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August 13, 2014

The Honorable Avern Cohn
United States District Court
for the Eastern District of Michigan
Theodore Levin U.S. Courthouse
231 W. Lafayette Blvd., Room 219
Detroit, MI 48226

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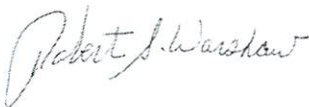
Re: *United States of America v. City of Detroit, Michigan (the City) and the Detroit Police Department (DPD)*, No. ~~03-77758~~

03-72258

Dear Judge Cohn,

Pursuant to your Order, I am providing the Court with a final report on the status and history of the Detroit Police Department Use of Force Consent Judgment case.

Sincerely,



Chief (Ret.) Robert S. Warshaw
Monitor

City of Detroit Police Department Use of Force Consent Judgment Final Report

Introduction

Following an investigation and the issuance of Technical Assistance Letters by the U.S. Department of Justice, Civil Rights Division, Special Litigation Section, the City of Detroit entered into two Consent Judgments relating to: 1) the Use of Force (containing 110 requirements); and 2) Conditions of Confinement (containing 65 requirements). (See attachment, *Consent Judgment Use of Force and Arrest and Witness Detention*.) The Honorable Julian Abele Cook, Jr., United States District Court Judge, approved and ordered the Judgments on June 12, 2003.¹

At that time, the Court appointed Sheryl Robinson Wood of Kroll, Inc. as the Independent Monitor. Ms. Wood's first report was issued on January 20, 2004; and the last report was issued on July 16, 2009, just prior to her resignation.² Kroll issued a final memorandum on September 8, 2009.

On October 5, 2009, following a selection process involving the Department of Justice and the City of Detroit, the Court appointed me to serve as the Independent Monitor. Assisted by Deputy Monitor Chief (ret.) Charles D. Reynolds and a Team (IMT) of highly respected professionals, I assumed responsibility for monitoring compliance with the requirements of these Judgments – a compilation of generally accepted professional police policies, procedures, and related practices.³

Our Team conducted our first quarterly site visit in November 2009; and after a review of voluminous documents and an initial assessment, we issued our First Quarterly Report on January 10, 2010. Since that time, we have issued a total of 19 quarterly reports, the most recent on July 14, 2014. During this nearly five-year period, we have observed considerable changes within the Detroit Police Department (DPD), including several changes in command.⁴

¹ The Conditions of Confinement Judgment set forth procedural and operational requirements relating to the confinement of facilities maintained and operated by the Detroit Police Department. Following negotiations between the DPD and the Michigan Department of Corrections (MDOC), the two parties signed an Interagency Agreement in April 2014 compelling the State to house all DPD detainees. By October 2013, facilities were fully operational and the Department's detainees had all been transferred to those facilities. The Conditions of Confinement Consent Judgment has been satisfied; accordingly, the Monitor no longer assesses compliance with that Order.

² Ms. Wood issued 23 monitoring reports.

³ Chiefs Warshaw and Reynolds are Principals with Police Performance Solutions, LLC.

⁴ Tenures of the chiefs during our engagement: Warren C. Evans, 2009-10; Ralph Godbee, Jr., 2010-12; Chester Logan, 2012-13; and James E. Craig, 2013-present.

In preparation for our first report, we drew upon the work of the previous monitor, including thoroughly reviewing the previous monitor's findings and the justification for those findings. Moving forward, however, we adopted our own methodology to analyze Detroit Police Department practices. Our methodology includes quarterly site visits to assess and guide the Department's ongoing efforts toward compliance with the professional police practices enumerated within the Consent Judgment. Our assessment includes two compliance phases: Phase 1 evaluates the development and adoption of a policy or set of procedures that are supportive of each Judgment paragraph or subparagraph; and Phase 2 evaluates the implementation of the practices necessary to meet the requirements of each of the Judgment paragraphs or subparagraphs and the applicable policy or policies.⁵

Following our assessment of requirements, we make one of four findings. Findings of "In Compliance" or "Not in Compliance" are self-explanatory. In addition, where appropriate, we make findings of "Pending Compliance" or "Deferred."⁶ In our quarterly reports, we also set forth what we find to be "Critical Issues" for each major section of the Judgment; and a brief statement of "Next Steps" in which we describe a plan of work for our next visit, including a discussion of the data we plan to review.

Our verification of compliance with the many requirements of the Consent Judgment involves analyzing multiple Police Department activities, reviewing investigations of misconduct and uses of force, and making observations of the practical application of policies and procedures. Where it is not appropriate or possible to analyze all instances or data, we rely upon statistically valid samples of the population. To reach conclusions based on analyses of cases, a minimal standard must be met. The standard for achieving compliance based on these analyses requires the DPD to conform to more than 94% of relevant indicators set forth in the Judgment. This is a nationally recognized standard.

Throughout our engagement, we have provided technical and other assistance where sought by the Parties. For example, we worked with the Office of Chief Investigator (OCI) to revise investigative procedures. We also worked with field commanders to improve procedures relating to command level investigations of force, and with Force Investigations staff to address investigative shortcomings of these most serious uses of force.

⁵ This process differs from that of the previous monitor. Our methodology requires the assessment of every paragraph or subparagraph of the Judgment during and for each reporting period. The previous monitor reportedly did not assess compliance with each paragraph or subparagraph for each quarterly report; instead, the previous monitor assessed only a limited number of the paragraphs or subparagraphs for assessment and inclusion in its quarterly reports. In addition, Kroll considered specified paragraphs as requiring "policy only;" however, our methodology included an assessment of DPD's adherence to the policies unless such a requirement was included in a separate Judgment paragraph.

⁶ A Pending Compliance finding is made in cases where substantial work and time is required to achieve implementation of a policy or procedure and the related practices, and where ongoing progress is clearly evident. A Deferred finding is made where there are circumstances in which we are unable to fully determine the compliance status of a requirement due to a lack of data or other reasons.

The independent monitoring of the Judgment is a complex process involving complex issues. The delivery of police services to a community – and the simultaneous retention of the public trust – are perhaps the most fundamental and sacred roles of government. In the course of our nearly five-year engagement with the City of Detroit – and more particularly, with the DPD – we have endeavored at all times to fulfill our mandate in a manner consistent with these principles.

Executive Summary

For the past nearly five years, the City and the DPD have reached the >94% standard of compliance with 90% of the Judgment requirements. Below I note the requirements in which the Department has made the most progress, and where we still have remaining concerns, within the different sections of the Consent Judgment.

Use of Force Policy: This section contains 13 requirements relating to the development and implementation of its use of force, firearms, and chemical spray policies; the selection of an intermediate impact device and the development of guidelines on its use; and the providing of appropriate related training. The DPD has been in sustained compliance (two years or more) with 10 of these requirements. Although DPD achieved compliance with U15 in our most recent (19th) report, we remain concerned with the sustainability of U15 and its requirements relating to on-the-scene decisions an officer must make, particularly relating to de-escalation.

Incident Documentation, Investigation, and Review: This section contains 15 paragraphs relating to the revision and implementation of policies necessary to ensure full, thorough, and complete investigations; including command level and those conducted by Force Investigations, Internal Affairs, and the Board of Police Commissioners, Office of Chief Investigator. DPD has made strides in this section over the last several reporting periods. However, we remain concerned with DPD's non-compliance with U28, 29, 32, 33, 36, and 38 – substantive requirements relating to the investigation and review of the use of force. We urge DPD to continue to work toward compliance with these provisions; they are critical for the purpose of conducting thorough, complete and credible investigations of the use of force.

