



# Application to Serve as Independent Monitor for the City of Baltimore Police Department

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**Prepared for:**

U.S. Department of Justice  
City of Baltimore

**Submitted:**

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A close-up, low-angle shot of a blue police tape with the words "BALTIMORE POLICE" printed in white, bold, capital letters. The background is a blurred city street scene with buildings and streetlights.

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# I. Executive Summary (Responding to Paragraph 32 of the RFA)

## A. Introduction

Exiger LLC and 21st Century Policing, LLC (alternatively “the Monitoring Team,” “the Team” or “our Team”) are pleased to jointly submit this proposal to serve as the independent monitor for the Baltimore Police Department (“BPD”) pursuant to the Consent Decree agreed upon by the United States Department of Justice “DOJ”, the BPD and the City of Baltimore (the “City”)

In submitting this application, the proposed Monitoring Team is mindful of Baltimore’s history, current community concerns about police accountability and use of force, and a slate of reforms that BPD and the City have already initiated or contemplated. We understand that the bedrock of any consent decree is a strengthened, responsive relationship between a city’s diverse communities and the men and women of its police department. The police must carefully consider how residents want their communities policed and what their priorities are. The community, in turn, must consider how to assist and cooperate with the police to fight crime, share information, and enhance public safety.

The Monitoring Team is a diverse, seasoned group of experts from across fields who have participated in, and indeed led, successful police reforms elsewhere. From former police chiefs who have initiated and managed transformation of their police departments to professionals who have monitored consent decrees in other jurisdictions, the members of the Team have not merely talked the talk but, instead, have walked the walk – guiding change, promoting accountability, and cooperating with diverse stakeholders to ensure responsive, effective policing.

The members of the Team have proven, in cities from Washington, D.C. and Philadelphia to Los Angeles and Seattle, that community-based, constitutional policing promotes the reduction of crime and enhances both officer and resident safety. Indeed, the monitoring and reform efforts in which Team members have participated have produced real results:

- **Los Angeles.** A Harvard study found that the consent decree led to a significant increase in public confidence and trust, with 83 percent of residents saying at the end of the consent decree, in 2009, that LAPD was doing a good or excellent job. At the same time, violent crime decreased by 33.5 percent during the consent decree, while officer productivity (in terms of stops and arrests) increased. Likewise, officer morale increased – with a vast majority of officers believed that the LAPD was a better organization as a result of the consent decree.
- **Seattle.** An April 2017 report found that overall use of force by the Seattle Police Department was down under its consent decree – both across time under the decree and compared to the time period studied by the original DOJ investigation. Overall, use of force has gone down even as officer injuries have not gone up, crime has not increased, and public confidence – including among the Black and





Hispanic/Latino communities – has increased.

- **Washington, D.C.** While implementing significant reforms under a Memorandum of Understanding with the Department of Justice, the Metropolitan Police Department cut crime by more than 57 percent – including a 49 percent decrease in the homicide rate. Meanwhile, the Department closed more than 20 percent more homicides over the period, which is often used in consent decrees and academics as a measure of community trust, with greater community cooperation often driving higher clearance rates.

Of equal import, four members of the Team served on the President’s Task Force on 21st Century Policing, one as Co-Chair, two as members of the Task Force, and one as its Executive Director, conducting an in-depth analysis of, and proposing foundational solutions for, the very issues that underlie the problems Baltimore is facing.

In addition, one team member worked directly with the Baltimore Police Department, the Mayor, and the former US Attorney (now the Deputy Attorney General), in bringing the Collaborative Reform of the COPS Office to Baltimore. This initiative has led to a deep knowledge of the Department and its efforts to deal with key operational issues including, among others, use of force, stops and searches, community policing and engagement and procedural justice.

Consequently, our monitoring effort in Baltimore will be anything but a theoretical, academic, or hands-off exercise. Instead, it will be a pragmatic, real-world, and sustained effort informed by years of experience working to enhance the quality of law enforcement across the country. The Team will provide ongoing, technical assistance to BPD and the City so that expectations are clear, progress is swift, the community and officers alike are involved, and results are enduring. The combination of our approach and the collective experience of the proposed team will serve to expedite the reform process – focusing on the kind of daily stakeholder buy-in that is necessary for the reform process to produce sustainable, enduring change for BPD, the City, and its residents.

The proposed Monitoring Team will be a complete, unified partnership between two leaders in the field of police reform. Exiger is a global investigations, risk, and compliance firm, founded in 2013. The firm was initially launched to lead the monitorship of HSBC, the largest and perhaps most complex monitorship ever undertaken. Notably, Exiger’s top leadership includes those who monitored the Los Angeles Police Department consent decree, which is widely regarded as the most successful consent decree reform effort to date. Since its founding, Exiger has also been retained for a wide range of private and public sector monitoring assignments, including being selected to serve as the voluntarily undertaken Independent Monitor of University of Cincinnati Police Department following the tragic officer involved shooting of Samuel Dubose on July 19, 2015.

21st Century Policing (“21CP”) is a pre-eminent consulting firm that assists law enforcement organizations in meeting the challenges of contemporary policing. Its principals include police professionals and experts appointed to the President’s Task Force on 21st Century Policing, which generated a Final Report in 2015 that has been

hailed as a singular roadmap for safer, sounder, and more accountable policing. These principals are pre-eminent police practitioners who have served at the highest levels of many of our nation's police departments and who have been at the forefront of national reform activity. 21CP and its consultants have been involved in Consent Decree mandated oversight in both Cleveland and Seattle.

Exiger and 21CP have joined forces in order to bring to this assignment a commitment to assist law enforcement agencies in employing best practices for effective, integrity-driven policing grounded in the principles of procedural justice and focused on building trust, improving relationships, and increasing safety in close collaboration with the community.

Our Team understands that a key role will be to facilitate collaboration among a diverse group of stakeholders. A transparent, effective implementation will start with the Monitoring Team:

- Establishing working relationships with the DOJ team, the BPD, the City, and members of the community;
- Creating information-sharing protocols, including a secure electronic data room and website devoted to the monitorship;
- Devising a monitoring plan that ensures that all aspects of the Consent Decree are addressed, and;
- Working with the BPD and DOJ to develop clear and transparent metrics and surveys, both to gauge compliance with the Consent Decree and to compare improvement over time.

Our plan for implementation and oversight of the Consent Decree would not only address every substantive requirement of the Decree, but would, to the greatest extent possible, maximize transparency and community participation to demonstrate to Baltimore's residents that the reform of BPD is grounded in strict adherence to constitutional policing that results in both safety and fairness for all.

## **B. Team Members & Experience**

The proposed Exiger/21CP team fully meets the requirements for the attributes of the Monitor team outlined in the Consent Decree. The Team includes highly experienced individuals who have served in both independent monitor roles and in leadership roles of some of the nation's top urban police departments, and who have helped defined the principles and practices of "21st Century Policing" to which the BPD aspires.

Our Team, whose detailed resumes are included in Exhibit A, consists of highly-regarded professionals with substantial backgrounds in law enforcement and criminal justice:

### **Jeff Schlanger - Primary Monitor**

Mr. Schlanger, Managing Director of Exiger and President of Exiger Advisory, is the proposed Monitor and Project Lead for this assignment. Mr. Schlanger has more than



30 years of experience in law, law enforcement, and police department monitoring. Mr. Schlanger was instrumental in the design and execution of the monitoring methodology for the federal consent decree involving the Los Angeles Police Department, serving as the Deputy Primary Monitor. He has performed significant independent investigations at the request of large police departments throughout the country, including the Tennessee Highway Patrol, the San Francisco Police Department, and the Austin Police Department. Mr. Schlanger served on the Executive Committee of the Commission that developed the National Guidelines for Police Monitors and is currently serving as the Monitor of the University of Cincinnati Police Department. Mr. Schlanger began his law enforcement career as a prosecutor in the Manhattan District Attorney's Office and more recently served as Chief of Staff in the Office under District Attorney Cyrus R. Vance, Jr. overseeing the day to day operations of a more than one-thousand-member office

### **Charles H. Ramsey - Deputy Monitor; Team Lead of the Use of Force Work Stream**

Former Philadelphia Police Commissioner Charles H. Ramsey brings nearly 50 years of law enforcement expertise to the BPD monitorship. In Philadelphia, he led the fourth-largest police department in the nation, with 6,500 sworn and 800 civilian members, through a collaborative DOJ reform process. Commissioner Ramsey was previously the Chief of the Washington, D.C. Metropolitan Police Department, where he led that department through a successful Memorandum of Understanding with the Department of Justice. Commissioner Ramsey has long been at the forefront of developing innovative policing strategies, evidence-based initiatives, organizational accountability and neighborhood based programs. He co-chaired President Obama's President's Task Force on 21st Century Policing, and is a past President of both the Police Executive Research Forum and Major Cities Chiefs Association, and served on the International Association of Chiefs of Police Executive Committee. He currently serves as the Deputy Monitor of the team monitoring the federal consent decree in Cleveland.

### **Hassan Aden - Team Lead of the Supervision Work Stream**

Chief Aden has more than 28 years of law enforcement service and executive leadership experience in law enforcement. He is the former Chief of Police for the Greenville, North Carolina, Police Department, and previously served for 26 years in the Alexandria, Virginia, Police Department, rising to the rank of Deputy Chief of Police. He also served as the Director of Research and Programs at the International Association of Chiefs of Police (IACP), oversaw a large portfolio of operational programs and research projects aimed at advancing professional police services. He is currently a Senior Advisor on Policing at the Vera Institute of Justice and a Senior Police Expert at the Police Assessment Resource Center (PARC), participating in both the Seattle and Cleveland monitoring teams.

### **Matthew Barge - Subject Matter Expert**

Mr. Barge, an attorney, is the federal court-appointed monitor overseeing a consent decree involving the Cleveland Police Department. He also currently serves as lead police practices expert to a retired magistrate judge overseeing an agreement between the City of Chicago and American Civil Liberties Union addressing issues related to

“stop and frisk.” During his more than 10 years of affiliation with PARC, Mr. Barge has engaged in significant monitoring and assessment projects, including serving as the Deputy Monitor of the court-appointed monitoring team overseeing a federal consent decree in Seattle.

**Kevin Bethel - Team Lead of the Coordination with Baltimore City School Police Force Work Stream; Team Lead of the Interactions with Youth Work Stream**

Deputy Commissioner Bethel was most recently responsible for all patrol operations for the Philadelphia Police Department, the fourth-largest police force in the nation. Joining the force in 1986, Deputy Commissioner Bethel initiated numerous crime fighting strategies and community outreach programs and a widely-praised, development-based juvenile justice reform initiative. He is currently a Stoneleigh Foundation Fellow, working to expand the Philadelphia Police School Diversion Program, and he serves as a senior policy advisor to Drexel University on Juvenile Justice Reformation.

**Ronald L. Davis - Team Lead of the Community Policing and Engagement Work Stream; Team Lead of the Impartial Policing Work Stream; Team Lead of the Stops, Searches, Arrests and Voluntary Police-Community Interactions Work Stream**

Mr. Davis is the former Executive Director of President Obama’s Task Force on 21st Century Policing and former Director of the DOJ’s Office of Community Oriented Policing Services, responsible for advancing community policing nationwide. He previously had a distinguished career in law enforcement in California, serving for eight years as Chief of Police of East Palo Alto and for 20 years with the Oakland Police Department. Mr. Davis also worked closely with the DOJ in the past as a policing expert for the department’s Civil Rights Division. In this capacity, he served on two federal monitoring teams, with oversight of police reform in Washington, D.C. and Detroit.

**Jessica Drake - Team Lead of the Community Engagement Work Stream**

Ms. Drake has worked in development, community outreach and volunteer engagement roles in Baltimore’s neediest communities and schools for 15 years. She is currently Vice President of Program Management and Development for Strategic Application International (SAI), serving as Program Manager for three grants from DOJ’s COPS office. In this role, she oversees contracts, consultants, work plans and project timelines, as well as all DOJ reporting requirements. In 2015, she facilitated and coordinated all logistics for the President’s Task Force on 21st Century Policing.

**Terrance A. Gainer - Team Lead of the Transportation of Persons in Custody Work Stream**

The Honorable Terrance W. Gainer, a senior security advisor and attorney, has had a distinguished 47-year career in law enforcement at the city, state and federal levels. He began his career in the Chicago Police Department, held leadership roles with the Illinois State Government and Police, and served as Executive Assistant Chief of Police for the Metropolitan Police. Subsequently, Mr. Gainer was the Chief of the U.S. Capitol Police and Sergeant-At-Arms of the U.S. Senate. He currently serves as the Strategic



Site Liaison for the cities participating in the DOJ's Violence Reduction Network program and conducts work advancing the goals of the 21st Century Task Force recommendations through the Bureau of Justice Assistance.

### **Maggie Goodrich - Team Lead of the Technology Work Stream**

Ms. Goodrich is the recently-retired Chief Information Officer of the Los Angeles Police Department (LAPD). In Los Angeles, she was responsible for the development and implementation of all LAPD risk management systems, including the officer early intervention system, mandated by the federal consent decree between the City of Los Angeles and the United States. Prior to joining the LAPD, Ms. Goodrich served as Policy Director for Homeland Security and Public Safety for Mayor Antonio Villaraigosa in Los Angeles. A lawyer, she has practiced litigation and white collar criminal defense at Howrey LLP. Prior to entering law, Ms. Goodrich served as an Information Technology Project Manager in software development and e-commerce. Ms. Goodrich has consulted for the Seattle Police Department on issues relating to compliance with a federal consent decree there and for the federal monitoring team in Cleveland.

### **Rachel Harmon - Subject Matter Expert**

Professor Harmon, a graduate of Yale Law School and member of the Maryland Bar, is an academic expert on policing, policy, and law, including consent decrees and civil rights litigation. She has taught, spoken widely, and published articles on civil rights and policing and often advises non-profit organizations and government agencies on policing issues. She currently is currently a Professor of Law at the University of Virginia School of Law. She also serves as Associate Reporter for the American Law Institute's project on the principles of policing and on the National Academy of Science's panel of experts on proactive policing. Prior to her academic career, she spent eight years at the Justice Department, investigating and prosecuting civil rights crimes, including police misconduct.

### **Richard Jerome - Subject Matter Expert**

Mr. Jerome, a former Deputy Associate Attorney General at the Department of Justice, currently serves as Deputy Monitor for the New York Police Department's stop-and-frisk-related remedies. He previously managed the Public Safety Performance Project of the Pew Charitable Trusts' Center on the States, which helps advance fiscally sound, data-driven policies and practices in sentencing and corrections. Prior to PEW, he served for six years as the Deputy Monitor and court-appointed Special Master for two police reform settlements in Cincinnati, Ohio. While at the DOJ, Mr. Jerome coordinated the department's efforts to promote police integrity. His work included review of the Department's police misconduct "pattern or practice" program, as well as criminal civil rights prosecutions for excessive force and other constitutional deprivations.

### **Nola Joyce - Team Lead of the Handling of Reports of Sexual Assault Work Stream; Team Lead of the Staffing, Performance Evaluations, and Promotions Work Stream**

Deputy Commissioner Joyce is nationally recognized as a leader in policing policy, research, and practice. Working with Commissioner Ramsey, she served as the Chief

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Administrative Officer and Chief of Staff of the Metropolitan Police Department (MPDC) in Washington, D.C. and as Deputy Commissioner of the Philadelphia Police Department (PPD). At the MPDC, she was responsible for ensuring that all units of the organization aligned their work with Commissioner Ramsey's vision for community-based policing. At the PPD, she led the Organizational Services, Strategy and Innovation Unit, with responsibility for all administrative, policy, research, technology, and training functions. Recently, she served as the Team Lead of the Review of Recruitment, Hiring, Retention and Promotion for Exiger's Review of the University of Cincinnati Police Department.

### **Sarah Lawrence - Subject Matter Expert**

Ms. Lawrence has more than 15 years' experience working with law enforcement agencies and criminal justice executives in partnerships aimed at bridging the worlds of practice and research. Since joining the Crime and Justice Institute in 2016, she has served as project director for two COPS Office grants, with responsibility for staff supervision, liaising with federal partners and police departments, and budget monitoring. She was previously with the Berkeley School of Law at the University of California, where she managed Warren Institute's criminal justice projects and led quantitative and qualitative research partnerships with several Bay Area police departments.

### **Kathleen O'Toole - Subject Matter Expert**

Chief O'Toole, Chief of the Seattle Police, has led her department's progress on compliance with a federal consent decree since assuming her position in 2014. She also served as the monitor overseeing a Department of Justice consent decree involving the East Haven, Connecticut, Police Department. She is a career police officer and lawyer with an international reputation for her principled leadership and reform strategies. In 2012, she completed a six-year term as Chief Inspector of the Garda Síochána Inspectorate, an oversight body responsible for bringing reform, best practice and accountability to the Irish national police service. Earlier, Chief O'Toole rose through the ranks of local and state policing in the United States, holding leadership positions with the Metropolitan District Commission Police and the Massachusetts State Police before becoming Commissioner of the Boston Police Department.

### **Sean M. Smoot - Team Lead of the Misconduct Investigations and Discipline Work Stream; Team Lead of the Recruitment, Hiring and Retention Work Stream; Team Lead of the Officer Assistance and Support Work Stream**

Mr. Smoot is Director and Chief Counsel for the Police Benevolent & Protective Association of Illinois and the Police Benevolent Labor Committee, and elected Treasurer of the National Association of Police Organizations. He was a member of the President's Task Force on 21st Century Policing and currently serves on the Cleveland Police Department consent decree monitoring team and the Illinois Commission on Police Professionalism. A frequent speaker on community policing, public safety, and public employee labor issues, he also serves on the Use of Force Advisory Committee, the Police Pursuit Advisory Committee, the Racial Profiling Advisory Committee, and the Task Force on Police Integrity for the Illinois Law Enforcement Training and Standards Board.





### **Ralph B. Taylor – Subject Matter Expert**

Dr. Ralph Taylor, a Professor of Criminal Justice at Temple University since 1984, has investigated a range of topics in environmental psychology, urban sociology, law and human behavior, criminology, and criminal justice over nearly four decades. A Fellow of the American Society of Criminology, he has received external research funding from the National Science Foundation, National Institutes of Corrections, Justice, and Mental Health. He serves on the editorial boards of Journal of Quantitative Criminology and the Journal of Criminal Justice and has authored a text book on research methods, more than 70 articles and more than 30 book chapters. His current work includes serving as the lead statistical expert on stop and frisk data related to a settlement agreement between the ACLU and the Chicago Police Department.

### **Roberto Villaseñor – Team Lead of the First Amendment Protected Activities Work Stream; Team Lead of the Responding To and Interacting with People with Behavioral Health Disabilities or In Crisis Work Stream**

Chief Villaseñor retired as head of the Tucson Police Department in 2015 after a more than 35-year career which gave him a thorough understanding of all facets of policing and police management. Before being appointed Chief in 2009, he was an Assistant Chief with direct responsibility at some point for all four department bureaus. In 2014, Chief Villaseñor was appointed by President Obama to the Task Force on 21st Century Policing, and, in 2015, by Arizona Governor Doug Ducey to the Arizona Criminal Justice Commission. He recently assisted Exiger with its review of the University of Cincinnati Police Department (UCPD) and currently serves as Deputy Monitor for the UCPD. He also recently served on the Department of Homeland Security Committee on Ethics and Integrity for Customs and Border Patrol.

The Team will be supplemented by one additional individual, and the formation of a Monitoring Team Advisory Board:

- **Monitoring Team Advisory Board:** The Monitoring Team will establish a Monitoring Team Advisory Board, consisting of local leaders and community representatives, who will provide insight and recommendations to the Monitoring Team and help facilitate a sustained, responsive, and substantive relationship across Baltimore's diverse communities.
- **Monitoring Team Advisory Board Liaison:** The Team will work with the Monitoring Team Advisory Board to add a Monitoring Team Advisory Board Liaison, who will be a Baltimore resident and selected in collaboration with the community. The Liaison will work hand in glove with the Monitoring Team Advisory Board, and will supplementing the work of and report to our Team Lead for Policing and Community Engagement.

Mr. Schlanger will be the Primary Monitor and Chief Ramsey will be the Deputy Monitor. We believe that this combination of personnel will best fulfill the promise of the Consent Decree. Mr. Schlanger's deep understanding of and experience with the Monitoring function, coupled with Chief Ramsey's 40-year track record of engendering police reform

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and reducing crime, will best provide Baltimore with the chance for comprehensive, enduring, and meaningful police reform.

As evidenced by the summary bios above, Messrs. Schlanger and Ramsey will be supported by an unmatched team with expertise in every substantive area of the Consent Decree as well as with the Monitorship process itself.

Leadership below the Deputy Monitor level will be broken into work streams corresponding to the subject matter areas of the Decree and matching the expertise of our Subject Matter Experts with that of the particular work stream.

In addition to the individuals introduced in this proposal, we expect to augment our Team with experts in other key areas as may arise and to build out the work streams with experienced, but more junior staff. The names and backgrounds of individuals who will work under each team leader will be included in our Monitoring Plan and submitted for approval pursuant to the mandates of the Consent Decree.

