is compliant, the Monitor may rely on the audit and adopt all of the audit's findings.

Even if the Monitor determines that an audit is not compliant with the applicable audit paragraph requirements of the Consent Judgments, the Monitor may still rely on some or all of the audit's findings if it is determined that the specific findings are reliable.²² In addition, the Monitor reserves the right to adopt certain audit findings of non-compliance even in instances in which the Monitor has not determined whether the audit's findings are reliable, as long as the audit's assessment has been supplemented with additional testing by the Monitor.²³

V. REPORT CARD

As a tool to assist the reader of this report, the Monitor is attaching as Appendix B a "Report Card," which provides a "snapshot" of the DPD's compliance with each of the substantive provisions of the Consent Judgments. It also serves as a tool to summarize the DPD's progress in complying with those provisions. Specifically, the Report Card summarizes the *overall* grade of compliance with each paragraph and subparagraph²⁴ of the Consent Judgments for the five most recent quarters, including the current quarter, in which compliance has been assessed.²⁵ The quarter in which the most recent evaluation was made is also indicated, as is the quarter in

²² In these instances, the overall non-compliance finding of the audit would necessarily be based on deficiencies unrelated to the specific findings that the Monitor elects to rely upon. As an example, if the audit report and fieldwork were considered reliable related to the substantive paragraphs under review but the audit was considered non-compliant because it failed to address a specific issue unrelated to the substantive paragraph or was submitted late, the Monitor may use all of the audit's findings regarding the substantive provisions of the paragraph(s) even though the audit was considered non-compliant.

²³ Where an audit concludes that the DPD was in non-compliance, the likelihood that the DPD would incorrectly find itself in non-compliance is relatively low. Consequently, the Monitor may adopt those findings even though they have not been completely substantiated.

²⁴ Although subparagraphs are often specifically identified in the Consent Judgments, the Monitor has split certain paragraphs that include more than one topic. The purpose of this is to facilitate the future evaluation of and reporting on each sub-topic.

²⁵ The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the DPD's compliance with the provisions of the Consent Judgments.

which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. The next evaluation is estimated based on available information at the date of issuance of this Quarterly Report and accompanying Report Card. These estimated dates are subject to change as information develops and circumstances change.

VI. FOCUS ISSUE

A. MONITOR'S POSITION ON CITY'S BRIEF ARGUING NO IMPLEMENTATION REQUIRED FOR 39 CONSENT JUDGMENT PARAGRAPHS

On May 16, 2007, nearly four years after the effective date of the Consent Judgments, the City filed a brief stating that 23 paragraphs or sub-paragraphs in the UOF CJ²⁶ and six paragraphs in the COC CJ²⁷ require only policy adoption, development or amendment, but do not require implementation based the literal terms of the judgments. The City argues that it should be trusted to implement the revised policies and that there are other provisions in the Consent Judgments that address the implementation of policy. The Monitor understands that this matter is pending before the court and that it will be the court's decision to make. However, because this is a fundamental issue that directly impacts the very premise of the Consent Judgments, and because, as explained below, the Monitor is required to detail the City's compliance with and implementation of the Consent Judgments, the Monitor feels compelled to state its position on the City's brief and the reasoning for that position.²⁸ Furthermore, at a status conference on March 28, 2007, Magistrate Judge Scheer invited the Monitor to provide feedback on the City's brief once it was filed. The Monitor is doing so by including its position in this report.

The Monitor disagrees with the City's arguments. The City is correct in implying that none of the 39 cited paragraphs specifically mention any form of the word "implementation;" however, the Consent Judgments are not silent as to implementation. The implementation requirements for each substantive paragraph of the Consent Judgments,²⁹ including these 39 paragraphs, are contained elsewhere within the four corners of the judgments. The UOF CJ contains a section

²⁶ The paragraphs in the UOF CJ cited by the City are: U22, U23, U25, U26, U29, U30, U31, U32, U33, U34, U36, U38, U40, U61, U64, U65, U67a-e, U67g-h, U68a-c, U72, U73, U75, U76, and U77.

²⁷ The paragraphs in the COC CJ cited by the City are: C28, C29, C53, C55, C56, C57 and C64.

²⁸ The Monitor has found that the City is not implementing the paragraphs in question. Because the City, in its motion, explains its position on the implementation requirements, it is the Monitor's duty to address the City's position and why the Monitor disagrees with it.

²⁹ The City and the DPD are required to substantially comply with each provision of the Consent Judgments and to maintain substantial compliance for a period of two years for the UOF CJ and a period of one year for the COC CJ. (Paragraphs U148 and C106). The implementation of each and every provision is required by paragraphs U145 and C103. The provisions of the Consent Judgments that require compliance and implementation are paragraphs U14-123 and paragraphs C14-78.



entitled “Monitoring, Reporting and Implementation.” The section includes information that is instructive as to which paragraphs the Monitor is required to evaluate and report on.³⁰ There are no fewer than seven paragraphs in this section that state the various ways that the Monitor must evaluate compliance with, and implementation of, the substantive paragraphs in the Consent Judgments. These seven paragraphs, and others, negate the City’s argument that the 39 paragraphs at issue do not require implementation and therefore should not be separately evaluated and reported on by the Monitor. The relevant portions of the seven instructive paragraphs, including the relevant subsection of the Consent Judgments, are as follows (emphasis added):³¹

X. Monitoring, Reporting and *Implementation* (COC CJ - XVII)

a. Selection of the Monitor

U124. The DOJ and the City shall select a Monitor...who shall review and report on the City and the DPD's *implementation* of this Agreement:... (C79)

b. Duties of the Monitor

U132. The Monitor shall offer the parties technical assistance regarding compliance with this Agreement. Technical assistance shall be provided to a party upon request and it shall be offered consistent with the provisions of this Agreement. In monitoring the *implementation* of this Agreement, the Monitor shall maintain regular contact with the parties. (C87)

U133. In order to monitor and report on the City and the DPD's implementation of each substantive provision of this Agreement, the Monitor shall conduct the compliance reviews specified in paragraph 138 of this Agreement and such additional reviews as the Monitor deems appropriate. The Monitor may make recommendations to the parties regarding measures necessary to ensure full and timely *implementation* of this Agreement. (C88)

U134. To assist the parties and the Court in assessing the City and the DPD’s *implementation* of each substantive provision of this Agreement, the Monitor shall prepare the reports specified in paragraph 142 of this Agreement and such additional reports as the Monitor deems appropriate. (C89)

³⁰ This is in Section X of the UOF CJ. The COC CJ has identical paragraphs in Section XVII, although it is entitled “Monitoring and Reporting.”

³¹ The Monitor previously highlighted the applicability of the requirements pertaining to implementation in these seven paragraphs in a letter to the DPD (copying the City) on April 25, 2006. At that time, the Monitor stated that if this issue could not be resolved immediately, since the parties had been discussing this particular issue for over a year, then the matter should be taken before the court. Nevertheless, the City did not refer to these seven paragraphs or explain why they are not applicable in its brief.



c. Compliance Reviews

U138. In order to monitor and report on the City and the DPD's implementation of this Agreement, the Monitor, shall, inter alia, regularly conduct compliance reviews to ensure that the City and the DPD have *implemented and continue to implement* all measures required by this Agreement. The Monitor shall, where appropriate, employ sampling techniques to measure compliance. (C93)

d. Reports and Records

U142. The Monitor shall file with the Court quarterly public reports detailing the City's compliance with and *implementation* of this Agreement. The Monitor may issue reports more frequently if the Monitor determines it appropriate to do so.... (C97)

e. *Implementation*, Termination and Enforcement

U145. Within 90 days of the effective date of this Agreement, unless another time frame is specified in this Agreement, the City and the DPD shall *implement* each and every provision of this Agreement. (C103)

Paragraphs U134, U138 and U145 are particularly instructive on the Monitor's duties to conduct compliance reviews to ensure that the City and the DPD have implemented and continue to implement each and every substantive paragraph of the Consent Judgments and to file reports detailing the City's compliance with and implementation of the Consent Judgments. Furthermore, the very definition of Monitor in the COC CJ (paragraph 1q) includes the duty to evaluate implementation.³² Therefore, the City's argument that "there is nothing expressly set out in the consent judgments between the United States and the City of Detroit indicating that the paragraphs at issue require implementation of the policies they discuss"³³ is simply incorrect. Rather, within the four corners of each document, the Consent Judgments literally include the requirement for each substantive paragraph to be implemented. The duty to implement all provisions is not implied but is explicitly stated within the judgments.

In its brief, the City provide two examples of implementation paragraphs for seven of the 39 paragraphs at issue.³⁴ The City argues that the implementation requirements for paragraphs U22-

³² Paragraph 1q of the COC CJ states, "The term 'Monitor' means the individual or group of individuals selected to oversee and evaluate the City and the DPD's implementation of and compliance with this agreement."

³³ City's Brief, pg. 7.

³⁴ The City does not identify a separate implementation paragraph for each of the 39 paragraphs at issue. In an email dated February 28, 2007, the City identified a total of ten paragraphs that it argues include the implementation requirements for the 39 so-called "policy only" paragraphs. These ten paragraphs fall into three categories: risk management data, training and audit. Although paragraphs in these areas can assist the City and the DPD in

26 are U80, U112, and U113. Under the City's reasoning, these implementation paragraphs require the DPD to take "extensive action" to implement the policies in paragraphs U22-26. The Monitor disagrees with the City's argument. First of all, the City fails to articulate how paragraph U80, or the paragraphs in the training section (U112-113), require the DPD to implement the requirements in the underlying paragraphs. Paragraph U80 is in the Risk Management Database subsection of the Management and Supervision section of the UOF CJ (Section VIII). According to the UOF CJ, the risk management database is required to evaluate the performance of officers across all ranks, units and shifts, to manage risk and liability, and to promote civil rights and best police practices.³⁵ The DPD is required to regularly use this data for such review and monitoring.³⁶ Paragraph U80 lists all of the different types of information that the risk management database is required to collect and record. Even though paragraph U80 collects information that will be used for supervisory review, it does not require the implementation of paragraphs U22-26 or any of the other 39 paragraphs at issue.

Paragraphs U112 and U113 require UOF and firearms training to include instruction on some of the elements included in paragraphs U22-26. While training is certainly an important component to achieving implementation and sustaining compliance, these training paragraphs neither require nor ensure implementation of the underlying paragraphs.

In the City's second example, the City argues that paragraphs C28 and C29 address only policy development and adoption, and that paragraphs C69 and C76 require ongoing action to implement the required policies in C28-29. Once again, the City does not articulate why paragraphs C69 and C76 would be implementation paragraphs for the underlying paragraphs and the Monitor disagrees with the City's argument. Paragraph C69 requires that the Holding Cell Compliance Committee (HCCC) conduct audits to evaluate the DPD's detainee safety policies and procedures.³⁷ The audit paragraphs (C65-72) do not require "ongoing action" to implement the policies in the underlying paragraphs. The HCCC is responsible for ensuring compliance with the COC CJ.³⁸ The HCCC audits are supposed to evaluate the DPD's compliance with the specified policies and procedures. In order to achieve compliance, the DPD must first implement the policies. Therefore, the audits are evaluating the DPD's compliance with and implementation of the required policies and procedures. The audits themselves neither require nor ensure implementation of the underlying policies and procedures. Under the same reasoning as paragraphs U112-113 above, paragraph C76 requires the DPD to provide training on its

achieving compliance with the implementation requirements, they do not require the implementation of the 39 paragraphs.

³⁵ Paragraph U79.

³⁶ Paragraph U79.

³⁷ The Monitor is uncertain if the inclusion of paragraph C69 by the City was a typographical error, since the underlying paragraphs, C28-29, deal with the medical and mental health program and paragraph C68, not C69, deals with the audit for the paragraphs in the Medical and Mental Health Care Policies section.

³⁸ Paragraph C66.



medical and mental health screening program. While the training is essential to achieving implementation and sustained compliance, this training paragraph neither requires nor ensures implementation with the underlying paragraphs. Quite plainly, training, audit and risk management database paragraphs do not require the Department to implement policy.

In summary, the Monitor opposes the City's argument that 39 paragraphs in the Consent Judgments required policy adoption but not implementation.³⁹ As explained above, the Consent Judgments explicitly require the City to implement each and every substantive paragraph contained within them, including the 39 paragraphs at issue in the City's brief. Furthermore, according to the Consent Judgments, the Monitor is required to evaluate the DPD's compliance with each and every provision and to provide reports of the DPD's compliance with and implementation of each provision in both Consent Judgments.

VII. MONITOR'S PLEDGE

The Monitor continues to be dedicated to making this process a transparent one, and continues to share the interest of all parties in having the City and DPD achieve substantial compliance with the Consent Judgments in a timely manner.

To that end, we have provided the parties with interim assessments of compliance throughout each quarter, including the quarter ending May 31, 2007. A draft copy of this report was made available to the parties at least 10 days prior to final publication in order to provide the parties with an opportunity to identify any factual errors,⁴⁰ and to provide the parties with an opportunity to seek clarification on any aspect of compliance articulated in this report.

³⁹ The DOJ filed its response to the City's Brief on June 27, 2007. The DOJ also opposes the City's argument that these 39 paragraphs do not require implementation.

⁴⁰ As required by paragraphs U142 and C97.

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

This section contains the Monitor's compliance assessments of the UOF CJ paragraphs scheduled for review during the quarter ending February 28, 2007.

I. USE OF FORCE POLICY

A. GENERAL USE OF FORCE POLICIES

This section comprises paragraphs U14-19. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2006.⁴¹ The Monitor again assessed compliance with paragraph U18 during the current quarter. The results of our current assessment follow.

Paragraphs U14-19 – Revision of Policy (Definition of UOF); UOF Continuum; Opportunity to Submit; Prohibition on Choke Holds; Revision of Policy within 3 Months; Strike to Head Equals Deadly Force

Paragraph U14 requires the DPD to revise its UOF policies to define force as that term is defined in the UOF CJ.

Paragraph U15 requires the UOF policy to incorporate a UOF 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.

Paragraph U16 requires the UOF policy to reinforce that individuals should be provided an opportunity to submit to arrest before force is used and provide that force may be used only

⁴¹ Throughout this report, for those paragraphs assessed and reported on during the current reporting period ("current quarter"), information regarding the Monitor's most recent compliance assessments, and the basis for those assessments, can be found in the "Background" sections of the respective paragraphs.



when verbal commands and other techniques that do not require the UOF would be ineffective or present a danger to the officer or others.

Paragraph U17 requires the UOF policy to prohibit the use of choke holds and similar carotid holds except where deadly force is authorized.

Paragraph U18 requires the DPD to develop a revised UOF policy within three months of the effective date of the UOF CJ. The policy must be submitted for review and approval of the DOJ. The DPD must implement the revised UOF policy within three months of the review and approval of the DOJ.

Paragraph U19 requires the UOF policy to provide that a strike to the head with an instrument constitutes a use of deadly force.

Background

The Monitor last assessed the DPD's compliance with paragraphs U14-19 during the quarter ending May 31, 2006; although the Monitor found the DPD in compliance with the policy requirements, the Monitor had not yet evaluated the DPD's compliance with the implementation requirements of the paragraphs. As a result, the Monitor had not yet evaluated the DPD's overall compliance with paragraphs U14-19.

However, as described in the Monitor's Report for the Quarter Ending November 30, 2006, after further review of the requirements of paragraphs U14-19, the Monitor subsequently determined that paragraphs U14-17 and U19 are "policy-only" paragraphs.⁴² Because the Monitor determined that the DPD had adequately disseminated policy that addressed the requirements of the paragraphs, the DPD should have been found in compliance with the paragraphs for the quarter ending May 31, 2006. In addition, because these are "policy-only" paragraphs, the DPD will remain in compliance with the paragraphs until the policy directly responsive to them is revised. Revisions to policy will trigger an additional assessment by the Monitor.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph U18, which contains the implementation requirements for DPD policy issued pursuant to paragraphs U14-17 and U19, the Monitor evaluated the *Use of Force in Holding Cells*⁴³ (UOFHC) Audit, which was submitted by the DPD in January 31, 2007. This audit, which identified and evaluated seven investigations of incidents

⁴² The related implementation requirements are included in paragraph U18.

⁴³ Refer to the *Current Assessment of Compliance* for subparagraph C65a in this report for the Monitor's evaluation of the UOFHC audit.



that occurred between March 1, 2006 and September 30, 2006,⁴⁴ evaluated whether or not the DPD is complying with various policies and procedures including *Directive 304.2, Use of Force*.

The audit found that the DPD is not adequately implementing the policy promulgated in response to the requirements of paragraphs U14-17 and U19. For example, the audit found that the officers are not documenting and/or accurately reporting information to comply with paragraph U15 requirements regarding the UOF continuum. Specifically, the details within the investigative reports were either inaccurate or inconsistent compared to the officers' written reports of the force incident. Additionally, neither the investigative reports nor the officers' reports described incidents with sufficient detail to determine if the appropriate or reasonable amount of force was used. As another example, the audit was not able to determine if the appropriate or reasonable amount of force is being used in accordance with the requirements of paragraphs U16-17, since officers are not documenting all the facts and circumstances that transpired before the force took place, including their force tactics, physical actions or maneuvers or the actions of the detainees during the incident. These findings indicate that although the revised UOF policy was approved by DOJ, the DPD has not yet implemented the policy.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U18.

B. USE OF FIREARMS POLICY

This section comprises paragraphs U20-23. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2006. The Monitor is scheduled to again assess the DPD's compliance with paragraphs U21-23 during the quarter ending August 31, 2007.

C. INTERMEDIATE FORCE DEVICE POLICY

This section comprises paragraph U24. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending August 31, 2006. The Monitor is scheduled to again assess the DPD's compliance with paragraph U24 during the quarter ending August 31, 2007.

D. CHEMICAL SPRAY POLICY

This section comprises paragraphs U25-26. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2006. The Monitor is scheduled to

⁴⁴ The initial time period for the population was April 1, 2006 to September 30, 2006; however, the AT decided to increase the time period backwards, JIST and FI only, in order to include at least one investigation conducted by those units.



again assess the DPD's compliance with paragraphs U25-26 during the quarter ending August 31, 2007.

II. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW

This section of the UOF CJ (paragraphs U27-41) requires the DPD to make significant changes to its policies related to general investigations of police action and to investigations of UOF, prisoner injury, critical firearms discharges and in-custody deaths. In addition to various changes in general investigatory procedures, reports and evaluations, the UOF CJ requires that the DPD develop a protocol for compelled statements and develop an auditable form⁴⁵ to document any prisoner injury, UOF, allegation of UOF and instance where an officer draws a firearm and acquires a target. The DPD Shooting Team must respond to and investigate all critical firearms discharges and in-custody deaths, and the DPD must develop a protocol for conducting investigations of critical firearms discharges. The DPD's Internal Controls Division (ICD) must investigate a variety of incidents, pursuant to the requirements of the UOF CJ, including all serious UOF (which includes all critical firearm discharges), UOF that cause serious bodily injury, and all in-custody deaths. Finally, the UOF CJ requires the DPD to create a command level force review team that is charged with critically evaluating and reporting on critical firearms discharges and in-custody deaths.

A. GENERAL INVESTIGATIONS OF POLICE ACTION

This section comprises paragraphs U27-33. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 28, 2007. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U27-33 – Revision of General Investigation Policies; Investigation Procedures; Investigatory Interview Procedures; Prohibitions of Investigatory Interviews; Protocol for Garrity Statements; Investigatory Reports and Evaluations; Review of Investigations

Paragraph U27 requires the DPD and the City to revise their policies regarding the conduct of all investigations to ensure full, thorough and complete investigations. All investigations must, to the extent reasonably possible, determine whether the officer's conduct was justified, and the DPD and the City must prohibit the closing of an investigation being conducted by the DPD

⁴⁵ The UOF CJ defines an auditable form as a discrete record of the relevant information maintained separate and independent of blotters or other forms maintained 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.

Paragraph U28 requires the DPD and the City to ensure that investigations are conducted by a supervisor who did not authorize, witness or participate in the incident and that all investigations contain the criteria listed in this paragraph.

Paragraph U29 requires the DPD and the City to revise their procedures for all investigatory interviews to require the criteria listed in this paragraph.

Paragraph U30 requires the DPD and the City to prohibit 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 to prohibit the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.

Paragraph U31 requires the DPD and the City to develop a protocol for when statements should (and should not) be compelled pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967).

Paragraph U32 requires the DPD to revise its policies regarding all investigatory reports and evaluations to require the criteria listed in this paragraph.

Paragraph U33 requires the DPD to revise its policies regarding the review of all investigations to require those criteria listed in this paragraph.

Background

The Monitor last assessed the DPD's compliance with paragraphs U27-33 during the quarter ending February 28, 2007. The Monitor found the DPD in compliance with the policy requirements but had not yet evaluated compliance with the implementation requirements of the paragraphs. The Monitor deferred its assessment in anticipation of its review of the audit reports that covered the relevant subject areas.

Current Assessment of Compliance

As described in the *Current Assessment of Compliance* for paragraphs U14-19 in this report, the DPD submitted the *UOFHC Investigations*⁴⁶ *Audit Report* on January 31, 2007. The DPD also submitted the *Prisoner Injury in Holding Cell (PIHC) Audit Report*,⁴⁷ the *Prisoner Injury (PI) Audit Report*,⁴⁸ and the *Allegations of Misconduct in Holding Cells (AOMHC) Audit Report*,⁴⁹ all

⁴⁶ The *UOFHC Investigations Audit* is separately evaluated under subparagraph C65a of this report.

⁴⁷ The *PIHC Audit* is separately evaluated under subparagraph C65b of this report.

⁴⁸ The *PI Audit* is separately evaluated under subparagraph U94b of this report.

of which evaluated the DPD's compliance with paragraphs U27-33, among others.⁵⁰ A total of 21 investigations were reviewed in these four audits.⁵¹ Overall, the audits found the DPD in non-compliance with the implementation requirements of paragraphs U27-30 and U32-33, and in compliance with paragraph U31.

There are numerous requirements contained in paragraphs U27-33 and their corresponding subparagraphs; following is a summary of audit findings for some of these requirements.

- In evaluating compliance with the requirements of paragraph U27, the audits consistently found that the investigations were not full, thorough and complete due to numerous qualitative issues identified during the review. However, three of the four audits⁵² found that the investigations correctly determined that officers' conduct was justified, which is also required by paragraph U27.
- In evaluating compliance with the requirements of paragraph U28, all four audits determined that interviews of witnesses were either not complete or not thorough (subparagraph U28b) and that the investigations did not include photographs of injuries or alleged injuries (subparagraph U28c). A positive finding was that the three audits with applicable investigations found that all of the investigative files included the appropriate medical documentation.⁵³
- All four audits found the DPD non-compliant with the overall requirements of paragraph U29. Specific findings included a determination that officers who were either involved or who had witnessed an incident often were not interviewed at all and, therefore, did not supply timely statements (subparagraph U29a). Although all four audits found overall non-compliance with the requirements of paragraph U29, some of the requirements were met by the investigations tested within individual audits. For example, no group interviews were conducted in the applicable investigations reviewed in the *AOMHC Audit*. Also, the *PI Audit* found that all applicable investigations had signed written statements and the *UOFHC Audit* found that all interviews were either video-taped or audio-taped.
- In evaluating compliance with the requirements of paragraph U30, the audits found that when the investigations included written questions, the questions were appropriate and consistent with appropriate law enforcement techniques. However, the majority of the investigations did not include written questions, tape-recordings, or any other form of documentation of

⁴⁹ The *AOMHC Audit* is separately evaluated under subparagraph U65c of this report.

⁵⁰ It should be noted that the DPD AT has never submitted a *Use of Force Investigations Audit*, as required by subparagraph U94a.

⁵¹ Six investigations were reviewed in the *PI Audit*, five investigations were reviewed in the *PIHC Audit*, seven investigations were reviewed in the *UOFHC Audit*, and three investigations were reviewed in the *AOMHC Audit*.

⁵² The *PI*, *PIHC*, and *AOMHC Audits*.

⁵³ The *AOMHC Audit* did not review any applicable investigations.

interviews. Consequently no determination could be made with regard to the appropriateness of the questions and whether or not they were leading, which would violate the requirements of subparagraph U30a.

- All applicable audits found the DPD in compliance with paragraph U31.⁵⁴
- The audits found that the DPD was inconsistent in its implementation of the various requirements contained in paragraph U32. For example, the investigations reviewed in the *PIHC* and *AOMHC Audits* were found to comply with subparagraph U32a, which requires the DPD to have a precise account of the facts and circumstances of the incident, but the investigations reviewed in the *PI* and *UOFHC Audits* did not. Similarly, the *PI* and *AOMHC Audits* found that the DPD was complying with the requirements of subparagraphs U32c, e, f and g, while the *PIHC* and *UOFHC Audits* found that the DPD was not complying with the same requirements.
- The audits also found that the DPD was inconsistent in its implementation of the various requirements contained in paragraph U33. For example, the investigations were reviewed by the chain of command above the investigator in three of the four audits.⁵⁵ The audits also found that supervisors were not sufficiently reviewing the investigations to identify and correct those deficiencies within seven days, as required by subparagraph U33b,⁵⁶ and appropriate non-disciplinary corrective action and/or disciplinary action was not being taken when an investigator fails to conduct or reviewing supervisor failed to evaluate an investigation appropriately, as required by subparagraph U33d.

In summary, based on the results of the four audits reviewed by the Monitor, the DPD appears to be inconsistently complying with the requirements of each of the paragraphs in the general investigation section of the UOF CJ. In addition, the corresponding training on the requirements of paragraphs U27-33 has not yet occurred. Once the appropriate training has taken place, it is more likely that the DPD will more consistently comply with the requirements of the paragraphs when conducting investigations.

In addition to reviewing the audit reports described above, the Monitor selected a sample of 49 UOF investigations for review from a population of 99 that took place during time period of November 12, 2006 to December 12, 2006 in order to test compliance with the implementation requirements of paragraphs U27-33. The Monitor's findings from its review of these investigations are generally consistent with the findings contained in the audit reports. Similar to the audits' findings, the Monitor found that the DPD is inconsistently complying with the requirements of each paragraph, except paragraph U31. The following are a few areas of

⁵⁴ There were no investigations applicable to paragraph U31 in the *PIHC Audit*.

⁵⁵ The *PI Audit* was the exception. However, it should be noted that in the *PI Audit*, four of the six investigations reviewed did meet the requirements of subparagraph U33a.

⁵⁶ This requirement was met in the *AOMHC Audit* only.

concern that the Monitor identified during its review (most of which were also identified in the audit findings):

- None of the investigative files reviewed contained photographs, as required by subparagraph U28c. Although this was justified in some instances (where the subject was sprayed with chemical spray or refused to allow the photograph to be taken), the photographs were missing regardless of the circumstances.
- One District⁵⁷ is using its own unique identifiers for UOF investigations. This makes investigative files more difficult to track, as the Monitor experienced when trying to locate certain investigative files.
- There was nothing in many of the files to indicate whether the supervisor who reviewed the investigation found and corrected any deficiencies pursuant to subparagraph U33b or whether appropriate non-disciplinary corrective action and/or disciplinary action was taken when an investigator failed to conduct or reviewing supervisor failed to evaluate an investigation appropriately, as required by subparagraph U33d.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is in non-compliance with the implementation requirements of paragraphs U27-30 and U32-33. As a result, the DPD is in overall non-compliance with paragraphs U27-30 and U32-33. The Monitor finds the DPD in compliance with paragraph U31.

