

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
NOVEMBER 30, 2005

ISSUED JANUARY 17, 2006

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 ninth quarterly report of the Independent Monitor.⁴

During the ninth quarter, which ended on November 30, 2005, the Monitor examined a total of 80 paragraphs or subparagraphs (60 paragraphs or subparagraphs of the UOF CJ and 20 paragraphs or subparagraphs of the COC CJ). Of these, the City and the DPD complied with 8 and failed to achieve compliance with 66; the Monitor withheld its determination of the DPD's compliance with 4 paragraphs or subparagraphs and has not yet completed its evaluation of 2 paragraphs or subparagraphs.⁵

As described fully in this report, during this quarter, the City and the DPD continued to make progress in obtaining the DOJ's approval of, and/or disseminating, its policies and related documents:⁶

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.krollworldwide.com/detroit.

⁵ 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.

⁶ Throughout this report, the Monitor will refer to various submissions by the DPD to DOJ and the Monitor by the date of the cover letter or by the date that the Monitor received the document. It is noted that there is often a difference between the cover letter date and the postmark date, ranging usually from several days to a week. The cover letter date is not meant to indicate when the DOJ or the Monitor actually received the submissions. The DPD is now making a number of its submissions by email.

- The DOJ granted the City and the DPD approval on the Report Protocol for the Management Awareness System.⁷
- The DPD resubmitted Directive 102.4, *Discipline*, and the *Disciplinary Matrix*.
- According to the DPD, the following policy and training directives were disseminated during this quarter: Directive 304.5, *Board of Review*; Training Directive 04-07, *Use of Force Reporting and Investigating*; and Training Directive 05-07, *Probable Cause*.⁸
- The DPD submitted the following training documents during this quarter: Mechanics of Arrest and Search Course (paragraph U114); Selection and Training of DPD Officer Trainers In-Service (subparagraph U107c); Use of Force In-Service (paragraph U112); Foot Pursuit In-Service (subparagraph U112d); Supervisor Report Writing and Evaluation of Reports In-Service (paragraph U118); Chemical Spray (SABRE) In-Service (paragraphs U25-26 and subparagraphs U112e,i); and Firearms Tactical Training and Qualification In-Service (paragraphs U20-21 and subparagraphs U112f and U113a,b,c,d).⁹

In addition to the above-described progress related to policies, training directives and related material, the DPD made progress in the following areas during the quarter:

- The recent restructuring of the DPD has brought the DPD into compliance with paragraph C34, *Removal of Suicide Hazards*.¹⁰
- The DPD has submitted a total of nineteen audits to date and received specific Technical Assistance for each audit topic required by the Consent Judgments. All but one of these audits were non-compliant.
- Although the DPD has skipped (i.e. not submitted) the remaining 33 of the 52 audits required by the Consent Judgments to date, it has made improvements to its scheduling and audit management processes in an effort avoid skipping any of the audits due in 2006.

Major areas of concern identified during the quarter ending November 30, 2005 include the following:

Although the DPD has successfully disseminated many of its policies this quarter, the Monitor is concerned that the DPD's current process for disseminating its policies is not effective on a consistent basis. (See Focus Issue entitled *DPD Process for Disseminating Policies and Related Issues* in Introduction Section).

⁷ See paragraphs U83 and U88b.

⁸ The Monitor will test dissemination of these policies during the quarter ending February 28, 2006.

⁹ These documents were received by the Monitor on the last day of the quarter on November 30, 2005.

¹⁰ See related Focus Issue entitled *Status of the Conditions of Confinement Consent Judgment Extension and DPD Restructuring* in the Introduction Section of this report.

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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.,¹¹ as the Independent Monitor in this matter. This is the ninth report of the Independent Monitor.

In the first quarterly report, for the quarter ending November 30, 2003, the Monitor¹² 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.¹³ 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,¹⁴ the Monitor will review the paragraphs on a periodic schedule over

¹¹ The primary members of the Monitoring Team are Joseph Buczek, Hazel de Burgh, Ronald Filak, Thomas Frazier, Marshall Johnson, Denise Lewis, Terry Penney, Jeffrey Schlanger, David Schoenfeld, and Sherry Woods.

¹² The word "Monitor" will be used to describe both the Monitor and the Monitoring Team throughout this report.

¹³ 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.

¹⁴ 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.¹⁵ The paragraphs that were scheduled for review during the ninth quarter, which ended on November 30, 2005, are assessed in this report.¹⁶

II. MONITOR'S ROLE

The Monitor's role is to conduct compliance assessments,¹⁷ 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 ninth quarter, the City and the DPD continued to make progress in some areas, including obtaining DOJ approval on the Report Protocol for its Management Awareness System (MAS), and disseminating and revising various policies and training directives. The Department also continued to face a number of challenges, including a flawed policy dissemination process¹⁸ and the lack of progress and coordination in developing lesson plans and delivering training. The DPD was also adjusting to the recent restructuring of the Department, which was described in the Monitor's Eighth Quarterly Report.¹⁹

¹⁵ 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 effect the due dates mandated by the Consent Judgments for the City and the DPD.

¹⁶ 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.

¹⁷ 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.

¹⁸ This is discussed further below, in the Focus Issue entitled *DPD Process for Disseminating Policies and Related Issues*.

¹⁹ The Monitor's Report for the Quarter Ending August 31, 2005.

One of the most prevalent challenges facing the DPD is its ability to achieve compliance with the paragraphs of the COC CJ, which are applicable to buildings with holding cells. The City agreed to a schedule for achieving compliance with certain paragraphs at 6-month, 12-month, 18-month and 24-month intervals. The paragraphs due for compliance earlier in this schedule were meant to be those that do not require the expenditure of substantial capital funds. In the meantime, as described below in the Focus Issue entitled *Status of the Extension of the Conditions of Confinement Consent Judgment and DPD Restructuring*, the City was granted a two-year extension to achieve substantial compliance with the COC CJ. Nevertheless, fifteen months since the compliance schedule was set²⁰ and four months into the actual extension period,²¹ the City and the DPD have not yet achieved compliance with the vast majority of the COC CJ paragraphs.

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 submitted the *Methodologies* for the UOF CJ to the parties on July 30, 2004. The DOJ and the City and the DPD responded with written comments on more than one occasion. The Monitor resubmitted the UOF CJ *Methodologies* during the quarter ending May 31, 2005. The City and the DPD have the Monitor's draft *Methodologies* for the paragraphs in the COC CJ. The Monitor is continuing to make additional revisions prior to reissuing them.

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 sample²² of incidents from as recent a period as is practicable.

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.

²⁰ The schedule was set on September 10, 2004.

²¹ The two year extension ends on July 18, 2007.

²² 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.

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 subparagraph²³ of the Consent Judgments for the five most recent quarters, including the current quarter, in which compliance has been assessed.²⁴ The quarter in which the most recent evaluation was made is also indicated, as is the quarter in 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 ISSUES

A. STATUS OF THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT EXTENSION AND DPD RESTRUCTURING

Status of COC CJ Extension

As reported in previous quarters, the Court granted the City’s motion to extend the duration of the COC CJ for two years until an effective deadline of July 18, 2007. At the Court’s request, the City filed a supplemental brief to its motion to extend, articulating a schedule for compliance that detailed the specific COC CJ paragraphs with which compliance would be achieved within 6, 12, and 18 months.²⁵ The Court wrote that the City, having articulated a satisfactory schedule for compliance, must demonstrate a commitment and willingness to meet its obligation without any further delays or extensions of time.²⁶

²³ 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.

²⁴ 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.

²⁵ The brief was filed by the City on September 10, 2004. The 6-month deadline was February 25, 2005; the 12-month deadline was August 25, 2005; the 18-month deadline will be February 25, 2006; and the 24-month deadline will be August 25, 2007.

²⁶ The Court noted that in granting this motion, it has not and would not relieve the City of any other deadlines that are presently reflected in the COC CJ.

The below information illustrates the COC CJ paragraphs and related compliance deadlines that the City committed to within the aforementioned brief to the Court.

February 25, 2005

- C21 - Storage of Flammable Liquids
- C25 - Key Control Policies
- C33 - Suicide Watch Garb
- C45 - Access to Toilets and Water
- C47 - Accommodations for Persons with Disabilities
- C49-51 - Food Storage, Service, Policies and Personal Hygiene Items
- C54 - Handcuffing to Benches
- C61 - Community Comment of Proposed Policy Revisions

August 25, 2005

- C18 - Revision of UOF Policies
- C26-32 - Medical and Mental Health Screening Program and Protocols
- C38 - Observation Cell Policy
- C40-42 - Cleaning, Maintenance and Ventilation/Heating Requirements
- C48 - Detention of Persons with Disabilities
- C52-53 - Compliance with DPD's UOF Policies and UOF Protocols
- C55-57 - Investigations of In-Custody Deaths, UOF and Prisoner Injury Reporting
- C58-59 - External Complaint Investigations
- C60 - Clear Definition of Terms
- C64 - Video Camera Policy

February 25, 2006

- C16-17 - Fire Safety Program Development and Implementation
- C19 - Safety Equipment Testing
- C35-37 - Prisoner Safety Policies

- C62-63 - Management and Supervision of Operations and Risk Management Plan
- C65a-c - Audits of Holding Cell Investigations
- C66b-72 - Holding Cell Compliance Committee (HCCC) Required Audits and Audit Reporting Requirements
- C73-78 - Holding Cell Required Training

August 25, 2007

- C14-15 - Compliance with Life Safety Code
- C23-24 - Emergency Preparedness Program Development and Implementation
- C34 - Suicide Hazard Removal
- C44 - Lighting Requirements

The Monitor notes that for each of the deadlines that have already passed (February and August 2005), the Monitor has previously determined and reported that the DPD has not yet achieved compliance. As a result, on November 16, 2005, the Court requested that the City issue an update of the status and progress on the paragraphs that were due on February 25 and August 25, 2005. This update is due to the Court, the DOJ and the Monitor on or before January 25, 2006.

Restructuring of DPD

As reported in the Monitor's Report for the Quarter Ending August 31, 2005, on August 29, 2005, Chief of Police Ella Bully-Cummings announced the DPD's plans for restructuring. The restructuring, which was implemented on September 26, 2005, resulted in, among other things, the creation of six district stations to replace twelve precincts. The DPD stated in its Ninth Quarter Status Report that the restructuring plan resulted in the closure of all precincts that contained holding cells with cross-bars,²⁷ with the exception of the Thirteenth Precinct building. Although the Monitor cannot foresee the future impact of the restructuring on the DPD's compliance efforts with the Consent Judgments, and specifically the COC CJ, the Monitor did conduct inspections of the six district stations and all buildings formerly referred to as precincts that are currently occupied by the DPD and confirmed that there were no suicide hazards in any holding cells currently being utilized by the DPD.²⁸

²⁷ The cross-bars are considered suicide hazards that must be either removed or made inaccessible as required by paragraph C34. Please see the Current Assessment of Compliance for paragraph C34, below, for further details.

²⁸ For those holding cells that the Monitor identified during previous inspections as containing suicide hazards, the DPD had either removed the suicide hazards or was no longer using the holding cells to hold prisoners. The holding cells that contain cross-bars within the Thirteenth Precinct building appear to have been de-commissioned. The DPD is continuing the use of a juvenile holding cell within the building, but that holding cell does not contain cross-bars or any other suicide hazards. The DPD has acknowledged that the use of this holding cell subjects the

At the November 16, 2005 status conference with Judge Cook, the City identified two tracks it is pursuing to come into compliance with the COC CJ, one of which is to bring the current districts into compliance with the requirements of the COC CJ for buildings that contain holding cells. The City represented that cost estimates were being conducted to determine the feasibility of this potential plan and that the estimates would be completed within 30 to 45 days of the status conference. The Court has directed that the City and the DPD provide the results and an analysis of the cost estimates, including how they will affect plans going forward, to the DOJ and the Monitor on or before January 9, 2006.²⁹

B. DPD PROCESS FOR DISSEMINATING POLICIES AND RELATED ISSUES

Since the inception of the Consent Judgments, the Monitor has emphasized the importance of the adequate, timely and orderly dissemination of directives, and has described the process and timing by which the Monitor will test the dissemination of the directives. As described in our Reports for Quarters Ending May 31, 2005 and August 31, 2005, the Monitor has taken steps to test the DPD's efforts toward disseminating the policies that have been reviewed and approved and are ready to be implemented within the DPD. This testing has revealed inconsistencies and inadequacies in the DPD's policy dissemination efforts.³⁰ The Monitor discussed its findings with the DPD's Civil Rights Division management and personnel, who acknowledged that the DPD experienced difficulties with the dissemination process, largely due to the DPD districts' failure to utilize a standardized Department Publication Receipt, and indicated that the DPD had undertaken remedial measures to address these issues.

During the current quarter, the Monitor re-tested the dissemination of certain policies previously found to have been inadequately disseminated and tested certain additional policies recently approved and disseminated by the DPD. Of the 15 policies tested, the Monitor concluded that

Thirteenth Precinct building to the requirements of the COC CJ. As a result, the DPD is considering whether to continue utilizing this holding cell in the future.

²⁹ The DPD requested and the Monitor granted an extension through January 13, 2006.

³⁰ During the quarter ending May 31, 2005, the Monitor conducted testing and determined that the following directives were adequately disseminated: Directive 201.4, *Canine Unit*; Directive 202.1, *Arrests*; Directive 202.2, *Search and Seizure*; Directive 203.1, *Crime Scene Investigation*; Directive 203.9, *Custodial Interrogation*; Directive 304.1, *Firearms*; Directive 304.3, *Chemical Spray*; Directive 304.4, *PR-24*; Directive 403.2, *Infectious Disease*; and Training Directive 04-02, *Positional Asphyxia*

During the quarter ending August 31, 2005, the Monitor conducted testing and determined that the following directives were not adequately disseminated: Directive 202.7, *Foot Pursuit*; Directive 404.1, *Definitions*; Directive 401.1, *Performance Evaluations*, Directive 102.3, *Code of Conduct*; Directive 304.2, *Use of Force*; Training Directive 04-03, *Use of Force Continuum*; Directive 305.4, *Holding Cell Areas*; Training Directive 04-05, *Suicide Prevention*; Directive 305.1, *Detainee Intake and Assessment*; Directive 305.5, *Detainee Health Care*; and Directive 305.7, *Detainee Transportation*.

only 3 were adequately disseminated to DPD officers.³¹ Based on these findings, the Monitor continues to be concerned that the DPD's current process for disseminating its policies is not effective on a consistent basis.

The current system allows for inconsistent and often illegible documentation, such as submission of publication receipts that do not list all of the applicable policies on the form and the use of a cover sheet listing the policies with an attached roster of illegible names and signatures. The Monitor reiterates that this lack of uniformity in the dissemination process allows for a greater degree of error when documenting the receipt of policies by DPD personnel. This, in turn, could prevent the Monitor from confirming adequate dissemination, resulting in findings of non-compliance even in situations where the DPD has in fact adequately disseminated and implemented the relevant policies.

A related concern, also discussed with the DPD, centers around its roster listing. The Monitor uses this roster when identifying and selecting a sample of officers to test the DPD's compliance with various requirements of the Consent Judgments. The most recent roster submitted by the DPD contains out-dated information and does not include officers' current assignments or badge numbers for comparison.³² This has hampered the Monitor's ability to test implementation and,³³ unless expeditiously resolved, will continue to do so. It is in the best interests of the DPD and the City to ensure that the Monitor and the DPD's audit function have accurate and updated officer status information. The Monitor is encouraged that the DPD is currently considering and exploring an electronic dissemination system, as previously recommended by the Monitor based upon experience working with the Pennsylvania State Police and the Los Angeles Police Department, both of which utilize electronic dissemination.

³¹ The 3 policies tested during the current quarter and found to have been adequately disseminated are: Directive 202.7, *Foot Pursuit*; Directive 404.1, *Definitions*; and Directive 401.1, *Performance Evaluations*. The 12 policies tested during the current quarter and found to have been inadequately disseminated are: Directive 102.3, *Code of Conduct*; Directive 304.2, *Use of Force*; Training Directive 04-03, *Use of Force Continuum*; Directive 305.4, *Holding Cell Areas*; Training Directive 04-05, *Suicide Prevention*; Directive 305.1, *Detainee Intake and Assessment*; Directive 305.5, *Detainee Health Care*; Directive 305.7, *Detainee Transportation*; Training Directive 04-01, *Material Witness*; Directive 102.6, *Citizen Complaints*; Directive 303.3, *In-Car Video Equipment*; and, Directive 305.2, *Detainee Registration*.

However, upon being informed of these results, after the end of the quarter the DPD provided supplemental documentation evidencing dissemination of the directives to additional officers. Upon reviewing this additional documentation, the Monitor was able to confirm that 8 of those 12 directives were also adequately disseminated, namely: Training Directive 04-03, *Use of Force Continuum*; Directive 305.4, *Holding Cell Areas*; Directive 305.1, *Detainee Intake and Assessment*; Directive 305.5, *Detainee Health Care*; Directive 305.7, *Detainee Transportation*; Directive 102.6, *Citizen Complaints*; Directive 303.3, *In-Car Video Equipment*; and, Directive 305.2, *Detainee Registration*. Again, the documentation indicating effective dissemination of these 8 directives had not been provided to the Monitor as of the end of the current quarter.

