

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, 2007

ISSUED APRIL 16, 2007

## **EXECUTIVE SUMMARY**

On June 12, 2003, the United States Department of Justice (DOJ) and the City of Detroit (City) (collectively, the parties) filed two Consent Judgments with the United States District Court for the Eastern District of Michigan (Court).<sup>1</sup> 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"<sup>2</sup> of the Consent Judgments. On July 18, 2003,<sup>3</sup> 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 fourteenth quarterly report of the Independent Monitor.<sup>4</sup>

The two Consent Judgments contain a total of 177 substantive paragraphs with which the City and the DPD must substantially comply. The City and the DPD have achieved compliance with the policy components of the vast majority of paragraphs in both Consent Judgments, a significant accomplishment.<sup>5</sup> These paragraphs are identified in the comments column of the Report Card attached as Appendix B to this report. There are a number of paragraphs that are "policy only" paragraphs with which the City and the DPD will remain in compliance (unless a revision is made that does not meet the terms of the Consent Judgments).<sup>6</sup> These 13 compliant "policy only" paragraphs are: U14-17, U19, U20, U42, U44, U46-47, U52, U54, and U56. There are also several paragraphs that require the City and the DPD to take a specific action and, once compliant, these paragraphs will generally remain in compliance; the DPD has complied with 11 such paragraphs or subparagraphs: U82-84; U88a, b d, and e; C22; C34; C44; and C46. Significantly, the DPD has been in overall compliance for two substantive quarters with 14 paragraphs or subparagraphs of the Consent Judgments.<sup>7</sup>

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<sup>1</sup> 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).

<sup>2</sup> 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").

<sup>3</sup> The "effective date" of the Consent Judgments.

<sup>4</sup> The Monitor's quarterly reports may be found on the Internet at [www.kroll.com/detroit](http://www.kroll.com/detroit).

<sup>5</sup> Pursuant to paragraphs U133 and C88 and various other paragraphs, these paragraphs also require implementation, which must also be in compliance for the DPD to achieve overall substantial compliance.

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

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

Each quarter, the Monitor examines a certain number of substantive paragraphs. During the fourteenth quarter, which ended on February 28, 2007, the Monitor examined a total of 86 paragraphs or subparagraphs (48 paragraphs or subparagraphs of the UOF CJ and 38 paragraphs or subparagraphs of the COC CJ). Of these, the City and the DPD complied with 14 and failed to achieve compliance with 49; the Monitor has not yet completed its evaluation of 22 paragraphs or subparagraphs<sup>8</sup> and withheld its determination of the DPD's compliance with 1 paragraph.<sup>9</sup>

Overall, the City and the DPD are in compliance with 48 paragraphs out of 177 to date.

As described fully in this report, these are some of the areas where the City and the DPD continued to make progress during the quarter:

- The Monitor commends the DPD for finalizing and implementing its systematic process for arrestee warrant requests and arraignments. A sample of arrests noted that the DPD was in compliance with the prompt judicial review requirements and nearly in compliance with the warrant request requirements of the UOF CJ.<sup>10</sup>
- The Monitor acknowledges the DPD's significant accomplishment in maintaining compliance with the requirements to obtain a court order prior to taking a material witness into custody.<sup>11</sup>
- The DPD's Audit Team and Holding Cell Compliance Committee (HCCC) submitted all nine of the COC CJ audits that were due by January 31, 2007, and its first *Prisoner Injuries Investigations Audit*. One of these audits, the *Environmental Health and Safety Program Audit*, is a compliant audit. This is the third time the DPD has submitted a compliant audit on this topic. Two other COC CJ audits submitted on January 31, 2007 were quality audits but were non-compliant, primarily because they were not conducted by the HCCC, as mandated by the COC CJ. The Monitor's review of the remaining 7 audits is in progress.

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

<sup>9</sup> 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.

<sup>10</sup> Please refer to the Monitor's assessment of compliance for paragraphs U49-50.

<sup>11</sup> Please refer to the Monitor's assessment of compliance for paragraph U57.

The Monitor again suggests that the DPD stagger its submission of the many audits required by the Consent Judgments.<sup>12</sup>

- In the Monitor's review of the implementation of the Disciplinary Matrix (paragraph U105), it was determined that the DPD is following the presumptive disciplinary guidelines in the matrix.
- The DPD has increased its efforts to develop its Management Awareness System (MAS) by entering an agreement with DOJ, which has review and approval over the MAS, that allows internal resources to be utilized to create the system.

Major areas of concern identified during the quarter ending February 28, 2007 include the following:

- The DPD's internal inspection reports need to be consistently completed from district-to-district, using a matrix containing questions and/or categories that cover all of the relevant issues in the Consent Judgments (in addition to other areas that the City/DPD wishes to cover). The inspections should uniformly report on both positive and negative findings.
- Given that training is essential to consistent implementation of the revised policies and procedures required by the Consent Judgments, the Monitor is concerned that there were no revised lesson plans submitted during this quarter.
- The Monitor reviewed the DPD's auditable forms documenting violations of the DPD's policies concerning restrictions placed on detainees and material witnesses (paragraph U60). There were 40 auditable forms requiring daily review by Commanding Officers for the time period requested, and only one of those 40 forms contained the required documentation of the supervisory review. Furthermore, the Monitor remains concerned that the DPD has no mechanism to track the release time and date of holds and, thus, no mechanism to ensure that all auditable forms required are generated and reviewed.<sup>13</sup>

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<sup>12</sup>In August 2005, the Monitor provided TA to the DPD's AT in relation to audit staffing and scheduling. During this TA, the Monitor discussed the many advantages of staggering the submission of the DPD's audits, one of which was obtaining timely feedback from the Monitor.

<sup>13</sup>Please refer to the Monitor's assessment of compliance for paragraphs U49-U51, U55 and U57, respectively.

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## **SECTION ONE: INTRODUCTION**

### **I. BACKGROUND**

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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.,<sup>14</sup> as the Independent Monitor in this matter. This is the fourteenth report of the Independent Monitor.

In the first quarterly report, for the quarter ending November 30, 2003, the Monitor<sup>15</sup> 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.<sup>16</sup> 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,<sup>17</sup> the Monitor will review the paragraphs on a periodic schedule over

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<sup>14</sup> The primary members of the Monitoring Team are Joseph Buczek, Jerry Clayton, Penny Cookson, Hazel de Burgh, Ronald Filak, Thomas Frazier, Marshall Johnson, Denise Lewis, Terry Penney, and Sherry Woods.

<sup>15</sup> The word "Monitor" will be used to describe both the Monitor and the Monitoring Team throughout this report.

<sup>16</sup> 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](http://www.usdoj.gov/crt/split/documents/dpd/detroit_cover_2.html).

<sup>17</sup> 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.<sup>18</sup> The paragraphs that were scheduled for review during the fourteenth quarter, which ended on February 28, 2007, are assessed in this report.<sup>19</sup>

## II. MONITOR'S ROLE

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The Monitor's role is to conduct compliance assessments,<sup>20</sup> 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

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During the fourteenth quarter, the Monitor continued to test the DPD's implementation of the policies that it has successfully disseminated and to review audits conducted by the DPD's Audit Team (AT). Under the UOF CJ, the DPD's compliance rates are improving in many areas, such as the development of a timely and systematic process for prompt judicial review and obtaining warrant requests for the arrests of material witnesses. However, the DPD still faces challenges in the implementation of the following areas, among others: the development of lesson plans, the documentation of the review of the DPD's violations of restriction and material witness policies by Commanding Officers (COs), and the installation, review and survey of in-car video cameras and tapes.<sup>21</sup>

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<sup>18</sup> 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.

<sup>19</sup> 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.

<sup>20</sup> 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.

<sup>21</sup> Significantly, the DPD reports that after the end of the quarter, on March 12, 2007, 133 new patrol cars were deployed, all of which were equipped with in-car video equipment. This increases the number of cars with operable video equipment. See Current Assessment of Compliance for paragraph U98 for additional information.

Under the COC CJ, the DPD continues to work toward the implementation of the DOJ-approved Fire Safety Plan (FSP) and Emergency Preparedness Plan (EPP). The City and the DPD are working on retrofitting the holding cells in the districts on a rolling basis; the anticipated completion dates are set forth in the following table:

**Table 1 - Schedule for Renovation of Holding Cells**

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

Furthermore, the City and DPD have began transferring some female detainees who are charged with felonies to the Wayne County Sheriff's Office (WCSO) in October 2006 with the intention of expanding to the program to include male detainees in the coming months.<sup>22</sup> In addition, another compliant audit was completed by the DPD's AT / HCCC. One of the challenges that the DPD continues to face is finalizing and/or fully implementing the various forms and logs required by the policies.

#### IV. METHODOLOGIES

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

Under the *Methodologies*, the DPD will generally be assessed as compliant when either a reliable audit has been submitted that concludes compliance or at least 94% compliance is achieved for a statistically valid random sample<sup>23</sup> of incidents from as recent a period as is practicable.

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<sup>22</sup> On December 1, 2006, it was reported that the Wayne County Commission approved \$2.1 million for a feasibility study for the proposed regional criminal justice complex. According to information provided by the DPD, a decision on whether to pursue the project will be made by Wayne County by May 2007. The Monitor has been informed that the City of Detroit has not made a final decision as to whether it will attempt to locate jail facilities at this proposed facility.

<sup>23</sup> If the total population of incidents is so small that the process of selecting a statistically valid random sample would take longer to perform than to evaluate 100% of the incidents in the population, 100% testing will be performed.

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

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

If the Monitor determines that an audit is not compliant with the applicable audit requirements of the Consent Judgments, the Monitor may still rely on some or all of the audit's findings if it is determined that the specific findings are reliable.<sup>24</sup> In addition, the Monitor reserves the right to adopt audit findings of non-compliance in instances in which the Monitor has not determined whether the audit's findings are reliable; however, the Monitor will supplement the audit's assessment with additional testing where possible.<sup>25</sup>

## V. REPORT CARD

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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 subparagraph<sup>26</sup> of the Consent Judgments for the five most recent quarters, including the current quarter, in which compliance has been assessed.<sup>27</sup> The quarter in which the most recent evaluation was made is also indicated, as is the quarter in

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<sup>24</sup> In these instances, the overall non-compliance finding of the audit would necessarily be based on deficiencies unrelated to the specific findings that the Monitor elects to rely upon. As an example, if the audit report and fieldwork were considered adequate related to the substantive paragraphs under review but the audit was considered non-compliant because it failed to address a specific issue unrelated to the substantive paragraph or was submitted late, the Monitor may use all of the audits findings regarding the substantive provisions of the paragraph(s) even though the audit was considered non-compliant.

<sup>25</sup> Where an audit concludes that the DPD was in non-compliance, the likelihood that the DPD would incorrectly find itself in non-compliance is relatively low. Consequently, the Monitor may adopt those findings even though they have not been completely substantiated.

<sup>26</sup> 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.

<sup>27</sup> The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the DPD's compliance with the provisions of the Consent Judgments.

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

## VI. MONITOR'S PLEDGE

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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, 2007. A draft copy of this report was made available to the parties at least 10 days prior to final publication in order to provide the parties with an opportunity to identify any factual errors,<sup>28</sup> and to provide the parties with an opportunity to seek clarification on any aspect of compliance articulated in this report.

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<sup>28</sup> As required by paragraphs U142 and C97.

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

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

### **I. USE OF FORCE POLICY**

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This section of the UOF CJ (paragraphs U14-26) requires the DPD to make revisions to its Use of Force (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, 2006. The Monitor is scheduled to again assess compliance with paragraphs U14-19 during the quarter ending May 31, 2007.

#### **B. USE OF FIREARMS POLICY**

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

#### **C. INTERMEDIATE FORCE DEVICE POLICY**

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

#### **D. CHEMICAL SPRAY POLICY**

This section comprises paragraphs U25-26. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending August 31, 2006. The Monitor is scheduled to again assess the DPD's compliance with paragraphs U25-26 during the quarter ending August 31, 2007.

## II. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW

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This section of the UOF CJ (paragraphs U27-41) requires the DPD to make significant changes to its policies related to general investigations of police action and to investigations of UOF, prisoner injury, critical firearms discharges and in-custody deaths. In addition to various changes in general investigatory procedures, reports and evaluations, the UOF CJ requires that the DPD develop a protocol for compelled statements and develop an auditable form<sup>29</sup> 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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

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

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

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<sup>29</sup> 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.

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

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

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

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

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

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

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs U27-33 during the quarter ending August 31, 2006, finding the DPD in compliance with the policy requirements, in non-compliance with the implementation requirements of paragraphs U27-U29 and U32-33 and did not yet evaluate the overall compliance of paragraphs U30-31.

### ***Current Assessment of Compliance***

As described in the Current Assessment of Compliance for C65a, the DPD submitted the *Use of Force in Holding Cells Investigation Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit. As a result, the Monitor has deferred its assessment of the DPD's compliance with paragraphs U27-33, and will conduct this assessment in conjunction with its review of this audit, which is scheduled to take place during the quarter ending May 31, 2007.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but has not yet evaluated the DPD's compliance with the implementation requirements of paragraphs U27-33. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraphs U27-33.

## 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, 2006. The Monitor is scheduled to again assess the DPD's compliance with paragraph U34 during the quarter ending May 31, 2007; the Monitor again assessed the DPD's compliance with paragraphs U35-36 during the current quarter. The results of our current assessments follow.

### Paragraphs U35-36 – UOF and Prisoner Injury Notification Requirements; Command Investigation Time Limits

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

- a. officers to notify their supervisors following any UOF or prisoner injury;
- b. that upon such notice, a supervisor must respond to the scene of all UOF that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor must respond to all other UOF on a priority basis. Upon arrival at the scene, the supervisor must interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;
- c. the supervisor responding to the scene to notify the Internal Affairs Division (IAD)<sup>30</sup> of all serious UOF, UOF that result in visible injury, UOF that a reasonable officer should have known were likely to result in injury, UOF where there is evidence of possible criminal misconduct by an officer or prisoner injury; and
- d. IAD to respond to the scene of, and investigate, all incidents where there is evidence of possible criminal misconduct by an officer, a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious UOF, and to permit IAD to delegate all other UOF or prisoner injury investigations to the supervisor for a command investigation.

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

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

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<sup>30</sup> The DPD refers to this entity as the Internal Affairs Section (IAS).

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

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs U35-36 during the quarter ending November 30, 2006, finding the DPD in compliance with the policy requirements of the paragraphs. The Monitor had not yet assessed the DPD's compliance with the implementation requirements of paragraphs U35-36, as the DPD did not submit a Use of Force audit pursuant to paragraph U94a. As a result, the Monitor did not yet evaluate the DPD's overall compliance with paragraphs U35-36.