### **C. Budget**

We are proposing a flat fee of \$1,472,650 for the first year that covers all professional fees, travel expenses and all additional incidental costs. Given the number of hours that we estimate will be necessary to perform the functions to which we have committed the effective hourly rate being charged will be under \$225 per hour. That said, the Team is committed to fulfilling the job of the Monitor without billing for every hour required to do so. It is for this reason that we have found that the flat fee billing is the most efficient and effective way to bill. A detailed budget of estimated hours appears in Section VII below.

## **II. Scope of Work (Responding to Paragraph 33 of the RFA)**

The paragraphs below detail the proposed Monitoring Team's plan for dealing with each of the substantive monitoring tasks of the Consent Decree. The Team has extensive experience in dealing with each of these tasks in different capacities within a monitorship context, as well as deep expertise in the substantive policing subject matter areas which underlie the tasks.

**A. (Responding to Paragraph 8 of the RFA) The Monitor will assist the Court and the Parties in evaluating BPD and the City's implementation of the Consent Decree. The Monitor will provide thorough, objective assessments of whether BPD and the City have obtained Full and Effective Compliance with the Material Requirements of the Consent Decree.**

The role of the Monitor is well-defined. The Monitor must measure the BPD's compliance with a detailed reform plan, contained in the Consent Decree, which establishes specific protocols that the BPD must implement and with which it must comply. The Monitor must provide oversight that is professional, independent, and unbiased, aimed at helping the BPD to achieve full compliance with the Consent Decree without compromising



protected rights of the public or members of the BPD.

If selected, the Team will hit the ground running. Employing the time-tested methodologies that have underpinned the LAPD, Seattle and Cleveland monitorships, our Monitoring Plan will detail specific assessment protocols that will be collaboratively developed, clearly defined, transparent, and, designed to assist BPD in achieving compliance as effectively and efficiently as possible. It is our hope that full compliance can be achieved swiftly and that compliance with the Consent Agreement occurs at the earliest possible point in time.

Over the long-term, the oversight of Consent Decree protocols will be performed not only by the Monitor, but also through audits by the BPD itself. We thus appreciate the need for our methodologies to provide the basis for a viable, sustainable internal audit plan that enables the BPD to monitor itself and manage the risks of unconstitutional policing once the Consent Decree ends.

The goal is to develop protocols with metrics that accurately quantify compliance. In some instances, those protocols will focus on how various empirical or quantitative data about officer and departmental performance will be analyzed and assessed. In others, the methodologies will include sampling criteria for those mandates where sampling is required, and measurement standards for documenting compliance. As we will detail in the Monitoring Plan, diverse types of information will be gathered and analyzed to complete the Compliance Reviews and Outcome Assessments. As the Consent Decree progresses, we will review audits that the BPD has itself performed; in others, we will conduct our own audits.

Regardless of the type of review necessary, our team will, in collaboration with the parties, determine the suitable methodology and employ the appropriate personnel to gauge the nature and extent of compliance.

**B. (Responding to Paragraph 9 of the RFA) The Monitor will assist in achieving compliance with the Consent Decree by offering technical assistance, issuing recommendations, soliciting information from and providing information to members of the public, and preparing public reports on the Consent Decree's implementation.**

Although our primary role as monitor is to measure compliance with Consent Decree reforms, we also will aid the reform in a variety of different ways all aimed at assisting the BPD reach the goal of effective, safe and constitutional policing through full and effective compliance with the Decree. With a cadre of former law enforcement professionals who have achieved significant reform in their own urban police departments – several of whom also helped define the core principles for 21st Century policing – our team is uniquely equipped to provide the BPD with technical assistance related to all Consent Decree mandates and to help it institute best practices in constitutional and community policing.

As required by Paragraph 474, one or more members of the Team will be designated as Community Liaisons and charged with the responsibility of conducting two-way communications with the Baltimore public. Such communication vehicles would

include ongoing, in-person neighborhood meetings; using a web-based application, such as that offered by Textizen, to generate feedback from community residents on their interactions with police and ideas for reform; and employing text-based technologies to conduct community surveys via mobile phones. The Team will work to refine neighborhood-specific outreach strategies and feedback mechanisms for those without immediate ability to use or access to computer technology.

Assessments of the BPD's progress under the Consent Decree will be measured as ultimately outlined in the Monitoring Plan. The results will be integrated into a semi-annual report, provided as draft to the Parties prior to the Court filing, and then made available to the public.

Beyond these efforts, the Team, working with the BPD, the City, and the DOJ, will take additional steps to make sure that the monitoring activities are understood and transparent to Baltimore's residents. One of the goals of the team will be to ensure that community residents feel engaged in the process, as well as confident that their views have been represented.

To ensure that the community is a direct, ongoing part of the Monitoring Team's efforts, as noted above, we plan to establish a Monitoring Team Advisory Board, consisting of local leaders and community representatives, who will provide guidance and help facilitate a sustained, responsive, and substantive relationship across Baltimore's diverse communities.

Lastly, we will use the vast subject-matter expertise within our ranks to ensure that implementation of Decree reforms and best policing practices promotes officer and public safety. As many members of our Team know and have proven, policing that keeps people safe and policing that promotes respect and fairness go hand in hand – and, in fact, is necessary for sustainable reform.

**C. (Responding to Paragraph 10 of the RFA) The Monitor will work closely with BPD and its staff, in a cost-effective and collaborative manner, to ensure both Full and Effective Compliance under the Consent Decree and positive, constructive, and long-lasting change for BPD, and the community at large.**

Immediately upon award, the Team will begin internal and collaborative work on developing the Monitoring Plan, with a goal of delivering it to the parties ahead of the 90-day deadline.

Based on our past experiences, we know it is crucial at the outset to invest time to learn, first-hand, how the BPD operates – and delve deeply into both the full departmental, historical, and community context of the Consent Decree and the present challenges facing the BPD. Consequently, across all Consent Decree stakeholders, establishing good working relationships with the parties to the Consent Decree is a critical first step in performing the monitoring assignment. Our approach for building positive working relationships will begin with listening to stakeholders' concerns and keeping them informed of our priorities and plans. In initial communications, we will aim to clarify the role of the Monitoring Team, which is to observe, monitor, and recommend – not interfere in day-to-operations.



In the first 90 days after being appointed, the Monitor, Deputy Monitor, and many of the team's other subject matter experts will spend sustained time on the ground in Baltimore meeting with a diverse and broad array of Consent Decree stakeholders. In addition to the Parties and BPD itself, we will meet with elected officials, police union representatives, community organizations, residents, and the Community Oversight Task Force.

We will also meet at length with the BPD's Compliance Accountability and External Affairs Division ("Compliance Unit"). Because the Compliance Unit will be our primary liaison throughout the monitorship, we want to quickly establish a productive relationship and initiate protocols for ongoing communication and collaboration.

During this initial 90-day period, team members will want to observe the work of patrol officers and receive detailed "walk-throughs" of relevant business processes, paperwork, computers, data systems, policies and procedures that affect day-to-day officer performance and impact various Consent Decree topics.

During the 90-day period, we will work with the parties to establish protocols for the exchange of information between the monitor and stakeholders. Specifically, we would begin discussing methods for collecting and storing data that will be used to assess compliance. As in previous monitorships handled by members of the team, we would suggest employing an electronic data room for storing, sharing, and distributing documents by and between the team and the BPD. The use of an electronic data room is secure, cost-effective, and can be easily audited. Our team has in-house resources with the technical expertise in maintaining and securing electronic data rooms - allowing the focus of the City and BPD's efforts to be on making the substantive changes required under the Consent Decree rather than addressing technical needs primarily geared toward interfacing with the Monitor.

The electronic data room is one of many strategies that we will employ to minimize overhead and travel costs to the greatest extent possible and ensure that our time is spent monitoring and providing technical assistance. While in many instances there can be no substitute for in-person meetings, we will communicate via teleconference and videoconference to the greatest extent possible. Further, although our Team has assembled a group of national experts, many - including the Monitor and Deputy Monitor - are a train's ride away from Baltimore. The proximity of many Team members will permit the type of in-person presence that is necessary when working through in-depth issues or providing specific technical assistance. Additionally, the Monitoring Team will work with local hotel providers to ensure that overnight stays for non-Baltimore-based Team members can be provided at the lowest rate possible.

**D. (Responding to Paragraph 11 of the RFA) As set forth in Paragraphs 442-488 of the Consent Decree, to realize these objectives, the Monitor must assume certain concrete responsibilities. Responses to the RFA must address, in detail, how candidates will meet these responsibilities.**

Because of our prior and ongoing monitoring experience, our Team well understands the responsibilities and requirements of monitoring the BPD. In paragraphs A-C and E-Q of this Section, we have detailed how our Team intends to deal with those responsibilities.

**E. (Responding to Paragraph 12 of the RFA) The Monitor must develop and implement annual monitoring plans for implementing the Consent Decree. The Monitor must develop the monitoring plan within 90 days of appointment by the Court.**

During the initial 90-day period following our appointment by the court, the Team will work with all relevant stakeholders to develop a comprehensive Monitoring Plan. Informed by our site visit, the plan will detail our strategies, tactics, and timeline for measuring compliance with the Consent Decree and for helping the BPD to achieve best practices in urban policing as quickly as possible.

**F. (Responding to Paragraph 13 of the RFA) At minimum, the Monitoring Plans shall include the following:**

- a. An overview for how BPD will reach Full and Effective Compliance with all Material Requirements of the Consent Decree within five years, including a schedule with specific deadlines for the upcoming year and a general schedule for successive years;**
- b. A review and approval process for all BPD actions that are subject to review and approval by DOJ and or the Monitor;**
- c. An explanation for how the Monitor will assess compliance with the material requirements of the Consent Decree;**
- d. A description of outcome assessments and compliance reviews that will be used to assess compliance with the Consent Decree, including a general description of the methodologies used;**
- e. A schedule for conducting all outcome assessments and compliance reviews, taking into account that the data and technology necessary to conduct the assessments or reviews may be currently unavailable;**
- f. A process for sharing the results of all outcome assessments and compliance reviews with the parties, including all source data and information analysis, and a complete and detailed explanation of any conclusions;**
- g. Delineation of the roles and responsibilities of the Monitor's team members, including identifying a Deputy Monitor with authority to act in the Monitor's absence, lead members who have primary responsibility for each section of the Consent Decree, and specifying whether the Monitor has delegated approval authority to a team member in their area of primary responsibility;**
- h. A protocol for communication, engagement, and problem solving with BPD and DOJ; and**
- i. Identification of any documents that must be preserved beyond the requirements of applicable retention policies.**

The Monitoring Plan will provide each of the Parties and the public with complete

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transparency about what the Monitor expects of the BPD and when it is expected. This level of transparency is intended eliminate any potential claims of “monitoring by ambush” - that is, not being clear, from the start, about expectations - while at the same time allowing the community to have a role both in shaping and understanding the desired target state of the BPD for each substantive area of the Decree and to be able to track the progress toward that target state.

Each of the Material Requirements of the Agreement will be detailed within the Monitoring Plan, including:

- A list of documents, observations, interviews and other data that may be required in order to determine compliance with the Material Requirements of the Decree as well as for Outcome Assessments,
- A clear definition of what will constitute compliance and the methodology for the Compliance Review for any given Material Requirement or the Outcome Assessment. A final methodology for each will be submitted to the parties no later than 60 days prior to the initiation of the review or assessment, and thereafter following the protocol established pursuant to paragraph 467 of the Decree.
- The projected quarterly schedule for each Material Requirement to be assessed by the Monitor during the first year, as well as a general schedule for the subsequent four years, understanding that there may be multiple assessments of various provisions throughout the life of the Decree.

The Monitoring Plan will also set forth details of how reviews will be conducted, when findings of assessment will be shared with the parties, how those findings will be reviewed by the parties, and when and under what circumstances notification of failure to meet deadlines will be communicated to the Court, the parties and the public.

Similarly, the Monitoring Plan will outline the roles and responsibilities of the Monitoring Team, including the roles of the Monitor, the Deputy Monitor and each of the work stream leads.

Lastly, the Monitoring plan will establish clear protocols for the review and approval of BPD actions that are required from the DOJ and the Monitor, protocols for joint collaboration and problem-solving by the BPD, DOJ and Monitor; and a process for communicating results and sharing underlying data with the BPD, DOJ and the public.

Our plan will not only address every substantive requirement of the Consent Decree, but also maximize community participation and understanding of the police and their methods.

The Monitoring Plan will be submitted to the Parties and the Court for review pursuant to the mandates of Paragraphs 462 and 463 of the Decree, and will be reviewed and revised annually according to the proscribed timeframe.

**G. (Responding to Paragraph 14 of the RFA) The Monitor must communicate with the public and receive public input, which shall include quarterly in-person meetings with different Baltimore neighborhoods. The Monitor shall also maintain a public website and will post its proposed budget and accounting to that website. The Monitor is also expected to conduct outreach to and maintain open channels of communication with BPD officers and organizations representing officers.**

The Monitoring Team’s definition of “community” is a broad and inclusive one – encompassing not only Baltimore residents from all neighborhoods and walks of life but also including the BPD’s officers, employees, and staff. Both the proposed Monitoring Team’s structure and day-to-day activities will reflect the importance of a sustained, candid, and trusting relationship across the broad community that has a stake in seeing Baltimore become a model of modern policing.

A key innovation of the proposed Team’s structure involves the creation of a Monitoring Team Advisory Board. Comprised of local leaders, community representatives, and Baltimore residents, the Board will provide ongoing guidance and assistance on (a) the Monitor’s approach and areas of focus; (b) substantive reform issues; and (c) the Monitoring Team’s engagement with the community. Thus, rather than relying on some members of the Team to provide the “Baltimore point of view” to the Team, our proposed Team would benefit from a full complement of individuals to help us facilitate a sustained, responsive, and substantive relationship across Baltimore’s diverse communities.

Our team leaders have substantial experience dealing with how policing impacts communities. They have led or participated in thousands of community meetings – and they understand the primary role that the community must play in ensuring real reform that individuals can see and feel on the streets of Baltimore.

As stated above in Paragraph 9, one or more members of the monitoring team will serve as Community Liaisons and be responsible for establishing relationships with neighborhood leaders and speaking at local meetings. Our proposed team members include individuals with ties to local government and non-profit agencies.

As also stated above, to facilitate broad public awareness of the monitorship, the team will host a website which will contain in-depth information on the monitoring team, the monitoring plan, budget and semi-annual reports as they become available. Examples of such websites that Team members have previously managed can be found at [www.clevelandpolicemonitor.net](http://www.clevelandpolicemonitor.net) and [www.seattlemonitor.com](http://www.seattlemonitor.com).

With respect to the men and women of the BPD, one or more of the team members will be designated to fill the mandated role of Police Liaison, serving as a point of contact with officers and working officer associations. Leveraging team members’ special skills, we expect, for example, to establish a productive and substantive working relationship with the police union – of the type that has often been absent in prior Consent Decrees in other jurisdictions. Team member Sean Smoot’s expertise in labor relations will prove invaluable in this regard and will complement the significant union-related experience of other members of the team.

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**H. (Responding to Paragraph 15 of the RFA) The Monitor shall provide technical assistance to the City and BPD, including recommending strategies to ensure that the City and the BPD are effectively implementing the Consent Decree.**

The Team will provide technical assistance with all areas of policing addressed in the Consent Decree as requested or necessary. As detailed in the Qualifications section, the proposed Team includes subject matter experts on the use of force, juvenile justice, first amendment protected activities, data analysis as well as many other relevant topics, and has the requisite experience to advise on changes in policies, procedures, and training that will enable the BPD to more quickly and effectively implement the Consent Decree.

The Monitoring Team understands well that “effective implementation” of the mandates of the Decree should include and should naturally lead to enhanced public safety, officer safety, and crime reduction. Both the Team’s former law enforcement professionals and its members who have participated in monitoring efforts elsewhere have ensured that the implementation of best policing practices have gone hand in hand with enhanced public safety.

**I. (Responding to Paragraph 16 of the RFA) The Monitor shall make recommendations to the Parties regarding measures necessary to ensure Full and Effective Compliance with the Consent Decree, which may include recommendations to change, modify, or amend a provision of the Consent Decree, recommendations for additional training in an area unrelated to the Consent Decree, or a recommendation to seek technical assistance.**

Per Paragraph 468 of the Consent Decree, as the Team moves forward with the implementation of the Monitoring Plan, it will assess whether the provisions of the Decree are sufficiently detailed and precise to provide the BPD with a clear roadmap to achieving the dual goals of compliance and “positive, constructive, and long-lasting change.” Based on our decades of monitoring and legal experience, we will be able to quickly identify where modifications may be needed and what the appropriate modifications should be, and to work collaboratively with the DOJ and the Courts to implement such modifications to the Consent Decree.

With respect to technical assistance, our Team will not be hesitant to encourage the BPD to obtain technical assistance in order to supplement their in-house expertise. Our Team has too often observed situations where the lack of appropriate expertise within a Department under a monitorship has caused significant delays in achieving full and effective compliance.

**J. (Responding to Paragraph 17 of the RFA) The Monitor shall formulate outcome measures and compliance assessments and conduct qualitative and quantitative assessments of progress under the Consent Decree.**

The Monitoring Plan will detail what constitutes compliance, the specific methodology we will use to measure it, and when Compliance Reviews will take place for each of the Material Requirements of the Agreement.

In addition to conducting the Outcome Assessments specifically mandated in

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Paragraphs 459 of the Consent Decree, we will report on progress related to Consent Decree provisions, e.g. transportation of persons in custody, for which specific Outcome Assessment were not mandated.

Our methodologies and timelines for both Compliance Reviews and Outcome Assessments will be detailed.

As required by Paragraph 460 of the Consent Decree, our reports will fully detail the statistical techniques, data, underlying analyses, methods and source of information relied upon to reach conclusions.

**K. (Responding to Paragraph 18 of the RFA) The Monitor shall regularly produce reports to the public and the Court. These reports shall include, but are not limited to:**

- a. A description of the work conducted by the Monitor during the reporting period, including the extent to which the Monitor provided technical assistance;**
- b. A projection of the work to be completed during the upcoming reporting period;**
- c. BPD and the City’s progress implementing the Consent Decree;**
- d. Any obstacles to effective implementation;**
- e. The methodology and specific findings for each outcome assessment conducted; and**
- f. An appendix listing each requirement of the Consent Decree that the Monitor reviewed and stating whether the requirement has reached full and effective compliance, is in progress, or is not yet started.**

Every six months, the Team will produce comprehensive written reports addressing completed and planned monitorship activities; the BPD’s progress in implementing the Consent Decree; any obstacles to implementation; and the methodology and findings for each review or outcome assessment that has been completed. The report will include an appendix providing the current status of the BPD’s compliance with each of the Consent Decree requirements.

Team members have produced similar semi-annual reports for the [Cleveland Police Department](#) and [Seattle Police Department](#) monitorships and posted those reports and other pertinent information on a dedicated monitoring team websites. For the LAPD monitorship, team members produced [quarterly reports](#) which were maintained on both the Monitor’s and LAPD’s website. Copies of a representative sample of the reports can be found Appendices C through G.



**L. (Responding to Paragraph 19 of the RFA) Two years after the date the Consent Decree is entered by the District Court of Maryland, and every two years thereafter, the Monitor shall conduct a comprehensive re-assessment to determine whether and to what extent the material requirements of the Consent Decree have been achieved. This re-assessment shall include areas of greatest achievement as well as areas of greatest concern, as well as strategies and technical assistance for achieving compliance.**

As mandated, every two years, the Team will conduct a comprehensive re-assessment of the BPD's compliance with the Material Requirements of the Consent Decree and its progress in achieving positive change. Besides summarizing the facts regarding what has been accomplished, this review will be forward-looking and contain recommendations of steps that should be taken by the Parties to facilitate faster compliance with the letter and the spirit of the Consent Decree.

**M. (Responding to Paragraph 20 of the RFA) The Monitor shall prepare and submit annual budgets for monitoring the Consent Decree.**

The team's extensive experience includes managing multi-million, multi-year budgets. The Monitorship budget for the LAPD was \$19 million over an eight-year period. Members of the team are currently managing annual budgets of \$1 million or more for the monitorships of the Cleveland Police Department, the University of Cincinnati Police Departments and HSBC. As a result, they are highly adept at allocating resources and staff for the most cost-effective execution of a monitorship. Other team members have multi-million budget management experience gained from their leadership of several of the largest police departments in the United States. This experience will be a huge asset to the team as it monitors the actions the BPD is taking to achieve reform.

**N. (Responding to Paragraph 21 of the RFA) The Monitor shall regularly communicate with the Parties regarding the status of the implementation of the Consent Decree.**

As frequent and open communications are critical to building and maintaining a collaborative working relationship and a highly effective monitorship, the Monitoring Plan will include a section on communications. It will delineate the types and frequency of communications - e.g., memos, teleconferences, video-conferences and in-person meetings - that will be used for ongoing communications with the DOJ, BPD and City regarding the implementation of the Consent Decree.

