

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
FEBRUARY 28, 2006

ISSUED APRIL 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 tenth quarterly report of the Independent Monitor.⁴

During the tenth quarter, which ended on February 28, 2006, the Monitor examined a total of 81 paragraphs or subparagraphs (46 paragraphs or subparagraphs of the UOF CJ and 35 paragraphs or subparagraphs of the COC CJ). Of these, the City and the DPD complied with 9 and failed to achieve compliance with 68; the Monitor withheld its determination of the DPD's compliance with 4 paragraphs.⁵

As described fully in this report, the City and the DPD continued to make progress in the following areas during the quarter:⁶

- The DPD successfully disseminated five directives,⁷ five training directives,⁸ and a disciplinary matrix during the current quarter, and appears to have resolved the problems in

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.

its policy dissemination process that were described in our previous report. As a result, the DPD has achieved compliance with the policy requirements of a number of Consent Judgment paragraphs. This milestone paves the way for the Monitor to commence assessing the DPD's compliance with the implementation of these paragraphs.

- The DPD made improvements in its audit scheduling and management processes, which enabled it to submit all nine of the audits due in 2006 to-date.⁹
- Improvements were made to the quality of the DPD's audits: three of the nine audits submitted in this quarter were compliant audits.¹⁰ In total, the DPD has now submitted four compliant audits, out of the 28 audits submitted to-date.
- During the current quarter, the Monitor reviewed the documentation regarding disciplinary cases and determined that the DPD eliminated its backlog of disciplinary cases. This is a significant accomplishment by the DPD.

Major areas of concern identified during the quarter ending February 28, 2006 include the following:

- Six of the nine audits submitted this quarter were non-compliant with the qualitative requirements of the Consent Judgments. This is disappointing for the DPD's Audit Team, particularly in light of the extent of effort being made, but it reflects a general lack of suitable audit resources, both in the number and experience of its personnel.

⁷ Directive 102.3, *Code of Conduct*; Directive 102.4, *Misconduct*; Directive 304.2, *Use of Force*; Directive 304.5, *Board of Review*; and Directive 305.8, *Food Service*.

⁸ Training Directive 04-01, *Material Witness*; Training Directive 04-04, *Garrity Protocol*; Training Directive 04-05, *Suicide Prevention*; Training Directive 04-07, *Use of Force Reporting/Investigating*; and Training Directive 05-07, *Probable Cause*.

⁹ Previously, the DPD had skipped (i.e. did not submit) a total of 33 of the 52 audits required by the Consent Judgments to August 31, 2005.

¹⁰ The *Misconduct in Holding Cells Audit*, the *Emergency Preparedness Audit*, and the *Environmental Health & Safety Audit*.

REPORT CONTENTS:

SECTION ONE: INTRODUCTION.....1

I. BACKGROUND1

II. MONITOR’S ROLE.....2

III. EFFORTS TOWARD COMPLIANCE2

IV. METHODOLOGIES3

V. REPORT CARD4

VI. FOCUS ISSUES4

A. DPD Audit Team Resource and Staffing Needs.....4

VII. MONITOR’S PLEDGE.....5

**SECTION TWO: COMPLIANCE ASSESSMENTS - THE USE OF FORCE AND
ARREST AND WITNESS DETENTION CONSENT JUDGMENT6**

I. USE OF FORCE POLICY.....6

A. General Use of Force Policies.....6

B. Use of Firearms Policy.....7

C. Intermediate Force Device Policy.....7

D. Chemical Spray Policy.....8

II. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW.....9

A. General Investigations of Police Action9

B. UOF and Prisoner Injury Investigations13

C. Review of Critical Firearms Discharges and In-Custody Deaths13

III. ARREST AND DETENTION POLICIES AND PRACTICES.....14

A. Arrest Policies14

B. Investigatory Stop Policies14

C. Witness Identification and Questioning Policies15

D. Prompt Judicial Review Policies15

E. Hold Policies17

F. Restriction Policies	18
G. Material Witness Policies	19
H. Documentation of Custodial Detention	20
I. Command Notification.....	21
IV. EXTERNAL COMPLAINTS	24
A. Intake and Tracking	24
B. External Complaint Investigation	25
V. GENERAL POLICIES.....	26
VI. MANAGEMENT AND SUPERVISION	34
A. Risk Management Database.....	35
B. Performance Evaluation System.....	40
C. Oversight.....	40
D. Use of Video Cameras	44
E. Discipline	46
VII. TRAINING	49
A. Oversight and Development	49
B. Use of Force Training	49
C. Firearms Training.....	50
D. Arrest and Police-Citizen Interaction Training.....	50
E. Custodial Detention Training.....	50
F. Supervisory Training	53
G. Investigator Training.....	56
H. Field Training.....	57
VIII. MONITORING, REPORTING, AND IMPLEMENTATION.....	58

SECTION THREE: COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT59

I. FIRE SAFETY POLICIES59

II. EMERGENCY PREPAREDNESS POLICIES65

III. MEDICAL AND MENTAL HEALTH CARE POLICIES68

V. PRISONER SAFETY POLICIES69

V. ENVIRONMENTAL HEALTH AND SAFETY POLICIES74

VI. POLICIES CONCERNING PERSONS WITH DISABILITIES.....76

VII. FOOD SERVICE POLICIES76

VIII. PERSONAL HYGIENE POLICIES.....77

IX. USE OF FORCE AND RESTRAINTS POLICIES77

X. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW.....79

XI. EXTERNAL COMPLAINTS80

XII. GENERAL POLICIES.....81

XIII. MANAGEMENT AND SUPERVISION82

XIV. TRAINING98

XV. MONITORING AND REPORTING98

CORRECTIONS TO PRIOR QUARTERLY REPORTS.....99

CONCLUSION.....100

APPENDICES:

- A. Acronyms Frequently Utilized in Quarterly Reports Issued by the Independent Monitor
- B. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Judgments as of the Quarter Ending February 28, 2006

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 tenth 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, Penny Cookson, 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 tenth quarter, which ended on February 28, 2006, 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 tenth quarter, the City and the DPD continued to make progress by successfully disseminating various policies and training directives. The DPD also made improvements in its audit scheduling and management processes and eliminated its backlog of disciplinary cases. The City and the DPD are commended for these positive developments.

The challenges regarding the City and the DPD's ability to achieve compliance with the paragraphs of the COC CJ, which are applicable to buildings with holding cells, remain. 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 above, the City was granted a two-year extension to achieve substantial compliance with the COC CJ.¹⁸

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

In a letter to the DOJ and the Monitor dated January 13, 2006, the City confirmed that it is pursuing two tracks to come into compliance with the COC CJ: 1) joining the plans for a new Regional Justice Center and/or 2) bringing the current District holding cell facilities into compliance with the COC CJ depending upon the economic feasibility of the project. The City also confirmed that it is exploring making pre-arraignment transfers of custody of DPD homicide detainees to the Wayne County Sheriff's Department.¹⁹ The City also reported its preliminary findings on the cost estimates for the design and installation of new Fire Safety Systems in buildings containing holding cells, as required for COC CJ compliance. According to the letter, the City is deliberating over its ability to implement the Fire Safety Systems in its District facilities, based upon the estimated costs involved and the City's limited financial resources.

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 Monitor previously submitted draft *Methodologies* for the paragraphs in the COC CJ to the parties. During the current quarter,²⁰ the Monitor resubmitted the COC CJ *Methodologies* to the parties after revising them based on the comments received by the parties, and related discussions. Any future modifications to the methodologies will generally be made on a paragraph-by-paragraph basis.

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

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.

¹⁹ In a status meeting, after the end of the quarter on March 22, 2006, the DPD advised that the City has not yet made a final decision regarding which phase or phases will occur. The Monitor indicated that the Judge will expect an update during the next conference with the parties in June.

²⁰ On February 6, 2006.

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

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 subparagraph²² of the Consent Judgments for the five most recent quarters, including the current quarter, in which compliance has been assessed.²³ 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. DPD AUDIT TEAM RESOURCE AND STAFFING NEEDS

Since the inception of the Consent Judgments, the Monitor has emphasized the importance of the DPD’s internal audit function. Quality and timely evaluations of Department operations, work product, and personnel are essential if the DPD is to achieve compliance with both the audit and operational requirements of the Consent Judgments. The Monitor has previously recognized and reported that the DPD faces serious staffing shortages throughout the Department. These shortages are particularly acute in the DPD’s Audit Team.

On January 31, 2006, the DPD submitted all nine audits that were required under the COC CJ to be submitted by that date. The Monitor recognizes that the submission of these audits is quite an accomplishment, and the Audit Team has committed, despite continuing staffing shortages, to submit all future audits by the due dates required by the Consent Judgments (i.e. none will be skipped). However, the Monitor remains concerned about the inconsistent quality of the audits being submitted by the DPD’s Audit Team. Of the 28 audits submitted to date, four were in compliance with the Consent Judgments (three of the four compliant audits were submitted on January 31, 2006).

²² 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.

²³ 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.

The Monitor has observed the continuing progress of the Audit Team staff since the creation of the unit and the inception of the Consent Judgments, and has provided numerous hours of TA related to the proper conduct of audits. However, based on the Monitor's evaluation of the recent audits submitted by the Audit Team, it has become apparent that the inconsistency in the quality of these audits is due to both the shortage of audit staffing resources, as well as a lack of applicable audit-related experience and skills by some auditors.

The Monitor has previously discussed its concerns with members of the DPD's executive staff, Civil Rights Division management, and the Audit Team management. The Audit Team management and staff recently acknowledged the difficulties they are experiencing in implementing quality control procedures to ensure that adequate reviews occur prior to submission. The Audit Team has indicated that some organizational measures will be undertaken to address these issues. Nevertheless, it is unlikely that the Audit Team will consistently meet the audit requirements of the Consent Judgments without suitable staff.

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 February 28, 2006. 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,²⁴ and to provide the parties with an opportunity to seek clarification on any aspect of compliance articulated in this report.

²⁴ As required by paragraphs U142 and C97.

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

This section contains the Monitor's compliance assessments of the UOF CJ paragraphs scheduled for review during the quarter ending February 28, 2006.²⁵

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*.²⁶ The Monitor is scheduled to assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2006.

²⁵ 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.

²⁶ 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. The Monitor retested the DPD's dissemination of the directive during the quarter ending November 30, 2005 and determined that it was not adequately disseminated. Although compliance assessments for paragraphs U14-19 were not scheduled for the current quarter, the Monitor again tested the DPD's dissemination of Directive 304.2. The DPD provided documentation evidencing the receipt of the directive for 92, or 97.9%, of the 94 officers selected for testing. As a result, the DPD is now in compliance with the policy requirements of the related paragraphs. The Monitor will test implementation during the next regularly scheduled compliance assessments.

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 U21.²⁷ 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.²⁸ 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 Directive 304.4, *PR-24 Collapsible Batons*,²⁹ which was approved by the DOJ on March 23, 2005. However, the Monitor had 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, 2005.³⁰ The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2006.

²⁷ 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.

²⁸ Refer to the Current Assessment of Compliance for paragraph U113, below, for additional information regarding this issue.

²⁹ At the DOJ's suggestion, the DPD changed Training Directive 04-06, *Intermediate Use of Force Policy*, to Directive 304.4, *PR-24 Collapsible Batons*.

³⁰ Although a compliance assessment of paragraph U24 was not scheduled, the Monitor retested the DPD's dissemination of Training Directive 04-03 during the quarter ending November 30, 2005. After the end of the quarter (on December 15, 2005), the DPD submitted supplemental documentation evidencing the dissemination of the directive to 89, or 94.68%, of the 94 officers selected for testing. As a result, the DPD is now in compliance

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

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

³¹ According to the DPD, Training Directive 04-07 was disseminated on October 29, 2005, with an effective date of November 21, 2005. Although compliance assessments of paragraphs U25-26 were not scheduled for the current quarter, the Monitor retested the DPD's dissemination of the training directive. The DPD provided documentation evidencing the receipt of the directive for 93, or 98.9%, of the 94 officers selected for testing. The DPD has now met the requirements for effective dissemination of the policy. As a result, the DPD is now in compliance with the policy requirements of these paragraphs. The Monitor will test implementation during the next regularly scheduled compliance assessment.

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 statements³² and develop an auditable form³³ 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. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.³⁴

Paragraphs U27-30 and U32-33 – Revision of General Investigation Policies; Investigation Procedures; Investigatory Interview Procedures; Prohibitions of Investigatory Interviews; Investigatory Reports and Evaluations; Review of Investigations

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

³² 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).

³³ 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.

³⁴ 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.

and/or the City simply because a subject or complainant is unavailable, unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury.

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

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

Paragraph U30 requires the DPD and the City to prohibit the use of leading questions that improperly suggest legal justifications for the officer's(s') actions when such questions are contrary to appropriate law enforcement techniques; and to prohibit the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.

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

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

Background

The Monitor last assessed the DPD's compliance with paragraphs U27-30 and U32-33 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. The Monitor tested dissemination of Directive 304.2, *Use of Force*, finding that the DPD had not adequately disseminated the directive. Additionally, the DPD had not disseminated Training Directive 04-07, *Use of Force Reporting/Investigating*, and related forms as of the end of that quarter.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of Directive 304.2. As described in our Report for the Quarter Ending November 30, 2005, the Monitor determined that the DPD still had not adequately disseminated the directive. In addition, the DPD indicated Training Directive 04-07 was disseminated during the quarter ending November 30, 2005.

Current Assessment of Compliance

During the current quarter, the Monitor again tested the DPD's dissemination of Directive 304.2, *Use of Force*, and Training Directive 04-07, *Use of Force Reporting/Investigating*. The Monitor also confirmed that the corresponding forms, UF-002, *Use of Force/Detainee Injury Report*, which is required to be completed by officers immediately following the incident and, UF-002-B, *Use of Force/Detainee Injury Report*, which is required to be completed by a non-involved supervisor, were present on the DPD Intranet.

In order to test dissemination, the Monitor selected a random sample of 94 officers³⁵ from the most recently submitted DPD roster.³⁶ On January 30, 2006 and February 2, 2006, the Monitor requested documentation from the DPD evidencing the receipt of Directive 304.2 and Training Directive 04-07, respectively, by the selected officers. On February 9, 2006, the DPD submitted documentation in response to these requests. However, the Monitor was unable to complete the dissemination testing, as the roster submitted by the DPD contained out-dated information and did not include officers' current assignments or appropriate identification numbers for comparing to the dissemination documentation received.³⁷ The Monitor had on-going discussions with the DPD staff and was eventually able to resolve the issues concerning the roster after the DPD provided additional documentation on February 28, 2006. Based on the documentation provided, the Monitor determined that 92, or 97.9%, of the 94 officers selected for testing received Directive 304.2, and 93, or 98.9%, of the 94 officers selected for the testing received Training Directive 04-07. As a result, Directive 304.2 and Training Directive 04-07 have now been adequately disseminated.

The continuing problems with the DPD's roster hampered the Monitor's ability to complete the testing of dissemination and prevented the Monitor from commencing the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of these paragraphs.

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

Paragraph U31 – Protocol for Garrity Statements

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

³⁵ 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 +/- 4%.

³⁶ Due to problems previously encountered with the accuracy of the DPD's roster, on January 2, 2006, the Monitor initiated a request for the DPD to provide an updated roster to the Monitor each quarter on an on-going basis. The DPD provided this roster, which was used for all of dissemination testing conducted during the current quarter, on January 27, 2006.

³⁷ The Monitor identified similar deficiencies in the roster during dissemination testing conducted during the quarter ending November 30, 2005. Refer to the Focus Issue entitled *DPD Process for Disseminating Policies and Related Issues* in the Monitor's Report for the Quarter Ending November 30, 2005.

Background

The Monitor last assessed the DPD's compliance with paragraph U31 during the quarter ending August 31, 2005. The Monitor provided the DPD with a memorandum on September 8, 2005, after the end of the quarter, outlining comments and recommendations from the Monitor and the DOJ. As noted in the Monitor's Report for the Quarter Ending August 31, 2005, the DPD resubmitted a revised Garrity Protocol on September 13, 2005. The Monitor elected to withhold a determination of the DPD's compliance with paragraph U31 due to lengthy ongoing discussions among the parties regarding the protocol.

Current Assessment of Compliance

The DPD, the DOJ and the Monitor participated in multiple conversations regarding the Garrity protocol during the quarter ending November 30, 2005. The Monitor provided the DPD with a memorandum on October 21, 2005 outlining concerns and recommendations. The DPD resubmitted the Garrity Protocol on October 26, 2005 and following additional discussions with the Monitor, again on October 28, 2005. On November 18, 2005, the Monitor informed the DPD that the October 28, 2005 version of the Garrity Protocol complied with the policy requirements of paragraph U31.

The DPD disseminated the Garrity Protocol on January 9, 2006 with an effective date of February 9, 2006. In order to test dissemination, the Monitor selected a random sample of 94 officers³⁸ from the most recently submitted DPD roster.³⁹ On January 30, 2006, the Monitor requested documentation from the DPD evidencing the receipt of the Garrity Protocol. On February 28, 2006, the DPD submitted documentation in response to this request. Based on the documentation provided, the Monitor determined that 89, or 94.68%, of the 94 officers selected for testing received the protocol. As a result, the Garrity Protocol has now been adequately disseminated.