³² On numerous occasions, the Monitor has selected officers from the listing who are retired, terminated, suspended, or otherwise reassigned.

³³ One such problem is described under the Current Assessment of Compliance for paragraphs U46 and U48.

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 November 30, 2005. The Monitor has also made numerous recommendations and provided TA to the DPD as part of its ongoing efforts to assist the DPD in achieving compliance with the Consent Judgments. Furthermore, 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,³⁴ and to provide the parties with an opportunity to seek clarification on any aspect of compliance articulated in this report.

³⁴ 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 November 30, 2005.³⁵

I. USE OF FORCE POLICY

This section of the UOF CJ (paragraphs U14-26) requires the DPD to make revisions to its UOF policies. Specifically, the DPD must revise its general UOF policy, use of firearms policy and chemical spray policy. The DPD must choose an intermediate force device, develop policy for the device, incorporate the device into the UOF continuum, and provide annual training on the use of the device.

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, 2005, at which time the Monitor withheld a determination of the Department's compliance pending the testing of the dissemination of Directive 304.2, *Use of Force*.³⁶ The Monitor is scheduled to assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2006.³⁷

³⁵ Throughout this report, for those paragraphs not assessed during the current quarter, the Monitor will include a brief description of the basis for its previous compliance assessments. The Monitor will generally not update any progress on these paragraphs since the last assessment, outside of any submissions or approvals outlined in the Executive Summary, until the next quarter in which the paragraph is under review by the Monitor. However, we have made an exception to this procedure in this report, and will be reporting (in footnotes) on the testing of dissemination of policy for paragraphs not scheduled for assessment this quarter.

³⁶ This directive, which contains the policies required by paragraphs U14-19, was approved by the DOJ on April 14, 2005 and by the Board of Police Commissioners (BOPC) on May 26, 2005. It was disseminated by the DPD on May 27, 2005 with an effective date of June 27, 2005. The DPD has three months from the DOJ approval date to implement the policy.

³⁷ Although paragraphs U14-19 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 304.2. The DPD provided documentation evidencing the receipt of the directive for 81, or 86.2%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 88, or 93.62%, of the 94 officers selected had received the directive. The DPD has not yet met the requirements for effective dissemination of the policy. The Monitor will re-test dissemination of this policy during the quarter ending February 28, 2006. Implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

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, 2005, finding the DPD in non-compliance with each. The Monitor found that the DPD effectively disseminated revised Directive 304.1, *Firearms*, which was approved by the DOJ on March 23, 2005 and which had an effective date of May 2, 2005. As of the end of that quarter, the Monitor had not completed its review of documents required to test implementation of the policy under paragraphs U20 and U21.³⁸ In addition, the Monitor received the firearms training protocol required by paragraph U113. The Monitor noted that it does not address all of the requirements of the paragraph and further noted that it was unclear how the DPD will accomplish professional night training, as required by the paragraph, since it currently does not have facilities that allow for nighttime firearms training.³⁹ Finally, the DPD indicated that it was developing an internal audit process to ensure its compliance with paragraph U23 requirements to prohibit officers from possessing or using unauthorized firearms or ammunition and ensure that officers are carrying the authorized number of rounds. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2006.

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, 2005, finding the DPD in non-compliance. The Monitor found that the DPD effectively disseminated Training Directive 04-06, which was approved by the DOJ on March 23, 2005. However, the Monitor has not yet received a copy of the roll-out plan for the intermediate force device. According to the DPD, a Train-the Trainer course was being developed to roll out the PR-24 and to ensure that certifications for current instructors are up-to-date. In addition, the Monitor found that the DPD had not effectively disseminated Training Directive 04-03, *Use of Force Continuum*, which was also approved by the DOJ on March 23, 2005.⁴⁰ The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2006.

³⁸ The Monitor submitted a document request to the DPD on August 15, 2005, requesting listings of officers who completed the most recent bi-annual firearms training and qualification, including information about officers who failed to qualify. The DPD submitted a response on August 24, 2005.

³⁹ Refer to the Current Assessment of Compliance for paragraph U113, below, for additional information regarding this issue.

⁴⁰ Although paragraph U24 was not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Training Directive 04-03. The DPD provided documentation evidencing the receipt of the directive for 83, or 88.3%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 89, or 94.68%, of the 94 officers selected had received the directive. The DPD has now met the

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, 2005, finding the DPD in non-compliance with each. The Monitor found that the DPD effectively disseminated revised Directive 304.3, *Chemical Spray*, which was approved by the DOJ on March 23, 2005 and which had an effective date of May 2, 2005. As of the end of that quarter, the Monitor had not completed its review of documents required to test implementation of the directive.⁴¹ The Monitor also noted that Training Directive 04-07 and its related form, UF-002-A, *Supervisor's Investigation Report (SIR)*, are referred to in Directive 304.3 and are relevant to the reporting and investigation of the use of chemical spray. These documents had not yet been disseminated.⁴² The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2006.

requirements for effective dissemination of the policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for this paragraph.

⁴¹ The Monitor submitted a document request to the DPD on August 12, 2005, requesting copies of all Police Action Incident Reports (PAIR) and UF-002 forms related to the use of chemical spray submitted between the dates of June 3, 2005 and August 3, 2005. The DPD submitted a response on August 24, 2005. The Monitor also requested a listing of external complaints received during the same time period related in any way to the use of chemical spray. On August 24, 2005, the Monitor received a response citing two external complaints involving the use of chemical spray.

⁴² According to the DPD, Training Directive 04-07 was disseminated during the current quarter, on October 29, 2005, with an effective date of November 21, 2005. The Monitor will test its dissemination during the quarter ending February 28, 2006.

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 statements⁴³ and develop an auditable form⁴⁴ 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 August 31, 2005, finding the DPD in non-compliance with each, except for paragraph U31, for which the Monitor withheld a determination of compliance. Although Directive 304.2, *Use of Force*, was approved by both the DOJ and BOPC, the DPD provided documentation evidencing its receipt by only 22, or 23.4%, of the 94 officers selected for testing by the Monitor.⁴⁵ In addition, the Monitor found that Training Directive 04-07, *Use of Force Reporting/Investigating*, and the corresponding forms, UF-002, *Use of Force/Detainee Injury Report*, and UF-002-B, *Use of Force/Detainee Injury*

⁴³ 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. 492 (1967).

⁴⁴ 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.

⁴⁵ Although paragraphs U24-33 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 304.2. The DPD provided documentation evidencing the receipt of the directive for 81, or 86.2%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 88, or 93.62%, of the 94 officers selected had received the directive. Accordingly, the DPD has not yet met the requirements for effective dissemination of the policy. The Monitor will re-test dissemination of this policy during the quarter ending February 28, 2006. Implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

Report, meet the requirements of paragraphs U27-30 and U32-33. However, the DPD had not disseminated the training directive and related forms as of the end of the quarter.⁴⁶ Regarding paragraph U31, after the end of that quarter the Monitor provided the DPD with a memorandum outlining comments and recommendations regarding the DPD's Garrity Protocol; the DPD had not submitted a revised protocol that addressed the comments and recommendations as of the end of that quarter.⁴⁷ The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

B. UOF AND PRISONER INJURY INVESTIGATIONS

This section comprises paragraphs U34-36. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.⁴⁸

Paragraphs U34-36 – Documentation of 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;
- 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;

⁴⁶ According to the DPD, Training Directive 04-07 was disseminated during the current quarter. The Monitor will test its dissemination during the quarter ending February 28, 2006.

⁴⁷ The memorandum was provided to the DPD on September 8, 2005. The DPD resubmitted the Garrity Protocol on September 13, 2005.

⁴⁸ 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.

- c. the supervisor responding to the scene to notify the IAD⁴⁹ 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 paragraphs U34-36 during the quarter ending May 31, 2005, finding the DPD in non-compliance with each. Directive 304.2, *Use of Force*, was approved by the DOJ on April 14, 2005 and was disseminated to the field on May 27, 2005, with an effective date of June 21, 2005. The Monitor tested dissemination of the directive and found that 23.4% of officers selected reported receipt of the directive.⁵⁰

The DPD resubmitted Training Directive 04-07, *Use of Force Reporting/Investigating*, on May 17, 2005 followed by the corresponding forms, UF-002, *Detroit Police – Use of Force/Detainee Injury Report*, and UF-002-A, *Detroit Police – Supervisor Investigation and Report*, on May 23, 2005. The Monitor found that both the Training Directive and the corresponding forms required additional revisions prior to dissemination.

⁴⁹ Although IAD (Internal Affairs Division) is mentioned in the UOF CJ, the DPD calls this division the ICD. Additional information regarding the structure of various DPD units is contained in the Background and Current Assessment of Compliance sections for paragraphs U37-38, below.

⁵⁰ The Monitor tested dissemination and reported the specific findings in its Report for the Quarter Ending August 31, 2005.

Current Assessment of Compliance

The Monitor and the DOJ reviewed Training Directive 04-07 and related forms (UF-002, Use of Force/Detainee Injury Report, and UF-002-A, SIR), which were resubmitted on May 17, 2005, and provided comments and recommendations to the DPD on June 10, 2005 and July 11, 2005, respectively. The DPD resubmitted the documents on July 11, 2005 and again on August 2, 2005. The Monitor reviewed these documents and found that they meet the requirements of paragraphs U34-36. The DOJ did not express any further concerns. According to the DPD, Training Directive 04-07 was disseminated on October 29, 2005 with an effective date of November 21, 2005.

After dissemination, the Monitor re-evaluated Training Directive 04-07 because the DPD had since developed and submitted the SIR form. Upon re-evaluation, the Monitor determined that the training directive did not clearly state that each UOF or allegation of a UOF (as force is defined in the directive) must be investigated. The DPD made further edits to the training directive and resubmitted it to the Monitor on November 7, 2005. The Monitor found that the recommendations had been addressed. The DPD has indicated that the latest version of Training Directive 04-07 has been posted on DPD's intranet. In addition to the comments on the training directive, the Monitor found that the "forms and reports" section of the finalized Directive 304.2 did not adequately cross-reference the SIR.

As described in the Background section, the Monitor previously found that Directive 304.2 had not been adequately disseminated. The Monitor re-tested the DPD's dissemination of Directive 304.2 during the current quarter. The DPD provided documentation evidencing the receipt of the directive for 81, or 86.2%, of the 94 officers selected for testing.⁵¹ The Monitor will retest dissemination of Directive 304.2 and test dissemination of Training Directive 04-07 for the first time during the quarter ending February 28, 2006. According to the DPD, the forms (UF-002 and UF-002-A) have been posted on the DPD's Intranet and some DPD personnel have been instructed on their use.⁵²

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U34-36.

⁵¹ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 88, or 93.62%, of the 94 officers selected had received the directive. Accordingly, the DPD has not yet met the requirements for effective dissemination of the policy.

⁵² After the end of the quarter, the Monitor conducted testing to verify that the corresponding forms, UF-002 and UF-002-A were posted on the DPD's intranet. The Monitor found that both UF-002 and UF-002-A were posted on the Intranet; however, UF-002-A was not accessible. The Monitor attempted to open the document in various formats but was unsuccessful. Therefore, form UF-002-A is not "available" to DPD personnel via the Department's Intranet.

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, 2004. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph 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 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 DPD's compliance with paragraphs U37-41 during the quarter ending May 31, 2005, finding the DPD in non-compliance with each. The Monitor reviewed Directive 304.5, *Board of Review*, which was designed to address the requirements of paragraphs U37-41, as well as the Force Investigation Section (FIS) SOP and the Internal Affairs Section (IAS) SOP. The Monitor found that the documents lacked consistency with regard to the investigation of critical firearm discharges and in-custody deaths. Additionally, there was no readily identifiable protocol for conducting critical firearm discharge investigations.⁵³

The Monitor also reviewed the DPD's "Force Investigation Section 2004 Annual Critical Incident Report" and noted that the investigations did not include recommendations relative to detecting overall patterns and/or problems, a number of incidents took six months or longer for FIS to investigate, many were not forwarded to the Chief of Police for review, and those that were did not indicate the final outcome or recommendation.

Current Assessment of Compliance

The DPD resubmitted Directive 304.5, *Board of Review*, along with the FIS SOP, on August 24, 2005. The Monitor provided the DPD with a memorandum on September 14, 2005 outlining additional concerns and recommendations. Although the DPD had incorporated the requirements of paragraph U38 into both the directive and the FIS SOP, as communicated previously by the Monitor, the documents still did not fully meet the requirements of the UOF CJ.

The revised Directive 304.5 failed to specifically provide an explanation of the Board of Review process and the purpose of convening the Board Review Team (BRT). The Monitor explained that the directive must explicitly state that the BRT is convened to conduct a Board of Review and that the BRT is to evaluate all critical firearm discharges and in-custody deaths. The Monitor listed many other concerns and recommendations in the September 14, 2005 memorandum.

⁵³ The Monitor provided comments and recommendations regarding the Directive, the FIS SOP and the IAS SOP to the DPD on June 10, 2005.

Following the Monitor's memo, the DPD resubmitted Directive 304.5 and the FIS SOP on September 17, 2005. Again, the Monitor provided the DPD with a memorandum on October 11, 2005. The DPD had incorporated some of the Monitor's previous recommendations but the Monitor still had concerns regarding the clarity of the documents. The Monitor provided suggestions on how the language could be revised. With regard to the FIS SOP, the DPD incorporated the recommendations made by the Monitor with one exception. The Monitor advised that the DPD include the requirement that all tests and analyses be preserved in the investigative file as required by U38.

The DPD resubmitted Directive 304.5 and the FIS SOP on October 18, 2005, made additional edits based on conversations with the Monitor between October 25, 2005 and October 27, 2005, and resubmitted the directive on October 27, 2005. The Monitor provided the DPD with comments on the directive on November 2, 2005 and the DPD resubmitted the directive on November 4, 2005. The Monitor found that the policy adequately meets the requirements of the applicable paragraphs based on the November 4th submission. The DPD submitted the final Directive 304.5 on November 14, 2005. According to the DPD, Directive 304.5 was disseminated during the current quarter. The Monitor will test its dissemination during the quarter ending February 28, 2006.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U37-41.

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 last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U42-43 – Revision of Arrest Policies; Review of All Arrests

Paragraph U42 requires the DPD to revise its arrest policies to define arrest and probable cause as those terms are defined in the Consent Judgment and prohibit the arrest of an individual with less than probable cause.

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 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.

Background

The Monitor last assessed the DPD's compliance with paragraphs U42-43 during the quarter ending August 31, 2005, at which time the Monitor elected to withhold a compliance determination pending Court approval of the parties' proposed resolution regarding the definition of probable cause.

Current Assessment of Compliance

On October 11, 2005, the Court approved the parties' proposed agreement regarding the definition of probable cause. Under the agreement, the City's pending motion to modify the language of the UOF CJ was dismissed by the Court at the City's request and, instead, the City proposed that a footnote be added to all affected policies⁵⁴ and training materials. The City also offered to include the definition of probable cause, with the new footnote, in a training directive that will be disseminated Department-wide. The DOJ agreed to the City's proposal.

On October 29, 2005 the DPD submitted the revised policies and the training directive⁵⁵ to the Monitor and the DOJ. The Monitor reviewed these documents and confirmed the inclusion of the agreed upon footnote and probable cause definition.

The DPD has indicated that it disseminated Training Directive 05-07 on October 30, 2005, with an effective date of November 21, 2005.⁵⁶

Based on the foregoing, the Monitor is withholding a determination of the DPD's compliance with paragraphs U42-43.

B. INVESTIGATORY STOP POLICIES

This section comprises paragraphs U44-45. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

⁵⁴ The affected Directives are: 202.1, *Arrests*; 404.1, *Definitions*; 202.2, *Search and Seizure*; 203.1, *Crime Scene Investigation*; and 203.9, *Custodial Questioning*.

⁵⁵ Training Directive 05-07, *Probable Cause*.

⁵⁶ The Monitor will test dissemination of this directive during the quarter ending February 28, 2006. Implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

Paragraphs U44-45 – Revision of Policies; Documentation Requirement

Paragraph U44 requires the DPD to revise its investigatory stop and frisk policies to define investigatory stop and reasonable suspicion as those terms are defined in the Consent Judgment. The policy must specify that a frisk is authorized only when the officer has a reasonable suspicion to fear for his or her safety and that the scope of the frisk must be narrowly tailored to these specific reasons.

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 commenced an assessment of the DPD's compliance with paragraphs U44-45 during the quarter ending May 31, 2005. The Monitor determined that revised Directive 202.2, *Search and Seizure*, and revised Auditable Form UF-003, *Stops & Frisks*, adequately address the requirements of paragraphs U44 and U45, and the DPD had effectively disseminated Directive 202.2. However, the Monitor had not yet evaluated implementation of the directive as of the end of that quarter.