Although many of the specifics will depend on the outcomes and shared decisions of the Parties and BPD about how to most effectively and efficiently reach compliance, the Monitoring Team will endeavor to set aside times for both (a) weekly calls with core, key stakeholders to address the current state of progress on the areas on which the City and BPD are focused, and (b) monthly calls with a broader group of stakeholders to ensure that all individuals with a stake in reform are tracking - well before formalized reports to the Court and long before major changes are implemented - what is happening under the Consent Decree.

**O. (Responding to Paragraph 22 of the RFA) The Monitor shall, on a regular**

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**basis, meet with community members and BPD officers to inform them about the Consent Decree implementation process and to listen to their questions, concerns, and suggestions regarding its implementation.**

New policies and processes developed to comply with the Consent Decree need to add up to tangible results for Baltimore residents and police officers alike. Both need to fully understand the underlying rationale and the ultimate goal of each of its provisions. To that end, the Team's designated Community and Police Liaisons will hold regularly scheduled meetings with their stakeholder constituents to explain the Consent Decree, provide updates and gather feedback. They will also initiate other technology-enabled programs which give community residents and police officers to opportunities to share their concerns and suggestions anonymously. These will prove particularly critical given that extensive two-way communications programs are required with respect to the introduction of new and modified policies which require public and police input.

**P. (Responding to Paragraph 23 of the RFA) The Monitor shall make public statements only to the extent permitted by the terms of the Consent Decree, and shall testify in proceedings only as provided in the Consent Decree.**

The Monitor and Monitor team members fully understand that they are not authorized to make public statements regarding their work except as required or authorized. With extensive media relations and public speaking experience, our team members are circumspect, cautious, and capable of politely declining to comment on topics they are not authorized to discuss. As former prosecutors, litigators and law enforcement officials, they are extremely comfortable and adept at testifying in court.

**Q. (Responding to Paragraph 24 of the RFA) The Monitor shall maintain the highest ethical standards.**

The integrity and high ethical standards of the Monitor and the Monitoring Team are unrivalled. The Team features a cadre of law enforcement and legal professionals at the top of their respective fields, who have served with distinction in some of the most complex and high-profile oversight roles in the United States. Every member of the team has a proven record of unwavering independence, and both Exiger and 21st Century Policing consider independence to be a fundamental organizational value.

One key value that the monitorship implicates is that of independence. Although this proposal makes clear the proposed Monitoring Team's desire to work collaboratively and closely with the City, BPD, the Department of Justice, police officer organizations, community organizations and residents alike, the Team is mindful that it ultimately serves as an agent of the Court for purposes of ensuring that the Consent Decree is effectively implemented. Therefore, the Team pledges to be as transparent, candid, and clear with all Consent Decree stakeholders as possible throughout the process.





### **III. Personnel and Current Time Commitments (Responding to Paragraph 34 of the RFA)**

#### **A. Introduction**

This section responds to Paragraphs 34 a-e, “Personnel and Current Time Commitments,” and Paragraph 36, “Prior Experience and References” of the RFA. We have assembled a group of highly respected former law enforcement professionals and experts to work on this assignment. As requested, for each team member, we have detailed below the name, relevant background, area(s) of responsibilities, time commitments and minority status, along with references related to prior employment or consulting work. The information on the individual team members is followed by an organizational chart of the Monitoring Team. Complete biographies for each can be found in Appendix A.

Because the work experience of individual team members highlighted in “Relevant Background” and “Prior Experience and References” most often simultaneously demonstrates many of the Qualifications listed in Paragraphs 26 a-r, Section IV of this proposal includes a Team Qualifications Matrix which notes each team member’s qualifications against Paragraphs 26 a-r.)

Section V, titled Team Qualifications, details the team’s overall qualifications in each of area listed in Paragraphs 26 a-r along with examples from individual team members.

#### **B. Individual Team Member Responses to Paragraphs 34 and 36**

##### **1. Jeff Schlanger, Primary Monitor**

###### **34b. Relevant Background**

Mr. Schlanger has more than 30 years of experience in law, law enforcement, and, perhaps most critically, police department monitoring. Mr. Schlanger served on the Executive Committee of the Commission that developed the National Guidelines for Police Monitors and was instrumental in the design and execution of the monitoring methodology in Los Angeles, serving as the Deputy Primary Monitor for the LAPD consent decree. In this role, over an eight-year period, he was responsible for assessing LAPD’s compliance with all reform efforts, including those relative to the complaint process and use of force investigations.

As President and CEO of Kroll Government Services (renamed KeyPoint Government Solutions in 2009), he performed independent investigations for the [Tennessee Highway Patrol](#) (an investigation into corruption in the hiring and promotion process), the San Francisco Police Department (an investigation into an internal affairs investigation involving the son of a Chief in the Department), and the Austin Police Department (investigative reviews of separate fatal officer-involved shootings in [2007](#) and [2009](#)).

He currently serves as Monitor of the University of Cincinnati Police Department (UCPD), overseeing the UCPD’s efforts to implement voluntary reforms in community engagement and community-oriented policing). He was appointed to this role in 2016 following Exiger’s Comprehensive Review of the UCPD. This review, conducted in

response to a fatal officer-involved shooting, included an analysis of the department's current practices relative to best practices in policing today. Exiger's report found 129 areas for improvement and made 276 concrete and actionable recommendations for enhancing security and safety while simultaneously rebuilding trust between the department and its community.

Mr. Schlanger began his career in law enforcement as a prosecutor in the Manhattan District Attorney's office, spending 12 years in that office and rising to the level of Senior Trial and Senior Investigative Counsel. Immediately before joining Exiger in 2015, he returned to the District Attorney's Office as Chief of Staff, overseeing the day-to-day operations of New York's largest prosecutor's office and handling its "Extreme Collaboration" initiative with the New York City Police Department. In this role, he was also responsible for the Office's community relations mission and forging new strategies for improving relationships with the diverse communities served.

#### **34c. Area(s) of Responsibility Team Role**

Mr. Schlanger will serve as Primary Monitor.

#### **34d. Current Employment & Time Commitment**

Mr. Schlanger is employed full time as Managing Director and President of Exiger Advisory. He currently dedicates 100 hours per month to his overall management and business development responsibilities and approximately 25 hours per month to the monitorship of the UCPD. It is anticipated that should an award be made pursuant to the instant RFA, Mr. Schlanger will substantially reduce his administrative and business development activities.

#### **34e. M/WBE Status**

N/A

#### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

#### **36. Prior Relevant Experience and References**

- Monitor, University of Cincinnati Police Department  
Reference: Dr. Robin Engel, Vice President for Safety & Reform  
Phone: (513) 556-5850  
Email: [robin.engel@uc.edu](mailto:robin.engel@uc.edu)
  - Deputy Monitor, Los Angeles Police Department  
Reference: William J. Bratton (Former LAPD Police Chief)  
Phone: (212) 886-9314  
Email: [bill.bratton@brattonmail.com](mailto:bill.bratton@brattonmail.com)
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## Representative Work Product

- [Los Angeles Police Department Monitorship Final Report](#) (Appendix C)
- [University of Cincinnati Police Department Review Final Report](#) (Appendix D)

## 2. Charles Ramsey, Deputy Monitor

### 34b. Relevant Background

A nationally recognized figure in community policing, Commissioner Ramsey brings the team the benefit of decades of law enforcement leadership and significant experience working on both sides of DOJ reform agreements. He began his 47-year career as a Chicago Police Cadet and has served in a variety of assignments, including leadership roles at three urban police departments. After moving up the management ranks at the Chicago Police Department from 1977 to 1998, he served for eight years as Chief of the Washington, D.C. Metropolitan Police (MPDC) and then as Commissioner of the Philadelphia Police Department (PPD) for another eight years. At both the MPDC and PPD, he was responsible for implementing reforms in conjunction with DOJ agreements. Since retiring from the PPD in early 2016, he has become a Principal Consultant at 21st Century Policing, worked on Exiger's Review of the University of Cincinnati Police Department, and served as the Deputy Monitor of the Cleveland Police Department.

Throughout his career, Commissioner Ramsey has spearheaded operational and cultural changes aimed at improving community relations while reducing crime. In Chicago, he was instrumental in designing the Chicago Alternative Policing Strategy, the city's nationally acclaimed model of community policing. During his tenure in Washington, D.C., violent crime dropped to its lowest level since the late 1960s, while opinion surveys marked a rise in public confidence in the police department. In Philadelphia, his focus on evidence-based policing resulted in a 20% reduction in violent crime and a 37% drop in homicides.

Commissioner Ramsey has consistently been tapped for leadership roles in industry organizations. Most recently, he was appointed by President Obama as Co-Chair of the President's Task Force on 21st Century Policing. He also previously served as President of the Major Cities Chiefs Association and of the Police Executive Research Forum.

### 34c. Area(s) of Responsibility

Commissioner Ramsey will serve as Deputy Monitor and Team Lead for Use of Force.

### 34d. Current Employment & Time Commitment

Commissioner Ramsey spends approximately 10 hours per week on his consulting and monitorship work, and 16 hours per week as an advisor to Drexel University.

### **34e. M/WBE Status**

21st Century Policing, LLC is 75% minority-owned, but is not officially certified as an M/WBE business.

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant 10-Year Experience and References**

- Commissioner, Philadelphia Police Department  
Reference: Michael Nutter (Former Mayor of Philadelphia Mayor)  
Phone: (215) 906- 192  
Email: [Michael@nutter2007.com](mailto:Michael@nutter2007.com)
- Chief, Washington, D.C. Metropolitan Police  
Reference: Anthony Williams (Former Mayor of Washington, D. C.)  
Phone: (202) 223-4560  
Email: [awilliams@federalcitycouncil.org](mailto:awilliams@federalcitycouncil.org)
- Police Oversight, Washington, D.C. Metropolitan Police /DOJ Memorandum of Understanding  
Reference: Eric H. Holder (Former U.S. Attorney General General)  
Phone: (202) 662 6000  
Email: [eholder@cov.com](mailto:eholder@cov.com)
- Deputy Monitor, Cleveland Monitoring Team  
Reference: Carole S. Rendon, Partner, Baker Hostetler (Former AUSA)  
Phone: (216) 621-0200  
Email: [crendon@bakerlaw.com](mailto:crendon@bakerlaw.com)

### **Representative Work Product**

- [Final Report of the President’s Task Force on 21st Century Policing](#)
- [Moving the Philadelphia Police Department into the 21st Century](#)  
(Appendix G)

## **3. Hassan Aden**

### **34b. Relevant Background**

Chief Aden, who retired from the Greenville, North Carolina, Police Department in 2015, has extensive experience in the administrative, investigative and operational aspects of policing, and demonstrable success in working with issues such as crime control policies, community engagement and strategic planning. His career as a law enforcement professional and seasoned police chief has earned him a reputation as a thought leader in the delicate area of crime reduction and prevention as balanced

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with community engagement and inclusion. His accomplishments in this area include engaging the Greenville community in producing a three-year strategic plan for the police department and involving the Ashville, North Carolina, community in developing a new Use of Force policy for that city's police force.

Chief Aden currently serves as Project Director for the Police Assessment Resource Center (PARC) Seattle Consent Decree monitoring team. He also serves on the Cleveland monitoring team, focusing on internal police accountability and training reform. Additionally, he is the Senior Adviser on Policing for the Vera Institute of Justice and the Senior Adviser with the Police Foundation, where he provides Critical Incident and Collaborative Reform technical assistance to local police departments, as assigned or mandated by the U.S. Department of Justice.

Previously, he was Director of the Research and Programs Directorate of the International Association of Chiefs of Police (IACP), where he directly oversaw the day-to-day management of operational programs and research projects aimed at advancing professional police services. Prior to his appointment as Greenville Police Chief, he served for 26 years at the Alexandria, Virginia, Police Department, rising to the rank of Deputy Chief until his retirement in 2012.

Chief Aden is a former commissioner of the governing board of CALEA and currently serves on the National Academies of Sciences, Engineering and Medicine's Committee on Law and Justice.

**34c. Area(s) of Responsibility**

Chief Aden will serve as Team Lead for Supervision. He will also assist with the Stop, Searches and Arrests; Use of Force; and Recruitment, Hiring and Retention work streams.

**34d. Current Employment & Time Commitment**

Chief Aden currently spends approximately 25 hours a week on the Seattle and Cleveland Police Department monitorships. (Note: The Seattle monitorship is nearing full and effective compliance.)

**34e. M/WBE Status**

N/A

**35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

**36. Prior Relevant Experience and References**

- Seattle Monitoring Team  
Reference: Brian Maxey, Chief Operating Officer, Seattle Police Department  
Phone: (206) 684-8200  
Email: [brian.maxey@seattle.gov](mailto:brian.maxey@seattle.gov)
-

- Cleveland Monitoring Team  
Reference: Carole S. Rendon, Partner, Baker Hostetler (former AUSA)  
Phone: 216-621-0200  
Email: [crendon@bakerlaw.com](mailto:crendon@bakerlaw.com)

## **Work Product**

- [Seattle Monitor's Eighth Systemic Assessment Regarding the Early Intervention System](#)

## **4. Matthew Barge**

### **34b. Relevant Background**

Mr. Barge, Co-Executive Director of the Police Assessment Resource Center (PARC), has directed numerous monitoring efforts and independent assessments of law enforcement organizations nationwide. He is currently the Court-appointed Monitor of the consent decree involving the Cleveland Division of Police and a Deputy Monitor of a similar decree in Seattle. Both decrees address a host of issues, including use of force, officer training, supervision, internal investigations, and accountability. Mr. Barge is lead law enforcement practices expert to a retired federal magistrate judge overseeing a settlement between the City of Chicago and ACLU that addresses search and seizure and bias-free policing issues.

Mr. Barge has conducted monitoring, consulting, or oversight work on behalf of other police departments, civilian oversight organizations, city governments, and community groups, including those in Mesa, Arizona; Los Angeles and Pasadena, California; Denver, Colorado; New Orleans, Louisiana; Farmington, New Mexico; Walkill, New York; and Portland, Oregon.

Mr. Barge co-authored the Bureau of Justice Assistance-sponsored national guidelines for monitors and police oversight professionals, and was a lead author of COPS Office-sponsored national standards for internal affairs investigations. A frequent lecturer on police accountability and Fourth Amendment issues, he is an attorney who previously specialized in complex litigation at the law firms of Skadden, Arps and Quinn Emanuel in New York City.

### **34c. Area(s) of Responsibility**

Mr. Barge will serve as an Advisor to the Monitoring Team.

### **34d. Current Employment & Time Commitment**

Mr. Barge is employed full-time by PARC.

### **34e. M/WBE Status**

N/A





### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and References**

- Deputy Monitor, Seattle Police Department Consent Decree Monitoring  
Reference: Brian Maxey, Chief Operating Officer, Seattle Police Department  
Phone: (206) 684-8200  
Email: [brian.maxey@seattle.gov](mailto:brian.maxey@seattle.gov)
- SME, Chicago Stop-and-Frisk Settlement  
Reference: Hon. Arlander Keys  
Phone: (312) 655-9199  
Email: [mmccants@jamsadr.com](mailto:mmccants@jamsadr.com)

### **Work Product**

- [Cleveland Police Monitor Second Semi Annual Report](#)  
(Appendix E)
- [Seattle Police Monitor Ninth Systematic Assessment of Use of Force Report](#)  
(Appendix F)
- [Additional PARC Reports](#)

## **5. Kevin Bethel**

### **34b. Relevant Background**

Deputy Commissioner Bethel retired in early 2016 from the Philadelphia Police Department, where he held diverse management roles and most recently commanded Patrol Operations for the entire city. Throughout his 29 years of service, he demonstrated a commitment to helping youth and improving the juvenile justice system. Among his notable accomplishments was the creation of a School Diversion Program within the Philadelphia School System which reduced the number of school arrests by 54% in its first year.

Deputy Commissioner Bethel testified before the President's 21st Century Task Force on the need for a concerted effort by law enforcement to address the school-to-prison pipeline across the nation, and currently works toward that goal as a Stoneleigh Foundation Fellow at Drexel University. He also serves on numerous committees in the fields of juvenile justice and bias-free policing. For example, he co-chairs the Philadelphia City Council's Criminal Justice Special Committee on Criminal Justice Reform and is a member of the Pennsylvania Commission on Crime and Delinquency Disproportionate Minority Contact Subcommittee and of the MacArthur Safety + Justice Challenge Racial Disparity Committee.

Currently working on the Newark, N.J., consent decree team, Deputy Commissioner

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Bethel oversees the Stop & Search, Body Camera and Bias-Free Policing work streams.

### **34c. Area(s) of Responsibility**

Deputy Commissioner Bethel will serve as Team Lead for the Baltimore School Coordination and Interaction with Youth work streams.

### **34d. Current Employment & Time Commitment**

Deputy Commissioner Bethel currently spends approximately 15-20 hours monthly on the Newark monitorship and 32 hours per month as the Stoneleigh Foundation Fellow at Drexel University.

### **34e. M/WBE Status**

Sole proprietorship, minority-owned.

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and References**

- Deputy Commissioner, Philadelphia Police Department  
Reference: Philadelphia Police Commissioner Richard Ross  
Phone: (215) 686-3280  
Email: [Richard.ross@phila.gov](mailto:Richard.ross@phila.gov)
- Reference: Dr. William Hite, Superintendent of the Philadelphia School District  
Phone: (215) 400-4100  
Email: [hite@phasd.org](mailto:hite@phasd.org)

### **Representative Work Product**

- [Newark Police Department Independent Monitor, First Quarterly Report](#), April 24, 2017
- [Moving the Philadelphia Police Department into the 21st Century](#)  
(Appendix G)

## **6. Ronald L. Davis**

### **34b. Relevant Background**

Mr. Davis, a Principal Consultant at 21st Century Policing, LLC, brings the team decades of experience in community policing and police reform. In 2013, he was appointed by Attorney General Eric Holder to serve as Director of the DOJ's Office of Community Oriented Policing (COPS Office), which advances community policing nationwide. In this capacity, Mr. Davis had oversight of the "Collaborative Reform Initiative" an organizational transformation process conducted in more than 15 cities, including Baltimore, where

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he worked with government and police officials providing the police with technical assistance on a wide range of issues.

Concurrently, from 2014 to 2016, he was Executive Director of the President's Task Force on 21st Century Policing, which crystallized best practices for community and constitutional policing.

Mr. Davis also served as a member of the Harvard Executive Sessions on Policing and worked as a policing expert for the DOJ's Civil Rights Division. In this capacity, he served on two federal monitoring teams with oversight of consent decrees between the DOJ and the Washington, D.C., and Detroit Police Departments.

Prior to his COPS Office role, Mr. Davis had a distinguished law enforcement career. He served for more than eight years as Chief of Police of East Palo Alto, Calif., and for 20 years with the Oakland Police Department. Davis was recognized for his innovative community policing efforts and working collaboratively with the community to dramatically reduce crime and violence in a city once named as the murder capital of the United States.

#### **34c. Area(s) of Responsibility**

Mr. Davis will serve as Team Lead for the Community Policing and Engagement, Impartial Policing, and Stops, Searches, Arrests and Voluntary Police-Community Interactions work streams.

#### **34d. Current Employment & Time Commitment**

Mr. Davis currently spends approximately 10 days a month working on consulting projects and speaking engagements in his role with 21st Century Policing, LLC.

#### **34e. M/WBE Status**

21st Century Policing LLC is 75% minority-owned, but is not officially certified as an M/WBE business.

#### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

#### **36. Prior Relevant Experience and References**

- Director, COPS Office:  
Reference: Karol Mason (Former USAAG, Office of Justice Programs)  
Phone: Please use email address  
Email: [kvmason57@gmail.com](mailto:kvmason57@gmail.com)
  - Member, President's Task Force on 21st Century Policy (26b)  
Reference: Prof. Laurie Robinson (Former, Task Co-Chair)  
Phone: (703) 993-2164
-

Email: [laurieorobinson@gmail.com](mailto:laurieorobinson@gmail.com)

## **Representative Work Product**

- [Final Report of the President's Task Force on 21st Century Policing](#)

## **7. Jessica Drake**

### **34b. Relevant Background**

Jessica Drake, a Baltimore native, has spent years in program management, volunteer engagement, community outreach and development roles with local housing, education and health organizations. She has worked with Strategic Applications International (SAI) since 2006 and came on board full-time in 2013 as Vice President of Program Management and Development.

In this leadership role, Ms. Drake has ongoing management responsibilities for implementing several grant programs conducted under the auspices of the DOJ's COPS Office. In 2015, she served as facilitator for the President's Task Force on Community Policing, managing all logistics and assisting with writing the final report. Currently, she oversees three other COPS Office grants: Public Law 280, a national technical assistance program for tribal law enforcement agencies; the Emerging Issues Forum, which gathers and disseminates information about community policing challenges and successes to key stakeholders, and the COPS Talk Series, a forum that drives public and media interaction with leading experts in law enforcement. In addition, she assists 21st Century Policing Solutions as Program Manager for its work on COPS' Critical Response Technical Assistance Program.

Before joining SAI full-time, Ms. Drake was Director of Community Outreach and Volunteerism at the Living Classrooms Foundation. There, she increased volunteerism by 200% and successfully paired community organizations with corporate partners to create long-lasting engagement and sponsorship relationships.