Because the documentation required to test the dissemination of the Garrity Protocol was not received until February 28, 2006, the last day of the quarter, the Monitor was unable to commence the testing of the implementation of the protocol during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of paragraph U31.

³⁸ 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 +/- 4%.

³⁹ Due to problems previously encountered with the accuracy of the DPD's roster, on January 2, 2006, the Monitor initiated a request for the DPD to provide an updated roster to the Monitor each quarter on an on-going basis. The DPD provided this roster, which was used for all of dissemination testing conducted during the current quarter, on January 27, 2006.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U31 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U31.

B. UOF AND PRISONER INJURY INVESTIGATIONS

This section comprises paragraphs U34-36. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2005, finding the DPD in non-compliance with each. The Monitor determined that the DPD's finalized policies addressed the requirements of these paragraphs, but not all policy had been adequately disseminated. 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 and, according to the DPD, Training Directive 04-07 was disseminated on October 29, 2005, with an effective date of November 21, 2005.⁴⁰

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

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, 2005, finding the DPD in non-compliance with each. The Monitor found that Directive 304.5, *Board of Review*, which was revised several times during the quarter to address the Monitor's comments and recommendations, adequately met the policy requirements of these paragraphs. According to the DPD, the final version of the directive, which was submitted by the DPD on November 14, 2005, was disseminated during that quarter.⁴¹

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

⁴⁰ Although compliance assessments of paragraphs U34-36 were not scheduled for the current quarter, the Monitor tested the dissemination of Directive 304.2 and Training Directive 04-07. The DPD provided documentation evidencing the receipt of Directive 304.2 by 92, or 97.9%, of 94 officers selected for testing. The DPD provided documentation evidencing the receipt of the Training Directive 04-07 by 93, or 98.9%, of 94 officers selected for testing. As a result, the DPD is in compliance with the policy requirements of paragraphs U34-36. The Monitor will commence implementation testing during the quarter ending May 31, 2006.

⁴¹ Although compliance assessments of paragraphs U37-41 were not scheduled for the current quarter, the Monitor tested the dissemination of Directive 304.5. The DPD provided documentation evidencing the receipt of Directive 304.2 by 89, or 94.7%, of 94 officers selected for testing. As a result, the DPD is in compliance with the policy requirements of paragraphs U37-41. The Monitor will commence implementation testing during the quarter ending May 31, 2006.

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 paragraphs U42 and U43 during the quarter ending November 30, 2005, at which time the Monitor withheld a determination of compliance. The Monitor reviewed Training Directive 05-07, *Probable Cause*, and determined that it complied with the policy component of paragraphs U42 and U43. However, as this directive was disseminated toward the end of the reporting period, the Monitor had not assessed the adequacy of its dissemination.⁴² The Monitor is scheduled to next assess the DPD's compliance with paragraphs U42 and U43 during the quarter ending May 31, 2006.

B. INVESTIGATORY STOP POLICIES

This section comprises paragraphs U44-45. The Monitor last assessed the DPD's compliance with paragraphs U44-U45 during the quarter ending November 30, 2005 at which time the Monitor found non-compliance. The DPD adequately disseminated Directive 202.2, *Search and*

⁴² Although compliance assessments of paragraphs U42-43 were not scheduled for the current quarter, the Monitor tested the DPD's dissemination of Training Directive 05-07. The DPD provided documentation evidencing the receipt of the directive for 92, or 97.9%, of the 94 officers selected for testing. As a result, the DPD is now in compliance with the policy requirements of paragraphs U42-43. The Monitor will test implementation of policy during the next regularly scheduled compliance assessment.

Seizure, which addressed the requirements of paragraphs U44-45. The Monitor tested the implementation of the directive and determined that sufficient documentation did not exist to support investigatory stops selected for testing. The Monitor is scheduled to next assess the DPD's compliance with paragraphs U44-U45 during the quarter ending May 31, 2006.

C. WITNESS IDENTIFICATION AND QUESTIONING POLICIES

This section comprises paragraphs U46-48. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2005, at which time the Monitor found the DPD in compliance with paragraph U47 and non-compliance with paragraphs U46 and U48. The Monitor was unable to review the minimum sample size of officers to determine compliance with paragraphs U46 and U48, as the roster submitted by the DPD and used by the Monitor for random testing was outdated and did not accurately reflect officer employment status. The Monitor is scheduled to assess the DPD's compliance with paragraphs U46-U48 during the quarter ending May 31, 2006.

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

Paragraph U49 – Revision of Policies and Requirements of Arraignment within 48 Hours

Paragraph U49 requires the DPD to revise its policies to require prompt judicial review, as defined in the UOF CJ, for every person arrested by the DPD. The DPD must develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released.

Background

The Monitor last assessed the DPD's compliance with paragraph U49 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The Monitor completed its testing of Directive 202.1, *Arrests*, and determined that it had been adequately disseminated to the field. However, the Monitor concluded that the DPD's *Daily Prisoner Report* (DPR) and Instruction Sheet did not adequately address the "systematic process" requirement of paragraph U49. Although the DPR appears to contain adequate information for tracking prisoners, the Instruction Sheet is not comprehensive and does not designate the persons or entities within DPD who are responsible for ensuring the proper completion and review of the DPR.

Current Assessment of Compliance

During the current quarter, the DPD continued to work on the development of a “timely and systematic process” for all arrestees to be presented for prompt judicial review. The DPD remains optimistic about the potential for developing and integrating a “timely and systematic” process in the new Live Scan detainee processing system, which was launched on November 15, 2005. However, the DPD has represented that, pursuant to its agreement with Live Scan, any revisions to the processing system are permitted annually; as a result, revisions will not occur until the Fall of 2006. Work will continue on the development of the process so that it can be quickly integrated into Live Scan at that point in time.

In the interim, the DPD has elected to make revisions to the current *DPR* and Instruction Sheet. The revised *DPR* and Instruction Sheet were received electronically on February 21, 2006. The Monitor will review and report on the documents during the next regularly scheduled assessment of paragraph U49.

Based on the foregoing, the Monitor withholds a determination of compliance with paragraph U49 pending its review of the revised *DPR* and Instruction Sheet.

Paragraphs U50-51 – Requirement of Warrant Request, Documentation of Late Request for Arraignment Warrants, and Late Arraignments

For each arrestee, paragraph U50 requires the DPD to submit to the prosecutor’s office, within 24 hours of the arrest, a warrant request for arraignment on the charges underlying the arrest.

Paragraph U51 requires the DPD to document on an auditable form all instances in which an arraignment warrant is submitted more than 24 hours after the arrest, all instances in which it is not in compliance with the prompt judicial review policy, and all instances in which extraordinary circumstances delayed the arraignment. The documentation must occur by the end of the shift in which there was:

1. A failure to request an arraignment warrant within 24 hours;
2. A failure to comply with the prompt judicial review policy, or
3. An arraignment delayed because of extraordinary circumstances.

Background

The Monitor last assessed the DPD’s compliance with paragraphs U50-51 during the quarter ending August 31, 2005, finding the DPD in non-compliance. As described in the Current Assessment of Compliance for paragraph U49, above, the Monitor determined that Directive 202.1 *Arrests*, was adequately disseminated to the field. However, compliance with these paragraphs is dependent on compliance with paragraph U49, as the systematic process to ensure

prompt judicial review must also address the 24-hour warrant request requirement of this paragraph.

Current Assessment of Compliance

As described in the Background for paragraph U49, above, the DPD has not yet addressed the requirement to develop a systematic process to ensure prompt judicial review. The systematic process must also address the requirement for a warrant to be submitted to the prosecutor's office within 24 hours of the arrest. Once the DPD achieves compliance with paragraph U49 by establishing a systematic process, the Monitor will begin testing the DPD's compliance with paragraphs U50-51, which require implementation.

Based on the foregoing, the Monitor finds DPD in non-compliance with paragraphs U50-51.

E. HOLD POLICIES

This section comprises paragraphs U52-53. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U52-53 – Revision of Hold Policies; Documentation of All Holds

Paragraph U52 requires the DPD to revise its hold policies to define a hold as that term is defined in the UOF CJ and require that all holds be documented. The policy must establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged on the current arrest shall not delay this process.

Paragraph U53 requires the DPD to document all holds, including the time each hold was identified and the time each hold was cleared. On a daily basis, the DPD must document on an auditable form each instance in which a hold is not processed within twenty-four hours.

Background

The Monitor last assessed the DPD's compliance with paragraphs U52-53 during the quarter ending August 31, 2005, at which time the Monitor withheld a determination of compliance. The Monitor reviewed Directive 305.2, *Detainee Registration*, and Auditable Form UF-007, and determined that they complied with the policy requirements of paragraphs U52-53. However, the Monitor was unable to test the dissemination of the directive, as it was disseminated near the end of the quarter.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 305.2. As a result, the DPD has complied with the requirements of paragraph U52.⁴³

In order to assess the DPD's compliance with paragraph U53 during the current quarter, on January 3, 2006, the Monitor requested a listing of all holds for the period November 1, 2005 through December 31, 2005. The DPD provided the requested listing on February 20, 2006, identifying a total of 490 detainees with holds. As it took nearly seven weeks for the DPD to provide this listing and it was provided toward the end of the reporting period, the Monitor was not afforded sufficient time to review it and select a sample for testing. The Monitor intends to select and review a sample of holds during the quarter ending May 31, 2006.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U52 but in non-compliance with paragraph U53.

F. RESTRICTION POLICIES

This section comprises paragraphs U54-55. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs U54-55 – Restriction Policies; Documentation of Restrictions

Paragraph U54 requires the DPD to revise existing and develop new policies regarding a detainee's access to telephone calls and visitors. The policy must permit detainees with access to attorneys and reasonable access to telephone calls and visitors.

Paragraph U55 requires that whenever a detainee is restricted from either using the telephone or receiving visitors, such restriction must be documented, reviewed at the time the restriction is placed and re-evaluated, at a minimum, each day in which the restriction remains in effect. All violations of the DPD's restriction policy must be documented on an auditable form by the end of the shift in which the violation occurred.

⁴³ Paragraph U52 is a "policy only" paragraph; implementation of policy is tested under paragraph U53.

Background

The Monitor last assessed the DPD's compliance with paragraphs U54-55 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. Although the Monitor determined that Directive 305.4, *Holding Cell Areas*, adequately addressed the requirements of paragraphs U54 and U55, the directive had not been disseminated to the field.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 305.4. As a result, the DPD has complied with the requirements of paragraph U54.⁴⁴

In order to assess the DPD's compliance with paragraph U55 during the current quarter, on January 3, 2006, the Monitor requested a listing of all detainee restrictions for the period November 1, 2005 through December 31, 2005. The DPD responded that there were no restrictions placed on any detainee during this period. The Monitor intends to conduct additional procedures to verify that there were no restrictions during the quarter ending May 31, 2006. The Monitor's findings will be reported once its testing is completed. The Monitor also requested a detailed listing of any citizen complaints alleging a violation of the DPD's restriction policy for the same time period. Although two complaints were identified, the Monitor was unable to review them as they remain pending investigation.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U54 and withholds a determination of compliance with paragraph U55.

G. MATERIAL WITNESS POLICIES

This section comprises paragraphs U56-57. The Monitor last assessed the DPD's compliance with paragraphs U56-57 during the quarter ending November 30, 2005, finding the DPD in non-compliance with each. Regarding paragraph U57, the Monitor determined that the DPD did not generate an auditable form for a material witness, as required. The Monitor is scheduled to again assess the DPD's compliance with paragraph U57 during the quarter ending August 31, 2006.

⁴⁴ Paragraph U54 is a "policy only" paragraph; implementation of policy is tested under paragraph U55.

The Monitor again assessed the DPD's compliance with paragraph U56 during the current quarter. The results of our current assessment follow.

Paragraph U56 – Revision of Material Witness Policies

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.⁴⁵ Furthermore, the DPD must remove the term “police witness” from all DPD policy and procedure.

Background

The Monitor last assessed the DPD's compliance with paragraph U56 during the quarter ending November 30, 2005, at which time the Monitor found the DPD in non-compliance. The Monitor concluded that Directive 202.1, *Arrests*, and Training Directive 04-01, *Material Witness*, met the policy requirements of paragraph U56. The Monitor also determined that Directive 202.1 was adequately disseminated to the field but Training Directive 04-01 was not.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of Training Directive 04-01 and determined that it still had not been adequately disseminated.

Current Assessment of Compliance

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.⁴⁶ The DPD provided documentation evidencing the receipt of the directive by all 94 officers selected.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U56.⁴⁷

H. DOCUMENTATION OF CUSTODIAL DETENTION

This section comprises paragraph U58. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending November 30, 2005, at which time the Monitor found the DPD in non-compliance. The DPD indicated its decision to incorporate paragraph U58 requirements into the new version of Live Scan, eliminating the need for the original software that was to be purchased as a module for the DPD's CRISNET system. Although the Live Scan

⁴⁵ Paragraph 1aa of the UOF CJ defines a material witness.

⁴⁶ A random, statistical sample of 94 officers was selected out of a population of approximately 3,525 listed officers. The Monitor utilized a confidence level of 95% with an acceptable error rate of +/- 4%.

⁴⁷ Paragraph U56 is a “policy only” paragraph; implementation of policy is tested under paragraph U57.

system was operational, the DPD, via its contracted vendor, had not yet modified the system to include all elements of paragraph U58. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending May 31, 2006.

I. COMMAND NOTIFICATION

This section comprises paragraphs U59-60. The Monitor last assessed the DPD's compliance with paragraphs U59-60 during the quarters ending November 30, 2005 and August 31, 2005, respectively. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph U59 – Commanding Officer Review

Paragraph U59 requires all DPD Commanders of a precinct and, if applicable, of the specialized unit to review in writing all reported violations of DPD arrest, investigatory stop and frisk, witness identification and questioning policies and all reports of arrests in which an arraignment warrant was not sought. The commander's review must be completed within 7 days of receiving the document reporting the event, and must include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

Background

The Monitor last assessed the DPD's compliance with paragraph U59 during the quarter ending November 30, 2005, at which time the Monitor found the DPD in non-compliance. The DPD had not yet responded to the Monitor's request for all auditable forms completed within the selected time-period⁴⁸ evidencing the review of those forms by the respective Commanding Officers (COs). Also, according to the DPD, Training Directive 05-07, *Probable Cause*, which addressed the requirements of paragraph U59, was disseminated on October 30, 2005, with an effective date of November 21, 2005. The Monitor indicated it would test dissemination of this directive during the quarter ending February 28, 2006, and implementation will be tested during the regularly scheduled reporting period subsequent to the quarter in which the DPD satisfactorily demonstrates dissemination.

Current Assessment of Compliance

In order to test the dissemination of Training Directive 05-07, *Probable Cause*, the Monitor selected a random sample of 94 officers⁴⁹ from the most recently submitted DPD roster.⁵⁰ On

⁴⁸ The first three working days in July 2005.

⁴⁹ 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 +/- 4%.

February 2, 2006, the Monitor requested documentation from the DPD evidencing the receipt of the training directive by the selected officers. On February 9, 2006, the DPD submitted documentation in response to this request. However, the Monitor was unable to complete the dissemination testing, as the roster submitted by the DPD contained out-dated information and did not include officers' current assignments or appropriate identification numbers for comparing to the dissemination documentation received.⁵¹ The Monitor had on-going discussions with the DPD staff and was eventually able to resolve the issues concerning the roster after the DPD provided additional documentation on February 28, 2006. Based on the documentation provided, the Monitor determined that 92, or 97.9%, of the 94 officers selected for testing received the training directive. As a result, Training Directive 05-07 has now been adequately disseminated.

The continuing problems with the DPD's roster hampered the Monitor's ability to complete the testing of dissemination and prevented the Monitor from commencing the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U59 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U59.

Paragraph U60 – Daily Reporting Requirements

Paragraph U60 requires the Commander of each precinct or, if applicable, a specialized unit to review in writing all reported violations of the DPD's Prompt Judicial Review, Holds, Restrictions, and Material Witness Detention policies. Such review must be completed on the day the violation occurs. The Commander must evaluate actions taken to correct the violation and determine whether any corrective or non-disciplinary action was indeed taken.

Background

The Monitor last assessed the DPD's compliance with paragraph U60 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The Monitor determined that Directive 202.1, *Arrests*, had been adequately disseminated to the field but Directive 305.4, *Holding Cell Areas*, was not adequately disseminated.

⁵⁰ Due to problems previously encountered with the accuracy of the DPD's roster, on January 2, 2006, the Monitor initiated a request for the DPD to provide an updated roster to the Monitor each quarter on an on-going basis. The DPD provided this roster, which was used for all of dissemination testing conducted during the current quarter, on January 27, 2006.

⁵¹ The Monitor identified similar deficiencies in the roster during dissemination testing conducted during the quarter ending November 30, 2005. Refer to the Focus Issue entitled *DPD Process for Disseminating Policies and Related Issues* in the Monitor's Report for the Quarter Ending November 30, 2005.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 305.4. As described in the Current Assessment of Compliance for paragraphs U56-57, above, the Monitor also determined that Training Directive 04-01, *Material Witness*, was adequately disseminated to all 94 officers selected for testing. The DPD has now adequately disseminated all directives pertinent to paragraph U60.

The continuing problems with the DPD's roster, as described in the Current Assessment of Compliance for paragraph U59, above, hampered the Monitor's ability to complete the testing of dissemination⁵² and prevented the Monitor from commencing the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U60 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U60.