B. UOF AND PRISONER INJURY INVESTIGATIONS

This section comprises paragraphs U34-36. The Monitor last assessed the DPD's compliance with paragraph U34 during the quarter ending November 30, 2006 and with paragraphs U35-36 during the quarter ending February 28, 2007. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U34-36 – Documentation of UOF and Prisoner Injury; UOF and Prisoner Injury Notification Requirements; Command Investigation Time Limits

Paragraph U34 requires the DPD to revise its reporting policies to require officers to document on a single auditable form any prisoner injury, UOF, allegation of UOF, and instance in which an officer draws a firearm and acquires a target.

Paragraph U35 requires the DPD to revise its policies regarding UOF and prisoner injury notifications to require:

- a. officers to notify their supervisors following any UOF or prisoner injury;

⁵⁷ The Northwestern District.

- b. that upon such notice, a supervisor must respond to the scene of all UOF that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor must respond to all other UOF on a priority basis. Upon arrival at the scene, the supervisor must 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 the Internal Affairs Division (IAD)⁵⁸ of all serious UOF, UOF that result in visible injury, UOF that a reasonable officer should have known were likely to result in injury, UOF where there is evidence of possible criminal misconduct by an officer or prisoner injury; and
- d. IAD to respond to the scene of, and investigate, all incidents where there is evidence of possible criminal misconduct by an officer, a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious UOF, and to permit IAD to delegate all other UOF or prisoner injury investigations to the supervisor for a Command investigation.

Paragraph U36 requires the DPD to revise its UOF and prisoner injury investigation policies to require:

- a. Command UOF preliminary and final investigations to be completed within 10 and 30 days of the incident, respectively; such investigations must include a synopsis of the incident, photographs of any injuries, witness statements, a canvas of the area, a profile of the officer's prior UOF and allegations of misconduct, and a first-line supervisory evaluation;
- b. IAD investigations to be completed within 60 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.

Background

The Monitor last assessed the DPD's compliance with paragraph U34 during the quarter ending November 30, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. The Monitor reviewed a sample of arrests that involved a UOF and determined that the DPD's level of compliance, based solely on whether required forms were submitted, was 70% for auditable form UF-002 forms and 72% for Supervisor's Investigation Reports (SIRs or UF-002As).

The Monitor last assessed the DPD's compliance with paragraphs U35-36 during the quarter ending February 28, 2007, finding the DPD in compliance with the policy requirements of the paragraphs; however, the Monitor did not assess the DPD's compliance with the implementation

⁵⁸ The DPD formerly referred to this entity as the Internal Affairs Section (IAS). It is now referred to as Internal Affairs (IA).

requirements of the paragraphs, as it had not yet completed its evaluation of the *UOFHC Audit*, which was submitted on January 31, 2007.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraphs U34-36, the Monitor reviewed the *UOFHC*, *PI*, and *PIHC Audits*, which are described in the *Current Assessment of Compliance* for paragraphs U27-33, above. Each of these audits found the DPD non-compliant with paragraphs U34-36. Despite the overall determination of non-compliance, the audits did determine that many of the requirements of paragraph U35 are being met. Following are the specific audit findings in connection with the paragraphs' requirements.

- All three audits concluded that the DPD is not complying with the requirements of paragraph U34, as the auditable forms⁵⁹ for some investigations were either not contained in the investigation or, if present, the forms do not contain sufficient detail regarding the incident (by officers) or the investigation (by supervisors).
- Regarding subparagraph U35a, the *PI* and *PIHC Audits* found that officers were notifying a supervisor of a UOF or prisoner injury in the investigations evaluated; however, the *UOFHC Audit* found that in some investigations reviewed, proper notification did not occur as required.
- The audits concluded that the requirements of subparagraph U35b are being met, with one exception -- in the investigations reviewed in the *PIHC* and *UOFHC Audits*, when supervisors arrived at a scene, they were not interviewing subjects, as required by U35b.
- The *UOFHC Audit* found that the DPD is meeting the requirements of subparagraph U35c, which requires the supervisor responding to the scene to notify Internal Affairs (IA), but the *PI* and *PIHC Audits* found that the DPD was not complying with these requirements.
- All three audits found that IA responded to the scene to investigate all incidents where there is evidence of possible criminal misconduct by an officer, a prisoner dies or suffers serious bodily injury, or a serious UOF has occurred, as required by subparagraph U35d.
- The *UOFHC*, *PI*, and *PIHC Audits* found that, overall, the DPD was not meeting the requirements of paragraph U36. The investigations reviewed show that while some of the requirements of subparagraph U36a are being met, many are not,⁶⁰ and none of the requirements of subparagraphs U36b and c are being met. The IA investigations were not

⁵⁹ The UF-002 and SIR.

⁶⁰ For subparagraph U36a, the *PI* and *PIHC Audits* found that the DPD is including a synopsis of the incident and the first line supervisor is evaluating the investigation. In the *PI Audit*, the investigations reviewed show that the final Command UOF investigation was being completed within 30 days of the incident. The investigations reviewed in the *PIHC Audit* did include witness statements and a canvass of the area.



being completed within 60 days and copies of all reports and Command investigations were not being sent to IA within seven days of the completion of the investigation.

As with the Monitor's assessment of compliance with paragraphs U27-33, in addition to reviewing the audit reports, the Monitor selected a sample of UOF investigations for review in order to test the implementation of paragraphs U34-36. Similar to the audits' findings, the Monitor found that the DPD is inconsistently complying with the requirements of each paragraph. The following are areas of concern that the Monitor identified during its review:

- Some investigators are using a different format than the one required by the SIR, which is mandated by *Training Directive 04-7*.
- Profiles of officers' prior uses of force and allegations of misconduct were not included in the majority of the investigative files, which is required by subparagraph U36a.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is in non-compliance with the implementation requirements of paragraphs U34-36. As a result, the DPD is in overall non-compliance with paragraphs U34-36.

C. REVIEW OF CRITICAL FIREARMS DISCHARGES AND IN-CUSTODY DEATHS

This section comprises paragraphs U37-41. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U37-41 – Creation of Shooting Team; Protocol for Investigations of Critical Firearms Discharges; Command Level Force Review Team; Time Limits for Command Level Force Review Team; Aggregate Review

Paragraph U37 requires the DPD's Shooting Team, which is composed of officers from the Homicide Section and IAD, to respond to the scene and investigate all critical firearms discharges (CFDs) and in-custody deaths.

Paragraph U38 requires the DPD to develop a protocol for conducting investigations of critical firearms discharges that, in addition to the requirements of paragraphs U27-36, requires:

- a. the investigation to account for all shots fired, all shell casings, and the locations of all officers at the time the officer discharged the firearm;
- b. the investigator to conduct and preserve in the investigative file all appropriate ballistic or crime scene analyses, including gunshot residue or bullet trajectory tests; and



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

Paragraph U39 mandates that the DPD require a Command Level Force Review Team (CLFRT) to evaluate all critical firearms discharges and in-custody deaths. The team must be chaired by the Deputy Chief who directly supervises IAD. The DPD must establish criteria for selecting the other members of the team.

Paragraph U40 mandates that the DPD policy that defines the CLFRT's role must require the team to:

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

Paragraph U41 requires the Chair of the CLFRT to annually review critical firearms 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 firearms discharge and in-custody death investigations, to the Chief of Police.

Background

The Monitor last assessed the DPD's compliance with paragraphs U37-41 during the quarter ending November 30, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of these paragraphs. As a result, the Monitor found the DPD in overall non-compliance with paragraphs U37-41.

The Monitor reviewed the Joint Incident Shooting Team (JIST) Standard Operating Procedures (SOP), which the DPD submitted to comply with the requirements of paragraphs U37-38. The Monitor indicated its concern that the JIST SOP states that the shooting team will consist of the Homicide Section and Force Investigation (FI); whereas paragraph U37 states that the shooting team should be composed of officers from Homicide and IA. The Monitor advised the parties that they need to discuss whether the composition of the shooting team meets the requirements of the UOF CJ.

In assessing compliance with the implementation requirements of paragraphs U37-40, the Monitor reviewed CFD incidents occurring between January 1, 2006 and March 31, 2006 and

determined that the JIST is not investigating all CFDs, as required by paragraph U37. The JIST only investigated instances classified as “shots fired/non-fatal” and “fatal shootings.”⁶¹ The Monitor also determined that a Board of Review (BOR) was only being conducted for incidents classified as “fatal shootings.”⁶² In addition, of the four investigations conducted by the JIST, none were completed within the thirty days required by paragraph U38, the BOR Policy and the DPD’s JIST Protocol. Lastly, according to information provided by the DPD, of the investigations that were conducted, none of them were initiated on the date of the incident, in contravention of paragraph U37, which requires the DPD’s Shooting Team to respond to the scene in order to begin investigating all CFDs. With regard to paragraph U41, the Monitor requested the 2005 Force Investigation Section Annual Critical Incident Report on May 5, 2006; the Monitor had not received this document as of the end of that quarter.

Current Assessment of Compliance

Monitor’s Evaluation

In order to assess compliance with the implementation requirements of paragraphs U37-40, the Monitor requested a listing of all CFD incidents occurring between October 1, 2006 and December 31, 2006.⁶³ The DPD’s submission identified 17 CFDs that occurred between the dates of October 30, 2006 and December 30, 2006.⁶⁴ The CFDs were grouped into the following categories:

Type of Incident	Number of Incidents	Incidents Evaluated by Board of Review⁶⁵
Unintentional Discharge	3	0
Shots Fired/No Effect	7	0
Shots Fired/Non-Fatal	2	0
Fatal and Non-Fatal	1	1
Fatal Shooting	4	4

Although the Monitor requested that the entity conducting the investigation be identified, that information was not included on the spreadsheet that was provided. Furthermore, the Monitor

⁶¹ Out of twelve shootings, only four were investigated by JIST.

⁶² Out of twelve shootings, only two were evaluated by the BOR.

⁶³ The Monitor used this period of time in order to give the DPD time to complete the JIST investigation and BOR even if there was a criminal investigation.

⁶⁴ After receiving the submission, at the May monthly status meeting, the Monitor informed the DPD that only one CFD was listed for the month of October 2006; the Monitor indicated that it would use the incidents provided in order to assess compliance.

⁶⁵ The BOR is the CLFRT required by paragraphs U39-40.



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again determined that a BOR was only being conducted for incidents classified as “fatal shootings,” as opposed to conducting BORs for all CFDs, as required by paragraph U39.⁶⁶

The Monitor also reviewed the timing of the investigations:

Type of Incident	Date of Incident	Date Case Assigned	Date Case Closed	Date BOR Started	Date BOR Closed
Unintentional Discharge (UD)	10/30/06	11/1/06	3/6/07	BOR not conducted	
Shots Fired (SF)	11/4/06	11/7/06	Open	BOR not conducted	
UD	11/4/06	11/8/06	2/21/07	BOR not conducted	
SF	11/11/06	11/14/06	5/10/07	BOR not conducted	
SF	11/12/06	11/14/06	Open	BOR not conducted	
Non-Fatal (NF)	11/13/06	11/14/06	Submitted to COP	BOR not conducted	
Fatal Shooting (FS)	11/15/06	11/28/06	Submitted to COP	11/30/06	Open
FS and NF	11/26/06	11/28/06	Open	11/30/06	Open
NF	11/30/06	12/5/06	Open	BOR not conducted	
SF	12/6/06	12/13/06	Closed	BOR not conducted	
SF	12/14/06	12/18/06	Open	BOR not conducted	
FS	12/14/06	12/18/06	Open	12/18/06	Open
UD	12/16/06	12/19/06	Open	BOR not conducted	
FS	12/19/06	12/21/06	Open	1/9/07	Open
SF	12/19/06	12/21/06	Submitted to COP	BOR not conducted	
SF	12/21/06	1/3/07	5/3/07	BOR not conducted	
FS	12/30/06	1/3/07	Open	1/3/07	Open

The Monitor attempted to review the investigative files for the four⁶⁷ investigations that were identified as closed on the spreadsheet provided by the DPD. The Monitor was informed that one of these incidents -- the one that took place on December 6, 2006 -- was still open. In an effort to increase the sample of closed investigations to review, the Monitor also requested two investigative files from the review of CFDs that took place during the quarter ending November 30, 2006.⁶⁸

⁶⁶ Out of 17 CFDs, only five were evaluated by the BOR. This is similar to the finding in the Monitor’s Report for the Quarter Ending November 30, 2006.

⁶⁷ The four incidents appear shaded on the chart.

⁶⁸ As discussed further below, the Monitor chose two investigations that also had a BOR pending during the previous assessment, in hopes that they would be completed at this point.



With regard to paragraph U37, the review of the investigative files indicated that a member of JIST responded to the scene of the incident. Subsequently, the investigation was assigned, usually to another JIST member, within a few days to a week or so after the incident. The Monitor's review of the five investigations revealed that most, but not all, of the requirements of paragraph U38 are being met. The DPD is complying with the requirements of subparagraph U38a, where applicable. For subparagraph U38b, one investigation was lacking detail regarding whether or not gunshot residue or bullet trajectory tests were maintained as required; all other requirements of subparagraph U38b were met. Of these five investigations, none appear to have been completed within 30 days of the incident or, where applicable, within 30 days of the criminal declination or prosecution, as required by subparagraph U38c, the *Board of Review* policy, and the JIST protocol.

Paragraph U39 requires that the BOR evaluate all CFDs. As identified in the charts above, the BOR did not evaluate all of the CFDs during the time period selected for review. Similar to the Monitor's findings in the Report for the Quarter Ending November 30, 2006, BORs are only being conducted for fatal shootings. Furthermore, all of the BOR evaluations that were started are still pending (as are the underlying investigations). As a result, they were not completed within the time periods required by paragraph U40 and Directive 304.5, *Board of Review*. As mentioned above, the Monitor attempted to review two investigations that the Monitor received during the quarter ending November 30, 2006, since the information received from the DPD indicated that BORs were being conducted in connection with the investigations. However, the Monitor was informed that the BOR files were being kept in the office of the Chief of Police.⁶⁹

As previously reported, on May 5, 2006, the Monitor requested the 2005 Force Investigation Section Annual Critical Incident Report. On April 12, 2007, the Monitor requested the 2006 Critical and Fatal Firearm Discharges Annual Report which is prepared for the Chief of Police pursuant to paragraph U41. The Monitor has not yet received either of these annual reports.⁷⁰ The DPD's *Board of Review* policy requires that the annual reports be completed and submitted to the Chief of Police no later than 30 days after the end of each calendar year.

The DPD did not provide any information regarding the implementation of paragraphs U37-40 or the status of the annual report required by paragraph U41 in its Fifteenth Quarter Status Report.

Audit Findings

As described in the *Current Assessment of Compliance* for subparagraphs U94b and C65b, the DPD submitted both the *PI* and *PIHC Audits* on January 31, 2007. The two audits included

⁶⁹ The Monitor will again request access to these BOR files. The failure to provide access to these files has not impacted the Monitor's compliance finding, since the DPD is not conducting BORs for all CFDs and none of the BORs were completed for the 17 investigations reviewed this quarter.

⁷⁰ The Monitor has been told that the Chief of Police is reviewing these reports.

paragraphs U37-41 in their findings because each audit extended their population to add one in-custody death.⁷¹ The in-custody death in the *PI Audit* occurred on July 26, 2005 and was closed February 15, 2006. The in-custody death in the *PIHC Audit* occurred on December 7, 2005 and was closed on August 3, 2006.

Regarding paragraph U37, although the *PI Audit Report* indicated that JIST did not respond to the scene of the in-custody death reviewed, the audit working papers demonstrate that JIST did respond; the *PIHC Audit* found that JIST did respond to the in-custody death reviewed during that audit. For paragraph U38, the *PI Audit* found overall non-compliance, as the investigation of the in-custody death was not completed in a timely manner, as required by paragraph U38c; the *PIHC Audit* had no finding. Both audits found that the DPD was not carrying out the requirements of paragraphs U39-40, since BORs were not conducted. Lastly, for paragraph U41, the *PIHC Audit* concluded that the DPD did not meet the requirements of the paragraph, while the *PI Audit* was unable to make a determination of compliance. In any event, for either audit, the AT did not receive a copy of the annual report required by paragraph U41.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements of paragraphs U37-41, in compliance with the implementation requirements of paragraph U37, and in non-compliance with the implementation requirements of paragraphs U38-41. As a result, the Monitor finds the DPD in overall compliance with paragraph U37 and in overall non-compliance with paragraphs U38-41.

⁷¹ These audits did not cover CFD investigations since CFDs do not fall within the definition of prisoner injury.

III. ARREST AND DETENTION POLICIES AND PRACTICES

This section of the UOF CJ (paragraphs U42-60) requires the DPD to make significant changes to its policies, practices and procedures related to arrests, investigatory stops and frisks, witness identification and questioning, the detention of material witnesses, arrestee restrictions, custodial detention, prompt judicial review, holds and command notification regarding arrests and witness detention issues. For many of these areas, the DPD must develop auditable forms to document officer violations of the UOF CJ requirements or to capture certain events.

This section also requires DPD supervisors to conduct reviews of all reported violations and take corrective or non-disciplinary action. Precinct commanders and, if applicable, specialized unit commanders, are required to review within seven days 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, and to review on a daily basis all reported violations of DPD prompt judicial review, holds, restrictions and material witness policies. The Commanders' reviews must include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

A. ARREST POLICIES

This section comprises paragraphs U42-43. The Monitor has found the DPD in compliance with paragraph U42, which is a "policy only" paragraph. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.⁷² The Monitor last assessed the DPD's compliance with paragraph U43 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U43 – Review of Arrests

Paragraph U43 requires the DPD to review the merits of each arrest and opine as to whether or not adequate probable cause existed to support the arrest. The supervisory review must be made at the time an arrestee is presented at the precinct or specialized unit and memorialized within 12 hours of the arrest. For those arrests in which adequate probable cause does not exist, or for which the DPD does not request a warrant, the DPD is required to generate an auditable form memorializing such circumstances within 12 hours of the event.

⁷² As with all "policy-only" paragraphs with which the DPD has achieved compliance, any revisions to the policy will trigger an additional assessment by the Monitor. Implementation of the policy is tested under paragraph U43.

Background

The Monitor last assessed the DPD's compliance with paragraph U43 during the quarter ending November 30, 2006, at which time the Monitor found the DPD in non-compliance. The Monitor reviewed 94 randomly selected arrests and determined that probable cause was present for all 94 arrests. However, supervisory review, once it occurred, was adequately documented within 12 hours of arrests for only 85 of the 94 arrests. Also, the DPD did not generate the required auditable form for certain arrests in which a warrant was not sought.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph U43 during the current quarter, the Monitor selected a sample⁷³ of 92 arrests and requested that the DPD provide the Monitor with access to the arrest documentation (Case Reports and any related auditable forms). The Monitor reviewed documentation for all 92 arrests, noting the following:

- For 91 of the 92 arrests reviewed, sufficient probable cause existed to effect all of the arrests. For one arrest, the prosecuting authority refused to submit a warrant, indicating there was insufficient probable cause.
- For 13 of the 92 arrests reviewed, an arrest warrant was not sought, triggering the requirement for an auditable form to be generated within 12 hours of the event.
 - For 12 of the 13 arrests for which a warrant was not sought, an auditable form documenting the circumstances was generated; however, two of these forms were not generated within the mandated 12-hour period.⁷⁴
 - For one arrest for which a warrant was not sought, the Monitor was unable to determine whether an auditable form documenting the circumstances was generated.⁷⁵
- For 85 of the 92 (92.4%) arrests reviewed, supervisory review occurred and was documented as having occurred within the mandated 12-hour period.
 - For six of the 92 arrests, although supervisory review occurred, it was documented in excess of 12 hours from the documented arrest time.⁷⁶

⁷³ As required, a random, statistical sample of 92 arrests was selected out of a population of approximately 3,271 arrests that occurred during the period February 1, 2007 through February 28, 2007, utilizing a confidence level of 95% with an acceptable error rate of +/- 4.

⁷⁴ An auditable form was not completed for seven days in the Eastern District and an auditable form was completed within 14 hours in the Northwestern District.

⁷⁵ The Northwestern District was responsible for the one instance of non-compliance.

⁷⁶ Three arrests were effected by the Northwestern District, two by the Western District, two by the Eastern District and one by Major Crimes. Supervisory review was eventually documented between 33 hours and 83.5 days after the initial 12-hour mandated period.

- For one arrest, the Monitor was unable to determine whether the supervisory review was documented within the mandated 12-hour period.⁷⁷

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U43.

B. INVESTIGATORY STOP POLICIES

This section comprises paragraphs U44-45. The Monitor has found the DPD in compliance with paragraph U44, which is a “policy only” paragraph. The DPD will remain in compliance with the paragraph until such time as the policy directly responsive to the paragraph is revised.⁷⁸ The Monitor last assessed the DPD’s compliance with paragraph U45 during the quarter ending November 30, 2006. The Monitor again assessed the DPD’s compliance with paragraph U45 during the current quarter. The results of our current assessment follow.

Paragraph U45 – Stop and Frisk Documentation Requirements

Paragraph U45 mandates written documentation of all investigatory stops and frisks by the end of the shift in which the police action occurred. The DPD must 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.

Background

The Monitor last assessed the DPD’s compliance with paragraphs U45 during the quarter ending November 30, 2006 finding the DPD in non-compliance. Although the Monitor identified qualitative deficiencies within the DPD AT’s *Investigatory Stop and Frisk Practices Audit*, the Monitor determined that it was able to rely upon the audit’s finding of non-compliance with respect to paragraph U45.

Current Assessment of Compliance

In order to assess the DPD’s compliance with paragraph U45 during the current quarter, the Monitor requested and received photocopies of daily logs from all Districts and specialized units for February 28, 2007. The Monitor reviewed all logs noting that only five entries clearly articulated whether the officers stopped and or frisked an individual.⁷⁹ For those five entries the Monitor noted the following:

⁷⁷ The arrest was effected by the Northwestern District.

⁷⁸ Implementation of the policy is tested under paragraph U45.

⁷⁹ The entries were identified from the Eastern and Central District’s and the Gang Specialized Unit’s daily logs.



- For three of the five entries there was no documented supervisory review. For one entry with supervisory review documented, the supervisor's signature was illegible and the time of the review was not documented.
- Three of the five entries indicated that the officers conducted a frisk; however, these entries did not articulate the officers' safety concerns for conducting the frisk, as mandated by paragraph U44. In addition, auditable forms were not generated for these three frisks, as required.

After having reviewed daily logs for all districts and specialized units for February 28, 2007, the Monitor reiterates the concern reported by the DPD's AT in its most recent audit,⁸⁰ that not all stops and frisks are documented as required by the UOF CJ. The DPD, as soon as possible, must implement training that addresses officer and supervisor responsibility for properly, accurately and legibly documenting and reviewing all stops and frisks.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U45.

C. WITNESS IDENTIFICATION AND QUESTIONING POLICIES

This section comprises paragraphs U46-48. The Monitor has found the DPD in compliance with paragraphs U46 and U47, which are "policy-only" paragraphs. The DPD will remain in compliance with paragraphs U46 and U47 until the policy directly responsive to these paragraphs is revised. The Monitor last assessed the DPD's compliance with paragraph U48 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U48 – Documentation of Interviews and Interrogations

Paragraph U48 requires the DPD to memorialize the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD is also required to review all interviews, interrogations and conveyances and document, on a separate auditable form, any interrogation, interview or conveyance in violation of DPD policy within 12 hours of the event.

Background

The Monitor last assessed the DPD's compliance with paragraph U48 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The Monitor was unable to review the minimum sample size of officers to determine compliance with the paragraph, as the DPD had

⁸⁰ The *Investigatory Stop and Frisk Practices Audit* submitted on August 31, 2006.

not provided the relevant supporting documentation, including any completed auditable forms⁸¹ as of the end of that quarter.⁸²

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph U48 during the current quarter, the Monitor requested and received photocopies of officer daily activity logs from all Districts and specialized units for February 28, 2007. The Monitor selected 42 entries indicative of an interview, interrogation and/or conveyance⁸³ and requested and received from the DPD the relevant supporting documentation, including any completed auditable forms.⁸⁴ The following were noted:

- For 18 of the 27 conveyances reviewed, either the time and/or the date of supervisory review was not documented; as a result, the Monitor was unable to assess whether these reviews occurred within the mandated time period. Of the remaining nine conveyances, three were compliant, two conveyances had an auditable form that was incomplete, two conveyances had no supervisory signature on the form, and the documented supervisory review for two did not occur within the mandated time period.
- For nine of the 11 interrogations reviewed, although supervisory review was documented, either the date and/or time were not documented or if documented, they were illegible. For the remaining two interrogations, the supervisor's signature was illegible.
- For all four interviews, either the date and/or time were illegible or the supervisor's signature was illegible.

During its review of activity logs, the Monitor noted that in some instances, investigators classified their exchanges with detainees as interviews yet the interchange was clearly an interrogation. The Monitor discussed this issue with a member of the DPD's Office of Civil Rights (OCR), who concurred with our findings and indicated that the OCR would address this issue via training.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U48.

⁸¹ The Monitor's selection was accumulated after reviewing daily activity logs for the Homicide, Sex Crimes and Domestic Violence specialized units.

⁸² During early December 2006, the Monitor inquired regarding the status of the request and received an email communication from the DPD, in which the acknowledged it was not in compliance with the implementation requirements of paragraph U48.

⁸³ The sample consisted of 27 conveyances, four interviews and 11 interrogations.

⁸⁴ The Monitor intended to review all 92 arrests selected to test compliance with paragraph U43, et al. (refer to the *Current Assessment of Compliance* for paragraph U43 for information regarding the sample), but discontinued its review at 42 arrests upon determining that the DPD would be unable to achieve compliance with paragraph U48.



D. PROMPT JUDICIAL REVIEW POLICIES

This section comprises paragraphs U49-51. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

E. HOLD POLICIES

This section comprises paragraphs U52-53. The Monitor found the DPD in compliance with paragraph U52, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.⁸⁵ The Monitor last assessed the DPD's compliance with paragraph U53 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending August 31, 2007.

F. RESTRICTION POLICIES

This section comprises paragraphs U54-55. The Monitor found the DPD in compliance with paragraph U54, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.⁸⁶ The Monitor last assessed the DPD's compliance with paragraph U55 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending August 31, 2007.

G. MATERIAL WITNESS POLICIES

This section comprises paragraphs U56-57. The Monitor found the DPD in compliance with paragraph U56, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.⁸⁷ The Monitor last assessed the DPD's compliance with paragraph U57 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending August 31, 2007.

⁸⁵ Implementation of the policy is tested under paragraph U53.