Arrest and Detention Policies and Practices: This section contains 16 requirements relating to arrest and detention policies and practice, including investigatory stops and frisks. Per our most recent (19th) quarterly report, the DPD is in full compliance with nearly all of the requirements of this section. The Department remains out of compliance with U45, which requires written documentation of all stops and frisks.. Also, while the Department recently achieved compliance with U59 (which requires that commanders review all violations of DPD prompt judicial review, holds, and so forth on a daily basis); we urge DPD to focus on issues of supervisory and command responsibility.

Training: As of July 2012, DPD has been in full compliance with these 25 requirements. For the Department to sustain compliance in this area, DPD must strengthen its annual training

assessments; and encourage first-line supervisory and upper command staff to consistently support the efforts of Training Unit staff.

External Complaints: This section contains nine requirements, which relate directly to external complaints; responsibility for the investigation of external complaints rests primarily with the Office of Chief Investigator (OCI) and the DPD Internal Affairs Division (IAD). DPD is in full compliance with the requirements of this section.

Management and Supervision:

- In the area of the **Risk Management System**, overall, DPD has moved forward to full compliance with these requirements through the appropriate application of technical resources. Yet critical risk management issues remain for the Department. We have observed that the technological dimensions of risk management can and periodically have usurped the more meaningful concerns with the appropriate use of the system for risk management. Sustainability of compliance in the risk management area will require a significant commitment from the Department.
- In the area of **Oversight-Auditing**, sustainability will require maintenance and management of the Audit Unit attached to CRIB.
- In the area of **Disciplinary Administration**, it will be important to monitor and report out data on the cases closed and opened on a monthly basis, to identify any potential for a return to a backlog of cases.
- In the area of **Video Cameras**, DPD has gradually improved its video and audio recording; however, it remains non-compliant overall. The DPD has been challenged with technical issues, but the remaining issue is gaining compliance by officers in the field. To achieve compliance in this area, the City and top command of the DPD will need to increase and sustain interest in these issues.

The Department has made these gains within the framework of external oversight; a process commenced by an action brought by the United States Department of Justice. It has proven to be the impetus for change. To attain compliance with the remaining requirements – and to sustain progress with the requirements that are in compliance – the City and DPD should devote resources to expand the Civil Rights Integrity Bureau. CRIB plays a critically important role in conducting internal audits and adhering to – and sustaining – Judgment requirements and contemporary police practice. Investing in CRIB will build DPD's capacity to assess its progress and ensure that the Department sustains the progress it made during the life of the Judgment.

Despite some remaining concerns, over the last several reporting periods, DPD has demonstrated increased stability and progress. I am confident that with some initiative on the part of the Department and the City, the DPD can become the modern and robust department that serves the best interests of the Detroit community.

The First Monitor's Assessment

The Honorable Julian Abele Cook, Jr. approved the Use of Force Consent Judgment on June 12, 2003 and appointed Sheryl Robinson Wood of Kroll, Inc. as the Independent Monitor ("previous monitor" or "first monitor"). Ms. Wood's first report was issued on January 20, 2004; and the last report was issued on July 16, 2009, just prior to her resignation. Kroll issued a final memorandum on September 8, 2009.

As noted above, the first monitor issued quarterly reports, but did not assess each paragraph or subparagraph for compliance during every quarterly period; accordingly, for the purposes of this document, we do not include a detailed report of progress reported by the previous monitor but instead summarize progress noted in its various reports.

The previous monitor's first report described its the assessment of 60 of the 110 paragraphs and compliance with one, but credited the DPD with the establishment of the Civil Rights Integrity Bureau (CRIB) to oversee internal compliance with the Consent Judgment. It also reported DPD's progress developing required forms, and both the DPD and OCI's progress with the informational campaign on the filing of citizen complaints.⁷ Also in its first report, the previous monitor expressed an overriding concern with the "inability of the DPD to revise or develop effective policies," which is fundamental to achieving compliance with the various Judgment requirements. It also cited communication problems among the various DPD units and between DPD and OCI as areas of concern. Finally, it noted that the DPD underwent a change in leadership with the resignation of the Chief and the appointment of an Acting Chief during the first reporting period.

In 2004, the previous monitor began including a "scorecard" to report the Department's compliance progress with each Judgment paragraph. The scorecard contained in Report No. 5, issued in January 2005, indicated that the City and the DPD were in full compliance with two paragraphs and two sub-paragraphs; Report No. 9, issued in January 2006, indicated full compliance with six paragraphs and five sub-paragraphs; and Report No. 13, issued in January 2007 indicated full compliance with nine paragraphs and six sub-paragraphs, and in compliance with 12 "policy only paragraphs" and with policy requirements for one. Report No. 22, issued in April 2009, found the City and DPD in full compliance with 10 paragraphs and 10 sub-paragraphs; in compliance with 17 "policy only" paragraphs; and with policy requirements for nine paragraphs.

These reports also noted the progress DPD made developing policies and training directives, referring to it as a "significant accomplishment." The approvals of several components of the Risk Management Plan (Management Awareness System, or MAS) were noted. It also noted progress with the implementation of requirements relating to the receipt and investigation of external complaints (citizen complaints), but expressed several concerns relating to OCI. The

⁷ The Office of Chief Investigator (OCI) receives and conducts investigations of non-criminal external citizen complaints. OCI reports directly to the Board of Police Commissioners (BPC).

reports also noted improvement in compliance with the ratio of officers per supervisor requirement.⁸

In its later reports, the previous monitor addressed external complaints, citing its assessment of OCI investigations and a finding that OCI was in compliance with several review- and evaluation-related requirements. It found the DPD in compliance with the development of its Risk Management Plan.

The previous monitor's concerns included the lateness and/or absence of required audits, and slow progress with the development of training plans or classes that complied with Judgment requirements; poorly written audit reports; and a finding that the Joint Investigative Shooting Team was not investigating critical firearm discharges as required. The reports discussed the low number of documented frisks when compared with documented stops; and the apparent difficulty with adherence to timing requirements relating to critical firearm investigations and the submission of Annual Critical Firearm Investigation Reports. The previous monitor also expressed concerns with the lack of compliance with procedures relating to the Command Level Force Review Team (CLFRT-DPD's Board of Review) in its review of these very serious investigations. It noted shortcomings in DPD audits – including the insufficient population of stop and frisks and Force Investigations to make findings and the failure of audits to “test investigators’ conclusions” or to “identify concerns relating to intake, assignment, tracking and investigation of complaints alleging force.” The previous monitor raised concerns regarding the lack of appropriate documentation of the citizen complaint investigative progress, the timely completion of the investigations, and documentation of reviews conducted by the Chief of Police. It also noted concerns with its failure to provide documentation of its “coordination and review of training.”⁹

The previous monitor's later reports described its further concerns with the discharge of firearms at moving vehicles – particularly, the lack of tactical evaluations of events involving the discharge of firearms at moving vehicles; the lack of training on the PR-24 (intermediate weapon); and the lack of documentation of chemical spray deployments. It noted that the DPD regained compliance with material witness requirements, but lost or remained out of compliance with other requirements relating to prompt judicial holds, restrictions, and material witnesses. The DPD did not comply with requirements relating to the arraignment of detainees within 48 hours; the submission of warrant requests to the prosecutor within 24 hours; the documentation requirements relating to holds and restrictions; or the requirements regarding commander review for violations of judicial review, holds, restrictions, and related activities.¹⁰

In addition, the previous monitor expressed concerns with the non-compliant status of requirements relating to the adequate ratio of supervisors to officers in the field and with

⁸ Previous Monitor Reports No. 5, 9, 13, 17, and 19.