Current Assessment of Compliance

During the current quarter, the Monitor selected a random sample of officers (including investigators) and reviewed for written documentation of stops and frisks and the articulation of reasonable suspicion.⁵⁷ Of the 125 officers randomly selected, 51 of the officers were assigned to administrative detail, or had resigned, retired or been terminated.⁵⁸ For ten of the remaining 74 officers selected, sufficient supporting documentation was not provided. For the remaining 64 of the 74 officers, the DPD provided the activity and/or investigator logs for the first three working days in July 2005 as requested by the Monitor.⁵⁹ The Monitor reviewed documentation

⁵⁷ A random, statistical sample of 94 officers and investigators was required out of a population of approximately 2,113 listed officers who could have possibly conducted stops and/or frisks. This would have achieved a confidence level of 95% with an acceptable error rate of +/- 4%; however, because the roster provided by the DPD was outdated, the Monitor requested documentation for 125 officers under the assumption that not all of the 94 officers were assigned to a detail that would normally conduct stops and/or frisks.

⁵⁸ For these 51 officers, no logs were required to be provided.

⁵⁹ The DPD was unable to provide logs for eight of the dates stating that the officer(s) had worked some type of administrative assignment during July.

for the first 16 officers selected⁶⁰ and determined that 3 of the 16 officers did not articulate reasonable suspicion for one stop contained in their respective activity logs. This resulted in an 81.25% compliance rate.

The Monitor elected to review substantially all supporting documentation provided by the DPD. Although not used in the determination of non-compliance, the Monitor noted the following:

- The Monitor was unable to read certain written information within the activity logs due to illegibility.
- Approximately 106 traffic stops were documented with adequate reasonable suspicion articulated.
- Approximately 36 other types of stops⁶¹ were documented with adequate reasonable suspicion articulated.
- Approximately 3 frisks were documented with adequate reasonable suspicion articulated. The scope of the frisks were classified “pat-down.”
- Approximately 10 stops were documented that did not articulate reasonable suspicion. In these cases, the officer either did not include adequate information regarding the reason for the traffic stop, or the reason a person had been detained and investigated.⁶²
- Many of the activity logs contained documentation of officers’ conversations with persons during what appeared to be routine checks of special locations (e.g. hotels, retail establishments, etc.). These conversations could be considered “stops” unless further articulation is provided. These types of conversation were recorded on many of the activity logs reviewed, and the Monitor was unable to determine if a stop had occurred or not.
- Although all but one log contained a signature in the supervisory review box, the signatures were illegible and there was no roster containing badge numbers for review and comparison. As a result, the Monitor was not able to confirm that it was a supervisor who actually signed the activity log, which impeded the Monitor’s ability to confirm that a review of the stops and frisks had been conducted as required by paragraph U45.⁶³

⁶⁰ Following the Methodologies, although the minimum sample size of officers required to determine compliance on a population of 2,113, is 94, 16 officers were initially reviewed, as this is the sample size necessary to achieve a confidence level of 95% with an acceptable error rate of +/- 10%.

⁶¹ The reasons for the stops included narcotics, hand to hand sales, loitering, and impeding traffic.

⁶² These ten incidents include the 3 stops described above (stops for which 3 of the 16 officers did not articulate reasonable suspicion in their respective activity logs).

⁶³ At the end of the quarter, on November 29, 2005, the Monitor requested all stops and frisks auditable forms completed during the time period selected for review. As of the date of this report, the Monitor had not received a response to the request.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U44 and U45.

Recommendations

The Monitor recommends that the DPD establish further guidelines on the completion of activity logs, which should include the requirements that officers and supervisors legibly print their names immediately next to their signatures and officers legibly document more articulate descriptions of activities involving persons with whom they are in contact to ensure that stops are clearly identifiable. In addition, the DPD should create and continually update a personnel roster that includes badge numbers to track personnel assignments. An updated roster should be provided to the Monitor at least on a quarterly basis to ensure that the Monitor has the ability to accurately and efficiently test the DPD's implementation process.

C. WITNESS IDENTIFICATION AND QUESTIONING POLICIES

This section comprises paragraphs U46 through U48. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2005. The Monitor again assessed the DPD's compliance with paragraphs U46 and U48 during the current quarter. The results of our current assessments follow.

Paragraphs U46 and U48 – Revision of Policies; Documentation of Interviews and Interrogations

Paragraph U46 requires the DPD to revise its witness identification and questioning policies to comply with the revised arrest and investigatory stop policies. The DPD must prohibit the seizure of an individual without reasonable suspicion, probable cause or consent of the individual and require that the scope and duration of any seizure be narrowly tailored to the reasons supporting the police action. The DPD must prohibit the conveyance of any individual to another location without reasonable suspicion, probable cause or consent of the individual.

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

During the quarter ending May 31, 2005, the Monitor found the DPD in compliance with paragraph U47⁶⁴ and commenced but did not complete its assessment of the DPD's compliance with paragraphs U46 and U48. The Monitor determined that Directive 203.9, *Custodial Questioning*, and Directive 203.1, *Crime Scene Investigation*, adequately addressed the requirements of paragraphs U46 and U48 for both seizures and conveyances, and the DPD effectively disseminated the directives.⁶⁵ The Monitor also concluded that revised Auditable Form UF-005, *Interviews, Interrogations and Conveyances*, addressed the paragraphs' requirements. The Monitor indicated that it would commence testing the implementation of the directives during the quarter ending November 30, 2005.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraphs U46 and U48 during the current quarter, the Monitor utilized the same sample of officers selected to test compliance with paragraphs U44-45. For the officers sampled, the Monitor assessed the documentation of interviews, interrogations and conveyances and the articulation of reasonable suspicion, probable cause or consent. As described above in the Focus Issue entitled *DPD Process for Disseminating Policies and Related Issues* in the Introduction Section of this report and under paragraphs U44-45, above, the Monitor was unable to review the minimum sample size of officers to determine compliance. Although an assessment to determine compliance was not feasible, the Monitor noted the following in relation to the activities of the 64 officers reviewed:

- Some of the written information on the activity was illegible.
- The documentation provided did not note information about interrogations.
- Probable cause was articulated for all conveyances that were documented within the logs.

⁶⁴ Paragraph U47 requires the DPD to develop revised witness identification and questioning policies within three months of the effective date of the UOF CJ. The revised policies must be submitted for review and approval of the DOJ. The DPD must then implement the revised witness identification and questioning policies within three months of the review and approval of the DOJ. The Monitor found the DPD in compliance with paragraph U47, as it had secured the DOJ's approval on this policy and the policy was disseminated within three months of DOJ's approval. Paragraph U47 is viewed as a policy only paragraph. The DPD will remain in compliance until such time as the policy directly responsive to paragraph U47 is revised. Revisions to policy will require additional review and approval by the DOJ and trigger an additional assessment by the Monitor. The Monitor will assess compliance with implementation of witness identification and questioning policies via paragraphs U46 and U48.

⁶⁵ Both Directives were approved by the DOJ on March 23, 2005 and subsequently disseminated to the field on April 11, 2005. The Directives became effective on May 2, 2005. Compliance with U47 was achieved with the approval by the DOJ; implementation of the directives will be tested under paragraphs U46 and U48.

- Many of the activity logs contained documentation of officers' conversations with persons during what appeared to be routine checks of special locations (e.g. hotels, retail establishments, etc.). None of the logs reviewed specifically documented an interview; however, unless further articulation is provided, these conversations could be considered interviews. Although the Monitor does not believe that the UOF CJ requirement for documentation and review of interviews includes routine conversations or discussions with every contact made by officers in the field; it is the Monitor's contention that unless articulated in a manner that clearly explains otherwise, the activity logs' description of a person being "investigated" or "talked to" during what is described as a "miscellaneous activity," rather than a directed police run, may constitute an interview.⁶⁶
- All but one log contained a signature in the supervisory review box. However, the Monitor was not able to confirm that it was a supervisor who actually signed the activity logs due to the illegibility of the signatures and the lack of a roster containing badge numbers to review and compare. This impeded the Monitor's ability to confirm that a review of the interviews, interrogations, or conveyance had been conducted as required by paragraph U48.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U46 and U48.⁶⁷

Recommendations

The Monitor recommends that the DPD establish further guidelines on the completion of activity logs, which should include requirements that officers and supervisors legibly print their names immediately next to their signatures and officers legibly document more articulate descriptions of activities involving persons in which they are in contact to ensure that interviews and interrogations are clearly identifiable. In addition, the DPD should create and continually update a personnel roster that includes badge numbers to track personnel assignments. An updated roster should be provided to the Monitor at least on a quarterly basis to ensure that the Monitor has the ability to accurately and efficiently test the DPD's implementation process.

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 August 31, 2005, finding the DPD in non-compliance with each. Although the Monitor determined that Directive 202.1, *Arrests*, had been

⁶⁶ During its review the Monitor obtained from the DPD a description of the acronyms used by officers to document the type of activity described in the logs. These acronyms include "INV" for Investigated, "M/A" for Miscellaneous Activity, and "T/T" for Talked To.

⁶⁷ This determination is based in the DPD's inability to provide the Monitor with current and accurate personnel information to facilitate the Monitor's testing of these topics.

adequately disseminated to the field, the Monitor determined that the DPD's *Daily Prisoner Report* (DPR) and related Instruction Sheet do not adequately address the "systematic process" requirements of the paragraphs. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

E. HOLD POLICIES

This section comprises paragraphs U52-53. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2005, at which time the Monitor withheld a determination of compliance. The Monitor determined that Directive 305.2, *Detainee Registration*, and Auditable Form UF-007, adequately address the requirements of these paragraphs. However, due to the date of dissemination (near the end of the quarter) and the difficulties experienced by the DPD with the dissemination of other directives, the Monitor deferred testing dissemination of the directive until the next regularly scheduled review, which is the quarter ending February 28, 2006.⁶⁸

F. RESTRICTION POLICIES

This section comprises paragraphs U54-55. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2005, finding the DPD in non-compliance with each as it provided documentation evidencing the receipt of Directive 305.4, *Holding Cell Areas*, for only 36, or 38.3%, of the 94 officers selected for testing. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.⁶⁹

⁶⁸ Although paragraphs U52-53 were not scheduled for assessment during the current quarter, the Monitor tested the DPD's dissemination of Directive 305.2 during the current quarter. The DPD provided documentation evidencing the receipt of the directive for 84, or 89.37%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 89, or 94.68%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of the policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for this paragraph.

⁶⁹ Although paragraphs U54-55 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of the directive for 85, or 90.43%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of the policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for this paragraph.

G. MATERIAL WITNESS POLICIES

This section comprises paragraphs U56-57. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U56-57 – Revision of Material Witness Policies; Requirement to Obtain a Court Order

Paragraph U56 requires the DPD to revise existing material witness policies to define a material witness as a witness subpoenaed to testify in a criminal case.⁷⁰ Furthermore, the DPD must remove the term “police witness” from all DPD policy and procedure.

Paragraph U57 requires the DPD to obtain a court order prior to taking a material witness into DPD custody. Each material witness must also be documented on an auditable form with a copy of the court order attached thereto.

Background

The Monitor last assessed the DPD's compliance with paragraphs U56-57 during the quarter ending August 31, 2005, finding DPD in non-compliance. The Monitor attempted to identify and evaluate the appropriate handling of any Material Witnesses held by the DPD by requesting from the DPD a listing of all Material Witnesses and related Court Orders and auditable forms for the period March 21, 2005 through July 31, 2005.⁷¹

Current Assessment of Compliance

During the current quarter, the Monitor reviewed a random sample of 94 case files of individuals arrested and released, with no charges filed, for the period March 21, 2005 through July 31, 2005.⁷² Of the 94 case files reviewed, one contained a Material Witness court order, but no auditable form.⁷³ A copy of the court order was provided to the Monitor by the investigator in charge of the case, as one could not be located in the case file. The Monitor was informed by

⁷⁰ Paragraph 1aa of the UOF CJ defines a material witness.

⁷¹ The Monitor received the requested documentation from DPD on September 19, 2005.

⁷² The Monitor selected a random sample of 100 arrests to identify and evaluate the appropriate handling of any Material Witnesses held by DPD. Of the 100 random arrests selected, 5 of the case files contained only a single-page copy of a Blotter Sheet; and 1 case file was missing.

⁷³ The DPD AT advised that the related auditable form could not be located.

DPD Homicide personnel that they have now begun to track Material Witness court orders via a Material Witness court order file maintained in the Staff Office.⁷⁴

Additionally, in order to assess the DPD's compliance with paragraph U56 during the current quarter, the Monitor selected a random sample of officers and requested documentation evidencing the dissemination of Training Directive 04-01, *Material Witness*, to the selected officers.⁷⁵ The DPD provided documentation evidencing the receipt of the directive for 82, or 87.23%, of the 94 officers selected.⁷⁶

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U56 and U57.

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 May 31, 2005. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

Paragraph U58 – Revision of Policy

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:

- a. The individual's personal information;
- b. Crime(s) charged;
- c. Date and time of arrest and release;
- d. Date and time the arraignment warrant was submitted;
- e. Name and badge number of the officer who submitted the arraignment warrant;

⁷⁴ The DPD Homicide Section has tracked Material Witness court orders since June 2005 with implementation of the Homicide Section Training Evaluation form. The Wayne County Prosecutor's Office indicated that it possibly could track material witness court orders given the recent launch of the Live Scan system.

⁷⁵ A random, statistical sample of 94 officers was selected out of a population of approximately 3,711 listed officers. The Monitor utilized a confidence level of 95% with an acceptable error rate of +/- four percent.

⁷⁶ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the training directive to additional officers. The Monitor reviewed the documentation and determined that a total of 84, or 89.36%, of the 94 officers selected had received the training directive. Accordingly, the DPD has not yet met the requirements for effective dissemination of the training directive.

- f. Date and time of arraignment;
- g. Date and time each warrant was lodged and cleared, if applicable; and,
- h. 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 May 31, 2005, at which time the Monitor found the DPD in non-compliance. The DPD requested the Science and Technology Bureau to formulate a timeline for documentation of Custodial Detention. According to the DPD, the purchase order for this software was at City Council pending approval. The DPD was also continuing its effort to develop within its CRISNET Records Management System the ability to capture the information required by paragraph U58. However, the DPD had not addressed the requirements of the paragraph as of the end of the quarter.

Current Assessment of Compliance

During the current quarter, the Monitor inquired with the DPD regarding the status of the purchase of the software designed to achieve compliance with paragraph U58. The DPD indicated that it has decided to incorporate paragraph U58's requirements into the new version of Live Scan, which eliminates the need for the original software that was to be purchased as a module for the DPD's CRISNET system. Although the Live Scan system is operational, the DPD is currently working with the vendor to modify the system to include all elements of U58. As a result, the DPD had not completely addressed the requirements of paragraphs U58 as of the end of the current quarter.

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 August 31, 2005, finding the DPD in non-compliance due to the lack of adequate dissemination of all related policies. The Monitor is scheduled to again assess the DPD's compliance with paragraph U60 during the quarter ending February 28, 2006.

The Monitor last assessed the DPD's compliance with paragraph U59 during the quarter ending May 31, 2005. 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 May 31, 2005, at which time the Monitor withheld a determination of the DPD's compliance with the paragraph. Although the DPD had made some progress in addressing the policy requirements of the paragraph through multiple directives, agreement had yet to be reached regarding an acceptable definition of probable cause.

Current Assessment of Compliance

As described above under the Current Assessment of Compliance for paragraphs U42-U43, on October 11, 2005, the Court approved the parties' proposed agreement regarding the definition of probable cause and on October 29, 2005 the DPD submitted revised policies and Training Directive 05-07, *Probable Cause*, in accordance with the agreement. According to the DPD, Training Directive 05-07 was disseminated on October 30, 2005, with an effective date of November 21, 2005.⁷⁷

As described under the Current Assessment of Compliance for paragraph U45, the DPD has not yet responded to the Monitor's request for all auditable forms completed within the selected time-period⁷⁸ evidencing the review of those forms by the respective Commanding Officers (COs).

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

⁷⁷ The Monitor will test dissemination of this directive during the quarter ending February 28, 2006. Implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

⁷⁸ The first three working days in July 2005.

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.⁷⁹

Section IV's introductory section comprises paragraphs U61-63. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2005. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment 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 May 31, 2005, finding the DPD in non-compliance. The DPD had neither finalized nor disseminated Directive 102.6, *Citizen Complaints*, as of the end of that quarter.

Current Assessment of Compliance

The DPD revised and resubmitted Directive 102.6, *Citizen Complaints*, several times since the quarter ending May 31, 2005. Each time the Monitor provided the DPD with additional comments and recommendations.⁸⁰ After reviewing the revised directive that was resubmitted

⁷⁹ The OCI reports to the BOPC and is responsible for conducting all external complaint investigations.

⁸⁰ Refer to the Current Assessment of Compliance for paragraphs U64 and U65 for additional information regarding the various resubmission and corresponding responses from the Monitor.

on July 30, 2005, the Monitor informed the DPD via email on August 12, 2005 that the policy adequately meets the requirements of paragraph U61, among others.