⁸⁶ Implementation of the policy is tested under paragraph U55.

⁸⁷ Implementation of the policy is tested under paragraph U55.

H. DOCUMENTATION OF CUSTODIAL DETENTION

This section comprises paragraph U58. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U58 – Arrest and Detention Documentation

Paragraph U58 mandates the DPD to revise its arrest and detention (A&D) documentation to require, for all arrests, a record or file to contain accurate and auditable documentation of:

The individual's personal information;

Crime(s) charged;

Date and time of arrest and release;

Date and time the arraignment warrant was submitted;

Name and badge number of the officer who submitted the arraignment warrant;

Date and time of arraignment;

Date and time each warrant was lodged and cleared, if applicable; and,

Custodial status e.g. new arrest, material witness or extradition

Background

The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending November 30, 2006, at which time the Monitor found the DPD in non-compliance. Although the DPD decided to incorporate paragraph U58's requirements into the new version of Live Scan, the Live Scan system had not yet been modified to include all elements required by the paragraph. This information was inconsistent with the City and the DPD's Thirteenth Quarter Status Report.⁸⁸

Current Assessment of Compliance

During the current quarter, the Monitor again discussed with DPD personnel the progress of the Live Scan system and the incorporation of the information required by paragraph U58. The DPD indicated that the required modifications to the Live Scan system were incorporated during

⁸⁸ The status report stated "Currently, all relative information required within this paragraph is being captured within the *Live Scan* system, in which all of is (sic) retrievable for the Monitor's implementation testing."



December 2006. Based on this information, the Monitor expanded its assessment to include specific analysis of the data entered into the Live Scan system. In order to accomplish this testing, the Monitor provided the DPD with a sample of 29 arrests that occurred during early February 2007. The DPD provided the Monitor with Live Scan documentation for all 29 arrests. The Monitor found the following during its testing:

- For four of 29 arrests, personal information was not entered into the Live Scan system and no personal data was captured. For the remaining 25, the system was unable to capture nicknames, aliases or physical characteristics, as there is no data field for this information. For other personal information, such as social security number, age and telephone number, little information was captured. For five entries, the detainee's age was recorded as zero.
- For 25 of the 29 arrests, the detainee's crime was captured.
- For 25 of the 29 arrests the detainee's date and time of arrest were captured. However, for 13 of the 29 arrests, the detainee's date and time of release were not documented.
- The system failed to capture any remaining information as required by subsections d through h of paragraph U58.

In its Fifteenth Quarter Status Report, the City and DPD indicate that "Currently, all information required within this paragraph is capable of being captured within the *Live Scan* system." and conclude that the DPD is in compliance with paragraph U58; yet they also indicate that certain required information from the Warrant Verification Log is not yet being transferred to *Live Scan* "pending upgrades" to the system. The Monitor's findings from its testing have confirmed that, system capabilities notwithstanding, the required information is not, in fact, being captured in the system.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U58.

I. COMMAND NOTIFICATION

This section comprises paragraphs U59-60. The Monitor last assessed the DPD's compliance with paragraph U60 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with paragraph U60 during the quarter ending August 31, 2007. The Monitor last assessed the DPD's compliance with paragraph U59 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U59 – Commanding Officer Review

Paragraph U59 requires all DPD Commanders of a 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 must be completed within 7 days of receiving the document reporting the event, and must include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

Background

The Monitor last assessed the DPD's compliance with paragraph U59 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The Monitor noted that for eight of 14 arrests in which a warrant was not sought, the Commanding Officer (CO) review section of the auditable form was not completed. For another arrest, although the auditable form was completed, the CO review was documented in excess of the mandated seven-day period.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph U59 during the current quarter, the Monitor reviewed the arrest documentation and related auditable forms for 92 arrests selected to test compliance with paragraphs U43, U45, et al.⁸⁹ The Monitor noted the following:

- The CO review section was completed on a timely basis for one of the four required auditable forms generated for stops and frisks. No CO review occurred for the remaining three stops and frisks.
- A CO evaluation was documented on an auditable form within seven days for eight of 13 arrests for which an arrest warrant was not sought. For one arrest, the CO review occurred in excess of the seven-day mandated period,⁹⁰ and for four arrests, although CO review occurred, the Monitor was unable to determine the date and time of review.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U59.

⁸⁹ Refer to the *Current Assessment of Compliance* for paragraph U43 for information regarding the sample.

⁹⁰ The review occurred after 25 days.

IV. EXTERNAL COMPLAINTS

This section of the UOF CJ (paragraphs U61-69) requires the DPD to revise its policies and procedures regarding the intake, tracking, investigation and review of external complaints. There are specific requirements relative to the roles and responsibilities of the Office of the Chief Investigator (OCI) and the DPD, including the development and implementation of an informational campaign and the review and evaluation of each allegation in an external complaint investigation.⁹¹

Section IV's introductory section comprises paragraphs U61-63. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph U61 – Revision of External Complaints Policy

Paragraph U61 requires the DPD and City to 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.

Background

The Monitor last assessed the DPD's compliance with paragraph U61 during the quarter ending November 30, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor found the DPD in overall non-compliance with the paragraph. The DPD AT's *External Complaint and Complaint Investigations Audit* found the DPD non-compliant with paragraph U61 for informally resolved complaints, as a number of citizen complaints that were documented in the blotters at a DPD district but were not forwarded to OCI. The audit also found the Department non-compliant with requirements relative to formally resolved complaints; as such complaints were not referred to the appropriate agency within 5 business days. During

⁹¹ The OCI reports to the Board of Police Commissioners (BOPC) and is responsible for conducting external complaint investigations.

inspections, the Monitor determined that three of the six Districts were not tracking and reviewing complaints in accordance with the requirements of this paragraph.⁹²

Current Assessment of Compliance

As mentioned in the Current Assessment of Compliance for paragraphs U27-33, the DPD's AT submitted the AOMHC Audit on January 31, 2007. The audit evaluated the DPD's compliance with paragraph U61, among others, finding the DPD in compliance.

The DPD's AT is scheduled to submit its *External Complaint and Complaint Investigations Audit* required by paragraph U97 on the required due date of August 31, 2007. Since paragraph U61 specifically concerns external complaints, the Monitor will defer its assessment of the DPD's compliance with the implementation requirements of this paragraph; the Monitor will conduct this assessment in conjunction with its review of the *External Complaint and Complaint Investigations Audit*, which is scheduled to take place the quarter ending November 30, 2007, rather than rely solely on the three investigations tested in the AOMHC audit. In any event, the Monitor is encouraged by the compliant finding for paragraph U61 in the AOMHC audit.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but has not yet evaluated the DPD's compliance with the implementation requirements of paragraph U61. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraph U61.

Paragraph U62 – Informational Campaign

Paragraph U62 requires the DPD and the City to develop and implement an informational campaign regarding external complaints including:

- a. informing persons 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 (PSA) 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.

⁹² Among the issues identified were CCRs not kept in sequential order, incomplete information and lack of coordination between the DPD and OCI regarding a complaint referral, and no uniform CCR forms tracking system in place by the Districts or OCI.



Background

The Monitor last assessed the DPD's compliance with paragraph U62 during the quarter ending November 30, 2006, finding the DPD in compliance.

Current Assessment of Compliance

Subparagraph U62a Informing persons that they may file complaints

The methods by which the DPD will inform persons that they may file complaints regarding the performance of any DPD employee are included under subparagraphs U62b-d. The Monitor will not be conducting a separate assessment of compliance with this subparagraph.

Subparagraph U62b Distribution of complaint forms, fact sheets and informational posters

On May 11, 2007, the Monitor requested the DPD's most recent inspections in connection with paragraph U62. On May 30, 2007, the DPD submitted two inspections conducted by the OCR and BOPC that evaluated the requirements of subparagraph U62b. OCR staff inspected half of the libraries, neighborhood city halls and district stations from March 26-29, 2007, while BOPC staff inspected the other half from March 13-29, 2007.

In total, 24 libraries were visited, 22 of which had all the required materials, and the posters and fact sheets posted on the wall. Two libraries did not have Citizen Complaint Reports (CCRs) available. The OCR and BOPC replenished the materials as needed and also supplied other libraries with extra materials.⁹³

The OCR and BOPC also conducted inspections at seven Neighborhood City Hall locations. All seven locations had all of the required materials; posters and fact sheets were posted on the walls; and the CCRs and the Informational Brochures were available upon request. OCR and the BOPC supplied the Neighborhood City Halls with extra materials per their request.

Lastly, the OCR and BOPC conducted inspections of all six District stations. All six Districts had all of the required materials; posters and fact sheets were posted on the walls; and the CCRs and the Informational Brochures were available at the desks.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraph U62b.

⁹³ Refer to related recommendation, below.



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Subparagraph U62c Complaint Process Broadcasts

The DPD submitted a copy of the PSA that is broadcast on Comcast Cable. According to the DPD, the broadcast is aired continuously in a daily loop. As previously reported, the PSA meets the minimum requirements of describing the complaint process.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraph U62c.

Subparagraph U62d Informational Campaign Placards

As described in connection with subparagraph U62b, above, the OCR and BOPC conducted inspections on March 26-29, 2007 and March 13-29, 2007, respectively. All six District stations were inspected and continue to have permanent placards posted in the lobby of each district.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraph U62d.

Recommendation

The OCR and BOPC should look into the reasons why two libraries did not have CCRs and why they did not contact the OCI to obtain them, as instructed in training that has previously been conducted.

Paragraph U63 – Informational Brochures and Contact Forms

Paragraph U63 requires all officers to carry informational brochures and contact forms in their vehicles at all times while on-duty. The DPD must develop a contact form within 60 days of the effective date of the UOF CJ and submit it for review and approval of the DOJ. This contact form must be implemented within 60 days of the review and approval of DOJ. The DPD must 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 must prohibit officers from discouraging any person from making a complaint or refusing to take a complaint.

Background

The Monitor last assessed the DPD's compliance with paragraph U63 during the quarter ending November 30, 2006, finding the DPD in compliance. The Monitor and OCR conducted inspections finding that all officers interviewed were carrying the required materials or had them in their vehicles.

Current Assessment of Compliance

During the OCR inspections of the DPD Districts during the period of March 24-26, 2007, described in the *Current Assessment of Compliance* for paragraph U62, OCR staff also observed DPD officers to determine if they were carrying their Citizen Complaint Brochures/Contact



Forms as required by the paragraph.⁹⁴ A total of 52 on-duty officers from thirteen platoons and seven Commands were interviewed; each was able to produce the Citizen Complaint Brochures/Contact Forms.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U63.

A. INTAKE AND TRACKING

This section comprises paragraphs U64-66. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U64-66 – Policies Regarding Intake and Tracking; Factual Account by Intake Officer; Unique Identifier

Paragraph U64 requires the DPD and City to 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 (TDD), facsimile or electronic mail.

Paragraph U65 requires the DPD and the City to 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.

Paragraph U66 requires the DPD and the City to assign all complaints a unique identifier, which shall be provided to the complainant, and a description of the basis for the complaint.

Background

The Monitor last assessed the DPD's compliance with paragraphs U64-66 during the quarter ending November 30, 2006, at which time the Monitor reported the DPD in compliance with the policy requirements of the paragraphs. The Monitor found the DPD in non-compliance with the implementation requirements of paragraph U64. In its *External Compliant and Complaint Investigations Audit*, the DPD's AT identified a number of citizen complaints that were documented in the blotters at a DPD district but were not forwarded to OCI. Accordingly, the DPD was not properly accepting and documenting all complaints as required by paragraph U64. The Monitor had not yet completed its evaluation of the DPD's compliance with the implementation requirements of paragraphs U65-66.

⁹⁴ The OCR visited all six District Station plus the Gaming Operations Section.

Current Assessment of Compliance

As described in the *Current Assessment of Compliance* for paragraph U61, above, the DPD's AT submitted the AOMHC Audit on January 31, 2007. The audit evaluated the DPD's compliance with paragraphs U65-66, among others, finding the DPD in compliance with paragraph U65 and in non-compliance with paragraph U66.⁹⁵ The investigations reviewed revealed that the DPD is not providing the complainant with a description of the basis of the complaint as required by paragraph U66.

The DPD's AT is scheduled to submit its *External Complaint and Complaint Investigations Audit* required by paragraph U97 on the required due date of August 31, 2007. Since paragraphs U64-66 specifically concern external complaints, the Monitor will defer its assessment of the DPD's compliance with the implementation requirements of these paragraphs; the Monitor will conduct this assessment in conjunction with its review of the *External Complaint and Complaint Investigations Audit*, which is scheduled to take place the quarter ending November 30, 2007, rather than rely solely on the three investigations tested in the AOMHC audit. Although previous reports indicated that the Monitor's review of the random sample of 50 investigations would continue with regard to paragraphs U65-66 and others, the review has been discontinued due to the staleness of the sample, which included investigations that closed in June 2006.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements, but has not yet evaluated the DPD's compliance with the implementation requirements of paragraphs U64-66. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraphs U64-66.

B. EXTERNAL COMPLAINT INVESTIGATIONS

This section comprises paragraphs U67-69. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U67-69 – Revision of External Complaint Investigations Policy; External Complaint Review Process Time Limits; External Complaint Dispositions

Paragraph U67 requires the DPD and the City to revise its policies regarding external complaint investigations to:

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

⁹⁵ The AOMHC audit did not evaluate paragraph U64.

- b. permit informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and resolution of all other complaints;
- c. refer all complaints to appropriate agency within five business days;
- d. require complainant be periodically kept informed of complaint status;
- e. develop written criteria for IAD and OCI investigator applicants;
- f. implement mandatory pre-service and in-service training for all IAD and OCI investigators;
- g. require IAD and OCI to complete all investigations within 60 days of receiving the complaint; and
- h. upon completion of investigation, the complainant shall be notified of its outcome.

Paragraph U68 requires the DPD and the City to review and evaluate the external complaint process to require:

- a. the Chief Investigator to complete review of OCI investigations within seven days of supervisor's review;
- b. the Board of Police Commissioners to complete review of OCI investigations within forty-five days of Chief Investigator's review; and
- c. the Chief of Police to complete review of external complaints within seven days of Board of Police Commissioner's review.

Paragraph U69 requires that each allegation in an administrative external complaint investigation be resolved by making one of the following dispositions:

- d. "unfounded," where the investigation revealed no facts to support that the incident complained of actually occurred;
- e. "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;
- f. "not sustained," where there are insufficient facts to decide whether the alleged misconduct occurred; and
- g. "exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.

Background

The Monitor previously assessed the DPD's compliance with paragraphs U67-69 during the quarter ending November 30, 2006. For paragraph U67 the Monitor reported that the DPD was

in compliance with the policy requirements but in non-compliance with the implementation requirements of subparagraphs a-e and g-h. In addition, the Monitor found the DPD in non-compliance with subparagraph U67f.⁹⁶ The Monitor found the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph U68. The Monitor found the DPD in compliance with the policy requirements but had not yet completed its evaluation of the implementation requirements of paragraph U69.

Current Assessment of Compliance

As described in the *Current Assessment of Compliance* for paragraph U61, above, the DPD's AT submitted the AOMHC Audit on January 31, 2007. The audit evaluated the DPD's compliance with paragraphs U67 and U69, among others, finding the DPD in non-compliance with paragraph U67 and in compliance with paragraph U69.⁹⁷ Among other issues, the audit reviewed revealed that the DPD is not completing complaint investigations within 60 days, as required by the paragraph U67.

The DPD's AT is scheduled to submit its *External Complaint and Complaint Investigations Audit* required by paragraph U97 on the required due date of August 31, 2007. Since paragraphs U67-69 specifically concern external complaints, the Monitor will defer its assessment of the DPD's compliance with the implementation requirements of these paragraphs; the Monitor will conduct this assessment in conjunction with the *External Complaint and Complaint Investigations Audit*, which is scheduled to take place during the quarter ending November 30, 2007, rather than rely solely on the three investigations tested in the AOMHC audit. In any event, the Monitor is encouraged by the compliant finding for paragraph U69 in the AOMHC audit. If paragraph U68 is not tested in the *External Complaint and Complaint Investigations Audit* then the Monitor will conduct additional independent testing. Although previous reports indicated that the Monitor's review of the random sample of 50 investigations would continue with regard to paragraph U69 and others, the review has been discontinued due to the staleness of the sample, which included investigations that closed in June 2006.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but has not yet evaluated the DPD's compliance with the implementation requirements of paragraphs U67-69. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraphs U67-69.

⁹⁶ The details of the non-compliant findings for all subparagraphs of paragraph U67 are included in the Monitor's Report for the Quarter Ending November 30, 2006.

⁹⁷ The AOMHC audit did not evaluate paragraph U68.

V. GENERAL POLICIES

This section of the UOF CJ (paragraphs U70-77) requires the DPD to develop, revise, and/or enforce a variety of general policies. The DPD is required to ensure that all terms are clearly defined in policies that it develops, revises, and augments, and to make proposed policy revisions available to the community. This section also requires the DPD to advise its personnel that taking police action in violation of DPD policy will subject them to discipline, possible criminal prosecution, and/or civil liability. In addition, the DPD must enforce its policies requiring all DPD officers to report misconduct committed by another DPD officer. The DPD must also revise its policies regarding off-duty officers taking police action, revise its policies regarding prisoners and develop a foot pursuit policy. Finally, the DPD and the City are required to develop a plan for adequate deployment of supervisors in the field.

The Monitor last assessed the DPD's compliance with paragraphs U72-77 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

The Monitor last assessed the DPD's compliance with paragraphs U70 and U71 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph U70 – General Policies

Paragraph U70 requires the DPD, in developing, revising and augmenting policies, to ensure all terms contained within the UOF CJ are clearly defined.

Background

The Monitor last assessed the DPD's compliance with paragraph U70 during the quarter ending November 30, 2006, at which time the Monitor found the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. In order to comply with the implementation requirement of paragraph U70, the DPD must establish procedures to identify terms requiring clear definitions and institute a process to prepare definitions for review and inclusion in manuals and other documents. Although the DPD established a Policy Focus Committee whose responsibilities include reviewing newly established policy or policy revisions to ensure that all required terms are clearly and consistently defined, the protocol to be used by the committee was not finalized as of the end of that quarter.



Current Assessment of Compliance

The DPD's Policy Focus Committee met on February 23, 2007 and discussed the need to "focus on the processes and procedures necessary to form a foundation in the revision of the manual." It had not yet finalized the processes to be used as of the end of the current quarter.⁹⁸

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph U70. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U70.

Paragraph U71 – Proposed Policy for Community Review and Comment

Paragraph U71 requires that the DPD continue to make available proposed policy revisions to the community for review, comment and education. The DPD must also publish proposed policy on its website to allow for comment directly to the DPD.

Background

The Monitor last assessed the DPD's compliance with paragraph U71 during the quarter ending November 30, 2006, finding the DPD in compliance. The Monitor requested, received and reviewed the DPD's *Protocol for Proposed Policy Revisions*, noting that it met the requirements of paragraph U71.

Current Assessment of Compliance

During the current quarter, the Monitor periodically accessed the DPD's website noting in each instance that no new additional policy was posted for review and comment. Additionally, there were no revisions to the DPD's *Protocol for Proposed Policy Revisions*.

Based on the foregoing, the Monitor finds the DPD in continued compliance with paragraph U71.

⁹⁸ On December 4, 2006, the DPD submitted a draft protocol to be utilized by its Policy Focus Committee. The DPD indicated that a schedule delineating the month and year that each policy will be reviewed would also be submitted. This information was not provided to the Monitor as of the end of the quarter.



VI. MANAGEMENT AND SUPERVISION

This section of the UOF CJ (paragraphs U78-105) requires the DPD to devise a comprehensive risk management plan that will consist of a Risk Management Database, a performance evaluation system and an auditing protocol. The plan must also provide a mechanism for the regular and periodic review of all DPD policies, and for the regular occurrence of meetings of DPD management to share information and evaluate patterns of conduct that could potentially increase the DPD's liability. This section of the UOF CJ also includes requirements in connection with the DPD's use of video cameras, as well as the DPD's policy and practices regarding discipline.

The Monitor last assessed the DPD's compliance with paragraph U78, the introductory paragraph to section VI., during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with the paragraph during the quarter ending August 31, 2007.

A. RISK MANAGEMENT DATABASE

This section comprises paragraphs U79-U90. It provides specific requirements relative to the Risk Management Database, including the development and implementation of a new computerized relational database for maintaining, integrating and retrieving data necessary for the supervision and management of the DPD. While the Risk Management Database is being developed, paragraph U89 requires an interim system to be developed and implemented.

The Monitor has previously concluded that the DPD is in compliance with paragraphs U83-84 and subparagraphs U88a, b d, and e, as the DOJ provided the DPD with verbal conditional approval of the Data Input Plan and approved the Review Protocol and the Report Protocol. The DPD will remain in compliance with these provisions until these documents are revised.⁹⁹

The Monitor last assessed the DPD's compliance with paragraph U85, subparagraphs U88f and g, and paragraph U89 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess compliance with these paragraphs during the quarter ending August 31, 2007.

The Monitor last assessed the DPD's compliance with paragraphs U79-82 and U86-87 and subparagraphs U88c during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs and subparagraphs during the current quarter. The results of our current assessments follow.

⁹⁹ Revisions to the documents will require additional review and approval by the DOJ and trigger additional compliance assessments by the Monitor.



Paragraphs U79-82, U86-87 – Expansion of Risk Management Database; Risk Management Database Information Requirements; Identifying Information for Officers and Civilians; Data Input Plan; Common Control Number; Information Maintained in Database;

Paragraph U79 requires the DPD to 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. The DPD must 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 must regularly use this data for such review and monitoring.

Paragraph U80 requires the new risk management database to collect and record the following information:

- a. all UOF reports and UOF 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 firearms discharge reports and firearms 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;



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- 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 counselling 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.

Paragraph U81 requires the new risk management database to 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).

Paragraph U82 requires the DPD to 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 must detail the specific fields of information to be included and the means for inputting such data; specify the unit responsible for inputting data; the deadlines for inputting data in a timely, accurate and complete manner; 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 require that the data be maintained in a secure and confidential manner.

Paragraph U86 mandates that where information about a single incident is entered into the risk management database from more than one document, the risk management database must 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.

Paragraph U87 requires the City to 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 must be maintained indefinitely in the risk management database.

Background

The Monitor last assessed the DPD's compliance with paragraphs U79-82 and U86-87 during the quarter ending November 30, 2006, finding the DPD in compliance with paragraph U82 and in non-compliance with paragraphs U79-81 and U86-87. The Management Awareness System (MAS) was not yet fully developed or operational. As reported in the Monitor's Report for the Quarter Ending February 28, 2007, the DOJ and the DPD submitted a letter to the Court on February 23, 2007 outlining the DOJ's agreement with the City and the DPD's proposal to use internal personnel for the Interim Management Awareness System (IMAS) to MAS conversion, as opposed to issuing a RFP. The parties also agreed on a timeline for the conversion. In the letter that was submitted to the Court, the DOJ outlined its continuing concerns with the City and the DPD's decision to use internal resources to develop the MAS; given the concerns, the DOJ's agreement was subject to several conditions in order to ensure that the MAS is developing as expeditiously as possible.¹⁰⁰ The DOJ and the DPD also agreed to meet monthly to discuss the progress of the MAS development.

Current Assessment of Compliance

During the last quarter, the Monitor attended meetings regarding the MAS held by DOJ and the DPD on March 28, 2007, April 25, 2007 and May 23, 2007. In addition, the DPD submitted documentation on the continuing progress made to date on the Data Input Plan.¹⁰¹

Some issues have arisen as progress continues in the development of the MAS. As noted by the DPD, a few of the areas of concern are:

- The amount of backlog and historical data that needs to be entered.
- Standardization of procedures.
- Determining which unit will be responsible for developing and maintaining reports.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U82 and in non-compliance with paragraphs U79-81 and U86-87.

¹⁰⁰ These concerns and conditions are outlined in the Monitor's Report for the Quarter Ending February 28, 2007.

¹⁰¹ Documentation was received on March 23, 2007, March 28, 2007, April 19, 2007 and April 30, 2007. The DOJ previously provided the DPD with conditional approval of the Data Input Plan,



Subparagraphs U88c - Schedule for Database Development

Paragraph U88 requires the DPD to develop and implement the new risk management database according to the following schedule:

- c. by October 31, 2003, the DPD must issue the Request for Proposals.

Background

The Monitor last assessed the DPD's compliance with subparagraph U88c during the quarter ending November 30, 2006, withholding a determination of compliance pending the ongoing discussions between the parties regarding whether the DPD will issue an RFP or whether the DPD will use their internal resources to develop the MAS.¹⁰²

Current Assessment of Compliance

As reported in the *Current Assessment of Compliance* for paragraphs U79-82 and U86-87, the parties have continued to meet monthly to discuss the progress of the MAS and are moving forward with using internal resources to develop the MAS. The parties' agreement states that if the DOJ determines that successful completion of the project within the agreed upon timeframes appears unlikely, the DOJ reserves the right to withdraw its approval for the DPD to use internal resources and request that an RFP be issued.

Based on the foregoing, the Monitor will discontinue monitoring compliance with subparagraph U88c, and will only assess compliance with if circumstances change and the DOJ withdraws its approval of the DPD's proposal to utilize internal resources.

B. PERFORMANCE EVALUATION SYSTEM

This section comprises one paragraph, paragraph U91, which requires the DPD to ensure that performance evaluations for all DPD employees occur at least annually and include consideration of civil rights integrity, adherence to federal constitutional amendments and civil rights statutes and for supervisors, the identification of at-risk behavior in subordinates.

The Monitor last assessed the DPD's compliance with paragraph U91 during the quarter ending August 31, 2006. The Monitor is scheduled to again assess the DPD's compliance with paragraph U91 during the quarter ending August 31, 2007.

¹⁰² Refer to the Background section for paragraphs U79-82, U86-87, above, for additional information regarding these discussions and subsequent agreements between the parties.



C. OVERSIGHT

This subsection of the UOF CJ (paragraphs U92-99) requires the DPD to establish an internal audit process, to perform annual¹⁰³ audits of all precincts and specialized units on eight areas of policing,¹⁰⁴ to perform periodic random reviews of scout car camera videotapes and video recording equipment, and to meet regularly with local prosecutors to identify any issues in officer, shift or unit performance. Each of these oversight provisions requires the DPD to examine a number of issues, but a common theme among them all is the requirement to assess and report on the appropriateness of the police activity being examined.

The Monitor last assessed the DPD's compliance with paragraph U96 during the quarter ending August 31, 2006, with paragraphs U92-95, U97 and U99 during the quarter ending November 30, 2006, and with paragraph U98 during the quarter ending February 28, 2007. The Monitor again assessed the DPD's compliance with paragraphs U93-96 and U99 during the current quarter. The results of our current assessments follow.

Paragraph U93 – Audit Reporting Requirements

Paragraph U93 requires the DPD to issue a written report on the results of each UOF CJ audit to the Chief of Police and to all precincts or specialized unit commanders. The UOF CJ requires such audit reports to be completed by August 31, 2004, and annually thereafter. These reports must include an examination of consistency throughout the DPD. The commander of each precinct and specialized unit must review all audit reports regarding employees under his or her Command and, if appropriate, take disciplinary or non-disciplinary corrective action.