⁹ Ibid.

¹⁰ Previous Monitor Report No. 22.

requirements relating to off-duty police actions (carrying firearms while impaired), as well as with impediments to the full and effective implementation of the MAS.

The previous monitor described the DPD's failure to effectively train personnel on implementation procedures, as well as supervisory training; leadership and command accountability training; risk assessment training; investigator training; and training on the processing and investigation of external complaints. It also noted the Department's failure to comply with requirements relating to conducting random review of videotapes, or inspecting equipment.

The previous monitor, in its final full report (No. 23, issued in July 2009) assessed compliance as follows:

- Compliance with paragraphs requiring "policy only" – 13¹¹
- Compliance with policy requirements – 12¹²
- Full compliance with policy and implementation requirements – 11¹³
- Compliance with policy and implementation requirements (sub-paragraphs) – 15¹⁴

This report pointed out that the use of force audits it would use to assess compliance failed to provide a sufficient sample, and therefore it deferred its assessment on the use of force requirements. While noting that DPD had regained compliance with Garrity protocol requirements, the previous monitor expressed concern that the DPD had not regained compliance with interview requirements relating to the prohibition of leading questions and written question interviews "contrary to appropriate law enforcement techniques." While previously gaining compliance with these requirements in May 2009, the DPD fell out of compliance for two consecutive reporting periods.

The previous monitor's final full report also noted that its assessment of arrests found the existence of probable cause for the arrests appropriately documented and also found that the required reviews were being conducted. The DPD had not, however, required documentation and review procedures relating to stops and frisks. In addition, the previous monitor noted the annual in-service training program commenced in August 2008 was nearing the end. The report expressed concern regarding the failure of DPD to implement its semi-annual review of use of force, arrest, and detention training.

As noted above, the U.S. Department of Justice, the City of Detroit, and the Detroit Police Department agreed to adopt and implement the requirements contained in the Judgment in June 2003. By all accounts, the City and the DPD should have, and perhaps could have, achieved

¹¹ U14-17, 19, 20, 42, 44, 46-47, 52, 54, and 56.

¹² U31, 37, 41, 57, 64-66, 69-71, 77, and 105.

¹³ U43, 57, 63, 82-85, 92, 96, 99, and 110.

¹⁴ U62 (b, c & d), 67 (a, b, f, & h), 78 (d & e), 88 (a, b, c, & e), and 95 (a & c).

overall substantial compliance with the Judgment within five or so years. Yet, after six years, the progress made can best be described as disappointing; however, given that we were not present to make an assessment, we ascribe responsibility to no specific person or entity; rather, it is shared among many.

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IMT Review Of Progress – Present Status

On October 5, 2009, following a selection process involving the Department of Justice and the City of Detroit, the Court appointed me to serve as the Independent Monitor. Assisted by my Team (IMT), I assumed responsibility for monitoring compliance with the requirements of these Judgments. To date, we have issued 19 quarterly reports – the first on January 10, 2010, and the most recent on July 14, 2014.

As previously described, although we drew upon the work of the previous monitor, we adopted our own methodology. One of the more noteworthy differences is that we not only assess the development of required policies for each requirement, but – unlike the first monitor – also the *operational implementation of policies* for each applicable requirement, both of which must be satisfied for a compliant finding. To do otherwise, fails to meet the objective of establishing a policy in the first instance. For example, the development and issuance of a policy establishing “de-escalation...as an appropriate response to a subject’s conduct” is a Judgment requirement; however, if we do not assess whether or not the DPD *operationally implemented* this requirement, it defeats the objective of this requirement.

We also assess compliance with each Judgment paragraph for each report. Our assessments include both an analysis of policy content and the degree to which DPD has operationally implemented the policies. To do this, we conduct site visits during which, among other activities, we visit police districts, precincts, and other commands; meet and discuss operations with command, supervisory, and training staff; and observe training classes. We also both on- and offsite, review arrest, use of force, and related police reports; and review investigations of force, detainee injuries, and allegations of force.

In July 2013 (No. 15), as a result of an agreement with the Parties, we began limiting our assessments of the various requirements to include: all requirements that were not in compliance; as well as particular requirements that were selected by the Parties (specifically, 25% of the compliant requirements) and by the Monitor (specifically, 50% of the remaining compliant requirements). From that point forward, the requirements that we did not fully assess we found to be in *sustained* compliance.¹⁵

¹⁵ The requirements that we do not regularly assess include: U14; U19; U20; U21; U23; U26; U31; U41; U44; U54; U55; U56; U57; U58; U61; U62; U63; U64; U65; U66; U70; U71; U72; U74; U75; U76; U77; U81; U85; U86; U87; U88; U89; U120; U121; U122; and U123.

To date, each of our 19 quarterly reports contained our detailed assessment of each paragraph (with the exceptions noted above); therefore, rather than repeat the detail included in those reports, we include herein a more holistic view of our findings of compliance or lack thereof.

Our first assessment of compliance for our January 2010 quarterly report found the City and DPD progressing well with policy development and in Phase 1 compliance with 89 (81%) of the Judgment requirements, but only in Phase 2 compliance with 26 requirements (24%).

In September 2011, our assessment found that the City and DPD had fully and successfully completed its development of required policies (Phase 1) and that status has continued to the present time. The policies were well written and complete; and to date, they have required minimal revisions. In addition, the Department made slow, but incremental, progress with operational implementation (Phase 2); however, we noted this progress occurred primarily in areas that are often referred to as “low-hanging fruit,” or the less complicated of the tasks to be completed. We repeatedly warned the City and the DPD of the dangers of focusing on compliance with these tasks rather than the more difficult requirements – primarily relating to the use, review, and investigation of force.

The City and DPD have experienced considerable change since our initial engagement in October 2009, including a number of changes within the DPD administrative staff. These changes may have contributed to the slowing of progress with operational implementation and/or stagnation, which became evident some time subsequent to our December 2011 Report (No. 9). At that time, the City and DPD had an overall compliance rate of 82%.

Throughout 2012 and 2013, the highest point reached was 86% in September 2012 (No. 12), but then it retreated to 85% in January and April 2013 (No. 13-14). The DPD then increased compliance to 89 and 88% respectively in July and October 2013; however, it again retreated to 86% in January and April 2014. See table below.

Quarterly Report Number	Use of Force - Compliance	
	Phase 1	Phase 2
Report 9	100%	82%
Report 10	100%	84%
Report 11	100%	85%
Report 12	100%	86%
Report 13	100%	85%
Report 14	100%	85%
Report 15	100%	89%
Report 16	100%	88%
Report 17	100%	86%

Quarterly Report Number	Use of Force - Compliance	
Report 18	100%	86%

Following our October 2013 site visit and a preliminary assessment of findings indicative of a retreat to 86% for our then-forthcoming seventeenth report, the Court on December 19, 2013 issued an Order directing an increased frequency of visits ...at such additional times as may be necessary... by the Monitor and/or members of the Monitor's Team (IMT). The Order specified the following objectives:

- Identify specific reasons for the inability or refusal of the City to achieve full compliance with the balance of the Use of Force Consent Judgment;
- Identify the reasons why these requirements have fallen out of compliance, as described in the previous quarterly assessment;
- Establish a comprehensive plan for addressing issues that have impeded full compliance;
- Work closely with the Civil Rights Integrity Bureau to enhance the effectiveness of the City's internal auditing process;
- Provide more immediate feedback on identified problems; and
- Assess the necessary training needs and operational issues.