### ***Current Assessment of Compliance***

#### ***Paragraphs U35-36***

As described in the Current Assessment of Compliance for C65a, the DPD submitted the *Use of Force in Holding Cells Investigation Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit. As a result, the Monitor has deferred its assessment of the DPD's compliance with paragraph paragraphs U27-33, and will conduct this assessment in conjunction with its review of this audit. In addition, the Monitor has conducted an independent review of Command investigations, the results of which will be reported during the quarter ending May 31, 2007.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements of paragraphs U35-36, but has not yet evaluated the DPD's compliance with the implementation requirements of the paragraphs. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraphs U35-36.

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

This section comprises paragraphs U37-41. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2007.

### **III. ARREST AND DETENTION POLICIES AND PRACTICES**

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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 found the DPD in compliance with paragraph U42, which is a "policy-only" paragraph, during the quarter ending May 31, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>31</sup> The Monitor last assessed the DPD's compliance with paragraph U43 during the quarter ending November 30, 2006, and is scheduled to again assess the DPD's compliance with the paragraph during the quarter ending May 31, 2007.

#### **B. INVESTIGATORY STOP POLICIES**

This section comprises paragraphs U44-45. As described in the Report for the Quarter Ending May 31, 2006, the DPD has been in compliance with paragraph U44, which is a "policy-only" paragraph, since the quarter ending May 31, 2005. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>32</sup> The Monitor last assessed the DPD's compliance with paragraph U45 during the quarter ending

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<sup>31</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U43.

<sup>32</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U45.

November 30, 2006, and is scheduled to again assess the DPD's compliance with the paragraph during the quarter ending May 31, 2007.

### C. WITNESS IDENTIFICATION AND QUESTIONING POLICIES

This section comprises paragraphs U46-48. The Monitor found the DPD in compliance with paragraphs U46 and U47, which are "policy-only" paragraphs, during the quarter ending May 31, 2006. The DPD will remain in compliance with these paragraphs until such time as the policy directly responsive to the paragraphs is revised.<sup>33</sup> The Monitor last assessed the DPD's compliance with paragraph U48 during the quarter ending November 30, 2006, and is scheduled to again assess the DPD's compliance with the paragraph during the quarter ending May 31, 2007.

### 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, 2006. 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 49 during the quarter ending August 31, 2006 finding the DPD in non-compliance. The DPD had yet to submit a "timely and systematic process" for all arrestees to be presented for prompt judicial review. The DPD planned on integrating a "timely and systematic process" in its Live Scan detainee processing system.

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<sup>33</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U48.

### *Current Assessment of Compliance*

During the current quarter, the DPD submitted to the Monitor a written description of its “timely and systematic process” that is being integrated into its Live Scan detainee processing system. The Monitor reviewed the written description noting that it addresses the requirements of the paragraph.

The Monitor also requested and received a listing of all arrests for the period December 1 through December 8, 2006. In total 1,158 arrests were identified, from which the Monitor selected a random sample of 87 for review. For 64 arrests, the detainees were released prior to arraignment and within 48 hours of arrest. For the remaining 23 arrests, all detainees were presented for arraignment. In four instances, the detainees were presented after 48 hours had elapsed.<sup>34</sup>

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U49.

### *Paragraph U50 – Requirement of Warrant Request*

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.

### *Background*

The Monitor last assessed the DPD’s compliance with paragraph U50 during the quarter ending August 31, 2006, finding the DPD in non-compliance. Compliance with this paragraph 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. The DPD had not yet completed and integrated its systematic process.

### *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for paragraph U49, above, during the current quarter the DPD developed and integrated its systematic process to ensure prompt judicial review. The Monitor reviewed the documented process and is satisfied it addresses the requirements of paragraph U50.

The Monitor reviewed a sample of arrests to assess the DPD’s compliance with completing warrant requests within 24 hours. Please refer to paragraph U49 that describes the sampling methodology. The Monitor reviewed 87 arrests noting that for 57 arrests, the 24 hour rule was

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<sup>34</sup> The four detainees presented for arraignment in excess of 48 hours were presented within approximately 52 hours, 58 hours, 62 hours and 70 hours, respectively.

not applicable. Either the DPD affected the arrest pursuant to an existing warrant or the DPD released the detainee without seeking a warrant request.<sup>35</sup> The Monitor noted that for nine of the remaining 30 arrests (30%), the warrant request was not submitted within 24 hours.<sup>36</sup>

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

### **Paragraph U51 – Documentation of Late Request for Arraignment Warrants and Late Arraignments**

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:

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

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U51 during the quarter ending August 31, 2006, finding the DPD in non-compliance. Compliance with this paragraph is dependent on compliance with paragraph U49, as the systematic process to ensure prompt judicial review must also address the identification and reporting of all exceptions to the 24-hour warrant request requirement and prompt judicial review requirement. The DPD had not yet completed and integrated its systematic process.

### ***Current Assessment of Compliance***

As described in the Current Assessment of Compliance for paragraph U49, above, during the current quarter the DPD developed and integrated its systematic process to ensure prompt judicial review. The Monitor reviewed the documented process and is satisfied it addresses the requirements of paragraph U51.

The Monitor reviewed a sample of arrests to assess the DPD's compliance with completing warrant requests within 24 hours. Please refer to paragraph U49 that describes the sampling methodology. The Monitor reviewed 87 arrests noting that for 13 arrests an auditable form was required either for not submitting a warrant request within 24 hours or for not presenting the

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<sup>35</sup> In some instances, the underlying charges were minor, not requiring the warrant request.

<sup>36</sup> The nine warrant request submissions ranged from 25 hours, ten minutes to 43 hours subsequent to arrest.

detainee for arraignment within 48 hours. In one of the 13 instances, the required auditable form was not completed when a warrant request was not submitted within 24 hours.

Based on the foregoing, the Monitor finds DPD in compliance with paragraph U51.

## E. HOLD POLICIES

This section comprises paragraphs U52-53. The Monitor found the DPD in compliance with paragraph U52, which is a “policy-only” paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>37</sup> The Monitor last assessed the DPD’s compliance with paragraph U53 during the quarter ending August 31, 2006. The Monitor again assessed the DPD’s compliance with paragraph U53 during the current quarter. The results of our current assessment follow.

### *Paragraph U53 – Documentation of All Holds*

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 paragraph U53 during the quarter ending August 31, 2006, finding the DPD in non-compliance with the paragraph. The DPD’s Office of Civil Rights (OCR) represented that the DPD’s current systems do not allow for capturing the time and date a hold is cleared. This information is integral to assessing the DPD’s compliance with the mandates of paragraph U53.

### *Current Assessment of Compliance*

On February 16, 2007, the Monitor received an email in which the DPD represented “We cannot provide any supportive documentation that would substantiate the clearing of the selected holds within 24 hours of being identified.”<sup>38</sup> As described in the Background section, above, this

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<sup>37</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U53.

<sup>38</sup> In its Fourteenth Quarter Status Report, submitted to the Monitor on February 28, 2007, the DPD reported that “The DPD also implemented the Detainee Input Sheet (DIS) in November of 2006, which is completed for detainees entering a DPD holding facility. The DIS will capture all holds, when identified and cleared, in writing. Ultimately, the DIS will be the means by which this data will be inputted into LiveScan (automated). The upgrades to the LiveScan system that will allow for this data to be captured is currently being evaluated.” Although the DPD’s

information is integral to assessing the DPD's compliance with paragraph U53. Until the DPD can provide this information, the DPD will remain in non-compliance with the requirements of the paragraph.

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

## F. RESTRICTION POLICIES

This section comprises paragraphs U54-55. The Monitor found the DPD in compliance with paragraph U54, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>39</sup> The Monitor last assessed the DPD's compliance with paragraph U55 during the quarter ending August 31, 2006. The Monitor again assessed the DPD's compliance with paragraph U55 during the current quarter. The results of our current assessment follow.

### *Paragraph U55 – Documentation of Restrictions*

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.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs U55 during the quarter ending August 31, 2006, at which time the Monitor found the DPD in non-compliance. The Monitor reviewed documentation for four detainees with restrictions and was unable to determine whether the restriction was reviewed at the time it was placed. Also, for two of the restrictions there was no documentation that the restriction was either lifted within 24 hours of being placed or re-evaluated if extended beyond 24 hours.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U55 during the current quarter, the Monitor requested a listing of all detainees with restrictions for the period May 1, 2006 through

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status report stated that the DPD is in compliance with this paragraph, on April 12, 2007, the DPD stated that it is "not yet effectively capturing the clearing of all holds in writing."

<sup>39</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U55.

November 30, 2006. The DPD responded indicating that it had identified 27 detainees with restrictions and provided legible photocopies of related auditable forms. For 26 of 27 detainees, due to lack of information on the forms, the Monitor was unable to determine whether the restrictions were reviewed at the time they were placed or whether the restrictions were lifted or re-evaluated within 24 hours of being placed.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U55.

## G. MATERIAL WITNESS POLICIES

This section comprises paragraphs U56-57. The Monitor found the DPD in compliance with paragraph U56, which is a “policy-only” paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>40</sup> The Monitor last assessed the DPD’s compliance with paragraph U57 during the quarter ending August 31, 2006. The Monitor again assessed the DPD’s compliance with paragraph U57 during the current quarter. The results of our current assessment follow.

### *Paragraph U57 – Requirement to Obtain a Court Order Prior to Taking a Material Witness into custody*

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

#### *Background*

The Monitor last assessed the DPD’s compliance with paragraph U57 during the quarter ending August 31, 2006, at which time the Monitor found the DPD in compliance. The Monitor reviewed supporting documentation for two material witnesses identified by the DPD for the period April 1, 2006 through May 31, 2006. In both instances, the DPD obtained the required court order prior to detaining the witness and completed the requisite auditable form. The Monitor also reviewed Homicide investigations in an attempt to identify unreported material witnesses. No additional material witnesses were found.

#### *Current Assessment of Compliance*

In order to assess the DPD’s compliance with paragraph U57 during the current quarter, the Monitor requested a listing of all material witnesses for the period April 1, 2006 through

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<sup>40</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U55.

November 30, 2006.<sup>41</sup> The DPD identified five material witnesses for the period under review. For all five material witnesses, the DPD provided evidence that court orders were obtained prior to taking the material witnesses into DPD custody. Also, for all five material witnesses, all required information responsive to paragraph U57 was documented on auditable forms and attached to the court orders.

The Monitor also reviewed Homicide Detectives' daily activity logs for the period November 12, 2006 through December 12, 2006 in an attempt to identify the existence of other material witnesses. No additional material witnesses were identified.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U57.

## H. DOCUMENTATION OF CUSTODIAL DETENTION

This section comprises paragraph U58. The Monitor last assessed the DPD's compliance with paragraph U58 during the quarter ending November 30, 2006, and is scheduled to again assess the DPD's compliance with the paragraph during the quarter ending May 31, 2007.

## I. COMMAND NOTIFICATION

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

### *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.

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<sup>41</sup> Note that this period overlaps the period selected for review during the Monitor's Q12 assessment. In response to the most current request, the DPD provided information for three Material Witnesses for the period April 1 through May 31, 2006. For the additional Material Witness identified, the requisite court order and auditable form were provided evidencing the court order was obtained prior to detention of the witness.

## *Background*

The Monitor last assessed the DPD's compliance with paragraph U60 during the quarter ending August 31, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of each paragraph. As a result, the Monitor found the DPD in overall non-compliance with the paragraphs. For six auditable forms there was no documented CO review and evaluation. Additionally, the DPD had no mechanism to track the release time and date of holds and, thus, no mechanism to ensure all auditable forms required are generated and reviewed.

## *Current Assessment of Compliance*

During the current quarter, the Monitor requested and received auditable forms for certain arrests for which a warrant request was not submitted within 24 hours and for certain arrests for which the detainee was not presented for arraignment within 48 hours of arrest. The Monitor also requested and received auditable forms for restrictions placed on detainees and material witnesses.<sup>42</sup> In total, 40 auditable forms were generated requiring a CO review and evaluation on the date generated.

The Monitor reviewed the auditable forms received and determined that there was no documented CO review and evaluation in 39 required instances. In one instance, although the CO reviewed and completed the auditable form, the review was not completed the same day. Additionally, as indicated in our prior assessment, the DPD has no mechanism to track the release time and date of holds and, thus, no mechanism to ensure all auditable forms required are generated and reviewed.

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

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<sup>42</sup> Please refer to the Monitor's assessment of compliance for paragraphs U49-U51, U55 and U57, respectively.

## **IV. EXTERNAL COMPLAINTS**

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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.<sup>43</sup>

Section IV's introductory section comprises paragraphs U61-63. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006, and is scheduled to again assess the DPD's compliance with them during the quarter ending May 31, 2007.

### **A. INTAKE AND TRACKING**

This section comprises paragraphs U64-66. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006, and is scheduled to again assess the DPD's compliance with them during the quarter ending May 31, 2007.

### **B. EXTERNAL COMPLAINT INVESTIGATIONS**

This section comprises paragraphs U67-69. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006, and is scheduled to again assess the DPD's compliance with them during the quarter ending May 31, 2007.

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<sup>43</sup> The OCI reports to the Board of Police Commissioners (BOPC) and is responsible for conducting external complaint investigations.

## V. GENERAL POLICIES

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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, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2007.

The Monitor last assessed the DPD's compliance with paragraphs U72 and U74-77 during the quarter ending August 31, 2006 and with paragraph U73 during the quarter ending November 30, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraphs 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, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of these paragraphs. As a result, the Monitor found the DPD in overall non-compliance with paragraphs U72 and U74.

### *Current Assessment of Compliance*

During the current quarter the Monitor requested a listing of all training conducted in relation to paragraphs U72 and U74, to include any formal classroom training as well as any roll call training. The DPD reported that neither formal classroom training nor roll call training has occurred.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraphs U72 and U74. 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 supervisors<sup>44</sup> 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 November 30, 2006, finding the DPD in non-compliance. The Monitor reviewed daily attendance records for all 27 District station and specialized unit platoons for the period June 13-15, 2006 and calculated an overall compliance rate of 83.2%.

### *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 11-13, 2006. As of the end of the quarter, 102 daily attendance records were provided.

The Monitor reviewed all 102 daily attendance records, noting that three patrol platoons and 16 specialized units were deployed with a ratio of officers to a supervisor exceeding eight to one.<sup>45</sup> As a result, the DPD's overall compliance rate was 81.4% (83 of 102).

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<sup>44</sup> 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.