⁵² The Monitor requested documentation evidencing the dissemination of Training Directive 04-01 on January 30, 2006 and received the documentation on February 9, 2006. However, due to the issues described in the Current Assessment of Compliance for paragraph U59, the Monitor was able to complete its dissemination testing only when the DPD provided additional documentation on February 28, 2006, the last day of the quarter.

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.⁵³

Section IV's introductory section comprises paragraphs U61-63. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2005. Regarding paragraphs U61 and U63, the Monitor determined that Directive 102.6, *Citizen Complaints*, meets the requirements of paragraphs U61 and U63, among others, but was not adequately disseminated as of the end of that quarter.⁵⁴ The Monitor found the DPD in compliance with subparagraphs b, c and d of paragraph U62, but recommended that the DPD develop a methodology for its internal inspection process to include how often the inspections will be conducted. The Monitor also recommended that the documents in the informational campaign be revised to take the restructuring of the DPD into account. This recommendation also pertains to the informational brochures/contact forms in paragraph U63 as needed.

The Monitor is scheduled to again assess the DPD's compliance with paragraphs U61-63 during the quarter ending May 31, 2006.

A. INTAKE AND TRACKING

This section comprises paragraphs U64-66. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2005, finding the DPD in compliance with paragraph U66 but in non-compliance with paragraphs U64-65. As with paragraphs U61 and U63, the Monitor determined that Directive 102.6, *Citizen Complaints*, meets the requirements of paragraphs U64-65, but was not adequately disseminated as of the end of that quarter.⁵⁵

⁵³ The OCI reports to the BOPC and is responsible for conducting all external complaint investigations.

⁵⁴ Upon being informed of these results, after the end of that 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. As a result, the DPD is now in compliance with the policy requirements of paragraphs U61 and U63. Implementation will be tested during the next regularly scheduled compliance assessment.

⁵⁵ Again, the Monitor determined that the directive was adequately disseminated based upon information provided by the DPD after the end of that quarter. The DPD has now met the requirements for effective dissemination of the

The Monitor is scheduled to again assess the DPD's compliance with paragraphs U64-66 during the quarter ending May 31, 2006.

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 November 30, 2005, finding the DPD in non-compliance with each. As with paragraphs U61, U63, and U64-65, the Monitor determined that Directive 102.6, *Citizen Complaints*, meets the requirements of paragraphs U67-69, but was not adequately disseminated as of the end of that quarter.⁵⁶

The Monitor is scheduled to again assess the DPD's compliance with paragraphs U67-69 during the quarter ending May 31, 2006.

policy. As a result, the DPD is now in compliance with the policy requirements of paragraph U64-65. Implementation will be tested during the next regularly scheduled compliance assessments.

⁵⁶ Again, the Monitor determined that the directive was adequately disseminated based upon information provided by the DPD after the end of that quarter. As a result, the DPD is now in compliance with the policy requirements of paragraph U67-69. Implementation will be tested during the next regularly scheduled compliance assessments.

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 U70 and U71 during the quarter ending November 30, 2005. The Monitor determined that Directive 404.1, *Definitions*,⁵⁷ was adequately disseminated. However, the Monitor withheld a determination of the DPD's compliance with paragraph U70 pending the testing of the dissemination of Training Directive 05-07.⁵⁸ The Monitor found the DPD in non-compliance with paragraph U71, concluding that the revised protocol received from the DPD's Civil Rights Division (CRD) on December 1, 2005, which was approved by the BOPC on November 18, 2005, addressed many, but not all, of the concerns the Monitor had expressed in previous discussions with the DPD. These concerns were conveyed to both OCI and CRD personnel.

The Monitor last assessed the DPD's compliance with paragraphs U72-77 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.

⁵⁷ Directive 404.1, *Definitions*, was disseminated on February 25, 2005, with an effective date of March 21, 2005.

⁵⁸ The DPD indicated that it disseminated Training Directive 05-07 on October 30, 2005, with an effective date of November 21, 2005. Although a compliance assessment of paragraph U70 was not scheduled for the current quarter, the Monitor tested the DPD's dissemination of the training directive. The DPD provided documentation evidencing the receipt of the directive for 92, or 97.9%, of the 94 officers selected for testing. As a result, the DPD is now in compliance with the policy requirements of paragraph U70. The Monitor will review the procedures the DPD had in place to identify terms requiring clear definitions and prepare definitions for review and inclusion in manuals and other documents, during the next regularly scheduled compliance assessment for this paragraph.

Paragraphs U72 and U74 – Police Action in Violation of DPD Policy; Officers to Report Misconduct

Paragraph U72 requires the DPD to advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

Paragraph U74 requires the DPD to enforce its policies requiring all DPD officers to report any misconduct committed by another officer, whether committed on- or off-duty.

Background

The Monitor last assessed the DPD's compliance with paragraphs U72 and U74 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each. Although Directive 102.3, *Code of Conduct*, complies with the policy components of these paragraphs, the DPD had not adequately disseminated the policy as of the end of that quarter.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had not yet been adequately disseminated.

Current Assessment of Compliance

In order to test dissemination of Directive 102.3, *Code of Conduct*,⁵⁹ the Monitor selected a random sample of 94 officers⁶⁰ from the most recently submitted DPD roster.⁶¹ On January 30, 2006, the Monitor requested documentation from the DPD evidencing the receipt of the directive by the selected officers. On February 9, 2006, the DPD submitted documentation in response to this request. However, the Monitor was unable to complete the dissemination testing, as the roster submitted by the DPD contained out-dated information and did not include officers' current assignments or appropriate identification numbers for comparing to the dissemination documentation received.⁶² The Monitor had on-going discussions with the DPD staff and was eventually able to resolve the issues concerning the roster after the DPD provided additional

⁵⁹ Directive 102.3, *Code of Conduct* was disseminated on May 27, 2005, with an effective date of June 27, 2005.

⁶⁰ 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 +/- 4%.

⁶¹ Due to problems previously encountered with the accuracy of the DPD's roster, on January 2, 2006, the Monitor initiated a request for the DPD to provide an updated roster to the Monitor each quarter on an on-going basis. The DPD provided this roster, which was used for all of dissemination testing conducted during the current quarter, on January 27, 2006.

⁶² The Monitor identified similar deficiencies in the roster during dissemination testing conducted during the quarter ending November 30, 2005. Refer to the Focus Issue entitled *DPD Process for Disseminating Policies and Related Issues* in the Monitor's Report for the Quarter Ending November 30, 2005.

documentation on February 28, 2006. Based on the documentation provided, the Monitor determined that 92, or 97.9%, of the 94 officers selected for testing received the directive. As a result, Directive 102.3 has now been adequately disseminated.

The continuing problems with the DPD's roster hampered the Monitor's ability to complete the testing of dissemination and prevented the Monitor from commencing the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of these paragraphs.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraphs U72 and U74 but in non-compliance with the implementation requirements of these paragraphs. As a result, the Monitor finds the DPD in overall non-compliance with paragraphs U72 and U74.

Paragraph U73 – Sergeants in the Field

Paragraph 73 requires the DPD and the City to develop a plan to ensure regular field deployment of an adequate number of supervisors⁶³ of patrol units and specialized units that deploy in the field to implement the provisions of this agreement.

Background

The Monitor last assessed the DPD's compliance with paragraph U73 during the quarter ending August 31, 2005, at which time the Monitor found non-compliance. The DPD provided a partial response for the documentation requested to assess compliance.

Current Assessment of Compliance

In order to assess the DPD's compliance with paragraph U73 during the current quarter, the Monitor requested daily attendance records for all 27 District station and specialized unit platoons for the period December 28- 30, 2005. This should have resulted in 71 daily attendance records (three for each District station and specialized unit platoon). However, the DPD provided 54 attendance records; no information was provided for the Eastern District and certain specialized units.⁶⁴

⁶³ Paragraph "pp" of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

⁶⁴ The Monitor identified similar problems in documentation received by the DPD in order to test compliance with this paragraph during the quarter ending August 31, 200 (the DPD provided documentation for 88 of its 213 precinct platoons and/or specialized units).

Of the 54 daily attendance records received and reviewed by the Monitor, 52 documented an average ratio of one supervisor to every 3.82 officers. For two records provided there was no documented supervisor on duty.⁶⁵ As a result, the DPD's overall compliance rate was 73.2% (52 of 71).

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U73.

Paragraph U75 – Off-Duty Police Action

Paragraph U75 requires the DPD to revise existing policy regarding off-duty officer police actions. Specifically, off-duty officers are:

- a. required to notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;
- b. prohibited from carrying or using firearms or taking police action in situations where the officer's performance may be impaired or the officer's ability to take objective action may be compromised; and
- c. required to submit to field sobriety, breathalyser, and/or blood tests if it appears that the officer has consumed alcohol or is otherwise impaired.

Background

The Monitor last assessed the DPD's compliance with paragraph U75 during the quarter ending August 31, 2005 finding the DPD in non-compliance. The Monitor had previously determined that the DPD complied with the policy component of this paragraph by adequately disseminating Directive 202.1, *Arrests*; however, the DPD had not yet begun training officers on its content. Although the Monitor had requested documentation in an attempt to evaluate the implementation of the policy, the DPD's submission was not responsive to the Monitor's request.

Current Assessment of Compliance

During the current quarter, the Monitor again requested documentation in connection with the DPD's training on the requirements of paragraph U75 efforts and the implementation of relevant policy.⁶⁶ As of the end of the quarter, the Monitor had not received documentation in response to this request.⁶⁷

⁶⁵ The records provided for the Homicide unit did not document any supervisory oversight, as names were listed under supervision; but no hours. There were several squads listed on the details, but no indication of supervisors responsible for the personnel.

⁶⁶ On January 6, 2006, the Monitor requested that the DPD provide a listing of all investigations of off-duty arrests, complaints of off-duty arrests, and complaints of off-duty UOF against DPD employees (both sworn and non-sworn)

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U75.

Paragraph U76 – Handling of Prisoners

Paragraph U76 requires the DPD to revise policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;
- b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and
- c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.

Background

The Monitor last assessed the DPD's compliance with paragraph U76 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although Directive 305.4, *Holding Cell Areas*, complies with the policy component of paragraph U76, it had not been adequately disseminated to the field as of the end of that quarter.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter. The DPD has now met the requirements for effective dissemination of Directive 305.4.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 305.4. As a result, the DPD is in compliance with the policy requirements of this paragraph.

that closed between December 1, 2005 and December 31, 2005. The Monitor requested that the listing include all investigations regardless of whether they were initiated internally or externally, and that it identify the entity responsible for conducting the investigations (e.g. OCI, Internal Affairs Section (IAS), Force Investigation Section (FIS), Precinct, or Specialized Unit). The Monitor also requested that the DPD provide a listing of any and all training conducted in relation to paragraph U75, including the date(s), topic(s), and forum (e.g. roll call training or formal classroom training).

⁶⁷ On March 1, 2006 (after the end of the quarter), the DPD submitted an email response to the Monitor's request for training documentation, stating that no training has yet been conducted in relation to the requirements of this paragraph.

In order to assess the DPD's compliance with the implementation requirements of subparagraphs U76a-b during the current quarter, the Monitor requested that the DPD provide a listing of all arrests that involved a use of force by DPD officers occurring between December 1, 2005 and December 31, 2005.⁶⁸ The Monitor indicated that the list should include all investigations and should identify the entity responsible for conducting the investigations (e.g. OCI, IAS, FIS, Precinct, or Specialized Unit). During the current quarter, the DPD provided partial responses to document requests submitted by the Monitor. However, the DPD did not provide a listing of all UOF, which is integral to the Monitor's compliance assessment, as the listing will be the source from which the Monitor selects a sample of uses of force for detailed testing.⁶⁹

In order to assess the DPD's compliance with the implementation requirements of subparagraph U76c during the current quarter, the Monitor conducted random, unannounced onsite inspections of DPD buildings containing holding cells, and reviewed limited random selections of processing area video.⁷⁰ The Monitor noted that in all instances observed, the transporting and/or arresting officers appropriately transferred custody of detainees to detention officers within the processing area, and did not accompany the detainees into the holding cell area.⁷¹

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U76 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U76.

Paragraph U77 - Foot Pursuit Policy

Paragraph U77 requires the DPD to develop a foot pursuit policy that, at a minimum:

- a. Requires officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location, whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;
- b. Emphasizes alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;
- c. Emphasizes the danger of pursuing and engaging a subject with a firearm in hand; and

⁶⁸ This document request was submitted by the Monitor on January 6, 2006.

⁶⁹ The DPD represented that insufficient resources prevented it from providing a full document response. The DPD has since indicated that it will be in a position to provide such a listing when requested as part of the next regularly scheduled compliance assessment.

⁷⁰ The inspections were conducted on February 21-23, 2006.

⁷¹ Related training regarding subparagraph U76c did not take place until after the end of the current quarter. The Monitor will report on this training during the next scheduled compliance assessment for this paragraph.

- d. Requires officers to document all foot pursuits that involve a UOF on a separate, auditable form, such as the UOF report.

Background

The Monitor last assessed the DPD's compliance with paragraph U77 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although Directive 202.7, *Foot Pursuit*, addresses the policy component of paragraph U77, the directive had not been adequately disseminated to the field as of the end of that quarter.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 202.7. As a result, the DPD is in compliance with the policy requirements of this paragraph.

In order to assess the DPD's compliance with the implementation requirements of paragraph U77 during the current quarter, on January 6, 2006, the Monitor requested documentation supporting the DPD's compliance with the implementation and training requirements of this paragraph.⁷² On February 28, 2006, the DPD submitted auditable forms (UF-002) for 32 UOF incidents, 6 of which involved a foot pursuit. The Monitor is encouraged that the DPD appears to be documenting foot pursuits that involve a UOF. However, as it took nearly seven weeks for the DPD to provide this listing and it was provided toward the end of the reporting period, the Monitor was not afforded sufficient time to complete its implementation testing. In addition, the DPD must deliver some type of instruction or training to its members on this topic.⁷³

⁷² The Monitor requested that the DPD provide copies of all UOF auditable forms (UF-002 and UF-002A), dated from December 1, 2005 and December 31, 2005, covering all UOF incidents which occurred between the same time period. The Monitor also requested that the DPD provide a listing of any and all training conducted in relation to paragraph U77 including the date(s), topic(s), and forum (e.g. roll call training or formal classroom training).

⁷³ On November 30, 2005, the DPD submitted a lesson plan titled "Foot Pursuit" in response to paragraph U77. The Monitor recently reviewed this lesson plan, finding it in non-compliance with the requirements of the paragraph. The Monitor forwarded a memo to the DPD detailing its findings after the end of the quarter on March 21, 2006. Also, on March 1, 2006, the DPD submitted an email response to the Monitor's request for training documentation, stating that no training has yet been conducted in relation to the requirements of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U77 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U77.

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

Paragraph U78 – Development of Risk Management Plan

Paragraph U78 requires the DPD to devise a comprehensive risk management plan, including:

- a. a Risk Management Database (discussed in paragraphs 79-90);
- b. a performance evaluation system (discussed in paragraph 91);
- c. an auditing protocol (discussed in paragraphs 92-99);
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

Background

The Monitor last assessed the DPD's compliance with paragraph U78 during the quarter ending May 31, 2005, finding the DPD in non-compliance. The DPD remained in non-compliance with the majority of the paragraphs related to subparagraphs a and c. With regard to subparagraph b, the Monitor has found that Directive 401.1, *Performance Evaluation Ratings*, together with related forms, meets the requirements of paragraph U91. During the quarter ending November 30, 2005, the Monitor determined that the DPD met the requirements for effective dissemination of the policy.

With regard to subparagraphs d and e, the DPD must develop a mechanism for conducting regular and periodic reviews of all DPD policies and evaluate patterns of conduct by DPD that

potentially increase DPD's liability.⁷⁴ The Monitor requested information regarding the DPD's compliance efforts regarding subparagraphs U78d and e. However, as of the end of that quarter, no information had been received and the DPD did not specifically address these subparagraphs in their Seventh Quarter Status Report.

Current Assessment of Compliance

Regarding subparagraph U78a, the DPD remains in non-compliance with a majority of the paragraphs related to the Risk Management Database.⁷⁵ During the current quarter, the DPD and the DOJ continued conversations regarding converting the Interim Management Awareness System (IMAS) into the Management Awareness System (MAS) without the use of an outside vendor, thereby obviating the need for a request for proposal (RFP). On February 17, 2006, the DOJ forwarded to the DPD a letter expressing its concerns over the conversion. To date this issue has not been finalized.

Regarding subparagraph U78b, as described in the Background section, above, the DPD has now complied with the policy requirements of paragraph U91. The Monitor will commence implementation testing during the quarter ending May 31, 2006.

Regarding subparagraph U78c, the DPD remains in non-compliance with the majority of the paragraphs related to the auditing protocol.⁷⁶

Regarding subparagraphs U78d and e, the information the Monitor previously requested regarding the DPD's compliance efforts has not been received to-date.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U78.

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

⁷⁴ The requirements of paragraph U78e differ from the requirements of paragraph U110, which refers to meetings that the DPD should hold with the City Law Department specifically concerning the conclusion of civil lawsuits alleging officer misconduct. Certainly, information from the paragraph U110 meetings can be used in the subparagraph U78e meetings; however, the subparagraph U78e meetings are among DPD management and evaluate patterns of conduct that could increase the DPD's liability in any area (not just officer misconduct).