According to the DPD, Directive 102.6 was disseminated to the field on August 15, 2005 with an effective date of September 12, 2005. In order to test dissemination of the directive, the Monitor selected a random sample of officers and requested documentation evidencing its dissemination to the selected officers.⁸¹ The DPD provided documentation⁸² evidencing the receipt by 84, or 89.36%, of the 94 officers selected.⁸³

Based on the foregoing, the Monitor finds the DPD in non-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.

⁸¹ A random, statistical sample of 94 officers was selected out of a population of approximately 3,711 listed officers. The Monitor utilized a confidence level of 95% with an acceptable error rate of +/- four percent.

⁸² The DPD utilized a listing that identified the policies disseminated and the date disseminated. The listing also contained the signatures of certain officers acknowledging receipt of policy.

⁸³ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to, additional officers. Upon reviewing this documentation, the Monitor was able to confirm that a total of 89, or 94.68%, of the 94 officers selected had received the directive. The DPD has now met the requirements for effective dissemination of the policy, although it had not done so as of the end of the current quarter. Since the relevant documentation was provided after the end of the quarter, the Monitor has not yet tested implementation of this policy. Implementation will be tested during the next regularly scheduled compliance assessment for this paragraph,

Background

The Monitor last assessed the DPD's compliance with paragraph U62 during the quarter ending May 31, 2005, finding the DPD in compliance with subparagraph U62c and d.⁸⁴ The Monitor did re-assess compliance with subparagraph U62b during that quarter, but noted that the DPD had implemented a number of recommendations the Monitor made for distributing required information. The DPD has continued to implement additional recommendations since the quarter ending May 31, 2005.

Current Assessment of Compliance

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.

U62b Distribution of complaint forms, fact sheets and informational posters

The DPD's Civil Rights Division (CRD) conducted inspections of the Neighborhood City Halls and Detroit Public Libraries during the period of July 12-22, 2005 to determine if each location displayed the complaint forms, fact sheets and informational posters. CRD determined that all operational Neighborhood City Halls and Detroit Public Libraries had sufficient supplies for the public. Where supplies were running low, additional documents were provided. CRD provided and the Monitor reviewed written documentation of the results of its internal inspection process. The Monitor will conduct spot checks at various locations to determine whether they have the information required during the next scheduled quarterly assessment of this paragraph.

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

U62c Complaint Process Broadcasts

As previously reported,⁸⁵ the PSA meets the minimum requirements of describing the complaint process. The PSA airs nightly on cable television government channels 10 and 22.

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

⁸⁴ Given that subsections b-d are essentially independent of each other, and it is possible for the DPD to achieve compliance with one subsection but remain in non-compliance with another, the Monitor intends to assign separate compliance grades in this report.

⁸⁵ Refer to the Monitor's Reports for the Quarters Ending November 30, 2004 and May 31, 2005.

U62d Informational Campaign Placards

On October 25-26, 2005, the Monitor conducted inspections of all districts and found that the DPD continues to have permanent placards posted in the lobby of each of district.

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

Recommendations

The Monitor has recommended that the DPD develop a methodology for its internal inspection process to include how often the inspections will be conducted.

The Monitor has also recommended that the documents in the informational campaign be revised as necessary taking the restructuring of the DPD into account. For example, due to the restructuring, the precinct/district locations at which citizens can file complaints have now changed. This recommendation also pertains to the informational brochures/contact forms in paragraph U63 as needed.

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 May 31, 2005, finding the DPD in non-compliance. The Monitor conducted seven ride-a-longs and found that five of the seven pairs of officers had required contact forms in their patrol cars.

Current Assessment of Compliance

CRD conducted inspections of the DPD districts during the period of November 2-3, 2005 to determine if officers were carrying their Citizen Complaint Brochure/Contact forms as required by paragraph U63. CRD randomly checked two units from each district and determined that twenty-two of the twenty-three officers (95.6%) checked had the appropriate informational

brochures and contact forms in their patrol cars.⁸⁶ The officer who was not able to produce these documents explained that he had recently been transferred and had not received the brochures and forms to-date. CRD responded by alerting the Compliance Liaison Officer (CLO) officer of this issue.

This paragraph also requires that the DPD require all officers to inform an individual of his or her right to make a complaint if he or she objects to an officer's conduct; the DPD must also prohibit officers from discouraging any person from making a complaint or refusing to take a complaint. These mandates are included in Directive 102.6, *Citizen Complaints*. As described in the Current Assessment of Compliance for paragraph U61 above, the Monitor selected a random sample of officers and reviewed documentation evidencing the receipt of Directive 102.6 by 84, or 89.36%, of the 94 officers selected.⁸⁷

Based on the foregoing, the Monitor finds the DPD in non-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 May 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U64 and U65 – Policies Regarding Intake and Tracking; Factual Account by Intake Officer

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.

⁸⁶ Two patrol units were called in at each district, some patrol cars had two officers assigned and others had one.

⁸⁷ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to, additional officers. Upon reviewing this documentation, the Monitor was able to confirm that a total of 89, or 94.68%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of the policy, although it had not done so as of the end of the current quarter. Since the relevant documentation was provided after the end of the quarter, the Monitor has not yet tested implementation of this policy. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

Background

The Monitor last assessed the DPD's compliance with paragraphs U64 and U65 during the quarter ending May 31, 2005 finding the DPD in non-compliance with each. As reported in the Background section for paragraph U61, above, the DPD had neither finalized nor disseminated Directive 102.6, *Citizen Complaints*, as of the end of that quarter.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph U61 above, during the current quarter, the DPD re-submitted the Directive 102.6, *Citizen Complaints*, several times in response to the Monitor's comments and recommendations.

As mentioned in the Monitor's Report for the Quarter Ending August 31, 2005, the DPD submitted the directive on June 22, 2005, in response to the Monitor's May 31, 2005 memo. During this time period, there were also discussions between the parties and the Monitor regarding the interpretation of the language requiring "all officers and OCI employees to accept and document all complaints" as required by paragraph U64. The DPD again submitted the directive on July 30, 2005. The language of the policy was revised to allow for a citizen on the street who wants to make a complaint to either go to one of the designated locations or have a supervisor come to the scene to take the complaint. After reviewing the resubmitted directive, the Monitor informed the DPD via email on August 12, 2005 that the policy adequately meets the requirements of the paragraphs U64 and U65, among others. According to the DPD, the directive was disseminated to the field on August 15, 2005 with an effective date of September 12, 2005.

As described in the Current Assessment of Compliance for paragraph U61 above, the Monitor selected a random sample of officers and reviewed documentation evidencing the receipt of Directive 102.6 by 84, or 89.36%, of the 94 officers selected.⁸⁸

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U64 and U65.

⁸⁸ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to, additional officers. Upon reviewing this documentation, the Monitor was able to confirm that a total of 89, or 94.68%, of the 94 officers selected had received the directive. The DPD has now met the requirements for effective dissemination of the policy, although it had not done so as of the end of the current quarter. Since the relevant documentation was provided after the end of the quarter, the Monitor has not yet tested implementation of this policy. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

Paragraph U66 – Unique Identifier

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 paragraph U66 during the quarter ending May 31, 2005, finding the DPD in compliance.

Current Assessment of Compliance

The Monitor reviewed a sample of OCI complaints that were formally closed and a sample of OCI complaints that were informally closed. The Monitor determined that the OCI and DPD are continuing to assign a unique complaint number to, and providing a description of the basis for, 100% of external complaints reviewed.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U66.

B. EXTERNAL COMPLAINT INVESTIGATION

This section comprises paragraphs U67-69. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph 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;
- 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:

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

Background

The Monitor last assessed the DPD's compliance with paragraph U67-69 during the quarter ending May 31, 2005, finding the DPD in non-compliance. Directive 102.6, *Citizen Complaints*, had not been disseminated to OCI and DPD personnel as of the end of the quarter.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph U61 above, during the current quarter, the DPD resubmitted Directive 102.6, *Citizen Complaints*, several times in response to the Monitor's comments and recommendations. After reviewing the revised directive that was resubmitted on July 30, 2005, the Monitor informed the DPD via email on August 12, 2005 that the policy adequately meets the requirements paragraphs U67-69, among

others. According to the DPD, the directive was disseminated to the field on August 15, 2005 with an effective date of September 12, 2005.

As described in the Current Assessment of Compliance for paragraph U61 above, the Monitor selected a random sample of officers and reviewed documentation evidencing the receipt of Directive 102.6 by 84, or 89.36%, of the 94 officers selected.⁸⁹

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U67-69.⁹⁰

⁸⁹ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to, additional officers. Upon reviewing this documentation, the Monitor was able to confirm that a total of 89, or 94.68%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of the policy, although it had not done so as of the end of the current quarter. Since the relevant documentation was provided after the end of the quarter, the Monitor has not yet tested implementation of this policy. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

⁹⁰ Because the DPD has not yet complied with the policy requirements for paragraph U67, and the requirement applies to each subparagraph (a. – h.), the Monitor is not separately assessing compliance with each subparagraph. Once policy is disseminated and the policy requirements of paragraph U67 are adequately addressed, the Monitor will separately assess the DPD's compliance with each subparagraph.

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 August 31, 2005, finding the DPD in non-compliance with each:

- Regarding paragraphs U72 and U74, although Directive 102.3, *Code of Conduct*, adequately addressed the requirements of the paragraphs, the Monitor determined that it had not been adequately disseminated to the field as of the end of that quarter.
- Regarding paragraph U73, the Monitor tested the field deployment of supervisors for a ten-day period and determined that the DPD could not provide documentation of a ratio of eight officers to one supervisor as of the end of that quarter.
- Regarding paragraph U75, although Directive 202.1, *Arrest Policy*, and its related auditable form, adequately addressed the paragraph's requirements, it had not been disseminated to the field as of the end of the reporting quarter as of the end of that quarter.
- Regarding paragraph U76, although Directive 305.4, *Holding Cell Areas*, adequately addressed all three requirements of the paragraph and had been adequately disseminated, the DPD had not yet begun training officers on its content as of the end of that quarter as of the end of that quarter.
- Regarding paragraph U77, although Directive 202.7, *Foot Pursuit*, adequately addressed the requirements of paragraph U77, the Monitor determined that it was not adequately disseminated to the field as of the end of that quarter.⁹¹

⁹¹ Although paragraphs U72-77 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of the pertinent directives. The DPD provided documentation, including documentation received after the end of the quarter (on December 15, 2005), evidencing: the receipt of Directive 102.3 by 93.62%

The Monitor is scheduled to assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

The Monitor last assessed the DPD's compliance with paragraphs U70 and U71 during the quarter ending May 31, 2005. 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 May 31, 2005, at which time the Monitor withheld a determination of the DPD's compliance. The Monitor determined that, with the exception of the unresolved issue regarding an acceptable definition of probable cause, Directive 404.1, *Definitions*, adequately addressed the requirements of the paragraph.⁹²

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph U70 during the current quarter, the Monitor selected a random sample of 94 officers and requested documentation evidencing the dissemination of Directive 404.1, *Definitions*,⁹³ to the selected officers.⁹⁴ The DPD provided documentation evidencing the receipt of the directive for 91, or 94.68%, of the 94 officers selected.⁹⁵

of the 94 officers selected for testing; the receipt of Directive 305.4 by 95.75% of the 94 officers selected for testing; and the receipt of Directive 202.7 by 96.81% of the 94 officers selected for testing. Based upon these results the DPD has not yet met the requirements for effective dissemination of Directive 102.3 (paragraphs U72 and U74). The Monitor will re-test dissemination of this policy during the quarter ending February 28, 2006. However, the DPD has now met the requirements for effective dissemination of Directives 305.4 (paragraph U76) and 202.7 (paragraph U77). The Monitor will commence testing implementation during the quarter ending February 28, 2006.

⁹² Although the directive met the minimum requirements of the UOF CJ, the Monitor identified and proffered recommendations for the inclusion of certain additional terms that would be of assistance to DPD members.

⁹³ Directive 404.1, *Definitions*, was disseminated on February 25, 2005, with an effective date of March 21, 2005.

⁹⁴ A random, statistical sample of 94 officers was selected out of a population of approximately 3,711 listed officers. The Monitor utilized a confidence level of 95% with an acceptable error rate of +/- four percent.

⁹⁵ The DPD utilized a listing that identified the policies disseminated and the date disseminated. The listing also contained the signatures of officers acknowledging receipt of policy.

In order to comply with the implementation requirement of paragraph U70, the DPD must also establish procedures to identify terms requiring clear definitions and institute a process to prepare definitions for review and inclusion in manuals and other documents. The Monitor intends to review the processes the DPD has in place in this area pending the testing of the dissemination of Training Directive 05-07.⁹⁶

Based on the foregoing, the Monitor is currently withholding a determination of the DPD's 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 May 31, 2005, finding the DPD in non-compliance. The Monitor determined that the written protocol provided by the OCI for the receipt of citizen comments did not address some of the concerns the Monitor had previously expressed, including the failure to include steps for acknowledging receipt of comment, providing comment to the BOPC at least two days prior to a regularly scheduled meeting, and notifying the citizen regarding the outcome of their comment. Additionally, the protocol did not delineate specific responsibility in the absence of certain key OCI personnel.

Current Assessment of Compliance

During the current quarter, the Monitor received an electronic copy of the revised protocol from the CRD on December 1, 2005. CRD personnel advised that the protocol was approved by the BOPC on November 18, 2005. Although the protocol addressed many of the concerns the Monitor had expressed in previous discussions with the DPD, there were still some that had not been adequately addressed.⁹⁷ These concerns were conveyed to both OCI and CRD personnel.

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

⁹⁶ Refer to the Current Assessment of Compliance for paragraphs U42-U43.

⁹⁷ For some tasks identified, the responsible individual has not yet been identified in the protocol. Also, for any comments provided, the protocol continues to lack specificity regarding the manner in which they will be tracked for response.

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 May 31, 2005, at which time the Monitor found the DPD in non-compliance. The Monitor determined that the DPD remained in non-compliance with the majority of the paragraphs related to subparagraphs a and c; the Monitor requested information regarding the DPD's compliance efforts regarding subparagraphs U78d and e, but no information had been received as of the end of that quarter.

The Monitor is scheduled to again assess the DPD's compliance with paragraph U78 during the quarter ending February 28, 2006, in conjunction with its assessment of paragraph C63, which is the corresponding paragraph of the COC CJ.

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 last assessed the DPD's compliance with paragraphs U84-85, subparagraphs U88d, e and f, and paragraph U89 during the quarter ending August 31, 2005. The Monitor found the DPD in compliance with paragraph U84 and subparagraph U88d and in non-compliance with paragraph U85, subparagraphs U88e and f, and paragraph U89. Although the DOJ granted approval of the Request for Proposals (RFP), Review Protocol and the documents describing the Interim Management Awareness System (IMAS), the other modules required by this paragraph, the Report Protocol and Data Input Plan, had not yet received DOJ approval. In addition, the Monitor had not been afforded the opportunity to participate in testing the beta version of the MAS. Finally, the Monitor commended the DPD on the development of the IMAS, but noted that training must be completed and capabilities enhanced in order for the system to be effective and to meet the requirements of this UOF CJ. The Monitor is scheduled to again assess the

DPD's compliance with paragraphs U84-85, subparagraphs U88e and f, and paragraph U89 during the quarter ending February 28, 2006.⁹⁸

The Monitor last assessed the DPD's compliance with paragraphs U79-83 and U86-87, and subparagraphs U88a.-c. during the quarter ending May 31, 2005. The Monitor again assessed the DPD's compliance these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph U79 – Expansion of Risk Management 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.

Background

The Monitor last assessed the DPD's compliance with paragraph U79 during the quarter ending May 31, 2005, finding the DPD in non-compliance due to the fact that approval of the MAS had not yet been received from the DOJ. During that quarter, on May 16, 2005, the DPD resubmitted the MAS documents, namely the Data Input Plan, RFP, Report Protocol and Review Protocol and the IMAS to the DOJ for review and approval.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraphs U80-82, U86, and U87, below, the DOJ has approved the Report Protocol, the RFP and the document describing the IMAS, and provisionally approved the Review Protocol. However, the DPD resubmitted the Data Input Plan to the DOJ for review and approval near the end of the quarter, on November 22, 2005; the DOJ is in the process of reviewing the plan as of the end of the current quarter. As a result, the DPD had not yet received approval of all the primary documents necessary for implementation of the MAS.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U79.

⁹⁸ The Monitor is also scheduled to assess compliance with subparagraph U88g for the first time during that quarter, since the deadline for implementation of that subparagraph is December 31, 2005.

Paragraphs U80-83, U86, U87, U88a-c – Risk Management Database Information Requirements; Identifying Information for Officers and Civilians; Data Input Plan; Report Protocol; Common Control Number; Information Maintained in Database; Schedule for Database Development

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;
- 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 U83 requires the DPD to prepare, for the review and approval of the DOJ, a Report Protocol for the risk management database that details the types of routine reports the DPD must generate and pattern identifications the DPD must conduct. The Report Protocol must:

- a. require the automated system to analyze the number of incidents and average level of activity for each individual officer and for all officers in a unit, and to identify patterns of activity for each data category;
- b. establish thresholds for the numbers and types of incidents requiring a review by an officer's supervisor of whether the officer or group of officers is engaging in at-risk behavior; and
- c. require the database to generate reports on a monthly basis describing the data and data analysis and identifying individual and unit patterns.