<sup>45</sup> As described in the Monitor's Reports for the Quarters Ending February 28, 2005 and August 31, 2005, the DPD provided the Monitor with an article, "The Structural Dimensions of Community Oriented Police Departments," and a fact sheet entitled "Rider's Pattern and Practice Settlement Agreement." These documents were the basis for the DPD mandating the staffing of one supervisor for every five officers. This documentation, among other things, recommended that community oriented police departments operate with a structure of between 6.5 and 8 officers per

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph U73. As a result, the Monitor finds the DPD in overall 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, 2006, finding the DPD in non-compliance. The Monitor had previously determined that the DPD complied with the policy requirements of this paragraph by adequately disseminating Directive 202.1, *Arrests*. However, the DPD had not yet begun training officers on the requirements of the paragraph or the directive's content.

### ***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 and the implementation of relevant policy. The DPD responded that neither formal classroom training nor roll call training has occurred.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph U75. As a result, the Monitor finds the DPD in overall non-compliance with paragraph U75.

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supervisor. As a result, the Monitor agreed that an acceptable ratio of officers to supervisors for a community policing oriented department is one supervisor for every eight officers.

### **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, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. The Monitor requested documentation of training responsive to this paragraph. Although the DPD administered some formal classroom training, it reported in its Twelfth Quarter Status Report that not all training responsive to the paragraph had been implemented as of the end of that quarter.

### ***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 U76 and the implementation of relevant policy. The DPD responded that neither formal classroom training nor roll call training has occurred.

The Monitor requested a listing of all arrests involving a use of force by a DPD officer occurring between November 12, 2006 and December 12, 2006. A random sample of 49 arrests was selected for review from a population of 99. For 12 of the 49 arrests selected, the DPD was unable to provide documentation demonstrating compliance with subparagraphs a and b of paragraph U76. For the remaining 37 arrests, the Monitor was able to determine that emergency medical services were summoned, where appropriate, and officers utilized appropriate precautions.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph U76. 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
- 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, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements. The Monitor reviewed five auditable forms for incidents that occurred between May 20, 2006 through June 20, 2006 that involved foot pursuits. The Monitor determined that 2 of 5 forms reviewed were incomplete and did not report the reason for contact. In addition, the DPD represented that neither formal classroom training nor roll call training on foot pursuits had occurred.

### *Current Assessment of Compliance*

During the current quarter, the Monitor requested a listing of any and all training conducted in relation to paragraph U77. The DPD responded by indicating that no training has occurred.

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

## VI. MANAGEMENT AND SUPERVISION

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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 August 31, 2006 . The Monitor again assessed the DPD's compliance with the 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 August 31, 2006, finding the DPD in non-compliance. The DPD remained in non-compliance with a majority of the paragraphs related to the Risk Management Database and the auditing protocol.

### *Current Assessment of Compliance*

Regarding subparagraph U78a, during the current quarter, the DPD and the DOJ finalized a letter outlining the conversion of 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). The parties had both signed a letter outlining their agreement as of January 24, 2007. The DOJ submitted a letter to the Court on February 23, 2007 outlining their agreement with the City and the DPD that internal resources will be used for the IMAS to MAS conversion and attaching the previously executed agreement. The letter also outlined a course of action, including deadlines to complete the MAS. However, the DPD remains in non-compliance with a majority of the paragraphs related to the Risk Management Database.<sup>46</sup>

Regarding subparagraph U78b, as described in the Monitor's Report for the Quarter Ending August 31, 2006, the Monitor reviewed 102 evaluations of randomly selected personnel to evaluate the DPD's compliance with paragraph U91. The Monitor found that the evaluations were insufficient in addressing the requirements of the paragraphs. The Monitor is scheduled to re-evaluate paragraph U91 during the quarter ending August 31, 2007 and will report on subparagraph U78b at that time.

Regarding subparagraph U78c, the DPD remains in non-compliance with the majority of the paragraphs related to the auditing protocol.<sup>47</sup>

The Monitor requested documentation to assist in assessing the DPD's compliance with subparagraphs U78d and e on August 31, 2006. On September 20, 2006, the DPD responded to the Monitor's request but did not supply information sufficient to enable the Monitor to determine compliance. On January 29, 2007, the DPD responded to the Monitor's request, providing the minutes for Policy Focus Group meetings held on April 5, 2006 and August 2, 2006. According to the agendas for these meetings, the DPD is conducting policy reviews in these meetings as required by subparagraph U78d.<sup>48</sup> Furthermore, the meetings appear to be conducted regularly and periodically based on the dates. The Monitor will make a request to attend a future meeting.

The Monitor also received the minutes from two of the Department's paragraph U110 meetings which took place on May 25 and August 28, 2006. According to the DPD, these meetings also meet the requirements of subparagraph U78e. A member of the Monitor's team was present at one of these meetings, and a team member has attended numerous paragraph U110 meetings in the past. As previously reported, while the paragraph U110 meetings usually include discussions

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<sup>46</sup> Of the pertinent paragraphs (U79-90), the DPD remains in non-compliance with paragraphs U79-81 and U85-87, subparagraphs U88f and g, and paragraph U89; in compliance with paragraphs U82-84 and subparagraphs U88a, b, d and e; and a determination of compliance was withheld for subparagraph U88c (as described in the Report for the Quarter Ending November 30, 2006).

<sup>47</sup> Of the related audit paragraphs, the DPD remains non-compliant with paragraphs U93-97.

<sup>48</sup> The August 2, 2006 minutes indicate that the next meeting would be on December 6, 2006; however, the Monitor did not receive any information from that meeting. Since the meeting was scheduled to occur after the Monitor's original document request of August 31, 2006, the Monitor will submit an additional document request for information from that meeting.

primarily led by the City Law Department regarding the conclusion of civil lawsuits concerning officer misconduct and the identification of actions by DPD officers that could potentially cause liability, these meetings do not meet the requirements of subparagraph U78e. This subparagraph requires regular meetings of DPD management to share information and evaluate patterns of conduct by DPD personnel that potentially increase the DPD's liability. Although the paragraph U110 meetings provide useful information and meet the requirements of that paragraph, a discussion of the potential liability associated with patterns of conduct currently occurring with the Department, as identified by DPD management, is not taking place at these meetings.<sup>49</sup>

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraphs U78a, c and e and in compliance with subparagraph U78d.<sup>50</sup>

## A. RISK MANAGEMENT DATABASE

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

The Monitor has previously concluded that the DPD is in compliance with paragraphs U83-84 and subparagraphs U88b and d, as the DOJ had approved the Review Protocol and the Report Protocol. The DPD will remain in compliance with these provisions until the Review and Report Protocols are revised.<sup>51</sup>

The Monitor last assessed the DPD's compliance with paragraphs U79-82 and U86-87 and subparagraphs U88a. and c. during the quarter ending November 30, 2006. The Monitor is scheduled to again assess compliance with these paragraphs during the quarter ending May 31, 2007.

The Monitor last assessed the DPD's compliance with paragraph U85, subparagraphs U88e, f and g, and paragraph U89 during the quarter ending August 31, 2006. The Monitor again assessed the DPD's compliance with these paragraphs and subparagraphs during the current quarter. The results of our current assessments follow.

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<sup>49</sup> The DPD has indicated that its weekly Senior Management Team meetings also meet the requirements of paragraph U78e; however, the Monitor submitted a document request regarding this paragraph and did not receive any information about these meetings in the DPD's response. The Monitor will resubmit the document request and provide a report during the next quarter in which this paragraph is scheduled for review.

<sup>50</sup> Subparagraph U78b will be evaluating during the quarter ending August 31, 2007.

<sup>51</sup> Revisions to the documents will require additional review and approval by the DOJ and trigger additional compliance assessments by the Monitor.

### *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.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U85 during the quarter ending August 31, 2006, finding the DPD in non-compliance. As of the end of that quarter, the DOJ and the City had not yet filed a letter with the Court outlining their agreement to use DPD internal personnel from the IMAS to MAS conversion.

### *Current Assessment of Compliance*

As described in the Monitor's Report for the Quarter Ending November 30, 2006, the DOJ provided the DPD with a letter stating that the DOJ views the Data Input Plan as a starting point in the development of the Risk Management Database, not a solution, although it has been conditionally approved. During the current quarter, the DOJ and the DPD submitted a letter to the Court on February 23, 2007 outlining their agreement with the City and the DPD to use internal personnel for the IMAS to MAS conversion and a timeline for the conversion. The letter that was submitted to the Court outlined the DOJ's continuing concerns with the City and the DPD's decision to use internal resources to develop the MAS. The DOJ's concerns are as follows: (a) funding – the DPD's Feasibility Study cost-estimates may be unrealistic and the strategy of using in-house resources may not save money; (b) the lack of technical plans or architecture for the system; (c) Information Technology Services' lack of experience with a project of this magnitude; and (d) scheduling concerns – without an outside vendor there is no mechanism to ensure timely completion of the project. Given these concerns, the DOJ agreed to allow the City and the DPD to use internal resources to develop the MAS subject to several conditions in order to ensure that the MAS is developing as expeditiously as possible, including:

- by March 28, 2007, the City will provide the DOJ with a detailed schedule for completing various phases of development;<sup>52</sup>
- the City will follow its development and implementation schedule proposed on January 24, 2007 (summarized below);

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<sup>52</sup> The DPD has met the requirement by providing this list at the Monitor's monthly status meeting on February 28, 2007 and providing additional information on the March 28, 2007 due date.

- by January 24, 2008, the City shall comply with paragraph U88(f), which relates to the availability of a beta version of the MAS;
- by July 24, 2008, the City shall comply with paragraph U88(g), requiring that the MAS be operational and fully implemented;
- the City will, upon request, provide evidence of satisfactory progress on a monthly basis such that completion of the MAS system by July 24, 2008 remains feasible;
- the City, the DOJ, and the Monitor will meet on a monthly basis to discuss actions taken during the previous month regarding development of the MAS;<sup>53</sup>
- the DOJ shall use all reasonable efforts to promptly notify the City in writing of any concerns resulting from the monthly meetings;
- the City shall respond to the DOJ's concerns within 30 days, explaining the City's position and proposing changes in the process in response; and
- If, after receiving the City's response, the DOJ determines that successful completion of the project within the timeframes described herein remains unlikely, the DOJ reserves the right to withdraw its approval and request that the DPD issue an RFP to develop or complete development of the MAS system.<sup>54</sup>

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, 2006, finding the DPD in non-compliance. The DPD and the DOJ were still in discussions regarding the use of internal personnel for the IMAS to MAS conversion.

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<sup>53</sup> The parties and the Monitor have been having monthly meetings on the development of the MAS since February 2007.

<sup>54</sup> The Monitor notes that the agreement between the City and the DOJ does not alter the language containing the initial deadlines provided in the UOF CJ. However, the City and the DPD are diligently working toward meeting the agreed-upon deadlines.

### *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for paragraph U85, above, the DOJ and the City had both signed a letter outlining their agreement to use internal personnel for the IMAS to MAS conversion and a timeline of the conversion as of January 24, 2007.<sup>55</sup> On February 23, 2007, the DOJ submitted a letter to the Court, outlining its agreement with the City and the DPD that internal resources will be used for the IMAS to MAS conversion and attaching the previously executed agreement.

Based on the foregoing, the Monitor finds the DPD in 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, 2006, finding the DPD in non-compliance. The DOJ provided the DPD with verbal conditional approval of the Data Input Plan. The Court requested that the parties file a Stipulation with the Court outlining their agreement to use DPD internal personnel for the IMAS to MAS conversion. This document had not yet been filed as of the end of that quarter.

### *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for paragraph U85, during the current quarter, the parties signed a letter outlining their agreement that the City and the DPD will use internal resources to develop the MAS as of January 24, 2007. On February 23, 2007, the DOJ submitted a letter to the Court outlining its agreement with the City and the DPD that internal resources will be used for the IMAS to MAS conversion and attaching the previously executed agreement. This agreement also outlines a schedule for implementation that requires the DPD to comply with the requirements of subparagraph U88f regarding the availability of a beta version of the MAS by January 24, 2008.<sup>56</sup>

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<sup>55</sup> The DPD and the DOJ have agreed that the requirement for an RFP will not be removed from the UOF CJ. If an outside contractor is needed in the future, the requirement will be reactivated and an RFP will be issued.

<sup>56</sup> The Monitor notes that the agreement between the City and the DOJ does not alter the language containing the initial deadlines provided in the UOF CJ.

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***

The Monitor last assessed the DPD’s compliance with the subparagraph U88g during the quarter ending August 31, 2006, finding the DPD in non-compliance. The MAS was not operational or implemented as of the end of that quarter, as it had not been fully developed.

***Current Assessment of Compliance***

The MAS was not yet fully developed or operational as of the end of the current quarter. In the agreement and letter that were sent to the Court on February 23, 2007, described in the Current Assessment of Compliance for paragraph U85, the City and the DPD have agreed with the DOJ that the MAS will be operational and fully implemented by July 24, 2008.<sup>57</sup>

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, 2006, finding the DPD in non-compliance. Not all relevant personnel had received training on the IMAS as of the end of that quarter.

***Current Assessment of Compliance***

Although the IMAS has been developed and is fully operational, not all relevant personnel have been trained on the system. The Monitor submitted a document request to the DPD on February

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<sup>57</sup> This due date is after the expiration of the five-year term of the UOF CJ (which is July 17, 2008).

22, 2007, requesting information on the number of supervisors trained on IMAS, as well as training materials and lesson plan used for training and the training rosters.<sup>58</sup>

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

## C. OVERSIGHT

This subsection of the UOF CJ (paragraphs U92-99) requires the DPD to establish an internal audit process, to perform annual<sup>59</sup> audits of all precincts and specialized units on eight areas of policing,<sup>60</sup> 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 U92-95, U97 and U99 during the quarter ending November 30, 2006 and with paragraphs U96 and U98 during the quarter ending August 31, 2006. The Monitor again assessed the DPD's compliance with subparagraph U94b and paragraph U98 during the current quarter. The results of our current assessments follow.

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<sup>58</sup> The DPD responded on March 8, 2007, after the end of the quarter, providing the Monitor with training rosters, the number of supervisors that must be trained, and a copy of the lesson plan. According to the DPD, 621 supervisors have been trained and 125 remain. The Monitor will review the rosters and lesson plan that were provided.

<sup>59</sup> 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.

<sup>60</sup> Including UOF investigations; prisoner injuries; allegations of misconduct; arrests; stops and frisks; witness identification and questioning; custodial detention practices, and complaint investigations.

### **Paragraph U94b – Prisoner Injury Investigations Audit**

Subparagraph U94b requires the DPD to conduct regularly scheduled annual audits of prisoner injury investigations. Such audits must cover all precincts and specialized units. The first such audit was due by August 31, 2004, with audits due annually thereafter.

#### ***Background***

The Monitor last assessed the DPD's compliance with subparagraph U94b during the quarter ending November 30, 2006, finding the DPD in non-compliance as the audit required by this subparagraph was not submitted as of the end of that quarter, nor had it been submitted since the inception of the UOF CJ.