### **34c. Area(s) of Responsibility**

Ms. Drake will serve as Team Lead for Community Engagement.

### **34d. Current Employment & Time Commitment**

Ms. Drake works approximately 35 hours per week in her SAI position and spends five hours per week in her program management role with 21st Century Policing. Her time will be adjusted by virtue of this assignment.

### **34e. M/WBE Status**

N/A

## **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

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### **36. Prior Relevant Experience and References**

- Facilitator, President's Task Force on 21st Century Policing  
Reference: Prof. Laurie Robinson (Former, Task Co-Chair)  
Phone: (703) 993-2164  
Email: [laurieorobinson@gmail.com](mailto:laurieorobinson@gmail.com)
- Advocacy & Youth Engagement Coordinator, Habitat for Humanity of the Chesapeake  
Reference: Leila Kohler-Frueh  
Phone: (410)366-1250  
Email: [lfrueh@habitat Chesapeake.org](mailto:lfrueh@habitat Chesapeake.org)

### **Relevant Work Product**

- [Final Report of the President's Task Force on 21st Century Policing](#)
- [Gender, Sexuality and 21st Century Policing](#)

## **8. Terrance Gainer**

### **34b. Relevant Background**

Terrance Gainer brings the monitorship broad and deep policing and legal expertise gained through a 47-year career in diverse in law enforcement and government roles. He began his career as a Chicago Police Department officer, held leadership roles with the Illinois State Police, acted as Special Assistant to the U.S. Secretary of Transportation, served as Chief of the U.S. Capitol Police and was appointed U.S. Senate Sergeant at Arms, among other positions.

As a law enforcement leader and practitioner at the city, state and federal level, Chief Gainer has been involved in a myriad of projects directly related to Baltimore consent decree mandates. As the Executive Assistant Chief of the Metropolitan Police Department, Washington D.C., he was Chief Ramsey's lead on its voluntary engagement with the DOJ's review of the department's use of force policy and practices. More recently, he served as a special adviser to the Superintendent of Police, Chicago Police Department, as it engaged with the DOJ's Bureau of Justice Assistance.

Chief Gainer currently assists the DOJ with its violence reduction strategies in Milwaukee, Wisconsin, and is working with the police department of the Gun Lake Tribe on best practices building and maintaining the six pillars of the President's Task Force on 21st Century Policing. He also guided Camden, New Jersey, as well as Chicago through its violence reduction strategies.

### **34c. Area(s) of Responsibility**

Chief Gainer will serve as the Team Lead for Handling Sexual Assault Reports and will assist with the Misconduct Investigations, Use of Force, Supervision, and Recruitment, Hiring and Retention work streams.

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### **34d. Current Employment & Time Commitment**

Chief Gainer, an independent consultant, currently spends approximately 6-10 hours a week on the DOJ's violence reduction program, 6-8 hours a week as site coordinator for the 21st Century Policing project, and less than 10 hours a month as needed by three private sector clients.

### **34e. M/WBE Status**

N/A

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and References**

- Adviser, Violence Reduction Network for the DOJ, BJA - Camden  
Reference: Chief Scott Thomson  
Phone: (609) 502-9322  
Email: [thomson1058@gmail.com](mailto:thomson1058@gmail.com)
- Adviser, Violence Reduction Network for the DOJ, BJA - Milwaukee  
Reference: Chief Ed Flynn  
Phone: (414) 935-7200  
Email: [eflynn@milwaukee.gov](mailto:eflynn@milwaukee.gov)

## **9. Maggie Goodrich**

### **34b. Relevant Background**

Maggie Goodrich retired in March 2017 as Chief Information Officer for Public Safety for the City of Los Angeles – a role with responsibility for the fire department as well as the police department – following a distinguished career as an attorney and technology expert. Now a consultant, she brings the team experience in all facets of technology for law enforcement – from field equipment and mobile communications to management information systems and data analytics.

As Chief Information Officer of the Los Angeles Police Department (LAPD) for seven years, Ms. Goodrich was responsible for the procurement, implementation and management of all technology for the department. Prior to becoming CIO, she was a Commanding Officer responsible for the development and implementation of all LAPD Training Evaluation and Management Systems (TEAMS II), which included, among others, the early intervention, complaint management and use of force systems. In this role, she worked closely with the DOJ and court-appointed monitor to ensure the city's compliance with a federal consent decree. Earlier, she served in the Office of the Mayor and held legal and technology positions in the public and private sector.

Ms. Goodrich recently served as a technology advisor for Exiger's University of Cincinnati

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Police Department Review, as a consultant to the Chief of the Seattle Police Department on variety of IT topics, and as a Body Worn Video Subject Matter Expert for the Bureau of Justice Assistance. She currently acts as a consultant to the University of Chicago Crime Lab and on the Cleveland and Newark police department monitorships.

#### **34c. Area(s) of Responsibility**

Ms. Goodrich will serve as Team Lead for Technology.

#### **34d. Current Employment & Time Commitment**

Ms. Goodrich currently spends approximately eight hours per month on the Cleveland monitorship, eight hours per month on the Newark monitorship, and 40 hours per month on University of Chicago Crime Lab.

#### **34e. M/WBE Status**

Sole proprietorship, woman-owned.

#### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

#### **36. Prior Relevant Experience and References**

- CIO, Los Angeles Police Department  
Reference: William J. Bratton (Former LAPD Police Chief)  
Phone: (212) 886-9314  
Email: [bill.bratton@brattonmail.com](mailto:bill.bratton@brattonmail.com)
- Consultant, University of Chicago Crime Lab  
Reference: Roseanna Ander, Executive Director  
Phone: (773) 702-9752  
Email: [rander@uchicago.edu](mailto:rander@uchicago.edu)

### **10. Rachel Harmon**

#### **34b. Relevant Background**

Rachel Harmon is the F.D.G. Ribble Professor of Law at the University of Virginia School of Law. She is a well-known academic expert on policing, policy and law, including consent decrees and civil rights litigation. She has published numerous articles on policing issues such as misconduct and use of force, and often provides training, policy feedback and advice to police departments and prosecutors' offices. She currently serves as Associate Reporter for the American Law Institute's project on the principles of policing and on the National Academy of Sciences committee on proactive policing.

Professor Harmon moved into academia in 2006 after a 10-year legal career which included positions with the United States Department of Justice, Civil Rights Division, Criminal Section, and the United States Attorney's Office for the Eastern District of

Virginia. As a trial attorney for the DOJ, she investigated and prosecuted hate crime cases and cases of excessive force and sexual violence by police officers and other government officials nationwide. In that capacity, she worked with multiple federal and local law enforcement agencies and U.S. Attorney's Offices throughout the country. Harmon also clerked for Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit and Justice Stephen Breyer of the U.S. Supreme Court.

A graduate of Yale Law School, she has been a member of the Maryland Bar for 20 years.

### **34c. Area(s) of Responsibility**

Professor Harmon is a Subject Matter Expert who will work on the Misconduct Investigations and First Amendment Activities work streams.

### **34d. Current Employment & Time Commitment**

Professor Harmon holds a full-time position at the University of Virginia law school with several ongoing research projects, but has a flexible schedule that can accommodate her work on the Monitoring Team. In addition, she is Associate Reporter for the American Law Institute's project on policing, which requires approximately five hours each week.

### **34e. M/WBE Status**

N/A

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and Reference**

- Associate Reporter, American Law Institute Principles of Policing Project  
Reference: Barry Friedman, Reporter (Director of NYU Policing Project)  
Phone: (212) 998-6293  
Email: [barry.friedman@nyu.edu](mailto:barry.friedman@nyu.edu)
- Attorney, U.S. Department of Justice, Civil Rights Division  
Reference: Robert J. Moossy, Jr., Deputy Assistant Attorney General  
Phone: (202) 514-0621  
Email: [Robert.moossy@usdoj.gov](mailto:Robert.moossy@usdoj.gov)

## **11. Richard Jerome**

### **34b. Relevant Background**

Richard Jerome, a civil rights lawyer and expert in police accountability, is the Deputy Monitor for the New York Police Department stop and frisk case. Most recently, he was Project Manager of the Public Safety Performance Project of the Pew Charitable Trusts, a project that helps states advance fiscally sound, data-driven sentencing and corrections policies. From 2002-2008, he served as Deputy Monitor and court-appointed Special



Master for two police reform settlements in Cincinnati, Ohio. From 1997 to 2001, he was Deputy Associate Attorney General in the U.S. Department of Justice, overseeing the work of the Civil Rights Division and the Community Relations Service, as well as coordinating the Justice Department's efforts to promote police integrity. As Counsel to the Assistant Attorney General for Civil Rights, he helped coordinate the efforts of the National Church Arson Task Force.

His other projects have included reviews of police oversight in Albuquerque and Farmington, New Mexico, and in Milwaukee, Wisconsin and of officer-involved shootings in Portland, Oregon, and Denver, Colorado. He also assisted the District of Columbia Council on drafting legislation on police department responsibilities and standards for handling First Amendment demonstrations and other assemblies.

**34c. Area(s) of Responsibility**

Mr. Jerome is an Subject Matter Expert who will assist with reviews of policies, training and police practices, particularly with regard to pedestrian and vehicle stops, frisks, searches and seizures and bias-free policing.

**34d. Current Employment & Time Commitment**

Mr. Jerome is president of Richard Jerome, PC, and currently dedicates approximately 90-130 hours per month to his work as the Deputy Monitor with the NYPD.

**34e. M/WBE Status**

N/A

**35. Qualifications per Paragraphs 25-27**

See attached Qualifications Matrix and Team Qualifications narrative.

**36. Prior Relevant Experience and References**

- Deputy Monitor, NYPD Stop and Frisk Cases
    1. Reference: Peter Zimroth, Arnold and Porter, Kaye, Scholer  
Phone: (212) 836-7316  
Email: [Peter.Zimroth@apks.com](mailto:Peter.Zimroth@apks.com)
    2. Reference: Assistant Chief Matt Pontillo, NYPD Risk Management Bureau  
Phone: (646) 610-6137  
Email: [Matthew.Pontillo@NYPD.org](mailto:Matthew.Pontillo@NYPD.org)
  - Deputy Monitor, Cincinnati Collaborative Agreement & DOJ Memorandum of Agreement
    3. Reference: Saul Green, Miller Canfield  
Phone: (313)496-7535  
Email: [Greens@millercanfield.com](mailto:Greens@millercanfield.com)
-

## **Representative Work Product**

- [Reports of the Independent Monitor, NYPD \(2015-2017\)](#)
- [Final Report of the Independent Monitor, Cincinnati Police Department, 2008](#)

## **12. Nola Joyce**

### **34b. Relevant Background**

Deputy Commissioner Joyce, a nationally recognized leader in policing, research and practice, worked side-by-side with Commissioner Ramsey on the successful implementation of innovative community policing programs in Chicago, Washington, D.C. and Philadelphia. In Chicago, she was a member of the leadership team for the Chicago Alternative Policing Strategy. In Washington, D.C., she headed organizational development, leading major change efforts in community policing, victim-centric services and policy and procedure modernization, before becoming Chief Administrative Officer. In Philadelphia, as Deputy Commissioner for Services, Strategy and Innovation, she had responsibility for all non-operational functions and strategic change initiatives for the department.

Since retiring from the Philadelphia Police Department in early 2016, Deputy Commissioner Joyce has worked as an independent consultant. She was part of the Exiger team that evaluated policies and procedures for the University of Cincinnati Police Department Review. Through CNA, she is currently working with the New Orleans Police Department on their violence reduction initiative and assisting the Camden County, New Jersey, Police Department in implementing the recommendations of the 21st Century Policing Task Force.

A highly sought-after advisor, Deputy Commissioner Joyce is currently a Fellow of the Police Foundation, and serves on the International Association of Police Chiefs' Research Advisory Committee and the Police Executive Research Forum's Research Council. She is also an advisor to the American Law Institute's Principles of the Law, Police Investigations Project and recently served on the National Science Academy's Panel on Modernizing the Nation's Criminal Statistics.

### **34c. Area(s) of Responsibility**

Deputy Commissioner Joyce will serve as Team Lead for the Staffing, Performance Evaluations and Promotions and the Handling of Reports of Sexual Assault work streams, and will assist with the Technology work stream.

### **34d. Current Employment & Time Commitment**

Deputy Commissioner Joyce spends approximately 15 hours per month working with the New Orleans Police Department and 15 hours per month assisting the Camden Police Department.



### **34e. M/WBE Status**

Sole proprietorship, woman-owned.

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and References**

- Team Lead, University of Cincinnati Police Department Review  
Reference: Dr. Robin Engel, Vice President for Safety & Reform  
Phone: (513) 556-5850  
Email: [robin.engel@uc.edu](mailto:robin.engel@uc.edu)
- Strategic Site Liaison, New Orleans Police Department  
Reference: Deputy Superintendent Paul Noel  
Phone: (504) 658-6020  
Email: [pmnoel@nola.gov](mailto:pmnoel@nola.gov)
- Strategic Site Coordinator, Camden County Police Department  
Reference: Captain Greg Carlin  
Phone: (609) 500-4892  
Email: [carlin20@CamdenCountyPD.org](mailto:carlin20@CamdenCountyPD.org)

### **Representative Work Product**

- [University of Cincinnati Police Department Review Final Report](#)  
(Appendix E)
- [Strategic Plan, Los Angeles County Sheriff's Department, Compton Station](#)
- [Moving the Philadelphia Police Department into the 21st Century](#)  
(Appendix G)

## **13. Sarah Lawrence**

### **34b. Relevant Background**

Ms. Lawrence, a Senior Associate at the Crime and Justice Institute, has significant experience managing applied research projects in partnership with law enforcement agencies. Most recently, she led a multi-site assessment of the COPS Office Collaborative Reform Initiative (CRI) that examined the implementation of reform efforts at seven police departments across the country. In addition, she directed a review of CRI at the Las Vegas Metropolitan Police Department, examining the impact and sustainability of the department's reform efforts related to use of force and officer involved shootings.

Ms. Lawrence was previously at the University of California, Berkeley School of Law, where she managed the Warren Institute's criminal justice projects and led research

partnerships with several Bay Area police departments. In that capacity, she served as a research partner for the East Palo Alto Police Department as part of the Bureau of Justice Assistance Smart Policing Initiative and partnered with the Oakland Police Department in the publication of several policy briefs related to crime in Oakland. She also served as the research director for an Executive Session on California's Public Safety Realignment, working closely with many of the state's top criminal justice executives.

After receiving a Masters of Public Policy from the University of California, Berkeley, Ms. Lawrence began her research career at The Urban Institute, Justice Policy Center, in Washington, D.C., and then held director-level roles at the Massachusetts Executive Office of Public Safety, the Warren Institute at UC Berkeley, and the Stanford Criminal Justice Center.

### **34c. Area(s) of Responsibility**

Ms. Lawrence is a Subject Matter Expert who will work on statistical analysis for the compliance reviews and outcome assessments.

### **34d. Current Employment & Time Commitment**

Ms. Lawrence is employed at the Crime and Justice Institute as an 80% FTE.

### **34e. M/WBE Status**

N/A

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and References**

- Senior Associate, Crime and Justice Institute  
Reference: Christine Cole, Executive Director  
Phone: (617) 482-2520  
Email: [ccole@crj.org](mailto:ccole@crj.org)
- Director, Warren Institute, UC Berkeley Law School  
Reference: Rebecca Silbert, Executive Director  
Phone: (510) 484-6072  
Email: [rebecca@theopportunityinstitute.org](mailto:rebecca@theopportunityinstitute.org)

### **Work Product**

- [The Collaborative Reform Initiative and the Las Vegas Metropolitan Police Department: A Catalyst for Change \(January 2017\), Crime and Justice Institute](#)
  - [The Collaborative Reform Initiative Process: Experiences of Selected Sites \(January](#)
-





[2017\). Crime and Justice Institute](#)

## **14. Kathleen O'Toole**

### **34b. Relevant Background**

Chief O'Toole, the current Chief of Police of the Seattle Police Department, has led her department's progress on compliance with a federal consent decree since assuming her position in 2014. Focusing on four priorities – restoring public trust, improving department pride, enhancing the quality of life by reducing crime, and running the department more effectively and efficiently – Chief O'Toole has been acknowledged by the Seattle community, elected officials, and even the Court overseeing the Consent Decree for her success in building necessary bridges and collaborating both internally and with key external stakeholders.

Chief O'Toole is a career police officer and lawyer who has earned an international reputation for her principled leadership and reform strategies. In 2012, she completed a six-year term as Chief Inspector of the Gardia Síochána Inspectorate, an oversight body responsible for bringing reform, best practice and accountability to the 17,000 member Irish national police service. She also served as the monitor overseeing a Department of Justice consent decree involving the East Haven (Connecticut) Police Department.

Chief O'Toole rose through the ranks of local and state policing in the United States. During her police career, she was assigned to numerous patrol, investigative, undercover, supervisory and management positions. She served as Superintendent (Chief) of the Metropolitan District Commission Police and Lieutenant Colonel overseeing Special Operations in the Massachusetts State Police. She was later appointed Massachusetts Secretary of Public Safety (1994) and Boston Police Commissioner (2004)

### **34c. Area(s) of Responsibility Team Role**

Chief O'Toole will initially serve in an advisory capacity, and later assume additional responsibilities on the monitoring team.

### **34d. Current Employment & Time Commitment**

Chief O'Toole has recently been named to lead the Commission on the Future of Policing in Ireland, a part-time role which enables her to take on other consulting assignments.

### **34e. M/WBE Status**

N/A

## **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

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## **15. Sean Smoot**

### **34b. Relevant Background**

Mr. Smoot brings legal, law enforcement and labor relations expertise to the team. He is a Principal Consultant with 21st Century Policing, LLC, and recently served on President Obama's Task Force on 21st Century Policing. Currently, he serves on the Cleveland Police Department consent decree monitoring team and plays a substantive role providing technical assistance and monitoring for a majority of the consent decree terms.

In addition, as part of his 21st Century Policing work, Mr. Smoot has provided training and technical assistance at the direction of the DOJ's Office of Community Oriented Policing Services (COPS Office) to several agencies, including the San Francisco Police Department and the Pasco, Washington, Police Department, in support of their collaborative reform processes.

On an ongoing basis, Mr. Smoot is Director and Chief Counsel of the Police Benevolent & Protective Association of Illinois (PB&PA) and the Police Benevolent Labor Committee (PBLC). In those capacities, he is responsible for administering the provision of legal services to more the 7,500 police union members.

Mr. Smoot was a Member of the Executive Session on Policing and Public Safety at the Kennedy School of Government at Harvard University. He also serves on the Use of Force Advisory Committee, the Police Pursuit Advisory Committee, the Racial Profiling Advisory Committee and the Task Force on Police Integrity for the Illinois Law Enforcement Training and Standards Board. He was appointed by Illinois Governor Bruce Rauner to the Commission on Police Professionalism in 2016.

### **34c. Area(s) of Responsibility**

Mr. Smoot will serve as Team Lead for the Misconduct Investigations and Discipline, and the Officer Assistance and Support work streams. He will also provide administrative support to the Primary Monitor and Deputy Monitor.

### **34d. Current Employment & Time Commitment**

Mr. Smoot spends approximately 10-30 hours per week as Principal Consultant at 21st Century Policing; 5-10 hours per week as a member of the Cleveland Police Monitoring Team; and 10-20 hours per week in his PB&PA and PBLC roles.

### **34e. M/WBE Status**

21st Century Policing, LLC is 75% minority-owned, but not officially certified as an M/WBE business.

## **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

## **36. Prior Relevant Experience and References**

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- Member, President’s Task Force on 21st Century Policy  
Reference: Prof. Laurie Robinson (Former Task Force Co-Chair)  
Phone: (703) 993-2164  
Email: [laurieorobinson@gmail.com](mailto:laurieorobinson@gmail.com)
- Director & Chief Counsel, Police Benevolent & Protective Association of Illinois and Police Benevolent Labor Committee  
Reference: Paul D. Williams, Chairman  
Phone: (309) 275-0844  
Email: [pdwbpd@yahoo.com](mailto:pdwbpd@yahoo.com)
- Member, Executive Session on Police and Public Safety  
Reference: Christine Cole, Facilitator  
Phone: (617) 482-2520  
Email: [ccole@crj.org](mailto:ccole@crj.org)
- U.S. DOJ COPS Office Grant Work  
Reference: Nazmia E.A. Comrie, Senior Program Specialist  
Phone: (202) 305-8327  
Email: [Nazmia.Comrie@usdoj.gov](mailto:Nazmia.Comrie@usdoj.gov)

#### **Representative Work Product**

- [Final Report of the President’s Task Force on 21st Century Policing](#)
- [Police Leadership Challenges in a Changing World](#)
- [Mending Justice: Sentinel Event Reviews](#)  
(page=54)

## **16. Ralph B. Taylor**

### **34b. Relevant Background**

Dr. Ralph Taylor is a Professor of Criminal Justice at Temple University and a Fellow of the American Society of Criminology. During his 40-year career, he has investigated a wide range of topics, including person-place links, crime dynamics, reactions to crime, delinquency and social and physical incivilities. His research has been funded by the National Institute of Justice, the National Science Foundation and the National Institute of Mental Health, among others, and has resulted in more than 70 refereed publications and over 30 book chapters. His books include *Breaking Away from Broken Windows: Baltimore Neighborhoods and the Nationwide Fight Against Crime, Grime, Fear and Decline* (2001).