⁷⁵ Of the pertinent paragraphs (U79-90), the DPD remains in non-compliance with paragraphs U79-82, U86-87, and U88a and c (as described in the Report for the Quarter Ending November 30, 2005) and paragraphs U85, U88d-g, and U89 (as described in this report, below).

⁷⁶ Of the related audit paragraphs, the DPD remains non-compliant with paragraphs: U93, U94, U95, and U96.

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 paragraph U79-83 and U86-88a-c during the quarter ending November 30, 2005, finding the DPD in compliance with paragraphs U83 and U88b, and in non-compliance with the remaining paragraphs. The DOJ 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 was 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 IMAS.

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 Services (ITS) department 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.

The Monitor last assessed the DPD's compliance with paragraphs U84-85, U88d-f, and U89 during the quarter ending February 28, 2005. During the current quarter, the Monitor again assessed the DPD's compliance with paragraphs U85, U88e-f, and U89,⁷⁷ and assessed compliance with paragraph U88g for the first time. The results of our current assessments follow.⁷⁸

Paragraph U85 – Risk Management Database Modules

Paragraph U85 requires the DPD to seek to ensure that the Risk Management Database is created as expeditiously as possible. As part of this effort, the DPD, in consultation with the DOJ, must organize the Risk Management Database into modules in developing the Data Input Plan, the Report Protocol, the Review Protocol and the RFP and in negotiating with contractors, such that difficulties with one aspect of the Risk Management Database do not delay implementation of other modules.

⁷⁷ Paragraph U84 requires the DPD to prepare, for the review and approval of the DOJ, a Review Protocol for using the Risk Management Database that addresses data analysis, supervisory assessment, supervisory intervention, documentation and auditing. Subparagraph U88d requires the DPD to submit the Review Protocol to the DOJ for review and approval by March 30, 2004. The Monitor found the DPD in compliance with paragraph U84 and subparagraph U88d during the quarter ending August 31, 2005, as the DOJ approved the DPD's Review Protocol. Until such time as the DPD changes its Review Protocol, it will remain in compliance with paragraph U84; should a change occur, the requirements of paragraph U84 will be triggered and an additional assessment will commence. The Monitor will no longer assess the DPD's compliance with subparagraph U88d.

⁷⁸ Paragraph U90 has no specific deadline; the Monitor will assess the DPD's compliance with this paragraph on an as-needed basis, as the DPD's actions pursuant to it are driven by the availability of relevant new technology and its experience with the operational Risk Management Database.

Background

The Monitor last assessed the DPD's compliance with paragraph U85 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the DOJ granted final approval of the RFP, Review Protocol and the IMAS, the Report Protocol and Data Input Plan had not yet received DOJ approval.

Current Assessment of Compliance

As described in the Monitor's Report for the Quarter Ending November 30, 2005, the DOJ provided the DPD with a letter on July 11, 2005 granting final approval of the RFP, Review Protocol and the IMAS; however, the DOJ expressed some concern regarding how scanned material will interface with the MAS and how this information would be useful to vendors. The DPD has suggested using internal personnel from the ITS department to transition the IMAS into MAS, and provided the DOJ with a feasibility study outlining the conversion.

On November 22, 2005 the DPD re-submitted the Data Input Plan. After review, the DOJ provided the DPD with a letter, dated February 17, 2006, outlining the DOJ's concerns with the Data Input Plan and the use of the DPD's ITS for converting the IMAS to MAS, as opposed to an outside vendor. These concerns were not resolved as of the end of the current quarter. The DPD and the DOJ have agreed to participate in a dialogue to discuss the DOJ's concerns.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U85.

Subparagraph U88e – Risk Management Database Selection of Contractor

Subparagraph U88e requires the DPD to select the contractor to create the risk management database by May 31, 2004.

Background

The Monitor last assessed the DPD's compliance with subparagraph U88e during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the DOJ had granted approval of the RFP, it expressed concerns regarding the "System Acceptance" requirement and its previous suggestion to provide additional information on how scanned material will interface with MAS.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for subparagraph U85, above, the DOJ provided the DPD with a letter on July 11, 2005 granting final approval of the RFP. In response to the DOJ's concerns, the DPD suggested using internal personnel to convert the IMAS to MAS and provided the DOJ with a feasibility study outlining the conversion. The DOJ expressed

additional concerns and questions in a letter provided to the DPD on February 17, 2006. To date, these issues had not been finalized.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph U88e.

Subparagraph U88f – Beta Version of Risk Management Database

Subparagraph U88f requires the DPD to have ready for testing a beta version of the risk management database by June 30, 2005. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.

Background

The Monitor last assessed the DPD's compliance with the subparagraph U88f during the quarter ending August 31, 2005 finding the DPD in non-compliance. The Monitor had not yet been afforded the opportunity to participate in testing the beta version of MAS.

Current Assessment of Compliance

As of the end of the quarter the DOJ had yet to fully approve the Data Input Plan and, as discussed in paragraph U85, the DOJ expressed concerns and questions regarding the use of DPD internal personnel to convert from IMAS to MAS. Until these issues are resolved, beta testing cannot commence.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph U88f.

Subparagraph U88g – Risk Management Database Operational

Subparagraph U88g requires the risk management database to be operational and fully implemented by December 31, 2005.

Background

Given that the deadline for subparagraph U88g was December 31, 2005, this is the Monitor's first assessment of the DPD's compliance with the subparagraph.

Current Assessment of Compliance

As reported under subparagraphs U88e and f, above, the DPD suggested using internal personnel to convert the IMAS to MAS and provided the DOJ with a feasibility study outlining the conversion. The DOJ expressed additional concerns and questions in a letter provided to the DPD on February 17, 2006. These concerns were not resolved as of the end of the current

quarter. The DPD was also awaiting approval the DOJ's approval of its Data Input Plan as of the end of the quarter.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph U88g.

Paragraph U89 – Interim Risk Management System

Paragraph U89 states that prior to the implementation of the new Risk Management Database, the DPD must develop an interim system to identify patterns of conduct by DPD officers or groups of officers.

Background

The Monitor last assessed the DPD's compliance with paragraph U89 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The DOJ approved the IMAS Plan on July 11, 2005⁷⁹ and the DPD indicated that all precincts began using the IMAS on May 1, 2005. The DPD also indicated that since that time over 500 performance indicators, including citizen complaints, injured prisoners and lawsuits, have been entered into IMAS.

In order to test implementation of the IMAS, the Monitor and the DOJ attended a demonstration of the system on July 27, 2005. The Monitor determined that the current system does not have the ability to identify patterns of conduct by groups of officers as required by the paragraph; the DPD indicated that it will have that capability in the new version that is being developed. In addition, the DPD reported that many supervisors were inputting initial performance indicator information into the IMAS, but were not going back to provide subsequent information that is vital to the risk management process. This, along with the fact that the current IMAS does not have a system in place to ensure that supervisors are held accountable for inputting both initial performance indicator information and subsequent relevant information, indicates that the version of the IMAS presented is vulnerable in the area of supervisor accountability.

According to the DPD, as of July 29, 2005, approximately 184 precinct supervisors had been trained on IMAS during 8-hour training sessions but other supervisors still needed to be trained on the system. According to the DPD, executives would be trained on the system in September 2005 and a website to assist in the use of the system would be operational by September 1, 2005.

⁷⁹ Although the UOF CJ does not specifically provide that the DOJ has review and approval over paragraph U89, it was agreed by the parties and the Monitor that the DOJ would provide TA regarding and ultimately grant approval of the interim plan, given the fact that the DOJ has review and approval over the risk management database pursuant to paragraph U88.

Current Assessment of Compliance

The DOJ and the Monitor attended another demonstration of the IMAS on November 16, 2005.⁸⁰ Although some improvements have been made to the system since the last demonstration, not all relevant personnel have received training.⁸¹ In addition, the website that was previously mentioned has not yet been implemented.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U89.

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.⁸² The Monitor is scheduled to again assess the DPD's compliance with paragraph 91 during the quarter ending August 31, 2006.

C. OVERSIGHT

This subsection of the UOF CJ (paragraphs U92-99) requires the DPD to establish an internal audit process, to perform annual⁸³ audits of all precincts and specialized units on eight aspects of

⁸⁰ The demonstration took place during the quarter ending November 30, 2005.

⁸¹ The DOJ previously approved the written procedure for the IMAS. The DPD must now engage in effective training and implementation of the IMAS.

⁸² Although paragraph U91 was not scheduled for assessment during the quarter ending November 30, 2005, the Monitor retested the DPD's dissemination of Directive 404.1 that quarter. 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.

⁸³ 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.

policing,⁸⁴ 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 and U98 during the quarter ending August 31, 2005, finding the DPD in compliance with paragraph U92 and in non-compliance with paragraph U98. The Monitor last assessed the DPD's compliance with paragraphs U93-97 and U99 during the quarter ending November 30, 2005, finding the DPD in non-compliance with all but paragraph U99.

During the current quarter, the Monitor again assessed the DPD's compliance with paragraphs U94a and b and U98. The results of our current assessments follow.

The Monitor is scheduled to again assess the DPD's compliance with paragraph U92 and U94-U97 during the quarter ending August 31, 2006, with paragraph U93 during the quarter ending November 30, 2006, and with paragraph U99 during the quarter ending May 31, 2006.

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.

The Monitor last assessed the DPD's compliance with paragraph U93 during the quarter ending November 30, 2005, finding the DPD in non-compliance. As of the end of that quarter, the Monitor had not received documentation evidencing the transmittal of the paragraph U94c and U97 audit reports to the Chief of Police and appropriate COs, or any action that they had taken in connection with those audits.

The Monitor is scheduled to again assess the DPD's compliance with paragraph U93 during the quarter ending November 30, 2006, which will allow sufficient time for DPD's commanders to review and take action on each audit that is due for submission by August 31, 2006.

⁸⁴ Including UOF investigations; prisoner injuries; allegations of misconduct; arrests; stops and frisks; witness identification and questioning; custodial detention practices, and complaint investigations.

Paragraph U94 – Audits of UOF, Prisoner Injuries Investigations 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 U94 during the quarter ending November 30, 2005, finding the DPD in non-compliance with all three subparagraphs (a, b and c). Neither the UOF investigations audit nor the prisoner injury investigations audit was submitted as of the end of that quarter. During that quarter, the Monitor completed its review of the *Allegations of Misconduct Investigations Audit* report, which was submitted on August 31, 2005. The Monitor noted that although the audit had improved compared to audits previously submitted by the DPD Audit Team (AT), it was non-compliant with subparagraph 94c due to a number of issues that were discussed with the AT and described in the Monitor's Report for the Quarter Ending November 30, 2005.

Current Assessment of Compliance

The DPD did not submit a UOF investigations audit (required by subparagraph U94a) or a prisoner injury investigations audit (required by subparagraph U94b) during the current quarter. These audits were due by August 31, 2005. The next audits required by these subparagraphs are expected to be submitted by August 31, 2006.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraphs U94a and b.⁸⁵

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

⁸⁵ 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. The Monitor did not assess compliance with subparagraph U94c during the current quarter, nor was an assessment scheduled, as the next *Allegations of Misconduct Investigations Audit* is not due until the quarter ending August 31, 2006.

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.

The Monitor last assessed the DPD's compliance with paragraph U95 during the quarter ending November 30, 2005, finding the DPD in non-compliance with subparagraphs a through c, as none of the audits due by August 2005 had been submitted, and prior audits submitted were non-compliant. The Monitor's determination of non-compliance will remain until such time that the next audit is submitted. At that time the Monitor will assess the quality of that audit. The Monitor is scheduled to again assess the DPD's compliance with paragraph U95 during the quarter ending August 31, 2006.

Paragraph U96 – Audit of Custodial Detention Practices

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

The Monitor last assessed the DPD's compliance with paragraph U96 during the quarter ending November 30, 2005, finding the DPD in non-compliance because the audit due by August 2005 as required by this paragraph, had not been submitted as of the end of that quarter, and the prior audit was non-compliant. The Monitor's determination of non-compliance will remain until such time that the next audit is submitted. At that time the Monitor will assess the quality of that audit. The Monitor is scheduled to again assess the DPD's compliance with paragraph U96 during the quarter ending August 31, 2006.

Paragraph U98 – Random Reviews of Videotapes and Recording Equipment

Paragraph U98 requires the DPD to conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD must require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order.

Background

The Monitor last assessed the DPD's compliance with paragraph U98 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The Monitor determined that Directive 303.3, *In-Car Video*, and related forms adequately addressed the policy requirements of this paragraph. 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 tested the DPD's dissemination of Directive 303.3 during the quarter ending November 30, 2005. As described in the Report for the Quarter Ending November 30, 2005, the

Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter. Accordingly, the DPD has now met the requirements for effective dissemination of the policy.

Current Assessment of Compliance

The Monitor has determined that the DPD adequately disseminated Directive 303.3. As a result, the DPD is in compliance with the policy requirements of paragraph U98.

The DPD continues to develop, but has not submitted, the necessary lesson plan to train officers on the directive and related forms. The DPD has confirmed that it has not yet implemented its systematic review process for videotapes. The Monitor will test implementation during the quarter ending August 31, 2006.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U98 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U98.

D. USE OF VIDEO CAMERAS

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

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

The Monitor last assessed the DPD's compliance with paragraphs U100-102 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 U100-102 – Non-Functioning Video Cameras; Video Camera Policy; Video Recording Policy

Paragraph U100 requires the DPD to repair or replace all non-functioning video cameras.

Paragraph U101 states that the DPD policy on video cameras shall be revised and augmented to require: activation of scout car video cameras at all times the officer is on patrol; supervisors to

review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.

Paragraph U102 states that the DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches.

Background

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. 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 tested the DPD's dissemination of Directive 303.3 during the quarter ending November 30, 2005. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter. Accordingly, the DPD has now met the requirements for effective dissemination of the policy.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 303.3. The Monitor understands that the DPD has completed its protocol for implementing the requirements of paragraphs U100-102. However, the DPD was in the process of incorporating the protocol into its related training as of the end of the quarter.⁸⁶

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraphs U100-102 but in non-compliance with the implementation requirements of the paragraphs. As a result, the Monitor finds the DPD in overall non-compliance with paragraphs U100-102.

⁸⁶ Although the Monitor is scheduled to conduct implementation testing during the quarter ending August 31, 2006, on February 27 and 28, 2006, members of the Monitor's team conducted ride-alongs in two separate Districts. In both instances, the Monitor noted that the patrol units being utilized by DPD officers contained either no video recording equipment or inoperable video recording equipment. Conversations with various sworn personnel at both Districts confirmed that maintenance backlogs often result in officers being assigned to patrol units with either inoperable equipment or no equipment at all.

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

Paragraph U103 – Backlog of Disciplinary Cases

Paragraph U103 requires the City to ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible.

Background

The Monitor last assessed the DPD's compliance with paragraph U103 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the Monitor received general information from the DPD regarding steps taken to comply with paragraphs 103-105, the Monitor did not receive 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.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received detail from the DPD regarding the backlog of disciplinary cases. The Monitor reviewed the documentation received and determined that the DPD eliminated its backlog of disciplinary cases. The Monitor commends the DPD for the significant effort that was required to accomplish this task.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U103.

Paragraph U104 – Guidelines for Disciplinary Process

Paragraph U104 requires the DPD to schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD must establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process.

Background

The Monitor commenced but did not complete its assessment of the DPD's compliance with paragraph U104 during the quarter ending August 31, 2005. During that quarter, the Monitor reviewed a document entitled "Disciplinary Process Timelines," which purported 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 in other areas. The results of the Monitor's review were not communicated to the DPD until after the end of that quarter.

Current Assessment of Compliance

During the current reporting period, the Monitor concluded its review of Disciplinary Process Timeline and the DAS paperwork requirements and provided comments to the DPD. As of the end of the current quarter, the Monitor had not received a response from the DPD.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U104.

Paragraph U105 – Disciplinary Matrix

Paragraph U105 requires the DPD to create a disciplinary matrix that: establishes a presumptive range of discipline for each type of rule violation; increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules; requires that any departure from the presumptive range of discipline must be justified in writing; provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

Background

The Monitor last assessed the DPD's compliance with paragraph U105 during the quarter ending August 31, 2005, at which time the Monitor withheld a determination of compliance. The Monitor reviewed the DPD's Disciplinary Matrix and Directive 102.4, *Discipline Policy*. Based on this review, the Monitor submitted several questions to the DPD regarding the policy and matrix, and expressed its concern that many of the paragraphs in the UOF CJ that include disciplinary sanctions did not appear to be included in the policy or on the matrix. The DPD resubmitted the Discipline Policy in September 11, 2005, after the end of that quarter.

The DPD re-submitted the Directive 102.4 on October 30, 2005 and the Disciplinary Matrix on November 10, 2005.

Current Assessment of Compliance

After many discussions between the Monitor and the DPD, the Monitor provided the DPD with an additional memorandum on December 8, 2005, outlining remaining concerns with the Disciplinary Matrix and Directive 102.4. On December 17, 2005, the DPD submitted a revised discipline directive, now referred to as the Directive 102.4, *Discipline/Misconduct Investigations*. On January 4, 2006, the Monitor and the DPD participated in a conference call to discuss the most recently submitted directive.