#### ***Current Assessment of Compliance***

On January 31, 2007, the DPD submitted its first *Prisoner Injury Investigations Audit* required by subparagraph U94b. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's compliance with subparagraph U94b.

### **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, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. The DPD submitted the Supervisory Leadership and Command Accountability Lesson Plan, which the DPD stated would include the requirements of this paragraph, on the last day of that quarter. In addition, the Video Review Protocol had been developed but not all officers had been trained, and the DPD had not yet implemented a systematic review process for video tapes.

### *Current Assessment of Compliance*

The Monitor submitted a document request on January 30, 2007, requesting information to assist in evaluating DPD's compliance with the requirements of paragraph U98.<sup>61</sup> The DPD responded on February 22, 2007, indicating that OCR is in the process of developing a method for a systematic review of video tapes. As previously reported, the Video Review Protocol has been developed, but not all supervisors have received training or instruction on conducting periodic random reviews or surveys of in-car videos and prisoner processing area videos. In addition, the DPD has not determined if all of the documents related to Directive 303.3, which were previously provided to the Monitor, will be utilized; at this time, only the Directive is being utilized.

According to the DPD, as of February 20, 2007, of the total fleet of 658 patrol cars, 401 (61%) have cameras installed; 237 of the patrol cars are equipped with operable cameras, an increase from 15%<sup>62</sup> to 36% of the total fleet. The DPD is commended for doubling the percentage of cars with operable cameras.<sup>63</sup> The Monitor requested copies of recent inspections for this and the related paragraphs; however, no relevant inspection reports were provided.

Training has not yet occurred for this paragraph. The DPD previously indicated that Supervisory Leadership and Accountability Lesson Plan would incorporate the requirements of this paragraph.<sup>64</sup> The Monitor reviewed the lesson plan during the quarter ending August 31, 2006 and determined that the DPD did mention in-car video cameras and listed paragraph U100 as an objective in the lesson plan. However, the lesson plan did not contain sufficient detail about the requirements of this paragraph or Directive 303.3. To date, the Monitor has not received a revised version of the lesson plan.<sup>65</sup>

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

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<sup>61</sup> The document requested also covered the requirements of paragraphs U100-102 and C64.

<sup>62</sup> In Twelfth Quarter Status Report, the DPD indicated that an OCR inspection conducted on August 3, 2006, determined that only 15% of marked patrol vehicles are equipped with *working* in-car video cameras. The DPD previously indicated that it had a total of 543 scout cars, 290 of which had cameras. After the end of the quarter, the Monitor learned that the DPD had a recent deployment of approximately 100 cars with operable cameras, which is responsible for the significant increase in the size of the fleet and in the number of cars with cameras.

<sup>63</sup> The DPD reports that after the end of the quarter, on March 12, 2007, it deployed 133 new patrol cars, all of which are equipped with operable in-car video equipment. Including the newly deployed cars, with no additional cars going in or out of service approximately 47% of the fleet have operable video cameras.

<sup>64</sup> Refer to the City's Twelfth Quarter Status Report.

<sup>65</sup> Refer to the Monitor's Current Assessment of Compliance for paragraphs U118-119.

## 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, 2006. 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, 2006, finding that the DPD remained in compliance with the policy requirements but in non-compliance with the implementation requirements of each paragraph. The DPD indicated that no training had taken place on Directive 303.3, which addresses the policy requirements of these paragraphs, and not all scout cars were equipped with cameras.<sup>66</sup>

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<sup>66</sup> The DPD had indicated that they had a total of 543 scout cars, 290 of which had cameras.

### *Current Assessment of Compliance*

On January 30, 2007, the Monitor requested information as to whether or not training on Directive 303.3 had taken place. The Monitor also requested copies of repair orders/requests for in-car cameras for the month of December 2006, as well as any internal DPD inspections of the requirements of paragraphs U100-102.

On February 22, 2007, the DPD provided the Monitor with documentation in connection with sixteen repair orders for the month of December 2006.<sup>67</sup> The documentation included 16 forms, 7 from the Central District (including 3 from the Gaming Unit), 2 from the Eastern District, 2 from the Northwestern District, and 3 from the Southwestern District. With regard to specialized units, there were 2 repair orders from the Tactical Mobile Unit (TMU) and one from the Tactical Services Section (TSS). Sixteen repair orders for inoperable cameras in a given month is less than 1% of the total fleet of cars. In addition, as described in the *Current Assessment of Compliance* for paragraph U98, it is apparent that not all non-functioning cameras have been repaired or replaced.<sup>68</sup>

Inspection reports related to compliance with these paragraphs were not included in the reports submitted by OCR inspection during the quarter.<sup>69</sup>

Training has not yet been provided for these paragraphs. The DPD previously indicated that *Supervisory Leadership and Accountability* lesson plan would incorporate the requirements of these paragraphs.<sup>70</sup> The Monitor reviewed the lesson plan during the quarter ending August 31, 2006 and determined that the DPD did mention in-car video cameras and listed paragraph U100 as an objective in the lesson plan. However, the lesson plan did not contain sufficient detail about the requirements of these paragraphs or Directive 303.3. To date, the Monitor has not received a revised version of the lesson plan.

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

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<sup>67</sup> These forms are entitled "CSU Request For MDC (Mobile Data Computer) or Video Service."

<sup>68</sup> As described in the Current Assessment of Compliance for paragraph U98, as of February 20, 2007, the DPD had 658 total cars of which 401 patrol cars had cameras installed 237 of which were operable. Therefore, cameras are inoperable in 164 of the 401 cars with cameras installed.

<sup>69</sup> The DPD was alerted of this after the end of the quarter. The DPD submitted additional inspections on March 23, 2007; however, these inspections also did not cover the requirements of paragraphs U98, U100-102 and C64.

<sup>70</sup> Refer to the City's Twelfth Quarter Status Report.

## 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, 2006. 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 February 28, 2006, finding the DPD in compliance. DPD provided documentation that indicated that it had eliminated its backlog of disciplinary cases. In the Quarter Ending on August 31, 2006, the Monitor had not yet re-evaluated the DPD's compliance. On August 31, 2006, the last day of the prior quarter, the Monitor requested current documentation demonstrating whether a backlog of disciplinary cases existed. Additionally, the Monitor asked the DPD to define "backlog" for the purposes of evaluating paragraph U103.

#### *Current Assessment of Compliance*

On January 30, 2007, the DPD submitted a response to the Monitor's document request, stating that "a backlog would exist if the investigation/misconduct report was logged into Discipline and the trial board did not commence within a 12 month period". The DPD also indicated that there was not a backlog of disciplinary cases at the time of its response. Previously, in the Quarter Ending on February 28, 2006, the DPD indicated that there was no longer a backlog and the Monitor found the DPD in compliance with the requirements of this paragraph based on summary documentation provided by the DPD. In the Quarter Ending on August 31, 2006, the Monitor had not yet re-evaluated the DPD's compliance.

Also included in the DPD's response to the Monitor's document request were 45 disciplinary files that the DPD reported were closed in June 2006. The Monitor reviewed these files and determined that the majority of the incidents occurred more two years prior to discipline being imposed. In 26 of 45 files (58%), the incidents occurred before July 2005. In 18 of the 45 files

(40%), the incidents occurred in 2004 or prior. However, the delays in closing many of the files were not due to the actions of the Disciplinary Administration (DA)<sup>71</sup> but, rather, were due to the length of time it took to complete the investigations. Using the definition of backlog provided by the DPD, there were 9 files (20%) where for various reasons, both stated and unstated, the trial board did not commence within twelve months of the DA receiving the file. This indicates that there is still a backlog of disciplinary cases; although it is apparent that the DPD is working to clear the backlog and some of the more recent incidents are being resolved more quickly.

Based on the foregoing, the Monitor finds the DPD in non-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 last assessed the DPD's compliance with paragraph U104 during the quarter ending August 31, 2006, at which time the Monitor withheld a determination of compliance of the paragraph. Near the end of that quarter, on August 29, 2006, the DPD resubmitted a revised Disciplinary Process Timeline.

### *Current Assessment of Compliance*

During the current quarter, the Monitor reviewed the Disciplinary Process Timeline submitted by the DPD and found that the majority of the questions previously submitted to the DPD had been answered.<sup>72</sup> However, because a few of the original questions remain unanswered, the Monitor is withholding its determination of compliance with paragraph U104.<sup>73</sup>

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<sup>71</sup> DA is the former Disciplinary Administration Section (DAS).

<sup>72</sup> The Monitor originally submitted questions to the DPD regarding its U104 timelines on September 26, 2005. The DPD's August 29, 2006 submission was intended to address these questions.

<sup>73</sup> The Monitor submitted a list of questions on September 26, 2005; the DPD provided responses on April 5, 2006. On July 7, 2006, the Monitor submitted additional comments and questions and requested a copy of the DPD's revised timeline; the DPD responded at the end of that quarter on August 29, 2006. During the current quarter (the next quarter in which paragraph U104 was scheduled for review), the Monitor reviewed the DPD's submission and, after the end of the quarter, submitted a list of questions that remain unanswered, as well as a document request asking for a copy of the DA's six month review, which is required by the disciplinary timelines.

### **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***

During the quarter ending February 28, 2006, the Monitor found the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph U105. Because the documentation required to test the dissemination of relevant policy and the disciplinary matrix was not received until the last day of that quarter, the Monitor was unable to commence the testing of the implementation of policy.

At the end the quarter ending August 31, 2006, the Monitor requested that the DPD provide the Monitor with access to the disciplinary files in which discipline was imposed during the month of June 2006. On September 8, 2006, the DPD requested clarification of the Monitor's request, which the Monitor provided.

### ***Current Assessment of Compliance***

Pursuant to the document request described above, the Monitor reviewed 45 disciplinary files that were closed in June 2006 and determined that in all but two cases discipline imposed fell within the appropriate presumptive range on the disciplinary matrix. The two cases that did not were due to arbitration, and were handled appropriately and included documentation. In addition, the Monitor found that the presumptive range was appropriately increased if the officer's disciplinary record required it.

The Monitor notes that there was only one instance where the documentation in the files indicated that the DPD considered and/or imposed non-disciplinary corrective action in addition to the disciplinary corrective action that had been imposed.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U105.

### ***Recommendation***

The Monitor recommends that the DPD management work toward increasing the number of instances where non-disciplinary corrective action is appropriately considered as required by paragraph U105. This is important because non-disciplinary corrective action, such as

retraining, can complement the discipline that has been imposed and can potentially assist in reducing future similar incidents. The instances where the DPD considers and/or imposes non-disciplinary corrective action must be documented in the disciplinary files.

## **VII. TRAINING**

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

### **A. OVERSIGHT AND DEVELOPMENT**

This section comprises paragraphs U106 -111. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2007.

### **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, 2006. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending May 31, 2007.

### **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, 2006. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending May 31, 2007.

### **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, 2006. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending May 31, 2007.

## 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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraph U115 – Custodial Detention Training*

Paragraph U115 requires the DPD to provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignments, 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, 2006, finding the DPD in non-compliance. The Monitor attended DPD training related to detention officer responsibilities, which was intended to address paragraphs C73, C76-78 and U115. However, the materials delivered during the training did not address all the requirements of the paragraph. According to the DPD, the lesson plan addressing these paragraphs' requirements was being rewritten and would be available for review in the near future.

#### *Current Assessment of Compliance*

The DPD is currently conducting custodial detention training on an ongoing basis, despite the fact that the lesson plan for the current training has not been approved by the Monitor. The Monitor found that the lesson plan previously submitted by the DPD contained substantial deficiencies. The Monitor held meetings with the DPD subsequent to its review of the lesson plan in an effort to correct identified deficiencies in lesson plan development and improve the course content. The Monitor has also made appropriate document request to the DPD asking for information relevant to this paragraph. According to the DPD, the lesson plan is currently being reviewed. However, as of the end of the current quarter, the Monitor had not received a revised lesson plan that meets the requirements of this paragraph.

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

### *Paragraph U116 – Custodial Detention Training – Advise Relative to Arraignment Delay*

Paragraph U116 requires the DPD to advise officers of 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, 2006, finding the DPD in non-compliance. As of the end of that quarter, the Monitor had not received an updated lesson plan that addressed the requirements of paragraph U116.

### *Current Assessment of Compliance*

The DPD has yet to submit to the Monitor appropriate documentation in connection with the requirements of this paragraph, including a lesson plan for the Monitor's review and approval, a listing of qualified instructors, or substantive evaluations completed. Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U116.

### *Paragraph U117 – Custodial Detention Training – Advise that Materiality of Witness is Judicial Determination*

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

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U117 during the quarter ending August 31, 2006, finding the DPD in non-compliance. The Monitor forwarded to the DPD a detailed memorandum describing various deficiencies identified during the Monitor's review of the *Confinement of Material Witness-In Service* lesson plan and accompanying materials. The Monitor had not received an updated lesson plan as of the end of that quarter.

### *Current Assessment of Compliance*

The DPD has yet to submit to the Monitor appropriate documentation in connection with the requirements of this paragraph, including a lesson plan for the Monitor's review and approval.

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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraphs U118 and U119 – Supervisory Training; Leadership and Command Accountability Training**

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.

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

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs U118-119 during the quarter ending August 31, 2006, finding the DPD in non-compliance. On the last day of that quarter, the DPD submitted to the Monitor a lesson plan entitled *Supervisory Leadership and Accountability*, which is intended to address the requirements of paragraphs U118 and U119, among others. Due to the timing of submission, the Monitor has not yet completed its review of this lesson plan, and no training has been conducted based upon it. The Monitor had previously forwarded to the DPD a detailed memorandum describing various deficiencies identified during the Monitor's review of the *Supervisors Report Writing Guidelines and Report Evaluation* lesson plan and accompanying materials.

### ***Current Assessment of Compliance***

The Monitor received and reviewed the lesson plan entitled *Supervisory Leadership and Accountability*, which was submitted by the DPD on August 31, 2006 to meet the requirements of paragraphs U118-119, among others. The Monitor reviewed the lesson plan and determined that it was contained a number of deficiencies and did not address the requirements of paragraphs U119-120. Among the primary deficiencies were:

- The lesson plan did not effectively articulate its overall goals, did not have well-defined objectives, and was not developed into modules or units in a logical sequence. The content did not link directly back to the Consent Judgments or other applicable departmental requirements.
- The lesson plan stated that the following paragraphs were to be covered: U27-45, U59-69, U73-74, U98, U100-102, and U118-120. The majority of the listed paragraphs were not discussed in sufficient detail in the instructional content of the lesson plan.

- The lesson plan did not identify objectives for each instructional unit (the text of the Consent Judgment paragraphs were simply listed).
- The lesson plan did not include instructional content that explains the correct procedures for each of the scenarios and did not include details in the instructor notes section (which should cite actual case incidents relevant to those being depicted in the hypothetical scenarios).