Background

The Monitor last assessed the DPD's compliance with paragraph U93 during the quarter ending November 30, 2006, at which time the Monitor found the DPD in non-compliance. The Monitor requested documentation evidencing the DPD's compliance with this paragraph's requirements in connection with two audits submitted i.e. documentation evidencing the transmittal of the audit reports to the Chief of Police and appropriate COs, or any documentation evidencing any corrective action taken in connection with the audits. The Monitor had not received such documentation as of the end of that quarter.

¹⁰³ On October 4, 2004, in response to a Joint Motion from the parties, the Court amended the audit schedule in the UOF CJ by requiring the DPD's UOF CJ audits to be completed annually by August 31, 2004, and every year thereafter.

¹⁰⁴ Including UOF investigations; prisoner injuries; allegations of misconduct; arrests; stops and frisks; witness identification and questioning; custodial detention practices, and complaint investigations.

Current Assessment of Compliance

On January 31, 2007, the DPD submitted the *Prisoner Injury Investigations Audit*, required by subparagraph U94b.¹⁰⁵ The Monitor requested documentation to support the audit's transmittal to the appropriate COs, and any related corrective actions taken.¹⁰⁶ As mentioned in previous quarterly reports, the DPD has indicated that it intends to implement the Corrective Action Needed (CAN) reporting system to document and track all pertinent information relative to the corrective actions taken by each CO in connection with DPD audit findings. The Monitor understands that this system is currently being used by the DPD, and the OCR has recently assigned a lieutenant to coordinate this process; however, the Monitor had not received any documentation from the DPD as of the end of the current quarter.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U93.

Paragraph U94 – Audits of UOF, Prisoner Injuries and Misconduct Investigations

Paragraph U94 requires the DPD to conduct regularly scheduled annual audits of a) UOF investigations, b) prisoner injury investigations, and c) investigations into allegations of misconduct. Such audits must cover all precincts and specialized units. These audits were due by August 31, 2004, and annually thereafter.

Background

The Monitor last assessed the DPD's compliance with subparagraph U94a during the quarter ending November 30, 2006, finding the DPD in non-compliance, as the audit required by this subparagraph was not submitted as of the end of that quarter, nor had it been submitted since the inception of the UOF CJ.

The Monitor last assessed the DPD's compliance with subparagraph U94b during the quarter ending November 30, 2006, finding the DPD in non-compliance as the audit required by this subparagraph was not submitted as of the end of that quarter, nor had it been submitted since the inception of the UOF CJ. As reported in the Monitor's Report for the Quarter Ending February 28, 2007, the DPD submitted its first *Prisoner Injury Investigations Audit* required by subparagraph U94b on January 31, 2007. Due to the number of audits submitted at that time, the Monitor had not completed its evaluation of this audit relative to subparagraph U94b by the time the Monitor's Report for the Quarter Ending February 28, 2007 was submitted.

¹⁰⁵ This paragraph was originally scheduled to be assessed during the quarter ending November 30, 2007. However, due to the DPD's early submission of this audit, the Monitor is also assessing compliance with this paragraph early. The Monitor will continue to assess the reporting requirements of this paragraph during the subsequent quarter in which audits are submitted.

¹⁰⁶ The Monitor also has a standing document request for all documentation related to the audits, including transmittal and follow-up correspondence.

The Monitor last assessed the DPD's compliance with subparagraph U94c during the quarter ending November 30, 2006, finding the DPD in non-compliance. Although the *Allegations of Misconduct Audit* report submitted by the DPD's AT on August 31, 2006 was one of the better written audit reports submitted by the AT, it did not address all of the requirements of subparagraph U94c and contained a number of qualitative deficiencies.¹⁰⁷

Current Assessment of Compliance

UOF Investigations Audits

As of the end of the current quarter, the DPD had not submitted a *Use of Force Investigations Audit* (required by subparagraph U94a).

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraphs U94a.¹⁰⁸

U94b –Prisoner Injury Investigations

In order to assess the DPD's compliance with subparagraph U94b, the Monitor reviewed the *Prisoner Injury Investigations Audit Report* submitted by the DPD's AT on January 31, 2007 and the related audit work plan. The Monitor also conducted a review of 100% of the audit population of investigations, the audit fieldwork and working papers related to this audit.

The Monitor's findings, which were discussed with the DPD's AT, are highlighted below:

- This is the first audit submitted by the DPD's AT in order to address the requirements of subparagraph U94b. The AT reviewed all prisoner injury investigations that did not occur in holding cells¹⁰⁹ from April 1 through September 30, 2006. The AT conducted thorough testing to ensure the population of five Command and one JIST investigation was complete. All investigations were tested (i.e. sampling was not employed) due to the small number of investigations.
- The audit report was submitted on a timely basis, was concise and well written.

¹⁰⁷ The Monitor is scheduled to again assess the DPD's compliance with subparagraph U94c during the quarter ending November 30, 2007.

¹⁰⁸ The Monitor will continue to find the DPD in non-compliance with the requirement to conduct these audits until such time as the required audits have been submitted. When these audits are submitted, the Monitor will evaluate their quality.

¹⁰⁹ See the Monitor's current assessment of compliance for paragraph C65b in relation to similar investigations that occurred in holding cells.

- The AT's working papers were well-organized and supported the AT's findings. The working papers also demonstrated sufficient testing of the elements necessary to conclude on each objective.
- The AT properly included assessments of all substantive paragraphs related to this topic and identified deficiencies within all six investigations. As a result, the AT found the DPD in overall non-compliance with all of the primary substantive paragraphs reviewed (paragraphs U27-41), with the exception of paragraph U34. The Monitor disagrees with the DPD AT's conclusions for four of these paragraphs or sub paragraphs.
- Although the AT correctly found the DPD in overall non-compliance with paragraph U33, the AT did not properly assess compliance with subparagraph U33d,¹¹⁰ as the AT found that the requirements of this subparagraph were not applicable to the six investigations reviewed because no corrective action was taken in relation to the identified deficiencies. However, based on numerous deficiencies that were identified by the AT in the six investigations reviewed, the Monitor contends that corrective action should have been taken, but was not. As a result, all six investigations should have been included in the review for corrective action and should have been found non-compliant with subparagraph U33d.
- The AT incorrectly concluded that the DPD was in 100% compliance with paragraph U34, which requires that an auditable form be completed for all UOF, prisoner injuries, and critical firearm discharges. The AT reported that five of the six investigations reviewed contained the requisite auditable form, and the sixth investigation concerned an in-custody death, which does not specifically require an auditable form. However, because this sixth incident involved an incident in which force was used,¹¹¹ an auditable form should have been completed. Consequently, the AT should have found the DPD in non-compliance with paragraph U34 based on the compliance rate of 83.4%.
- Although the DPD's AT correctly reported in its Executive Summary that the DPD was overall non-compliant with the Review of Investigative Interviews objective and the Appropriate Response to Incidents objective, these objectives also included the requirements of paragraphs U31 (Adherence to the Garrity Protocol) and U37 (Shooting Team Response to CFD and In Custody Death Incidents), respectively, for which the detailed findings within the body of the report indicate that the DPD was in compliance.¹¹² The audit report should have been reorganized to clearly report, in the Executive Summary and in the body of the report, that the DPD was in compliance with paragraphs U31 and U37.¹¹³

¹¹⁰ Subparagraph U33d requires that corrective action be taken if the investigator or reviewing supervisor did not conduct the investigation or review it appropriately.

¹¹¹ A UOF occurred prior to the prisoner's death.

¹¹² During discussions with the Monitor, the AT agreed that the DPD is in compliance with paragraphs U31 and U37.

¹¹³ The Monitor specifically addressed this type of reporting issue with the AT during the TA on Report Writing provided to the DPD AT in November 2006 and during the Monitor's evaluation of other recently submitted audits.

- The AT's approach for testing compliance with subparagraph U29b (Convenience of Witness Interviews) was limited to a review for "reasonableness" based on the time and place of the interview; however, this method was not articulated within the audit work plan or report. The Monitor disagrees with the AT's reasonableness test as the sole method for determining compliance, as the time and place is not necessarily indicative of convenience. The AT should have also assessed whether the investigations contained documentation or tape-recorded evidence of convenience of witness interviews. Not only would this enhance the consistency of the AT's audit processes, but it would provide greater insight into how to improve the DPD's procedures in this regard.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U94b.

Monitor's Recommendations

The AT should revise the approach for assessing the DPD's compliance with paragraph U41 (Annual Review of In-Custody Deaths) within the individual investigations and instead request the associated report documenting the annual review to confirm its presence and review its quality in comparison to the paragraph requirements.

The AT should eliminate the audit objective entitled, Examining Consistency in Prisoner Injury Investigations, which involves an assessment of the DPD's compliance with the requirements of paragraph U93.¹¹⁴ Instead, the AT should report its findings by Command so the DPD management has the ability to distinguish the differences between Commands and take appropriate action to ensure consistency. This would, in effect, address the "review for consistency" requirement of paragraph U93.

Paragraph U95 – Audits of Probable Cause, Stops and Frisks and Witness Identification and Questioning Documentation

Paragraph U95 requires the DPD to conduct regularly scheduled annual audits of a) arrest practices, b) stops and frisks, and c) witness identification and questioning documentation. Such audits must cover all precincts and specialized units and must include an evaluation of the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The arrest practices audit must also include a comparison of the number of arrests to requests for warrants and number of arrests for which warrants were sought to judicial findings of probable cause. These audits were due by August 31, 2004, and annually thereafter.

¹¹⁴ Paragraph U93 requires the DPD to review the audit findings and conduct an examination of the consistency throughout the DPD.

Background

The Monitor last assessed the DPD's compliance with subparagraphs U95a and U95c during the quarter ending August 31, 2006, finding the DPD in non-compliance with each, since neither of the required audits were submitted as of the end of that quarter. The Monitor last assessed the DPD's compliance with subparagraph U95b during the quarter ending November 30, 2006, finding the DPD in non-compliance due to deficiencies related to the reporting of significant issues within its *Investigatory Stop and Frisk Audit* submitted on August 31, 2006.¹¹⁵

Current Assessment of Compliance

Subparagraph U95a – Arrest Audit

During the current quarter, on April 14, 2007, more than four months prior to the due date, the DPD submitted an *Arrest Audit*. The Monitor conducted a preliminary meeting with the AT, requested and received the planning documents for this audit and subsequently selected a sample of arrests for review.¹¹⁶ As of the end of the quarter, the Monitor had not completed its evaluation of this audit or the DPD's compliance with subparagraph U95a.

Paragraph U96 – Audit of Custodial Detention Practices

Paragraph U96 requires the DPD to conduct regularly scheduled annual audits of the DPD's custodial detention practices, including evaluating the length of detention between the time of arrest and the time of arraignment and the time to adjudicate holds. Such audits must cover all precincts and specialized units.

Background

The Monitor last assessed the DPD's compliance with paragraph U96 during the quarter ending August 31, 2006, finding the DPD in non-compliance due to non-submission.

Current Assessment of Compliance

During the current quarter, the AT also submitted its *Custodial Detention Practices Audit* on April 14, 2007, more than four months prior to its due date. As described in the assessment of subparagraph U95a, above, after the end of the current quarter, the Monitor received a sample of arrests for review, which were selected in conjunction with the Monitor's evaluation of the

¹¹⁵ The Monitor is scheduled to again assess the DPD's compliance with subparagraphs U95b and U95c during the quarter ending November 30, 2007.

¹¹⁶ On June 21, 2007, after the end of the current quarter, the Monitor received its sample of arrest packages and is proceeding with its review.



Arrest Audit. As a result, the Monitor has not completed its evaluation of this audit or the DPD's compliance with paragraph U96.

Paragraph U99 – Regular Meetings with Prosecutors

Paragraph U99 requires the DPD to ensure regular meetings with local prosecutors to identify issues in officer, shift or unit performance.

Background

The Monitor last assessed the DPD's compliance with paragraph U99 during the quarter ending November 30, 2006, finding the DPD in compliance. The DPD and the Wayne County Prosecutor's Office (WCPO) continued to meet quarterly to identify and discuss issues relevant to the requirements of this paragraph.

Current Assessment of Compliance

The DPD and the WCPO continue to meet quarterly to identify issues in officer, shift or unit performance. During this quarter, the meeting was held on May 22, 2007.¹¹⁷ The Monitor attended the meeting and observed that the WCPO and DPD discussed pertinent issues and there was an active exchange of information and agreement to follow up on the issues that were identified.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U99.

D. USE OF VIDEO CAMERAS

This section comprises paragraphs U100-102. It requires the DPD to develop a policy on the use of video cameras that provides a systematic approach for activation, recording, review and preservation of video cameras and tapes. Additionally, the DPD is required to repair and replace all non-functioning video equipment. Other paragraphs in the UOF CJ and COC CJ that require periodic random reviews of videotapes and periodic random surveys of recording equipment are U98 and C64, which are also discussed in this report.

Consistent procedures throughout the DPD in this area will facilitate the availability of information for investigative purposes and will assist in the identification of at-risk behavior and violations of police procedure. These policies will also serve to protect DPD officers by providing an accurate record of encounters with citizens.

¹¹⁷ The last two U99 meetings were held on November 15, 2006 and February 14, 2007.



The Monitor last assessed the DPD's compliance with paragraphs U100-102 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

E. DISCIPLINE

This section comprises paragraphs U103-105. It requires the DPD to eliminate the current backlog of disciplinary cases and to establish guidelines and create a scheduling process that will prevent backlogs from developing in the future. In order to provide guidelines for uniformity in discipline, the DPD must create a matrix that establishes a presumptive range of discipline for each type of rule violation.

The Monitor last assessed the DPD's compliance with paragraphs U103-105 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

VII. TRAINING

This section of the UOF CJ (paragraphs U106-123) directs the DPD to coordinate and review all UOF and A&D training to ensure quality, consistency, and compliance with applicable law and DPD policy. Significantly, the DPD must provide annual training for all DPD recruits, officers and supervisors in a number of areas including UOF, arrests and other police-citizen interactions and custodial detention. Furthermore, the DPD must develop a firearms protocol and provide supervisory, investigator and field training. The Department must also select and train trainers, evaluate all training, conduct needs assessments, and create and maintain individual training records for all officers. The UOF CJ provides specific requirements for review and reporting on these issues to the Monitor and the DOJ.

A. OVERSIGHT AND DEVELOPMENT

This section comprises paragraphs U106 -114. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph U106 – Coordination of Training

Paragraph U106 requires the DPD to coordinate and review all UOF and A&D training to ensure quality, consistency and compliance with applicable law and DPD policy. The DPD must

conduct regular subsequent reviews, at least semi-annually, and produce a report of such reviews to the Monitor and the DOJ.

Background

The Monitor last assessed the DPD's compliance with paragraph U106 during the quarter ending November 30, 2006, finding the DPD in non-compliance. As previously reported, the semi-annual review documents submitted by the DPD consisted of a listing of lesson plan objectives and did not contain the reviews required by this paragraph. The Monitor did not receive any additional semi-annual reviews of lesson plans from the DPD as of the end of that quarter. Also, although the DPD indicated that the Training Committee met in June 2006, and will meet again during the quarter ending February 28, 2007, the Monitor did not receive any additional information regarding actions or recommendations by this committee.

Current Assessment of Compliance

With regard to paragraph 106's initial requirement regarding the coordination and review of all UOF and A&D training, the DPD submitted two lesson plans during this quarter. The *Supervisory Leadership and Accountability Lesson Plan* was submitted on April 14, 2007 and the *Law of Arrest, Search and Seizure Lesson Plan* was submitted on May 15, 2007. The Monitor has met with the lesson plan writers on numerous occasions since the last reporting period, including a meeting on the *Supervisory Leadership and Accountability Lesson Plan* on May 23, 2007. The Monitor has seen a marked improvement in the quality of the work product.

During the current quarter, the DPD submitted a semi-annual report on May 17, 2007 indicating that there were no finalized UOF or A&D lesson plans to review at this time.¹¹⁸ The DPD indicated that they continue to provide training on the use of their intermediate force weapon from a lesson plan approved by DOJ in November 2005. The DPD's report indicated that its review determined that this lesson plan is consistent with applicable law and DPD policy. However, the report offered no details of the review and did not provide any information on the quality and consistency of the actual training courses, themselves, which is required by paragraph U106.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U106.

Paragraph U107 – Michigan Law Enforcement Officers Training Council Standards

Paragraph U107 requires the DPD, consistent with Michigan law and the Michigan Law Enforcement Officers Training Council standards, to:

¹¹⁸ A corrected report was sent on June 1, 2007.

- a. ensure the quality of all UOF and Arrest and Detention training;
- b. develop UOF 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 UOF and Arrest and Detention are responsive to the knowledge, skills and abilities of the officers being trained.

Background

The Monitor last assessed the DPD's compliance with paragraph U107 during the quarter ending November 30, 2006, finding the DPD in non-compliance. In its Thirteenth Quarter Status Report, the DPD again stated that the requirements of this paragraph are being met by the DPD's response to paragraph U106. The Monitor indicated that it does not believe that the DPD's response under paragraph U106 thus far adequately demonstrates its compliance with the type of management approach that is required by paragraph U107. In addition, the Monitor determined that only three members of the DPD had completed the Michigan Department of State Police's Instructor Development training program.

Current Assessment of Compliance

With regard to subparagraphs U107a, b, d, and e as reported in the Current Assessment of Compliance for paragraph U106, the DPD does not have any additional finalized UOF or A&D lesson plans. According to its Fifteenth Quarter Status Report, the DPD will re-submit the remaining lesson plans "during the next reporting quarter." In the same report, the DPD indicated that an organizational matrix recommended by the Monitor is being utilized to track the development, review and approval processes of all Consent Judgment-related lesson plans. Another development reported by the DPD in their status report is that the DPD is developing a standardized Roll Call Training Delivery Program which is expected to become operational during the quarter ending August 31, 2007. The Monitor recognizes that this is a significant development and will greatly assist the DPD in delivering training and instruction to officers on a variety of matters. Ultimately, this will improve the DPD's ability to achieve compliance with various consent judgment requirements.

With regard to subparagraph U107c, the Monitor requested and received from the Michigan Department of State Police (MSP) a list of DPD officers who have completed an Instructor Development training program, and found that a very limited number of departmental personnel have completed this training requirement. This program is one of several such training courses that are recognized for its instructional content and methods. According to the DPD's Fifteenth Quarter Status Report, members of the DPD are scheduled to receive Michigan Commission on

Law Enforcement Standards (MCOLES) approved instructor development training facilitated by the Michigan State Police Training Academy in August 2007.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U107.

Paragraph U108 – Individual Training Records

Paragraph U108 requires the DPD to create and maintain individual training records for all officers, documenting the date and topic of all pre-service and in-service training completed on or after the effective date of the UOF CJ.

Background

The Monitor last assessed the DPD's compliance with paragraph U108 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The DPD indicated that it was continuing to enter training records into the MCOLES Information Tracking Network (MITN) as an interim method for tracking DPD training records for sworn personnel. However, all of the training records required by this paragraph have not been entered into MITN. Furthermore, although the DPD plans to use its MAS in order to maintain training records, the DPD had not fully implemented the MAS as an operational component for tracking and documenting individual training records for all officers.

Current Assessment of Compliance

According to the DPD, they have continued to enter training records into MITN to track DPD sworn personnel training. However, the vast majority of the training records that meet the requirements of this paragraph have not been entered into MITN. In addition, lack of staffing and staff training for data entry personnel severely limits the number of training records entered into the MITN system. According to the DPD, the Department ultimately plans to use its MAS in order to maintain training records. However, as reported by the Monitor in previous quarters and herein, the DPD has not yet fully developed or implemented the MAS.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U108.

Paragraph U109 – Approved Lesson Plans / Scenario-Based Training

Paragraph U109 requires the DPD to 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.



Background

The Monitor last assessed the DPD's compliance with paragraph U109 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The Monitor submitted memoranda outlining concerns with the *Supervisory Leadership & Accountability* and *Firearms Tactical Training and Qualification* lesson plans. The Monitor also met with OCR staff to further assist the DPD curriculum developers in lesson plan content, structure, and general curriculum design. However, the Monitor also indicated that until lesson plans are approved and then delivered by instructors who are selected pursuant to paragraph U107, the Monitor will not be able to assess the requirements of this paragraph.

Current Assessment of Compliance

Except for the *Arrest Search and Seizure Lesson Plan*, which the DPD submitted on May 15, 2007, the Monitor has provided feedback on all lesson plans submitted by the DPD by written memorandum, through quarterly reports and/or in meetings with DPD training staff. It has come to the Monitor's attention that a memorandum on the *Use of Force Lesson Plan* that was intended to be submitted during the quarter ending February 28, 2007 was not, in fact, submitted.¹¹⁹ However, oral and written comments (in the Monitor's Report for the Quarter Ending November 30, 2006) on this lesson plan had previously been provided. The Monitor is encouraged by the DPD's efforts to incorporate recommendations that were offered in the TA previously provided, specifically with regard to inclusion of relevant scenario-based training that includes directed classroom discussion results.¹²⁰

Until all lesson plans are approved and delivered by instructors who are selected pursuant to paragraph U107, the Monitor will be unable to assess the requirements of this paragraph.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U109.

Paragraph U110 – Civil Lawsuits

Paragraph U110 requires the DPD to meet with the City Law Department on a quarterly basis concerning the conclusion of civil lawsuits alleging officer misconduct. Information gleaned from this process must be distributed to DPD risk management and training staff.

¹¹⁹ The Monitor submitted that memorandum on June 27, 2007.

¹²⁰ Based on the consistent deficiencies noted during the Monitor's review of many of the lesson plans submitted by the DPD, and the shortfalls observed by the Monitor in actual training delivered, the Monitor provided TA to the DPD related to adequate lesson plan development on May 4, 2006.



Background

The Monitor last assessed the DPD's compliance with paragraph U110 during the quarter ending November 30, 2006, finding the DPD in compliance. The DPD held the quarterly meeting with the City Law Department, which the Monitor attended. On November 30, 2006, the DPD issued its Risk Management Newsletter which contained information discussed at the meeting. The DPD also made the newsletter available on the Department's Intranet.

Current Assessment of Compliance

On May 22, 2007, the DPD held its quarterly meeting with the City Law Department.¹²¹ The Monitor attended this meeting and heard discussions regarding the following topics: officer training, lawsuit payouts, discipline, and disability. On May 28, 2007, the DPD issued its Risk Management Newsletter, which contains the information discussed at the meeting, to risk management, training and other DPD staff.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U110.

Paragraph U111 – Distribution and Explanation of the UOF CJ

Paragraph U111 requires the City and the DPD to distribute and explain the UOF CJ to all DPD and all relevant City employees. The City and the DPD must provide initial training on the UOF CJ to all City and DPD employees whose job responsibilities are affected by it within 120 days of each provision's implementation. Thereafter, the DPD must provide training on the policies contained in the UOF CJ during in-service training.

Background

The Monitor last assessed the DPD's compliance with paragraph U111 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The DPD had not provided the Monitor with information indicating that non-DPD City employees other than managers from the Neighborhood City Halls had received copies and an explanation of the UOF CJ.

Current Assessment of Compliance

As reported in the last three quarters¹²² in which paragraph U111 was evaluated, the Monitor still has not been provided with documentation indicating that non-DPD City employees other than managers from Neighborhood City Halls have received copies and an explanation of the UOF

¹²¹ The last two U110 meetings were held on November 21, 2006 and February 14, 2007.

¹²² Quarters Ending November 30, 2005, May 31, 2006 and November 30, 2006.

CJ. The rosters or other information submitted must identify which City agency the employee is from.¹²³

The paragraph also requires that initial training be conducted within 120 days of the implementation of each provision and, thereafter, in-service training be given on the policies contained in the UOF CJ. Although numerous policies have been in effect in excess of 120 days, for the vast majority of the policies the DPD has not yet implemented these requirements. For example, the Monitor requested training records¹²⁴ on December 12, 2006 in order to assess the implementation requirements of paragraph U111; on January 16, 2007, the DPD indicated that no training to date had occurred. The DPD's Fifteenth Quarter Status Report states that there are plans to train the entire department on all approved Consent Judgment related policies. However, this has not occurred.

The DPD has indicated that there are plans to train the entire department on all UOF CJ related policies by use of an E-Learning training platform. According to the DPD, the E-Learning platform is in development. Although the DPD stated that an update on the progress of this online learning tool would be provided during the Fourteenth Quarter, no such update was provided and the DPD did not discuss the E-Learning training platform in its Fifteenth Quarter Status Report.¹²⁵

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U111.

B. USE OF FORCE TRAINING

This section comprises paragraph U112 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U112 – Annual UOF Training

Paragraph U112 requires the DPD to provide all DPD recruits, officers, and supervisors with annual UOF training. Such training must include and address the following topics:

- a. the DPD's UOF continuum; proper UOF; decision making; and the DPD's UOF reporting requirements;

¹²³ The DPD's Thirteenth Quarter Status Report indicated that training was provided for non-DPD City employees at the end of that quarter, on November 28 and 29, 2006. The Monitor was not provided with documentation regarding what this training consisted of or who was present.

¹²⁴ This DR requested training records for U74-77.

¹²⁵ The E-Learning training platform was discussed in the DPD's Thirteenth Quarterly Status Report.



- 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 UOF decision making, including the use of deadly force;
- d. the circumstances in which officers may draw, display, or point a firearm, emphasizing: officers should not draw their firearms unless they reasonably believe there is a threat of serious bodily harm to the officer or another person; the danger of engaging or pursuing a subject with a firearm drawn; and that officers are generally not justified in drawing their firearms 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 UOF 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 must 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.

Background

The Monitor last assessed the DPD's compliance with paragraph U112 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The Monitor reviewed the *Use of Force Lesson Plan* submitted by the DPD. Although the lesson plan did not fully address the relevant issues contained in the various subparagraphs of paragraph U112 and contained a number of deficiencies, it was a considerable improvement from lesson plans previously submitted; however, it seemed disjointed at times and lacking sufficient depth in the content specific to uses of force. The Monitor also attended *Intermediate Use of Force Train-the-Trainer* session offered by NorthCentral Technical College, which was designed primarily around the use of "Redman" training gear, employing defensive tactics, chemical aerosol, and PR-24 baton and conducted for the sole purpose of training attendees as trainers in intermediate UOF techniques. The Monitor noted that no standardized lesson plan was provided as requested, though the manual used during the training session could serve as the basic foundation for developing appropriate materials needed in a lesson plan.