The DPD disseminated Directive 102.4, *Discipline/Misconduct Investigation*, and the Disciplinary Matrix on January 5, 2005, with an effective date of February 9, 2005. In order to test dissemination, the Monitor selected a random sample of 94 officers⁸⁷ from the most recently submitted DPD roster.⁸⁸ On January 30, 2006, the Monitor requested documentation from the DPD evidencing the receipt of the directive and the matrix. On February 28, 2006, the DPD submitted documentation in response to this request. Based on the documentation provided, the Monitor determined that 89, or 94.68%, of the 94 officers selected for testing received Directive 102.4 and the Disciplinary Matrix. As a result, these documents have now been adequately disseminated.

Because the documentation required to test the dissemination of the directive and matrix was not received until February 28, 2006, the last day of the quarter, the Monitor was unable to commence the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of paragraph U105.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph U105 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U105.

⁸⁷ 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 +/- 4%.

⁸⁸ Due to problems previously encountered with the accuracy of the DPD's roster, on January 2, 2006, the Monitor initiated a request for the DPD to provide an updated roster to the Monitor each quarter on an on-going basis. The DPD provided this roster, which was used for all of dissemination testing conducted during the current quarter, on January 27, 2006.

VII. TRAINING

This section of the UOF CJ (paragraphs U106-123) directs the DPD to coordinate and review all UOF and Arrest & Detention (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.⁸⁹

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 November 30, 2005, finding the DPD in non-compliance with each. This was based upon the lack of an adequate and coordinated review process to ensure the quality of lesson plans, and the inconsistency of the lesson plans required by the UOF CJ. Additionally, the Monitor determined that the lesson plans submitted in response to the training paragraphs contained specific qualitative deficiencies, which are described in the Monitor's Report for the Quarter Ending November 30, 2005.

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

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 November 30, 2005, finding the DPD in non-compliance. Although the Training Division had developed and submitted some lesson plans in response to this paragraph, the lesson plans submitted did not meet all of paragraph U112's various requirements.

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

⁸⁹ On March 28, 2006, the Monitor submitted and the DPD accepted a formal offer of TA to provide the DPD with examples of adequate lesson plans and further assistance, where necessary.

C. FIREARMS TRAINING

This section comprises paragraph U113 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending November 30, 2005, finding the DPD in non-compliance. Although the Monitor had not yet completed its review of the *Firearms Tactical Training and Qualification In-Service* lesson plan submitted by the DPD, the Monitor noted that firearms qualification at the firing range does not address requirements such as 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. In addition, the parties were involved in discussions relating to the requirements for night firearms training.

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

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 November 30, 2005, finding the DPD in non-compliance, as the *Search and Seizure Fundamentals for Street Patrol* and the *Arrest Concepts: Fundamentals for Street Patrol* lesson plans developed by the DPD did not meet all of the requirements of paragraph U114.

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

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

Paragraph U115 – Annual Custodial Detention Training

Paragraph U115 requires the DPD to provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training must include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

Background

The Monitor last assessed the DPD's compliance with paragraph U115 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The revised lesson plans submitted by the DPD did not address the "Custodial Detention Training" requirements of paragraph U115, but rather "Detention Officer Training" as required by COC CJ paragraphs C73 and C75-78. The DPD's intention was 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.

Current Assessment of Compliance

The DPD has not yet submitted revised lesson plans in response to this paragraph. As described above, the DPD training staff had indicated that the requirements of this paragraph would be included in the U114 lesson plans, which were being revised. As of the end of the current quarter, the Monitor has not yet received revised lesson plans for paragraph U114 or a lesson plan specifically addressing paragraph U115 requirements.⁹⁰

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U115.

Paragraph U116 – Advise Officers Not to Delay Arraignment

Paragraph U116 requires the DPD to advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gathering of additional evidence or obtaining a confession.

Background

The Monitor last assessed the DPD's compliance with paragraph U116 during the quarter ending August 31, 2005, finding the DPD in non-compliance, as neither the *Prompt Judicial Review Lesson Plan Booklet* nor Directive 202.1, *Arrests*, which were submitted by the DPD in response to this paragraph, addressed all of the specific requirements of the paragraph.

⁹⁰ After the end of the quarter, on March 20-23, 2006, the DPD held training related to detention officer responsibilities, as required by the COC CJ. The Monitor attended this training, but the DPD's lesson plan document was unavailable to the Monitor. The training was intended to address paragraphs C73, C76-78 and U115; however, the materials delivered did not address all requirements. The Monitor will provide the DPD with further details regarding these issues during the TA sessions with the training staff, which are tentatively scheduled for May 4, 2006.

Current Assessment of Compliance

Although the DPD's Tenth Quarter Status Report to the Monitor states that Directive 202.1, *Arrests*, and the *Prompt Judicial Review Lesson Plan Booklet* address the requirements of this paragraph, as previously reported by the Monitor, these documents do not address all of the specific requirements of the paragraph. As of the end of the current quarter, the DPD had not yet submitted a revised lesson plan, or any other documentation to address all of the requirements of this paragraph.⁹¹

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U116.

Paragraph U117 – Advise Officers that Material Witness Designation is a Judicial Determination

Paragraph U117 requires the DPD to advise officers that whether an individual is a material witness, and whether that material witness should be committed to custody, is a judicial determination.

Background

The Monitor last assessed the DPD's compliance with paragraph U117 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although Directive 202.1, *Arrests* had been adequately disseminated, no lesson plan or other documentation had been submitted to the Monitor in response to the requirements of paragraph U117.

Current Assessment of Compliance

During the current quarter the Monitor conducted a review of the *Confinement of Material Witness-In Service* lesson plan submitted by DPD in response to this paragraph. The Monitor completed its review of the lesson plan and accompanying materials and determined that the lesson plan contains the advisement required by paragraph U117; however, the lesson plan contains the following qualitative shortcomings:⁹²

- The lesson plan did not refer to or address the requirements of paragraph U60, which requires that the commander of the precinct or specialized unit review in writing all violations of the material witness policy and document the subsequent actions taken resulting from that review.

⁹¹ The Monitor will provide the DPD with further details regarding these issues during the TA sessions with the DPD training staff, which are tentatively scheduled for May 4, 2006.

⁹² After the end of the quarter, on March 21, 2006, the Monitor forwarded to the DPD a detailed memorandum describing these and other deficiencies identified during the Monitor's review of the lesson plan.

- The lesson plan does not describe in detail each procedural step related to the documentation and proper handling of Material Witnesses as described in the related policies.⁹³
- No documentation evidencing the internal review and approval process of DPD training executives, as required by paragraphs U106 and U107, was provided with the lesson plan.
- The lesson plan contained additional qualitative deficiencies, such as the lack of adequate delivery tools (PowerPoint or videos), inadequate instructor notes and scenarios, and insufficient pre- and post-tests.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U117.

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

Paragraph U118 – Training on the Evaluation of Written Reports

Paragraph U118 requires the DPD to provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact-based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

Background

The Monitor last assessed the DPD's compliance with paragraphs U118 during the quarter ending August 31, 2005, finding the DPD in non-compliance because the DPD had yet to develop the curricula for the training required by this paragraph.

Current Assessment of Compliance

During the current quarter the Monitor completed a review of the *Supervisors Report Writing Guidelines and Report Evaluation* lesson plan and accompanying materials submitted by the

⁹³ The applicable policies include Directive 202.1, *Arrests*; Directive 202.2, *Search and Seizure*; and Training Directive 4-01, *Confinement of Material Witness*.

DPD in response to this paragraph. The Monitor determined that the lesson plan did not adequately meet the requirements of this paragraph due to the following deficiencies.⁹⁴

- The lesson plan does not adequately address all of the requirements of paragraph U118, specifically the topic of “catch phrases.”
- The lesson plan did not refer to or address the requirements of Consent Judgment paragraphs associated with a requirement for supervisory⁹⁵ review of DPD reports and the subsequent actions taken resulting from that review.⁹⁶
- No documentation evidencing the internal review and approval process of DPD training executives, as required by paragraphs U106 and U107, was provided with the lesson plan.
- None of the applicable DPD policies were referenced within the lesson plan.⁹⁷
- The lesson plan contained qualitative deficiencies, such as the lack of adequate delivery tools (PowerPoint or videos), inadequate instructor notes, and no pre- or post-testing.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U118.

Paragraph U119 – Training on Leadership and Command Accountability Training

Paragraph U119 requires DPD supervisors to receive leadership and command accountability training and to learn techniques designed to promote proper police practices. This training must be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and must be made part of annual in-service training.

⁹⁴ After the end of the quarter, on March 14, 2006, the Monitor forwarded to the DPD a detailed memorandum describing these and other deficiencies identified during the Monitor’s review of the lesson plan.

⁹⁵ UOF CJ paragraph pp, defines a supervisor as a sworn DPD employee at the rank of sergeant or above.

⁹⁶ The specific paragraphs that require a supervisory review include, subparagraphs 33a-e: review of investigative reports; subparagraph U40b: command review and compliance with review of investigations policies and procedures; paragraph U43: review of arrest documentation and completion of auditable form; paragraph U44: review of investigatory stop and frisk documentation and completion of auditable form; paragraph U48: review of interview, interrogation and conveyance documentation and completion of auditable form; paragraph U55: review of restriction documentation and completion of auditable form; paragraphs U59-60: commanding officer review of auditable forms; subparagraph C29b: review of medical screening documentation; and, paragraphs C56-57: review of investigations for incidents in holding cells.

⁹⁷ The applicable policies include Directive 202.1, *Arrests*, Directive 202.2, *Search and Seizure*, Directive 305.1 *Detainee Intake and Assessment*.

Background

The Monitor last assessed the DPD's compliance with paragraph U119 during the quarter ending August 31, 2005, finding the DPD in non-compliance because the DPD had yet to develop the curricula for the training required by this paragraph.

Current Assessment of Compliance

The DPD had not yet submitted a lesson plan required by this paragraph as of the end of the current quarter.⁹⁸ As previously suggested by the Monitor, the DPD should submit this lesson plan to the Monitor before conducting the training, so that any issues can be identified prior to delivery.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U119.

Paragraph U120 – Risk Assessment Training

Paragraph U120 requires the DPD to provide training on risk assessment and risk management to all DPD supervisors, including the operation of the Risk Management Database.

Background

The Monitor last assessed the DPD's compliance with paragraph U120 during the quarter ending August 31, 2005, finding the DPD in non-compliance because the DPD had not submitted a lesson plan to the Monitor in response to paragraph U120 as of the end of that quarter.

Current Assessment of Compliance

The DPD had not yet submitted a lesson plan to the Monitor in response to paragraph U120 as of the end of the current quarter.⁹⁹ The DPD has indicated that it began training supervisors on the IMAS in November 2005. As previously suggested by the Monitor, the DPD should submit this lesson plan to the Monitor before conducting the training, so that any issues can be identified prior to delivery. The DPD should also notify the Monitor when such training is being conducted, so that the Monitor may attend it for purposes of evaluation.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U120.

⁹⁸ In its Tenth Quarter Status report, the DPD indicates that lesson plans are being revised to reflect best practices and that March 31, 2006 is the anticipated completion date for the lesson plan addressing this paragraph's requirements.

⁹⁹ As described in the Current Assessment of Compliance for paragraph U79 and related paragraphs, above, the Risk Management Database (MAS) has not yet been finalized or approved by the DOJ.

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

Paragraphs U121 and U122 – Training for Evaluating Credibility; Handling External Complaints

Paragraph U121 requires the DPD to provide training to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate. The lesson must instruct on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility.

Paragraph U122 requires the DPD to provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD must provide training on the DPD external complaint process, including the role of the OCI and the IAD in the process, to all new recruits and as part of annual in-service training.

Background

The Monitor last assessed the DPD's compliance with paragraphs U121 and U122 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each due in part to qualitative deficiencies contained within the *External Complaints Process and The Office of the Chief Investigator In-Service* lesson plan, which was submitted in response to paragraphs U121 and U122.

Current Assessment of Compliance

As previously reported by the Monitor, the DPD's *External Complaints Process and The Office of the Chief Investigator In-Service* lesson plans do not address all of the specific requirements of paragraph U122. As of the end of the current quarter, the DPD had not yet submitted a revised lesson plan or any other documentation to address all of the requirements of this paragraph.¹⁰⁰

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U121-122.

¹⁰⁰ The Monitor will provide the DPD with further details regarding these issues during the TA sessions with the DPD training staff, which are tentatively scheduled for May 4, 2006.

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

Paragraph U123 – Enhancement of Field Training Officer Program

Paragraph U123 requires the DPD to develop, subject to DOJ approval, a protocol to enhance the Field Training Officer (FTO) program within 120 days of the effective date of the UOF CJ. The protocol must address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

Background

The Monitor last assessed the DPD's compliance with paragraph U123 during the quarter ending August 31, 2005, finding the DPD in non-compliance. As of the end of that quarter, although the DPD had submitted its 40-hour basic certification course for FTOs to the Monitor on February 11, 2005, it had not submitted the lesson plan to DOJ for review and approval.

Current Assessment of Compliance

In response to this paragraph, the DPD submitted its 40-hour basic certification course for FTOs (FTO Protocol) to the DOJ for review and approval.¹⁰¹ On January 3, 2006, the DOJ requested copies of additional documents that were mentioned in the protocol but not submitted with it. According to DOJ personnel, the DOJ received the requested forms on January 6, 2006.

Until such time that the FTO Protocol is approved by DOJ and delivered to appropriate DPD personnel, the DPD will be unable to achieve compliance with this paragraph.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U123.

¹⁰¹ The DPD submitted the FTO Protocol to the DOJ on February 12, 2004 for review and approval. The DOJ provided the DPD with a letter on April 20, 2004 with comments and recommendations. The DPD re-submitted the FTO protocol to the DOJ on October 3, 2005.

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.

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 February 28, 2006.

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,¹⁰² while others do not.¹⁰³ These varying formats impact the way in which the Monitor assesses compliance with each paragraph. Specifically, the Monitor's compliance assessments of paragraphs that do not have a separate policy-related paragraph include reviews for written guidance or instruction¹⁰⁴ 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 C14-22 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.

The Monitor again assessed the DPD's compliance with paragraphs C14-21 during the current quarter.¹⁰⁵ The results of our current assessments follow.

¹⁰² See, for example, paragraph C39 – Cleanliness of Cells and paragraph C40 – Cleaning Policy.

¹⁰³ See, for example, paragraph C45 - Access to Toilets and Potable Water.

¹⁰⁴ As described in the Introduction to the Methodologies, this is the Policy Component of compliance.

¹⁰⁵ During the quarter ending August 31, 2005, the Monitor found the DPD in compliance with paragraph C22, as the Monitor confirmed that all Kane Fiber Ceiling Tiles had been removed from DPD buildings containing holding cells. The DPD will remain in compliance with paragraph C22 unless it begins using buildings that contain Kane Fiber Ceiling Tiles to detain prisoners.

Paragraphs C14 and C18 – Life Safety Code Compliance and Interim Fire Safety Measures

Paragraph C14 requires the DPD to ensure that all holding cells, and buildings that contain them, meet and maintain compliance with the current Life Safety Code within one year of the effective date of the COC CJ. As part of this effort, the City of Detroit shall ensure that the Detroit Fire Department (DFD) conducts regular and periodic inspections to evaluate whether the conditions in DPD holding cells, and buildings that contain them, are in compliance with the Life Safety Code.

Paragraph C18 requires the DPD to take immediate interim fire safety measures for all buildings that maintain holding cells including ensuring proper alarm activation, emergency reporting by prisoners, and automated back-up systems for life safety equipment (i.e. emergency lighting, signage, fire alarms and smoke detection systems). In addition, the interim measures must reduce the spread of smoke and fire via the stairs, garages, hazardous rooms and exposed pipes.

Background

The Monitor last assessed the DPD's and City's compliance with paragraphs C14 and C18 during the quarter ending August 2005, finding the DPD in non-compliance with each. The Monitor reviewed documentation evidencing the most recent DFD Life Safety Code inspections and determined that although the DFD had completed its required inspections, the results of those inspections revealed numerous Life Safety Code violations (e.g. sprinklers, fire alarms, fire doors, egress routes, fire separators) in all DPD buildings containing holding cells. The DPD had not yet implemented the required "interim" fire safety measures, with the exception of the posting of at least one detention officer inside the cell blocks at all times to allow emergency reporting by prisoners.

Current Assessment of Compliance

During the current quarter, the Monitor has had ongoing discussions with the DPD and Holding Cell Compliance Committee (HCCC) executive staff related to the status and progress of the DPD's efforts to achieve compliance with the Detroit Life Safety Code in the DPD buildings containing holding cells. According to DPD Staff and the City's Tenth Quarter Status Report, there have been no changes to DPD buildings, nor have there been changes in the status of the DPD's compliance with the Life Safety Code since the Monitor's previous assessment. The City is currently considering whether to retrofit the existing buildings, wait until the construction of a new regional detention facility, or and/utilize the Wayne County Sheriff's jail facilities to house felony detainees.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs C14 and C18.

Paragraphs C15-17 – Detection, Suppression and Evacuation Programs; Fire Safety Program Development; Fire Safety Program Implementation

Paragraph C15 requires the DPD to develop and implement a comprehensive fire detection, suppression and evacuation program¹⁰⁶ for all holding cells, and the buildings that contain them, in accordance with the requirements of the Life Safety Code and in consultation with the DFD.