The Monitor submitted a memorandum to the DPD emphasizing areas of improvement and overall lesson plan development. The Monitor also held meetings with the DPD subsequent to its review of the lesson plan in an effort to correct identified deficiencies in lesson plan development and improve the course content.

Finally, the Monitor has also made appropriate document requests to the DPD asking for information relevant to this paragraph. According to the DPD, the lesson plan is currently being reviewed. However, as of the end of the current quarter, the Monitor had not received a revised lesson plan that meets the requirements of these paragraphs.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs U118-119.

### **Paragraph U120 – Supervisory Training - Risk Assessment Training Requirement**

Paragraph U120 directs the DPD to provide training on risk management to all DPD supervisors, including the operation of risk management database.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U120 during the quarter ending August 31, 2006, finding the DPD in non-compliance. On the last day of that quarter, the DPD submitted to the Monitor a lesson plan entitled *Supervisory Leadership and Accountability*, which is intended to address the requirements of paragraph U120, among others. Due to the timing of submission, the Monitor has not yet completed its review of this lesson plan, and no training has been conducted based upon it. Current Assessment of Compliance

The DPD has yet to submit to the Monitor appropriate documentation in connection with the requirements of this paragraph, including a lesson plan for the Monitor's review and approval. Furthermore, the risk management database, specifically the DPD's MAS, has not yet been fully developed or implemented.

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

## 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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraph U121 – Investigator Training – Required Training*

Paragraph U120 directs the DPD to provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

#### *Background*

The Monitor last assessed the DPD's compliance with paragraph U121 during the quarter ending August 31, 2006, finding the DPD in non-compliance. In its Twelfth Quarter Status Report, the DPD indicated that its *Detective School Lesson Plan* was intended to address the requirements of paragraphs U121 and U122, and would be submitted in September 2006.<sup>74</sup>

#### *Current Assessment of Compliance*

The DPD is currently conducting training relevant to this paragraph without an approved lesson plan. The Monitor has not received any documentation to validate instructional content, performance objectives, structure, or evaluation measurements. Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U121.

### *Paragraph U122 – Investigator Training – Handling External Complaints*

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

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<sup>74</sup> As of the end of this quarter, the Monitor had not received this lesson plan.

## *Background*

The Monitor last assessed the DPD's compliance with paragraph U122 during the quarter ending August 31, 2006, finding the DPD in non-compliance. The DPD submitted to the Monitor a lesson plan entitled *Supervisory Leadership and Accountability* on the last day of that quarter. The DPD's Twelfth Quarter Status report indicated that this lesson plan was intended to address the requirements of paragraph U122; however, the *Instructor's Guide* for this lesson plan, which listed the paragraphs addressed by the lesson plan under *Stated Objectives*, did not include paragraph U122. In any event, due to the timing of its submission, the Monitor had not yet completed its review of this lesson plan.

Also in its Twelfth Quarter Status Report, the DPD indicated that its *Detective School Lesson Plan* was intended to address the requirements of paragraph U121 and U122, and would be submitted in September 2006.<sup>75</sup>

## *Current Assessment of Compliance*

The Monitor has not received appropriate documentation from the DPD relevant to the substantive content of this paragraph. No lesson plan has been submitted for approval to the Monitor, listing of qualified instructors, no sampling completed, or evaluation to verify compliance with paragraph. Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraph U122.

## 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, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

### *Paragraph U123 - Field Training – Enhancement of FTO Program*

Paragraph U123 directs the DPD to develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

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<sup>75</sup> As of the end of the quarter, the Monitor had not received this lesson plan.

### *Background*

During the quarter ending August 31, 2006, the Monitor indicated that it had not yet evaluated the DPD's compliance with paragraph U123. The DOJ conditionally approved the FTO protocol on April 11, 2006 and the Monitor indicated that it would evaluate the DPD's implementation of the Protocol during the next scheduled review of paragraph U123.

### *Current Assessment of Compliance*

The DPD's FTO program is currently dormant with no formal organizational structure in place. The Monitor's inquiries pertaining to this paragraph revealed that the FTO program failed to meet the conditional approval as directed by the DOJ's correspondence dated April 11, 2006. No documentation on the current status of the FTO has been provided to the Monitor, and the Monitor has no evidence to corroborate the claim in the City of Detroit's Fourteenth Quarter Status Report that it is in compliance with this paragraph.

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

## VIII. MONITORING, REPORTING, AND IMPLEMENTATION

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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. The Monitor had elected to defer assessing this paragraph until the DPD had additional time to implement its investigative policies;<sup>76</sup> however, after consideration of comments from the City and DPD, the Monitor indicated that it would begin to assess compliance with this paragraph during the current quarter.<sup>77</sup>

During the current quarter, the Monitor began reviewing a sample of Command UOF investigations. Thus far, the Monitor has determined that one investigation concerning an allegation of a UOF from the Northwestern District is incomplete. Upon review of the SIR form (UF-002A), the Monitor requested to review the entire investigative file.<sup>78</sup> During the quarter ending May 31, 2007, the Monitor will provide the DPD with a memorandum outlining the deficiencies in the investigation and will provide additional findings regarding this sample of investigations. The Monitor will also attempt to reach an agreement with the DPD regarding setting up a mechanism for the Monitor to review investigations at a stage where they could be subject to reopening.

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<sup>76</sup> For an example of issues concerning implementation, see *Current Assessments of Compliance* for paragraphs U37-38 herein, where the DPD is not yet investigating all critical firearm discharges as required by this Consent Judgment.

<sup>77</sup> See paragraph U139 for the specific requirements for reopening an investigation.

<sup>78</sup> This request was made after the end of the quarter. The DPD provided a UF-002 and the CRISNET reports related to the incident. The DPD indicated that these documents represent the entire investigative file.

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

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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, 2007.

As described in previous quarterly reports, the organization of the COC CJ paragraphs vary, in that some paragraphs have separate but related “policy”-required paragraphs within the COC CJ,<sup>79</sup> while others do not.<sup>80</sup> 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 instruction<sup>81</sup> 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**

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

The Monitor found the DPD in compliance with paragraph C22 during the quarter ending August 31, 2005, as the Monitor confirmed that all Kane Fiber Ceiling Tiles had been removed from DPD buildings containing holding cells.<sup>82</sup> The Monitor last assessed the DPD’s compliance with paragraphs C14-21 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD’s compliance with these paragraphs during the quarter ending August 31, 2007.

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<sup>79</sup> See, for example, paragraph C39 – Cleanliness of Cells and paragraph C40 – Cleaning Policy.

<sup>80</sup> See, for example, paragraph C45 - Access to Toilets and Potable Water.

<sup>81</sup> As described in the Introduction to the Methodologies, this is the Policy Component of compliance.

<sup>82</sup> The DPD will remain in compliance with paragraph C22 unless it begins using buildings that contain Kane Fiber Ceiling Tiles to detain prisoners.

## **II. EMERGENCY PREPAREDNESS POLICIES**

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

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

## **III. MEDICAL AND MENTAL HEALTH CARE POLICIES**

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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 C26-34 during the quarter ending August 31, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending August 31, 2007.

## **V. PRISONER SAFETY POLICIES**

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

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

## V. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

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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 concluded that the DPD was in compliance with paragraph C46, which requires the DPD to ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards, during the quarter ending August 31, 2005 (and during prior assessments).<sup>83</sup> The Monitor last assessed the DPD's compliance with paragraphs C39-45 during the quarter ending May 31, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraph C39 – Cleanliness of Cells*

Paragraph C39 requires the DPD to ensure that all holding cells are cleaned immediately and, thereafter, are maintained in a clean and sanitary manner.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph C39 during the quarter ending May 31, 2006, finding the DPD in compliance. The DPD had adequately disseminated a policy that addressed the requirements of paragraph C39 (Directive 305.4,  *Holding Cell Areas*). During random unannounced onsite inspections, the Monitor found that all the holding cells and surrounding areas within each DPD building with holding cells were clean.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with the implementation requirements of paragraph C39 during the current quarter, the Monitor conducted random unannounced onsite inspections<sup>84</sup> of DPD buildings containing holding cells. During these inspections, the Monitor visually inspected each holding cell and the surrounding areas for cleanliness. At the time of the Monitor's inspections all of the holding cell areas were clean.

During each inspection, the Monitor interviewed at least one staff person assigned to holding cells and inquired regarding their roles and responsibilities as they relate to holding cell/area cleanliness according to DPD policy- Directive 305.4  *Holding Cell Areas*. Although staff at

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<sup>83</sup> The Monitor will not assess compliance with paragraph C46 again unless Hepa-Aire purifiers are re-installed in buildings containing holding cells.

<sup>84</sup> The Monitor conducted these inspections on January 29 and February 21 and 23, 2007.

each DPD building containing holding cells described slightly different actions for maintaining cleanliness, each staff person recited practices consistent with DPD policy.

During the current quarter, the Monitor also reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is the most recent HCCC audit related to this topic. The audit, which the Monitor found to be in compliance, found that 100% of the holding cells were clean at the time of the audit inspections and appropriately concluded that the DPD was in compliance with paragraph C39.<sup>85</sup>

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C39.

### **Paragraph C40 – Development of Cleaning Policy**

Paragraph C40 requires the DPD to design and implement a cleaning policy for all holding cells. This policy will require routine cleaning and supervisory inspection of the holding cells and nearby areas.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs C40 during the quarter ending May 31, 2006, finding the DPD in compliance with the policy requirements of this paragraph. Although the Monitor found that the holding cells and surrounding areas were clean during on-site inspections conducted that quarter, some staff assigned to holding cells could not articulate their roles and responsibilities related to holding cell cleanliness according to DPD policy. However, because the DPD was in the process of training holding cell staff in the holding cell area policies, the Monitor elected to defer its assessment of the DPD's compliance with the implementation requirements of the paragraph.

#### ***Current Assessment of Compliance***

In order to assess the DPD's compliance with the implementation requirements of paragraph C40 during the current quarter, the Monitor conducted random unannounced onsite inspections<sup>86</sup> of DPD buildings containing holding cells. During these inspections, the Monitor interviewed DPD personnel regarding the existence of a regular cleaning schedule and their knowledge of the policy (Directive 305.4), reviewed the most recent entries in the cleaning log to determine if the cleaning schedule is being followed and documented, and visually inspected each holding cell and the surrounding areas for cleanliness. At the time of the Monitor's inspections, most of the holding cells and surrounding areas were clean. When asked about the cells that were not clean,

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<sup>85</sup> Refer to the Current Assessment of Compliance for paragraph C70 for additional information regarding this audit and the Monitor's assessment of it.

<sup>86</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007.

staff explained that the detainees previously assigned to the cells had just been removed and discussed the timing related to cleaning cells immediately after the cell is emptied. In another instance, the holding cell staff acknowledged the presence of debris in a holding clean and removed it immediately.

During the review of cleaning logs, the Monitor observed instances of missing or incomplete entries in several districts. The Monitor obtained the “Guidelines- Holding Cell Cleaning Log” and compared the protocols listed in the document with the entries made in the logs and found that the specificity required in the “guidelines” document were not being adhered to by holding cell staff. As an example, Guideline (4)b states, “If specific cells are swept or mopped indicate the cell number(s) in space provided under Cells.” However, the Monitor observed several instances, in various buildings, in which the documentation indicated that an individual holding cell was cleaned but either the cell number or the staff person who performed the duty was not included.

The Monitor also reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is the most recent HCCC audit related to this topic. The audit, which the Monitor found to be in compliance, appropriately concluded that the DPD was non-compliant with paragraph C40. Similar to the Monitor’s inspections, the audit found that although the supervisory inspections of the cleanliness of holding cells was likely occurring, it was not being documented, as the cleaning logs were not being completed consistently or accurately, and in some cases were missing.<sup>87</sup>

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with implementation requirements of paragraph. C40. As a result, the Monitor finds the DPD in overall non-compliance with the paragraph.

### *Paragraph C41 – Maintenance Policy*

Paragraph C41 requires the DPD to design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance, as well as the documentation of all maintenance requests and responses in an auditable log.

### *Background*

The Monitor last assessed the DPD’s compliance with paragraphs C41 during the quarter ending May 31, 2006, finding the DPD in compliance with the policy requirements for this paragraph. During on-site inspections conducted that quarter, the Monitor did not observe holding cells with broken sinks, windows or toilets, but did observe cells with inoperable lights and identified that

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<sup>87</sup> Refer to the Current Assessment of Compliance for paragraph C70 for additional information regarding this audit and the Monitor’s assessment of it.

DPD staff had failed to follow mandated protocols for reporting and tracking repairs. In addition, the *Environmental Health and Safety Audit* conducted by the HCCC found the DPD in non-compliance with this paragraph. However, because the DPD was in the process of training holding cell staff in the holding cell area policies, the Monitor elected to defer its assessment of the DPD's compliance with the implementation requirements of the paragraph.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with the implementation requirements of paragraph C41 during the current quarter, the Monitor conducted random unannounced onsite inspections<sup>88</sup> of DPD buildings containing holding cells. During these inspections, the Monitor interviewed DPD personnel regarding the expected action to take when maintenance problems occur and/or when holding cell equipment becomes broken as required in DPD's policy (Directive 305.4, *Holding Cell Areas*). The Monitor also reviewed the most recent entries for the maintenance log to determine if the maintenance schedule is being followed and documented, and visually inspected each holding cell and the surrounding areas for broken toilets, sinks, and lighting.

The Monitor observed several cells that had been decommissioned due to broken or inoperable equipment or unsafe conditions. In the Northwest District, a cell was decommissioned as a result of a broken lock. According to the Holding Cell Supervisor, the cell had been inoperable for several months. In the Northeast District, a cell had been decommissioned for months; according to the supervisor, the delay in repairing it was because a welder was needed to complete the repairs. At the Eastern District, the staff was unsure of the amount of time a cell had been decommissioned as a result of an exposed telephone wire.

The Monitor questioned the supervisors, holding cell staff and compliance officers at each district about the process for making and tracking maintenance request and determined that the process was different at each. It was reported that inoperable or broken equipment was reported to a supervisor and the supervisor either reported the problem to the Compliance Liaison Officer or sent a notice to maintenance via an email. Staff stated the broken equipment was noted in the maintenance log but tracked via email records. No formal tracking and documentation process was described or identified.

The Monitor also reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is the most recent HCCC audit related to this topic. The audit, which the Monitor found to be in compliance, appropriately concluded that the DPD was non-compliant with paragraph C41. Similar to the Monitor's inspections, the audit found that the maintenance logs were not being completed consistently, accurately, and in some cases were missing.

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<sup>88</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with implementation requirements of paragraph C41. As a result, the Monitor found the DPD in overall non-compliance with the paragraph.