Current Assessment of Compliance

On August 31, 2006, the Monitor received the DPD's *Use of Force Lesson Plan*. The Monitor provided oral feedback to the DPD in meetings with training staff and written feedback in the Monitor's Report for the Quarter Ending November 30, 2006, in which the Monitor found the DPD in non-compliance with paragraph U112. The Monitor recently realized that its memorandum on the *Use of Force Lesson Plan* was not submitted to the DPD and provided the memo after the end of the quarter.¹²⁶ Nevertheless, the Monitor previously made it clear through meetings and in the written status report that the lesson plan did not fully address the relevant issues contained in the various U112 subparagraphs listed therein and, in many cases, the lesson plan merely recited Consent Judgment language without any further explanation or context. Still, the Monitor is encouraged with the effort demonstrated in developing this lesson plan.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U112.

C. FIREARMS TRAINING

This section comprises paragraph U113 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U113 – Firearms Training Protocol

Paragraph U113 requires the DPD to 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 UOF 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 firearms instructors critically observe students and provide corrective instruction regarding deficient firearms techniques and failure to utilize safe gun handling procedures at all times; and

¹²⁶ On June 27, 2007.

- d. incorporates evaluation criteria to determine satisfactory completion of recruit and in-service firearms training, including: maintains finger off trigger unless justified and ready to fire; maintains proper hold of firearm and proper stance; and uses proper UOF decision making.

Background

The Monitor last assessed the DPD's compliance with paragraph U113 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The Monitor reviewed the *Firearms Tactical Training and Qualification Lesson Plan* submitted by the DPD and provided feedback to the DPD via a written memorandum that identified a number of deficiencies in the lesson plan.

Current Assessment of Compliance

On August 31, 2006, the Monitor received the *Firearms Tactical Training and Qualification Lesson Plan* from the DPD. On November 8, 2006, the Monitor provided feedback on the lesson plan through a written memorandum; the Monitor also reported on several of the deficiencies in the lesson plan in the Report for the Quarter Ending November 30, 2006. Furthermore, the DPD and the Monitor held meetings regarding this lesson plan on November 22, 2006 and January 24, 2007. According to the DPD, the lesson plan is currently being revised and will be submitted to the Monitor during the next quarter.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U113.

D. ARREST AND POLICE-CITIZEN INTERACTION TRAINING

This section comprises paragraph U114 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U114 – Annual Arrest and Police-Citizen Interaction Training

Paragraph U114 requires the DPD to provide all DPD recruits, officers and supervisors with annual training on arrests and other police-citizen interactions. Such training must 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: advising officers that the "possibility" that an individual committed a crime does not rise to the level of probable cause; 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 effected an arrest; and 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

- c. 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.

Background

The Monitor last assessed the DPD’s compliance with paragraph U114 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The DPD indicated that it intends to incorporate the provisions of this paragraph into the *Witness Identification and Questioning Lesson Plan*. However, the DPD did not submit a lesson plan in response to this paragraph as of the end of that quarter.

Current Assessment of Compliance

The DPD submitted *the Law of Arrest Search and Seizure Lesson Plan* on May 15, 2007, with the intention of addressing the majority of the mandates of this paragraph.¹²⁷ Although the Monitor did not fully complete its evaluation of this lesson plan by the end of the quarter, the Monitor determined that it did not meet all of the requirements of paragraph U114.¹²⁸ However, the Monitor notes that this lesson plan was of overall higher quality than previously submitted lesson plans. The Monitor recognizes the quality work of the lesson plan developers and reviewers in the preparation of this document. According to the DPD, certain of the requirements of paragraph U114 will be included in the *Arrests and Citizens/Police Interactions Lesson Plan*, which has not yet been submitted.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U114.

E. CUSTODIAL DETENTION TRAINING

This section comprises paragraphs U115-117. The Monitor last assessed the DPD’s compliance with these paragraphs during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD’s compliance with these paragraphs during the quarter ending August 31, 2007.

¹²⁷ After the end of the quarter, on June 27, 2007, the Monitor provided written feedback on the LP.

¹²⁸ The lesson plan did not cover all areas required by paragraph U114 with adequate depth, as it cited certain requirements verbatim, without including supporting documentation to reinforce the key concepts.

F. SUPERVISORY TRAINING

This section comprises paragraphs U118-120. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

G. INVESTIGATOR TRAINING

This section comprises paragraphs U121-122. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

H. FIELD TRAINING

This section comprises paragraph U123 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending August 31, 2007.

VIII. MONITORING, REPORTING, AND IMPLEMENTATION

Paragraph U139 requires the DPD to reopen for further investigation any investigation the Monitor determines to be incomplete, subject to certain restrictions. The paragraph requires that any directive to reopen an investigation by the Monitor be given within a reasonable period following the investigation's conclusion and be given prior to the time when the disposition is officially communicated to the subject officer.¹²⁹ Although the Monitor has requested various investigative files for review, as the DPD pointed out in its Fifteenth Quarter Status Report, the files reviewed usually closed several months prior to the review. The Monitor did not take into account whether it was a reasonable period since closing and did not have knowledge as to whether the disposition had been communicated to the subject officer. The Monitor has not yet requested that a mechanism be developed for meeting the restrictions of this paragraph regarding when an investigation can be reopened. However, a mechanism for taking these matters into account must be developed before the requirements of this paragraph can be carried out properly.

¹²⁹ After the end of the quarter, on June 27, 2007, the Monitor requested a meeting with the DPD to discuss this issue.

KROLL

Office of the Independent Monitor
of the Detroit Police Department

REPORT OF THE INDEPENDENT MONITOR
FOR THE QUARTER ENDING MAY 31, 2007
ISSUED JULY 16, 2007

During the current quarter, the Monitor identified an investigation that appeared to be incomplete. On March 28, 2007, the Monitor informed the OCR of the investigation. The OCR informed the Monitor that the investigation was sent to FI for follow-up. As of the end of the quarter, the Monitor had not received any additional information about the investigation.¹³⁰

Lastly, as reported in the Current Assessments of Compliance for paragraphs U18¹³¹, U27-32 and U33-36, the DPD is currently in non-compliance with the vast majority of the general, UOF and prisoner injury investigative requirements in the UOF CJ. The requirements of paragraph U139 will become more pertinent when the DPD begins to achieve compliance with these investigative requirements.

With this report, the Monitor will not make a compliance finding with regard to this paragraph but, rather, will report instances in which the Monitor directs the DPD to reopen an investigation and the results thereafter.

¹³⁰ On June 27, 2007, the Monitor requested information about any follow-up steps that were taken with regard to this investigation.

¹³¹ Paragraph U18 is the implementation paragraph for U14-17 and U19. As reported in the *Current Assessment of Compliance* for U18, the requirements in these paragraphs, U14-17 and U19, are not being met.

SECTION THREE: COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT

This section of the report contains the Monitor's compliance assessments of the COC CJ paragraphs scheduled for review during the quarter ending May 31, 2007.

As described in previous quarterly reports, the organization of the COC CJ paragraphs vary, in that some paragraphs have separate but related "policy"-required paragraphs within the COC CJ,¹³² while others do not.¹³³ These varying formats impact the way in which the Monitor assesses compliance with each paragraph. Specifically, the Monitor's compliance assessments of paragraphs that do not have a separate policy-related paragraph include reviews for written guidance or instruction¹³⁴ in order to ensure that the required procedures are mandated by the DPD and appropriate DPD personnel have received the necessary direction to carry out the requirements of the COC CJ.

I. FIRE SAFETY POLICIES

This section of the COC CJ comprises paragraphs C14-22. It requires the DPD to develop, implement, and provide training on specific fire safety policies and procedures and develop and implement a comprehensive fire safety program in all DPD facilities that maintain holding cells.

The Monitor found the DPD in compliance with paragraph C22 during the quarter ending August 31, 2005, as the Monitor confirmed that all Kane Fiber Ceiling Tiles had been removed from DPD buildings containing holding cells.¹³⁵ The Monitor last assessed the DPD's compliance with paragraphs C14-21 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

¹³² See, for example, paragraph C39 – Cleanliness of Cells and paragraph C40 – Cleaning Policy.

¹³³ See, for example, paragraph C45 - Access to Toilets and Potable Water.

¹³⁴ As described in the Introduction to the Methodologies, this is the Policy Component of compliance.

¹³⁵ The DPD will remain in compliance with paragraph C22 unless it begins using buildings that contain Kane Fiber Ceiling Tiles to detain prisoners.

II. EMERGENCY PREPAREDNESS POLICIES

This section of the COC CJ comprises paragraphs C23-25. It requires the DPD to develop and implement emergency preparedness plans for all facilities that maintain holding cells. These procedures and policies are to be designed to ensure that each precinct and the entire Department have a clear understanding of what actions are required in the event of an emergency.

The Monitor last assessed the DPD's compliance with paragraphs C23-25 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007

III. MEDICAL AND MENTAL HEALTH CARE POLICIES

This section of the COC CJ comprises paragraphs C26-34. It requires the DPD to develop and implement a medical and mental health care program, which includes a series of policies, procedures and protocols. These policies and procedures must be designed and developed to ensure that the DPD is adequately identifying and responding to the medical and mental health care conditions and needs of its detainees. The policies and procedures must be approved by a qualified medical and mental health professional. The comprehensive medical and mental health screening program (CMMHSP) must include specific intake screening procedures and medical protocols and must be reviewed and approved by the DOJ prior to implementation. The Monitor last assessed the DPD's compliance with paragraphs C26-34 during the quarter ending August 31, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph C26 – Identification and Response for Special Needs

Paragraph C26 requires the DPD to ensure the appropriate identification of and response to detainees' medical and/or mental health conditions. The DPD's compliance with paragraph C26 is dependent on the annual review of the CMMHSP by qualified medical and mental health professional at least once a year and prior to any revisions to the program as required by paragraphs C27-29 and achieving implementation requirements of paragraphs C27-C34.

Background

The Monitor last assessed the DPD's compliance with paragraph C26 during the quarter ending August 31, 2006, finding the DPD in non-compliance as a result of DPD's non-compliance with the implementation requirements of paragraphs C27-29.



Current Assessment of Compliance

As described below, the DPD is currently in non-compliance with the implementation requirements of paragraphs C27-32. As a result, the Monitor finds the DPD in non-compliance with paragraph C26.

Paragraph C27 – Screening Program Development

Paragraph C27 requires the DPD to develop and implement a comprehensive medical and mental health screening program that must be approved in writing by a qualified medical and mental health professional. Upon their review and approval, the screening program (as part of the CMMHSP) must be submitted to the DOJ for review and approval prior to being implemented. Thereafter, the program must be reviewed and approved in writing by a qualified medical and mental health care professional at least once every year, and prior to any revisions to the program.

Background

Compliance with paragraph C27 is dependent on the development and implementation of the CMMHSP. The DPD has included all of the requirements of paragraphs C28-34 within the CCMHSP policies; as a result, compliance with paragraph C27 is dependant upon the implementation of paragraphs C28-34.

The Monitor last assessed the DPD's compliance with paragraph C27 during the quarter ending August 31, 2006, testing the DPD's implementation of the policies, forms and logs that make up the CMMHSP. The Monitor found the DPD in non-compliance with the implementation requirements of paragraphs C28-29 and C31-33 and the policy requirements of paragraph C27. The Monitor recommended immediate revisions to the CMMHSP in order to ensure that DPD personnel have access to the most current policies and to ensure that the upcoming training refers to most current procedures.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C27, among others, the Monitor evaluated the implementation of the CMMHSP by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of the DPD's response to the recommendations contained within the audit report, and conducting onsite inspections of all DPD facilities containing holding cells. During these inspections the Monitor observed and evaluated the DPD's ongoing implementation efforts and the use of procedures, forms and logs associated with the CMMHSP. Based upon the evaluations, the outcomes of which are detailed throughout the compliance assessments of paragraphs C28-C34, the Monitor concluded that the DPD is currently in non-

compliance with the implementation components of paragraphs C28-32 and policy requirements of paragraph C27.¹³⁶

Selected General Findings:

The Monitor reviewed the DPD policies, forms and logs that comprise the CMMHSP and identified a number of contradictions, omissions and discrepancies when compared to observed practices in the field:

- Directives 305.1, *Detainee Intake/Assessment*, 305.5, *Detainee Health Care*, and 403.2, *Infectious Disease Policy*, all refer to the Detainee Intake Form (DIF); there is no reference to the Medical Intake Form (MIF).
- Although both Directives 305.1 and 305.5 repeatedly refer to the Platoon Daily Detainee Summary Log (DPD form (PDDS) (DPD 659)) as a primary tool for staff communication, it is not utilized in any of the DPD district facilities containing holding cells or by DPD's staff at DRH.
- The DPD provided documentation that the CMMHSP policies inclusive of the prescription medication policy within Directives 305.1 *Detainee Intake/Assessment*, 305.5 *Detainee Healthcare* and 403.2 *Infectious Disease Control Policy* met the requirement for written annual review and approval by qualified medical/mental health professional.¹³⁷
- The MIF produced by live scan and used in all five DPD district facilities with holding cells contains inaccurate content. On page 3 of the MIF there are directions to staff that begin with "Any yes answers to questions 9, 10 & 11, 14, 16a & b or five or more total yes..."). The text on the MIF should list questions 29a and b, instead of 16a and b. Questions 16a and b relate to the DIF, which is still in use by DPD staff primarily when conducting intake screening at DRH. This error in text could cause staff to incorrectly evaluate a detainee's risk and needs, resulting in harm to the detainee and/or others.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C27.

Recommendations

The DPD should add a signature block to the MIF indicating supervisory review and approval of all decisions made in response to acquired detainee medical/mental information.

¹³⁶ The DPD's *Medical and Mental Health Programs and Policies Audit* also found the DPD in non-compliance with these paragraphs.

¹³⁷ The DPD forwarded documentation of written review and approval of the CMMHSP policies by qualified medical/mental health professionals on June 12, 2007 in response to a document request submitted by the Monitor on June 1, 2007.

The Monitor recommends that the DPD make the necessary revisions to the CMMHSP policies and training to ensure that DPD directives and operational practices are aligned.

Paragraph C28 – Minimum Standards for Screening Program

Paragraph C28 stipulates the minimum required standards that must be implemented in the new DPD Detainee Screening Program. The program must provide a mechanism to enable the staff of the DPD to identify individuals with medical or mental health conditions or who are at risk of committing suicide, have been designated as a suicide risk during prior incarcerations and persons who have contraindications to chemical spray. Furthermore, the process must require the DPD staff to follow standard intake procedures for each individual entering into DPD custody and require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and detainee. Finally the process must incorporate all health information pertaining to a detainee acquired by the arresting or transporting officer.

Background

The Monitor last assessed the DPD's compliance with paragraph C28 during the quarter ending August 31, 2006, finding the DPD in non-compliance. During on-site inspections of DPD facilities containing holding cells, the Monitor determined that the DPD failed to document the level of supervision/classification of each detainee and the time of intake. The Monitor advised that once the CMMHSP documentation is revised to reflect current procedures and the training of the holding cell area supervisors and detention officers is accomplished, the DPD would be in a better position to implement the entire CMMHSP.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C28, among others, the Monitor evaluated the implementation of the CMMHSP by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of the DPD's response to the recommendations contained within the audit report, and conducting onsite inspections of all DPD buildings containing holding cells and the DRH.¹³⁸ The following reflects the Monitors findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit Report*, out of the applicable detainees in a sample of 88 selected for review, the AT found that the DPD identified 91% of the detainees who had medical/mental conditions, and 69% of detainees with contraindications to

¹³⁸ The Monitor conducted on-site inspections of the Northwestern, Western, Eastern, and Northeastern Districts, Schafer Annex and the DRH on April 24, May 21, May 22, May 30 and May 31, 2007.

chemical spray. The AT also found that the DPD screened 71% of detainees within two hours of intake and 97% of the intake screening was conducted through verbal exchange. Where applicable, the DPD incorporated health information acquired by the arresting/transporting officers at a rate of 50%. The AT was unable to determine whether the DPD identified detainees on heightened observation for suicide risk during a past incarceration because there was no documentation in the four applicable situations.

Based on its findings, the AT concluded that the DPD was non-compliant with paragraph C28 and recommended that the DPD enforce its policy that requires the DPD to follow standard intake screening procedure, including appropriate identification of detainees' medical/mental health condition.

On May 20, 2007, the Monitor requested a status report regarding the DPD's progress toward implementing the audit report's recommendations. The Monitor had not received a response to this request as of the end of the current quarter.¹³⁹

During on-site inspections the Monitor conducted inspections, interviewed various DPD staff (Detention Facility Officers (DFOs), Police Detention Officers, Cell block Supervisors or Officer in Charge (OIC), Compliance Officers) and reviewed a number of randomly selected Detainee File Folders (DFFs) and the content of Confidential Medical Envelopes (CMEs) for each District:

Observations

The Monitor observed a total of six intake screenings, which occurred in four of the five District facilities with holding cells, during the inspections. The Monitor was able to determine that four of the six occurred within two hours of intake (two began before the Monitor was present). In all six instances, the intake screening was conducted through verbal exchange between DPD staff and the detainee. In none of the six instances was an attempt made to determine if the detainee was on heightened suicide observation at any time during a previous incarceration.

¹³⁹ On June 6, 2007, the OCR responded, stating that it appears that this recommendation requires reinstruction and/or training and is being reviewed.

Staff Interviews:

During the inspection tours of all five DPD Districts containing holding cells, the Monitor interviewed a total of seven staff¹⁴⁰ assigned to holding cell duties regarding their responsibilities as they relate to detainee intake screening and assessment.

- Six of the seven staff members responded that detainee intake must occur within two hours of entry into the holding facility. The seventh staff member stated that he was unsure, and was unable to provide a specific maximum time period for intake screening.
- All seven staff members stated that intake screening should occur through a verbal exchange with the detainee.
- None of the seven staff members indicated that they attempted to determine if the detainee was on heightened suicide observation at any time during a previous incarceration as part of the detainee intake and assessment process.

The Monitor also interviewed a total of six supervisors¹⁴¹ assigned to holding cells regarding their responsibilities as they relate to detainee intake screening and assessment.

- All six supervisors stated that detainee intake and assessment must occur within two hours of entry into the holding facility.
- All six supervisors stated that they review the MIF after completion and sign the form.
- All six supervisors stated that they expect staff to inform them of detainee medical/mental conditions prior to any action being taken.

Document Review:

During the inspections, the Monitor selected and reviewed a total random sample of 91 DFFs, selecting a minimum of 20 files from each of 4 Districts. Of these 91 DFFs, 86 contained CMEs; and all of the CMEs contained a MIF.¹⁴²

- The Monitor was able to determine that 76 out of 86 detainee intake screenings occurred within 2 hours; the Monitor was unable to determine if 10 out of 86 intake screenings occurred within 2 hours because of a lack of accuracy in the documentation.¹⁴³

¹⁴⁰ The Monitor interviewed staff members from each of the five District facilities with holding cells.

¹⁴¹ The Monitor interviewed supervisors from each of the five District facilities with holding cells.

¹⁴² The DFF should contain the arrest ticket, Privilege Restriction Form, CME, and any other information necessary to assist in the care and custody of detainees. The MIF (formerly the Detainee Intake Form, or DIF) is a medical and mental health screening form that is filled out for every detainee in DPD custody. The CME contains all healthcare information and screening forms for detainees in DPD custody.



- The DPD identified 42 out of 86 detainees with a medical/mental condition.

Summary:

Both the AT and the Monitor determined that the DPD failed to comply with paragraph C28's requirement that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and the detainee. Contributing to the non-compliance status may be conflicting requirements contained in the DPD directives. For example, DPD Directive 305.1 (section 6.2) states that a Detainee Intake Form (DPD 651) shall be completed within two hours of *arrest*, for every detainee brought into any holding facility. However, Directive 305.1 (section 2) states that medical/mental health and security screening is conducted within two hours of *intake* through a verbal exchange between DPD members and the detainees. In addition, the MIF (DIF) does not contain a section to document the arrival of a detainee in a DPD holding facility. As a result, it is difficult to ascertain the starting point for intake to begin the two-hour determination. The AT and the Monitor used the "Arrest time" as the time the detainee was eligible for screening, leading to a significant number of "unable to determine" findings and a less than acceptable compliance rate.

Lastly, neither the Monitor, during observation activities, staff interviews and documentation review, nor the AT, during its audit, could identify DPD documentation to indicate compliance with the paragraph's requirement for the DPD to 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.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C28.

Paragraph C29 – Minimum Standards for Medical Protocols

Paragraph C29 provides the minimum standards for the medical protocols required under the comprehensive medical and mental health screening program. The protocols must identify the specific actions the DPD must take in response to the medical information acquired during the detainee screening or detention. They must also require prior supervisory review and written approval, absent exigent circumstances, of all decisions made in response to acquired medical information.

¹⁴³ The problems identified regarding documentation are related to the fact that the MIF does not contain a section to document the arrival of a detainee in a DPD holding facility. This is described in greater detail immediately below, under the Summary section of this assessment.

Background

The Monitor last assessed the DPD's compliance with paragraph C29 during the quarter ending August 31, 2006, finding the DPD in non-compliance primarily due to the lack of documentation of prior supervisory review and approval of all decisions in response to acquired medical information. The Monitor advised that once the CMMHSP documentation is revised to reflect current procedures and the training of the holding cell area supervisors and detention officers is accomplished, the DPD would be in a better position to implement the entire CMMHSP.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C29, among others, the Monitor evaluated the implementation of the CMMHSP, including the requirements of this paragraph, by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of DPD response to the recommendations contained within the audit report, and conducting onsite inspections of all DPD buildings containing holding cells. The following reflects the Monitors findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit*, the AT determined that the DPD did not take appropriate actions in response to acquired detainee medical/mental health information. The AT recommended that the DPD enforce its policy that requires DPD to take appropriate actions in response to acquired medical/mental information.

On May 20, 2007, the Monitor requested a status report regarding the DPD's progress toward implementing the audit report's recommendations. The Monitor had not received a response to this request as of the end of the current quarter.¹⁴⁴

During on-site inspections the Monitor conducted inspections, interviewed DPD staff and reviewed a randomly selected documentation.¹⁴⁵

Observations:

The Monitor observed a total of six intake screening of detainees, none of which presented medical/mental conditions that required a response from the DPD. The Monitor did observe that the placard with guidelines for detainee screening was visibly posted either within the

¹⁴⁴ On June 6, 2007, the OCR responded, stating that it appears that this recommendation requires reinstruction and/or training and is being reviewed.

¹⁴⁵ The details of the inspections, interviews and documentation reviews are described in the *Current Assessment of Compliance* for paragraph C28.

admissions area of the holding cell, or at the front desk in each of the five District facilities containing holding cells.

In addition, while observing the intake screening of one detainee, the Monitor observed a different detainee in a holding cell complaining of chest pains; a second officer (DFO) responded immediately and notified the OIC. The OIC called for a transport vehicle to convey the detainee to a medical facility. The detainee was immediately moved from his original cell (single cell) to a designated observation cell, a medical health high risk monitoring log was initiated and observations were notated until the detainee's departure.

Staff Interviews:

The Monitor interviewed a total of seven staff assigned to holding cell duties regarding their responsibilities as it relates to responding to detainee information acquired during detainee screening or detention, including the need for emergency care, hospitalization, prescription medication and or intensive monitoring and under what circumstances must they notify a supervisor.

- Six of the seven staff members interviewed articulated the appropriate procedure for responding to acquired detainee information. Supervisory staff informed the Monitor that the officer who responded with the incorrect procedure was a recent hire and required additional training.
- Staff members interviewed provided different responses regarding the procedures used to document a change in detainee medical/mental condition after the initial intake process. The varying procedures mentioned included changes documented using the grease board maintained in the holding cell area, or handwritten on the detainee's MIF, or typed into the Prisoner Observation Log maintained on the computer.

Documentation review:

- Out of a total of 86 reviewed CMEs, 21 detainees with medical conditions were identified; 14 of whom were transported to DRH; two had documentation of supervisory review and approval via the medical care referral form.
- None of the 14 detainees transported to DRH had any indication of prior review and approval by a supervisor on a MIF.
- Eleven of the 14 detainees transported to DRH had a supervisor's signature after the detainee returned from the hospital.

Summary:

Both the AT and the Monitor found that the DPD failed to meet the requirements of paragraph C29. Specifically, the DPD did not demonstrate consistently applied practices for documenting a change in detainee medical/mental condition during detention, nor did the DPD demonstrate a

consistently applied practice for documenting supervisory review and approval of all decisions made in response to acquired medical information.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C29.

Paragraph C30 – Infectious Disease Policy

Paragraph C30 requires the DPD to develop and implement a policy on infectious disease control, in consultation with qualified medical health professionals. The policy must establish appropriate housing of detainees believed to have infectious diseases and mandate measures to prevent the spread of infectious diseases, such as proper handling of bio-hazardous materials. Once implemented, the policy must be reviewed and approved, in writing, by qualified medical health professionals on an annual basis and prior to any changes or alterations to the plan.

Background

The Monitor last assessed the DPD's compliance with paragraph C30 during the quarter ending August 31, 2006. The Monitor withheld its determination regarding compliance with this paragraph due to the limited population of detainees identified with an infectious disease contained within the sample selected for review.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C30, among others, the Monitor evaluated the implementation of the CMMHSP, including the requirements of this paragraph, by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of DPD response to the recommendations contained within the audit report, and conducting onsite inspections of all DPD buildings containing holding cells and the DRH.¹⁴⁶ The following reflects the Monitor's findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit*, the AT determined that in 100% of the audited occurrences, the DPD failed to document that they provided appropriate housing (segregation) for detainees believed to have infectious diseases. As a result, the AT found the DPD in non-compliance with paragraph C30 and recommended that the DPD enforce its policy that requires DPD to appropriately identify detainees believed to have infectious diseases and to provide them with the appropriate housing in order to prevent the spread of infectious disease.

¹⁴⁶ The Monitor conducted on-site inspections of the Northwestern, Western, Eastern, Northeastern and Schafer Annex during the following dates: April 24, May 21, May 22, May 30 and May 31, 2007.

On May 20, 2007, the Monitor requested a status report regarding the DPD's progress toward implementing the audit report's recommendations. The Monitor had not received a response to this request as of the end of the current quarter.¹⁴⁷

During on-site inspections the Monitor conducted inspections, interviewed DPD staff and reviewed a randomly selected documentation.¹⁴⁸

Observations:

During the inspection of each DPD district facilities with holding cells, the Monitor did not observe a situation requiring the holding cell staff to respond to a detainee identified as having an infectious disease. The Monitor did observe and document that the appropriate bio-hazard containers and an adequate number of bio-hazard bags for the storage of contaminated clothing were present at each location.

Staff Interviews:

The Monitor interviewed a total of seven staff assigned to holding cell duties regarding their responsibilities in response to a detainee being identified as having an infectious disease.

- All seven staff members stated that they are required to immediately notify their supervisor when a detainee is identified as having an infectious disease.
- Six of the seven staff members stated that detainees identified as having infectious disease should be immediately segregated.
- One of the seven staff members stated that detainees identified as having infectious disease should be segregated upon return from the hospital.
- None of the staff members interviewed referenced documenting segregation cell assignments on any DPD form.

The Monitor also interviewed six supervisors assigned to holding cells.

- All six supervisors stated that they expect holding cell staff to inform them if the detainee is identified as having an infectious disease.
- All six supervisors stated that detainees identified as having infectious disease should be referred to the hospital immediately.