In response to the Order, we visited the DPD in February 2014. During this visit, we met with the Chief and members of his command staff to discuss areas of non-compliance and possible remedies. We specifically focused on command level investigations of force, video technical problems, and off-duty conduct. We also inquired about the staffing and capabilities of the Civil Rights Integrity Bureau (CRIB), which plays a critically important role in conducting internal audits and adhering to – and sustaining – Judgment requirements and contemporary police practice.

During our regular April 2014 site visit, we again met with the City and DPD, including the city's assigned legal representative and command staff. During this lengthy meeting, we focused on ongoing, non-compliant issues and possible remedies. We primarily focused on issues relating to the reporting, investigation, and reviews of uses of force.

We discussed in detail the deficiencies that we found with the reporting and investigation of force at the precinct/district level. The large majority of cases are investigated and reviewed at this level – and we continued to find the investigations deficient and the reviews inadequate. Although no definitive resolution was reached, from our perspective, it remained clear that the DPD was past the training stage; but was now at the point where the failure to adequately

investigate and/or review the investigations at this level should result in disciplinary consequences.

We also discussed at length the deficiencies – including investigative basics, such as crime scene activities and interviews of officers and witnesses – with the investigations of serious uses of force by Force Investigations. We underscored that the failure to collect and analyze gunshot residue; account for shots fired and shell casings; and collect ballistics and other forensic testing resulted in substandard investigations that lacked credibility.¹⁶ In addition, we discussed apparent case management deficiencies, including the tracking and accounting for all cases. We expressed our continuing concern with the lack of training of these officers who are charged with investigating the most serious uses of force. Simply put: investigators are arbitrarily assigned to conduct these complex, specialized investigations – without the adequate and necessary training to do so. This is a fundamental responsibility of the City and the DPD administration.

Although no definitive resolution was reached concerning these issues, the City and the DPD represented that they would seek out training for investigations; and we provided appropriate recommendations. The City and the DPD reported that although they had previously represented the acquisition and usage of gunshot residue test kits, they were not in use; and vowed that they would seek alternative laboratory services – from perhaps another government organization or private source – to address the forensic inadequacies.

These representations were welcome and key to making progress with compliance and with adherence to contemporary policing practices; however, our optimism was somewhat muted by the focus, particularly by the City, on compliance with numbers and percentages rather than the substantive provisions of the Judgments and procedures.

This focus on reaching the >94% compliance standard has been a developing issue for the City and the DPD. The command accountability meetings – which present opportunities for discussions of organizational strengths and weaknesses – serve for the most part, as a forum wherein each commander explains his/her command's compliance with the various Judgment requirements. Unfortunately, they focus fundamentally on *numerical* compliance rather than *substantive* compliance.

Upon completion of our last site visit, we prepared and issued our July 2014 report, which found the City and the DPD in full compliance with 90% of the Judgment requirements. We noted that

¹⁶ The DPD and the City represented that the Michigan State Police Laboratory did not provide ballistic testing and analysis on all officer involved shooting cases, but was selective, and in addition did not conduct gunshot residue analyses. In addition, it was represented that District Attorney indicated that gunshot residue analyses would not be used in criminal prosecutions. Neither representation addresses the value of gunshot residue testing during administrative investigations of officer involved and other shooting cases to clarify whether an officer or suspect recently fired a weapon. The City and the DPD also represented that other forensics – fingerprints and DNA, for example – were not readily available.

the DPD moved four requirements from non-compliant to compliant status and two from deferred to compliant status.¹⁷

We have outlined the statistical progress along with some brief commentary in order to provide our assessments of progress as well as some of the impediments to progress. The results are clear; for the first several years following approval of the Judgment, progress was less than remarkable, but progress during our nearly five-year tenure has improved from 24% to 90% compliance. This represents a significant achievement – but it does leave areas some of the most important requirements in non-compliant status.¹⁸

Below we include a brief summary of the more significant components of the Judgment.

Use of Force Policy

This section of the Consent Judgment includes contains 13 requirements relating to the development and implementation of its use of force, firearms, and chemical spray policies; the selection of an intermediate impact device and the development of guidelines on its use; and the providing of appropriate related training.

The first monitor reported general progress with the development and implementation of the various required policies throughout; in its final full report, it found the City and DPD compliant with the policy requirements for each of the 15 requirements, yet in full compliance with none.¹⁹

Our first quarterly report, issued in January 2010, included both an analysis of policy content and the degree to which DPD had operationally implemented them. We found the DPD in Phase 1 policy compliance with all requirements, yet although the DPD was nearing compliance with the requirements relating to the selection of ammunition (U23), it had fully implemented none.

Clearly, the DPD had successfully developed the required policies and had made progress with the implementation of U23 relating to the selection of ammunition. The revised policies include a force continuum identifying lethal and less lethal force options available to officers; and describe de-escalation, disengagement, and other appropriate tactics and responses. The revised firearms policies address qualification requirements, approved firearms and ammunition, and a prohibition on the firing at or from moving vehicles. DPD also selected an intermediate impact device, developed guidelines on its use, and provided the required training. The chemical spray policy requires, when appropriate, a verbal warning prior to the deployment of chemical spray; sets forth requirements for decontamination, medical assistance, and requires supervisory approval if the chemical spray is to be used against a crowd. It prohibits officers from using

¹⁷ U 15, 40, 59 and 73 from non-compliance to compliant status; U18 and 75 from deferred to compliant status.

¹⁸ Non-compliant: U28, 29, 32, 33, 36, 38, 40, 45, 60, 101 and 102.

¹⁹ The previous monitor determined that six requirements merely required the development of a policy, but did not assess implementation of those policies; those in this section listed as “policy only” include U14-19).

chemical spray on a handcuffed individual in a police vehicle or keeping a sprayed individual facedown.

As we moved through reporting periods, we noted varying areas of improvement; however, compliance with the documentation of de-escalation techniques (U15) and the deployment of chemical spray (U25) remained problematic.

The DPD's failure to utilize or document its use of de-escalation techniques that are so basic to the defusing of highly charged encounters and the avoidance of the use of force has been a continuing problem. This failure, identified during our first assessment, has remained problematic throughout and accordingly has been a subject of discussions during each subsequent site visit. In addition, we provided specific technical assistance in this area in February 2014. Despite our provision of this and other technical assistance and support, the DPD was not able to comply with this requirement until our last reporting period (July 2014), but even then not without concern. In that report, we commented:

"In evaluating officers' de-escalation techniques...we found evidence of *some* efforts at de-escalation or disengagement, a 7% increase from the last reporting period. Though this represents compliance, the DPD appears to require just enough to be *technically* compliant, but not necessarily *sustainably* compliant, with this fundamental requirement. It is imperative that DPD provide appropriate training to – and leadership for – officers that emphasize the importance of de-escalation techniques as a means of avoiding violent confrontations between citizens and police, and the importance of adequately documenting the steps that officers take to minimize the use of force. Increased video/audio recordings of encounters with the citizens would prove beneficial in documenting compliance with this requirement."