Dr. Taylor has worked with either police stop data or police stop and frisk data in three different jurisdictions (Chicago, Philadelphia and Maricopa County, Arizona). He has been analyzing Philadelphia Police Department stop and frisk data, and reports on those data for the City of Philadelphia Law Department since 2014. From 2010-2012 he served as a consultant to Covington & Burling, analyzing Maricopa County Sheriff's Office stop data as part of a class action suit. For the past year, he has served as a statistical expert to Hon. Arlander Keys (Ret.), the Consultant for the August, 2015 settlement agreement on investigatory stops between the City of Chicago, ACLU-IL and Chicago Police Department. Dr. Taylor is the first author on the post-stop outcome report and the legal narratives report published as part of the settlement's first period review (linked below).

Dr. Taylor received his doctorate in social psychology from John Hopkins University in 1977 and joined Temple University in 1984. He has taught undergraduate and graduate research methods, undergraduate and graduate statistics, and currently serves on the editorial boards of three scientific journals (*Environment & Behavior*, *Journal of Quantitative Criminology*, and the *Journal of Criminal Justice*).

### **34c. Area(s) of Responsibility**

Dr. Taylor is a Subject Matter Expert who will work on statistical analysis for the Compliance Reviews and Outcome Assessments.

### **34d. Current Employment & Time Commitment**

Dr. Taylor's position at Temple University is full-time and includes his work on the Chicago/ACLU settlement agreement. His outside professional commitments include analyses for the Philadelphia Law Department on the monitoring of the Bailey et al. v. Philadelphia settlement agreement as well as diverse analyses for the ACLU. Despite these commitments, Dr. Taylor has the capacity to dedicate 40 days per year to conducting analysis for the monitoring team.

### **34e. M/WBE Status**

N/A

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### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant Experience and References**

- Melendres et al. v. Arpaio and the Maricopa County Sheriff's Office
  1. Reference: Prof. Annie Lai, School of Law, University of California-Irvine  
Phone: (949) 824-9894  
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Email: [syoung@cov.com](mailto:syoung@cov.com)
- Monitoring, Bailey et al. v. Philadelphia Police Department, Law Department, City of Philadelphia  
Reference: Dimitrios Mavroudis, Department of Law, City of Philadelphia  
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### **Work Product**

- [Appendices A & B, March 2017 Stop & Frisk Report](#)

## **17. Roberto Villaseñor**

### **34b. Relevant Background**

Chief Villaseñor brings the team exceptional policing expertise as well as substantive oversight experience. During more than 35 years at the Tucson Police Department (TPD), where spent 15 years at the Chief level, Chief Villaseñor gained recognition as an innovative leader who takes into consideration existing best practices and the cultural and regional influences that affect an organization. His expertise spans all aspects of police work from internal affairs and labor relations to hostage negotiations and protest management. He managed all four department bureaus during nine years as Assistant Chief, before becoming Chief and assuming responsibility for 1,400 employees and a \$167 million budget.

During his tenure, overall crime numbers for the city of Tucson decreased by more than 12%, even though the TPD experienced a nearly 20% drop in commissioned personnel. This was accomplished by overhauling response mechanisms and reevaluating special assignments in order to provide maximum service to the community.

Active throughout his career in state and national law enforcement organizations, Chief Villaseñor was appointed by President Obama to the President's Task Force on 21st Century Policing in 2014 and by Arizona Governor Doug Ducey to the Arizona Criminal Justice Council in 2015. He also served on the Department of Homeland Security

Committee on Ethics and Integrity for Customs & Border Patrol.

Since retiring from the TPD in December 2015, Chief Villaseñor has worked on several consulting projects and become a Principal Consultant at 21st Century Policing. He participated in the DOJ Critical Incident Technical Assistance project for the officer-involved-shooting in Pasco, Washington, and was a Team Lead for Exiger's Review of the University of Cincinnati Police Department (UCPD). He now serves as Deputy Monitor for the UCPD's voluntary monitorship. He is also working with the Police Foundation on a review of the Charlotte-Mecklenburg Police Department's response to protests in September 2016, and on the IACP/DOJ/CNA project to develop a field guide based on the recommendations of the Task Force on 21st Century Policing.

### **34c. Area(s) of Responsibility**

Chief Villaseñor will serve as Team Lead for First Amendment Activities work stream and the Responding To and Interacting With People With Behavioral Health Disabilities or In Crisis work streams.

### **34d. Current Employment & Time Commitment**

Chief Villaseñor spends 5-10 hours per month on the UCPD Monitorship, 5-10 hours per month on the Charlotte Review, 5-8 hours per month on the 21st Century Policing project, 5-10 hours per month consulting for AXON/Taser and 10 hours per month on miscellaneous projects.

### **34e. M/WBE Status**

21st Century Policing, LLC is 75% minority-owned, but is not officially certified as an M/WBE business.

### **35. Qualifications per Paragraphs 25-26**

See Team Qualifications Matrix and Team Qualifications (Section IV).

### **36. Prior Relevant 10-Year Experience and References**

- Deputy Monitor, University of Cincinnati Police Department Review  
Reference: Dr. Robin Engel, Vice President for Safety & Reform  
Phone: (513) 556-5850  
Email: [engelrs@ucmail.uc.edu](mailto:engelrs@ucmail.uc.edu)
  - Subject Matter Expert, Pasco, Washington, Critical Review  
Reference: Nazmia Comrie, Senior Program Specialist, U.S. DOJ  
Phone: (202) 305-8327  
Email: [Nazmia.Comrie@usdoj.gov](mailto:Nazmia.Comrie@usdoj.gov)
-

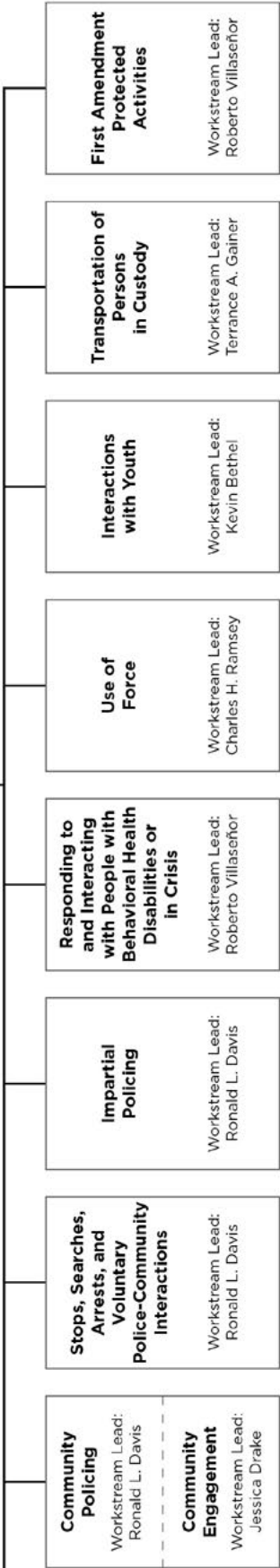
Project Management Office

**Jeff Schlanger**  
Primary Monitor

Monitoring Team Advisory Committee

**Charles H. Ramsey**  
Deputy Monitor

Monitoring Team Advisory Committee Liaison (TBD)



**Subject Matter Experts:**  
Matthew Barge  
Rachel Harmon  
Richard Jerome  
Sarah Lawrence  
Kathleen O'Toole  
Ralph Taylor







## IV. Team Qualifications (Responding to Paragraph 35 of the RFA)

Our Team for this engagement is made up of highly-respected professionals, with significant law enforcement and police monitoring-related experience, all of whom have worked on engagements similar to the proposed monitorship of the BPD. In this section, we provide an introduction to the overall expertise of the team in relevant subject matter areas. Please see Appendix A for complete biographies of each team member.

Pursuant to the criteria listed at Paragraph 443 of the Consent Decree, responses to the RFA shall specify, in detail, the qualifications for Monitor candidates. These qualifications include, but are not limited to, expertise in the following areas (RFA: Paragraphs 25 & 26):

**a. Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations such as law enforcement agencies, including experience monitoring settlements, consent decrees, or court orders;**

Our Team members have unparalleled skill and experience with court-appointed monitorships - and have frequently worked together on high-profile police monitoring and review assignments. Given the breadth and depth of their expertise, their skills have been tapped for the most significant police reform projects over the past several years.

Exiger was founded to lead the largest and most comprehensive independent compliance monitorship ever - that of HSBC bank in response to a deferred prosecution agreement with the U.S. Department of Justice. For the first six months of that Monitorship, and prior to returning to the New York District Attorney's office as Chief of Staff, Mr. Schlanger, developed the methodologies and operating model and ran its operations for the DOJ-appointed Monitor, Michael Cherkasky. Twelve years earlier, Messrs. Cherkasky and Schlanger were appointed Monitor and Deputy Monitor, respectively, of the Los Angeles Police Department (LAPD). Their work over an eight-year period was instrumental in the successful execution of the LAPD consent decree, which is widely credited with LAPD's tremendous gains in controlling the use of force, improving police-community relations, and promoting an overall culture of constitutional and bias-free policing.

Mr. Schlanger served on the Executive Committee of the DOJ-sponsored committee that developed the national standards for monitors and police oversight professionals. Mr. Schlanger has, additionally, headed a number of significant investigations into police misconduct: two for the City of Austin with regard to two separate fatal officer involved shootings; an investigation into corruption of the hiring and promotion process in the Tennessee Highway Patrol; and an investigation into an internal affairs investigation involving the son of an Assistant Chief of Police in the San Francisco Police Department.

Most recently, Mr. Schlanger headed an evaluation team of the University of Cincinnati



Police Department (UCPD) following a July 2015 fatal officer involved shooting. That team was supported by Chief Villaseñor, Commissioner Ramsey and Deputy Commissioner Joyce as a Subject Matter Experts. Since that evaluation, the team was voluntarily engaged by UCPD as Independent Monitor of the UCPD.

21CP has equally impressive qualifications in the monitoring and police performance reviews arena. Worth noting is the fact that Commissioner Ramsey has experienced monitoring from both ends of the spectrum. As Chief of the Metropolitan Police Department, Mr. Ramsey led the department to institute the reforms which were mandated under a Memorandum of Understanding with DOJ. On the other end of the spectrum, Commissioner Ramsey, in addition to serving as a subject matter expert on the University of Cincinnati monitorship, also currently serves as the Deputy Monitor for a consent decree involving the Cleveland Police Department.

Ron Davis, has served as a policing expert for the DOJ's Civil Rights Division, as well as on the federal monitoring teams which provided oversight of consent decrees between the DOJ and the Detroit and Washington, D.C. police Departments. Matthew Barge co-authored the Department of Justice-sponsored national standards for monitors and police oversight professionals and is currently serving as the court-appointed Monitor of the Cleveland Police Department, with Chief Aden and Mr. Smoot serving as policing Subject Matter Experts for that monitorship. Mr. Barge also served as the Deputy Monitor for a consent decree involving the Seattle Police Department and has worked on independent assessment and consulting projects in a host of other cities over the past ten years.

Chief Aden is a currently a member of both the Seattle and Cleveland monitoring teams; Deputy Commissioner Bethel is currently leading work on several key subject-matter areas for the Newark monitorship; and Richard Jerome is Deputy Monitor for NYPD Stop & Frisk cases and previously served as Deputy Monitor and Special Master for two police reform settlements in Cincinnati. Sarah Lawrence recently examined the implementation of reform at seven police departments participating in the COPS Office Collaborative Reform Initiative (CRI) and directed a review and assessment of the CRI at the Las Vegas Metropolitan Police Department which assessed the impact and sustainability of major reforms related to use of force.

Leveraging this rich knowledge base and relevant experience, our team will begin the BPD monitorship with immediate and significant advantages. We know how to best allocate resources and staff for the most efficient and impactful administration and execution of a monitor's duties. Moreover, we can anticipate the kinds of questions and concerns that the BPD will inevitably raise at the inception and throughout the monitorship, as well as the areas in which we will encounter pushback. Given the breadth and depth of our prior monitorship experience, our team is ideally suited to lead this complicated undertaking, avoiding pitfalls that might hamper others without our extensive experience.

**b. Law enforcement practices, including community policing and engagement; use of force and force investigations; practices for conducting and reviewing pedestrian and vehicle stops, frisks, searches, and seizures; practices for conducting**

**and reviewing arrests; crisis intervention and de-escalation techniques; bias-free policing, First Amendment protected speech and public assembly and related rights; intake, investigation, and adjudication of complaints of officer misconduct; civilian oversight; police-youth interactions; and policy development and officer and staff training;**

Our team has hundreds of years of combined experience in the law and law enforcement. Individually and collectively, team members have a strong understanding of the organizational structure and policing methods of metropolitan police departments. Perhaps more importantly, our team members are well-versed in progressive law enforcement practices such as community and problem-oriented policing, grasping the systemic causes of police misconduct and the methods for creating a culture of police integrity and accountability. They have proven track records of improving public safety and enhancing community trust while reducing crime.

Specifically, for more than two decades, Commissioner Ramsey has been at the forefront of developing innovative policing strategies and leading organizational change in three of the largest police departments in the nation. He served for eight years as the Police Commissioner of the Philadelphia Police Department (PPD), where his focus on evidence-based policing initiatives, organizational accountability and a neighborhood-based policing strategy led to a marked decrease in homicides and violent crimes. During his eight-year tenure as Chief of the Metropolitan Police Department of the District of Columbia (MPD), he implemented programs that expanded community policing and improved MPD's recruiting, hiring, and training standards, which resulted in a 40% decrease in crime rates.

Commissioner Ramsey's experience in policing practices is complemented by that of the Chief Villaseñor, whose 35-year career with the Tucson Police Department included nine years as Chief, and of Mr. Davis, who enjoyed a 28-year career with the East Palo Alto and Oakland police departments before joining the DOJ.

These three police veterans, and two other team members, Mr. Smoot and Ms. Drake, all served on the Task Force on 21st Century Policing and contributed to the development of its ground-breaking recommendations on improving community trust while enhancing public safety. Mr. Smoot, who served for 12 years as Police Commissioner in Leland Grove, Illinois, is a nationally-recognized subject matter expert on police issues such as use of force:

Other team members' leadership roles in major urban police departments has given them deep knowledge of all aspects of policing addressed in the Consent Decree. Chief Aden, during his 28 years in law enforcement in Greenville, N.C. and Alexandria, Virginia, served in varied capacities including Police Academy Director and Inspector General. He currently works on contemporaneous policing issues with major policing associations and think tanks, including the Vera Institute.

Chief Gainer began his career in the Chicago Police Department, later becoming Deputy Director of the Illinois State Police and chief of the U.S. Capitol Police, among other key law enforcement roles.



Deputy Commissioner Bethel, while responsible for the PPD's patrol operation managed approximately 2,400 employees, instituted numerous crime fighting strategies and community outreach programs, and built a reputation for his expertise in juvenile justice.

Working with Commissioner Ramsey at the MPDC and PPD, Deputy Commissioner Joyce was responsible, among other areas, for the policies related to use of force, stops and frisks, bias free policing, protected speech and gatherings, youth and police interactions, and training. This included policy development, evaluation and assessments of compliance with those policies.

Moreover, Mr. Schlanger, Mr. Barge and Mr. Jerome each have extensive experience in best policing practices in each of the enumerated areas. This expertise comes from years of monitoring these same best practices in Los Angeles, Seattle, Cleveland, Cincinnati and New York.

**c. Assessing legal sufficiency and compliance with constitutional and other legal requirements;**

Many of our team members – Messrs. Schlanger, Barge, Jerome and Smoot; Chief Gainer; Ms. Goodrich; and Professor Harmon – are lawyers with significant experience in criminal justice related law, including assessment of legal sufficiency and constitutional law. Each of these individuals has handled complex legal and policy issues over the course of their careers and has interacted with the judiciary at both the trial and appellate level.

The legal careers of each of these team members is contained within their biographies which can be found in Appendix A hereto and is herein incorporated by reference.

**d. Familiarity and understanding of local issues and conditions, including local experience and expertise with Baltimore's diverse communities, and issues and challenges facing those communities;**

Nearly all team members have familiarity and understanding of local issues and conditions in urban environments, given their experience working in their own cities. Mr. Davis and Ms. Drake, in turn, have specific experience working in Baltimore's diverse communities.

While at the COPS Office, Mr. Davis worked closely with the BPD, city leadership and community. In 2014, then-police commissioner Batts requested technical assistance – known as Collaborative Reform – from the Department of Justice. As part of the technical assistance, the COPS Office reviewed key operational areas of the police department such as use of force, stops and searches, community policing and engagement, and procedural justice. In conducting this assessment, Mr. Davis met with community members, faith leaders and elected officials. Following the death of Mr. Freddie Gray, DOJ launched a pattern and practices investigation. However, at the request of the city and the police department, the COPS continued to work with the city and community and provide technical assistance. Over the past two years, the COPS Office, under Mr. Davis' leadership, has provided significant training and technical assistance in most of the aforementioned areas.

Mr. Davis has gained an insight into the challenges facing Baltimore and he has witnessed the strength, resolve and resiliency of the BPD and the community it serves. The experience gained through the Baltimore experience, and through the hundreds of other cities served by the COPS Office, will prove to be extremely valuable in assisting the City of Baltimore in achieving its goals.

Ms. Drake has spent her career in advocacy, program management and outreach in Baltimore. Ms. Drake has already taken the initiative to identify neighborhood and other non-profit leaders who would constitute an Monitorship Advisory Board, providing the team with insight, guidance and assistance with outreach, surveys and other communications activities.

In addition, we have budgeted for the inclusion of one additional member of the monitoring team – the liaison to the Monitor Team Advisory Committee, who will be selected in collaboration with the Advisory Committee and will be a local presence throughout the Monitorship.

We will endeavor to quickly transfer the knowledge from Mr. Davis, Ms. Drake and the Monitoring Team Advisory Committee Liaison to the full Monitoring Team in as expeditious a manner as possible.

**e. Criminology and statistical analysis, including internal and external benchmarking techniques, regression analysis, and other relevant statistical methods**

Our Team is committed to employing the latest data management technologies and techniques to monitor the BPD’s adherence to the Consent Decree’s mandated reforms and to assess its progress toward best practices.

All proposed team leaders have worked extensively in situations that call for statistical modeling and systems analysis, and each fully grasps the role of data analysis in determining compliance, increasing transparency and building public trust. Moreover, several team members participate in national groups responsible for advancing best practices for police data collection and analysis.

For example, Deputy Commissioner Joyce directed the research and analysis functions at three major police departments and worked with major academics on research and analysis initiatives for all three. She also developed performance measures for the Washington, D.C. and Philadelphia departments and served on the National Science Academy’s Panel on Modernizing the Nation’s Criminal Statistics from 2014 to 2016.

Mr. Davis is the co-author of the DOJ publication, “How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on It.” Moreover, most of the projects undertaken by the COPS Office under his leadership revolved around data and statistical analysis.

In addition, Mr. Barge has amassed significant expertise in the documentation and analysis of civilian stops to identify potentially disproportionate effects, as well as in the design, implementation and use of data to advance evidence-based policing. Professor Taylor, a social scientist who has taught statistics and research methods, serves on





the editorial board of the Journal of Quantitative Criminology. He has been conducting analyses of Maricopa County stop data and Chicago stop and frisk data for over a year, and Philadelphia stop and frisk data for several years. Messrs. Barge and Taylor have previously collaborated closely on the work addressing stop and frisk data in Chicago.

Ms. Lawrence has significant experience managing applied research projects in partnership with law enforcement agencies. For example, she served as the research partner for the East Palo Alto Police Department in their Smart Policing Initiative and for the City of Oakland where she conducted an analysis of 25 years of Uniform Crime Report data to understand longer-term trends in crime.

Statistical analysis has provided the foundation for the conclusions and recommendations for every police review conducted under Mr. Schlanger's leadership for the past two decades. Indeed, in the LAPD monitorship, statistical sampling was at the heart of determining compliance and ensuring that the internal audit units of that police department were correctly assessing compliance levels. Further, statistical and regression analyses were central to dealing with crime strategies and the exploration of historic disparities of treatment of defendants while Chief of Staff in the Manhattan District Attorney's Office.

Indeed, virtually every member of the team, has extensive experience in the statistical methods relevant to the Monitorship.

#### **f. Familiarity with federal, state, and local laws**

As noted in item "c" above, we have seven attorneys within our ranks, each of whom is familiar with federal law and who will become familiar with applicable state and local laws impacting the Monitorship. As a member of the Maryland Bar for 20 years, Professor Harmon already has extensive knowledge of applicable state and local laws. Many of the former law enforcement professionals on the Team lecture frequently about legal issues surrounding use of force, search and seizure, bias-free policing, community and problem-oriented policing, and other officer performance issues.