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.

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

- a. within 90 days of the effective date of the UOF CJ, the DPD must submit the Data Input Plan to the DOJ for review and approval within 30 days, and prior to this, share drafts of the Data Input Plan with the DOJ;
- b. by September 30, 2003, the DPD must submit the Report Protocol and Request for Proposals to the DOJ for review and approval within 30 days, and prior to this, share drafts of such documents with the DOJ;
- c. by October 31, 2003, the DPD must issue the Request for Proposals.

Background

The Monitor last assessed the DPD's compliance with paragraphs U80-83, U86, and U87 during the quarter ending May 31, 2005, finding the DPD in non-compliance with each due to the fact that approval of the MAS had not yet been received from the DOJ. During that quarter, on May 16, 2005, the DPD resubmitted the MAS documents, namely the Data Input Plan, RFP, Report Protocol and Review Protocol and the IMAS to the DOJ for review and approval.

Current Assessment of Compliance

On July 11, 2005, the DOJ provided the DPD with a letter approving the RFP and the document describing the IMAS, and provisionally approving the Review Protocol. The DOJ included additional comments and recommendations on the Report Protocol and the Data Input Plan. The DPD has not yet issued the RFP.⁹⁹

⁹⁹ On December 13, 2005, the Monitor and DOJ received information from the DPD asking for input on its plan to have their internal Information Technology Section staff convert the IMAS into the MAS (and therefore the issuance of an RFP would not be necessary). The DPD submitted a feasibility study describing its plan. As this was submitted after the end of the quarter, the Monitor and the DOJ are still in the process of reviewing this information.

On August 1, 2005, the DPD resubmitted the Report Protocol to the DOJ for review and approval. The DOJ provided final approval of the Report Protocol via a letter to the DPD dated November 1, 2005.

The DPD resubmitted the Data Input Plan to the DOJ for review and approval near the end of the quarter, on November 22, 2005; the DOJ was in the process of reviewing the plan as of the end of the quarter. As a result, the DPD had not yet received approval of all the primary documents necessary for implementation of the MAS.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraphs U83 and U88b but the Monitor finds the DPD in non-compliance with paragraphs U80, U81, U82, U86, U87 and U88a and c.

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, 2005, finding the DPD in non-compliance. The Monitor had previously found that Directive 401.1, *Performance Evaluation Ratings*, together with related forms, meets the requirements of the paragraph. However, the DPD provided documentation evidencing the receipt of the directive and the forms for only 24, or 25.5%, of the 94 officers selected for review by the Monitor. The Monitor is scheduled to again assess the DPD's compliance with paragraph 91 during the quarter ending February 28, 2006.¹⁰⁰

C. OVERSIGHT

This subsection of the UOF CJ (paragraphs U92-99) requires the DPD to establish an internal audit process, to perform annual¹⁰¹ audits of all precincts and specialized units on eight aspects

¹⁰⁰ Although paragraph U91 was not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 404.1. The DPD provided documentation evidencing the receipt of the directive for 91, or 96.81%, of the 94 officers selected for testing. Accordingly, the DPD has now met the requirements for effective dissemination of the policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for this paragraph.

¹⁰¹ 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.

of policing,¹⁰² 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 paragraphs U92-98 during the quarter ending August 31, 2005, finding the DPD in compliance with paragraph U92, but in non-compliance with paragraphs U93-98. The Monitor last assessed the DPD's compliance with paragraph U99 during the quarter ending May 31, 2005, finding the DPD in non-compliance.

The Monitor is scheduled to again assess the DPD's compliance with paragraph U92 and U98 during the quarters ending August 31, 2006 and February 28, 2006; respectively. During the current quarter, the Monitor assessed the DPD's compliance with paragraphs U93-97 and U99, and continued to provide TA regarding some of the UOF CJ audits that were in progress during this 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 August 31, 2005, at which time the Monitor withheld a determination of compliance. On the final day of the quarter, the DPD submitted to the Monitor two audit reports required by the UOF CJ: the *Allegations of Misconduct Investigations Audit*, required by subparagraph U94c, and the *OCI Audit of External Complaints*, required by paragraph U97.¹⁰³ Upon receiving these audit reports, the Monitor requested documentation to support their transmittal to the Chief of Police and appropriate COs, as well as any actions taken by the Chief and COs in connection with these

¹⁰² Including UOF investigations; prisoner injuries; allegations of misconduct; arrests; stops and frisks; witness identification and questioning; custodial detention practices, and complaint investigations.

¹⁰³ The Monitor has a standing document request for all documentation related to the audits, including transmittal and follow-up correspondence. Upon receiving these audit reports, the Monitor again requested documentation related to U93.

audits. Because this documentation was not received as of the end of the previous quarter, the Monitor was unable to assess compliance with paragraph U93.

Current Assessment of Compliance

The Monitor has not received documentation evidencing the transmittal of the paragraph U94c and U97 audit reports to the Chief of Police and appropriate COs and any action that they have taken in connection with the audits during the current quarter. As mentioned in previous quarterly reports, the DPD has indicated its intention to implement the Corrective Action Needed (CAN) reporting system to document and track all pertinent information relative to the actions taken by each CO regarding the DPD audit findings. Although the Monitor believes that this system may be helpful in enabling the DPD to meet the requirements of this paragraph, the CAN reporting system was not implemented 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 paragraph U94a and b during the quarter ending August 31, 2005, finding the DPD in non-compliance with each since none of these audits were submitted as of the end of that quarter.

As described in the Background section for paragraph U93 above, the DPD submitted an Allegations of Misconduct Investigations Audit on August 31, 2005. Due to the timing of this submission, during the quarter ending August 31, 2005 the Monitor commenced but had not completed its assessment of the DPD's compliance with subparagraph U94c.

Current Assessment of Compliance

As of the end of the current quarter, the DPD had not submitted a Use of Force Investigations Audit (required by subparagraph U94a) or a Prisoner Injury Investigations Audit (required by subparagraph U94b). The next audits required by these subparagraphs are expected to be submitted during the period ending August 31, 2006.

During the current quarter, the Monitor completed its review of the *Allegations of Misconduct Investigations Audit* report submitted on August 31, 2005 in conjunction with paragraph U94c,

the audit planning documents and other working papers, and conducting a limited assessment of the audit fieldwork related to this audit. The Monitor noted that all aspects of this audit, from planning through reporting, have improved compared to audits previously submitted by the DPD AT; however the Monitor identified a number of issues, which were discussed with the AT, that are highlighted below:

- The audit report was submitted on the required due date of August 31, 2005. The audit report stated that it included a sample of 103 investigations that closed from September 1, 2004 through February 28, 2005.¹⁰⁴ Although the Monitor has suggested that the AT use more recent incidents, this audit population was not considered stale.
- Appropriate sampling techniques were utilized in calculating the minimum sample size of investigations to review; however, in identifying the sample of 54 command investigations, the AT counted the number of DPD officers who were being investigated within each misconduct investigation rather than counting the number of misconduct investigations. As a result, the number of misconduct investigations actually examined in this audit was 46, which was insufficient.
- The Monitor identified deficiencies in the methodologies used by the AT to identify the total population of Command investigations,¹⁰⁵ as well as the AT's reporting relative to these efforts. Although the AT thoroughly checked the completeness of the IAS population, only limited efforts were made to check the completeness of the Command population due to the lack of automated systems for identifying and tracking Command investigations. And, although the audit report contained a statement indicating that the AT had problems identifying the population of Command investigations, the AT did not report this problem as a significant audit finding, nor did it include any recommendations to remedy this situation. Given that this is a systemic problem that will hinder the DPD's ability to achieve compliance with the Consent Judgments, the audit report should have conveyed this information to DPD management so that this problem could be remedied.
- The Monitor noted that the audit report contained erroneous information stating that the UOF CJ does not require the DPD to audit Command investigations.¹⁰⁶ In addition, the audit inappropriately recommended that future audits only review a limited sample of this population. Based on the problems identified during the AT's attempt to identify the population of Command investigations to be evaluated as part of the scope of this audit, the Monitor does not agree that the AT should limit its future reviews.
- The audit report appeared to address the pertinent UOF CJ requirements for internal investigations as required by paragraph U94c; however, the Monitor noted some deficiencies

¹⁰⁴ Three investigations were conducted by Homicide, 46 were conducted by IAS, and 54 were conducted by the Commands.

¹⁰⁵ Command investigations include internal precinct and specialized units investigations, including Homicide.

¹⁰⁶ Paragraphs U94 and C65 both specifically require the audits to cover a sample of Command investigations.

within the working papers related to the evaluation of the investigations. Because the Monitor had already determined that the audit was non-compliant, the Monitor did not conduct a complete assessment of these issues, but did discuss them with the AT.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraphs U94a-c.¹⁰⁷

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.

Background

The Monitor last assessed the DPD's compliance with paragraph U95 during the quarter ending August 31, 2005, finding the DPD in non-compliance, as none of the audits required by this paragraph had been submitted as of the end of that quarter.

Current Assessment of Compliance

The DPD did not submit any of the audits required by paragraph U95 during the period ending August 31, 2005, and no audits have been submitted since then on these topics. The DPD intends to submit its next audits for each of these topics during the period ending August 31, 2006.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U95.¹⁰⁸

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

¹⁰⁷ The Monitor will continue to find the DPD in non-compliance with subparagraphs U94a and b until the required audits have been submitted. When an audit is submitted, the quality of the audit will be evaluated.

¹⁰⁸ The Monitor will continue to find the DPD in non-compliance with this paragraph until the required audits are submitted. When these audits are submitted, the Monitor will evaluate their quality.

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, 2005, finding the DPD in non-compliance because the audit required by this paragraph had not been submitted as of the end of that quarter.

Current Assessment of Compliance

The DPD did not submit an audit required by paragraph U96 during the period ending August 31, 2005, or during the current quarter. The DPD intends to submit its next audit of this topic during the period ending August 31, 2006.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U96.¹⁰⁹

Paragraph U97 – Audits of OCI Audits of External Complaints and Investigations

Paragraph U97 requires the Chief Investigator (CI) of the OCI to designate an individual or entity to conduct annual audits that examine external complaints and complaint investigations, and to review all audit reports regarding officers under OCI command and take appropriate disciplinary or non-disciplinary corrective action.

Background

As described in the Background section for paragraph U93, the DPD submitted the *External Complaint and Complaint Investigation Audit* on August 31, 2005. Due to the timing of this submission, the Monitor commenced but had not completed its assessment of the DPD's compliance with subparagraph U97 for the quarter ending August 31, 2005.

Current Assessment of Compliance

During the current quarter, the Monitor completed its review of the *External Complaint and Complaint Investigation Audit* report submitted to the Monitor on August 31, 2005 and the DPD's audit planning documents and working papers, and conducting a limited assessment of the audit fieldwork related to this audit.

The Monitor's findings, which have been discussed with DPD's AT, are highlighted below:

¹⁰⁹ The Monitor will continue to find the DPD in non-compliance with this paragraph until the required audit is submitted. When this audit is submitted, the quality of the audit will be evaluated.

- Neither the CI of OCI nor any member of his management team were provided with a copy of the final audit report, as required by paragraph U97, until the Monitor had completed its review and made this observation known to the AT.
- The AT identified a thorough population of closed complaints, formally and informally resolved, covering a six month period between September 1, 2004 and February 28, 2005, and employed a sound methodology in selecting a sample for review.
- The scope of the audit covered the pertinent sections of the UOF CJ as required by U97.
- The Monitor identified deficiencies in the AT's reporting of its sampling processes, testing, and compliance calculations, as well as its interpretation of the related results. Most significantly, while the AT appropriately limited its sample size where significant issues of non-compliance were noted, the AT inappropriately reported other areas tested as compliant based on the truncated sample size. This incorrect reporting created a bias in the final assessment of the OCI's performance.
- The audit report contained text correctly explaining that the total sample size was 107 but the number of investigations reviewed for each objective would be dictated by the compliance level obtained for each objective (e.g. early non-compliance results would not require a review of the total sample of 107). However, the AT did not follow this process. For example, in a number of instances, the AT reported a 100% compliance rate for an objective even though it did not review all 107 investigations included in the sample. A 100% compliance rate could only have been achieved if all 107 investigations were reviewed and met all of the testing parameters for the related objective. This erroneous testing and reporting again resulted in invalid conclusions.
- The audit report presented good details, but lacked management insight, oversight and analysis, and was not presented in a manner to promote 'action' by the DPD and OCI.

Based on the foregoing, the Monitor finds this audit in non-compliance with paragraph U97.

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 May 31, 2005, finding the DPD in compliance. The DPD and the Wayne County Prosecutor's Office (WCPO) continued to meet quarterly to identify issues.

Current Assessment of Compliance

During the current quarter, the Monitor confirmed that DPD and the WCPO personnel continue to meet quarterly to identify issues in officer, shift or unit performance. This quarter's meeting was held on November 10, 2005. Two members of the monitoring team were in attendance. Some of the concerns discussed at this meeting included issues related to layoffs, communication and paperwork. The next meeting is scheduled for February 9, 2006.

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.

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.

The Monitor last assessed the DPD's compliance with paragraphs U100-102 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. The Monitor determined that Directive 303.3, *In-Car Video*, and related forms adequately addressed the policy requirements of these paragraphs U100-102. However, the DPD disseminated the directive and related forms on August 15, 2005, with an effective date of September 12, 2005, which was after the end of that quarter. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.¹¹⁰

¹¹⁰ Although paragraphs U100-102 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 303.3. The DPD provided documentation evidencing the receipt of the directive for 84, or 89.37%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 89, or 94.68%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of the policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for this paragraph.

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 August 31, 2005. The Monitor found the DPD in non-compliance with paragraph U103, had not completed its assessment of compliance with paragraph U104 and withheld a determination of compliance with paragraph U105. Although the Monitor received general information from the DPD regarding steps taken to comply with these paragraphs, the Monitor had not received more specific information that was requested regarding the resources devoted to the revised disciplinary system and the status of the 61 pre-2004 backlogged cases that the DPD indicated were pending adjudication as of March 2005.

Regarding paragraph U104, the Monitor reviewed a document entitled "Disciplinary Process Timelines," which purports to contain the guidelines required by paragraph U104, and found that the guidelines generally dictated maximum timelines between each stage of the disciplinary process, with a couple of exceptions. The Monitor also found that the Disciplinary Administration Section (DAS) paperwork requirements mentioned under the appeals to arbitration section should be included for other areas. However, these results were not communicated to the DPD until after the end of the quarter.

Regarding U105, the Monitor indicated that it had several concerns regarding Directive 102.4, *Discipline*, and the Disciplinary Matrix, one of which concerned the fact that many of the paragraphs in the UOF CJ that include disciplinary sanctions do not appear to be included in the policy or on the matrix.

The Monitor is scheduled to again assess the DPD's compliance with paragraphs U103-105 during the quarter ending February 28, 2006.

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 U106-111. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2005. 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 May 31, 2005, finding the DPD in non-compliance. As of the end of the quarter, the DPD had not yet submitted any reports of its reviews of UOF and A&D training to the Monitor and the DOJ, as the majority of the lesson plans in these areas had not yet been completed.

Current Assessment of Compliance

During the current quarter, the Monitor attended meetings with the DPD Training staff and inquired as to their intended processes to demonstrate a coordinated approach to the training requirements of the UOF CJ and the specific requirements of this paragraph. Based on these discussions and information provided by the DPD training staff, it appears that DPD's development of lesson plans includes a best practices research process and a review by the training executive staff. However, the Monitor is concerned that this effort within the training

division is not adequate, not coordinated, and does not include evaluations for the quality and consistency of the lesson plans. During the Monitor's initial reviews of the lesson plans submitted by the DPD many qualitative deficiencies were noted. For example, the Monitor noted a lack of instructor notes and inadequate information for instructors regarding the appropriate outcome of scenario based training. The Monitor provided verbal feedback and written exemplars, however this feedback was not communicated to the personnel charged with developing these lesson plans.

Given the deficiencies described above, on December 2, 2005 the Monitor extended a formal offer of TA to the City to provide guidance on the creation of an organizational matrix to track the development, review and approval processes of all UOF and A&D lesson plans. The Monitor believes that the use of a matrix by the training staff will promote a coordinated effort within the DPD with regard to the further development and review of these lesson plans.¹¹¹

In addition to the above, the DPD has not yet submitted to the Monitor and the DOJ any reports on its semi-annual reviews as required by this paragraph.

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:

- a. ensure the quality of all UOF and A&D training;
- b. develop UOF and A&D 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 A&D 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 May 31, 2005, finding the DPD in non-compliance. Although the DPD made progress by obtaining approval from DOJ for many of the underlying UOF and A&D policies and disseminating the policies to the field, the curricula for UOF and A&D training had not yet been

¹¹¹ The DPD formally accepted the Monitor's offer of TA on December 14, 2005.

submitted to the Monitor. Also, a systematic process for curriculum development, review and evaluation had not been submitted.