Though not required by this Judgment paragraph, the importance of the successful development of, and access to, video recording is an important element of determining on an ongoing basis whether officers are making diligent efforts to de-escalate emotive encounters. We continue to encourage the DPD to expedite its implementation of such a system of review. (See below.)

The DPD also found challenging compliance with U18 – involving the deployment of chemical spray – in part due to infrequent deployment and the resulting small sample available for assessment. The DPD first complied with U18 requirements during the sixth reporting period (April 2011), and remained in compliance during the seventh reporting period (July 2011); but it fell out of compliance in the ninth reporting period, and then experienced varied compliance until the fourteenth reporting period (April 2013), when compliance was achieved. The DPD has since remained in compliance with this requirement.

The DPD has been in sustained compliance (two years or more) with 10 of the 13 requirements. In two of the remaining three, it is reasonable to suggest that the City and DPD are able to sustain compliance with some degree of effort. However, the sustainability of U15 and its requirements relating to on-the-scene decisions an officer must make, particularly relating to de-escalation, remain in question. Clearly, field supervisors conducting command level investigations should be more diligent, but that requirement is one that must be mandated from

higher authority. In addition, our recent examination of the investigation and review process at this level found that it appears to have become more complex than necessary and consequently, in our opinion, unsustainable. Lacking external oversight, it will undoubtedly be abandoned; the question remains as to what will replace it and to what degree will DPD review, investigate, or adjudicate a non-deadly use of force.

Incident Documentation, Investigation, and Review

This section of the Consent Judgment includes 15 paragraphs (U27-41) relating to the revision and implementation of policies necessary to ensure full, thorough, and complete investigations; including command level and those conducted by Force Investigations, Internal Affairs, and the Board of Police Commissioners, Office of Chief Investigator. In each case, the investigation must, to the extent reasonably possible, determine whether the officer's conduct – and/or specifically, the officer's use of force, was justified.

The previous monitor reported general progress with the development and implementation of the various required policies throughout and in its final full report found the City and DPD in compliance with the policy requirements for each of the 15 requirements; and in full compliance with three, relating to Garrity procedures (U31), the creation of a shooting team (U37), and the annual review of firearm discharges (U41).

Our first report (January 2010) again included both an analysis of policy content and the degree to which DPD had operational implemented each of the required policies. The requirements contained in this section – the use, reporting, investigation and review of force – are the overriding and primary concerns of the Judgment. We therefore include the below table to clearly illustrate the findings of our first assessment.

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

¶	Requirements	Phase 1-Policy	Phase 2 Implementation
40	Review critical firearm discharges	In Compliance	Not in Compliance
41	Command level force review	In Compliance	In Compliance

Except for the policy relating to the Command Level Force Review Team (U39), our assessment found that the City and DPD had completed the development of all required policies. Similar to the findings of the first monitor, we found operational implementation of the Garrity protocol (U31), the Joint Incident Shooting Team (U37), and command level force review requirements (U41). However, we noted mixed results regarding the implementation of the several investigative processes outlined in the Judgment and DPD policies.

As we moved through reporting periods, we have noted varied degrees of progress with these requirements, perhaps in part attributable to unstable internal police leadership or moreover simply to a lack of commitment to meet the challenge of providing contemporary policing to the community. For example, we found the City and the DPD fully compliant with U39 in July 2010; but not until December 2011 with U30; July 2012 with U35; and July 2013 with U34.

Compliance with U27, U37, and U40 have wavered between non-compliance and compliance, however, we finally found U37 to be in compliance in April 2012 (No. 10) and U27 in compliance in April 2013 (No. 14). We first found U40, requiring review of critical firearm discharges, in compliance in our second quarterly report (April 2010); but the DPD has struggled between pending compliance and non-compliance since that time.

U28, 29, 32, 33, 36, and 38 have not been in compliance throughout our nearly five-year tenure up to the time of this writing. These requirements are fundamental, substantive requirements relating to the investigation and review of the use of force. The Department's non-compliance, not merely for the purpose of satisfying the Judgment – but also for the purpose of conducting thorough, complete and credible investigations of the use of force – is troublesome.

The investigations often lack credibility and are deficient in many areas, including but not limited to: the failure of supervisors to respond to the scenes of force, to interview witnesses, resolve material inconsistencies in statements, record interviews or take photographs. Interviews of officers are also unnecessarily delayed. Crime scene security and analysis is problematic, and there is a lack of ballistic examinations. It appears there is a practice of *reporting* – rather than *investigating* – incidents.

To resolve the various compliance and investigative problems identified, we have provided to the City and DPD ongoing advice, recommendations, and technical assistance, most recently in February 2014.

Additionally, during our April 2014 site visit, we met with the City and DPD, including the city's assigned legal representative and command staff, in an effort to once again address the

identified shortcomings and help the DPD move into compliance. At that meeting, we focused on the ongoing problems with – and possible remedies for – the reporting, investigation, and reviews of uses of force at the precinct/district level, as well as the investigations conducted by Force Investigations.

The large majority of cases involving the use of force are investigated and reviewed at the precinct/district level. We engaged in a broad-ranging discussion regarding the issues related to these investigations and reviews during which we advanced our perspective that the resolution is not merely to provide training; the DPD is now past that stage and must recognize that it is at the point where the failure to adequately investigate and/or review the investigations at this level should result in disciplinary consequences. No definitive resolution was reached.

We also discussed at length the long-standing deficiencies – including investigative basics, such as crime scene activities and interviews of officers and witnesses – with the investigations of serious uses of force by Force Investigations. We again underscored that the failure to collect and analyze gunshot residue; account for shots fired and shell casings; and collect ballistics and other forensic testing resulted in substandard investigations that lacked credibility.²⁰ In addition, we discussed apparent case management deficiencies, including the tracking and accounting for all cases. Unlike our findings relating to training at the command level, we expressed our continuing concern with the lack of training of these officers who are charged with investigating the most serious uses of force. Simply put, investigators are arbitrarily assigned to conduct these complex, specialized investigations without the adequate and necessary training to do so. This is a fundamental responsibility of the City and the DPD administration.

Although no definitive resolution was reached concerning these issues, the City and the DPD represented that they would seek out training for investigations; and we provided appropriate recommendations. The City and the DPD reported that although they had previously represented the acquisition and usage of gunshot residue test kits, they were not in use; and vowed that they would seek alternative laboratory services – from perhaps another government organization or private source – to address the forensic inadequacies. To date, DPD has not made progress with the implementation of these remedies.

The status of compliance with the above-described Judgment requirements is troublesome, not merely due to the lack of compliance with the Judgment, but more due to the lack of adherence to contemporary policing practices. It is disappointing that the DPD, after over 12 years of working to modify its investigative practices to comport with contemporary policing practices,

²⁰ The DPD and the City represented that the Michigan State Police Laboratory did not provide ballistic testing and analysis on all officer involved shooting cases, but was selective, and in addition did not conduct gunshot residue analyses. In addition, it was represented that District Attorney indicated that gunshot residue analyses would not be used in criminal prosecutions. Neither representation addresses the value of gunshot residue testing during administrative investigations of officer involved and other shooting cases to clarify whether an officer or suspect recently fired a weapon. The City and the DPD also represented that other forensics – fingerprints and DNA, for example – were not readily available.

has not done so.