Paragraph C16 requires the DPD to develop the fire safety program in consultation with, and receive written approval by, the DFD. As part of the overall program, the DFD must evaluate the need for, and if necessary, the DPD must install fire rated separations, smoke detection systems, smoke control systems, sprinkler systems and/or emergency exits for holding cells and buildings that contain them. The approved plan must be submitted for review and approval of the DOJ within three months of the effective date of the COC CJ.

Paragraph C17 requires the DPD to implement the fire safety program within one year of the effective date of the UOF CJ (July 18, 2004). The approved program must be reviewed and approved in writing by the DFD, at a minimum of once per year and prior to any revisions.

Background

The Monitor last assessed the DPD's compliance with paragraphs C15-17 during the quarter ending August 31, 2005, finding the DPD in non-compliance with each because it had neither finalized nor submitted to the DOJ a comprehensive Fire Safety Program (FSP) for all holding cells and the buildings that contain them. The HCCC had previously indicated that the DPD was making progress in incorporating the Monitor's TA into a finalized FSP and estimated it would be submitted in November 2005.

Current Assessment of Compliance

As of the end of the current quarter, the DPD has not submitted a comprehensive FSP for all buildings that maintain holding cells.¹⁰⁷

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs C15-17.

Paragraph C19 – Testing of Fire Safety Equipment

Paragraph C19 requires the DPD to ensure that fire safety equipment is routinely tested, inspected and maintained in all precincts that maintain holding cells. This equipment includes

¹⁰⁶ Within the COC CJ and in the Monitor's report, the Comprehensive Fire Detection, Suppression and Evacuation Program is also referred to as the "Fire Safety Program" (paragraph C16).

¹⁰⁷ On March 16, 2006, after the end of the quarter, the DPD resubmitted a FSP to the DOJ for review and approval.

such items as sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatus.

Background

The Monitor last assessed the DPD's compliance with paragraph C19 during the quarter ending August 31, 2005, finding the DPD in non-compliance due to the fact that it had yet to develop a consistent method for ensuring that all fire safety equipment contained within these facilities was routinely inspected, tested and maintained.

Current Assessment of Compliance

The HCCC has again indicated that the paragraph C19 requirement to routinely inspect, test and maintain the fire safety equipment has not yet been addressed by the DPD. The HCCC has also recently submitted a Fire Safety Audit¹⁰⁸ as required by subparagraph C66b, which substantiates the HCCC statements and the Monitor's findings.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C19.

Paragraph C20 – Smoking Policy

Paragraph C20 requires the DPD to immediately enforce its no-smoking policy in all holding cells or provide ashtrays and ensure that the holding cells are constructed and supplied with fire rated materials.¹⁰⁹

Background

The Monitor last assessed the DPD's compliance with paragraph C20 during the quarter ending August 31, 2005, finding the DPD in compliance based on unannounced inspections and visual observations of holding cells.

Current Assessment of Compliance

During the current quarter, the Monitor conducted random unannounced onsite inspections of DPD buildings containing holding cells.¹¹⁰ Although the Monitor noted evidence of smoking

¹⁰⁸ The Fire Safety Audit was submitted on January 31, 2006. Refer to Current Assessment of Compliance for paragraph C66b for further details related to the audit.

¹⁰⁹ The Monitor notes that although paragraph C20 specifies that the DPD's no smoking policy be enforced within "holding cells," the DPD policy, which is in accordance with the Michigan Clean Indoor Air Act, P.A. 198 of 1986 and P.A. 296 of 1988, prohibits smoking throughout Department facilities.

¹¹⁰ The inspections were conducted on February 21-23, 2006.

within the garage areas of two buildings,¹¹¹ the Monitor determined that the DPD was enforcing its no smoking policy within the cell block areas of the buildings at the time of the inspections.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C20.

Paragraph C21 – Storage of Flammable Liquids

Paragraph C21 requires the DPD to immediately ensure the proper storage of all flammable and combustible liquids in all detention cell areas, buildings that house detention cells, and connected structures, including garages.

Background

The Monitor last assessed the DPD's compliance with paragraph C21 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although DFD Life Safety Code inspections identified incidents of improper storage of combustible materials, and improper storage of flammable liquids was observed during the DOJ-initiated inspections conducted during the quarter ending May 31, 2005,¹¹² during inspections conducted during the quarter ending August 31, 2005, the Monitor determined that lockers¹¹³ were being utilized and no evidence of improper storage of flammable liquids was observed. However, 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.

Current Assessment of Compliance

During the current quarter, the Monitor conducted random unannounced onsite inspections of DPD buildings containing holding cells to ascertain the practices and procedures within the DPD Districts related to the storage of flammable liquids.¹¹⁴ The Monitor ascertained that the storage

¹¹¹ The Monitor discussed its findings with the CO and on-duty desk Officer-in-Charge (OIC) at the time of the inspections. The CO advised the Monitor that in at least one case, the CO had recently drafted a written reprimand to be served on a DPD officer who had been discovered smoking in the garage area. The Monitor received and reviewed this documentation on March 23, 2006, noting that this reprimand, which was served on February 28, 2006, supports the active "enforcement" of the DPD's smoking policy.

¹¹² These inspections are described in the Monitor's Report for the Quarter Ending May 31, 2005. Unsanitary amounts of garbage and unsafe storage of cleaning chemicals were located in the basement of the First Precinct. During subsequent inspections of this area, the Monitor noted that the basement has been thoroughly cleaned.

¹¹³ As reported during the quarter ending February 29, 2004, the DPD purchased and installed flammable liquid storage lockers for all DPD facilities that maintain holding cells.

¹¹⁴ The Monitor conducted these inspections from February 21-23, 2006.

lockers are being utilized to store flammable liquids; however, in several Districts, the Desk OIC was unable to locate the key to the storage cabinets.

As previously noted by the Monitor, the DPD has not yet submitted a policy or protocol containing the requirements regarding and/or procedures for the proper storage of flammable liquids or combustible materials. Additionally, no training or instruction been provided giving appropriate DPD employees guidance related to the proper storage of combustible materials.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C21.

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. The Monitor again assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraph C23 – Establishing of Safety Levels

Paragraph C23 requires the DPD to ensure a reasonable level of safety and security of all staff and prisoners in the event of a fire and/or other emergency.

Background

The Monitor last assessed the DPD's compliance with paragraph C23 during the quarter ending August 31, 2005, finding the DPD in non-compliance. As noted by the Monitor, compliance with paragraph C23 cannot occur until the DPD attains compliance with paragraphs C24-25, and the Monitor found the DPD in non-compliance with these paragraphs.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraphs C24-25, below, the DPD is currently in non-compliance with these paragraphs.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C23.

Paragraph C24 – Emergency Preparedness Program Development

Paragraph C24 requires the DPD to develop a comprehensive emergency preparedness program (CEPP), with the written approval of the DFD, for all DPD buildings that contain holding cells. The program must be submitted for the review and approval of the DOJ within three months of the effective date of the COC CJ and implemented within three months of the DOJ's approval. The program must include an emergency response plan for each building that contains holding cells in the event of a fire-related emergency, which identifies staff responsibilities and key control procedures. The program must also require that fire drills be performed and documented for each building that contains holding cells on all shifts once every six months.

Background

The Monitor last assessed the DPD's compliance with paragraph C24 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The DPD was revising the draft CEPP based on feedback from the DOJ, but had not submitted a revised CEPP to the DOJ for approval as of the end of that quarter.

Current Assessment of Compliance

On November 18, 2005, the DPD re-submitted its draft CEPP to the DOJ for review and approval and is currently awaiting feedback.¹¹⁵ The DPD submitted the revised CEPP in November 2005 and cannot implement it until it receives approval from the DOJ.

Based on the foregoing, the Monitor withholds a determination of the DPD's compliance with paragraph C24.

Paragraph C25 – Key Control Policies

Paragraph C25 requires the DPD to develop and implement key control policies and procedures that will ensure that all staff members are able to manually unlock all holding cell doors in the event of a fire or other emergency. At a minimum, these policies and procedures shall ensure that keys can be identified by touch in an emergency and that the DPD conduct regular and routine inventory, testing and maintenance of all holding cell keys and locks.

Background

The Monitor last assessed the DPD's compliance with paragraph C25 during the quarter ending August 31, 2005, finding the DPD in non-compliance. The Monitor determined that although Directive 305.4, *Holding Cells Areas*, met the policy requirements of this paragraph, the policy had not been effectively disseminated to appropriate DPD members.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

¹¹⁵ In its Emergency Preparedness Program Audit, which was submitted on January 31, 2006, the DPD AT also noted that the DPD was awaiting DOJ approval on the CEPP and had not yet implemented the CEPP. Refer to Current Assessment of Compliance for paragraph C67 for further details related to the audit.

Current Assessment of Compliance

During the current quarter, the Monitor met with the HCCC to discuss the status of revisions to the form for documenting the conduct of routine inventory, testing and maintenance of all holding cell keys and locks.¹¹⁶ The HCCC has advised the Monitor that these requirements are included within the CEPP and once the CEPP is approved by DOJ, they will be implemented within the buildings containing holding cells.

Based on the foregoing, the Monitor withholds a determination of the DPD's non-compliance with paragraph C25.

¹¹⁶ The HCCC has previously advised the Monitor that it is their intention to revise a formerly designed form and include it within the CEPP, as required by paragraph C24.

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 C31-33 during the quarter ending November 30, 2005 finding the DPD in non-compliance, as it had not yet disseminated and implemented all of the policies, auditable logs, and forms necessary for compliance with the requirements of these paragraphs.¹¹⁷

Also during the quarter ending November 30, 2005, the Monitor elected to defer its assessment of the DPD's compliance with paragraph C30.¹¹⁸ 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.

The Monitor last assessed the DPD's compliance with paragraph C34 during the quarter ending November 30, 2005 finding the DPD in compliance. The Monitor determined that there were no suicide hazards in any holding cells being utilized by the DPD to hold detainees.¹¹⁹

The Monitor is scheduled to again assess the DPD's compliance with paragraphs C26-34 during the quarter ending August 31, 2006.

¹¹⁷ During the quarter ending November 30, 2005, the Monitor retested the dissemination of Directive 305.4, *Holding Cell Areas*. As reported in the Report for the Quarter Ending November 30, 2005, the Monitor determined that it had been adequately disseminated after the end of that quarter. Accordingly, the DPD is now in compliance with the policy requirements for paragraphs C26-33. The Monitor will test implementation of the directive during the next regularly scheduled compliance assessment for these paragraphs.

¹¹⁸ 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 opted to complete its evaluation of the implementation of Directive 403.2 in conjunction with its evaluation of the entire CMMHSP.

¹¹⁹ 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.

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

Paragraph C35 – Ensure Safety Level

Paragraph C35 requires the DPD to ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

Background

The Monitor last assessed the DPD's compliance with paragraph C35 during the quarter ending August 31, 2005, finding the DPD in non-compliance. As noted by the Monitor, compliance with paragraph C35 cannot occur until the DPD attains compliance with paragraphs C36-38, and the Monitor found the DPD in non-compliance with these paragraphs.

Current Assessment of Compliance

As described in the Current Assessments of Compliance for paragraphs C36-38, below, the DPD is currently in non-compliance with these paragraphs.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C35.

Paragraph C36 – Security Screening of Prisoners

Paragraph C36 requires the DPD to develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, this program must establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and require that security screening information is documented and communicated between consecutive shifts.

Background

The Monitor last assessed the DPD's compliance with paragraph C36 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the Monitor found that Directive 305.1, *Detainee Intake/Assessment*, addressed the policy requirements of this paragraph, the DPD had not adequately disseminated or implemented the policy.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive and determined that it had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 305.1. As a result, the DPD is in compliance with the policy requirements of this paragraph.

In order to assess the DPD's compliance with paragraph C36 during the current quarter, the Monitor began testing the implementation of Directive 305.1, *Detainee Intake/Assessment*, and the Detainee Intake Form (DIF), DPD Form 651. The Monitor conducted onsite inspections of DPD buildings containing holding cells, during which the Monitor interviewed detention officers and supervisory DPD members, observed the screening processes, and examined screening documentation (the DIF).¹²⁰ The Monitor also reviewed the HCCC audit related to this topic.¹²¹

During the onsite inspections, the Monitor observed several instances in which detention officers completed a DIF as part of the detainee screening process. The Monitor determined that there are deficiencies in the process in connection with the completion of the DIF. The DIF includes a section labeled "Level of Supervision" and includes a check box which reads "*Single occupancy cell because detainee fears being harmed by another detainee while in custody, or if a physical appearance (youthful looking, effeminate, transgendered) makes detainee a predatory risk.*" However, this section of the DIF does not require that detention officers or supervisors ask any proactive, objective questions of the detainee to determine if he/she is fearful or if any predatory risk exists. It also does not require that detention officers or supervisors document that a visual assessment of the detainee occurred. After observing these deficiencies, the Monitor questioned the detention officers and supervisors regarding their practices for assessing detainee vulnerability. The responses were varied, uncertain and represent a subjective, rather than objective, approach to security screening.

¹²⁰ The Monitor conducted these inspections from February 21-23, 2006.

¹²¹ The Detainee Safety Audit was submitted on January 31, 2006. Refer to Current Assessment of Compliance for paragraph C69 for further details related to the audit.

The Monitor also noted that the DPD does not obtain or review a detainee's criminal history prior to placing him or her into the designated holding cell. This could pose a potential problem, as the possibility exists that a detainee who has been arrested for a misdemeanor and placed into a holding cell with other detainees could have previously been arrested for felonious crimes involving assaultive or violent activities.

The Monitor reviewed and concurs with the detailed findings of the *Detainee Safety Audit* conducted by the HCCC, which also identified the deficiencies in the prisoner screening process that are described above. The Monitor suggests that the DPD either revise the DIF¹²² or create a separate security screening document.¹²³

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph C36 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph C36.

Paragraph C37 – Cell Check Policies

Paragraph C37 requires the DPD to develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, these procedures will require that cell checks on the general population are performed at least twice per hour and that cell checks on prisoners in observation cells and Detroit Receiving Hospital (DRH) holding cells are performed every 15 minutes, unless constant supervision is required, and that detention officers document relevant information regarding the performance of cell checks in an auditable log.

Background

The Monitor last assessed the DPD's compliance with paragraph C37 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although Directive 305.1, *Detainee Intake/Assessment*, complied with the policy requirements of this paragraph, the DPD had not adequately disseminated or implemented this policy.

As described in the Background section for paragraph C36, above, the Monitor retested the dissemination of the directive after the end of the quarter ending November 30, 2005 and determined that it had been adequately disseminated.

¹²² Although the DOJ has reviewed and approved this Directive 305.1 and the DIF; the approval relates only to the requirements as they apply to the CMMHSP as required by paragraphs C26-34, over which the DOJ has review and approval. The approval does not relate to the requirements of the Prisoner Safety provisions of the COC CJ.

¹²³ On March 17, 2006, after the end of the quarter, the DPD submitted a newly created security screening form which the Monitor is currently for reviewing.

Subsequent to the policy dissemination, the DPD advised the Monitor that it was redacting the requirement in the policy to document cell checks for the general population on the *Platoon Daily Detainee Summary* every 30 minutes, and would instead be installing an automated time-clock system that will record the time of the requisite cell checks in the buildings containing holding cells.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 305.1. As a result, the DPD is in compliance with the policy requirements of this paragraph.

During the current quarter the Monitor conducted random unannounced onsite inspections¹²⁴ of DPD buildings containing holding cells, during which the Monitor reviewed cell check documentation (time cards) and holding cell video data. The Monitor also reviewed the HCCC audit related to this topic.¹²⁵

During the onsite inspections, the Monitor confirmed the presence of the automatic time-clocks. However, the time-cards, without any additional documentation or procedures, are not sufficient for documenting the relevant information regarding cell checks as required by this paragraph. Specifically, the timecards do not include detention officers' observations during the cell checks, such as the number and condition of the detainees. Additionally, the Monitor reviewed and concurs with the detailed findings of the Detainee Safety Audit conducted by the HCCC, which also identified these deficiencies in the current cell check documentation.

The Monitor notes that during a cursory review of video data, eight cell checks were conducted at least every 30 minutes for the general population (more frequently in a number of instances) over a two-hour period. This suggests that while the required cell checks may be occurring; as described above, the documentation of these cell checks is not sufficient.

After corrective action is taken (see the Monitor's recommendation, below), the DPD will need to revise Directive 305.1, *Detainee Intake/Assessment*, and related documents to reflect any changes. The DPD will need to re-disseminate the directive, as well.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph C37 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph C37.

¹²⁴ The Monitor conducted these inspections from February 21-23, 2006.

¹²⁵ *The Detainee Safety Audit* was submitted on January 31, 2006. Refer to the Current Assessment of Compliance for paragraph C69 for further details related to the audit.

Recommendation

The Monitor recommends that the DPD either reinstitute the cell check log to supplement the time cards or develop a new cell check log to address the documentation requirements of this paragraph. The related policies should then be revised to reflect these changes.

Paragraph C38 – Observation Cell Policy

Paragraph C38 requires the DPD to record in a written policy and implement a procedure that requires detention officers to provide continual direct or onsite remote observation of all observation cells while they are occupied.