For a full description of applicable legal experience and familiarity with federal, state and local laws, please refer to Appendix A hereto which is herein incorporated by reference.

#### **g. Evaluating organizational change and institutional reform, including by applying qualitative and quantitative analyses to assess progress, performance, and outcomes;**

As our team members have learned through prior monitoring and leadership experience, cultural change in large organizations does not come quickly or easily.

Individually, each member of the team is highly qualified to conduct comprehensive reviews and assessments of organizational change and institutional reform. Collectively, team members have decades of experience driving change through policy development, training, implementation, and appropriate incentivizing and disciplinary actions. They also have years of experience in auditing, testing, and monitoring systems and controls, which are crucial features of any sustainable change management program.

As noted, Mr. Schlanger currently serves as monitor for the University of Cincinnati Police Department which has undertaken a voluntary monitorship aiming to become a model of reform going forward. Mr. Schlanger also served for eight years as the Deputy Monitor of the Los Angeles Police Department, responsible for the day-to-day operations of the monitorship. Lastly, he designed and helped implement the monitorship of HSBC, which is perhaps the most complex monitorship ever undertaken. Each of these projects have at their core the analysis of progress, performance and outcomes. Utilizing these tools, the LAPD Monitorship brought about both organizational and institutional change that most thought impossible at the outset of the Monitorship.<sup>1</sup>

Messrs. Barge, Jerome and Davis and Ms. Lawrence also have extensive experience assessing and, indeed, engendering the progress of police reform. In addition to his work on the Seattle and Cleveland monitorships, Mr. Barge has conducted other oversight work on behalf of police departments, civilian oversight organizations, city governments, and community groups. Mr. Jerome's experience includes not only monitor roles for NYPD Stop and Frisk and the Cincinnati PD, but also reviews of police oversight systems in three cities. Mr. Davis, as the Director of the COPS Office, had oversight of the "Collaborative Reform Initiative" which was an organizational transformation process conducted in more than 15 cities including Las Vegas, Philadelphia, Milwaukee and San Francisco. Ms. Lawrence is currently managing an effort to develop performance measures for the law enforcement agencies participating in this COPS Office initiative.

While many former police leaders on the team have become adept at implementing evaluation methodologies in recent monitoring roles, all have dedicated careers to, and succeeded in, driving change in their own large organizations.

To give one example, Commissioner Ramsey was instrumental in designing and implementing reforms at all three police departments where he served; Deputy Commissioner Bethel assisted with the implementation and measurement of change in Philadelphia, and Deputy Commissioner Joyce was responsible for setting up internal research initiatives to monitor success in all three cities.

Individual team members' success in achieving or evaluating change in agencies with which they have been affiliated is exceptional. However, their combined expertise in driving, auditing, investigating and assessing organizational change is unparalleled.

#### **h. Working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and other stakeholders interested in policing issues;**

Through decades of monitorship experience and lifetime careers in diverse law enforcement disciplines, our team leaders have honed the skills for collaborating and communicating effectively with a broad spectrum of stakeholders and all levels of government — local, state, and federal.

In this case, as with other police monitorships, those stakeholders include DOJ; city, state and county officials; police officers, commanders and senior leaders; civilian police employees, police unions and community leaders and residents.

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<sup>1</sup> (For an in-depth look at the LAPD Monitorship, please see "Policing Los Angeles Under a Consent Decree: The Dynamics of Change at the LAPD by Christopher Stone, Todd Foglesong, Christine M. Cole, May 2009. <https://www.hks.harvard.edu/programs/criminaljustice/research-publications/measuring-the-performance-of-criminal-justice-systems/policing-los-angeles-under-a-consent-decree> )



As evidenced from the biographies contained in Appendix A and incorporated by reference herein, whether in a police leadership, monitoring or consulting role, each proposed team member has substantial experience in dealing with government agencies at levels including municipalities, elected officials, civilian oversight bodies, collective bargaining units and other stakeholders interested in policing issues.

Of particular note given their proposed positions on the Monitorship, Mr. Schlanger, in both his role in the LAPD Monitorship and more recently in his role as Chief of Staff of the Manhattan District Attorney's Office, has had extensive experience working with government agencies, collective bargaining units and other stakeholders, including community stakeholders, interested in policing issues. Likewise, Chief Ramsey throughout his distinguished multi-jurisdictional career, has obviously had extensive and on-going experience with these different stakeholders.

Our team is also particularly strong with respect to police labor union issues. Notably, Mr. Smoot serves as the Chief Counsel of two legal associations in Illinois and is responsible for administering legal services to more than 7,500 officers. Chief Villaseñor and Deputy Commissioner Joyce have worked with the collective bargaining units of the law enforcement agencies where they were employed. Mr. Schlanger, likewise, dealt extensively with the Police Protective League during the LAPD monitorship.

**i. Engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing;**

Our team has a long history of successfully addressing the policing issues inherent in cities with diverse communities. Throughout the course of their professional careers as sworn law enforcement officers and dedicated public servants, team members have engaged with diverse, vulnerable, and traditionally marginalized communities. Several have been responsible for spearheading innovative reforms in the areas of urban community policing.

Mr. Schlanger, the proposed Monitor, draws upon a wealth of experience in helping foster better relations between law enforcement and diverse communities in New York City, Los Angeles and Cincinnati. During his tenure as Chief of Staff of the Manhattan DA's Office, Mr. Schlanger was responsible for the Office's community relations mission and forging new strategies for improving relationships with the diverse communities served. In the wake of the death of Eric Garner he regularly attended and spoke at community meetings handling difficult questions involving race and criminal justice. Currently, as UCPD Monitor, he is personally overseeing the UCPD's efforts to implement voluntary reforms in community engagement and community-oriented policing. On a quarterly basis Mr. Schlanger speaks to community groups in Cincinnati. These talks are against the backdrop of the fatal officer involved shooting of Samuel Dubose, and the trial of then Officer Ray Tensing. Likewise, Mr. Schlanger, during his tenure as Deputy Monitor in Los Angeles, regularly spoke to community groups on the progress of LAPD compliance with the Consent Decree.

Commissioner Ramsey has been at the forefront of community engagement initiatives in multiple departments. At the PPD, Commissioner Ramsey implemented a community-based approach to policing which resulted in a 20% decrease in violent crimes and 37%

decrease in homicides. At the MPD, he developed Policing for Prevention, a community policing strategy which encompassed focused law enforcement, neighborhood-based partnerships and systemic prevention efforts. Earlier in his career, as Deputy Superintendent in the Chicago Police Department, he designed and implemented the Chicago Alternative Policing Strategy, the city's nationally acclaimed model of community policing.

Chief Aden fully engaged the Greenville community in his department's strategic planning process as a means of giving the community a voice in how they are policed. This initiative was the first time in the country that the police and the community collaborated on a strategic plan for local law enforcement. After the plans' implementation, crime and disorder significantly decreased and homicides reached 20-year lows. He also applied his model of community inclusion to create a new Use of Force policy for the police department in Asheville, North Carolina. The Asheville community has publicly applauded the department for its collaborative stance on comprehensive policy reform and for demonstrating a real understanding of why community voice matters.

Deputy Commissioner Joyce helped develop and implement the community engagement and community policing efforts in Chicago, Washington, D.C. and Philadelphia. This included regular community and police meetings in all police districts and collaboration with community based organizations to establish programs related to gang intervention, community-police problem solving and youth-police engagement.

Deputy Commissioner Bethel has also served in community relations roles in Philadelphia. He was responsible for developing Philadelphia's Police School Diversion Program to reduce the number of youth arrested in schools and address the racial disparity and continues to work with local organizations on juvenile justice issues.

Chief Villaseñor is recognized nationally as an innovative leader and progressive administrator who has consistently placed heavy emphasis on best practices and the cultural and regional influences that affect the community it serves.

Mr. Davis served for three years as the Director of the DOJ's Office of Community Oriented Policing Services, which is responsible for advancing community policing nationwide. Earlier, as the police chief of Oakland, California, Mr. Davis was recognized for working collaboratively with the community to dramatically reduce crime and violence in a city once named as the murder capital of the United States.

Mr. Barge established the first-ever consent-decree-created Community Police Commission to promote the participation of the Seattle community directly in the reform process. The monitoring, has received national praise for its success in bringing community representatives, police rank and file, and union leaders together in a common cause.

Ms. Drake has spent her career in advocacy, organizing and fundraising roles in the Baltimore community, and is currently serving as program manager for three COPS Office grant programs which require coordination with the DOJ, law enforcement agencies and community organizations.



In sum, our team leaders understand the nuances and unique challenges of policing traditionally marginalized communities, and are committed to bringing this knowledge to the BPD to help rebuild trust with the community and better enable BPD officers to police fairly and impartially while at the same time achieving crime reduction.

**j. Mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation;**

The proposed team has a broad base of mediation and dispute resolution experience. Each of the policing executives on the Team have, through their various management positions, had to deal with dispute resolution on a regular basis in their own departments.

**k. Use of technology and information systems, including data collection and management, and analytical tools, to support and enhance law enforcement practices;**

While all team members have utilized technology and information systems to enhance law enforcement practices and track reforms, a number have held technology development and management responsibilities during their careers.

Ms. Goodrich, who will serve as technology advisor, recently retired as Chief Information Officer for the LAPD, with responsibility for the management, oversight and implementation of all technology for the department. Previously, she was Commanding Officer for the Management Systems Reengineering Project, responsible for the development and implementation of all LAPD Training Evaluation and Management Systems (TEAMS II). Ms. Goodrich also recently participated in Exiger's Review of the UCPD as the Team Lead of the Review of Technology.

At the PPD, Deputy Commissioner Joyce, as a primary end-user of data information systems, worked with IT staff to develop programs and software to help provide analysis and analytical, data-driven decision-making. Under her leadership, PPD expanded its CCTV system and a gunshot detection system, delivered technology tools to the front line, and decision-support tools to management.

While also at the PPD, Deputy Commissioner Bethel administered the Department's CompStat process and supported the placement of crime analysts in each of the 21 patrol districts.

**l. Appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony;**

Many members of the proposed team have extensive experience in court in a variety of different roles. As noted above, Mr. Schlanger, Mr. Barge and Mr. Jerome have appeared in Court in their Monitorship roles described more fully in their biographies attached hereto as Appendix A. Mr. Schlanger served as a Senior Trial Counsel in the Manhattan District Attorney's Office where he investigated, indicted and tried some of the most notorious cases of the time including Gambino crime boss, John Gotti. Professor Harmon has extensive advocacy and representation experience. Virtually every other member of the team has provided testimony in Court in both criminal and civil contexts.

### **m. Writing complex reports for dissemination to diverse audiences;**

Collectively and separately, our team has vast experience in writing and documenting reports in whatever format is required. Over the eight years of the LAPD monitorship, Mr. Schlanger's team issued 30 quarterly reports and one final report, all of which were posted on the LAPD's and the Monitor's website. Most recently, the UCPD review team under his leadership issued a 135-page [report](#) assessing results for that review and providing recommendations on how to achieve best practices in a variety of different subject matter areas of policing. Currently, Mr. Barge and other team members are writing or contributing to reports for the [Cleveland](#) and [Seattle](#) monitorships.

A review of the team members' resumes demonstrates that each is skilled in writing complex reports and studies in either legal and academic contexts.

### **n. Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies**

In addition to monitoring BPD's implementation of the Consent Decree provisions, our team will provide the BPD with recommendations and technical assistance consistent with the goals of Decree. Our team includes some of the most experienced and well respected members of the law enforcement community. Each team member has a deep understanding of best policing practices coupled with years of experience in implementing or assessing those practices in urban police departments.

Mr. Schlanger, the proposed Primary Monitor, was instrumental in the design and execution of the monitoring methodology in Los Angeles, while serving as the Deputy Primary Monitor for the LAPD consent decree, and was also was the Project Lead on the Review of the UCPD which led to the department's commitment to implementing scores of recommendations aimed at achieving best practices in campus policing. Many of our proposed experts served as team leads in the UCPD Review, and were intimately involved in developing the recommendations contained in the final report.

Other team members have extensive qualifications with the provision of assistance to law enforcement agencies. While at the DOJ, Mr. Davis led the COPs program which among other things provided technical assistance to 15 police departments across the country. Mr. Jerome wrote the "Principles of Promoting Police Integrity," which reflects best practices for enhancing police accountability. Commissioner Ramsey and Chiefs Aden, Gainer and Villaseñor have experience creating and implementing best practices while leading some of the country's largest police departments. Commissioner Ramsey and Chief Villaseñor, along with Mr. Smoot and Ms. Drake, were members of President Obama's Task Force on 21st Century Policing, which defined current best practices in community and constitutional policing and for which Mr. Davis served as Executive Director. All of these former Task Force participants are currently providing technical assistance to law enforcement agencies through monitorship roles or consulting work on various COPS Office projects.

Clearly our team members are highly capable of making recommendations to the BPD regarding relevant issues and providing technical assistance consistent with the Monitor's responsibilities.

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**o. Reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices;**

Throughout their careers, team members have been deeply involved not only in reviewing, but also conceptualizing, designing and initiating policies, procedures, training programs and administrative orders related to all aspects of law enforcement. Team members have served in every possible police function from training and labor negotiations to patrol operations and internal affairs at various points in their careers.

In fact, while at PPD, Deputy Commissioner Joyce was responsible for all of the PPD's administrative, policy, research, technology, and training functions. In that role, and as Chief Administrative Officer for the MPD, she was responsible for overseeing the development of their policies, procedures and administrative orders. Many of the policies and procedures in both departments were decades old and during her tenure over 60% of them were updated.

She and other team members will leverage their decades of relevant knowledge when conducting reviews and providing technical assistance related to the many functional areas of the BPD's operations where the Consent Decree mandates enhancements to policies, procedures, communications and training.

**p. Municipal budgets and budgeting processes;**

Having led several of the largest police departments in the nation - with some of the largest budgets, the former police chiefs and commissioners on the team are intimately acquainted with the processes and politics of municipal budgets and have experience managing multi-million dollar annual budgets.

In addition, Mr. Davis managed the municipal budget for the city of East Palo Alto, when he served for a year as interim city manager.

As to be expected given the professional roles they have filled during their careers, our team has deep and diverse experience developing budgets, getting budgets approved and keeping budgets under control.

**q. Completing projects within anticipated deadlines and budgets;**

During the eight years of the LAPD project, Mr. Schlanger and the monitoring team boasted a consistent record of performing the requisite services on time and within the budget. Specifically, the project was conducted on a fixed fee basis, and never - despite increased requirements - was there a request for additional funding.

Likewise, the Team has an equally sound history of issuing timely reports during its prior monitorships. During the LAPD engagement, the quarterly reports and the final report were issued on time in both draft (for review by the City and DOJ) and final form.

Indeed, in no monitorship in which the key personnel for this project participated has a budget ever been exceeded or a deadline missed.



**r. Any other qualifications the Monitor candidates believe are pertinent to fulfilling the duties of Monitor under the Consent Decree**

Our team has two other key qualifications that are integral to a successful monitorship:

1. **Methodology Development:** The development of a methodology tailored to address the specific needs of each police monitorship is a critical component of the successful implementation of reform, the transformation of cultures and the adoption of best practices. Several team members have extensive experience designing and implementing methodologies to support the monitorship of Consent Decrees.

As the Deputy Primary Monitor for the LAPD consent decree, Mr. Schlanger was instrumental in the design and execution of the monitoring methodology. During his eight years in that role, he led the review of LAPD's compliance with all reform efforts, including those relative to the complaint process and use of force investigations. Additionally, Mr. Schlanger served on the Executive Committee of the Working Group for National Guidelines for Monitors, developing the National Guidelines for Police Monitors (for which Mr. Barge served as primary author).

Besides Mr. Schlanger, other proposed team members have experience establishing and implementing methodologies that underpin their assignments. For example, Mr. Barge, in his role as monitor for Cleveland and deputy monitor for Seattle, has had extensive experience in the development of methodologies for those two monitorships.

2. **Project Management:** Our Team offers the BPD world-class project management experience. A strong project management function supports effective planning, organizing, motivating, communicating and reporting for assignments of all types and sizes. But, for large-scale projects such as the BPD monitorship – which will consist of several distinct, interrelated project work streams – it is critical to establish a Project Management Office (“PMO”) which serves as a central coordinating body for all activities.

Exiger has well established a PMO that is already in operation and staffed by highly-experienced project management professionals. This PMO will efficiently handle the logistical challenges of the BPD monitorship.

Specifically, Exiger's PMO will manage resources, budget, project and meeting schedules, issues and deadlines for the BPD monitorship. It will be responsible for integrating the activities of the individual monitoring teams, applying consistent project standards, helping to ensure quality and information flows. It will organize regular meetings of the team to facilitate the exchange ideas and observations and guarantee that each work stream is moving along the proper trajectory toward conclusion.



**Monitor candidates shall demonstrate an ability to work collaboratively with the City, BPD, and DOJ to enable BPD to reach compliance with the Consent Decree, and the ability to do so in a cost-effective manner. (RFA: Paragraph 27)**

Our response to Paragraph 27 of the RFA is contained in section VII of the proposal below.

## **V. Prior Experience and References (Responding to Paragraph 36 of the RFA)**

We have provided at least two references for each of our key team members. The references for each team member are listed above in Section III, Personnel and Current Time Commitments.

## **VI. Budget (Responding to Paragraph 37 of the RFA)**

In this section, we set forth a price proposal based on the scope of the Monitorship as outlined in the RFA and the Consent Decree. In providing our total cost, we have drawn from our experiences in past police monitorships, our familiarity with BPD and the Consent Decree. We have attached a Notional Budget/Schedule Notional Spreadsheet in Appendix H that includes a breakdown of hours by both task and year.

For our general monitoring activity, we have based our estimate on a blended rate of \$225 per hour. We estimate that we will spend 5,950 hours in the first year of the project, 5,700 hours in the second year of the project, and 5,900 hours in the third year of the project. If the monitorship is renewed for a fourth or fifth year, we estimate that we will spend 5,400 hours in each of those years. We have figured that travel expenses and miscellaneous fees will be approximately 10% of the professional fees. This is based on our experience working on similar monitorships.

As shown in Appendix H, we are proposing a firm fixed price of \$1,472,625 for the first year of the Monitorship and submitting what we believe is an accurate budget for years 2 through 5. We are mindful of the requirements of Paragraph 448 of the Decree requiring submission of an annual budget for Court approval in each of the out years which would be subject to potential contingencies under Paragraph 450 of the Decree.

## **VII. Collaboration and Cost Effectiveness (Responding to Paragraph 38 of the RFA)**

Through decades of monitorship experience and lengthy careers in diverse law enforcement disciplines, our team leaders have honed the skills for collaborating and communicating effectively with a broad spectrum of stakeholders. In this case, as with other police monitorships, those stakeholders include the DOJ; city and potentially state and county officials; BPD officers, commanders and senior leaders; civilian police employees, police unions and community leaders and residents. The monitorships in which our Team has been involved have been cited repeatedly as extremely collaborative

in nature.

As mentioned above, our practice of building positive working relationships with stakeholders starts with listening to their concerns and communicating with them regularly to keep them informed of our priorities and plans. In initial communications, we aim to make clear that our role is to observe, monitor and recommend – not interfere in day-to-operations – and that our monitorship is intended as a collaborative effort with all stakeholders to engender positive change.

Continuous communication with the stakeholders is imperative and the team will use a variety of communication vehicles from in person meetings, one-on-one interviews, community meetings, and ride-a-longs, to focus groups, and surveys to build our understanding of the issues and assess progress against the mandate of the consent decrees. Since successful collaboration requires two-way communications, we would employ many of these same vehicles to inform the stakeholders of our work and the status of reform efforts. We will appoint members of our team to serve as a primary liaison with each of the significant stakeholders.

Of utmost importance is the relationships that evolve between Monitor and those being monitored that in many ways determine the success of the effort. In that regard, Messrs. Schlanger, Barge and Jerome have each built relationships during the monitorships in which they have served which endure to this date.

## **VIII. Potential Conflicts of Interest (Responding to Paragraph 39 of the RFA)**

As evidenced by the Team Qualifications section and the individual Team Member pages, the members of the Exiger/21stCP team have long and deep relationships with the DOJ through work on past or current monitorships, as police leaders implementing mandated reforms, as Subject Matter Experts, and as attorneys employed in the Civil Rights division. In particular, our team has strong and enduring ties to the COPS Office. Mr. Davis served as its Executive Director and in the same role for President's Task Force on 21st Century Policing. Several team members served on the Task Force and are currently contributing to the Collaborative Reform Initiative, the Critical Response Technical Assistance Program, the Advancing 21st Century Policing Initiative and other COPS endeavors. Team members are also serving as consultants to Bureau of National Assistance on its Violence Reduction Network and other programs.

Our team's decades of collaboration with the DOJ highlight and underscore the great strengths our team would bring to the Baltimore Police Department monitorship. Team members past employment with the DOJ and experience working on both sides of monitorships gives us in-depth, first-hand knowledge of the DOJ's people, policies and procedures, as well as the intricacies of the federal courts. When it comes to implementing a successful monitorship, our Team has no learning curve, can get hit the ground running and can quickly launch a plan to drive full compliance.