¹⁴⁷ On June 6, 2007, the OCR responded, stating that it appears that this recommendation requires reinstruction and/or training and is being reviewed.

¹⁴⁸ The details of the inspections, interviews and documentation reviews are described in the Current Assessment of Compliance for paragraph C28.



- Five of the six supervisors stated that detainees identified as having an infectious disease should be immediately segregated.
- One of the six supervisors stated that detainees identified as having an infectious disease should be segregated after they returned from the hospital.
- None of the supervisors interviewed referenced the documentation of segregation cell assignments on DPD forms.

Documentation review:

The Monitor reviewed the CMEs of 3 detainees out of 86 identified as having an infectious disease and did not locate any DPD reference to detainee segregation in response to the acquired medical information.

Summary:

The Monitor concurs with the DPD AT's conclusion that the DPD failed to meet all of the requirements of paragraph C30, as the Monitor could not identify an established DPD procedure for documenting appropriate housing assignments (segregation) in response to a detainee identified with an infectious disease.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C30.

Paragraph C31 – Detainee Health Information Protocol

Paragraph C31 requires the DPD to develop and implement procedures for updating and exchanging detainee health information. These procedures must ensure that detainee health information is properly recorded at intake, and that it is readily available to all relevant medical and transporting personnel in a manner consistent with relevant federal and state confidentiality statutes. The procedures must also ensure that detainees' health information is continually updated to include any additional relevant information acquired during their detention.

Furthermore, these procedures must ensure that the information is documented and communicated between consecutive shifts. Finally, they must ensure that detainees' health information travels with them when they are transferred to another facility.

Background

The Monitor last assessed the DPD's compliance with paragraph C31 during the quarter ending August 31, 2006, finding the DPD in non-compliance, as the DIF (now MIF) and CME were not being consistently used by DPD staff, and no updates to changes in detainee medical and mental health status were being documented and utilized. The Monitor advised that once the CMMHSP documentation is revised to reflect current procedures and the training of the holding cell area



supervisors and detention officers is accomplished, the DPD would be in a better position to implement the entire CMMHSP.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C31, among others, the Monitor evaluated the implementation of the CMMHSP, including the requirements of this paragraph, by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of DPD response to the recommendations contained within the audit report, and conducting onsite inspections of all DPD buildings containing holding cells and the DRH.¹⁴⁹ The following reflects the Monitor's findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit*, the AT determined that the DPD did not appropriately document the communication of relevant detainee information between shifts and that detainee health information was not continually updated to incorporate any additional relevant information acquired during detention. The AT determined that detainee health information traveled with the detainee when transferred to another facility, but could not confirm the same for detainee prescription medication. As a result, the AT found the DPD in non-compliance with paragraph C31 and recommended that the DPD enforce its policy that requires that prescription medication should travel with detainees who are transferred to another facility.

On May 20, 2007, the Monitor requested a status report regarding the DPD's progress toward implementing the audit report's recommendations. The Monitor had not received a response to this request as of the end of the current quarter.¹⁵⁰

During on-site inspections the Monitor conducted inspections, interviewed DPD staff and reviewed a randomly selected documentation.¹⁵¹

Observations:

During District inspections, the Monitor observed a total of six intake screenings of detainees where detainee health information was recorded. The information was subsequently placed in a

¹⁴⁹ The Monitor conducted on-site inspections of the Northwestern, Western, Eastern, Northeastern and Schafer Annex during the following dates: April 24, May 21, May 22, May 30 and May 31, 2007.

¹⁵⁰ On June 6, 2007, the OCR responded, stating that it appears that this recommendation requires reinstruction and/or training and is being reviewed.

¹⁵¹ The details of the inspections, interviews and documentation reviews are described in the Current Assessment of Compliance for paragraph C28.

DFF; the Monitor was informed that DFFs are eventually stored at the front desk of each District. The Monitor observed DFFs in the front desk area of each District facility with holding cells.

Staff Interviews:

The Monitor interviewed a total of seven staff assigned to holding cell duties regarding their responsibilities as it relates to continually updating relevant detainee health information acquired during their detention, documenting the communication of relevant detainee health information between consecutive shifts and assuring that detainee health information travels with each detainee who is transferred to another facility.

- Holding cell staff who were interviewed provided various responses regarding the responsibility and procedures for updating detainee health information. The responses included: verbal notification to the OIC, documenting information on the grease board, recording information on medical information form, and recording information on the Prisoner Observation Log on the computer.
- Holding cell staff who were interviewed described various procedures for communicating detainee health information between shifts. The varying procedures mentioned included verbal communication of information, reviewing the grease board, and reviewing DFFs of currently held detainees.
- Six of the 7 staff members stated that detainee health information travels with each detainee when they are transferred to another facility.

The Monitor interviewed a total of six supervisors assigned to supervise the holding cells about the responsibilities associated with paragraph C31 requirements.

- The supervisors listed various procedures for documenting the continual updating of relevant detainee health information. Responses included: documentation on the medical information form, the detainee file folder, the holding cell grease board, and the prison observation log.
- The supervisors listed various procedures for documenting the communication between shifts. The varying procedures mentioned included: verbal exchange, review of information on the grease board, and a review of detainee file folders.

Documentation review:

The Monitor reviewed 86 CMEs and MIFs and observed no instances of documentation of updated relevant detainee health information.

Summary:

Although passages in both DPD Directives 305.1, *Detainee Intake/Assessment*, and 305.5, *Detainee Health Care*, provide specific direction to DPD staff in connection with the

requirements of paragraph C31, there is no indication that these policies are being implemented by DPD personnel. An example of this is the non-utilization of DPD form (DPD 659), titled Platoon Daily Detainee Summary Log (PDDSL).¹⁵² When queried regarding the requirements of the aforementioned policies and the use of the PDDSL, seven out of seven supervisors stated that they were unaware of the form and its required use. Additionally, there are DPD policies, forms and practices that have changed over time and provide direction that is no longer completely relevant and/or accurate.¹⁵³ This can lead to staff confusion and an inability to meet the requirements of the Consent Judgment paragraphs.

The Monitor concurs with the AT's conclusion that the DPD has failed to meet the requirements of this paragraph.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C31.

Paragraph C32 – Prescription Medication Policy

Paragraph C32 requires the DPD to develop a Detainee Prescription Medication Policy in consultation with qualified medical and mental health professionals that ensures detainees are provided with prescription medications as directed. The policy must be approved in writing by medical and mental health professionals and submitted to the DOJ for review and approval within three months of the effective date of the UOF CJ. The DPD must implement the policy within three months of the DOJ's approval. Thereafter, the policy must be reviewed and approved, in writing, by qualified medical and mental health professionals on an annual basis and prior to any revisions to the policy.

Background

The Monitor last assessed the DPD's compliance with paragraph C32 during the quarter ending August 31, 2006, finding the DPD in non-compliance, as the DPD had not effectively implemented all of the requirements of the paragraph. Specifically, the Medication Distribution Log (MDL) was not being completed as required by paragraph C32. The Monitor advised that once the CMMHSP documentation is revised to reflect current procedures and the training of the

¹⁵² According to Directive 305.1-6.4(1), the PDDSL is a log that lists detainees currently in custody at the holding facility, their medications, medical and/or mental health care instructions, security concerns (e.g. escape risk), and all alerts; it shall be reviewed at the beginning of every shift by the detention officer coming on duty as well as any supervisor assuming operation of the desk. Section 305.1-6.4(2) states that detainee health information shall be communicated between consecutive shifts (e.g. whether a detainee is taking medication or has a medical condition), and shall be documented by the detention officer and the OIC of the desk affixing their signatures on the PDDSL.

¹⁵³ An example is Directive 305.1-6.2(3) which states "The detainee intake form shall be continuously updated to incorporate additional relevant detainee health information acquired during the detainee's detention." With the introduction of Live Scan, the use of the DIF as the primary document for facilitating detainee intake screening has changed to the MIF, as has the process for collecting, documenting and recalling detainee information.

holding cell area supervisors and detention officers is accomplished, the DPD would be in a better position to implement the entire CMMHSP.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C32, among others, the Monitor evaluated the implementation of the CMMHSP, including the requirements of this paragraph, by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of DPD response to the recommendations contained within the audit report, and conducting onsite inspections of all DPD buildings containing holding cells.¹⁵⁴ The following reflects the Monitor's findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit*, the AT determined that the DPD was not compliant with this paragraph, primarily because of the significant number of missing medication logs in the sample population and inadequate completion of those logs that were available. The AT recommended that the DPD provide members with retraining in the completion of medication logs, and supervisors should, on a routine basis, review the medication logs to identify those members who do not complete them appropriately and recommend disciplinary action for those who do not comply with the policies and procedures related to medication logs.

On May 20, 2007, the Monitor requested a status report regarding the DPD's progress toward implementing the audit report's recommendations. The Monitor had not received a response to this request as of the end of the current quarter.¹⁵⁵

During on-site inspections the Monitor conducted inspections, interviewed DPD staff and reviewed a randomly selected documentation.¹⁵⁶

Observations:

During the on-site inspection of the five DPD District facilities containing holding cells, the Monitor observed two instances in which the medication storage cabinets were left unsecured and unattended. In both instances, staff informed the Monitor that the cabinet was left unattended while another staff member passed medication to a detainee in a holding cell.

¹⁵⁴ The Monitor conducted on-site inspections of the Northwestern, Western, Eastern, Northeastern and Schafer Annex during the following dates: April 24, May 21, May 22, May 30 and May 31, 2007.

¹⁵⁵ On June 6, 2007, the OCR responded, stating that it appears that this recommendation requires reinstruction and/or training and is being reviewed.

¹⁵⁶ The details of the inspections, interviews and documentation reviews are described in the Current Assessment of Compliance for paragraph C28.

- In four of the five holding cell facilities, only medication prescribed to currently held detainees was secured in the medication cabinet.
- Two of the five holding cell facilities had MDLs in the log book for detainee's no longer in custody (1-2 days after the detainee's release).
- In three of the five holding cell facilities, unused prescription medication was turned over to detainees upon their release, consistent with DPD directives and Consent Judgment requirements. According to DPD staff (supervisors, detention staff, compliance officers), there is significant confusion regarding the requirement for the released detainee to sign that they received their unused medication upon their release. This confusion possibly contributes to the inconsistency regarding signing MDLs to indicate that detainees received all unused prescription medication.
- DPD personnel consistently completed the Medication Dispensing Documentation section of the MDLs as required by DPD directives, but failed to complete the conveyance information section at the top of the form.¹⁵⁷

Staff Interviews:

The Monitor interviewed seven staff assigned to holding cells regarding their responsibilities as it relates to addressing detainee prescription medication.

- All seven staff members stated that they only distribute prescription medication to detainees as prescribed by the hospital.
- All seven staff members appropriately described the process for issuing prescription medication to detainees according to DRH discharge information.
- Four of the seven staff members stated that unused prescription medication is turned over to detainees upon their release and the detainees are required to sign the MDL.

Documentation Review:

- The Monitor reviewed 86 CMEs and identified 22 Medication Disbursement Logs, only three of which had pharmacy labels affixed as required by Directive 305.5-6.2(3).
- None of the applicable 22 MIFs were updated with the acquired prescription medication information as required by Directive 305.5-6.2(3)

¹⁵⁷ The top portion of the MDL requests the following conveyance information from DPD personnel filling out the form: Date/Time conveyed to hospital, Conveyed by, Unit #, Date/Time returned to pct, Precinct# if not returned to intake precinct, OIC upon return, No. of prescriptions rec'd, Discharge instructions rec'd, Treatment received, if known



- 13 of the 22 MDLs had a detainee or transporting officer's signature indicating receipt of the detainee's unused prescription medication upon his or her release from the DPD holding facility.

Summary:

The Monitor concurs with the DPD/OCR AT determination that the DPD has failed to meet the requirements of paragraph C32. DPD staff are not following DPD directives related to recording relevant information regarding the administration of prescription medication on an auditable form. Additionally, DPD staff failed to assure that all unused medications prescribed at DRH or other treating hospitals are provided to detainees upon their release from DPD custody.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C32.

Recommendations

In an effort to more accurately document its prescription medication activities, the DPD should revise sections of the MDL to provide an area where staff can document when it is initiated (date and time) for a new detainee. Additionally, a designated signature block should be added to the MDL for detainees' signatures to evidence the receipt of all unused prescription medication, hospital instructions and unfilled prescriptions (applicable if detainee is treated at DRH) upon release.

Paragraph C33 – Suicide Precaution Clothing

Paragraph C33 requires the DPD to provide appropriate clothing to all individuals placed under suicide watch while in detention.

Background

The Monitor last assessed the DPD's compliance with paragraph C33 during the quarter ending August 31, 2006, finding the DPD in non-compliance. During on-site inspections, the Monitor determined that one of the five Districts did not have an adequate supply of suicide clothing.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C33, among others, the Monitor evaluated the implementation of the CMMHSP, including the requirements of this paragraph, by reviewing the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferring with DPD/OCR staff regarding the status of DPD response to



the recommendations contained within the audit report, and conducting onsite inspections of all DPD buildings containing holding cells.¹⁵⁸ The following reflects the Monitor's findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit*, the AT determined that the appropriate clothing for detainees placed under suicide precautions was available. As a result, audit found the DPD in compliance with the requirements of paragraph C33; no detainees were observed who should have been placed under suicide precautions while in custody.

During on-site inspections the Monitor conducted inspections, interviewed DPD staff and reviewed a randomly selected documentation.¹⁵⁹

Observations:

Although the Monitor did not observe any detainees on suicide watch during the on-site inspection of the five DPD District facilities containing holding cells, an adequate supply of suicide clothing was identified at each location.

Staff Interviews:

The Monitor interviewed seven staff assigned to holding cells and six supervisors assigned to supervise the holding cells regarding their knowledge of and their responsibilities in connection with requirements regarding providing suicide clothing to detainees identified as a suicide risk.

- All seven staff members properly articulated their responsibilities regarding this requirement.
- All six supervisors properly articulated the requirement to provide suicide clothing to detainees identified as suicide risks.

Summary:

The Monitor concurs with the AT's conclusion that the DPD has met the requirements of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C33.

¹⁵⁸ The Monitor conducted on-site inspections of the Northwestern, Western, Eastern, Northeastern and Schafer Annex during the following dates: April 24, May 21, May 22, May 30 and May 31, 2007.

¹⁵⁹ The details of the inspections, interviews and documentation reviews are described in the Current Assessment of Compliance for paragraph C28.



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Paragraph C34 – Suicide Hazard Removal

Paragraph C34 requires the DPD to remove or make inaccessible all suicide hazards in holding cells, including exposed pipes, radiators and overhead bars.

Background

The Monitor last assessed the DPD's compliance with paragraph C34 during the quarter ending August 31, 2006, finding the DPD in compliance. The Monitor determined that there were no suicide hazards in any holding cells being utilized by the DPD to hold detainees.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C34 during the current quarter, the Monitor conducted onsite inspections of all DPD District facilities containing holding cells.¹⁶⁰

During these inspections, the Monitor determined that there were no suicide hazards in any holding cells currently being utilized by the DPD.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C34.¹⁶¹

¹⁶⁰ The details of the inspections are described in the Current Assessment of Compliance for paragraph C28.

¹⁶¹ During the most recent DOJ inspection, the DOJ's expert made the following observation after touring the Central District: The room in which juveniles are "held" awaiting their parents/guardians should have potential suicide hazards removed, including removal of all paperwork, memos, etc. from the windows. Although the DOJ has previously agreed with the City and the DPD that the manner in which the DOJ understood that juveniles are kept at the Central District does not create a holding cell in the District, the Monitor intends to look into this potential issue further in future inspections



IV. PRISONER SAFETY POLICIES

This section of the COC CJ comprises paragraphs C35-38. It requires the DPD to develop and implement prisoner safety policies for all facilities that maintain holding cells. Each precinct, and the entire Department, must have clear and concise policies, procedures and forms that will ensure the safety and well-being of prisoners.

The Monitor last assessed the DPD's compliance with paragraphs C35-38 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

V. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

This section of the COC CJ (paragraphs C39-46) requires the DPD to develop and implement environmental health and safety policies for all facilities that maintain holding cells. These procedures and policies are to be designed to ensure the cleanliness and maintenance of the cell block areas to ensure the safety of DPD prisoners.

The Monitor has concluded that the DPD is in compliance with paragraphs C44 and C46, which respectively require the DPD to ensure that lighting in all cell block areas is sufficient to reach 20 foot-candles of illumination at desk level and in personal grooming areas and that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.¹⁶² The Monitor last assessed the DPD's compliance with paragraphs C39-45 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

¹⁶² The Monitor will not assess compliance with paragraph C44 again unless alterations are made to the lighting fixtures or other conditions arise that affect the sufficiency of the lighting in the cell block areas. The Monitor will not assess compliance with paragraph C46 again unless Hepa-Aire purifiers are re-installed in buildings containing holding cells.

VI. POLICIES CONCERNING PERSONS WITH DISABILITIES

This section of the COC CJ (paragraphs C47-48) requires the DPD to develop and implement appropriate policies concerning persons with disabilities for all facilities that maintain holding cells. These procedures and policies are to be designed to ensure the detainees with disabilities are provided with appropriate facilities and care.

The Monitor last assessed the DPD's compliance with paragraphs C47-48 during the quarter ending August 31, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs C47-48 – Accommodations for Persons with Disabilities and Policy Concerning the Detention of Persons with Disabilities

Paragraph C47 requires the DPD to ensure that persons with disabilities are provided with reasonable accommodations.

Paragraph C48 requires the DPD to develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy must be approved in writing by qualified medical and mental health professionals. Thereafter, the program must 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.

Background

The Monitor last assessed the DPD's compliance with paragraphs C47 and C48 during the quarter ending August 31, 2006, finding the DPD in compliance with the policy requirements, but in non-compliance with the implementation requirements of the paragraphs. As a result, the Monitor found the DPD in overall non-compliance with the paragraphs. Throughout the quarter and during previous the assessments of the paragraph, the Monitor engaged in ongoing discussions with the DPD and HCCC regarding their intended response to the requirements of the paragraphs. During the discussions, the DPD stated that the installation of handicap accessible toilets in specific holding cells within the Northeastern District and the installation of TDD machines within each of the Districts would effectively accommodate detainees with disabilities. However, as of the end of that quarter, the aforementioned installations had not yet been accomplished. As noted in previous Monitor's reports, the change in the designated facilities affects the content of Directive 305.1, *Detainee Intake/Assessment*, as that directive articulates the use of facilities that have since been closed or will no longer be used to house disabled detainees.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraphs C47-48, among others, the Monitor reviewed the *Medical and Mental Health Programs and Policies Audit* submitted by the DPD on January 31, 2007, conferred with DPD/OCR staff regarding the status of DPD response to the recommendations contained within the audit report, and conducted onsite inspections of all DPD buildings containing holding cells.¹⁶³ The following reflects the Monitor's findings:

Audit Review:

In the *Medical and Mental Health Programs and Policies Audit*, the AT determined that the DPD was in non-compliance with paragraph C47 and in compliance with paragraph C48's requirement to ensure annual approval of the respective policies. The AT was unable to determine whether the DPD provided accommodations to detainees with disabilities pursuant to the requirements of paragraph C47 since the DPD did not document the detainees' disabilities and the appropriate actions taken in response to any disabilities. The AT recommended that the DPD ensure that the Eastern District be provided with a wheelchair accessible to those detainees who require the use of one.

On May 20, 2007, the Monitor requested a status report regarding the DPD's progress toward implementing the audit report's recommendations. The Monitor had not received a response to this request as of the end of the current quarter.¹⁶⁴

During on-site inspections the Monitor conducted inspections, interviewed DPD staff and reviewed a randomly selected documentation.¹⁶⁵

Observations:

During inspections of the five DPD Districts containing holding cells, the Monitor did not observe any detainees with disabilities that required accommodations. The Monitor observed TDD equipment available at each inspected district. The Monitor observed one wheelchair at the Northeastern District.

¹⁶³ The Monitor conducted on-site inspections of the Northwestern, Western, Eastern, Northeastern and Schafer Annex during the following dates: April 24, May 21, May 22, May 30 and May 31, 2007.

¹⁶⁴ On June 6, 2007, the OCR responded, stating that audit's recommendation that a wheelchair be made available at the Eastern District was inappropriate since the DPD does not intend to house detainees who need a wheelchair at that district.

¹⁶⁵ The details of the inspections, interviews and documentation reviews are described in the Current Assessment of Compliance for paragraph C28.

Staff Interviews:

The Monitor interviewed a total of seven staff assigned to holding cells and six supervisors assigned to supervise the holding cells regarding their knowledge of and responsibilities in connection with the requirements to ensure that persons with disabilities are provided with reasonable accommodations.

- All seven staff members stated that they inform their supervisors when a detainee with disabilities is identified.
- All seven staff members stated that they are not aware of any requirements to document accommodations made for detainees with disabilities.
- Interviewed supervisors were inconsistent in their responses regarding the expected DPD response to detainees with disabilities held in their facilities as required by the policy developed under paragraph U48.
- Two supervisors stated that the Northwestern District was a designated facility for detainees with disabilities. The Northwestern District states that they are incapable of handling detainees with disabilities.

Document Review:

- The Monitor reviewed 91 DFFs and did not identify any documentation referencing detainees with disabilities or any accommodations made by DPD holding cell staff.
- Directive 305.1-7.3(2-6) states that DPD staff only have two precincts immediately available for the services of a TDD machine. The Monitor has observed a TDD machine in each District facility with a holding cell.

Summary:

The Monitor concurs with the AT's conclusion that the DPD has failed to meet the requirements of paragraph C47.

The AT found that the DPD met paragraph C48's requirement for written annual review and approval of relevant policy by qualified medical/mental health professional; however, the AT did not specifically address or conclude on the implementation requirements of paragraph C48.¹⁶⁶ Although the Monitor agrees with the AT that the DPD provided documentation that the CMMHSP policies inclusive of Directive 305.1, *Detainee Intake/Assessment*, met the requirement for written annual review and approval by qualified medical/mental health

¹⁶⁶ As detailed above, the AT did conclude that the related CMMHSP policies were not implemented.



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professional,¹⁶⁷ the Monitor finds the DPD in non-compliance with paragraph C48 due to the fact that Directive 305.1 contains outdated information regarding accommodations for its disabled detainees.¹⁶⁸

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs C47-48

Recommendation

The Monitor recommends that the DPD make the necessary revisions to the CMMHSP (which includes all references to providing accommodations to detainees with disabilities) policies and/or training to ensure that DPD directives and operational practices regarding this paragraph are aligned.

VII. FOOD SERVICE POLICIES

This section of the COC CJ comprises paragraphs C49-50. It requires the DPD to develop and implement a comprehensive new food service policy with the assistance and approval of a qualified dietician and sanitarian. The new program must ensure that food is prepared and served in a sanitary manner, and that prisoners are fed on a regular basis. In addition, the program must ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons.

The Monitor last assessed the DPD's compliance with paragraphs C49-50 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

¹⁶⁷ The DPD also forwarded documentation of written review and approval of the CMMHSP policies by qualified medical/mental health professionals on June 12, 2007 in response to a document request submitted by the Monitor on June 1, 2007.

¹⁶⁸ On June 1, 2007, the Monitor submitted a memorandum to the DPD seeking clarification regarding its protocols for providing accommodations to persons with disabilities. On June 7, 2007, the OCR issued teletype number 07 – 02502, *Cell Assignment -- Detainees with Disabilities*, updating DPD practices for addressing detainees with disabilities.

VIII. PERSONAL HYGIENE POLICIES

This section of the COC CJ comprises paragraph C51 only. The Monitor last assessed the DPD's compliance with paragraph C51 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending August 31, 2007.

IX. USE OF FORCE AND RESTRAINTS POLICIES

This section of the COC CJ (paragraphs C52-54) requires the DPD to revise its policies regarding prisoners and comply with the DPD's UOF policies and procedures for any UOF on prisoners in holding cells. In addition, the DPD must not handcuff prisoners to benches for longer periods of time than are necessary. The DPD is required to submit its revised UOF policies to the DOJ for review and obtain DOJ's approval.

The Monitor last assessed the DPD's compliance with paragraphs C52-54 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

X. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW

This section of the COC CJ (paragraphs C55-57) requires the DPD to comply with its general incident investigation policies, UOF investigation policies and prisoner injury investigation policies in connection with all UOF, injuries and in-custody deaths occurring to prisoners in holding cells. The DPD is required to provide its revised UOF policies to the DOJ for review and to obtain DOJ's approval.

The Monitor last assessed the DPD's compliance with paragraphs C55-57 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

XI. EXTERNAL COMPLAINTS

This section of the COC CJ (paragraphs C58-59) requires the DPD to comply with its external complaint and investigation policies when responding to all external complaints and incidents occurring in holding cells.

The Monitor last assessed the DPD's compliance with paragraphs C58-59 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The result of our current assessments follow.

Paragraphs C58-59 – Acceptance of External Complaints–Holding Cells; Investigation of External Complaints–Holding Cells

Paragraph C58 requires the DPD to ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.

Paragraph C59 requires the DPD to 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 complaints investigations and review.

Background

The Monitor last assessed the DPD's compliance with paragraphs C58-59 during the quarter ending November 30, 2006, finding the DPD in compliance with the policy requirements of each. To assess the DPD's compliance with the implementation requirements of the paragraphs, the Monitor had intended on relying upon the *External Complaint and Compliant Investigations Audit*, which was submitted by the DPD's AT on August 31, 2006; however, the findings regarding paragraph C58 could not be substantiated and paragraph C59 was not evaluated in the audit.¹⁶⁹ As a result, the Monitor did not yet evaluate compliance with the implementation requirements of the paragraphs and, therefore, the DPD's overall compliance with them.

Current Assessment of Compliance

As described in the *Current Assessment of Compliance* for paragraph U61, above, the DPD's AT submitted the *AOMHC Audit* on January 31, 2007. The audit evaluated the DPD's compliance with paragraphs C58-59, among others, finding the DPD in non-compliance with both. The audit determined that the DPD is not conducting or reviewing the complaint investigations

¹⁶⁹ The Monitor expects that paragraph C59 will be evaluated in the next *External Complaint and Compliant Investigations Audit*.

consistent with DPD policy, as required by paragraphs C58-59. There were three investigations in the audit's population.

Also described in the *Current Assessment of Compliance* for U61, the DPD'S AT is scheduled to submit its *External Complaint and Complaint Investigations Audit* as required by U97 by the required due date of August 31, 2007. Since paragraphs C58-59 specifically concern external complaints, the Monitor will defer its assessment of the DPD's compliance with the implementation requirements of these paragraphs; the Monitor will conduct this assessment in conjunction with the *External Complaint and Complaint Investigations Audit*, rather than rely solely on the findings from the *AOMHC Audit*.