### *Paragraph C42 – Heating and Ventilation*

Paragraph C42 requires the DPD to provide adequate heating and ventilation for all buildings containing holding cells.

### *Background*

#### *C42a – Adequate Ventilation*

The Monitor last assessed the DPD's compliance with subparagraph C42a during the quarter ending May 31, 2006, finding the DPD in compliance. The Monitor conducted unannounced on-site inspections and reviewed the findings of independent contractor LA Mechanical Contractors and the DPD's *Environmental Health and Safety Audit*. The Monitor's inspections revealed that all of the buildings appeared to be well ventilated and were clean-smelling. The ventilation report stated that the ventilation systems within the buildings containing holding cells had been repaired and were functioning properly.

#### *C42b – Adequate Heating*

The Monitor last assessed the DPD's compliance with subparagraph C42b during the quarter ending August 31, 2005, finding the DPD in non-compliance. Although the temperatures in the holding cells were within the range of 66-80 degrees, as specified in Directive 305.4, *Holding Cell Areas*, the directive had not yet been disseminated.

Although a compliance assessment of paragraph C42 was not scheduled for the quarter ending February 28, 2006, the Monitor tested the DPD's dissemination of Directive 305.4, *Holding Cell Areas*, and determined that the DPD had adequately disseminated it. As a result, the DPD achieved compliance with the policy requirements of the paragraph.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with the implementation requirements of paragraph C42 during the current quarter, the Monitor conducted unannounced onsite inspections of all DPD buildings containing holding cells and assessed the heating and ventilation within the holding cell areas.<sup>89</sup> The inspections revealed that all of the buildings appeared to be well ventilated.

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<sup>89</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007 and physically felt for air emitting from within the vents in the holding cell areas.

Inspection of the holding cell area temperature gauges at each District indicated that the temperature range was within the range of 66-80 degrees Fahrenheit. The Monitor also reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is the most recent HCCC audit related to this topic. The audit, which the Monitor found to be in compliance, appropriately concluded that DPD was in compliance with subparagraphs C42a and b.

Based on the foregoing, the Monitor finds the DPD in compliance with subparagraphs C42a and b.

### **Paragraph C43 – Cell Block Repairs**

Paragraph C43 requires the DPD to repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C43 during the quarter ending May 31, 2006, finding the DPD in compliance. The Monitor conducted random unannounced onsite inspections of DPD buildings containing holding cells and found that, except for two inoperable light fixtures, there was no evidence of broken or inoperable fixtures or equipment in the holding cells and surrounding areas. Although the *Environmental Health and Safety Audit* submitted on January 31, 2006 found that some of the holding cells had broken toilets, sinks, and lighting at the time of the audit inspections, the Monitor did not rely on the audit's findings, as the inspections and review of documentation within that audit occurred in September 2005. The Monitor noted that based on its most recent inspections, the DPD had significantly improved the maintenance of the equipment within the holding cells since the time of the HCCC audit inspection.

### ***Current Assessment of Compliance***

In order to assess the DPD's compliance with the implementation requirements of paragraph C43 during the current quarter, the Monitor conducted random unannounced onsite inspections<sup>90</sup> of DPD buildings containing holding cells. During these inspections the Monitor visually inspected each holding cell and the surrounding areas for broken toilets, sinks, lighting and windows.

The Monitor did not observe any holding cells with broken sinks, toilets or inoperable lights. In the Eastern District one light bulb in an area surrounding the holding cells was burned.

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<sup>90</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007.

The Monitor also reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is the most recent HCCC audit related to this topic. The audit, which the Monitor found in compliance, found that all the lighting fixtures, sinks and toilets were operable, two out of 112 light bulbs were burned out, 1 of 112 holding cell door locks was inoperable and 1 of 112 drain covers was missing. Although the audit concluded that the DPD was overall non-compliant with paragraph C43 due its inclusion within Objective 2;<sup>91</sup> the detailed findings within the audit report correctly reported that the DPD met the requirements of paragraph C43.<sup>92</sup>

Based on the low number of inoperable equipment within the holding cells as described above, the Monitor disagrees with the audit's overall conclusion of non-compliance with paragraph C43, but agrees with the detailed findings which demonstrate that the DPD has met the requirements of paragraph C43.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C43.

### **Paragraph C44 - Lighting**

Paragraph C44 requires the DPD to ensure that lighting in all cell block areas is sufficient to reach 20 foot-candles of illumination at desk level and in personal grooming areas.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C44 during the quarter ending May 31, 2006, finding the DPD in non-compliance due to the fact that the districts do not maintain the capability of meeting the 20 foot-candle standard required by paragraph C44.

### ***Current Assessment of Compliance***

The DPD provided information that it has now installed lighting in its cell block areas that is sufficient to reach 20 foot-candles of illumination to meet the requirements of this paragraph. In order to assess the DPD's compliance with the lighting requirements for the holding cell areas, the Monitor reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is the most recent HCCC audit related to this topic. The audit, which the Monitor found to be in compliance, appropriately concluded that the DPD was in compliance with paragraph C44. The audit included onsite inspections to measure the lighting within varying areas within all of

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<sup>91</sup> Objective 2, *Holding Cell Maintenance Inspections*, also included paragraph C41 (Implementation of the Maintenance Policy), with which the DPD was correctly found to be non-compliant.

<sup>92</sup> This inconsistency within the audit report occurred due to the manner in which the related paragraphs were organized and subsequently combined within the audit report. During meetings with the Monitor, the AT agreed with the Monitor regarding the in compliance finding for paragraph C43. Refer to the Current Assessment of Compliance for paragraph C70 for additional information regarding this audit and the Monitor's assessment of it.

the individual cells and within the surrounding areas of all buildings containing holding cells using a LUX Meter.<sup>93</sup>

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C44.<sup>94</sup>

### **Paragraph C45 – Access to Toilets and Potable Water**

Paragraph C45 requires the DPD to provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C45 during the quarter ending May 31, 2006, finding the DPD in compliance. The Monitor conducted onsite inspections of all DPD buildings with holding cells and reviewed the *Environmental Health and Safety Audit* and found that the DPD was in compliance with the policy and implementation requirements of C45.

### ***Current Assessment of Compliance***

In order to assess the DPD's compliance with the implementation requirements of paragraph C45 during the current quarter, the Monitor conducted onsite inspections of all DPD buildings containing holding cells.<sup>95</sup> During these inspections the Monitor reviewed assignment logs and interviewed staff to verify that the DPD was continuing its practice of having at least one detention officer present at all times in the holding cell areas and that water is available to the prisoners either through sinks in the individual holding cells or by having cups and water available to the prisoners upon request.

The Monitor also reviewed the *Environmental Health and Safety Audit* submitted on January 31, 2007, which is most recent HCCC audit related to this topic. The audit, which the Monitor found to be in compliance, appropriately concluded that the DPD was in compliance with paragraph C45.<sup>96</sup>

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C45.

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<sup>93</sup> Refer to the Current Assessment of Compliance for paragraph C70 for additional information regarding this audit and the Monitor's assessment of it.

<sup>94</sup> The Monitor will not assess compliance with paragraph C44 again unless alterations are made to the lighting fixtures or other conditions arise that affect the sufficiency of the lighting in the cell block areas.

<sup>95</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007.

<sup>96</sup> Refer to the Current Assessment of Compliance for paragraph C70 for additional information regarding this audit and the Monitor's assessment of it.

## **VI. POLICIES CONCERNING PERSONS WITH DISABILITIES**

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

The Monitor last assessed the DPD's compliance with paragraphs C47-48 during the quarter ending August 31, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2007.

## **VII. FOOD SERVICE POLICIES**

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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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraphs C49-50 – Food Storage and Service, Development and Implementation of Food Service Policies**

Paragraph C49 requires the DPD to ensure that food is stored and served in a sanitary manner and in compliance with state and local health codes. The DPD's efforts to ensure that food is stored and served in a sanitary manner are also dependent on its implementation of the comprehensive food service policy required by paragraph C50.

Paragraph C50 requires the DPD to develop and implement a comprehensive food service policy, which must be reviewed and approved, in writing, by a qualified sanitarian. Under this policy, the meal plan must be initially reviewed and approved, in writing, by a qualified dietician. It must also be reviewed and approved, in writing, by a qualified dietician at least once a year, and prior to implementing any revisions to the program. In addition, all food must be stored and handled in a sanitary manner, all prisoners must be provided with an alternative meal selection and food must be provided to all detainees who are held over six hours.

## *Background*

The Monitor last assessed the DPD's compliance with paragraphs C49-50 during the quarter ending May 31, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraphs. As a result, the Monitor found the DPD in overall non-compliance with paragraphs C49-50. The monitor conducted onsite inspections of holding cells and reviewed the *Food Service Audit* submitted by the DPD on January 31, 2006. The Monitor found that the holding cell staff were not adhering to the specified feeding schedule or documentation requirements of the paragraphs, and had problems meeting the 41-degree requirement for food storage.

## *Current Assessment of Compliance*

In order to assess the DPD's efforts to implement the Food Service policy during the current quarter, the Monitor conducted onsite inspections at all DPD buildings containing holding cells.<sup>97</sup> During these inspections, the Monitor conducted reviews of the food service logs, the expiration dates of the food in the refrigerators, and the temperature of the refrigerators in which the food is stored. The Monitor found that the specified schedule of food service to prisoners, as described within the Food Service policy, was not being followed. The documentation required to determine if detainees were receiving meals at the times specified by the Food Service Policy is general, failing to specify the detainee receiving the meal or the type of meal served. A supervisor's signature was found on the completed food service log despite the fact that the documentation of the food service activities was incomplete, indicating that the reviewing supervisors were not adequately inspecting the forms for accuracy and completeness. The Monitor notes that the logs indicated that prisoners who were held more than six hours had been provided with meals. In addition, the Monitor did not identify any food that had exceeded the expiration date and determined that the internal temperatures of the refrigerators were within the range required by the policy.

The Monitor also reviewed the *Food Service Audit* submitted on January 31, 2007, which is the most recent audit of this topic. The audit, which the Monitor found to be non-compliant, appropriately concluded that the DPD was non-compliant with paragraphs C49-50.<sup>98</sup> Consistent with the Monitor's findings, this audit found that food service was not being documented consistently or accurately. The audit identified compliance issues in connection with all 15 detainees reviewed. Specifically, the audit identified that one or more of the following four problems occurred in connection with the food service for these detainees: detainees did not receive regular meals; detainees arrested between the hours of 10:00 pm and 12:00 am were not

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<sup>97</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007.

<sup>98</sup> Although the Monitor found the audit non-compliant, the Monitor concurred with the AT's findings for all objectives tested. The non-compliance finding was unrelated to the testing. Refer to the Current Assessment of Compliance for paragraph C71.

served meals upon their admittance into a holding facility; detainees conveyed to a hospital for treatment were not provided meals upon their return; and detainees who were prescribed medication that must be taken with a meal did not receive a meal at that time. The audit also found that two districts had sandwiches in their refrigerators that did not have an expiration date; therefore it was impossible to determine if they were safe for detainee consumption. Lastly, the audit found the refrigerators were not always maintained at less than 41 degrees nor were they cleaned on a weekly basis.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraphs C49-50. As a result, the Monitor finds the DPD in overall non-compliance with the paragraphs.

## VIII. PERSONAL HYGIENE POLICIES

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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, 2006. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

### *Paragraph C51 – Availability of Personal Hygiene Items*

Paragraph C51 requires the DPD to provide all prisoners with access to personal hygiene items such as soap, toothbrushes, toilet paper, comb, deodorant and feminine hygiene products. The DPD must implement this provision within one month of the effective date of the COC CJ.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph C51 during the quarter ending May 31, 2006, finding the DPD in compliance with the policy requirements of this paragraph. The Monitor conducted onsite inspections of all DPD buildings that contain holding cells to determine if adequate supplies of the requisite personal hygiene items were available to the detainees. During the inspections, members assigned to one District could not locate the personal hygiene items and were not aware of the requirement to provide these items to prisoners. However, in order to conduct further testing, the Monitor elected to defer its assessment of the DPD's compliance with the implementation requirements of the paragraph.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with the implementation requirements of paragraph C51 during the current quarter, the Monitor conducted onsite inspections<sup>99</sup> of all DPD buildings containing holding cells to determine if adequate supplies of the requisite personal hygiene items were available to prisoners. During these inspections, the Monitor interviewed holding cell area personnel to determine if the personnel are aware of the requirements of the DPD policy regarding personal hygiene items.

The Monitor found that with the exception of combs in one District, personal hygiene products were generally available in all Districts. Additionally, in one District, the supplies were poorly organized.

Interviews with holding cell detainees revealed that the procedures for distributing personal hygiene products were inconsistent, with some officers passing items upon request and others

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<sup>99</sup> The Monitor conducted these inspections on January 29, 2007 and February 21 and 23, 2007.

passing items out automatically during feeding. The DPD's Directive 305.8, *Food Service and Personal Hygiene Items*, requires that the DPD provide personal hygiene items to detainees upon request and shall document the distribution of these items on a log.<sup>100</sup> The Monitor's inspections revealed that only one district was consistently documenting the distribution of personal hygiene items. Additionally, personnel across different districts and within the same district provided different responses to questions regarding the DPD's policy for the proper procedure for disseminating personal hygiene items.

The Monitor also reviewed the *Food Service Audit* submitted on January 31, 2007, which is the most recent audit of this topic. The audit, which the Monitor found to be non-compliant, appropriately concluded that the DPD was non-compliant with paragraph C51,<sup>101</sup> as the DPD found during on-site inspections that one of five districts did not have a supply of antibacterial towelettes stored and one district did not have a supply of combs. Because the AT concluded non-compliance based on the on-site inspections, it did not conduct a review of the documentation to determine if the detainees were offered hygiene items. The Monitor conducted a brief review of this documentation and noted that the logs maintained at the Districts regarding the distribution of sanitary supplies were not complete.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of paragraph C51. As a result, the Monitor finds the DPD in overall non-compliance with the paragraph.

## IX. USE OF FORCE AND RESTRAINTS POLICIES

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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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

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<sup>100</sup> In Directive 305.8, personal hygiene items are defined as including soap, toothbrush, toilet paper, comb, deodorant, and feminine hygiene products.

<sup>101</sup> Although the Monitor found the audit non-compliant, the Monitor concurred with the AT's findings for all objectives tested. The non-compliance finding was unrelated to the testing. Refer to the Current Assessment of Compliance for paragraph C71

**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, 2006, finding the DPD in compliance with the policy requirements of paragraphs C52-54 and in non-compliance with the implementation requirements of paragraphs C52-53; the Monitor did complete its evaluation of compliance with the implementation requirements of paragraph C54. As a result, the Monitor found the DPD in overall non-compliance with paragraphs C52-53, and had not yet evaluated overall compliance with paragraph C54. The Monitor adopted the findings of the *Use of Force in Holding Cells Investigations Audit*, submitted by the DPD on July 31, 2006, that the DPD did not meet all of the requirements of paragraphs C52-53.<sup>102</sup> That audit concluded that the DPD met all of the requirements of paragraph C54; however, based upon the Monitor's review of the audit and the deficiencies identified therein, the Monitor was not able to rely upon the audit's findings, and indicated that it would need to independently verify the finding of compliance for this paragraph.