Moreover, our Team fully understands the long-term aim of the monitorship – achieving

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a vision of constitutional policing while at the same time enhancing public safety. Put another way, our Team well understands that citizens must be safe from unconstitutional policing while at the same time be safe from the ravages of crime. Our Team knows through first-hand experience that constitutional policing on the one hand and safety and security on the other can not only co-exist, but can in fact mutually enhance each other.

A full list of the enumerated categories of potential conflicts of interest and a full explanation of those within our team who fall into such categories is contained in Appendix B hereto. It should be noted well that it is the view of our Team, that no actual conflicts of interest, in fact, exist for any of the members of the monitoring team, associated firms or organizations, or any proposed employees or subcontractors.

## **IX. Conclusion**

The proposed Exiger/21CP team has extensive experience in some of the most complex police monitorships to date, unrivaled credentials in reforming police departments from within, and unmatched reputations for integrity and independence. We are confident in our ability to execute the duties of this monitorship successfully and as efficiently as possible, and hope to be given the opportunity to do so.

# Appendix

## A



## Jeff Schlanger

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Jeff Schlanger, Managing Director, Exiger, and President, Exiger Advisory, has more than 30 years of experience in law, law enforcement, and, perhaps most critically, police department monitoring.

Mr. Schlanger served on the Executive Committee of the Commission that developed the National Guidelines for Police Monitors, and, as Deputy Primary Monitor for the Los Angeles Police Department (LAPD), he was instrumental in the design and execution of the monitoring methodology for the LAPD Consent Decree. He has also performed significant independent investigations at the request of large police departments throughout the country.

Mr. Schlanger is currently the Monitor of the University of Cincinnati Police Department. He was appointed to this role following his leadership of a Comprehensive Review of the University of Cincinnati Police Department in 2016. The review, conducted in response to a fatal officer-involved shooting, included an analysis of the department's current practices relative to best practices in policing today. Exiger's report found 129 areas for improvement and made 276 concrete and actionable recommendations for enhancing security and safety while simultaneously rebuilding trust between the department and its community.

Mr. Schlanger began his career in law enforcement as a prosecutor in the Manhattan District Attorney's office, spending 12 years in that office and rising to the level of Senior Trial and Senior Investigative Counsel. He was responsible for some of the office's most significant cases during that period, including the investigation and prosecution of the Westies gang, and members and associates of the Gambino Organized Crime Family, including John Gotti.

From 1990 to 1998, Mr. Schlanger was in private law practice and headed his own private investigation firm. After his firm was purchased by Kroll, he served as the Chief Operating Officer of Kroll's Security Services Group. In 2003, he founded Kroll's Government Services practice and, as a subset of that practice, he began consulting with William Bratton for major police departments around the world. From 2001 to 2008, in his monitorship role for the LAPD, he was responsible for the review of the LAPD's compliance with all reform efforts, including those relative to the complaint process and use of force investigations.

As President and CEO of Kroll Government Services (renamed KeyPoint Government Solutions in 2009), he performed independent investigations for the Tennessee Highway Patrol (an investigation into corruption in the hiring and promotion process), the San Francisco Police Department (an investigation into an internal affairs investigation involving the son of a Chief in the Department), and the Austin Police Department (investigative reviews of two separate fatal officer-involved shootings). He also led an organization of more than 2,000 investigators performing top secret security clearance investigations on behalf of the U.S. Office of Personnel Management, and directly

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implemented and oversaw the audit and internal affairs functions of that organization.

While at Keypoint, Mr. Schlanger worked alongside Exiger Executive Chairman Michael Cherkasky as the Deputy Monitor for HSBC, helping to manage what is considered the largest, most complex monitorship to date. In addition, he served in a pro-bono capacity as both a Special Assistant District Attorney in Nassau County, New York, advising on cold-case homicides and a re-investigation of a claim of innocence; and as Special Counsel to the New York State Public Integrity Commission in its investigation of misconduct by then-governor David Paterson.

Immediately before joining Exiger in 2015, Mr. Schlanger returned to the Manhattan District Attorney's office as Chief of Staff, overseeing the day-to-day operations of the 1,000-member office and managing its "Extreme Collaboration" initiative with the New York City Police Department (NYPD). This included the funding, through forfeiture monies, of the NYPD's mobility initiative. Simultaneously, Mr. Schlanger served as an advisor to NYPD Commissioner William Bratton and those within the NYPD working on the "re-engineering" of the Department.

Mr. Schlanger holds a B.A. degree (with honors) from the State University of New York at Binghamton and a J.D. degree from New York University School of Law.





## Charles Ramsey

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Charles H. Ramsey was appointed Police Commissioner of the Philadelphia Police Department on January 7, 2008, by Mayor Michael A. Nutter. He retired in January 2016 after serving 8 years as Commissioner and leading the fourth largest police department in the nation with over 6,600 sworn members and 830 civilian members. Commissioner Ramsey brings over forty-six years of knowledge, experience and service in advancing the law enforcement profession in three different major city police departments, beginning with Chicago, then Washington, DC, and now Philadelphia.

Commissioner Ramsey has been at the forefront of developing innovative policing strategies and leading organizational change for the past 25 years. He is an internationally-recognized practitioner and educator in his field, and is the Immediate Past President of both the Police Executive Research Forum and the Major Cities Chiefs Association. He is the only law enforcement professional to have served as President of both prominent organizations at the same time and is the only police professional to receive the Leadership Award from 3 major law enforcement organizations; the FBI National Executive Institute, Police Executive Research Forum and the Major Cities Chiefs Association. In December 2014, following several high profile incidents involving police use of force, President Barack Obama chose Commissioner Ramsey to serve as co-chair of the President's Task Force on 21st Century Policing. In recognition for his contributions to the field of policing and public safety, he has been awarded Honorary Doctorate Degrees from four universities

During his eight years as Police Commissioner in Philadelphia, the Philadelphia Police Department made significant progress in driving down violent crime in the city. With a renewed focus on evidence-based policing initiatives, organizational accountability and a neighborhood-based policing strategy, Philadelphia has seen nearly a 20% reduction in violent crime and a 37% reduction in homicides. In 2014, Philadelphia experienced its lowest violent crime rate since 1985. The end of 2015 marked the first time since 1969 the City of Philadelphia had fewer than 300 homicides for three consecutive years.

In 2007, Charles H. Ramsey was a security consultant to the Washington, D.C. Convention Center and the United States Senate Sergeant of Arms. During that year, he also served on the Independent Commission on Security Forces of Iraq, led by the former Commandant of the United States Marine Corps and National Security Advisor General James L. Jones. Ramsey headed a prominent group of law enforcement professionals that traveled across Iraq to review the state of Iraqi police forces for a report to the United States Congress, an effort which garnered international attention and praise.

Commissioner Ramsey served as the chief of the Metropolitan Police Department, District of Columbia (MPDC) from April 21, 1998 to January 1, 2007. He was the longest-serving chief of the MPDC since DC Home Rule and the second longest serving in Department history. Under then Chief Ramsey's leadership, the Department regained its reputation as a national leader in urban policing. Crime rates declined by approximately 40

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percent during Ramsey's tenure, community policing and traffic safety programs were expanded, and MPDC recruiting and hiring standards, training, equipment, facilities and fleet were all dramatically upgraded. He also oversaw and participated in numerous high profile investigations and events in Washington DC, such as: The 1998 murders of two United States Capitol Police officers inside the U.S. Capitol Building; The Y2K National Celebration in Washington, DC; The International Monetary Fund/World Bank Protests in April, 2000; The Chandra Levy Murder Investigation, The 9/11 Terrorist Attacks, The 2001 Anthrax Attacks; The 2002 DC Sniper Investigation; The funeral of Presidents Ronald W. Reagan and Gerald Ford and the 2001 and 2005 Presidential Inaugurations.

As head of the 4,400-member Metropolitan Police Department, Commissioner Ramsey worked to improve police services, enhance public confidence in the police, and bring down the District of Columbia's crime rate. He also oversaw a multi-million dollar upgrade to district stations and other Department facilities, as well as new communications and information technology, including mobile data computing and the 3-1-1 non-emergency system.

In the area of community policing, Commissioner Ramsey redefined the Department's mission to focus on crime prevention. Policing for Prevention, the Department's community policing strategy, encompasses focused law enforcement, neighborhood-based partnerships and problem solving, and systemic prevention efforts. The strategy is supported not only by enhanced training for officers and supervisors, but also by a unique community training initiative called Partnerships for Problem Solving as well as a Senior Citizen Police Academy. The MPDC received international acclaim for its handling of major events, and the Department took a number of steps to address the continued threat of terrorism in the Nation's Capital.

The result of these and other initiatives was a dramatic reduction in crime in the District of Columbia under Commissioner Ramsey's tenure. Violent crime in DC was at its lowest level since the current method of reporting statistics was first developed in the late 1960s. At the same time, opinion surveys indicated that public confidence in the MPDC rose under Commissioner Ramsey's leadership.

In 1999, Commissioner Ramsey partnered with the Anti-Defamation League in developing an innovative and experiential training program at the United States Holocaust Memorial Museum called "Law Enforcement and Society: Lessons from the Holocaust." By examining the Holocaust, law enforcement personnel gain insights into the critical importance of their profession's core values, as well as the significant and unique role they play within our democracy. More than 100,000 people have gone through this program, including every new agent in the FBI, state and federal judges and police personnel from agencies nationally and internationally. In 2013, as President of the Major Cities Chiefs Association he partnered with the Teleos Leadership Institute to create the Police Executive Leadership Institute, a program specifically designed to develop the next generation of police leaders. In 2015, Commissioner Ramsey partnered with the National Constitution Center in Philadelphia developing an innovative training for police called "Policing in a More Perfect Union." This educational program is designed to help police officers better understand the history of policing in the United States and the importance of building legitimacy and trust in the communities they serve.

A native of Chicago, Illinois, Commissioner Ramsey served in the Chicago Police Department for nearly three decades in a variety of assignments. He began his career in 1968, at the age of 18, as a Chicago Police cadet. He became a police officer in February 1971, and was promoted through the ranks, eventually serving as commander of patrol, detectives and narcotics units. In 1994, he was named Deputy Superintendent of the Bureau of Staff Services, where he managed the department's education and training, research and development, labor affairs, crime prevention and professional counseling functions.

Commissioner Ramsey was instrumental in designing and implementing the Chicago Alternative Policing Strategy, the city's nationally acclaimed model of community policing. As co-manager of the CAPS project in Chicago, Commissioner Ramsey was one of the principal authors of the police department's strategic vision. He also designed and implemented the CAPS operational model and helped to develop new training curricula and communications efforts to support implementation. During his career in Chicago, he received numerous awards including twelve Department Commendations and more than 100 Honorable Mentions for excellence in police work.

In July 2009 Commissioner Ramsey was appointed as a member of the Cambridge Review Committee, a national independent committee to help identify lessons learned from the arrest of Harvard Professor, Henry Louis Gates, Jr. He was asked in the fall of 2011, by Harvard's Kennedy School of Government, to serve on the new Executive Session on Policing and Public Safety, and exclusive group of renowned scholars and practitioners, who convened meetings over a three year period to set the public policy agenda for the policing profession for the next two decades. He was a member of the Executive Committee for the International Association of Chiefs of Police, served on the National Homeland Security Advisory Council and is also an advisor to the FBI's National Executive Institute. He has served as the Chairman of the Homeland Security Subcommittee for both the International Association of Chiefs of Police and the Major Cities Chiefs Association. He currently serves as an advisor to the United States Conference of Mayors and in November 2016, he was appointed by President Barack Obama to serve on the National Infrastructure Advisory Council.

Commissioner Ramsey holds both Bachelor's and Master's degrees in criminal justice from Lewis University in Romeoville, Illinois. He is a graduate of the FBI National Academy and the National Executive Institute. He completed the Executive Leadership Program at the Naval Postgraduate School, Center for Homeland Defense and Security in February 2008.

Commissioner Ramsey has lectured nationally on community policing as an adjunct faculty member of both the Northwestern University Traffic Institute's School of Police Staff and Command and Lewis University, and is seen as an expert in the area of policing and homeland security. He is currently a Distinguished Visiting Fellow of the Lindy Institute for Urban Innovation at Drexel University and serves as an advisor to several police departments including Chicago, Cleveland, University of Cincinnati, Miami Gardens and Wilmington, Delaware. He also has worked with the Police Executive Research Forum and police departments in the United Kingdom, Israel, Jordan and the Palestinian Police on the West Bank.



In December 2015, the City of Philadelphia named the Philadelphia Police Department Training Academy Auditorium the Charles H. Ramsey Training and Education Auditorium. A U.S. Postage Stamp bearing his likeness was approved by the United States Congress and presented by the United States Postal Inspector Philadelphia Division in his honor. In 2016, he was appointed by President Obama to serve on the United States Department of Homeland Security, National Infrastructure Advisory Council.

In January 2017, Commissioner Ramsey was hired as a law enforcement analyst for Turner Broadcasting news outlet, CNN and was appointed by Pennsylvania Governor Tom Wolf to serve as Chairman of the Pennsylvania Commission on Crime and Delinquency.



## Hassan Aden

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Hassan Aden's career as a law enforcement professional and seasoned police chief has earned him a reputation as a thought leader in the delicate area involving crime reduction and prevention as balanced with community engagement and inclusion. He has extensive experience in the administrative, investigative and operational aspects of policing, and demonstrable success in working with issues such as crime control policies, community engagement and strategic planning.

Chief Aden, who retired from the Greenville, North Carolina, Police Department in 2015, is considered a national expert in facilitating substantive, sustainable community engagement, including the development of neighborhood civic organizations, advisory boards and youth groups. He has successfully transformed the culture of departments he has led from distant and inaccessible to highly engaged and focused on community-oriented and problem-solving policing.

A key to this accomplishment was his recognition of the need to balance the community's interest in having a meaningful voice in how they were policed with the realities of the difficult job of policing. For example, in Greenville, Chief Aden decided to fully engage the community in his department's strategic planning process. The process was the first in the country that involved police staff and community and business leaders collaborating to determine the department's priorities, identify community crime issues and develop a strategic plan. The three-year strategic plan they produced provided a concrete, meaningful way to give a large swath of the community a true voice in how the police department carried out its work. During the next two years, under Chief Aden's leadership, crime and disorder significantly decreased, and, in 2014, homicides in the City of Greenville reached 20-year lows.

Chief Aden recently brought his model of community inclusion to the Asheville, North Carolina, Police Department, which was struggling with its legitimacy because of several high-profile police-citizen encounters including an officer involved shooting. In Asheville, Chief Aden applied the collaborative process to create a new Use of Force policy, which included de-escalation protocols. He worked with the department and various citizen groups, including Black Lives Matter (Asheville Chapter), not only to develop the new policy, but also to determine training options and accountability measures, often absent from de-escalation policies. The Asheville community has publicly applauded the police department for undertaking comprehensive policy reform in collaboration with their community and for demonstrating a real understanding as to why community voice matters.

Currently, Chief Aden serves as Project Director for the Police Assessment Resource Center (PARC) Seattle Consent Decree monitoring team. He also serves on the Cleveland monitoring team, with a focus on internal police accountability and training reform. He is the Senior Adviser with the Police Foundation, where he provides Critical Incident and Collaborative Reform technical assistance to local police departments, as assigned or mandated by the U.S. Department of Justice. Additionally, he is the Senior



Adviser on Policing for the Vera Institute of Justice.

Prior to working with the Police Foundation, Vera and PARC, Chief Aden was the Director of Research and Programs at the International Association of Chiefs of Police (IACP), overseeing a large portfolio of operational programs and research projects aimed at advancing professional police services and promoting enhanced administrative, technical, and operational police practices and policies. He continues to serve on numerous national advisory groups, including the National Academies of Science's Proactive Policing Committee, where he works with the world's top criminologists, economists and other academics on law and justice issues. He is a past Commissioner for the Commission on Accreditation for Law Enforcement Agencies (CALEA).

Before his appointment as Chief of the Greenville Police Department in 2012, Chief Aden served in the Alexandria, Virginia, Police Department for 26 years, holding diverse positions such as School Resource Officer and rising to the rank of Deputy Chief of Police.

Chief Aden is fluent in conversational Italian, Spanish, and French. Among other academic credentials, he has a Master's degree in Public Administration from American University.



## Matthew Barge

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Matthew Barge is the Co-Executive Director of the Police Assessment Resource Center (PARC). He is the head of its New York City office. Mr. Barge has more than a decade of experience with monitoring, consulting for, or investigating incidents at major law enforcement agencies across the United States.

Mr. Barge was appointed in October 2015 by Federal Judge Solomon Oliver, Jr. to oversee implementation of a Consent Decree between the U.S. Department of Justice and City of Cleveland addressing the Cleveland Division of Police. That decree addresses use of force, community policing, discriminatory policing, and other operational issues. He leads a Monitoring Team of 19 national experts and community leaders. Mr. Barge is Deputy Monitor of another team monitoring a Consent Decree between the Department of Justice and City of Seattle addressing the Seattle Police Department. That decree addresses a pattern and practice of excessive use of force and issues with discriminatory policing.

Mr. Barge has directed numerous, major monitoring and assessment projects. In Portland, Oregon, he led a team that conducted an independent investigation of the Bureau's officer-involved shootings – making recommendations that led to an 88% drop in officer-involved shootings, a 59% decrease in use of force, and a 51% decrease in citizen's complaints. In Los Angeles, California, Mr. Barge conducted the first major study on the effectiveness of officer early intervention systems and conducted ongoing analysis of officer-involved litigation and substantial reviews of officer use of force and internal investigations. In Mesa, Arizona, he assisted the Department in overhauling its use of force policies. In Denver, Colorado, Mr. Barge coordinated an in-depth review of officer-involved shootings – and provided recommendations for across-the-board improvements with use of force policy, officer training, and internal investigations, culminating in a series of clear and pragmatic recommendations and led to substantial changes in policy and protocols. He has conducted other significant assessments for Pasadena, California; Farmington, New Mexico; Walkill, New York; and numerous mid-size cities.

He and PARC have conducted exhaustive reviews of high-profile use of force and other incidents for the University of California, Los Angeles; the Los Angeles Unified School District; a major Native American Tribe; and several private corporations with respect to their security forces.

Mr. Barge co-authored Department of Justice-sponsored national standards for monitors and police oversight professionals – leading a group of peer experts and police monitors. He likewise was the lead author of national standards for internal affairs (IA) investigations.

- Mr. Barge translates in-depth review of critical incidents, analysis of officer tactics, assessments of internal processes and procedures, and scrutiny of the quality of supervision into clearly defined, pragmatic recommendations for enhancing





accountability and improving transparency. He has spent tens of thousands of hours reviewing critical incidents, shadowing officers and command staff, analyzing officer tactics, assessing internal processes and procedures, and scrutinizing the quality and scope of supervision and department leadership. He has substantial substantive expertise in a number of technical areas, including:

- Use of force policies;
- Policies and training regarding less-lethal force instruments;
- Construction, implementation, and use of data systems to advance evidence-based policing and management, including early warning systems;
- Documentation and analysis of stops of civilians and other law enforcement activity to identify potentially disproportionate effects;
- Officer training on use of force, bias-free policing, and procedural justice issues; and
- The creation of rigorous methodologies for assessing departmental trends and outcomes.

Mr. Barge has lectured frequently at universities, law schools, and before police professional organizations on police accountability and Fourth Amendment issues. Recent presentations have been to the faculty of the University of California, Los Angeles (April 2015), American Society for Public Administration (March 2015), University of Washington (February 2015), Georgetown University (February 2015), and the National Association for the Civilian Oversight of Law Enforcement (September 2014). Mr. Barge is also widely consulted by media outlets for his expertise and analysis.

A lawyer, Mr. Barge previously worked as a litigator specializing in mass torts and complex litigation at the law firms of Skadden, Arps, Slate, Meagher & Flom and Quinn, Emanuel, Urquhart & Sullivan in New York City. He holds a J.D. from N.Y.U. School of Law and graduated summa cum laude from Georgetown University.



## Kevin Bethel

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Kevin J. Bethel is a retired Deputy Police Commissioner in the Philadelphia Police Department, the 4th largest police department in the nation with over 6,600 sworn personnel. Prior to his retirement in January 2016, Bethel commanded Patrol Operations for the entire city. This appointment included oversight of the 21 Patrol Districts, Neighborhood Services Unit, Philadelphia School District Police and Community Relations Unit. Previous assignments throughout his 29 years of service with the Philadelphia Police Department include, positions within the Special Investigative Bureau, Narcotics Strike Force, Narcotics

Field Unit, Narcotics Intelligence Investigative Unit and the Internal Affairs Division as well as Commanding Officer of the 17th Police District.

Among his many responsibilities, Kevin has done extensive work in the Juvenile Justice Field; most recently developed a School Diversion Program within the Philadelphia School System. The program diverts first time, low-level juvenile offenders by utilizing programs within the Department of Human Services. In its first year, the program reduced the number of school arrests by 54 percent.