Background

The Monitor last assessed the DPD's compliance with paragraph C38 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although Directive 305.1, *Detainee Intake/Assessment*, initially complied with the policy component of this paragraph, the DPD had not adequately disseminated or implemented this policy.¹²⁶ However, as described in the Background section for paragraph C36, above, the Monitor retested the dissemination of the directive after the end of the quarter ending November 30, 2005 and determined that it had been adequately disseminated.

Current Assessment of Compliance

During the current quarter the Monitor conducted random unannounced onsite inspections¹²⁷ of DPD buildings containing holding cells, during which the Monitor reviewed observation cell video data. The Monitor confirmed the presence and working order of video cameras within the observation cells, which allow for onsite remote observation. The Monitor also determined that desk OIC were able to view this video in real-time. Additionally, the most observation cells are within visual site of the processing areas, which promotes continual observation when occupied.

During the onsite inspection, the Monitor found that the detention officers and supervisory personnel interviewed were unsure of when the observation cells required 15-minute checks versus continual observation. Paragraph C38 requires the DPD to provide continual direct or onsite remote observation of all observation cells while they are occupied. However, the Monitor found that the observation cells are often occupied by detainees who are not at risk for suicide or otherwise require continual observation. The detention officers and supervisory personnel interviewed stated that detainees are often placed into the observations cells for reasons other than suicide risks, including overcrowding situations and high-risk monitoring

¹²⁷ The Monitor conducted these inspections from February 21-23, 2006.

(non-suicidal, 15 minute cell check requirements).¹²⁸ As a result, the DPD was not conducting continual direct or onsite remote observation of all “observation cells” while they were occupied because there were times when they were only conducting 15 minute cell checks.

The current system makes it difficult to easily ascertain whether continual observation should be taking place or 15 minute cell checks based on the detainee’s classification. Unless the DPD develops an acceptable method of determining the type of observation necessary based on clear classifications of detainees that are understood by all personnel, then the observation cells should be continuously monitored (no matter what type of detainee is in the cell) based on the requirements of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph C38 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph C38.

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, 2005, 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.¹²⁹

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 were not aware of the policy related to the routine cleaning of holding cell areas, the level of ventilation was inadequate within the holding cell areas of two precincts, and not all DPD personnel 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

¹²⁸ The COC CJ uses the term “observation cell” while the DPD policy uses the term “detoxification/safety cell.”

¹²⁹ During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As reported in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter. As a result, the DPD is in compliance with the policy requirements of these paragraphs. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

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.

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 C48 during the quarter ending November 30, 2005, finding the DPD in non-compliance as Directive 305.1, *Detainee Intake and Assessment*, had not been adequately disseminated as of the end of that quarter.¹³⁰

The Monitor also commenced, but had not completed, its assessment of the DPD's compliance with paragraph C47. The Monitor was continuing its assessment of the DPD's ability to demonstrate through documentation that it is ensuring that persons with disabilities are provided with reasonable accommodations.¹³¹

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.

¹³⁰ As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

¹³¹ The DOJ and the City are engaged in ongoing discussions regarding the DPD's obligation under the COC CJ to reasonably accommodate detainees with disabilities.

VIII. PERSONAL HYGIENE POLICIES

This section of the COC CJ comprises paragraph C51 only. The Monitor last assessed the DPD's compliance with 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 paragraph 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. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

Paragraphs C52-54 – Use of Force on Prisoners in Holding Cells Policies; Prisoner Policies; Prisoners in Handcuffs; Prisoners Use of Force Investigations

Paragraph C52 states that the DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

Paragraph C53 states that the DPD shall revise and augment its policies regarding prisoners.

Paragraph C54 states that the DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Background

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. 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 Force*, for only 23.4% of the officers selected for testing by the Monitor.

The Monitor retested the DPD's dissemination of Directives 305.4 and 304.2 during the quarter ending November 30, 2005. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that Directives 305.4 had been adequately disseminated based upon information provided by the DPD after the end of that quarter, but Directive 304.2 had yet to be adequately disseminated.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraphs U27-30 and U32-33, above, during the current quarter, the Monitor determined that Directive 304.2 and Training Directive 04-07 were adequately disseminated. The Monitor also determined that the corresponding forms, UF-002, *Use of Force/Detainee Injury Report*, which is required to be completed by officers immediately following the incident and, UF-002-B, *Use of Force/Detainee Injury Report*, which is required to be completed by a non-involved supervisor, were present on the DPD Intranet.

The continuing problems with the DPD's roster, as described in the Current Assessment of Compliance for paragraphs U27-30 and U32-33, above, hampered the Monitor's ability to complete the testing of dissemination¹³² and prevented the Monitor from commencing the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraphs C52-54 but in non-compliance with the implementation requirements of the paragraphs. As a result, the Monitor finds the DPD in overall non-compliance with paragraphs C52-54.

¹³² The Monitor requested documentation evidencing the dissemination of Directive 304.2 and Training Directive 04-07 on January 30, 2006 and February 2, 2006, respectively. The Monitor received the documentation on February 9, 2006. However, due to the issues described in the Current Assessment of Compliance for paragraph U27-30 and U31-32, the Monitor was able to complete its dissemination testing only when the DPD provided additional documentation on February 28, 2006, the last day of the quarter.

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

Paragraphs C55-57 – Prisoners Use of Force Investigations; Use of Force on Prisoners in Holding Cells Investigations; Prisoner Injuries

Paragraph C55 states that the DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Paragraph C56 states that the DPD shall require that all uses of force occurring in DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

Paragraph C57 states that the DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

Background

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. Refer to the Background section for paragraphs C52-54, above, for information regarding the status of the DPD's dissemination of Directives 305.4 and 304.2 and Training Directive 04-07. In addition, the DPD had not finalized the *Platoon Daily Detainee Summary Log*, which accompanies Directive 305.4.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraphs U27-30 and U32-33, above, during the current quarter, the Monitor determined that Directive 304.2 and Training Directive 04-7 were adequately disseminated and the corresponding forms were present on the DPD Intranet.

The continuing problems with the DPD's roster, as described in the Current Assessment of Compliance for paragraphs U27-30 and U32-33, above, hampered the Monitor's ability to complete the testing of dissemination¹³³ and prevented the Monitor from commencing the testing of the implementation of policy during the quarter. The Monitor will begin such testing during its next regularly scheduled assessment of this paragraph.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraphs C55-57 but in non-compliance with the implementation requirements of the paragraphs. As a result, the Monitor finds the DPD in overall non-compliance with paragraphs C55-57.

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. 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.¹³⁴ The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2006.

¹³³ The Monitor requested documentation evidencing the dissemination of Directive 304.2 and Training Directive 04-07 on January 30, 2006 and February 2, 2006, respectively. The Monitor received the documentation on February 9, 2006. However, due to the issues described in the Current Assessment of Compliance for paragraph U27-30 and U31-32, the Monitor was able to complete its dissemination testing only when the DPD provided additional documentation on February 28, 2006, the last day of the quarter.

¹³⁴ The Monitor retested the DPD's dissemination of Directives 102.6 and 305.4 during the quarter ending November 30, 2005. As described in the Report for the Quarter Ending November 30, 2005, the Monitor determined that the directives had been adequately disseminated based upon information provided by the DPD after the end of that quarter. As a result, the DPD is now in compliance with the policy requirements of paragraphs C58-59. Implementation will be tested during the next regularly scheduled compliance assessment for these paragraphs.

XII. GENERAL POLICIES

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

The Monitor last assessed the DPD's compliance with paragraphs C60-61 during the quarter ending November 30, 2005, at which time the Monitor withheld a determination of the DPD's compliance with paragraph C60 and found the DPD in non-compliance with paragraph C61. The Monitor determined that the DPD adequately disseminated Directive 404.1, *Definitions*. However, the Monitor noted that 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. With the DPD now in compliance with the policy requirements of paragraph C60, the Monitor will review the processes the DPD has in place in this area. Regarding paragraph C61, the Monitor determined that although the written protocol provided by the OCI for the receipt of citizen comments 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.

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

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-annual¹³⁵ audits that assess and report on issues affecting the safety and well-being of DPD personnel and prisoners in the DPD's holding cells.¹³⁶

The Monitor last assessed the DPD's compliance with paragraphs C62-64, C70 and C72 during the quarter ending August 31, 2005; the Monitor last assessed the DPD's compliance with paragraphs C65-69 and C71 during the quarter ending February 28, 2005. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter.

The results of our current assessments follow.

Paragraph C62 – Evaluation of Holding Cells

Paragraph C62 requires the DPD to routinely evaluate the operation of the holding cells to minimize the risk of harm to staff and prisoners.

Background

The Monitor attempted to assess the DPD's compliance with paragraph C62 during the quarter ending August 31, 2005 but was unable to complete the assessment because the DPD did not provide enough consistent information to evaluate compliance.

Current Assessment of Compliance

The DPD's Tenth Quarter Status Report states that the HCCC (including members of the DFD, Detroit Health and Wellness Promotion Program and various members of DPD) meets on a bi-weekly basis. The DPD also states that the DPD, along with members of the HCCC, conducts regularly scheduled audits to evaluate the operation of the DPD holding cells and the HCCC also

¹³⁵ 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.

¹³⁶ 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.

conducts independent inspections to ensure that policies are consistently enforced throughout the DPD.

The Monitor has requested a sample of DPD daily inspection reports to determine whether the DPD is in compliance with this paragraph. As of the end of the current quarter, the Monitor had not received the requested inspection reports.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C62.

Paragraph C63 – Risk Management Plan

Paragraph C63 requires the DPD to operate the holding cells in compliance with the DPD's comprehensive risk management plan including implementation of:

- a. the Risk Management Database (discussed in paragraphs U79-90);
- b. the performance evaluation system (discussed in paragraph U91);
- c. the auditing protocol (discussed in paragraph U92);
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

Background

The Monitor last assessed the DPD's compliance with paragraph C63 during the quarter ending August 31, 2005, finding the DPD in non-compliance, as it had not addressed the requirements of subparagraphs a-e. In order to achieve compliance with subparagraphs C63a-c, the DPD must be in compliance with the requirements of the UOF CJ paragraphs that are related to each respective subparagraph. Because the DPD was in non-compliance with these corresponding paragraphs, the Monitor found the DPD in non-compliance with subparagraphs C63a-c.

To address the requirements of subparagraph C63d, the DPD stated that they would not commence with the regular and periodic review of all DPD policies until all policies have been developed and/or revised and disseminated. In addition, the Monitor did not have sufficient information to assess compliance with subparagraph C63e.

Current Assessment of Compliance

The requirements of paragraph C63 mirror those of paragraph U78. As described in the Current Assessment of Compliance for paragraph U78, above, the DPD is non-compliance with that paragraph.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C63.

Paragraph C64 – Video Cameras – Holding Cells

Paragraph C64 states that the DPD policy on video cameras shall be revised and augmented to require:

- a. the installation and continuous operation of video cameras in all prisoner processing areas of DPD holding cells within one year of the effective date of the COC CJ;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, UOF and external complaints;
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and,
- d. that the DPD conduct and document periodic random reviews of prisoner processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoner processing area video recording equipment to confirm that it is in proper working order.

Background

The Monitor last assessed the DPD's compliance with paragraph C64 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the DPD had re-submitted and disseminated the Video Review Protocol and Directive 303.3, *In-Car Video Policy*, the Monitor had not yet tested their dissemination or implementation.

During the quarter ending November 30, 2005, the Monitor retested the dissemination of the directive. As described in the Report for the Quarter Ending November 30, 2005 the Monitor determined that the directive had been adequately disseminated based upon information provided by the DPD after the end of that quarter.

Current Assessment of Compliance

As described in the Background, above, the Monitor has determined that the DPD adequately disseminated Directive 303.3. As a result, the DPD is in compliance with the policy requirements of paragraph C64.

The DPD continues to develop, but has not submitted, the necessary lesson plan to train officers on the directive and related forms. The DPD has confirmed that it has not yet implemented its systematic review process for videotapes. The Monitor will test implementation during the quarter ending August 31, 2006.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraph C64 but in non-compliance with the implementation requirements of the paragraph. As a result, the Monitor finds the DPD in overall non-compliance with paragraph C64.

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

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

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

C65a – Holding Cell Use of Force Investigations Audit

C65b – Holding Cell Prisoner Injuries Investigations Audit

C65c – Holding Cell Misconduct Investigations Audit

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. 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

C65a – Holding Cells Use of Force Investigations Audit

The DPD originally submitted the *Use of Force in Holding Cells Investigation Audit Report* to the Monitor on the required due date of January 31, 2006. However, the DPD submitted a second report on February 17, 2006, stating that the original report was incomplete. Although the audit was submitted late and is therefore non-compliant with subparagraph C65a, the Monitor conducted a review of the audit report to provide the DPD AT with feedback.¹³⁷

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

¹³⁷ The Monitor did not utilize the audit working papers nor assess the audit fieldwork during its review of this audit.

- The audit report was not submitted by AT on a timely basis.
- The Monitor noted anomalies in reconciling the summaries of results reported in a Table near the beginning of the report with the information and results provided in the detailed section of the audit report. In addition, information was occasionally left blank and/or not reported in both the Table and the detailed section of the report.
- The AT was thorough in its population completeness testing, finding several additional investigations of use of force incidents that were neither identified nor included in the original population.
- Although the audit report was well written, it was unnecessarily lengthy and should have made better use of accurate tables to convey the findings.
- The audit report appropriately concluded on each of the 17 objectives tested (all non-compliant).

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

C65b – Holding Cells Prisoner Injuries Investigations Audit

The DPD originally submitted the *Prisoner Injury Investigations Audit* Report to the Monitor on the required due date of January 31, 2006. However, the DPD submitted a second report on February 15, 2006, stating that the original report was incomplete.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph C65b.¹³⁸

C65c – Holding Cells Misconduct Investigations Audit

The DPD submitted the *Allegations of Misconduct Investigations in Holding Cells Audit* Report to the Monitor on the required due date of January 31, 2006. In order to assess compliance with subparagraph C65c, the Monitor reviewed AT's detailed work plan, copies of matrices and other related working papers.

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

- The audit covered investigations that closed from March 1, 2005 through August 31, 2005. The AT correctly identified two populations, IAS and Command, and identified a total population of four allegation of misconduct in holding cell investigations -- two

¹³⁸ Although the audit was submitted late and is therefore non-compliant, the Monitor will conduct a review of the audit report to provide the DPD AT with feedback, similar to the review of the Use of Force in Holding Cells Investigation Audit Report described in the Current Assessment of Compliance for paragraph C65a. The Monitor's findings from its review of the February 15, 2006 audit will be included in the Report for the Quarter Ending May 31, 2006.

investigations conducted by IAS and two conducted by Commands.¹³⁹ All four investigations were selected for review.

- The AT also identified and reported on the risk exposure regarding tracking and identifying allegations of misconduct investigations within the Commands and correctly articulated a scope limitation. The AT appropriately articulated that the DPD's lack of automated systems and/or tracking processes for Command Investigations made the process of identifying Command Investigations difficult, at best, and impossible to ensure a complete population.
- The AT reported compliance and non-compliance separately by paragraph and separately for IAS and Command investigations. The Monitor agrees with the AT's assessment.
- The AT reported and recommended that the Methodologies be revised so that paragraph U64 includes an audit requirement and paragraph U61 an inspection, rather than an audit. It is the Monitor's opinion that the findings and recommendations regarding Methodologies not be included in an audit report on Allegations Misconduct in Holding Cells. A more appropriate forum should be arranged with the Monitor and other interested parties to address these issues. The AT agreed, informing the Monitor that the finding, although originally in the report, should have been edited out.

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

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.¹⁴⁰

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

¹³⁹ The Office of the Chief Investigator (OCI) investigates all non-criminal investigations. Based on the AT's experience with the external complaint audit report for paragraph U97 and the COC paragraph C65 audit, the AT decided to group all non-criminal external complaints, occurring both inside and outside of holding cells, in the paragraph U97 audit. The detailed findings and recommendations for OCI investigations will be addressed in that audit report. This strategy was discussed with and agreed to by the Monitor.

¹⁴⁰ 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.

Background

The Monitor last assessed the DPD's compliance with subparagraphs C66a and b during the quarter ending November 30, 2005, finding the DPD in non-compliance. Although 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, the Fire Safety policies had yet to be re-submitted to DOJ for review and approval.

In addition, the Monitor completed its reassessment of the DPD's dissemination of its policies and determined that 12 of the 15 policies tested were not adequately disseminated as of the end of that current quarter.¹⁴¹ As noted in the Monitor's Report for the Quarter Ending November 30, 2005, the Monitor determined that the DPD adequately disseminated eight additional policies based on documentation provided by the DPD after the end of that quarter.¹⁴²

Current Assessment of Compliance

C66a - HCCC to Assure Compliance with the COC CJ

During the current quarter, the HCCC continued to make significant progress in meeting the requirements of subparagraph C66a. The Monitor completed its re-assessment of the DPD's dissemination of its policies and determined that all of the policies tested were adequately disseminated.¹⁴³ On January 31, 2006, the HCCC submitted all nine audits required to be conducted by paragraphs C66b-C71.¹⁴⁴

The HCCC also continued developing the FSP during the quarter, although it was not re-submitted as of the end of the quarter. The HCCC is also awaiting review and approval of the EPP, which was re-submitted to the DOJ on November 15, 2005.