Current Assessment of Compliance

During the current quarter, the Monitor requested a listing of all lesson plans completed to date, to include the associated Consent Judgment paragraph(s) of each lesson plan listed. The DPD had not provided this information as of the end of the current quarter.¹¹² The Monitor will continue to review lesson plans as they are completed and submitted; however, as of the end of the current quarter the Monitor has not received all of the lesson plans, training materials and other documentation in response to each of the requirements in the subparagraphs of U107.¹¹³

In addition to developing all UOF and A&D training curricula, compliance with this paragraph also requires the DPD to develop a systemic process for curriculum development, review and continuing evaluation. The DPD has not yet submitted documentation or demonstrated its compliance with the management approach to the training requirements of the UOF CJ and specifically the requirements of U107.

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 May 31, 2005, finding the DPD in non-compliance. The DPD was utilizing the Michigan Commission on Law Enforcement Standards (MCOLES) Information and Tracking System (MITN) to track current data for training records; however, according to the DPD, the MITN is incapable of tracking archival training data.

¹¹² The Monitor received this information from the DPD after the end of the quarter on December 9, 2005.

¹¹³ On November 30, 2005, the Monitor received Selection and Training of DPD Officer Trainers In-Service (U107C), which is currently being evaluated.

Current Assessment of Compliance

Although some recording of current training has been entered into MITN, the DPD plans to use the MAS to address the requirements of this paragraph;¹¹⁴ however, the MAS is not yet operational. As such, the DPD is not yet maintaining individual training records for all officers, documenting the date and topic of all pre-service and in-service training. Once the DPD has informed the Monitor that all training records are being entered and maintained, the Monitor will evaluate the content and accuracy of the applicable system.

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 May 31, 2005, finding the DPD in non-compliance. Although the DPD submitted In-Service Training Protocols outlining the requirements of paragraph U109, it had not yet developed lesson plans on the revised policies.

Current Assessment of Compliance

As described above, during the current quarter, the Monitor requested a listing of all lesson plans completed, with references to the Consent Judgment paragraph(s) that each lesson plan is intended to address. The DPD had not responded to this request or provided this information as of the end of the current quarter.¹¹⁵ The Monitor is currently evaluating individual lesson plans and/or training materials that have been submitted as recently as November 30, 2005. In addition, the DPD must provide the Monitor with all lesson plans currently being taught, the documentation supporting the internal approval of these lesson plans, and a schedule for the delivery of the related training to applicable DPD personnel. Only then can the Monitor review and assess the completed documentation, observe the training in-progress, and assess the instructors of that training to determine if instructors are engaging the students as required by this paragraph.

¹¹⁴ Paragraphs U79-U88 pertains to the MAS and certain of these paragraphs are evaluated under the Management and Supervision section of this report.

¹¹⁵ The Monitor received this information from the DPD after the end of the quarter on December 9, 2005.

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.

Background

The Monitor last assessed the DPD's compliance with paragraph U110 during the quarter ending May 31, 2005, finding the DPD in non-compliance. The Monitor found that although quarterly meetings being held between the DPD and the City's Law Department meet many of the requirements of this paragraph, the DPD was not distributing information from these meetings to staff of the Risk Management and Training Bureaus as required. Although several Risk Management Bureau and Training supervisors attend the meetings, unless otherwise interpreted, the information must still be distributed to the other staff members. In its Fifth Quarter Status Report, the DPD stated that this information is only distributed "if adverse behavioral patterns are discovered;" however, that does not meet the requirements of the paragraph.

Current Assessment of Compliance

In its Ninth Quarter Status Report, the DPD represented that the findings gleaned from paragraph U110 meetings between the DPD's Risk Management Bureau and the City's Law Department are now disseminated to the training staff. The DPD also indicated that risk assessment issues will be incorporated into training and/or policy. As of the end of the quarter, the Monitor has not received any documentation of the dissemination to staff.¹¹⁶

The Monitor has received information indicating that risk management issues raised during recent meetings are being followed up on. For example, during the September 9, 2005 meeting, an issue was raised regarding liability incurred by DPD members' on-duty automobile accidents. According to the DPD, this issue was then discussed at several Senior Management Team Meetings. As a result, the City's Law Department is currently reviewing the possibility of holding members financially accountable as one measure of reducing risk in this area.

¹¹⁶ After the end of the quarter, the DPD provided the Monitor with an email disseminating the notes from the meeting held on March 29, 2005. The Monitor has requested information regarding the assignments of nine of the recipients of the email. However, the Monitor has not received documentation indicating dissemination of any information from meetings held subsequent to March 29th.

Based on the fact that the Monitor had not yet received full documentation of dissemination to staff as of the end of the quarter, the Monitor finds the DPD in non-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 May 31, 2005, finding the DPD in non-compliance. The DPD indicated that it had provided training to non-DPD City employees whose job responsibilities are affected by the UOF CJ, including members of the HCCC, Detroit Police Reserve and the managers of the Neighborhood City Halls. The Monitor was provided with the sign in- rosters for the training; however, the Monitor was not able to ascertain what City offices the individuals were from.

Current Assessment of Compliance

The Monitor has requested additional information from the DPD in order to evaluate whether non-DPD City employees who fall within the requirements of this paragraph have been trained. The information previously provided did not adequately identify which agency the non-DPD City employees were from. It is necessary to have this specific information in order to evaluate the DPD's compliance with this paragraph.

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, the DPD has not yet implemented these requirements.

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, 2005. 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;
- 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 May 31, 2005, finding the DPD in non-compliance. The Training Division had a number of efforts ongoing simultaneously and made progress in developing the lesson plans required under

this paragraph,¹¹⁷ including a UOF Continuum lesson plan that was submitted to address the requirements of paragraph U112a and Search Seizure Fundamentals for Street Patrol lesson plans that were submitted to address the requirements of paragraphs U112b and U114b. However, these plans did not address the requirements of all of the subsections of paragraph U112, including c through j.

Current Assessment of Compliance

The Monitor is currently reviewing the most recent lesson plans that were submitted by the DPD at the end of the quarter.¹¹⁸ As discussed previously, the Monitor requested the DPD to produce a listing of all completed lesson plans referencing the relevant Consent Judgment paragraph(s).¹¹⁹ As of the end of the quarter, the DPD has not yet responded or provided this information, nor has it submitted documentation addressing all of the requirements of paragraph U112

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, 2005. 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;

¹¹⁷ The DPD's compliance with paragraph U112 will require the completion of a number of lesson plans and associated curriculum development, including scenario-based training. Sections of this paragraph are covered in firearms training, pursuit training, mental health training, and chemical spray training, among others.

¹¹⁸ The training documentation received by the Monitor on November 30, 2005, which appears to be in response to some of the requirements of U112 are: Use of Force In-Service; Foot Pursuit In-Service; Chemical Spray (SABRE) In-Service; and Firearms Tactical Training and Qualification In-Service.

¹¹⁹ The Monitor received this information from the DPD after the end of the quarter on December 9, 2005.

- 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
- 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 May 31, 2005, finding the DPD in non-compliance. According to the DPD, the firearms training began in January 2004 and was repeated in 2005. This training was planned prior to the finalization of the firearms directive; the Monitor was unaware of any revisions made based upon the revised policy. The Monitor also noted that the DPD still lacked an appropriate facility for night firearms training.

Current Assessment of Compliance

On November 30, 2005, the Monitor received a document entitled *Firearms Tactical Training and Qualification In-Service* which lists paragraphs U20-21, U112f, and U113a-d on the title page. Due to the timing of this submission, at the end of the quarter, the Monitor has not yet completed its review and comment of this document.

The Monitor is encouraged by the apparent emphasis that has been placed on firearms qualification by the DPD. The DPD has verbally indicated that an organized scheduling process with effective follow-up procedures for non-attending officers is in place. However, firearms qualification at the firing range is but one of this paragraph's requirements. For example, night training, stress training, UOF decision-making with the goal of preparing officers for real life situations, as well as requirements of other paragraphs pertaining to situational and simulation exercises, are also necessary.

In its Ninth Quarter Status Report, the DPD stated that the original intent of the parties (including the City and the DOJ) was to utilize night goggles, which are currently being utilized to meet the night training requirements of subparagraph b. The Monitor recently brought this subject to the DOJ's attention. The DOJ indicated that they will discuss internally and then advise as to whether this agreement was made during the negotiation process prior to finalizing the Consent Judgments.

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, 2005. 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 affected 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 May 31, 2005, finding the DPD in non-compliance. The Monitor determined that the Search and Seizure Fundamentals for Street Patrol lesson plans submitted by the DPD in April 2005, which purport to meet the requirements of paragraph U114b, did not meet all of the requirements of paragraph U114.

Current Assessment of Compliance

The Monitor has reviewed both the Search and Seizure Fundamentals for Street Patrol and Arrest Concepts: Fundamentals for Street Patrol lesson plans.¹²⁰ Both have similar structural deficiencies in lesson plan construction and instructor notes. The Monitor provided verbal feedback to the DPD training staff and is aware that revisions are underway. The DPD has indicated that revised lesson plans will be re-submitted in the near future. Nevertheless, these lesson plans must meet the requirements of all subsections of the paragraph. The Monitor will evaluate such lesson plans upon receipt. In addition, as part of the TA Offer described in the Current Assessment of Compliance for paragraph U106, the Monitor intends to work closely with the DPD training staff if any further revisions are required.

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 August 31, 2005, finding the DPD in non-compliance with each.

The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

The Monitor reviewed revised lesson plans submitted by the DPD and determined that the lesson plans did not address the "Custodial Detention Training" requirements of paragraph U115. The DPD's intention is to include the Custodial Detention Training requirements of paragraph U115 in the lessons plans that are being designed in connection with paragraph U114, Arrest and Police-Citizen Interaction Training. The DPD training staff has indicated that the paragraph U114 lesson plans are currently in the final development and review stages.

The Monitor determined that the DPD had not delivered the lesson plans that addressed paragraph U116 requirements to all DPD recruits, officers and supervisors on an annual basis. The lesson plans developed and submitted to the Monitor contained no instructor notes or correct answers and responses to the materials being presented. The Monitor provided some sample materials to the DPD training staff, and submitted a formal offer of TA in order to provide the DPD with further guidance on the structure of adequate lesson plans.¹²¹

¹²⁰ As described in the Background section, the Monitor reviewed the Search and Seizure Fundamentals for Street Patrol lesson plan during the quarter ending May 31, 2005. The DPD submitted the Arrest Concepts: Fundamentals for Street Patrol lesson plan to the Monitor on July 21, 2005.

¹²¹ As indicated in the Current Assessment of Compliance for paragraph U106, the DPD formally accepted the Monitor's offer of TA on December 14, 2005.

The lesson plans that address the requirements of paragraph U117 had not been submitted to the Monitor for review or delivered to all DPD recruits, officers and supervisors on an annual basis. The Monitor has suggested to the DPD training staff that in order to comply with the implementation requirements of this paragraph as it relates to “advising officers,” the specific information related to Material Witnesses required by paragraph U117 should be included in either the Custodial Detention lesson plans required by paragraph U115, the lesson plans covering Prompt Judicial Review, or within documented roll-call training. However, the issuance of policy, alone, does not sufficiently address the requirement of advising officers.

F. SUPERVISORY TRAINING

This section comprises paragraphs U118-120. The Monitor last assessed the DPD’s compliance with these paragraphs during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. The DPD had not yet completed the curricula for the training required by paragraphs U118 and U119, nor had the DPD submitted a lesson plan to the Monitor for review and assessment of compliance with paragraph U120.¹²²

The Monitor is scheduled to again assess the DPD’s compliance with these paragraphs during the quarter ending February 28, 2006.

G. INVESTIGATOR TRAINING

This section comprises paragraphs U121-122. The Monitor last assessed the DPD’s compliance with these paragraphs during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. The Monitor determined that lesson plans submitted in response to paragraph U121 and U122 contained various shortcomings; specifically, the Monitor noted that while the lesson plans contained references to videos of scenarios for role-play purposes, they included no instructor notes or correct answers and responses to the scenarios. The Monitor submitted a formal offer of TA to provide the DPD with examples of adequate lesson plans and further assistance, where necessary.¹²³

The Monitor is scheduled to again assess the DPD’s compliance with these paragraphs during the quarter ending February 28, 2006.

¹²² The Monitor also noted that the MAS had not yet been finalized or approved by the DOJ. The Monitor suggested that the DPD submit the lesson plans to the Monitor prior to conducting the training related to the MAS database to avoid unnecessary repetition of the training.

¹²³ As indicated in the Current Assessment of Compliance for paragraph U106, the DPD formally accepted the Monitor’s offer of TA on December 14, 2005.

H. FIELD TRAINING

This section comprises paragraph U123 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the DPD submitted a revised FTO Protocol to the Monitor, the protocol was not forwarded to the DOJ for review and approval.¹²⁴

The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending February 28, 2006.

VIII. MONITORING, REPORTING, AND IMPLEMENTATION

Paragraph U139 is the only paragraph in this section of the UOF CJ for which the Monitor will be assessing compliance. This paragraph requires the DPD to reopen for further investigation any investigation the Monitor determines to be incomplete, subject to certain restrictions. Due to the fact that most of the UOF CJ policies have not yet been effectively implemented and training has not occurred, the Monitor has not yet considered investigations at a stage where they could be subject to reopening. The Monitor will do so at an appropriate time during a future quarter.

¹²⁴ The DPD's Eighth Quarter Status Report states that the FTO Protocols had been submitted to DOJ on February 11, 2005. However, based upon communications between the DOJ and the DPD after the end of the quarter, the DPD discovered that the FTO Protocols were only sent to the Monitor and not to DOJ on February 11, 2005. According to the DOJ, it received the FTO Protocols from the DOJ on October 3, 2005 and expects to provide feedback to the DPD during January 2006.

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 November 30, 2005.

As described in previous quarterly report, the organization of the COC CJ paragraphs vary, in that some paragraphs have separate but related "policy"-required paragraphs within the COC CJ,¹²⁵ while others do not.¹²⁶ 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 a review for a written guidance or instruction¹²⁷ 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 last assessed the DPD's compliance with paragraphs C14-19 during the quarter ending August 31, 2005, finding the DPD in compliance with paragraphs C20 and C22, but in non-compliance with the remaining paragraphs of this section. Through random unannounced onsite inspections of DPD buildings containing holding cells, the Monitor determined that the DPD was enforcing its no smoking policy within the cell block areas of the precincts at the time of the inspections. The Monitor also confirmed that all Kane Fiber Ceiling Tiles have been removed from DPD buildings containing holding cells.

The Monitor noted that the DFD Life Safety Code inspections conducted in March 2005 fulfilled the requirement that the City ensure that the DFD conduct regular and periodic inspections; however, as evidenced by the Life Safety Code violations identified during both the recent DFD inspections and the DOJ-initiated inspections conducted during the quarter ending May 31, 2005, the DPD had not complied with the requirement that all holding cells, and buildings that contain them, meet and maintain compliance with the current Life Safety Code, nor had the DPD

¹²⁵ See, for example, paragraph C39 – Cleanliness of Cells and paragraph C40 – Cleaning Policy.

¹²⁶ See, for example, paragraph C45 - Access to Toilets and Potable Water.

¹²⁷ As described in the Introduction to *the Methodologies*, this is the Policy Component of compliance.

implemented any additional interim fire safety measures.¹²⁸ In addition, the DPD had not submitted a comprehensive fire detection, suppression and evacuation program for all buildings that maintain holding cells as of the end of the current quarter,¹²⁹ and the HCCC indicated that the paragraph C19 requirement to routinely inspect, test and maintain the fire safety equipment had not yet been addressed by the DPD. Finally, the DPD had not yet submitted a policy or protocol containing the requirement and/or procedures for the proper storage of flammable liquids or combustible materials, nor had any training or instruction been provided giving appropriate DPD employees guidance related to the proper storage of combustible materials.

The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

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 August 31, 2005, finding the DPD in non-compliance with each. According to the HCCC, the precincts were in the process of making revisions to the DPD's Draft Emergency Preparedness Program (EPP) based on feedback received from DOJ on March 24, 2005.¹³⁰ In addition, the Monitor determined that Directive 305.4, *Holding Cell Areas*, had not been adequately disseminated.¹³¹ Finally, the HCCC indicated that the DPD intends to revise the

¹²⁸ In its Eighth Quarter Status Report, the City stated that the major violations of the Life Safety Code that were found in several DPD precincts will not be remedied, but will be addressed by the construction of a new detention facility. The Monitor noted that even though the new facility may meet the COC CJ requirements, until such time that all DPD buildings containing holding cells either meet the requirements of the COC CJ or are no longer used to confine prisoners, the DPD will be unable to achieve compliance with the COC CJ.

¹²⁹ The HCCC indicated that the DPD was making progress in incorporating TA provided by the Monitor into a finalized Fire Safety Plan (FSP). The DPD estimated that the FSP would be submitted to DOJ for review and approval on or around November 1, 2005.