The DPD's AT is scheduled to submit its *External Complaint and Complaint Investigations Audit* required by paragraph U97 on the required due date of August 31, 2007. Since paragraphs U64-66 specifically concern external complaints, the Monitor will defer its assessment of the DPD's compliance with the implementation requirements of these paragraphs; the Monitor will conduct this assessment in conjunction with its review of the *External Complaint and Complaint Investigations Audit*, which is scheduled to take place the quarter ending November 30, 2007, rather than rely solely on the three investigations tested in the AOMHC audit.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but has not yet evaluated the DPD's compliance with the implementation requirements of paragraphs C58-59. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraphs C58-59.

XII. GENERAL POLICIES

This section of the COC CJ (paragraphs C60-61) requires the DPD to ensure that all terms are clearly defined in all policies that are developed, revised, and augmented, and to make proposed policy revisions available to the community.

The Monitor last assessed the DPD's compliance with paragraphs C60-61 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph C60 – General Policies

Paragraph C60 requires the DPD, in developing, revising and augmenting policies, to ensure all terms contained within the COC CJ are clearly defined.

Background

The Monitor last assessed the DPD's compliance with paragraph C60 during the quarter ending November 30, 2006, at which time the Monitor found the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. In order to comply with the implementation requirement of paragraph C60, the DPD must establish procedures to identify terms requiring clear definitions and institute a process to prepare definitions for review and inclusion in manuals and other documents. Although the DPD established a Policy Focus Committee whose responsibilities include reviewing newly established policy or policy revisions to ensure that all required terms are clearly and consistently defined, the protocol to be used by the committee was not finalized as of the end of that quarter.

Current Assessment of Compliance

The DPD's Policy Focus Committee met on February 23, 2007 and discussed the need to "focus on the processes and procedures necessary to form a foundation in the revision of the manual." It had not finalized the processes to be used as of the end of the current quarter.¹⁷⁰

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph C60. As a result, the Monitor finds the DPD in overall non-compliance with paragraph C60.

¹⁷⁰ On December 4, 2006, the DPD submitted a draft protocol to be utilized by its Policy Focus Committee. The DPD indicated that a schedule delineating the month and year that each policy will be reviewed would also be submitted. This information was not provided to the Monitor as of the end of the quarter.



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Paragraph C61 – Proposed Policy for Community Review and Comment

Paragraph C61 requires that the DPD continue to make available proposed policy revisions to the community for review, comment and education. The DPD must also publish proposed policy on its website to allow for comment directly to the DPD.

Background

The Monitor last assessed the DPD's compliance with paragraph C61 during the quarter ending November 30, 2006, finding the DPD in compliance. The Monitor requested, received and reviewed the DPD's *Protocol for Proposed Policy Revisions*, noting that if met the requirements of paragraph C61.

Current Assessment of Compliance

During the current quarter, the Monitor periodically accessed the DPD's website noting in each instance that no new additional policy was posted for review and comment. Additionally, there were no revisions to the DPD's *Protocol for Proposed Policy Revisions*.

Based on the foregoing, the Monitor finds the DPD in continued compliance with paragraph C61.

XIII. MANAGEMENT AND SUPERVISION

This section of the COC CJ (paragraphs C62-72) requires the DPD to operate its holding cells in compliance with its comprehensive risk management plan and to routinely evaluate the operation of the holding cells to minimize the risks to its staff and prisoners. The DPD must evaluate such operations through the use of video cameras and via regularly scheduled semi-annual¹⁷¹ audits that assess and report on issues affecting the safety and well-being of DPD personnel and prisoners in the DPD's holding cells.¹⁷²

The Monitor last assessed the DPD's compliance with paragraphs C62-71 during the quarter ending February 28, 2007; the Monitor last assessed the DPD's compliance with paragraph C72 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess compliance with paragraph C62-64 and C70-71 during the quarter ending August 30, 2007; the Monitor again assessed the DPD's compliance with paragraphs C65-C69 and C72 during the current quarter. The results of our current assessments follow.

Paragraph C65 – Audits of UOF, Prisoner Injuries and Misconduct Investigations in Holding Cells

Paragraph C65 requires the DPD to conduct regularly scheduled semi-annual audits covering all DPD units and Commands (including a sample of Command, IAD and Homicide Section investigations) that investigate uses of force, prisoner injuries, and allegations of misconduct in holding cells.

For ease of reporting, the Monitor has split paragraph C65 into the following three subparagraphs:

C65a – Holding Cell Use of Force Investigations Audit

C65b – Holding Cell Prisoner Injuries Investigations Audit

C65c – Holding Cell Misconduct Investigations Audit

¹⁷¹ On October 4, 2004, at the request of the parties, the Court amended the audit schedule in the COC CJ by requiring the DPD's COC CJ audits to be completed semi-annually with the first and second audits due by January 31 and August 31, 2004, and subsequent audits due by January 31, 2005 and every six months thereafter.

¹⁷² The topics covered by these audits include: UOF; injuries to prisoners and allegations of misconduct in holding cells; fire detection, suppression and evacuation; emergency preparedness; medical/mental health; detainee safety; environmental health and safety; and food service.

Background

During the quarter ending February 28, 2007, the DPD submitted the three audits required by paragraphs C65 on the required due date of January 31, 2007. The Monitor had not completed its review of these audits as of the end of that quarter.

Regarding the previous audits of these topics submitted by the DPD, in its Report for the Quarter Ending August 31, 2006, the Monitor found the DPD in non-compliance with subparagraphs C65a-b, and in compliance with subparagraph C65c. The Monitor identified deficiencies in the scope and methodology of the *Use of Force in Holding Cells Investigations Audit*, as well as deficiencies in the audit report, which was submitted by the DPD in July 2006 to meet the requirements of subparagraph C65a. Regarding subparagraph C65b, the DPD had not submitted an audit of *Prisoner Injuries in Holding Cells* for the semi-annual period ending July 31, 2006, nor for any of the periods thereafter, resulting in a conclusion of non-compliance from the Monitor. The Monitor concluded that the *Allegations of Misconduct in Holding Cells Audit Report*, submitted by the DPD in July 2006, was a quality audit and adequately addressed the requirements of subparagraph C65c.

Current Assessment of Compliance

C65a – Holding Cells Use of Force Investigations Audit

In order to assess the DPD's compliance with subparagraph C65a, the Monitor reviewed the *Use of Force in Holding Cells Investigations (UOFHC) Audit Report* submitted by the DPD's AT on January 31, 2007. The Monitor also conducted an assessment of the audit work plan, fieldwork and working papers related to this audit.¹⁷³

The Monitor's findings, which were discussed with the DPD's AT, are highlighted below:

- The AT reviewed all UOF investigations that were identified as having occurred in holding cells from August 1 through September 30, 2006. The AT conducted thorough testing to ensure a complete population and reported the systemic problems identified as a result of that testing. The resultant population included six Command and one Force Investigation Section (FIS) investigation. All investigations were tested (i.e. sampling was not employed) due to the small number of investigations.
- Although the DPD's AT submitted the report on a timely basis, the Monitor identified several problems with the report, including errors regarding the compliance determinations, repetitive text, and tables that included unnecessary or inapplicable information.

¹⁷³ The Monitor reviewed all seven investigations evaluated by the AT in this audit.

- The AT properly included assessments of all substantive paragraphs related to this topic and identified deficiencies within all seven investigations. As a result of this testing, the AT found the DPD in overall non-compliance with all of the primary substantive paragraphs reviewed (paragraphs U14-19, U27-36 and C52-56). The Monitor disagrees with the DPD AT's conclusions for three of these paragraphs or sub-paragraphs, and other substantive issues were not addressed in the AT's audit report (described below) that should have been addressed.
- The AT did not adequately evaluate or report a significant issue involving potential misconduct by a supervisor who did not report a UOF until after it had been reported by the involved prisoner. Four days after the UOF occurred, the prisoner made a complaint alleging excessive force to another supervisor after the prisoner had been transferred to another District. The associated investigation did not address this issue. Although the AT correctly reported that the supervisor did not immediately notify a supervisor following the UOF, the AT did not specifically address the fact that the supervisor had initially failed to report the UOF, and then reported it only after the prisoner's complaint, nor did the AT address the fact that the investigation had not identified, evaluated or addressed the potential misconduct. The AT also reported that the supervisor properly completed an auditable form even though it was completed 21 days after the complaint and incident occurred.

In light of the fact that UOF incidents are almost exclusively self-reported, this oversight by the AT and the DPD's investigation unit is particularly disturbing.

- Subparagraph C65e requires the AT to evaluate the appropriateness of the investigator's conclusions. Regarding the one FIS investigation, the AT found that the investigator did not reach the appropriate conclusion regarding the UOF incident and reported that FIS was 0% compliant.¹⁷⁴ For this incident the investigator concluded that no force occurred and the allegation of excessive force was unfounded. However the investigator did not interview the Desk OIC on-duty at the time of the alleged UOF. The AT reasoned that the investigator could not have made a correct conclusion without having conducted this interview. While the Monitor agrees that the investigator should have interviewed the Desk OIC, there was sufficient evidence in the reports to clearly support the investigator's conclusions that no UOF occurred. As such, the Monitor disagrees with the reported finding of 0% compliance as it implies that the investigator's conclusion was faulty, rather than based on an incomplete investigation. The Monitor suggests that the AT ensure that the audit findings are reported in proper context to ensure that the cause of non compliance is conveyed to DPD management.
- Although the AT correctly identified that the DPD's force reports and investigations lack specificity; the AT improperly reported that the DPD was 0% compliant with the requirements of paragraphs U14-17 and U19 regarding the reasonableness of the force levels and tactics used, instead of reporting that it could not determine if the level of force was appropriate due to the lack of specificity within the investigations.

¹⁷⁴ The AT also correctly reported 0% compliance based on deficiencies in all 6 Command investigations.

- As stated above, the AT found the DPD in non-compliance with all paragraphs tested; however, the Monitor did not agree with the AT's conclusion that the DPD was non-compliant with paragraph U31 (Adherence to the Garrity Protocol). Although the AT correctly reported that the DPD was overall non-compliant with the Review of Investigative Interviews objective, this objective also included the requirements of paragraph U31 (Adherence to the Garrity Protocol), and the detailed findings clearly indicate that the DPD was in compliance with paragraph U31.¹⁷⁵ The audit report should have been reorganized to clearly state that the DPD was in compliance with paragraph U31.¹⁷⁶

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph C65a.

C65b –Prisoner Injuries in Holding Cells

In order to assess the DPD's compliance with paragraph C65b, the Monitor reviewed the *Prisoner Injuries in Holding Cells (PIHC) Audit Report* submitted by the DPD's AT on January 31, 2007. The Monitor also conducted an assessment of the audit work plan, fieldwork and working papers related to this audit.¹⁷⁷

The Monitor's findings related to the audit report, which were discussed with the DPD's AT, are highlighted below:

- The AT identified three populations of closed prisoner injury investigations stemming from incidents that occurred in holdings cells: two Command, two FI and one Joint Incident Shooting Team (JIST). All investigations were tested (i.e. sampling was not employed) due to the small number of investigations.
- The AT appropriately tested all substantive paragraphs (paragraphs U27-37, C52-55 and C57) related to these incidents. As a result of this testing, the AT appropriately found the DPD in overall non-compliance with all of the primary substantive paragraphs reviewed, with the exception of paragraph U37 (Creation of Shooting Team).
- The audit report was submitted on a timely basis, was well prepared and made good use of tables. In addition, the detailed working papers were well organized and informative.
- The Monitor identified several instances in which incorrect compliance rates were carried forward to the Executive Summary from the detailed section of the audit report. However, these errors did not significantly impact the quality of the report, as the AT had correctly determined non-compliance with the related objectives.

¹⁷⁵ During discussions with the Monitor, the AT agreed that the DPD is in compliance with paragraph U31.

¹⁷⁶ The Monitor specifically addressed this type of reporting issue with the AT during the TA on Report Writing provided to the DPD AT in November 2006 and during the Monitor's evaluation of other recently submitted audits.

¹⁷⁷ The Monitor reviewed all five investigations evaluated by the AT in this audit.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraph C65b.

C65c – Allegations of Misconduct in Holding Cells

In order to assess the DPD's compliance with subparagraph C65a, the Monitor reviewed the *Allegations of Misconduct in Holding Cells (AOMHC) Audit* submitted by the DPD's AT on January 31, 2007. The Monitor also conducted an assessment of the audit work plan, fieldwork and working papers related to this audit.

The Monitor's findings, which were discussed with the DPD's AT, are highlighted below:

- The AT identified three closed investigations, conducted by IA, of allegations of misconduct relating to incidents that occurred in holdings cells from March 1 through August 31, 2006. All investigations were tested (i.e. sampling was not employed) due to the small number of investigations.
- Although the Commands conducted 175 allegations of misconduct (AOM) investigations, there were no incidents in holding cells. The AT reported that identifying a complete population of Command investigations continues to be problematic due to the inconsistencies and lack of a systematic tracking system at the Command level. Additionally, the DPD relies solely on DPD members to self-report allegations of misconduct and self-initiate misconduct investigations. For these reasons, the AT correctly articulated that they could not determine, to any degree of certainty, whether all AOM investigations for Commands were included for review.
- The AT appropriately tested all substantive paragraphs (paragraphs U27-33, U61, U65-67, and U69) related to these incidents. As a result of this testing, the AT appropriately found the applicable investigations in compliance with the requirements related to *proper assignment* (as required by paragraph U61 and subparagraphs U67a-c) and *proper resolution* (as required by subparagraphs U69a-d), and in non-compliance with all other Consent Judgment requirements tested.
- The AT's working papers were well-organized and supported the AT's findings. The working papers also demonstrated sufficient testing of the elements necessary to conclude on each objective.
- The audit report was submitted on a timely basis and was improved from prior reports in that it was concise, made good use of tables and had few grammatical and spelling errors. The Monitor noted some reporting errors within the Executive Summary, such as incorrect compliance rates. However, the impact of these errors was not significant, as the AT correctly reported overall non-compliance.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraph C65c.

Recommendations

The Monitor noted similarities in the *Prisoner Injuries in Holding Cells Audit* submitted by the AT on January 31, 2007 and the *Prisoner Injuries Audit* conducted pursuant to subparagraph U94b. In planning and completing future Prisoner Injury Audits, the Monitor recommends that the auditors coordinate their reviews, including methodologies, population identification, audit work and other relevant work and audit strategies.

Paragraph C66 – Holding Cell Compliance Committee Responsibilities

Paragraph C66 requires the DPD to form a HCCC that is responsible for assuring compliance with the relevant provisions of the COC CJ. This paragraph also requires the HCCC to conduct regularly scheduled semi-annual audits of all facilities that house holding cells to evaluate and report upon compliance with the fire detection, suppression and evacuation program as detailed in the COC CJ.¹⁷⁸

For ease of reporting, the Monitor has split paragraph C66 into the following two subparagraphs:

C66a - HCCC to Assure Compliance with the COC CJ

C66b - HCCC Fire Safety Audit

Background

The Monitor last assessed the DPD's compliance with subparagraph C66a during the quarter ending February 28, 2007, finding the DPD in non-compliance. Although all six audits required to be conducted by the HCCC were submitted by the DPD during that quarter, the HCCC's involvement during the conduct of the audits was limited or, for at least one of the audits, non-existent. In addition, through a review of the audits' findings, the Monitor noted that many of the COC CJ policies had not yet been implemented.¹⁷⁹

During the quarter ending February 28, 2007, the DPD submitted the *Fire Safety Audit Report*, required by subparagraph C66b, on the required due date of January 31, 2007. The Monitor had not yet completed its review of that audit at the end of that quarter. The Monitor found the DPD's previous *Fire Safety Audit Report*, submitted on July 31, 2006, in non-compliance due primarily to the fact that it did not include the inspection and testing of a sample of the Smoke Alarm Systems, Fire Alarm Systems, and Sprinkler Systems, which is an essential audit

¹⁷⁸ The scope of such audits must include an evaluation of the smoke detectors and sprinklers, the back-up power systems, and the DPD's fire equipment.

¹⁷⁹ The Monitor is scheduled to again assess the DPD's compliance with subparagraph C66a during the quarter ending August 31, 2007.

requirement. The Monitor also noted that the report contained deficiencies that made certain findings difficult to comprehend.

Current Assessment of Compliance

C66b - HCCC Fire Safety Audit

During the current quarter, the Monitor completed its evaluation of the *Fire Safety Audit Report* submitted by the DPD on January 31, 2007. The Monitor also reviewed the working papers, including the audit work plan, completed audit matrices, crib sheets, and other related documents.

The Monitor's findings, which were discussed with the DPD's HCCC/AT, are highlighted below:

- The DPD submitted this audit report in a timely manner, and the audit was appropriately conducted by members of the HCCC, assisted by the DPD's AT. The audit report was a great improvement over previously submitted reports and incorporated many elements of the Report Writing TA provided by the Monitor.
- The AT conducted on-site inspections of each building containing holding cells during the audit period of November 2 through 23, 2006 and reviewed documentation, when present, for the same time period. The AT also reviewed documentation for back-up power systems during the month of October 2006 and reviewed training records for all of 2006.
- The audit appropriately included assessments of all substantive paragraphs related to this topic. Notably, this was the first audit to include inspections and testing of the fire safety equipment, as required by subparagraph C66b. The DPD appropriately contracted a licensed, independent examiner to conduct such testing.
- The HCCC/AT correctly assessed the DPD's compliance with all related paragraphs, finding the DPD in compliance with subparagraphs C18b-c and paragraphs C20-21,¹⁸⁰ and in non-compliance with the remaining requirements contained in paragraphs C14-22 and subparagraph C75b. These non-compliant paragraphs include the implementation of the Fire Safety Plan¹⁸¹ and the associated training of DPD members.
- The HCCC/AT's working papers were well-organized and demonstrated sufficient testing of the elements necessary to conclude on each objective. However, the Monitor did note that the AT's working papers lacked documentation regarding some inspections conducted by

¹⁸⁰ These paragraphs' requirements include back-up power systems; ability for detainee's to communicate emergencies to DPD staff; enforcement of the no-smoking policy, and proper storage of flammable liquids.

¹⁸¹ The HCCC/AT did not test the implementation of all aspects of the Fire Safety Program due to the early determination of non-compliance.

outside contractors. Although this documentation was not critical to the Monitor's review of this particular audit; the HCCC/AT was advised that in future audits this documentation should be retained for review.

- The HCCC/AT included a number of valid recommendations that will assist the DPD in moving towards compliance.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraph C66b.

Recommendations

In future audits, the HCCC/AT should consider testing the implementation of any portions of the Fire Safety Program that have been instituted in the Districts according to the HCCC. This would provide information and feedback to District COs and assist with the furtherance of the DPD's compliance with the Fire Safety requirements.¹⁸²

Given the close nature and common subject areas covered in the Fire Safety Program and Emergency Preparedness Program audits, the HCCC/AT should consider combining them to reduce redundancy in testing and reporting. At a minimum, the AT should combine the overlapping portions of testing (e.g. fire drills and assessment of evacuation procedures).

Paragraph C67- Audit of Emergency Preparedness Program

Paragraphs C67 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's Emergency Preparedness Program (EPP) for all DPD buildings that contain holding cells.

Background

The Monitor last assessed the DPD's compliance with paragraph C67 during the quarter ending August 31, 2006, finding the DPD in non-compliance, as it had not submitted the required audit for the semi-annual period ending July 31, 2006.

The DPD submitted the *Emergency Preparedness Program Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, as of the end of the previous quarter, the Monitor had not completed its evaluation of this audit or the DPD's compliance with subparagraph C67.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C67, the Monitor reviewed the *Emergency Preparedness Program Audit Report* submitted by the DPD on January 31, 2007,

¹⁸² During discussions with the Monitor, the AT agreed with the Monitor's recommendation.

along with the audit working papers, including the audit work plan, completed audit matrices, crib sheets, and other related documents.

The Monitor's findings, which were discussed with the DPD's AT, are highlighted below:

- The audit report was submitted in a timely manner and was appropriately conducted by members of the HCCC with expertise in Emergency Management, as required by the COC CJ, with assistance from the DPD's AT. The audit report was improved over previous reports submitted, and incorporated elements of the Report Writing TA provided by the Monitor.
- The AT appropriately conducted document reviews where possible, and conducted onsite staff interviews and table-top exercises. The exercises included emergency scenarios to assess the knowledge of detention area staff regarding their respective responsibilities as described in the EPP. The AT conducted these onsite visits during the period of November 7 through December 12, 2006. The Monitor noted some areas for improvement in these interviews and exercises however these areas did not impact the overall quality of the audit report.¹⁸³
- The audit appropriately covered all of the above specific requirements including testing of all of the substantive paragraphs related to this topic (C23-25). In addition, the AT assessed the DPD's compliance with the annual training as required by paragraph C75.
- As a result of the above testing, the HCCC/AT correctly assessed the DPD's compliance with all related paragraphs, finding the DPD in non-compliance with all of the requirements contained in paragraphs C23-25 and C75. The Monitor was able to reconcile the findings reported for each of the above audit objectives to the supporting work papers and reports and found them to be well-formatted, and well-organized. Therefore, the Monitor agrees with the AT's findings of non-compliance for these paragraphs.
- The HCCC/AT included a number of valid recommendations that will assist the DPD in moving towards compliance with paragraph C23-25 and C75. The AT correctly identified a number of necessary revisions to the EPP and included a recommendation addressing them, such as the inclusion of the duties of the newly created position of cell-block supervisor and a need to standardize the EPP for each District. However, the AT did not test the cell block supervisors for cell door key recognition and ability to manually unlock cell doors. Although this is a newly created position, the cell block supervisors are "staff" (as described in paragraph C25) and are responsible for the holding cell area, the AT should include them in future testing in relation to the key control polices.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C67.

¹⁸³ These areas were described in a memorandum the Monitor provided to the AT and are addressed in the Recommendations section of this report, below.

Paragraph C68 – Audit of Medical/Mental Health Programs and Policies

Paragraph C68 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's medical/mental health programs and policies for all DPD buildings that contain holding cells.

Background

In the previous quarter (the quarter ending February 28, 2007), the Monitor found the DPD non-compliant with the requirements of paragraph C68 because the *Medical and Mental Health Care Programs and Policies Audit Report* submitted by the DPD on January 31, 2007 was not conducted by the HCCC, as specifically required by paragraph C68 and the DPD's Audit Protocol.

Current Assessment

Even though the *Medical and Mental Health Care Programs and Policies Audit Report* submitted by the DPD on January 31, 2007 was found non-complaint last quarter, the Monitor evaluated this audit further, by reviewing the audit report, supporting documents and audit working papers. The Monitor's findings, which were discussed with the DPD's AT, are highlighted below:

- The Monitor identified numerous inconsistencies/errors between the audit report and the audit working papers, as well as in connection with the AT's assessment of the medical and mental health screening and hospital referral forms.
- As described in the Monitor's Report for the Quarter Ending February 28, 2007, according to the AT, this report had only a limited supervisory review. As a result, the following types of issues were not addressed before issuing the final report: the report incorrectly referenced the error rates to which certain findings were tested; the report text contained contradictory statements and findings relative to at least one objective; and, many of the tables within the report were incomplete.
- Overall the Monitor confirmed that the AT appropriately concluded that the DPD was non-compliant with paragraphs C27-33.

Paragraph C69 – Audit of Detainee Safety Programs and Policies

Paragraph C69 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's detainee safety programs and policies for all DPD buildings containing holding cells.

Background

During the quarter ending February 28, 2007, the DPD submitted the *Detainee Safety Programs and Policies Audit Report*, required by subparagraph C69, on the required due date of January 31, 2007. The Monitor had not completed its review of this audit as of the end of that quarter.

In its Report for the Quarter Ending August 31, 2006, The Monitor found the DPD's *Detainee Safety Programs and Policies Audit*, submitted on July 31, 2006, in non-compliance due to qualitative deficiencies.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C69, the Monitor reviewed the *Detainee Safety Programs and Policies Audit Report*, which was submitted to the Monitor on the required due date of January 31, 2007, and related work plan. The Monitor's findings, which were discussed with the DPD's AT, are highlighted below:

- The Monitor determined that this audit was conducted solely by members of the DPD AT, and did not include members of the HCCC, as specifically required by paragraph C69¹⁸⁴ and the DPD's Audit Protocol. As a result, this audit is non-compliant with the paragraph. Despite this early determination of non-compliance, the Monitor conducted an assessment of the methodology and fieldwork in order to provide the AT with feedback.
- The audit report was submitted by the required due date of January 31, 2007, and properly evaluated all of the substantive paragraphs related to this topic (paragraphs C35-38 and C77). The Monitor concurred with the AT's findings that the DPD was non-compliant with each of these paragraphs.
- The Monitor identified minor inconsistencies between the audit report and the audit working papers and a few errors with regard to AT's assessment of the underlying documents. These errors did not impact the reliability of the conclusions in the audit.
- According to the AT, this report had only a limited supervisory review, which had an adverse impact on the quality of the audit report. For example, cut and paste errors and incorrect references to pages, tables, and charts were not identified and corrected prior to the report's issuance.

Based on the foregoing, the Monitor finds the DPD non-compliance with paragraph C69.

¹⁸⁴ In the preliminary meeting held on April 25, 2007, the AT specifically stated that the HCCC did not contribute or conduct any part of the audit field work or report review.

Paragraph C72 – Audit Reporting Requirements

Paragraph C72 requires the results of each of the COC CJ audits to be submitted via a written report to the Chief of Police and all precinct and specialized division commanders. Paragraph C72 also requires commanders to take disciplinary or non-disciplinary corrective action, when appropriate, regarding employees under their command.

Background

The Monitor last assessed the DPD's compliance with paragraph C72 during the quarter ending November 31, 2006, finding the DPD in non-compliance. The HCCC had submitted audits required by the COC CJ in July 2006 and the Monitor had requested the associated documentation in response to this paragraph. However, as of the end of that quarter the Monitor had not received any documentation evidencing the transmittal of audit reports to the Chief of Police and appropriate COs, or any documentation evidencing any corrective action taken in connection with the audits.

Current Assessment of Compliance

On January 31, 2007, the DPD submitted to the Monitor all nine audit reports required by the COC CJ. Upon receiving these audit reports, the Monitor again requested documentation to support the transmittal to and actions of the Chief of Police and/or appropriate COs.¹⁸⁵ As of the end of the current quarter, the Monitor had not received the requested documentation.¹⁸⁶

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C72.

¹⁸⁵ On April 18, 2007, the Monitor sent a reminder regarding its standing document request for materials specifically related to documentation evidencing the submission of the audits to the Chief of Police or the precinct and specialized division commanders.

¹⁸⁶ Refer to the Current Assessment of Compliance for paragraph U93 for additional information regarding the DPD's intended use of the CAN reporting system to track CO actions in connection with audit findings.

XIV. TRAINING

This section of the COC CJ (paragraphs C73-78) requires the DPD to provide all detention officers with comprehensive training, maintain individual training records, provide training in key areas such as emergency response, intake and medical protocols, safety programs, maintenance protocols, and food preparation and delivery protocols.¹⁸⁷

The Monitor last assessed the DPD's compliance with paragraphs C73, 75-78 during the quarter ending February 28, 2007. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

The Monitor last assessed the DPD's compliance with paragraph C74 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with the paragraph during the current quarter. The results of our current assessments follow.