Arrest and Detention Policies and Practices

The Judgment includes 16 requirements relating to arrest and detention policies and practice, including investigatory stops and frisks. Our first assessment found the DPD in Phase 1 policy compliance with all requirements, and in full Phase 2 compliance with eight. The DPD was not in full compliance with requirements relating to stops and frisks (U44-45); witness and interview practices (U45-48); the documentation of holds (U53); material witnesses (U56), and written reviews of policy violations (U59-60). Compliance was pending on two requirements relating to hold policies (U52) and material witnesses (U57).

The DPD was making progress, though slowly. We noted, however, that the documentation of witness interviews and conveyances was insufficient – with some districts not even using the correct forms; documentation of the time holds were identified and cleared was non-existent; 60% of arraignments exceeded the 48-hour time limit; and command review of arrests, holds, and other activities was inadequate. Of particular note was the inadequate method for collecting stop and frisk information via notations on officers' daily worksheets. Any attempt at analysis of this information was impossible. The combined compliance rate for traffic stops, investigatory stops, and frisks was 51%.

The DPD often sought our advice and incrementally increased its rate of compliance. Our assessment for the December 2011 report (No. 9) found the DPD in full compliance with all but three Judgment requirements (U44, 45, and 59) relating to stops, frisks, and written reviews of policy violations. The DPD satisfied these requirements in April 2012 (No. 10); however, subsequent issues persisted relating to stops and frisks (U45) as well as the requirement that commanders review all violations of DPD prompt judicial review, holds, and so forth on a daily basis (U59).

At present, the DPD is in full compliance with all requirements of this section, with the exception of the above-mentioned requirements. Simply put, the process for recording and reviewing these stops and frisks is inadequate. The DPD indicated its intention to change this process and has designed a data collection form to do so. This is important, given that there currently is no practical manner for the DPD to determine with any degree of accuracy, the number of stops and subsequent frisks – and moreover, the *basis* for either stops or frisks. In addition, while not a requirement of the Judgment, the present method of recording this information does not allow for any analysis of the demographics of those stopped, which is a recognized contemporary police practice. Fundamentally, however, the quality of the investigative stops and the documentation thereof, is primarily dependent on the quality of the reviews conducted by officers' immediate supervisors.

With regard to the requirements relative to commander reviews and the preparation of auditable forms on policy violations regarding judicial review, holds, and like activities, we have noted that the Office of Civil Rights sends Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time limits as required. While our last assessment for our July 2014 report (No. 19) found compliance at 85%, this represented an increase in compliance from the 69% posted in our April 2014 report (No. 18). The DPD is not yet in compliance with this requirement.

The DPD has been relieved of many responsibilities affecting these particular Judgment requirements with the transfer of detainees to state custody. However, given the continued lack of compliance with U59, we remain concerned that the agency has yet to grasp the significance of supervisory and command responsibility.

Training

The Judgment includes 25 Training requirements (U20, 22, and 106-123). Our first assessment of training, reported in January 2010, found that the DPD had not yet completed the development of required policies related to training. Consequently, in-service and other training was not being delivered to all officers as required. For example, at that time, only 82% of the supervisors had received the required supervisory training; 88% had received search and seizure training; and 89% had received impact weapon training.

Our discussions with Training Unit staff found that they were attempting to move forward with compliance requirements, but had received minimal guidance from the previous monitor or DPD administration. Following that first assessment, the Training Unit staff commenced making progress with compliance.

We were able to report this progress in several subsequent reports. For example, our July 2010 report (No. 3) found the DPD had completed development of required policies for 24 of the 25 requirements; our October 2010 report (No. 4) found for the first time the DPD in Phase 1 policy compliance with all of these requirements. In addition, we also found that >94% of officers had been trained in use of force, search and seizure, arrest and detention, firearms and other requirements; and the Department was in full compliance with 24 of 27 Judgment requirements. Our July 2012 report noted DPD compliance with the last remaining non-compliant requirement, which related to the maintenance of training records (U108). The DPD has maintained this Phase 1 compliance status with all training requirements until the present.

The Training Unit has, like other components of the DPD, experienced a number of changes, including changes in staff. The staff has achieved its objective of providing requisite training to all officers, not merely to satisfy Judgments requirements, but to properly equip them to complete their assignments. We note, however, the need for the Training Unit staff to strengthen its annual training assessments, which we have found to be merely adequate. The staff should

take steps to ensure that they thoroughly explore the training needs of the DPD as well as individual officers; include candid, objective, and vital assessments of the training provided, its quality, or shortcomings; and identify additional areas in which training is not, but should be, provided. The annual training assessment should not become a mere “for the record” bureaucratic exercise.

Our last remaining concern is the DPD supervision. As indicated, Training Unit staff understand what is to be done and know how to do it, but their work can be quickly undermined when either first-line supervisory or upper command staff fail to aggressively and consistently support those efforts. It is imperative that the teachings of the Training Unit staff are reinforced every day “on the street.”

We encourage the City and the DPD to address these concerns so as to ensure that the progress made over the past several years is sustained.

External Complaints

The Judgment includes nine requirements, which relate directly to external complaints.²¹ Responsibility for the investigation of external complaints rests primarily with the Office of Chief Investigator (OCI) and the DPD Internal Affairs Division (IAD).

Office of Chief Investigator (OCI)²²

Our first assessment found OCI in compliance with each of the primarily administrative requirements relating to public information programs and intake; however, we found compliance efforts regarding the primary and most important Judgment requirements in disarray. Troublesome compliance issues persisted with the remaining two requirements (U67 and 69) specifically relating to the investigation of external complaints as well as several contained in the Incident Documentation, Investigation, and Review section of the Judgment.

The process of command review and oversight was seriously flawed to include the absence of effective case management, which resulted in insufficient investigatory practices, incomplete documentation of investigative activity, and the untimely completion of the investigations of citizen complaints. In addition, we found that more than 1,000 cases were overdue or in backlog status (over 90 days).²³

²¹ In addition to these requirements, Judgment requirements U27 and 29-33 found in the section, Incident Documentation, Investigation, and Review may apply, depending upon the complaint under investigation.

²² The Office of the Chief Investigator (OCI) is the investigative arm of the Board of Police Commissioners (BOPC). OCI is responsible for investigating non-criminal external complaints. The Board has plenary authority over citizen complaints. OCI operates independently of the Detroit Police Department and is led by a civilian Chief Investigator who is appointed by the BOPC. OCI is staffed with a combination of civilian and sworn investigators.

²³ U67.g. required the completion of OCI investigations within 90 days.

As we moved forward, the OCI suffered a degree of leadership instability, as did the Police Commission itself; however, there were indications of progress. By March 2011, the OCI had ostensibly addressed the significant backlog, with only 14 listed as overdue; however, perhaps due in part to the termination of the Chief Investigator, overdue cases increased to over 400 in January 2012. Consequently, the Court ordered the City to present a backlog abatement plan and imposed a \$1,000 per day fine until the plan was presented.

In response, the City reconstituted the so-called “Backlog Squad,” and the DPD assigned sworn personnel to assist OCI with addressing this significant problem, which satisfied the Court.

Although indications of administrative disarray persisted, OCI made slow progress towards compliance, but it was not until the appointment of the present Chief in 2012 that there was evidence of a serious effort toward compliance. Working closely with our Team, the Chief brought OCI into full compliance with all requirements within one year. We reported this assessment in our January 2014 report (No. 17).