¹³⁰ The DPD resubmitted the revised EPP to the DOJ on November 18, 2005.

¹³¹ Although paragraphs C23-25 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of the directive for 85, or 90.43%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directive.

previously designed form for documenting the conduct of routine inventory, testing and maintenance of all holding cell keys and locks and include it within the EPP, as required by paragraph C24.

The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

Accordingly, the DPD has now met the requirements for effective dissemination of the policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for this paragraph.

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 prisoners. 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 C26-29 and C31-34 during the quarter ending May 31, 2005; the Monitor last assessed the DPD's compliance with paragraph C30 during the quarter ending August 31, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph C26-29 and C31-33 – Identification and Response for Medical and/or Mental Health Conditions; Comprehensive Medical/Mental Health Screening Program; Prisoner Health Information Protocol; Prescription Medication Policy and Suicide Precaution Clothing

Paragraph C26 requires the DPD to ensure the appropriate identification of and response to prisoners' medical and/or mental health conditions. The DPD's compliance with paragraph C26 is dependent on the development of a CMMHSP required by paragraphs C27-29. This screening program, including the Detainee Intake Form, must be submitted to the DOJ for review and approval.

Paragraphs C27-29 require the DPD to develop and implement a CMMHSP which must contain, at a minimum, the screening procedures and medical protocol standards as required by paragraphs C28-29. The CMMHSP must be approved in writing by a qualified medical¹³² and mental health¹³³ professional. Upon their review and approval, and prior to being implemented, the CMMHSP must be submitted to the DOJ for review and approval. 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.

¹³² The term 'qualified medical professional' is defined in the COC CJ as an individual who is currently licensed by the State of Michigan to deliver the health care services they have undertaken to provide.

¹³³ The term 'qualified mental health professional' is defined in the COC CJ as an individual who is currently licensed by the State of Michigan to deliver the mental health services they have undertaken to provide.

Paragraph C31 requires the DPD to develop and implement procedures for updating and exchanging prisoner health information. These procedures must ensure that prisoner 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 prisoners' 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 prisoners' health information travels with them when they are transferred to another facility.

Paragraph C32 requires the DPD to develop a Prisoner Prescription Medication Policy in consultation with qualified medical and mental health professionals that ensures prisoners 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 COC 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.

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 paragraphs C26-29 and C31-33 during the quarter ending May 31, 2005, finding the DPD in non-compliance. Although the DOJ had approved the documents submitted by the DPD in response to these paragraphs,¹³⁴ not all of the policies, forms and logs that make up the DPD's CMMHSP had been disseminated.¹³⁵

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C26-29 and C31-33 during the current quarter, the Monitor selected a random sample of 94 officers¹³⁶ and requested documentation

¹³⁴ The DPD has appropriately included all of the requirements and related directives, logs and forms for paragraphs C26-33 within its CMMHSP.

¹³⁵ During the quarter ending May 31, 2005, the Monitor determined that Directive 403.2, *Infectious Disease Control Policy*, had been adequately disseminated. The DPD has also submitted Directive 403.2, *Infectious Disease Control Policy*, as part of its CMMHSP.

¹³⁶ A random, statistical sample of 94 officers was selected from a population of approximately 3,711 listed officers. The Monitor used a roster of all DPD sworn and detention officer personnel provided by the DPD. The Monitor utilized a confidence level of 95% with an acceptable error rate of +/- 4%.

evidencing the dissemination of the following CMMHSP directives¹³⁷ to the selected officers: Directive 305.1, *Detainee Intake and Assessment*; Directive 305.5, *Detainee Health Care*; Directive 305.7, *Transportation of Detainees*; and Training Directive 04-05, *Detainee Suicide Prevention – Managing the Risk*.

The DPD provided documentation¹³⁸ evidencing:

- the receipt of Directive 305.1, *Detainee Intake and Assessment*, by 90.53% of the officers selected for testing;
- the receipt of Directive 305.5, *Detainee Health Care*, by 89.37% of the officers selected for testing;
- the receipt of Directive 305.7, *Transportation of Detainees*, by 90.53% of the officers selected for testing; and
- the receipt of Training Directive 04-05, *Detainee Suicide Prevention – Managing the Risk*, by 87.24% of the officers selected for testing.

Based upon these results, the DPD has not yet adequately disseminated the policies required under the CMMHSP.¹³⁹

In addition to the above testing, the Monitor confirmed that all of the following CMMHSP forms and logs¹⁴⁰ are available on the DPD Intranet and/or posted within the detainee processing area:

- Placard (flowchart) with Guidelines for Prisoner Screening

¹³⁷ As described above, Directive 403.2, *Infectious Disease Control Policy*, which is also part of the CMMHSP, has been adequately disseminated.

¹³⁸ The DPD utilized a listing that identified the policies disseminated and the date disseminated. The listing also contained the signatures of officers acknowledging receipt of policy.

¹³⁹ Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directives to additional officers. Upon reviewing this documentation, the Monitor was able to confirm: the receipt of Directive 305.1 by 95.75% of the 94 officers selected for testing; the receipt of Directive 305.5 by 94.68% of the 94 officers selected for testing; the receipt of Directive 305.7 by 95.75% of the 94 officers selected for testing; and the receipt of Training Directive 04-05 by 93.62% of the 94 officers selected for testing. Based upon these results the DPD has not yet met the requirements for effective dissemination of Training Directive 04-05. The Monitor will re-test dissemination of this training directive during the quarter ending February 28, 2006. However, the DPD has now met the requirements for effective dissemination of Directives 305.1, 305.5, and 305.7, although it had not done so as of the end of the current quarter. Since the relevant documentation was provided after the end of the quarter, the Monitor has not yet tested implementation of these directives. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

¹⁴⁰ In previous reports, the Monitor mistakenly referred to the Authorization for Human Immunodeficiency Virus and Hepatitis Testing and Medical Records Release form as a DPD form. The DPD has informed the Monitor that this form is actually a DRH form.

- DPD 651, *Detainee Intake Form*
- *Detainee Medical Care/Referral Form*
- DPD 661a, *Mental Health High Risk Monitoring Log*
- DPD 661, *Medical Health High Risk Monitoring Log*
- DPD 664, *Detainee Medical Treatment/Medication Disbursement Log*
- DPD 662, *Detainee Custodial Care Transfer Log*.

Based on the fact that the DPD had not effectively disseminated all of the policies designated as its CMMHSP by the end of the quarter, the Monitor finds the DPD in non-compliance with paragraphs C26-29 and C31-33.

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 prisoners 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, 2005. The Monitor had previously determined that Directive 403.2, *Infectious Disease Control*, adequately addressed the policy requirements of the COC CJ and further determined that the DPD had adequately disseminated this directive; however, as of the end of that quarter the Monitor had not yet evaluated the DPD's implementation of the policy.

Current Assessment of Compliance

Due to the interrelatedness of the requirements of paragraph C30 and all of the Medical and Mental Health Care Policies (paragraphs C26-33), and the DPD's inclusion of Directive 403.2, *Infectious Disease Control*, within its CMMHSP, the Monitor has opted to complete its evaluation of the implementation of Directive 403.2, *Infectious Disease Control*, in conjunction with its evaluation of the entire CMMHSP. As described above, as of the end of the current quarter, the DPD had not effectively disseminated all of the policies designated as its CMMHSP. Therefore, the Monitor has not yet begun its testing of the implementation of the Infectious Disease Control policy.

Based on the foregoing, the Monitor has not yet completed its evaluation of the DPD's compliance with paragraph C30.

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 May 31, 2005, finding the DPD in non-compliance due to the fact that buildings with holding cells still had existing suicide hazards, such as exposed pipes, radiators and overhead bars, within the holding cells.

Current Assessment of Compliance

According to the DPD, as part of its restructuring plan that became effective on September 26, 2005, those buildings containing holding cells¹⁴¹ in which suicide hazards existed have either been closed and boarded up or are only being used to house administrative units. During the current quarter, the Monitor conducted unannounced onsite inspections of all buildings that currently or formerly contained holding cells¹⁴² and determined that there were no suicide hazards in any holding cells currently being utilized by the DPD.¹⁴³

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

¹⁴¹ The term "holding cell" is defined in the Definitions section of the COC CJ (Section I, Paragraph k) to include any room or area in which individuals in DPD custody are confined, including cells at the DPD precinct stations, specialized units, and the Detroit Receiving Hospital.

¹⁴² The Monitor visited all former precincts and newly designated district buildings.

¹⁴³ For those holding cells that the Monitor identified during previous inspections as containing suicide hazards, the DPD had either removed the suicide hazards or was no longer using the holding cells to hold prisoners.

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 August 31, 2005, finding the DPD in non-compliance with each. The Monitor determined that the DPD had not adequately disseminated Directive 305.1, *Detainee Intake/Assessment*, and Directive 305.4, *Holding Cell Areas*.¹⁴⁴ In addition, the Monitor noted that the precincts continue to use individualized methods to record cell checks, such as various types of logs, blotters and/or grease boards, and the specific information collected varies by precinct. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

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 last assessed the DPD's compliance with paragraphs C39-46 during the quarter ending August 31, 2006, finding the DPD in compliance with paragraph C46, but in non-compliance with the remaining paragraphs of this section. The Monitor verified during onsite inspections that all Hepa-Aire filtration systems remain removed. However, the Monitor determined that Directive 305.4, *Holding Cell Areas*, which includes policy that addresses many of the requirements of this section of the COC CJ, had not been adequately disseminated.¹⁴⁵

¹⁴⁴ Although paragraphs C35-38 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directives 305.1 and 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of both directives by 85 officers, or 90.43%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directives to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directives. Accordingly, the DPD has now met the requirements for effective dissemination of policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for these paragraphs.

¹⁴⁵ Although paragraphs C39-46 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of the directive by 85 officers, or 90.43%, of the 94 officers selected for testing. Upon being

Additionally, through random unannounced onsite inspections of DPD buildings containing holding cells, the Monitor determined that the holding cell areas are being kept relatively clean; however, DPD personnel interviewed were not aware of the policy to regularly inspect and clean the holding cell area on a daily basis and each time a prisoner vacates a cell, as required by Directive 305.4. Through these inspections, the Monitor also concluded that the level of ventilation was inadequate within the holding cell areas of two precincts. Also, although the precincts, in total, had a minimum amount of broken equipment (i.e. less than 5%), a cell in the misdemeanor bull pen of the Third Precinct had a broken toilet that was leaking water and it appeared that not all DPD detention officers were aware of how to properly handle a situation in which holding cells have broken equipment. Finally, although the City and the DPD contended that the central detention facility planned under Proposal S will comply with all of the physical requirements contained within the COC CJ, including the 20 foot-candle lighting standard required by paragraph C44, the Monitor noted that until all buildings that contain holding cells either meet the COC CJ's lighting requirements or are no longer used to confine prisoners, the DPD will be unable to achieve compliance with paragraph C44.

The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2006.

informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of policy. The Monitor will test implementation during the next regularly scheduled compliance assessment for these paragraphs.

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 prisoners 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, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph 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

As reported in the Monitor's Report for the Quarter Ending February 29, 2004, the DPD designated the Fifth and Sixth Precincts as "handicapped accessible" holding cell facilities, and the Eleventh and Twelfth Precincts as back-up locations, which were determined to be adequately accessible to prisoners with disabilities.

The Monitor last assessed the DPD's compliance with paragraphs C47 and C48 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The Monitor conducted onsite inspections, interviewed DPD personnel, and requested documentation regarding the housing and/or conveyance of prisoners who had disabilities. As described within the Monitor's report for that quarter, the results of the Monitor's assessment indicated that the DPD could not demonstrate its compliance with the requirements of paragraph U47. Although the DPD submitted to the Monitor a revised Directive 305.1, *Detainee Intake/Assessment*, which is meant to address the requirements of paragraph C48, it had not been adequately disseminated to appropriate DPD personnel.

Current Assessment of Compliance

During onsite inspections conducted this quarter, the Monitor confirmed that the DPD has closed and boarded up the Fifth Precinct building, which was formerly designated as one of its “handicapped accessible” holding cell facilities. The DPD has indicated that it intends to use the Twelfth and Sixth Precinct buildings (now titled the Western District and Northwestern District, respectively) as its primary holding facilities for handicapped prisoners. This change in designated facilities affects the content of Directive 305.1, *Detainee Intake/Assessment*,¹⁴⁶ as that directive articulates the use of the Fifth Precinct.¹⁴⁷ The Monitor will evaluate this information and begin testing implementation during its next scheduled review of this paragraph.

The Monitor has raised questions regarding whether “disability” under the COC CJ includes mental and physical disabilities and whether the DPD provides sufficient guidance to officers to deal with disabled detainees. The City and the DPD responded to the Monitor’s questions with a letter dated October 24, 2005. The City/DPD stated that the Detainee Intake Form (DIF) and Directive 305.1 provide adequate guidance to officers responsible for mental and medical health screening. The Monitor agrees that the DIF adequately addresses mental disability issues; however, Directive 305.1 is being evaluated to determine whether it provides adequate guidance for dealing with physical disabilities. Section 305.1-7.3 of the directive, entitled “Handicapped Detainees,” deals with physical disabilities. In addition to any disability requiring hospitalization, the disabilities that are specifically mentioned are wheelchairs, walking aids, deafness or hearing impaired. Although there are clearly other types of physical disabilities (such as blindness, for example) the directive does not deal with these issues generally or specifically. The DOJ intends to respond to some of the City/DPD’s various statements on disabilities, including those in the October 24th letter and additional statements made in a letter dated October 10, 2005, in which the City/DPD argued that the Americans with Disabilities Act (ADA) does not require an agency to make an alteration that would impose undue financial and administrative burden in response to the DOJ’s recommendation that certain cells be designated as wheelchair accessible. On November 17, 2005, the DPD sent the DOJ and the Monitor an

¹⁴⁶ As described in the Current Assessment of Compliance for paragraphs C26-34 above, during the current quarter, the Monitor determined the DPD had not adequately disseminated Directive 305.1. As of the end of the current quarter; however, the Monitor was provided with documentation after the end of the quarter which confirmed adequate dissemination of the directive.

¹⁴⁷ After the end of the quarter, on December 20, 2005, the DPD provided the Monitor with a notice that was emailed to all operations executives on October 29, 2005, advising that the Western and Northwestern Districts are the primary facilities to used for holding prisoners with disabilities and that they were to advise all personnel.

email discussing some of the case law in the area of wheelchairs in prison cells.¹⁴⁸ The City/DPD has conveyed a willingness to discuss these issues further.¹⁴⁹

Based on the foregoing, the Monitor has not yet completed its evaluation of paragraph C47 and finds the DPD in non-compliance with paragraph C48.

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 May 31, 2005, finding the DPD in non-compliance. The Monitor reviewed the DPD Audit related to food service implementation and the DPD's Food Service Policies and determined that the policies were inadequate and that the food was not being properly stored.

The Monitor is scheduled to again assess the DPD's compliance with paragraphs C49-50 during the quarter ending May 31, 2006.

¹⁴⁸ The City submitted a supplemental response to the DOJ on December 19, 2005, which further explained the City's position.

¹⁴⁹ These discussions do not affect the Monitor's compliance assessment at this time. The compliance assessment is based on the status of the policy and the DPD's ability to demonstrate through documentation that it is currently ensuring that persons with disabilities are provided with reasonable accommodations.

VIII. PERSONAL HYGIENE POLICIES

This section of the COC CJ comprises paragraph C51 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2005, finding the DPD in non-compliance based on the findings from the Food Service Program audit conducted by DPD AT and personnel from the Detroit Department of Health and Welfare, which was submitted on January 31, 2005. The audit identified several areas of non-compliance, including depleted supplies of personal hygiene kits in two precincts, precinct personnel unaware that new safety combs had been made available, and two precincts without adequate supplies of feminine hygiene products.

The Monitor is scheduled to again assess the DPD's compliance with paragraphs C51 during the quarter ending May 31, 2006.

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 August 31, 2005, finding the DPD in non-compliance with each. The DPD provided documentation evidencing the receipt of Directive 305.4, *Holding Cell Areas*, for only 38.3% of the officers selected for testing by the Monitor.¹⁵⁰ The DPD also made further edits to some of the forms that accompany the directive, including changing their names and/or intended use. In addition, the DPD provided documentation evidencing the receipt of Directive 304.2, *Use of*

¹⁵⁰ Although paragraphs C52-54 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directives 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of the directive by 85, or 90.43%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of this directive.