***Current Assessment of Compliance***

As described in the Current Assessment of Compliance for paragraphs U27-33, above, during the current quarter, the DPD submitted the *Use of Force in Holding Cells Investigations Audit*, required by subparagraph C65a, on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit. As a result, the Monitor has deferred its assessment of the DPD's compliance with paragraphs C52-54, and will conduct this assessment in conjunction with its review of the *Use of Force in Holding Cells Investigations Audit*.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but has not yet evaluated compliance with the implementation requirements of

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<sup>102</sup> The Monitor identified deficiencies in the audit that prevented the Monitor from being able to rely upon its findings. However, based upon the review conducted, and in accordance with the Methodologies, where the audit concluded that the DPD was in non-compliance with a Consent Decree requirement, the Monitor has adopted those findings.

paragraphs C52-54. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraphs C52-54.

## **X. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW**

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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, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraph C55 – Prisoners Use of Force Investigations**

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.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C55 during the quarter ending August 31, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. As a result, the DPD was in overall non-compliance with the paragraph. The *Use of Force in Holding Cells Investigations Audit* and the *Allegations of Misconduct in Holding Cells Audit* submitted by the DPD on July 31, 2006 found the DPD in non-compliance with the majority of the requirements under the general investigation policy paragraphs (U27-33).

#### ***Current Assessment of Compliance***

The DPD submitted the *Use of Force in Holding Cells Investigations Audit*, required by subparagraph C65a, and the *Allegations of Misconduct in Holding Cells Audit*, required by subparagraph C65c, on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit. As a result, the Monitor has deferred its assessment of the DPD's compliance with paragraph C55, and will conduct this assessment in conjunction with its review of these audits.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but has not yet evaluated compliance with the implementation requirements of

paragraph C55. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraph C55.

### **Paragraph C56 – Use of Force on Prisoners in Holding Cells Investigations**

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.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs C56 during the quarter ending August 31, 2006, finding the DPD in compliance with the policy requirements but in non-compliance with the implementation requirements of the paragraph. As a result, the DPD was in overall non-compliance with the paragraph. The *Use of Force in Holding Cells Investigations Audit* submitted by the DPD on July 31, 2006 found that UOF investigations are not complying with many of the use of force investigation policies.

#### ***Current Assessment of Compliance***

As described above, the DPD submitted the *Use of Force in Holding Cells Investigations Audit*, required by subparagraph C65a, on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit. As a result, the Monitor has deferred its assessment of the DPD's compliance with paragraph C56, and will conduct this assessment in conjunction with its review of this audit.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but has not yet evaluated compliance with the implementation requirements of paragraph C56. As a result, the Monitor has not yet evaluated the DPD's overall compliance with paragraph C56.

### **Paragraph C57 – Prisoner Injuries**

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 C57 during the quarter ending August 31, 2006, finding the DPD in compliance with the policy requirements but had not yet evaluated the DPD's compliance with the implementation requirements of paragraph C57. As a result, the Monitor had not yet evaluated the DPD's overall compliance with paragraph C57.

The DPD HCCC did not submit a semi-annual audit of prisoner injuries in holding cells, and no audit of this subject was planned to be conducted for this semi-annual period. In the absence of an audit, the Monitor noted that it would be required to conduct independent testing of the requirements of the paragraph, which will occur during the next regularly scheduled review of this paragraph.

### *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for C65b, the DPD HCCC submitted the *Prisoner Injury Investigations Audit* Report to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit. As a result, the Monitor has deferred its assessment of the DPD's compliance with paragraph C57, and will conduct this assessment in conjunction with its review of this audit.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but has not yet evaluated compliance with the implementation requirements of paragraph C57. As a result, the Monitor has not yet evaluated the DPD's overall compliance with subparagraph C57.

## **XI. EXTERNAL COMPLAINTS**

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

The Monitor last assessed the DPD's compliance with paragraphs C58-59 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2007.

## **XII. GENERAL POLICIES**

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

The Monitor last assessed the DPD's compliance with paragraphs C60-61 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending May 31, 2007.

### **XIII. MANAGEMENT AND SUPERVISION**

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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-annual audits that assess and report on issues affecting the safety and well-being of DPD personnel and prisoners in the DPD's holding cells.<sup>103</sup>

The Monitor last assessed the DPD's compliance with paragraphs C62-65, subparagraph C66a, and paragraphs C67-71 during the quarter ending August 31, 2006; the Monitor last assessed the DPD's compliance with subparagraph C66b and paragraph C72 during the quarter ending November 30, 2006. The Monitor is scheduled to again assess compliance with paragraph C72 during the quarter ending May 31, 2007; the Monitor again assessed the DPD's compliance with paragraphs C62-71 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 last assessed the DPD's compliance with paragraph C62 during the quarter ending August 31, 2006, finding the DPD in non-compliance. As of the end of that quarter, the Monitor had not received the DPD inspection reports that are designed to meet the requirements of this paragraph.

#### ***Current Assessment of Compliance***

With regard to the requirements of this paragraph, the DPD previously reported that the HCCC (including members of the Detroit Fire Department, Detroit Health and Wellness Promotion Program and various members of the DPD) has inspection teams that perform unannounced holding cell facility inspections. The DPD has indicated that the inspections are reviewed by the CO of the OCR and forwarded to the respective COs of the Districts.

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<sup>103</sup> The topics covered by these audits include: UOF in holding cells; injuries to prisoners in holding cells; 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.

During the current quarter, the Monitor received copies of OCR inspections of the operations of the holding cells conducted in November 2006. Although the inspections appeared to cover various relevant COC CJ topics, the inspection reports did not adequately cover all of the information that could potentially minimize risk of harm to staff and prisoners and did not cover consistent topics with respect to each district. For example, in the inspection report for the Western, Northwestern and Southwestern Districts, only the Northwestern District contained information about the video cameras in processing areas (paragraph C64). Also, the reports are inconsistent with regard to the questions asked and/or topics covered in each district, which makes it difficult to make comparisons district-by-district. It appears that the inspections are attempting to report “discrepancies” that were found, as opposed to evaluating the entire operation and reporting both positive and negative findings. Reporting in the latter manner would be enable DPD management to readily compare findings from report to report and identify if areas or issues are omitted from a report.

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 requirements of paragraph C63 mirror those of paragraph U78.

The Monitor last assessed the DPD’s compliance with paragraph C63 during the quarter ending August 31, 2006, finding the DPD in non-compliance for the reasons described in the background section of paragraph U78.

### ***Current Assessment of Compliance***

As described in the Current Assessment of Compliance for paragraph U78, above, the DPD is in non-compliance with subparagraphs U78a, c and e and in compliance with subparagraph d.

Based on the foregoing, the Monitor finds the DPD in non-compliance with subparagraph C63a, c and e and in compliance with subparagraph d.<sup>104</sup>

### **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, 2006, finding the DPD in non-compliance.<sup>105</sup> The DPD had not yet implemented a systematic review process for video tapes and not all supervisors had been trained.

### ***Current Assessment of Compliance***

In order to assess compliance with subparagraph C64a, the Monitor submitted a document request on January 30, 2007, requesting a copy of any inspections that had been completed by OCR regarding the requirements of paragraph C64. On February 22, 2007, the DPD provided two inspections for the Northeastern District and two inspections for the Eastern District that were conducted on November 27-29, 2006. The Monitor reviewed the inspections and although they covered various COC CJ paragraphs, there was insufficient detail provided to make a determination as to whether the specific requirements of subparagraph C64a were being met. Furthermore, inspections from all of the districts were not provided. The Monitor informed OCR

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<sup>104</sup> Subparagraph C63b will be evaluating during the quarter ending August 31, 2007.

<sup>105</sup> The DPD was, in fact, in compliance with the policy requirements of the paragraph but in non-compliance with its implementation requirements. The DPD's compliance with the policy requirements was inadvertently omitted from the Monitor's Report for the Quarter Ending August 31, 2006. However, the fact that the DPD was in overall non-compliance with the paragraph was correctly indicated.

of this fact and one additional inspection report was provided. Although the additional inspection report provided covered the Western, Northwestern and Southwestern Districts, only the Northwestern District included information about this paragraph, namely that the In-Sight System was malfunctioning during the inspection and the inspectors were unable to ascertain whether the cameras were working.

With regard to subparagraphs C64b-d, as described in the *Current Assessment of Compliance* for paragraph U98, the DPD indicated that the OCR was still in the process of developing a systematic review process of video tapes.

Training has not yet occurred on the requirements of this paragraph. The DPD previously indicated that *Supervisory Leadership and Accountability* lesson plan would incorporate the requirements of this paragraph.<sup>106</sup> The Monitor reviewed the lesson plan during the quarter ending August 31, 2006 and determined that the DPD did mention in-car video cameras and listed paragraph U100 as an objective in the lesson plan. However, the lesson plan did not contain sufficient detail about the requirements of the paragraph. To date, the Monitor has not received an updated version of the lesson plan.

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

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<sup>106</sup> Refer to the City's Twelfth Quarter Status Report.

## ***Background***

The Monitor last assessed the DPD's compliance with subparagraphs C65a-c during the quarter ending August 31, 2006, finding the DPD in non-compliance with C65a-b, and in compliance with C65c. The Monitor reviewed the *Use of Force in Holding Cells Investigations Audit Report* submitted by the DPD in July 2006 in connection with subparagraph C65a and identified deficiencies in the scope, methodology and audit report. Regarding subparagraph C65b, the DPD had not submitted an audit of prisoner injuries in holding cells for the semi-annual period ending July 31, 2006. The Monitor concluded that the *Allegations of Misconduct in Holding Cells Audit Report* submitted by the DPD in July 2006 in connection with subparagraph C65c was a quality audit and adequately addressed the requirements of the COC CJ.

## ***Current Assessment of Compliance***

### ***C65a – Holding Cells Use of Force Investigations Audit***

The DPD submitted the *Use of Force in Holding Cells Investigation Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's compliance with subparagraph C65a.

### ***C65b – Holding Cells Prisoner Injuries Investigations Audit***

The DPD submitted the *Prisoner Injury Investigations Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's compliance with subparagraph C65b.

### ***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, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's 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.<sup>107</sup>

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

C66a - HCCC to Assure Compliance with the COC CJ

C66b - HCCC Fire Safety Audit

### *Background*

The Monitor last assessed the DPD's compliance with subparagraphs C66a and b during the quarter ending August 31, 2006, finding the DPD in non-compliance. Although the HCCC had received DOJ approval of both the FSP and EPP, they had not yet been disseminated. In addition, three of the six audits required to be conducted by the HCCC were not submitted, and the Monitor determined that the *Fire Safety Audit*, which was submitted on the required due date of July 31, 2006, was non-compliant based on qualitative deficiencies that were identified during the Monitor's review of the audit and underlying working papers.

### *Current Assessment of Compliance*

#### *C66a - HCCC to Assure Compliance with the COC CJ*

During the current quarter, all six audits required to be conducted by the HCCC were submitted by the DPD. The submission of the required audits represents a significant accomplishment; however, during the Monitor's assessment of certain audits,<sup>108</sup> it was revealed that the HCCC's involvement during the conduct of the audits was limited or, for at least one of the audits, non-existent. Paragraphs C66-71 specifically require the HCCC to conduct these audits. In addition, the HCCC did not comply with its 2006/07 Audit Protocol (AP), dated July 28, 2006, which further delineates the audit responsibilities of the HCCC members in connection with the COC CJ.

The DPD's AP specifically requires the HCCC to conduct the audits, with the "assistance" of the DPD's AT. The AP further requires that the DPD AT "assist" the HCCC in the development of the audit work plans, working papers, and supporting documents, and that subject matter experts from the HCCC are primarily responsible for performing the fieldwork for HCCC audits.

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<sup>107</sup> 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.

<sup>108</sup> The *Food Service Programs Audit* required by paragraph C71, and the *Medical/Mental Health Programs and Policies Audit* required by paragraph C68 had limited or no involvement from the HCCC members.

Finally, the Monitor's review of the audit findings clearly demonstrates that many of the COC CJ policies have not yet been implemented. Until such time as the HCCC has assured compliance with the COC CJ through the implementation of all relevant policies, procedures and forms, in addition to the timely completion of the COC CJ audits with the involvement of the HCCC, 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 – Fire Safety Audit*

The DPD submitted the *Fire Safety Practices and Policies Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's compliance with subparagraph C66b.

**Paragraph C67- Audit of Emergency Preparedness Program**

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

***Background***

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

***Current Assessment of Compliance***

The DPD submitted the *Emergency Preparedness Program Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's compliance with subparagraph C67.

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

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

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C68 during the quarter ending August 31, 2006, finding the DPD in non-compliance, as it had not submitted the required audit for the semi-annual period ending July 31, 2006.

#### ***Current Assessment of Compliance***

The DPD submitted the *Detainee Medical and Mental Health Care Practices Audit Report* to the Monitor on the required due date of January 31, 2007. In order to assess compliance with paragraph C68, 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, as explained below.

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

- Although the COC CJ requires the HCCC to “conduct” audits of the DPD's medical/mental health care programs and policies this audit, this *Detainee Medical and Mental Health Care Practices Audit* was conducted solely by a member of the DPD's AT.<sup>109</sup>
- The audit report was submitted on a timely basis.
- The audit report properly included all of the substantive paragraphs related to this topic.
- Although this audit report was improved over prior audit reports, it contained numerous typographical and grammatical errors, as well as formatting problems. During discussions with the Monitor, the AT indicated that only a very limited supervisory review of the audit report had occurred due to the late submission of the audit for internal review. Had an adequate review been performed, the audit report could have been more concise, easier to comprehend, and contained fewer errors.

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<sup>109</sup> According to the AT, the CO of the DPD's Medical Section was assigned to the HCCC and was originally assigned to the audit team. She attended the initial audit planning meeting, but retired from the DPD in late 2006, prior to the start of the audit fieldwork, and was not replaced. The AT specifically stated that the HCCC did not contribute to audit field work or report review.

Based on the HCCC's failure to conduct this audit, the Monitor finds the DPD in non-compliance with paragraph C68.<sup>110</sup>

### **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, 2006, finding the DPD in non-compliance, due to qualitative deficiencies identified during the review of the audit submitted for the semi-annual period ending July 31, 2006.