The achievement of full compliance, though welcome, is relatively recent, given the life of the Judgment. The record of achieving and remaining in compliance throughout our tenure has been tenuous, and we still find problematic cases – though of late not in sufficient numbers to result in non-compliance.

This is indicative of compliance being dependent more on the person in charge than on the systems in place. The present Chief Investigator has implemented good processes and rigorously enforced them; however, we are not optimistic regarding the sustainability of these processes and compliance with Judgment requirements without her influence and supervision – absent an external requirement to do so.

Internal Affairs Division (IAD)²⁴

Our first assessment of this section found that the IAD staff was not adhering to its own policies, indicated by the lack of requirements information contained in the investigative case files. Staff were not managing and/or tracking case progress or maintaining required documentation of investigative activity. Cases were not completed within the required 90-day time limit. However, this quickly began to improve.

The IAD supervisor developed a program capturing required basic data, which resulted in improvement, first reported in our July 2010 report (No. 3). Progress continued and our assessment in January 2011 (No. 5) found the DPD compliant. Except for the conducting of timely interviews (U29), IAD achieved compliance with all remaining requirements in April 2012 (No. 10). The DPD remains in compliance.

²⁴IAD is responsible for conducting investigations into allegations of criminality and serious misconduct involving members of the DPD as well as other City of Detroit employees.

Since the beginning of our tenure, IAD staff have frequently sought our advice on compliance issues and appropriately responded to our concerns and recommendations. The IAD commander most responsible for compliance was recently reassigned; however, the newly assigned commander appears to be progressing well.

To our knowledge, IAD has been able to function fairly free from potential internal or external influence, which is a positive sign. However, neither IAD nor the DPD administration has proactively addressed our concerns with the continuing complaints of theft by officers from arrestees. This should be aggressively addressed. Nevertheless, the progress with, and present compliance status of IAD, appears sustainable.

Management and Supervision

Risk Management

The Judgment includes 13 requirements (U78-U90) that relate to the development, implementation, and use of a Risk Management System. These include DPD's agreement to implement a risk management system composed of a comprehensive database for recording a range of officers' activities, a detailed plan for capturing the data, a review protocol which describes how the database will be used and a report protocol which elaborates the reports that the risk management system will produce, some at regular intervals. DPD agreed to utilize an interim database until the main system was completely functioning. The process of using the system to manage risk is the key to effectiveness. The technology and other system components should be recognized as far less significant.

Our January 2009 report (No. 1) found that the City and the DPD had agreed to develop their own risk management system, or Management Awareness System (MAS), and began by implementing an interim system called the Interim Awareness System (IMAS). However, while our first assessment found the DPD in Phase 1 compliance with policy development with all but two requirements, we found the DPD only in full compliance with one Judgment requirement (U89) relating to the interim database.

At about the same time, a subject matter expert from DOJ visited DPD to assess the progress being made on MAS and in June of 2009, produced a highly critical report in which he concluded that MAS suffered problems in three core areas: inadequate administrative commitment; poorly articulated technical objectives; and inadequate technological infrastructure.

The report noted that, given these problems, DPD faced choices ranging from "firefighting" until the system worked well enough, to developing a new system "from scratch." Based on his review of the entire development process, the DOJ examiner believed that under any intermediate course of action DPD was likely "to recover and move on to success."

Our testing of MAS to determine whether it was salvageable confirmed the findings of the DOJ subject matter expert; despite this, the DPD agreed to assign appropriate resources to this project and move forward with its development.

The DPD moved to meet the challenges set forth, and the assessment for our April 2012 report (No. 10) found the City and the DPD in compliance with all but one requirement (U78), which is a broad overview risk management requirement. Compliance with that requirement was delayed by difficulty establishing a protocol for norming risk management data by levels of officer arrest activity. The assessment for our September 2012 report (No. 12) found the DPD in full Phase 2 compliance.

Overall, DPD has moved forward to full compliance through the appropriate application of technical resources. It has also used risk management data well in its Command Accountability processes.

Even with this process, critical risk management issues remain for the Department. The technological dimensions of risk management can and periodically have usurped the more meaningful concerns with the appropriate use of the system for risk management. The real question that has not been fully addressed deals with the use of the data to identify risks and to change officer behavior. A persistent problem has been that, once officers are identified and intervention has occurred, there has been little effort to assess whether the intervention has succeeded, and little effort to develop new approaches for officers who continue to exhibit risky behavior even after intervention. We have noted this problem in our most recent reports.

Sustainability of compliance in the risk management area will require a significant commitment from the Department and, even with that, may still present significant challenges. The Department has done well moving forward, but the critical aspects of risk management are not *institutionalized* at the present time. Maintaining technology and data will be the least important challenges. More important will be training new officers on the significance of risk management – and, in particular, training and expecting supervisors to assume responsibility for guiding corrective efforts with officers identified as having problems. Using the data to manage risk will continue to be more challenging than maintaining the mechanics of the system.

Risk management is a process that deals directly with the norms and subcultural aspects of a police department. It is a critical system by which a department manages itself to address problems, independent of the disciplinary process. The Department's progress down that path is not complete, and sustaining the effort will be challenging.

Oversight-Auditing

Audit and disciplinary administration requirements are also part of Section VIII of the Judgment. Sustainability in the audit area will require maintenance and management of the Audit Unit attached to CRIB. In Disciplinary Administration, it will be important to monitor and report out

data on the cases closed and opened on a monthly basis, to identify any potential for a return to a backlog of cases.

Use of Video Cameras

The Judgment includes four requirements (U98, U100-102) relating to the use of video cameras. Noting that the first monitor described in its October 2008 report the “video recording system in patrol cars, in its present state, is useless,” we proceeded with our first assessment and found that the DPD has established policies for three of the four requirements, although it was not in full compliance with any of the four.

At that time, the DPD had equipped 100 patrol cars with recording devices, but due to technical failures and resulting disruptions, the system was not in use; however, following our site visit and assessment, the DPD began identifying and addressing the myriad technical and subsequent operational problems.

Initially, the new DPD IT Deputy Chief made dramatic progress in rehabilitating the old broken MVS system that had been declared “useless” and beyond repair. Storage requirements were drastically reduced, which resulted in the system becoming workable. Patrol precincts and districts were equipped and gradually brought on line. At the same time, DPD issued an RFP and procured a new, more capable MVS system.

After one year of observing repairs and restructure of the DPD MVS system, we commenced assessing compliance through the examination of random samples of traffic stops. In our first review, we found that only 74% had full-motion video. DPD was then not in compliance with any of the four MVS requirements.

In our July 2011 report (No. 7), we found DPD had performed sufficient work to repair, restructure, and implement the MVS system; and the Department became fully compliant with U100 (repair or replace all non-functioning video cameras). In our September 2011 report (No. 8), we found DPD fully compliant with requirement U98 (random reviews by DPD supervisors). After two years, however, the DPD was still non-compliant with the two most significant MVS requirements (U101 and U102), both of which require activation of video to record events such as traffic stops, pursuits, and searches.

Although, under monitoring, DPD has gradually improved its video and audio recording, it remains non-compliant overall. The following chart summarizes compliance findings for our random reviews of traffic stops over the past three years. The last line in the chart reflects the preliminary results of our April and May reviews.²⁵

²⁵ We define these as “preliminary” because we have not yet confirmed our findings with DPD.