Force, for only 23.4% of the officers selected for testing by the Monitor.¹⁵¹ Finally, Training Directive 04-07 has not been disseminated.¹⁵² The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

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 August 31, 2005, finding the DPD in non-compliance with each. The DPD provided documentation evidencing the receipt of Directive 305.4, *Holding Cell Areas*, for only 38.3% of the officers selected for testing by the Monitor.¹⁵³ The DPD has not finalized the Platoon Daily Detainee Summary Log, which accompanies the directive. In addition, the DPD provided documentation evidencing the receipt of Directive 304.2, *Use of Force*, for only 23.4% of the officers selected for testing by the Monitor.¹⁵⁴ Finally, Training Directive 04-07 had not been

¹⁵¹ Although paragraphs C52-54 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 304.2. The DPD provided documentation evidencing the receipt of the directive by 81, or 86.2%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 88, or 93.62%, of the 94 officers selected had received the directive. Accordingly, the DPD has not yet met the requirements for effective dissemination of the policy. The Monitor will re-test dissemination of this policy during the quarter ending February 28, 2006. Implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

¹⁵² According to the DPD, Training Directive 04-07 was disseminated during the current quarter, on October 29, 2005, with an effective date of November 21, 2005. The Monitor will test its dissemination during the quarter ending February 28, 2006.

¹⁵³ Although paragraphs C55-57 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directives 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of the directive by 85, or 90.43%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of this directive.

¹⁵⁴ Although paragraphs C55-57 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directive 304.2. The DPD provided documentation evidencing the receipt of the

disseminated.¹⁵⁵ The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending February 28, 2006.

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 August 31, 2005, finding the DPD in non-compliance with each. Although the Monitor found that Directive 102.6, *Citizen Complaints*, meets the policy requirements of these paragraphs, among others, it had not been disseminated to officers or the OCI as of the end of that quarter.¹⁵⁶ In addition, the DPD provided documentation evidencing the receipt of Directive 305.4, *Holding Cell Areas*, for only 38.3% of the officers selected for testing by the Monitor.¹⁵⁷ The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2006.

directive by 81, or 86.2%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 88, or 93.62%, of the 94 officers selected had received the directive. Accordingly, the DPD has not yet met the requirements for effective dissemination of the policy. The Monitor will re-test dissemination of this policy during the quarter ending February 28, 2006. Implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

¹⁵⁵ According to the DPD, Training Directive 04-07 was disseminated during the current quarter, on October 29, 2005, with an effective date of November 21, 2005. The Monitor will test its dissemination during the quarter ending February 28, 2006.

¹⁵⁶ Refer to the Current Assessment of Compliance for paragraph U61 for information regarding the Monitor's testing of the dissemination of Directive 102.6 during the current quarter. The DPD has now met the requirements for effective dissemination of the policy, although it had not done so as of the end of the current quarter. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

¹⁵⁷ Although paragraphs C58-59 were not scheduled for assessment during the current quarter, the Monitor re-tested the DPD's dissemination of Directives 305.4 during the current quarter. The DPD provided documentation evidencing the receipt of the directive by 85, or 90.43%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 90, or 95.75%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of this directive.

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 May 31, 2005. 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 May 31, 2005, at which time the Monitor withheld a determination of the DPD's compliance. The Monitor determined that, with the exception of the unresolved issue regarding an acceptable definition of probable cause, Directive 404.1, *Definitions*, adequately addressed the requirements of the paragraph.¹⁵⁸

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph C60 during the current quarter, the Monitor selected a random sample of 94 officers and requested documentation evidencing the dissemination of Directive 404.1, *Definitions*,¹⁵⁹ to the selected officers.¹⁶⁰ The DPD provided documentation evidencing the receipt of the directive by 91, or 96.81%, of the 94 officers selected.¹⁶¹ In order to comply with the implementation requirement of paragraph C60, the DPD must also establish procedures to identify terms requiring clear definitions and institute a process to prepare definitions for review and inclusion in manuals and other documents. Now that the

¹⁵⁸ Although the directive met the minimum requirements of the UOF CJ, the Monitor identified and proffered recommendations for the inclusion of certain additional terms that would be of assistance to DPD members.

¹⁵⁹ Directive 404.1, *Definitions*, was disseminated on February 25, 2005, with an effective date of March 21, 2005.

¹⁶⁰ A random, statistical sample of 94 officers was selected out of a population of approximately 3,711 listed officers. The Monitor utilized a confidence level of 95% with an acceptable error rate of +/- four percent.

¹⁶¹ The DPD utilized a listing that identified the policies disseminated and the date disseminated. The listing also contained the signatures of officers acknowledging receipt of policy.

DPD is in compliance with the policy requirements of paragraph C60, the Monitor intends to review the processes the DPD has in place in this area.

Based on the foregoing, the Monitor is currently withholding a determination of the DPD's compliance with paragraph C60.

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 May 31, 2005, finding the DPD in non-compliance. The Monitor determined that the written protocol provided by the OCI for the receipt of citizen comments did not address some of the concerns the Monitor had previously expressed, including the failure to include steps for acknowledging receipt of comment, providing comment to the BOPC at least two days prior to a regularly scheduled meeting, and notifying the citizen regarding the outcome of their comment. Additionally, the protocol did not delineate specific responsibility in the absence of certain key OCI personnel.

Current Assessment of Compliance

During the current quarter, the Monitor received an electronic copy of the revised protocol from the CRD on December 1, 2005. CRD personnel advised that the protocol was approved by the BOPC on November 18, 2005. Although the protocol addressed many of the concerns the Monitor had expressed in previous discussions with the DPD, there were still some that had not been adequately addressed. These concerns were conveyed to both OCI and CRD personnel.¹⁶²

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

¹⁶² Refer to the Current Assessment of Compliance for paragraph U71 for specific examples.

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-annual¹⁶³ audits that assess and report on issues affecting the safety and well-being of DPD personnel and prisoners in the DPD's holding cells.¹⁶⁴

The Monitor last assessed the DPD's compliance with paragraphs C62-72 during the quarter ending August 31, 2005. The Monitor found the DPD in non-compliance with paragraphs C63 and C64, and had not yet completed an assessment of compliance with paragraph C62. The Monitor indicated that it still did not have enough consistent information to evaluate the DPD's compliance with paragraph C62, but would request a sample of the daily inspection reports in an attempt to do so. Regarding paragraph C63, the DPD had not yet fully developed a comprehensive risk management plan, although some of the elements are in place. Regarding paragraph C64, the DPD indicated that it had disseminated the Video Review Protocol, Directive 303.3, *In-Car Video Policy*, and related forms on August 15, 2005, with an effective date of September 12, 2005, which was after the end of that quarter.¹⁶⁵

Also during the quarter ending August 31, 2005, the Monitor found the DPD's audit of Environmental Health and Safety Programs in compliance with the requirements of paragraph C70, but found the DPD in non-compliance with paragraph C72,¹⁶⁶ as three COC CJ-required audits did not evidence their submission to the Chief of Police or the precinct and specialized

¹⁶³ On October 4, 2004, 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.

¹⁶⁴ 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.

¹⁶⁵ Although paragraph C64 was not scheduled for assessment during the current quarter, the Monitor tested the DPD's dissemination of Directive 303.3 during the current quarter. The DPD provided documentation evidencing the receipt of the directive by 84, or 89.36%, of the 94 officers selected for testing. Upon being informed of these results, after the end of the quarter (on December 15, 2005) the DPD submitted supplemental documentation evidencing the dissemination of the directive to additional officers. The Monitor reviewed the documentation and determined that a total of 89, or 94.68%, of the 94 officers selected had received the directive. Accordingly, the DPD has now met the requirements for effective dissemination of this directive.

¹⁶⁶ The Report Card attached as Appendix A to the Monitor's Report for the Quarter Ending August 31, 2005 erroneously indicated that the DPD had achieved compliance with paragraph C72. Refer to the *Corrections to Prior Quarterly Reports* section of this report, below.

division commanders, nor did they evidence the required disciplinary or non-disciplinary corrective actions, when appropriate, by COs for employees under their command.

The Monitor is scheduled to again assess the DPD's compliance with paragraphs C62-64, C70 and C72 during the quarter ending February 28, 2006.

The Monitor again assessed the DPD's compliance with paragraphs C65-69 and C71 during the current quarter, and continued to provide TA to the members of the HCCC regarding COC CJ audits that were in progress. 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. The first and second of these audits were due by January 31, 2004 and August 31, 2004, respectively, and subsequent audits were due by January 31, 2005 and every six months thereafter.

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

Background

The Monitor last assessed the DPD's compliance with subparagraphs C65a-c during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. The Monitor reviewed the audits submitted in July 2005 for subparagraphs C65a and c and identified deficiencies in the scope, methodologies and audit reports submitted for these audits. The next evaluations of these subparagraphs are scheduled for the quarter ending February 2006.

Regarding subparagraph C65b, the DPD had not submitted an audit of prisoner injuries in holding cells for the semi-annual period ending July 31, 2005.

Current Assessment of Compliance

C65b – Holding Cells Prisoner Injuries Investigations Audit

The DPD did not submit a Holding Cells Prisoner Injury Investigations Audit required by subparagraph C65b during the quarter ending August 31, 2005, and no audit of this topic has been submitted since then. The DPD intends to submit its next audit of this topic during the period ending January 31, 2006.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph C65b.¹⁶⁷

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.¹⁶⁸ The first and second of these audits were due by January 31, 2004 and August 31, 2004, respectively, and subsequent audits are due by January 31, 2005 and every six months thereafter.

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 Audits

Background

The Monitor last assessed the DPD's compliance with subparagraphs C66a and b during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the HCCC made significant progress relative to the development and approval of policies required by the COC CJ and submitted three additional COC CJ audits on July 31, 2005, a total of 23 COC CJ audits that should have been submitted during the past two years were skipped as of July 31, 2005.

The Monitor also noted that according to the HCCC, many of the COC CJ policies had been disseminated; however the Monitor determined that the DPD had not adequately disseminated many of the policies required by August 31, 2005.

¹⁶⁷ The Monitor will continue to find the DPD in non-compliance with this subparagraph until the required audit has been submitted. When the audit is submitted, its quality will be evaluated.

¹⁶⁸ 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.

Current Assessment of Compliance

C66a - HCCC to Assure Compliance with the COC CJ

During the current quarter, the HCCC continued developing the remaining policies required by the COC CJ and resubmitted those related to emergency preparedness to the DOJ for review and approval. However the Fire Safety policies have yet to be re-submitted to DOJ for review and approval. Additionally, the Monitor completed its re-assessment of the DPD's dissemination process of its policies and determined that 12 of the 15 policies tested were not adequately disseminated as of the end of the current quarter.¹⁶⁹

Until such time as the HCCC has assured compliance with the COC CJ through the implementation of all relevant policies, procedures and forms, and through the timely completion of the audits required by the COC CJ,¹⁷⁰ it will be unable to achieve compliance with subparagraph C66a.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph C66a.

C66b - HCCC Fire Safety Audit

The DPD HCCC did not submit a Fire Safety Audit required by subparagraph C66b for the semi-annual period ending July 31, 2005, and no audit has been submitted since then.¹⁷¹ The DPD intends to submit its next audit of this topic during the period ending January 31, 2006.

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

¹⁶⁹ The 3 policies tested during the current quarter and found to have been adequately disseminated are: Directive 202.7, *Foot Pursuit*; Directive 404.1, *Definitions*; and Directive 401.1, *Performance Evaluations*. After the end of the quarter, the Monitor was provided with additional documentation evidencing the adequate dissemination of the following 8 policies: Training Directive 04-03, *Use of Force Continuum*; Directive 305.4, *Holding Cell Areas*; Directive 305.1, *Detainee Intake and Assessment*; Directive 305.5, *Detainee Health Care*; Directive 305.7, *Detainee Transportation*; Directive 102.6, *Citizen Complaints*; Directive 303.3, *In-Car Video Equipment*; and, Directive 305.2, *Detainee Registration*. The following 4 policies have still not been adequately disseminated: Directive 102.3, *Code of Conduct*; Directive 304.2, *Use of Force*; Training Directive 04-05, *Suicide Prevention*; and Training Directive 04-01, *Material Witness*.

¹⁷⁰ The next audits required to be submitted will be due by January 9, 2006.

¹⁷¹ The DPD AT has indicated that the next Fire Safety Audit will be submitted prior to its due date of January 31, 2006.

Paragraph C67-69 and C71 – Audits of Emergency Preparedness Programs, Medical/Mental Health Programs and Policies, Detainee Safety, and Food Service Programs and Policies

Paragraphs C67-69 and C71 require the HCCC to conduct regularly scheduled semi-annual audits covering all DPD buildings that contain holding cells of emergency preparedness programs, medical/mental health care programs and policies, detainee safety programs and policies, and the food service program. The first and second of these audits were due by January 31, 2004 and August 31, 2004, respectively, and subsequent audits were due by January 31, 2005 and every six months thereafter.

Background

The Monitor last assessed the DPD's compliance with paragraph C67-69 and C71 during the quarter ending August 31, 2005, finding the DPD in non-compliance as the DPD had not submitted the required audits for the semi-annual period ending July 31, 2005.

Current Assessment of Compliance

The DPD HCCC did not submit any audits related to the topics required by these paragraphs for the semi-annual period ending July 31, 2005, and none of these audits were submitted during the current quarter. The DPD intends to submit audits of these topics during the period ending January 31, 2006.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs C67-69 and C71.

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.¹⁷²

The Monitor last assessed the DPD's compliance with paragraphs C73-78 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. The Monitor determined that except for a few minor revisions to update the lessons plans to reflect the most recently disseminated cleaning and maintenance logs and the correct cell check forms, the revised lesson plans related to detention officer training adequately address the training requirements of paragraphs C76-78. However, despite the progress made by the Training Division in connection with the lesson plans, the DPD had not yet provided comprehensive pre-service and in-service training to all detention officers, nor provided annual training on the topics of emergency preparedness, medical and mental health screening, detainee safety, and environmental health and safety. Finally, the DPD had not yet submitted its finalized EPP; the Monitor again noted that training curricula cannot be effectively developed prior to the development of the underlying policies.

During the current quarter, the Monitor again assessed the DPD's compliance with paragraph C74 in conjunction with paragraph U108, its corresponding UOF CJ paragraph. The Monitor is scheduled to again assess the DPD's compliance with paragraphs C73 and C75-78 during the quarter ending February 28, 2006.

Paragraph C74 – 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 for all 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 August 31, 2005, finding the DPD in non-compliance. As noted in the Background section for the assessment of paragraph U108, above, the DPD was utilizing the MITN to track current data for training records; however, according to the DPD, the MITN is incapable of tracking archival training data.

¹⁷² Refer to the UOF CJ training section in this report for additional information regarding DPD training-related issues.

Current Assessment of Compliance

Although some recording of current training has been entered into MITN, the DPD plans to use the MAS to address the requirements of this paragraph;¹⁷³ however, the MAS is not yet operational. As such, the DPD is not yet maintaining individual training records for all detention officers, documenting the date and topic of all pre-service and in-service training. Once the DPD has informed the Monitor that all training records are being entered and maintained, the Monitor will evaluate the content and accuracy of the applicable system.

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

XV. MONITORING AND REPORTING

Paragraph C94 is the only paragraph in this section of the COC CJ for which the Monitor will be assessing compliance. This paragraph requires the DPD to reopen for further investigation any investigation the Monitor determines to be incomplete, subject to certain restrictions. Due to the fact that most of the UOF CJ policies have not yet been effectively implemented and training has not occurred, the Monitor has not yet considered investigations at a stage where they could be subject to reopening. The Monitor will do so at an appropriate time during a future quarter.

¹⁷³ Paragraphs U79-U88 pertains to the MAS and certain of these paragraphs are evaluated under the Management and Supervision section of this report.

CORRECTIONS TO PRIOR QUARTERLY REPORTS

The conclusion for paragraph C72 reflected in the Monitor's Report for the Quarter Ending August 31, 2005 correctly indicated that the DPD was *non-compliant* with paragraph C72; however, the Report Card attached as Appendix B to that same report incorrectly indicated that the DPD was *compliant* with the requirements of paragraph C72. The Report Card attached as Appendix B to this report has been corrected to indicate a finding of non-compliance for the quarter ending August 31, 2005.

CONCLUSION

As the City and the DPD approach the halfway point of the five-year Consent Judgment (the UOF CJ) and are nearly six months into the two-year extension of the COC CJ, progress has been made in a number of areas and challenges continue in a number of others. Significantly, the DPD has received approval from the DOJ on all policies that were subject to DOJ review and approval except for the FTO protocol and the Data Input Plan for the MAS. The Monitor has also found that nearly all of the policies and training directives that have been revised by the DPD now meet the requirements of the Consent Judgments. The challenge now is in the areas of effective policy dissemination, implementation and training. To its credit, the DPD has been willing to accept the Monitor's offers to provide technical assistance in various areas to assist them in their efforts to achieve compliance.

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January 17, 2006

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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
AG	Audit Group
AT	Audit Team
BOPC	Board of Police Commissioners
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
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
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
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
FIS	Force Investigation Section
FIU	Force Investigation Unit
FRT	Force Review Team
FSP	Fire Safety Program
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IACP	International Association of Chiefs of Police

IAD	Internal Affairs Division
IAS	Internal Affairs Section
ICD	Internal Controls Division
IMAS	Interim Management Awareness System
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MIOSHA	Michigan Occupational Safety and Health Administration
MITN	MCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OIC	Officer in Charge
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
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
WIQD	Witness Identification and Questioning Documentation