Paragraph C74 – Individual Training Records

Paragraph C74 requires the DPD to create and maintain individual training records for all detention officers, documenting the date and topic of all pre-service and in-service training completed on or after the effective date of the COC CJ.

Background

The Monitor last assessed the DPD's compliance with paragraph C74 during the quarter ending November 30, 2006, finding the DPD in non-compliance. The DPD indicated that it was continuing to enter training records into the Michigan Commission on Law Enforcement Standards (MCOLES) Information Tracking Network (MITN) as an interim method for tracking DPD training records for sworn personnel. However, all of the training records required by this paragraph have not been entered into MITN. Furthermore, although the DPD plans to use its MAS in order to maintain training records, the DPD had not fully implemented the MAS as an operational component for tracking and documenting individual training records for all officers.

Current Assessment of Compliance

According to the DPD, they have continued to enter training records into MITN to track DPD sworn personnel training. However, the vast majority of the training records that meet the requirements of this paragraph have not been entered into MITN. In addition, lack of staffing

¹⁸⁷ Refer to the UOF CJ training section in this report for additional information regarding DPD training-related issues.



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and staff training for data entry personnel severely limits the number of training records entered into the MITN system. According to the DPD, the department ultimately plans to use its MAS in order to maintain training records. However, as reported by the Monitor in previous quarters and herein, the DPD has not yet fully developed or implemented the MAS.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C74.

XV. MONITORING AND REPORTING

Paragraph C94 requires the DPD to reopen for further investigation any investigation the Monitor determines to be incomplete, subject to certain restrictions. See paragraph U139, which is the corresponding paragraph in the UOF CJ, for information regarding the requirements of this paragraph.



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CONCLUSION

The issuance of this report will coincide with the end of the two year extension of the COC CJ. Furthermore, the original five-year term of the UOF CJ will expire one year from now. The Monitor understands that accomplishing change within a law enforcement department is difficult. Unfortunately, despite continued efforts toward compliance by the DPD, assessments by the Monitor and evaluations by the DPD AT revealed that the City and the DPD did not effectively implement the vast majority of the policies and procedures that were assessed this quarter. Training and instruction is one of the keys to the effective implementation of these policies and procedures. The Monitor expects that the impending start of the DPD's Roll Call Training Program and E-Learning Platform will greatly assist the Department in achieving compliance with the implementation requirements of the Consent Judgments.

Sheryl Robinson Wood
Independent Monitor

July 16, 2007

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APPENDIX A:

Acronyms Frequently Utilized in Quarterly Reports Issued by the Independent Monitor for the DPD

Following is a listing of acronyms utilized in the Independent Monitor's Quarterly Reports.

ACRONYM	DEFINITION
A&D	Arrest and Detention
AT	Audit Team
BOPC	Board of Police Commissioners
BOR	Board of Review
BRT	Board Review Team
CALEA	Commission on Accreditation for Law Enforcement Agencies
CAN report	Corrective Action Needed report
CCR	Citizen Complaint Report
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
CME	Confidential Medical Envelopes



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CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRD	Civil Rights Division
CRIB	Civil Rights Integrity Bureau
CSU	Communications Systems Unit
DAS	Disciplinary Administration Section
DDOH	Detroit Department of Health
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO	Detention Facility Officer
DHWP	Detroit Health and Wellness Promotion
DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DPR	Daily Prisoner Report
DRH	Detroit Receiving Hospital
ECD	Emergency Communications Division
EPP	Emergency Preparedness Program
FI	Force Investigation
FIS	Force Investigation Section
FIU	Force Investigation Unit
FRT	Force Review Team



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FSP	Fire Safety Program
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IACP	International Association of Chiefs of Police
IA	Internal Affairs
IAD	Internal Affairs Division
IAS	Internal Affairs Section
ICD	Internal Controls Division
IM	Independent Monitor
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
LP	Lesson Plan
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MIF	Medical Intake Form
MIOSHA	Michigan Occupational Safety and Health Administration
MITN	MCOLES Information and Tracking System
MSP	Michigan State Police
OCI	Office of the Chief Investigator
OIC	Officer in Charge
OCR	Office of Civil Rights



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PAB	Professional Accountability Bureau
PAIR	Police Action Incident Report
PCR	Preliminary Complaint Report
PDO	Police Detention Officer
PSA	Public Service Announcement
RFP	Request for Proposals
RMB	Risk Management Bureau
RMG	Risk Management Group
SCBA	Self-Contained Breathing Apparatus
SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
USAO	United States Attorney's Office
UOF	Use(s) of Force
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
WCPO	Wayne County Prosecutor's Office
WCSO	Wayne County Sheriff's Office
WIQD	Witness Identification and Questioning Documentation

REPORT OF THE INDEPENDENT MONITOR FOR THE DETROIT POLICE DEPARTMENT

"Report Card" Summarizing the Monitor's
Evaluation of Compliance with the Consent Judgments
as of the Quarter Ending May 31, 2007

		ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					EVALUATION TIMING		Comments re: Last Evaluation	
		Mar '07- May '07	Dec '06- Feb '07	Sep '06- Nov '06	Jun '06- Aug '06	Mar '06- May '06	Status as of Last Eval'n	Last Eval'n Quarter Ending		Next Expected Eval'n Q/E
I. DEFINITIONS										
	U1								No monitoring requirements	
II. GENERAL PROVISIONS										
	U2 - 13								No monitoring requirements	
III. USE OF FORCE POLICY										
A. General Use of Force Policies										
	U14 Revision of Policy (Definition of UOF)					✓	✓	May-06	-	In Compliance - "Policy-only" paragraph
	U15 Use of Force Continuum					✓	✓	May-06	-	In Compliance - "Policy-only" paragraph
	U16 Opportunity to Submit					✓	✓	May-06	-	In Compliance - "Policy-only" paragraph
	U17 Prohibition on Choke Holds					✓	✓	May-06	-	In Compliance - "Policy-only" paragraph
	U18 Revision / Implementation of Policy within 3 Months	✗				NYE	✗	May-07	TBD	
	U19 Strike to Head Equals Deadly Force					✓	✓	May-06		In Compliance - "Policy-only" paragraph
B. Use of Firearms Policy										
	U20 Firearms Qualification Requirement				✓		✓	Aug-06	Aug-07	In Compliance - "Policy-only" paragraph
	U21 Failure to Re-Qualify				NYE		NYE	Aug-06	Aug-07	In compliance with policy requirements
	U22 Moving Vehicle Firing Policy				DW		DW	Aug-06	Aug-07	In compliance with policy requirements
	U23 Authorized Ammunition				✗		✗	Aug-06	Aug-07	In compliance with policy requirements
C. Intermediate Force Device Policy										
	U24 Intermediate Force Device				NYE		NYE	Aug-06	Aug-07	In compliance with policy requirements
D. Chemical Spray Policy										
	U25 Requirements of Policy				✗		✗	Aug-06	Aug-07	In compliance with policy requirements
	U26 Prohibition Relative to Handcuffed Prisoners				✗		✗	Aug-06	Aug-07	In compliance with policy requirements
IV. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW										
A. General Investigations of Police Action										
	U27 Revision of General Investigation Policies	✗	NYE		✗		✗	May-07	Nov-07	In compliance with policy requirements
	U28 Who May Conduct Investigations	✗	NYE		✗		✗	May-07	Nov-07	In compliance with policy requirements
	U29 Requirements of Policy	✗	NYE		✗		✗	May-07	Nov-07	In compliance with policy requirements
	U30 Prohibited Methods	✗	NYE		NYE		✗	May-07	Nov-07	In compliance with policy requirements
	U31 Protocol for Garrity Statements	✓	NYE		NYE		✓	May-07	Nov-07	In compliance with policy requirements
	U32 Report Requirements	✗	NYE		✗		✗	May-07	Nov-07	In compliance with policy requirements
	U33 Review Requirements	✗	NYE		✗		✗	May-07	Nov-07	In compliance with policy requirements

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		Mar '07- May '07	Dec '06- Feb '07	Sep '06- Nov '06	Jun '06- Aug '06	Mar '06- May '06	Status as of Last Eval'n	Last Eval'n Quarter Ending		Next Expected Eval'n Q/E
B. Use of Force and Prisoner Injury Investigations										
U34	Documentation of UOF and Prisoner Injury	X		X		NYE	X	May-07	Nov-07	In compliance with policy requirements
U35	Notification Requirements	X	NYE	NYE		NYE	X	May-07	Nov-07	In compliance with policy requirements
U36	Command Investigation Timelimits	X	NYE	NYE		NYE	X	May-07	Nov-07	In compliance with policy requirements
C. Review of Critical Firearm Discharges and In-Custody Deaths										
U37	Creation of Shooting Team	✓		X		NYE	✓	May-07	Nov-07	
U38	Protocol for Investigations of Critical Firearms Discharges	X		X		NYE	X	May-07	Nov-07	In compliance with policy requirements
U39	Command Level Force Review Team	X		X		NYE	X	May-07	Nov-07	In compliance with policy requirements
U40	Time Limits for Command Level Force Review Team	X		X		NYE	X	May-07	Nov-07	In compliance with policy requirements
U41	Aggregate Review	X		X		X	X	May-07	Nov-07	In compliance with policy requirements
V. ARREST AND DETENTION POLICIES AND PRACTICES										
A. Arrest Policies										
U42	Revision of Arrest Policies					✓	✓	May-06	-	In Compliance - "Policy-only" paragraph
U43	Review of All Arrests	X		X		X	X	May-07	Nov-07	
B. Investigatory Stop Policies										
U44	Revision of Policies						✓	May-05	-	In Compliance - "Policy-only" paragraph
U45	Documentation Requirement	X		X		X	X	May-07	Nov-07	
C. Witness Identification and Questioning Policies										
U46	Revision of Policies						✓	May-05	-	In Compliance - "Policy-only" paragraph
U47	Submission to DOJ within 3 months						✓	May-05	-	In Compliance - "Policy-only" paragraph
U48	Documentation of Interviews and Interrogations	X		X		X	X	May-07	Nov-07	
D. Prompt Judicial Review Policies										
U49	Revision of Policies and Requirement of Arraignment within 48 Hours		✓		X		✓	Feb-07	Aug-07	
U50	Requirement of Warrant Request		X		X		X	Feb-07	Aug-07	
U51	Documentation of Late Request for Arraignment Warrants		✓		X		✓	Feb-07	Aug-07	
E. Hold Policies										
U52	Revision of Policies						✓	Feb-06	-	In Compliance - "Policy-only" paragraph
U53	Documentation of all Holds		X		X		X	Feb-07	Aug-07	
F. Restriction Policies										
U54	Development of Restriction Policies						✓	Feb-06	-	In Compliance - "Policy-only" paragraph
U55	Documentation of Restrictions		X		X		X	Feb-07	Aug-07	

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	Mar '07- May '07	Dec '06- Feb '07	Sep '06- Nov '06	Jun '06- Aug '06	Mar '06- May '06	Status as of Last Eval'n	Last Eval'n Quarter Ending		Next Expected Eval'n Q/E
G. Material Witness Policies									
U56	Revision of Material Witness Policies					✓	Feb-06	-	In Compliance - "Policy-only" paragraph
U57	Requirement of Court Order	✓		✓		✓	Feb-07	Aug-07	
H. Documentation of Custodial Detention									
U58	Arrest and Detention Documentation	X	X		X	X	May-07	Nov-07	
I. Command Notification									
U59	Time Limits for Written Reporting of Violations	X	X		X	X	May-07	Nov-07	
U60	Daily Reporting Requirement		X	X		X	Feb-07	Aug-07	In compliance with policy requirements
VI. EXTERNAL COMPLAINTS									
U61	Revision of External Complaints Policies	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
U62	Informational Campaign								
	a. Informing persons about filing complaints								Subparagraph not separately assessed
	b. Distribution of material	✓	✓		X	✓	May-07	Nov-07	
	c. Complaint Process Broadcasts	✓	✓		✓	✓	May-07	Nov-07	
	d. Informational Campaign Placards	✓	✓		✓	✓	May-07	Nov-07	
U63	Informational Brochures and Contact Forms	✓	✓		✓	✓	May-07	Nov-07	
A. Intake and Tracking									
U64	Policies Regarding Intake and Tracking	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
U65	Factual Account by Intake Officer	NYE	NYE		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
U66	Unique Identifier	NYE	NYE		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
B. External Complaint Investigation									
U67	a. Complaints referred for investigation	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
	b. Informal resolution of certain complaints	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
	c. Refer within five business days	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
	d. Complainant informed of complaint status	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
	e. Written criteria for investigator applicants	NYE	DW		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
	f. Pre-service and in-service training	NYE	X		X	NYE	May-07	Nov-07	
	g. Complete investigations within 60 days	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
	h. Complainant notified of outcome.	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
U68	External Complaint Review Process Time Limits	NYE	X		NYE	NYE	May-07	Nov-07	In compliance with policy requirements
U69	External Complaint Dispositions	NYE	NYE		NYE	NYE	May-07	Nov-07	In compliance with policy requirements

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VII. GENERAL POLICIES									
U70		X	X		X	X	May-07	Nov-07	In compliance with policy requirements
U71	✓		✓		X	✓	May-07	Nov-07	
U72		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U73		X	X	DW		X	Feb-07	Aug-07	
U74		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U75		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U76		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U77		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
VIII. MANAGEMENT AND SUPERVISION									
U78				X		X	Aug-06	-	Subparagraphs separately assessed beg. Feb 2007
a.		X				X	Feb-07	Aug-07	
b.							-	Aug-07	To be assessed in conjunction with U91
c.		X				X	Feb-07	Aug-07	
d.		✓				✓	Feb-07	Aug-07	
e.		X				X	Feb-07	Aug-07	
A. Risk Management Database									
U79		X	X		X	X	May-07	Nov-07	
U80		X	X		X	X	May-07	Nov-07	
U81		X	X		X	X	May-07	Nov-07	
U82	✓		✓		X	✓	May-07	Nov-07	
U83						✓	Nov-05	-	
U84						✓	Aug-05	-	
U85		X		X		X	Feb-07	Aug-07	
U86		X	X		X	X	May-07	Nov-07	
U87		X	X		X	X	May-07	Nov-07	
U88									
a.			✓		X	✓	Nov-06	-	
b.						✓	Nov-05	-	
c.	-		DW		DW	-	May-07	-	Monitoring discontinued Q/E May 31, 2007
d.						✓	Aug-05	-	
e.		✓		X		✓	Feb-07	-	

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U88	f. Beta Version of Risk Management Database		X		X		X	Feb-07	Aug-07	
	g. Risk Management Database Operational		X		X		X	Feb-07	Aug-07	
U89	Interim System to Detect Patterns of Behavior		X		X		X	Feb-07	Aug-07	
U90	Modification Protocol						NYE			Compliance will be assessed as needed
B. Performance Evaluation System										
U91	Performance Evaluations				X		X	Aug-06	Aug-07	In compliance with policy requirements
C. Oversight										
U92	Audit Protocol			✓	DW		✓	Nov-06	Aug-07	
U93	Audit Reporting Requirements	X		X			X	May-07	Nov-07	
U94	a. UOF Investigations Audit	X		X	X	X	X	May-07	Aug-07	[2] Audit of this topic has never been submitted
	b. Prisoner Injuries Investigations Audit	X	NYE	X	X	X	X	May-07	Feb-08	
	c. Misconduct Investigations Audit			X	NYE		X	Nov-07	Nov-07	
U95	a. Arrest Practices Audit	NYE			X		NYE	May-07	Aug-07	
	b. Stop and Frisk Audit			X	NYE		X	Nov-06	Nov-07	
	c. Witness Identification and Questioning Audit				X		X	Aug-06	Nov-07	
U96	Audit of Custodial Detention Practices	NYE			X		NYE	May-07	Aug-07	
U97	OCI External Complaints Investigations Audit			X	NYE		X	Nov-06	Nov-07	
U98	Videotape Reviews		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U99	Regular Meetings with Prosecutors	✓		✓		✓	✓	May-07	Nov-07	
D. Use of Video Cameras										
U100	Repair or Replacement of Video Cameras		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U101	Revision of Video Camera Policy		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
U102	Video Camera Recording Requirements		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
F. Discipline										
U103	Elimination of Backlogs		X		NYE		X	Feb-07	Aug-07	
U104	Steps to Prevent Backlog		DW		DW		DW	Feb-07	Aug-07	
U105	Creation of Disciplinary Matrix		✓		NYE		✓	Feb-07	Aug-07	
IX. TRAINING										
A. Oversight and Development										
U106	Review of all UOF and Arrest and Detention Training	X		X		X	X	May-07	Nov-07	
U107	Michigan Law Enforcement Officers Training Council Standards	X		X		X	X	May-07	Nov-07	
U108	Individual Training Records	X		X		X	X	May-07	Nov-07	

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U109 Approved Lesson Plans / Scenario-Based Training	X		X		X	X	May-07	Nov-07	
U110 Civil Lawsuits	✓		✓		✓	✓	May-07	Nov-07	
U111 Distribution and Explanation of the UOF CJ	X		X		X	X	May-07	Nov-07	
B. Use of Force Training									
U112 Annual UOF Training	X		X		X	X	May-07	Nov-07	
C. Firearms Training									
U113 Firearms Training Protocol	X		X		X	X	May-07	Nov-07	
D. Arrest and Police-Citizen Interaction Training									
U114 Annual Arrest and Police-Citizen Interaction Training	X		X		X	X	May-07	Nov-07	
E. Custodial Detention Training									
U115 Annual Custodial Detention Training		X		X		X	Feb-07	Aug-07	
U116 Advise Officers not to Delay Arraignment		X		X		X	Feb-07	Aug-07	
U117 Advise that Materiality of Witness is Judicial Determination		X		X		X	Feb-07	Aug-07	
F. Supervisory Training									
U118 Training on the Evaluation of Written Reports		X		X		X	Feb-07	Aug-07	
U119 Leadership and Command Accountability Training		X		X		X	Feb-07	Aug-07	
U120 Risk Assessment Training Requirement		X		X		X	Feb-07	Aug-07	
G. Investigator Training									
U121 Training for Evaluating Credibility		X		X		X	Feb-07	Aug-07	
U122 Handling External Complaints		X		X		X	Feb-07	Aug-07	
H. Field Training									
U123 Enhancement of FTO Program		X		NYE		X	Feb-07	Aug-07	In compliance with policy requirements
X. MONITORING, REPORTING, AND IMPLEMENTATION									
U124 - 138									No monitoring requirements
U139 Reopening of Investigations Deemed Incomplete	-					-	May-07	-	Monitoring discontinued Q/E May 31, 2007
U140 - 154									No monitoring requirements

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CONDITIONS OF CONFINEMENT CONSENT JUDGMENT									
I. DEFINITIONS									
C1									No monitoring requirements
II. GENERAL PROVISIONS									
C2 - 13									No monitoring requirements
III. FIRE SAFETY POLICIES									
C14	Life Safety Code Compliance			X			X	Nov-06	Aug-07
C15	Detection, Suppression and Evacuation Programs			X			X	Nov-06	Aug-07
C16	Fire Safety Program Development			X			X	Nov-06	Aug-07
C17	Fire Safety Program Implementation			X			X	Nov-06	Aug-07
C18	Fire Safety Interim Measures			X			X	Nov-06	Aug-07
C19	Safety Equipment Testing			X			X	Nov-06	Aug-07
C20	Smoking Policy			✓			✓	Nov-06	Aug-07
C21	Storage of Flammable Liquids			✓			✓	Nov-06	Aug-07
C22	Removal of Cane Ceiling Tiles						✓	Aug-05	-
IV. EMERGENCY PREPAREDNESS POLICIES									
C23	Ensure Safety Level			X			X	Nov-06	Aug-07
C24	Emergency Preparedness Program Development			X			X	Nov-06	Aug-07
C25	Key Control Policies			X			X	Nov-06	Aug-07
V. MEDICAL AND MENTAL HEALTH CARE POLICIES									
C26	Identification and Response for Special Needs	X			X		X	May-07	TBD
C27	Screening Program Development	X			X		X	May-07	TBD
C28	Minimum Standards for Screening Program	X			X		X	May-07	TBD
C29	Minimum Standards for Medical Protocols	X			X		X	May-07	TBD
C30	Infectious Disease Policy	X			DW		X	May-07	TBD
C31	Prisoner Health Information Protocol	X			X		X	May-07	TBD
C32	Prescription Medication Policy	X			X		X	May-07	TBD
C33	Suicide Watch Garb	✓			X		✓	May-07	TBD
C34	Suicide Hazard Removal	✓			✓		✓	May-07	TBD
VI. PRISONER SAFETY POLICIES									
C35	Ensure Safety Level			X			X	Nov-06	Aug-07
C36	Security Screening of Prisoners			DW			DW	Nov-06	Aug-07
C37	Cell Check Policies			X			X	Nov-06	Aug-07
C38	Observation Cell Policy			X			X	Nov-06	Aug-07

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VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES									
C39		✓			✓	✓	Feb-07	Aug-07	
C40		✗			NYE	✗	Feb-07	Aug-07	In compliance with policy requirements
C41		✗			NYE	✗	Feb-07	Aug-07	In compliance with policy requirements
C42		✓			✓	✓	Feb-07	Aug-07	
		✓			✓	✓	Feb-07	Aug-07	
C43		✓			✓	✓	Feb-07	Aug-07	
C44		✓			✗	✓	Feb-07	-	
C45		✓			✓	✓	Feb-07	Aug-07	
C46						✓	Aug-05	-	
VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES									
C47	✗			✗		✗	May-07	TBD	
C48	✗			✗		✗	May-07	TBD	
IX. FOOD SERVICE POLICIES									
C49		✗			✗	✗	Feb-07	Aug-07	In compliance with policy requirements
C50		✗			✗	✗	Feb-07	Aug-07	In compliance with policy requirements
X. PERSONAL HYGIENE POLICIES									
C51		✗			NYE	✗	Feb-07	Aug-07	In compliance with policy requirements
XI. USE OF FORCE AND RESTRAINTS POLICIES									
C52		NYE		✗		NYE	Feb-07	Aug-07	In compliance with policy requirements
C53		NYE		✗		NYE	Feb-07	Aug-07	In compliance with policy requirements
C54		NYE		NYE		NYE	Feb-07	Aug-07	In compliance with policy requirements
XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW									
C55		NYE		✗		NYE	Feb-07	Aug-07	In compliance with policy requirements
C56		NYE		✗		NYE	Feb-07	Aug-07	In compliance with policy requirements
C57		NYE		NYE		NYE	Feb-07	Aug-07	In compliance with policy requirements
XIII. EXTERNAL COMPLAINTS									
C58	NYE		NYE			NYE	May-07	TBD	In compliance with policy requirements
C59	NYE		NYE			NYE	May-07	TBD	In compliance with policy requirements
XIV. GENERAL POLICIES									
C60	✗		✗		✗	✗	May-07	TBD	In compliance with policy requirements
C61	✓		✓		✗	✓	May-07	TBD	

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XV. MANAGEMENT AND SUPERVISION										
C62	Regular Operation Evaluation		X		X		X	Feb-07	Aug-07	
C63	Operation in Compliance with Risk Management Plan				X		X	Aug-06	-	Subparagraphs separately assessed beg. Feb 2007
	a. Risk Management Database (paragraphs 79-90)		X				X	Feb-07	Aug-07	
	b. Performance Evaluation System (paragraph 91)							-	Aug-07	
	c. Auditing Protocol (paragraphs 92-99)		X				X	Feb-07	Aug-07	
	d. Regular and Periodic Review of All DPD Policies		✓				✓	Feb-07	Aug-07	
	e. Regular meetings of DPD managementDPD		X				X	Feb-07	Aug-07	
C64	Video Camera Policy		X		X		X	Feb-07	Aug-07	In compliance with policy requirements
C65	a. Holding Cell UOF Investigations Audit	X	NYE		X		X	May-07	Aug-07	
	b. Holding Cell Prisoner Injuries Investigations Audit	✓	NYE		X		✓	May-07	Aug-07	
	c. Holding Cell Misconduct Investigations Audit	✓	NYE		✓		✓	May-07	Aug-07	
C66	a. HCCC to Assure Compliance with COC CJ		X		X		X	Feb-07	Aug-07	
	b. HCCC Fire Safety Audit	✓	NYE	X	NYE		✓	May-07	Aug-07	
C67	HCCC Emergency Preparedness Audit	✓	NYE		X		✓	May-07	Aug-07	
C68	HCCC Medical/Mental Health Audit		X		X		X	Feb-07	Aug-07	
C69	HCCC Detainee Safety Audit	X	NYE		X		X	May-07	Aug-07	
C70	HCCC Environmental Health and Safety Audit		✓		X		✓	Feb-07	Aug-07	
C71	HCCC Food Service Audit		X		X		X	Feb-07	Aug-07	
C72	Audit Reporting Requirements	X		X		X	X	May-07	TBD	
XVI. TRAINING										
C73	Training of Detention Officers		X			X	X	Feb-07	Aug-07	
C74	Training Records	X		X		X	X	May-07	TBD	
C75	Emergency Preparedness Training		X			X	X	Feb-07	Aug-07	
C76	Medical/Mental Health Screening Program Training		X			X	X	Feb-07	Aug-07	
C77	Detainee Safety Training		X			X	X	Feb-07	Aug-07	
C78	Environmental Health and Hygiene Training		X			X	X	Feb-07	Aug-07	
XVII. MONITORING AND REPORTING										
C79 - 93										No monitoring requirements
C94	Reopening of Investigations Deemed Incomplete	-					-	May-07	-	Monitoring discontinued Q/E May 31, 2007
C95 - 99										No monitoring requirements

✓ = Compliant; X = Non-Compliant;
NYE = Not Yet Evaluated; DW = Determination Withheld

REPORT OF THE INDEPENDENT MONITOR FOR THE DETROIT POLICE DEPARTMENT

"Report Card" Summarizing the Monitor's
Evaluation of Compliance with the Consent Judgments
as of the Quarter Ending May 31, 2007

ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					EVALUATION TIMING		
Mar '07- May '07	Dec '06- Feb '07	Sep '06- Nov '06	Jun '06- Aug '06	Mar '06- May '06	Status as of Last Eval'n	Last Eval'n Quarter Ending	Next Expected Eval'n Q/E

Comments re: Last Evaluation

XVIII. STIPULATION PURSUANT TO THE PRISON LITIGATION
REFORM ACT, 18 U.S.C. 3626

C100 - 102	No monitoring requirements
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XIX. IMPLEMENTATION AND ENFORCEMENT

C103 - 110	No monitoring requirements
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XX. MISCELLANEOUS

C111 - 112	
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NOTES: [1] The Monitor assesses each paragraph's various components of compliance (policy, training, implementation, audit) separately . However, if the Department is in non-compliance with any of these components for a given paragraph, then the Department is in overall non-compliance with that paragraph. This Report Card reflects only the overall compliance rating.

[2] For those paragraphs that require specific audits, the next expected evaluation shown is the quarter in which the next scheduled audit is due and/or is expected to be evaluated (based on the date the audit is expected to be submitted).