#### ***Current Assessment of Compliance***

The DPD submitted the *Detainee Safety Polices and Program Audit Report* to the Monitor on the required due date of January 31, 2007. Due to the number of audits submitted on this due date, the Monitor has not yet completed its evaluation of this audit nor its assessment of the DPD's compliance with subparagraph C69.

### **Paragraph C70 – Audits of Environmental Health and Safety Program**

Paragraphs C70 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's environmental health and safety (EH&S) program, for all DPD buildings that contain holding cells.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C70 during the quarter ending August 31, 2006, finding the DPD in non-compliance, as it had not submitted the required audit for the semi-annual period ending July 31, 2006.

#### ***Current Assessment of Compliance***

The DPD submitted the *Environmental Health and Safety Audit (EH&S Audit) Report* on the required due date of January 31, 2007. In order to assess compliance with paragraph C70, the

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<sup>110</sup> Although this audit is non-compliant, the Monitor will be conducting a review of the detailed working papers to test the reliability of the audit findings related to the substantive paragraphs. The Monitor intends to report on such testing in the Monitor's Report for the Quarter Ending May 31, 2007.

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's AT, are highlighted below:

- The DPD submitted the *EH&S Audit* by the required due date on January 31, 2007. The audit was conducted by a supervisor of the DPD's Facilities Management, who was designated by the HCCC to conduct this audit, along with members of the DPD's AT. The audit covered all buildings containing holding cells, as required by the COC CJ, and addressed each of the audit objectives, as required by paragraph C70, and all paragraphs related to the EH&S Program.
- The audit procedures employed during the audit, including the time periods selected for their onsite inspections, the population determination, and their sampling techniques, sufficiently tested each of the objectives and relevant paragraphs.
- This audit report was a marked improvement from prior reports, as it was easier to understand and contained few typographical errors.<sup>111</sup> The Executive Summary was concise and well-written, and within the body of the audit report, the findings related to exceptions identified during the audit were appropriately reported by Command. However, the Monitor noted that the Executive Summary did not include the main cause of the DPD's non-compliance with paragraph C40 (implementation of cleaning policy), which was the lack of cleaning logs maintained at Detroit Receiving Hospital (DRH). The audit report did, however, include this information within the detailed section of the audit report and included a recommendation to address the problem.
- The AT correctly found the DPD in non-compliance with paragraphs C40-41 and C46 and appropriately concluded that the DPD was in compliance with paragraphs C34, C39, C42, C44, and C45. However, the Monitor did not concur with the AT's conclusion with respect to paragraph C43 (Repair of Equipment). The AT correctly reported that the DPD was overall non-compliant with Objective 2, *Holding Cell Maintenance Inspections* due to its failure to implement the maintenance policy; however, the objective also included the requirements of paragraph C43 (Repair of Equipment). Based on the low number of inoperable items of equipment within the holding cells identified by the AT,<sup>112</sup> the Monitor disagrees with the reported conclusion of non-compliance relative to paragraph C43.<sup>113</sup>

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<sup>111</sup> According to the AT and as documented on the audit report title page, the audit report was appropriately reviewed by supervisory personnel, including the Facilities Management supervisor, beginning approximately one month prior to submission.

<sup>112</sup> Within the 112 holding cells, the AT identified 3 inoperable light bulbs, 1 missing drain cover, and 1 broken door lock.

<sup>113</sup> During discussions with the Monitor, the AT agreed that the DPD is in compliance with paragraph C43.

Instead, the audit report should have clearly demonstrated that the DPD is actually in compliance with paragraph C43.<sup>114</sup>

- The AT's working papers supported the AT's findings, and were well-formatted and well-organized. The working papers also demonstrated sufficient testing of the elements necessary to conclude on each objective.
- The AT made appropriate recommendations within the audit where the DPD was non-compliant, with one exception relating to the inclusion of a recommendation for COs to adhere to DPD policy that requires them to ensure the performance of daily/weekly inspections of the holding cells.<sup>115</sup> The AT's findings regarding the lack of supervisory inspections was based on the lack of documentation, not on specifically-identified failures by COs to adhere to policy. Given the fact that the holding cells were clean and the equipment within the cells was in relative working order, the recommendation should have been reworded to require that COs ensure that supervisory inspections are documented, rather than suggesting that COs are not following the policy.
- The AT appropriately determined early on that the DPD was in non-compliance with the requirement to document cleaning and maintenance (due to a large number of missing cleaning and maintenance logs). The auditors then conducted additional non-statistical testing of the available logs and included the findings in an appendix in order to provide District COs with information to facilitate remedial action. The Monitor commends the AT for conducting this additional testing.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C70.<sup>116</sup>

### *Monitor's Recommendations*

As described by the Monitor to the AT during previous TA sessions, the Monitor recommends that when the detailed findings support the DPD's overall compliance with an entire Consent Judgment paragraph or a particular subparagraph; the AT consider reorganizing the audit objectives when drafting the Executive Summary and audit report in order to demonstrate that the DPD is achieving compliance in that area.

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<sup>114</sup> The Monitor specifically addressed this type of reporting issue with the AT during the TA on Report Writing provided to the DPD AT in November 2006.

<sup>115</sup> Paragraph C40 in part requires supervisory inspections of the holding cells for cleanliness.

<sup>116</sup> The Monitor's disagreement with the reported conclusion related to C43, as described above, did not significantly impact the overall quality of the audit.

### *Paragraph C71 – Audits of Food Service Program and Policies*

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

#### *Background*

The Monitor last assessed the DPD's compliance with paragraph C71 during the quarter ending August 31, 2006, finding the DPD in non-compliance. Although the DPD submitted the *Food Service Program Audit Report* on the required due date of July 31, 2006, the Monitor determined that the audit was non-compliant with paragraph C71 based on a number of deficiencies in the quality of the audit.

#### *Current Assessment of Compliance*

The DPD submitted the *Food Service Program Audit Report* on the required due date of January 31, 2007. In order to assess compliance with paragraph C71, the Monitor reviewed the audit report and selected audit working papers, including the audit work plan, matrices and other related documents, such as detainee hygiene and meal logs.

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

- The COC CJ requires that the HCCC "conduct" this audit; instead, the *Food Service Program Audit* was completed by members of the DPD's AT, with limited involvement by the HCCC. HCCC personnel attended only one of six inspections conducted during the audit and had no involvement in the preparation or review of the final report. Additionally, although the HCCC provided input to the AT regarding how the temperature of the food should be measured, this was not incorporated into the audit, and no one from the HCCC was available to perform this testing for five of the inspections.
- The Monitor concurs with the AT's findings for all objectives. However, the Monitor identified several inconsistencies between the reported results and the underlying work papers. In each case, these were transposition errors between work papers and the final report. These errors did not affect the AT's overall conclusions with regard to the DPD's compliance because the Department was out of compliance for several factors within each objective.
- The audit was submitted on a timely basis, on January 31, 2007. However, the Monitor determined that the DPD inadvertently issued a superseded version of the final report on that date.
- The audit report was significantly improved over prior food services audit reports, reflecting a concerted effort by the DPD's AT to implement the Monitor's report writing TA provided in November 2006.

- The AT adequately assessed whether detainees received a meal on a regular basis or under the specialized circumstances as identified in the meal policy<sup>117</sup> and presented the results of this analysis in the audit report. However, the summary of this analysis did not adequately address the main issue of whether or not detainees with special circumstances received a meal as required.
- The AT determined that the DPD was in overall non-compliance with certain objectives if one of six districts was out of compliance. As the Department moves closer to compliance, the AT will need to reconsider whether certain anomalies in a given district are sufficiently serious to cause the DPD, as a whole, to be held out of compliance.<sup>118</sup>

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

### *Recommendations*

The Monitor recommends that the AT and the HCCC complete this and other audits together using the agreed-upon roles as defined in their internal memo dated December 23, 2003.<sup>119</sup>

When transferring data between work papers and reports, the Monitor recommends that the DPD copy data into its reports, as opposed to re-entering data, in order to minimize the number of transposition errors.

The Monitor recommends that rather than determining compliance based on the number of Districts, the AT review each objective to determine if there are alternative ways of assessing compliance for the Department as a whole, such as basing the assessment on the total number of issues to be reviewed for each objective.

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<sup>117</sup> Detainees are to receive a meal if they are arrested between 10:00pm and midnight, if they are sent to DRH and subsequently returned to the District, or if they are prescribed medication that must be taken with a meal.

<sup>118</sup> This was not an issue in the current audit, as numerous factors caused non-compliance with each of the objectives in question.

<sup>119</sup> See Current Assessment of Compliance for subparagraph C66a for further information regarding this memorandum.

## XIV. TRAINING

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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.<sup>120</sup>

The Monitor last assessed the DPD's compliance with paragraph C74 during the quarter ending November 30, 2006, and is scheduled to again assess compliance with the paragraph during the quarter ending May 31, 2007. The Monitor last assessed the DPD's compliance with paragraphs C73 and C75-78 during the quarter ending May 31, 2006. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

**Paragraphs C73; C75-78 – Training of Detention Officers Emergency Preparedness Training; Mental/Health Screening Program Testing; Detainee Safety Programs and Polices; Environmental Health and Hygiene Training**

Paragraph C73 directs the DPD to provide comprehensive pre-service and in-service training to all detention officers.

Paragraph C75 directs the DPD to provide all detention officers, supervisors of detention officers and members of the Holding cell compliance committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- d. emergency response plans and notification responsibilities
- e. fire drills and use of fire extinguishers and other fire suppression equipment
- f. key control drills and key control policies and procedures
- g. responding to emergency situations, including scenarios detention officers likely will experience

Paragraph C76 directs the DPD to provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/metal health screening programs and polices. Such training shall include and address the following topics:

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<sup>120</sup> Refer to the UOF CJ training section in this report for additional information regarding DPD training-related issues.

- a. prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring
- b. recoding, updating and transferring prisoner health information and medications
- c. the prescription medication policy, including instructions on the storage, recording and administration of medications
- d. examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:

- a. the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoner
- b. protocols for performing, documenting and obtaining supervisory review of holding cell checks
- c. protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing
- d. examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

- a. Cell block cleaning and maintenance protocols
- b. Sanitary food preparation and delivery protocols.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs C73 and C75-78 during the quarter ending May 31, 2006, finding the DPD in non-compliance with each. Although lesson plans addressing the requirements of these paragraphs had not yet been found to be in compliance, the DPD opted to begin delivering this training to holding cell personnel in an effort to expedite the implementation of the many procedures included within these lesson plans and related paragraphs. The Monitor attended the training conducted in March 2006 to evaluate its delivery. The Monitor identified qualitative deficiencies in the training and related lesson plans,

and met with DPD OCR staff to provide verbal feedback of its observations of the training and forwarded to the DPD a written memorandum providing observations on the training and recommendations to address the deficiencies identified.

### *Current Assessment of Compliance*

The DPD has yet to submit to the Monitor appropriate documentation in connection with the requirements of these paragraphs, including a lesson plan for the Monitor's review and approval. In addition, the Monitor understands that the DPD is currently conducting custodial detention training on an ongoing basis, despite the fact that the lesson plan for the current training has not been approved by the Monitor.

Based on the foregoing, the Monitor finds the DPD in non-compliance with paragraphs C73 and C75-78.

## **XV. MONITORING AND REPORTING**

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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. The Monitor had elected to defer assessing this paragraph until the DPD had additional time to implement its investigative policies;<sup>121</sup> however, after consideration of comments from the City and DPD, the Monitor indicated that it would begin to assess compliance with this paragraph during the current quarter.<sup>122</sup>

During the current quarter, the Monitor began reviewing the DPD's *UOF in Holding Cells Investigations Audit*, *Allegations of Misconduct in Holding Cells Audit* and *Prisoner Injury Investigations Audit Reports*. At the end of the quarter, the Monitor was still in the process of reviewing these audits. During the quarter ending May 31, 2007, the Monitor will review the investigations identified by the audits to determine whether any of them require reopening if the officer(s) has not been informed of the outcome. The Monitor will also provide its findings regarding these investigations and attempt to reach an agreement with the DPD regarding setting up a mechanism for the Monitor to review investigations at a stage where they could be subject to reopening.

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<sup>121</sup> For an example of issues concerning implementation, see Current Assessment of Compliance for paragraphs U37-38 herein, where the DPD is not yet investigating all critical firearm discharges as required by this Consent Judgment.

<sup>122</sup> See paragraph C94 for the specific requirements for reopening an investigation.

## CONCLUSION

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The City and the DPD continue to make progress in the implementation of policies and procedures. Notably, in addition to achieving compliance with the policy components of the vast majority of paragraphs, there are a number of paragraphs for which the DPD has achieved sustained compliance for more than one quarter. Furthermore, there continue to be paragraphs for which the DPD has successfully implemented the Consent Judgment requirements and achieved compliance for the first time. The City and the DPD are commended for these significant accomplishments. However, several challenges remain in order for the DPD to meet the requirements of the Consent Judgments, including the development of lesson plans and delivery of Consent Judgment training, the completion of various forms and logs to provide documentation, and the retrofitting of the buildings containing holding cells.

Sheryl Robinson Wood  
Independent Monitor

April 16, 2007

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## APPENDIX A:

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

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

<b>ACRONYM</b>	<b>DEFINITION</b>
A&D	Arrest and Detention
AT	Audit Team
BOPC	Board of Police Commissioners
BOR	Board of Review
BRT	Board Review Team
CALEA	Commission on Accreditation for Law Enforcement Agencies
CAN report	Corrective Action Needed report
CCR	Citizen Complaint Report
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team

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

EPP	Emergency Preparedness Program
FI	Force Investigation
FIS	Force Investigation Section
FIU	Force Investigation Unit
FRT	Force Review Team
FSP	Fire Safety Program
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IACP	International Association of Chiefs of Police
IA	Internal Affairs
IAD	Internal Affairs Division
IAS	Internal Affairs Section
ICD	Internal Controls Division
IM	Independent Monitor
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
LP	Lesson Plan
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards

MIF	Medical Intake Form
MIOSHA	Michigan Occupational Safety and Health Administration
MITN	MCOLES Information and Tracking System
MSP	Michigan State Police
OCI	Office of the Chief Investigator
OIC	Officer in Charge
OCR	Office of Civil Rights
PAB	Professional Accountability Bureau
PAIR	Police Action Incident Report
PCR	Preliminary Complaint Report
PDO	Police Detention Officer
PSA	Public Service Announcement
RFP	Request for Proposals
RMB	Risk Management Bureau
RMG	Risk Management Group
SCBA	Self-Contained Breathing Apparatus
SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance

USAO	United States Attorney's Office
UOF	Use(s) of Force
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
WCPO	Wayne County Prosecutor's Office
WCSO	Wayne County Sheriff's Office
WIQD	Witness Identification and Questioning Documentation