Although the HCCC's progress continues, until such time as the HCCC has assured compliance with the COC CJ through the implementation of all relevant policies, procedures and forms, and

¹⁴¹ The 3 policies tested and found to have been adequately disseminated were: Directive 202.7, *Foot Pursuit*; Directive 404.1, *Definitions*; and Directive 401.1, *Performance Evaluations*.

¹⁴² The eight additional policies were: 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 four policies were not 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*.

¹⁴³ The Monitor determined that the following four policies were 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*.

¹⁴⁴ Refer to the Current Assessment of Compliance of each respective audit paragraph for further details.

well as the timely completion of the audits required by the COC CJ, 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 CRD and HCCC AT submitted the *Fire Safety Audit* Report on the required due date of January 31, 2006. In order to assess compliance with subparagraph C66b, the Monitor reviewed the audit report. The Monitor did not review supporting documents or related working papers regarding the fieldwork for this audit due to the early determination of non-compliance, which was based on the deficiencies described below.

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

- The audit report was submitted on a timely basis.
- The audit report contained numerous statements that the DPD had re-submitted the FSP to the DOJ for review on November 15, 2005 and is currently awaiting approval. On the contrary, the DPD has not yet re-submitted the FSP.
- As a result of incorrect compliance calculations and deficient documentation, the HCCC AT inappropriately reported that the DPD was in-compliance with the requirements of subparagraph C18c which are the specifications for automated back-up power systems.
- The audit report was poorly organized, contained repetitive information, and was unnecessarily lengthy. The report did, however, include conclusions on each of the 11 objectives required to be tested by the COC CJ, although the Monitor did not concur with several of them.

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

Paragraph C67- Audit of Emergency Preparedness Program

Paragraphs C67 requires the HCCC to conduct regularly scheduled semi-annual audits covering all DPD buildings that contain holding cells of emergency preparedness programs.

Background

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

Current Assessment of Compliance

The DPD CRD and HCCC AT submitted the *Emergency Preparedness Program Audit Report* on the required due date of January 31, 2006. In order to assess compliance with paragraph C67, the Monitor reviewed the audit report submitted by the DPD and selected AT working papers.

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

- The AT submitted this audit on a timely basis and covered all buildings containing holding cells as required by the COC CJ.
- The HCCC and CRD AT appropriately utilized fire evacuation simulation exercises as one of its testing mechanisms to evaluate the DPD's emergency preparedness program.
- The audit methodology included an in-depth review of the contents of the draft CEPP, and individual Emergency Response Plan (ERP) for each District. The Monitor suggests that this was unnecessary given that the ERP's are included in the CEPP and is currently under review by and requires the approval of the DOJ.
- The audit methodology appropriately utilized an interview process to test detention officers, supervisors, and other appropriate District personnel regarding their participation in fire drills and key control and the detention officers' knowledge of their responsibilities during emergencies. The AT used suitable scenarios to test the detention officers' knowledge of their responsibilities during an emergency, including specific examples of their actual responsibilities.
- The audit properly included objectives to evaluate all emergency preparedness related COC CJ paragraphs and related requirements.
- The audit report summary correctly states that the AT was unable to review any documentation related to key control and fire equipment records, as it was non-existent. However, the summary does not explicitly state that this caused the DPD to be in non-compliance (or the DPD did not meet the standards of the COC CJ), while the detailed findings of the audit report make this clear.
- The audit report contained some typographical and formatting errors. These errors were mainly administrative in nature, but are indicative of a lack of an adequate review process.
- The audit appropriately concluded that the CEPP and required procedures, related forms and logs have not yet been implemented, nor has training or guidance been provided to precinct personnel relating to equipment inspections. As a result, DPD personnel, including detention officers and staff members, do not have adequate working knowledge of their job responsibilities in the event of fire related emergencies.
- The AT included a number of valid recommendations that will assist the DPD in moving towards compliance.

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

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

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

Background

The Monitor last assessed the DPD's compliance with paragraph C68 during the quarter ending August 31, 2005, finding the DPD in non-compliance as it had not submitted the required audit for the semi-annual period ending July 31, 2005.

Current Assessment of Compliance

On January 31, 2006 the DPD CRD and HCCC AT submitted the *Detainee Medical and Mental Health Care Practices Audit Report* to the Monitor on the required due date of January 31, 2006. In order to assess the DPD's compliance with paragraph C68, the Monitor reviewed the audit report submitted by the DPD and selected AT working papers.

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

- The AT submitted this audit on a timely basis.
- The detailed section of the report was generally well prepared; however, neither the executive summary nor the detailed section of the report adequately described the DPD's performance relative to each objective tested or the DPD's compliance with the COC CJ paragraphs tested.
- The AT inappropriately confined its population to those detainees who were either treated at or admitted to the DRH during the August 2005 time period selected for review. While the Monitor appreciates that most detainees who require medical attention are sent to the DRH, the audit report neither identified nor quantified detainees who were treated or admitted to other local health care facilities. This same concern was discussed with the AT during the Monitor's evaluation of the previously submitted audit of this topic. At that time the AT agreed with the Monitor and indicated they would address this issue in the next audit of this topic. The AT has indicated that some fieldwork was conducted to address this issue, but the AT was unable to identify detainees who are treated or admitted to local health care facilities other than DRH. The AT further indicated that this information was inadvertently removed from the audit report during the review process but was not able to provide adequate documentation supporting this fieldwork. As a result, the lack of a complete population was not addressed by the AT.
- The AT appropriately selected three different samples from the month of August 2005 to conduct its testing.

- Finally, methodologies for the Medical and Mental Health Care Practices audit require that paragraph C34 be included in the scope of the audit's coverage.¹⁴⁵ The report should have articulated that paragraph C34 was excluded from the Medical and Mental Health Care Practices audit, and was instead being covered by another audit (Environmental Health and Safety).

In summary, although this audit was of generally good quality, the Monitor finds the DPD in non-compliance with paragraph C68 due to the AT's failure to adequately identify the complete population of detainees for testing.

Paragraph C69 – Audit of Detainee Safety Program

Paragraph C69 requires the HCCC to conduct regularly scheduled semi-annual audits covering all DPD buildings that contain holding cells of detainee safety programs and policies.

Background

The Monitor last assessed the DPD's compliance with paragraph C69 during the quarter ending August 31, 2005, finding the DPD in non-compliance, as it had not submitted the required audit for the semi-annual period ending July 31, 2005.

Current Assessment of Compliance

The DPD CRD and HCCC AT submitted its Detainee Safety Polices and Program Audit Report on the required due date of January 31, 2006. In order to assess compliance with paragraph C69, the Monitor reviewed the audit report and related work plan. The Monitor did not review other supporting documents or audit working papers regarding the fieldwork for this audit due to the early determination of non-compliance, which was based on the deficiencies described below.

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

- The audit report was submitted on a timely basis.
- The AT did not review any detainee screening records or cell check documentation as required by paragraph C69.
- Although the audit addressed the requisite prisoner safety paragraphs (C35-38), it did not address all of the specific requirements of paragraph C69. Specifically, the AT should have completed some testing to determine if detainees were actually screened; if the screening

¹⁴⁵ Paragraph C34 states that the DPD "shall remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars."

received proper supervisory oversight; and whether each detainee was properly housed based on the screening.

- Regarding the monitoring of detainees within observation cells, the audit inappropriately required that both continual direct and remote observation be required and included in DPD policy. The COC CJ requirement (paragraph C38) allows for either direct or remote observation.
- The AT correctly determined that both the DIF and cell check documentation were insufficient and inconsistent, and made appropriate recommendations to remedy the problems identified. Unfortunately, much of this valuable information was buried at the end of the report and was not addressed in the executive summary.
- The audit report contains misleading and technically incorrect information regarding the status of the DPD's security screening program.¹⁴⁶ The DPD's audit report should contain precise language that is accurate and complete.

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

Paragraph C70 – Audits of Environmental Health and Safety Program

Paragraphs C70 requires the HCCC to conduct regularly scheduled semi-annual audits covering all DPD buildings that contain holding cells of environmental health and safety program.

Background

The Monitor last assessed the DPD's compliance with paragraph C70 during the quarter ending August 31, 2005, finding the DPD in compliance as a result of the audit submitted by DPD for the semi-annual period ending July 31, 2005.

Current Assessment of Compliance

The DPD CRD and HCCC AT submitted the *Environmental Health and Safety Audit Report* on the required due date of January 31, 2006. In order to assess compliance with paragraph C70, the Monitor reviewed the audit report and audit work plan and conducted an assessment of the audit fieldwork and working papers related to this audit.

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

¹⁴⁶ Specifically, the audit report states that the DPD did not implement a security screening record and a cell check log, and is therefore non-compliant. On the contrary, the DPD has developed, approved and posted on the intranet, the DIF, which is referred to within DPD policy as the detainee security screening form. The DPD has also developed, approved and disseminated numerous types of cell check logs, and has just recently devised a time-clock system to document cell checks.

- The audit was completed by members of the DPD AT, which included members of the HCCC, was submitted on a timely basis and covered all buildings containing holding cells as required by the COC CJ.
- The audit report addressed each of the audit objectives as required by paragraph C70 and all paragraphs related to the Environmental Health and Safety Program.
- The AT appropriately concluded that the DPD was non-compliant with paragraphs C34,¹⁴⁷ C39-41, C44, and C78 and compliant with paragraphs C42 and C45-46.
- Regarding paragraph C34, *Removal of All Suicide Hazards*, the AT appropriately identified and reported on each of the potential suicide hazards, and made suitable recommendations that the hazards be remedied.¹⁴⁸ However, the AT's approach to arriving at non-compliance with this paragraph was flawed. The Monitor notes that the Third Precinct was closed within days after the AT identified that the holding cells had crossbars. As a result, the Third Precinct should have been excluded from the DPD's compliance assessment, but the potential suicide hazards in the Second and Ninth Precincts and the DRH should have been included.
- The reported findings were generally supported by the AT's audit working papers. However, the Monitor found some parts of the audit working papers required additional clarification from the AT members. The working papers should sufficiently support the audit findings without requiring additional explanation.
- The AT implemented most of the recommendations made by the Monitor during its review of the prior audit of this topic. However, the AT did not conduct an adequate peer or supervisory review of the audit report prior to its submission, which was evident by the extent of typographical and formatting errors. While these errors were mainly administrative in nature, they are indicative of a lack of an adequate internal review process.¹⁴⁹ Additionally, the Monitor found the audit report could have been better organized and written more succinctly.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C70.

¹⁴⁷ As described in the Current Assessment of Compliance for paragraph C68, the methodologies for the *Detainee Medical and Mental Health Care Practices Audit* require that paragraph C34 be included in the scope of the audit's coverage. The AT opted to cover paragraph C34 in this audit.

¹⁴⁸ The AT noted that 22 of 24 holding cells in the Third Precinct had crossbars, and identified three additional suicide hazards including an open portal, a hole in the wire mesh, and exposed surveillance camera equipment in the Second and Ninth Precincts, and DRH respectively.

¹⁴⁹ The AT has acknowledged that it is experiencing difficulties in implementing quality control procedures to ensure that adequate reviews occur prior to the submission of audits. Refer to the focus issue entitled *DPD Audit Team Resource and Staffing Needs*, in the Introduction Section of this report.

Recommendation

The DPD calculated the Department's compliance with paragraph C34, *Removal of All Suicide Hazards*, based on the total number of holding cells with potential suicide hazards compared to the total number of holding cells. Given the seriousness of the consequences of any potential suicide hazards present within any DPD holding cells; the Monitor suggests that in future audits, the AT should calculate compliance based on the total number of buildings that have a holding cell with a potential suicide hazard present, rather than based on the number of holding cells with suicide hazards present within all buildings.

Paragraph C71 – Audits Food Service Program and Policies

Paragraph C71 requires the HCCC to conduct regularly scheduled semi-annual audits covering all DPD buildings that contain holding cells of the food service program.

Background

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

Current Assessment of Compliance

The DPD CRD and HCCC AT submitted the *Food Service Program Audit Report* on the required due date of January 31, 2006. In order to assess compliance with paragraph C71, the Monitor reviewed the audit report and selected audit working papers, including the audit work plan, cribsheets, matrices and other related documents such as cleaning logs.

The Monitor's specific findings, which have been discussed with the DPD's AT / HCCC, are outlined below:

- The *Food Service Program Audit* was completed by members of the DPD AT and a member of the HCCC, and was submitted on a timely basis.
- The AT appropriately selected a stratified sample of one month of detainee meal logs, and visited the six Districts on randomly selected dates to conduct onsite food inspections and inspections of delivery of food prepared by an authorized vendor. Additionally the AT reviewed 100% of the cleaning logs for each District for a one-month period.
- While the Monitor believes the DPD used an appropriate methodology to identify and select the population of detainees for review of the daily detainee meal logs, the documentation regarding the population that was provided to the Monitor did not reconcile to the population described in the audit report.

- The Monitor identified numerous substantive concerns related to the DPD's assessment of the detainee meal logs, including: the DPD did not assess and report whether detainees received a meal within six hours on a consistent basis; conclusions drawn in the AT's work papers were not accurately transferred to the audit report; the work papers supporting the audit report contained arithmetical errors in the calculation of the amount of time a person was detained and errors in assessing whether or not a person received a meal within 6 hours of detention; the work papers also contained incorrect data, as in some cases a detainee's release date was prior to his/her arrest date; and the conclusions within the report for some of the Districts were inconsistent with the information within the work papers.
- While the AT's analysis of the data for four objectives resulted in appropriate conclusions, the findings reported for two objectives did not reconcile with the AT's work papers and detailed analysis and were incorrect.
- Although the Monitor identified a number of concerns with the audit sampling and methodology, as described above, the audit was a significant improvement over the audit completed in January 2005. However, similar to the audit submitted in January 2005, it was difficult to determine whether the DPD was in or out of compliance with the various objectives. Furthermore, the Monitor believes that many of the anomalies identified above were due, in part, to the AT's rush to submit this audit by the January 31, 2006 due date and the limited quality control review that was performed prior to its submission.¹⁵⁰

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph C71.

Paragraph C72 – Audit Reporting Requirements

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

Background

The Monitor last assessed the DPD's compliance with paragraph C72 during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the HCCC had submitted three audit reports as of the end of the quarter, no documentation had been submitted evidencing the distribution of those reports to the Chief of Police and the COs or "action or non-action" on the part of the COs, as required by the paragraph.

¹⁵⁰ Refer to the focus issue entitled *DPD Audit Team Resource and Staffing Needs*, in the Introduction Section of this report, for additional information on this issue.

Current Assessment of Compliance

On January 31, 2006, the DPD CRD and HCCC AT submitted to the Monitor all nine audit reports required by paragraphs C65-71 of the COC CJ. Upon receiving these audits reports, the Monitor requested documentation to support the transmittal to and actions of the Chief of Police and appropriate COs. As of the end of the quarter, the Monitor had not received the requested documentation relating to the audits submitted in July 2005, or the audits submitted on January 31, 2006. In addition, none of the audits and related documents received on January 31, 2006, evidenced their submission to the Chief of Police or the precinct and specialized division commanders.¹⁵¹

The Monitor has allowed sufficient time for the both the July 2005 and January 2006 audit reports to have been distributed to the Chief of Police and the COs, and the DPD should have submitted documentation supporting the COs review and action(s) taken related to the audits that were submitted in July 2005.

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

¹⁵¹ On February 1, 2006, the Monitor sent a reminder regarding its standing document request for audit-related materials; this reminder specifically included documentation evidencing the submission of the audits to the Chief of Police or the precinct and specialized division commanders.

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.¹⁵²

The Monitor last assessed the DPD's compliance with paragraphs C73 and C75-78 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.

The Monitor last assessed the DPD's compliance with paragraph C74 during the quarter ending November 30, 2005, doing so in conjunction with paragraph U108, its corresponding UOF CJ paragraph. The Monitor found the DPD in non-compliance, as it was not yet maintaining individual training records for all detention officers. 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. The Monitor is scheduled to again assess the DPD's compliance with paragraphs C73-78 during the quarter ending May 31, 2006.

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.

¹⁵² Refer to the UOF CJ training section in this report for additional information regarding DPD training-related issues.

CORRECTIONS TO PRIOR QUARTERLY REPORTS

The conclusion for paragraph C74 reflected in the Monitor's Report for the Quarter Ending November 30, 2005 correctly indicated that the DPD was *non-compliant* with paragraph C74; however, the Report Card attached as Appendix B to that same report incorrectly indicated that no review took place, and no compliance grade was assigned during that quarter. The Report Card attached as Appendix B to this report has been corrected to indicate a finding of non-compliance for paragraph C74 for the quarter ending November 30, 2005.

CONCLUSION

During its tenth quarter under the Consent Judgments, the City and the DPD made significant progress by successfully disseminating various policies, improving its audit scheduling and management processes and eliminating the backlog of disciplinary cases, among other things. The Monitor has found that nearly all of the policies and training directives that have been revised by the DPD now meet the policy requirements of the Consent Judgments. The DPD is now actively engaged in the process of training and implementation.

Sheryl Robinson Wood
Independent Monitor

April 17, 2006

Principal Contributors

Joseph Buczek
Penny Cookson
Hazel de Burgh
Ronald Filak
Thomas Frazier
Marshall Johnson
Denise Lewis
Terry Penney
Sherry Woods

APPENDIX A:

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

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

ACRONYM	DEFINITION
A&D	Arrest and Detention
AT	Audit Team
BOPC	Board of Police Commissioners
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
ITS	Information Technology Services
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