Year End Report	% Video	% Audio
December 2011 (No. 9)	75%	25%
January 2013 (No. 13)	76%	58%
January 2014 (No. 17)	89%	66%
April, May, 2014 – Preliminary Unpublished	87%	69%

The DPD has certainly been challenged with major technical issues. Of significant consequence was a major technical failure in late 2012; after successfully addressing it, the system has since functioned without any serious technical failures or issues. The remaining issue has been and is gaining compliance by officers in the field.

The review of video and audio is an important tool for a supervisor, particularly when the issue at hand is an officer's use of force. The review provides supervisors an opportunity to observe and correct undesirable behavior and tactics by the officers under their supervision. It constrains an officer who is tempted to act improperly or to employ excessive force. There is simply no reason to fail to record a contact with a citizen unless the officer contemplates doing something wrong.

One of the more significant failures has been the recording of audio; our most recent survey found that audio was not recorded in over 30% of the random stops. These failures have been the result of officers' errors (i.e., simply not activating their microphones, leaving them in the car, or failing to sync their mics as required).

Acquisition of MVS video and audio is dependent upon vigorous and close supervision by commanders and supervisors. If failure to comply is tolerated or justified by supervisors, officers will not comply, particularly when important incidents occur. Only recently have we noted an effort to address this issue by the DPD; however, the DPD has not yet operationally complied with this important and fundamental requirement. Furthermore, absent increased and sustained interest by the City – and in particular, the top command of the DPD – it is unlikely that compliance will be achieved.

Concluding Observations

The City of Detroit and the Detroit Police Department agreed to comply with the Use of Force Consent Judgment over 11 years ago, on June 12, 2003. The Court approved the first of two successive Independent Monitors to oversee compliance at that time. Following the resignation of the first IMT, the Court on October 5, 2009 appointed the second and present IMT.

For the past nearly five years, the City and the DPD have reached the >94% standard of compliance with 90% of the Judgment requirements, albeit some very recently; the Department remains non-compliant with 10% of the Judgment requirements. Except for one, these

requirements relate to the use, documenting, investigating and reviewing the use of force. The one outside of these parameters relates to stops and frisks.

While the City and the DPD deserve credit for this progress, such credit is mitigated by the non-compliance with major, core requirements. These are areas that require the strongest leadership, the most judicious use of discretion, and the greatest capacity for critical self-analysis and commitment. It is indeed unfortunate that the City and DPD elected to leave these, the most important requirements of the Judgment, to the end.

Certainly, compliance with these basic and essential police practices is attainable. The degree to which the City and DPD will require assistance in doing so, and the oversight necessary to ensure compliance is, in fact, achieved, is a matter best determined by the Court. A monitoring process sufficiently robust to accomplish the purposes ascribed to the 2003 Judgment should, in one form or the other, remain in place.

The Department has been under the stewardship of Chief James Craig for nearly the last year and one half. Chief Craig has proven himself to be committed to the betterment of the Department and the community it serves. His willingness to take risks and acknowledge errors is noteworthy, and he deserves recognition for leading the Department through its most challenging fiscal crisis. Emergency Manager Kevyn Orr has been supportive of the requisite changes essential to the delivery of police services in a large, urban area; and this process should be indebted to him.

Judge Julian A. Cook, Jr. has, until recently, overseen this case since its inception. His wise and steady oversight of this process has been a key factor in the optimistic state of affairs the citizens of Detroit should find themselves today.

The United States Department of Justice has been a strong advocate for change in police practices and a strong advocate for the City of Detroit as well. The government has demonstrated that advocacy for adherence to constitutional policing and embracing a defendant-jurisdiction do not have to be mutually exclusive.

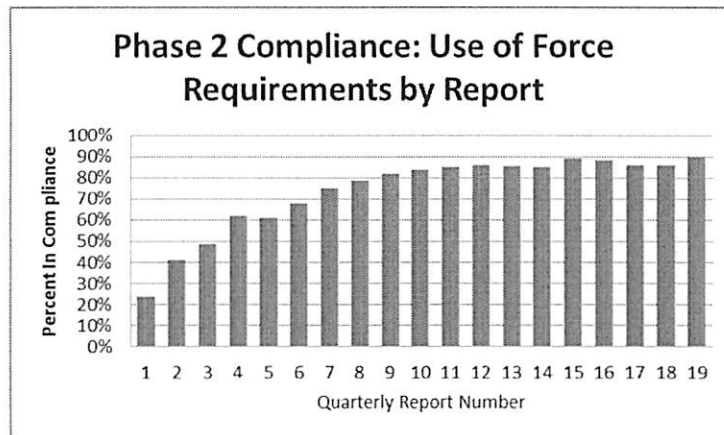
Locally, United States Attorney Barbara L. McQuade; former United States Attorney and former Deputy Mayor, Saul A. Green; former Assistant United States Attorney, and now United States District Court Judge, Judith E. Levy; and the City's lead counsel, Allan Charlton; have been legal adversaries while being unwavering supporters of the best interests of the City.

I am confident that the presence and legacy of these distinguished persons are responsible for the fertile ground on which the Court can determine the next chapter of the Detroit Police Department's road to excellence.

Nineteenth Quarterly Report		
	Use of Force	
	Phase 1	Phase 2
Paragraph Numbers	14-123	
Number of Requirements	110	110
Pending Compliance	0	0
Not in Compliance	0	11
Deferred	0	0
In Compliance	110	99
Percent in Compliance	100%	90%

	Change in Compliance from Report 18	From, To
U15	The use of lethal, less lethal force	Not in Comp. to In Comp.
U18	Approval of policy	Deferred to In Comp.
U40	Review critical firearm discharges	In Comp. to Not In Comp.
U59	Required written review of violations	Not in Comp. to In Comp.
U73	Adequate officer/supervisor ratio	Not in Comp. to In Comp.
U75	Revise policies regarding off-duty officers	Deferred to In Comp.

The chart below illustrates the levels of compliance achieved on the Use of Force Judgment across all 19 reporting periods. It shows a return to the trend of improvement after decline and stagnation across our two most recent previous reports.



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

Quarterly Report		
Compliance Levels	Use of Force	
	Phase 1	Phase 2
Report 1	81%	24%
Report 2	94%	41%
Report 3	96%	49%
Report 4	98%	62%
Report 5	97%	61%
Report 6	99%	68%
Report 7	99%	75%
Report 8	100%	79%
Report 9	100%	82%
Report 10	100%	84%
Report 11	100%	85%
Report 12	100%	86%
Report 13	100%	85%
Report 14	100%	85%
Report 15	100%	89%
Report 16	100%	88%
Report 17	100%	86%
Report 18	100%	86%
Report 19	100%	90%

The next table identifies the requirements that remain out of compliance.

Requirements Not in Compliance, Report 19		
¶	Requirement	Phase 2 – Implementation
U28	Investigation by uninvolved supervisor	Not in Compliance
U29	Procedures for investigative interviews	Not in Compliance
U32	Revise investigatory report policies	Not in Compliance
U36	Completion of command investigations	Not in Compliance
U38	Protocol for critical discharge investigations	Not in Compliance
U33	Chain of command reviews	Not in Compliance
U40	Review critical firearm discharges	Not in Compliance
U45	Written account of stops and frisks	Not in Compliance
U60	Required written review of violations	Not in Compliance
U101	Revision of video camera policy	Not in Compliance
U102	Record all vehicle stops, searches, etc.	Not in Compliance