Bethel serves on various committees and boards in the field of juvenile justice. He testified before the President's 21st Century Task Force, co-chaired by Police Commissioner Charles Ramsey on the need for a concerted effort by law enforcement leaders to address the school-to-prison pipeline across the nation. He currently serves on the Pennsylvania Commission on Crime and Delinquency Disproportionate Minority Contact Subcommittee and is a former member of the National Academy of Sciences Committee on Law and Justice Committee.

He is also a member of the Youth Violence Collaborative and Youth Engagement for the National League of Cities Collaboration, the Philadelphia Juvenile Detention Alternative Initiative, a faculty member for the International Association of Chiefs of Police Juvenile Justice Leadership Institute, and a regular lecturer, on school diversion and racial and ethnic disparities at Georgetown University,

In addition to his formal education, Bethel has benefited from extensive specialized law enforcement training such as the Leadership and Specialized Training Course - Class 208, as well as the FBI National Executive Institute Session XXXIV at the Federal Bureau of Investigation (FBI) National Academy in Quantico, VA.

Kevin has received numerous accolades and awards throughout his 29 years in the Police Department, which includes his selection as the recipient of the Philadelphia Daily News 2008 Fencil Award. The Fencil Award is bestowed upon a police officer that brings a unique blend of courage, integrity and determination to the job.

Kevin Bethel holds a Masters Degree in Public Safety from St. Joseph's University and a Bachelor of Science Degree in Criminal Justice from Chestnut Hill College. He is also a member of the Chestnut Hill Libris Society, an honor given to graduates of the College who distinguish themselves in their personal and professional lives while exemplifying the College motto; Fides. Caritas. Scientia. - Faith. Charity. Knowledge.

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## Ronald L. Davis

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Ronald L. Davis was appointed by United States Attorney General Eric Holder to serve as the Director of the United States Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS Office) from 2013 to 2017. The COPS Office is re-sponsible for advancing community policing nationwide and manages over \$1.2 Billion in federal grants to support the community policing activities for approximately 18,000 local, state, and tribal law enforcement agencies.

In December 2014, President Barack Obama appointed Director Davis to serve as the Executive Director of the President's Task Force on 21st Century Policing (Task Force). President Obama charged Director Davis and the Task Force with developing concrete recommendations to improve community trust in the police while enhancing public safety. The final report of the Task Force now serves as a foundational document in American policing.

Prior to serving as COPS Director, Davis had a distinguished career in law enforcement serving over 8 years as Chief of Police of East Palo Alto (CA) and 20 years with the Oak-land (CA) Police Department. Davis was recognized for his innovative community policing efforts and for working collaboratively with the community to dramatically reduce crime and violence in a city once named as the murder capital of the United States.

Davis served as a member of the Harvard Executive Sessions on Policing and worked as a policing expert for the DOJ's Civil Rights Division. While in this capacity, Davis served on two federal monitoring teams with oversight of police-reform consent decrees between the DOJ and the Washington, D.C., and Detroit Police Departments.

Davis is the co-author of the Harvard University and National Institute of Justice publications, *Race and Policing: An Agenda for Action*, and *Exploring the Role of the Police in Prisoner Reentry*. He is co-author of the DOJ publication, *How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on It* and a contributing author to the Police Executive Research Forum (PERF) publications: *Chief Concerns: The Use of Force and Early Release of Prisoners and Its Impact on Police Agencies and Communities in California*.

Davis possesses a Bachelor's degree from Southern Illinois University and has completed the Senior Executives in State and Local Government Program at Harvard University Kennedy School of Government.



## Jessica Drake

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Jessica Drake is Vice President of Program Management and Development with Strategic Applications International (SAI) and Program Manager for 21st Century Policing Solutions.

A Baltimore native, Ms. Drake has worked in development, community outreach and volunteer engagement roles with local housing, education and health organizations for the past 15 years. She began working with SAI as a consultant in 2006, and came on board full-time in her current leadership role in 2013.

At SAI, Ms. Drake has ongoing management responsibilities for implementing several grant programs conducted under the auspices of the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office). In 2015, she served as the facilitator of the President's Task Force on 21st Century Policing which produced a consensus report to the President within 90 days under the direction of the COPS office. Mrs. Drake served as logistical coordinator for Task Force, ensuring all travel, venue contracts, webcast and events were coordinated with efficiency and excellence.

Currently, Ms. Drake oversees three other COPS Office grants: Public Law 280, a national technical assistance program for tribal law enforcement agencies; the Emerging Issues Forum, which gathers and disseminates information about community policing challenges and successes to key stakeholders, and the COPS Talk Series, a forum that drives public and media interaction with leading experts in law enforcement. She serves as the SAI Program Manager for all three grants overseeing contracts, consultants, sub-awardees, work plans and project timelines as well as all DOJ reporting requirements and travel logistics. In addition, she assists 21st Century Policing Solutions as Program Manager for its work on COPS' Critical Response Technical Assistance Program.

Before joining SAI full-time, Ms. Drake was Director of Community Outreach and Volunteerism at the Living Classrooms Foundation. There, she increased volunteerism by 200%, brought in \$1 million through volunteer engagement, and successfully paired community organizations with corporate partners to create long lasting engagement and sponsorship relationships.

Earlier, she served as the Advocacy and Youth Engagement Coordinator at Habitat for Humanity of the Chesapeake. The first in that role at the agency, Ms. Drake created Habitat Clubs in area middle and high schools as well as at local universities. She was also instrumental in creating the Build-A-Block program, a coalition of private and public schools which joined together to help rehabilitate an entire East Baltimore block. In its first year, Build-A-Block raised over \$150,000 through student-led initiatives and helped rehabilitate five homes.

Ms. Drake has also worked for the Leukemia and Lymphoma Society of Maryland in youth engagement and fundraising.

She holds an undergraduate degree in Public Policy from the University of Baltimore and recently completed her Masters in International Development with a focus on Global Affairs and Human Security.

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## Terrance W. Gainer

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The Honorable Terrance W. Gainer is a senior security advisor and attorney. Chief Gainer has had a distinguished 47-year career in law enforcement at the city, state and federal levels. He has recognized as a leader in security innovations and organizational change in the United States and worldwide. In Chief Gainer is a security consultant for several international corporations. In addition he serves as the Strategic Site Liaison (SSL) for cities participating in the United States Department of Justice's Violence Reduction Network (VRN) program as well as work furthering the goals of the 21st Century policing recommendations through the Bureau of Justice Assistance.

In such cities, Milwaukee, Wisconsin and Chicago, Illinois as an example, Chief Gainer works closely with the Chief of Police and his staff, the United States Attorney, community, local federal law enforcement agencies and other stakeholders to identify opportunities to reduce violence by leveraging technical assistance training, peer to peer exchanges, and subject matter experts from public, federal and education professionals.

Prior to leaving public service The Honorable Mr. Gainer served as the 38th United States Senate Sergeant at Arms in May 2014, a culmination of 11 years of Service on Capitol Hill as Sergeant at Arms and Chief of the United States Capitol Police.

Chief Gainer began his law enforcement career as a police officer in the Chicago Police Department and rose through the ranks, including many years as an experienced homicide detective. An accomplished attorney, Mr. Gainer served as chief legal officer of that department before he entered the Illinois State Government as Deputy Inspector General and Deputy Director of the Illinois State Police. He served at the U.S. Department of Transportation as Special Assistant to the Secretary before being appointed as Director of the Illinois State Police in 1991.

In 1998, Chief Gainer moved to Washington, D.C., where he served as Executive Assistant Chief of Police for the Metropolitan Police Department and four years later was selected to be the Chief of the U.S. Capitol Police. He then entered the private sector as a Chief Executive Officer responsible for a multimillion dollar innovative law enforcement program supporting military operations in Iraq and Afghanistan. The following year, the U.S. Senate appointed Mr. Gainer as the Senate Sergeant at Arms(SAA).

While serving as Sergeant at Arms, the Honorable Mr. Gainer was appointed a Commissioner on the Independent Commission on the Security Forces of Iraq, charged with conducting an independent assessment of the Iraqi Security Forces and reporting the findings to Congress. He also served with the Special Envoy for Middle East Regional Security, which was created to advance the resolution of the Israeli-Palestinian dispute by assisting in strengthening security institutions.

Born in Chicago, Mr. Gainer is a decorated veteran who served in Viet Nam and retired as a Captain in the United States Navy Reserve. His degrees include a Bachelor's degree in Sociology, a Master of Science in Management, a Juris Doctor degree, and an Honorary Doctorate of Humane Letters.

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## Maggie Goodrich

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Maggie Goodrich retired in March 2017 as Chief Information Officer for Public Safety for the City of Los Angeles – a role with responsibility for the Los Angeles Fire Department as well as the Los Angeles Police Department (LAPD) – following a distinguished career as an attorney and technology expert.

As CIO for the LAPD for seven years, Ms. Goodrich was responsible for all LAPD technology, procurement, contracts, and grant funding. She oversaw all aspects of technology, including strategic planning, budgeting, procurement and implementation.

Most recently, Ms. Goodrich oversaw the implementation of body worn cameras, digital in-car video, mobile applications and all patrol in-vehicle technology.

Prior to becoming CIO, she was a Commanding Officer responsible for the development and implementation of all LAPD Training Evaluation and Management Systems (TEAMS II), which included, among others, the early intervention, complaint management and use of force systems. In this role, she worked closely with the DOJ and court-appointed monitor to ensure the city's compliance with a federal consent decree.

Previously, Ms. Goodrich served in the Office of the Mayor as a Policy Director for Homeland Security and Public Safety, and held legal and technology positions in the public and private sector. Ms. Goodrich is an attorney with expertise in public safety grant funding (private, State and Federal), local government procurement, and IT contract negotiations.

Ms. Goodrich recently served as a technology advisor for a review of the University of Cincinnati Police Department, as a consultant to the Chief of the Seattle Police Department on variety of IT topics, and as a Body Worn Video Subject Matter Expert for the Bureau of Justice Assistance. She currently serves as a consultant to the University of Chicago Crime Lab and on the Cleveland and Newark police department federal monitorships.

Ms. Goodrich received her Bachelor's Degree from Chapman University, graduating Magna Cum Laude. Ms. Goodrich received her J.D. from UC Hastings College of the Law in San Francisco.





## Rachel Harmon

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Rachel Harmon is the F.D.G. Ribble Professor of Law at the University of Virginia School of Law. She teaches and lectures widely in the areas of policing, criminal law, criminal procedure, and civil rights. Her scholarship focuses on policing and its regulation, and her work has appeared recently in the NYU, Michigan and Stanford law reviews, among other publications.

Professor Harmon serves as Associate Reporter to the American Law Institute's project, Principles of Policing, and on the National Academies of Sciences Committee on Proactive Policing: Effects on Crime, Communities, and Civil Liberties. She also serves as the University Liaison to the FBI National Academy, advising the National Academy on curricular and other matters.

From 1998 to 2006, Professor Harmon served as a prosecutor at the U.S. Department of Justice. After a brief stint at the U.S. Attorney's Office in the Eastern District of Virginia, she worked in the Civil Rights Division, Criminal Section, prosecuting hate crimes and official misconduct cases, involving police officers and other public officials. She left the Justice Department to join the law faculty as an associate professor of law in the fall of 2006.

Professor Harmon received her law degree at Yale Law School, where she was articles editor for the Yale Law Journal and the Yale Journal of Law and the Humanities. Before law school, as a British Marshall Scholar, she earned an M.Sc. in political theory and an M.Sc. in political sociology, both with distinction, from the London School of Economics. After law school, she clerked for Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit and Justice Stephen Breyer of the U.S. Supreme Court.





## Richard Jerome

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Richard Jerome is president of Richard Jerome, PC, a firm providing legal and consulting services specializing in police reform and civil rights. He is currently the Deputy Monitor for the NYPD stop and frisk cases: *Floyd v. City of New York*, *Ligon v. City of New York*, and *Davis v. City of New York*.

Prior to his work in New York City, from 2008 to 2014, Mr. Jerome was the Project Manager of the Public Safety Performance Project of the Pew Charitable Trusts' Center on the States. This project helps states advance fiscally sound, data-driven policies and practices in sentencing and corrections that improve public safety, hold offenders accountable, and control corrections costs.

From 2001 to April 2008, Mr. Jerome worked on policing issues. For six years, he was the Deputy Monitor and court-appointed Special Master for two police reform settlements in Cincinnati, Ohio. Other projects included reviews of the Denver Police Department's and Portland, Oregon, Police Bureau's officer-involved shootings (both with the Police Assessment Resource Center); reviews of police oversight systems in Farmington, NM, Milwaukee, WI, and Albuquerque, NM (also with PARC); and assistance to the District of Columbia Council on police department responsibilities and standards for handling First Amendment demonstrations and other assemblies, as well as criminal intelligence investigations involving political organizations and other groups. Mr. Jerome also has served as a consulting expert for the City of Oakland and the Detroit Police Department, where he assisted the departments' efforts at police reforms. He also authored a report for the Leadership Conference on Civil Rights, "Long Road to Justice: the Civil Rights Division at 50."

From 1997 to January, 2001, Mr. Jerome served as Deputy Associate Attorney General, during which time he oversaw the work of the Civil Rights Division and the Community Relations Service. He also coordinated the Department of Justice's efforts to promote police integrity. This work included review of the Department's police misconduct "pattern or practice" program, as well as criminal civil rights prosecutions for excessive force and other constitutional deprivations. As Counsel to the Assistant Attorney General for Civil Rights, he coordinated the efforts of the National Church Arson Task Force in 1996, and reviewed the Civil Rights Division's Title VII and other employment discrimination litigation in 2001. At the Justice Department, Mr. Jerome compiled and drafted the Department of Justice publication "Principles for Promoting Police Integrity," which the Attorney General issued in January 2001. This document reflects best practices for enhancing police accountability.

Mr. Jerome has an extensive background in civil rights litigation. In his 12 years with the Department of Justice, Mr. Jerome was lead counsel for the United States in several statewide redistricting lawsuits, and appeared on behalf of the United States in cases litigated under the Voting Rights Act of 1965.

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## **Nola Joyce**

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Nola Joyce has over thirty years of leadership experience in public safety agencies at the state and local levels. She retired from the Philadelphia Police Department in 2016 as Deputy Commissioner of Organizational Services, Strategy, and Innovation. She was the first civilian deputy commissioner for the police department. Throughout her career, she led major organizational change efforts using research and analysis to advance public policy and the use of technology to improve program impacts.

She is now a private contractor working with police departments, cities, and the federal government helping organizations increase their performance levels through strategic innovation. Most recently she worked with the University of Cincinnati Police Department, New Orleans Police Department, Camden County, NJ Police Department and Las Angeles County Sheriff Department, Compton Station.

Prior to working with the Philadelphia Police Department, Ms. Joyce worked at the Washington, D.C.'s Metropolitan Police Department as a Senior Executive Director leading Organizational Development and was promoted to the Chief Administrative Officer. She also worked for the Chicago Police Department as Deputy Director of Research and Development and for the Illinois Department of Corrections as Manager for Budget, Research and Planning.

She is a co-founder and faculty member of the Major Cities Chiefs' Executive Police Leadership Institute. Ms. Joyce is an Adjunct Faculty member of Temple University's Criminal Justice Department and has taught for the Homeland Defense and Security Program at the Naval Postgraduate School.

Ms. Joyce was appointed to the National Academy of Science's Panel on Modernizing the Nation's Crime Statistics. She is also an advisor to the American Law Institute's Principles of the Law, Police Investigations Project. Ms. Joyce is an Executive Fellow with the Police Foundation, a member of the International Association of Chiefs of Police (IACP) Research Advisory Council and the Police Executive Research Forum's Research Council. She received the Gary P. Hayes award from the Police Executive Research Forum and the IACP/Sprint Award for Excellence in Law Enforcement Research.

Ms. Joyce holds three master's degrees, including a M.S. in Homeland Defense and Security from the Naval Postgraduate School and completed course work toward a Doctor of Philosophy in Criminal Justice at Temple University.



## Sarah Lawrence

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Sarah Lawrence, a senior associate at the Crime and Justice Institute, has more than 15 years of experience working with law enforcement agencies and criminal justice executives in research partnerships.

Ms. Lawrence has worked closely with numerous police departments with the aim of bridging the worlds of practice and research. Most recently, she managed a multi-site assessment of the Office of Community Oriented Policing Services' (COPS Office) Collaborative Reform Initiative (CRI) that examined the implementation of reform efforts at seven police departments across the country. In addition, Ms. Lawrence directed a review of CRI at the Las Vegas Metropolitan Police Department's to examine the impact and sustainability of the Department's reform efforts related to use of force and officer involved shootings.

Previously, while at the University of California, Berkeley School of Law, she served as a research partner for the East Palo Alto Police Department as part of the Bureau of Justice Assistance Smart Policing Initiative and she partnered with the Oakland Police Department in the publication of several policy briefs related to crime in Oakland.

While at the Criminal Justice Center at Stanford Law School, Ms. Lawrence served as the research director for an Executive Session on California's Public Safety Realignment where she worked closely with many of the state's top criminal justice executives including police chiefs, district attorneys, and sheriffs. Ms. Lawrence has significant experience managing applied research projects in partnership with law enforcement agencies.

She holds a Master's degree in Public Policy from the University of California, Berkeley and a Bachelor of Science degree in Engineering from Cornell University.



## **Kathleen O'Toole**

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Chief Kathleen O'Toole was sworn in as Chief of the Seattle Police Department on June 23rd, 2014.

Chief O'Toole is a career police officer and lawyer who has earned an international reputation for her principled leadership and reform strategies. In 2012, Ms. O'Toole completed a six-year term as Chief Inspector of the Garda Síochána Inspectorate, an oversight body responsible for bringing reform, best practice and accountability to the 17,000 member Irish national police service.

From 2013 to 2014, she served as the monitor of a federal consent decree involving the East Haven (Connecticut) Police Department.

Chief O'Toole rose through the ranks of local and state policing in the United States. During her police career, she was assigned to numerous patrol, investigative, undercover, supervisory and management positions. She served as Superintendent (Chief) of the Metropolitan District Commission Police and Lieutenant Colonel overseeing Special Operations in the Massachusetts State Police. She was later appointed Massachusetts Secretary of Public Safety (1994) and Boston Police Commissioner (2004).

O'Toole graduated from Boston College with a Bachelors of Arts and from the New England School of Law with a JD.



## Sean M. Smoot

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Sean Michael Smoot was appointed by the President of the United States to the Task Force on 21st Century Policing on December 18, 2014. He currently serves as a member of the Cleveland Police Department consent decree monitoring team and is a Principal Consultant with 21st Century Policing, LLC.

Mr. Smoot holds a Bachelor of Science degree in Criminal Justice Sciences from Illinois State University and his Juris Doctor degree from the Southern Illinois University School of Law, where he served as the Business Editor of the SIU Law Journal. Mr. Smoot was a Member of the Executive Session on Policing and Public Safety at the Kennedy School of Government, Harvard University 2008-2014.

Currently Mr. Smoot serves as Director and Chief Counsel for the Police Benevolent & Protective Association of Illinois (“PB&PA”) and the Police Benevolent Labor Committee (“PBLC”). In those capacities he is responsible for administering the provision of legal services for over 7,500 legal defense plan participants.

Mr. Smoot is a nationally recognized subject matter expert regarding police related topics such as, Public Employment Labor Law, Pension & Benefits Law, Section 1983 Civil Rights Litigation, and Police Use of Force. He has written several articles for police publications and newsletters. He co-authored “Police Leadership Challenges in a Changing World” published in July, 2012, and authored a contribution to the Special Report titled “Mending Justice: Sentinel Event Reviews” published in September 2014, both by the US Department of Justice, National Institute of Justice.

Mr. Smoot also serves as the elected Treasurer of the National Association of Police Organizations (“NAPO”), a national law enforcement advocacy group representing over 250,000 police officers. He has served on the Advisory Committee for the National Law Enforcement Officers’ Rights Center in Washington, D.C. since 1996. He is very honored to have served as a police and public safety policy advisor to the Obama-Biden Presidential Transition Team.

He serves on the Advisory Committee at the Chicago-Kent College of Law’s Public Sector Labor Relations Law Program. He also serves on the Use of Force Advisory Committee, the Police Pursuit Advisory Committee, the Racial Profiling Advisory Committee, and the Task Force on Police Integrity for the Illinois Law Enforcement Training and Standards Board. Smoot speaks regularly at state, national, and international forums regarding community policing, public safety, and public employee labor issues. On November 13, 2015, Governor Bruce Rauner appointed him to serve on the Illinois Commission on Police Professionalism.

Mr. Smoot holds several Certificates in Police Leadership from the Harvard Law School. He has been repeatedly selected for inclusion in Super Lawyers & Rising Stars and has been recognized as one of the “Top Employment & Labor Attorneys in Illinois” by the publishers of Chicago magazine. He was admitted to practice before the United States Supreme Court in June of 2011.

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## **Dr. Ralph B. Taylor**

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Dr. Ralph B. Taylor currently serves as a Professor of Criminal Justice at Temple University, with a courtesy appointment in Geography and Urban Studies. He previously held positions at Virginia Tech and Johns Hopkins University. He received his Ph.D. in social psychology in 1977 from Johns Hopkins University, and was awarded a visiting fellowship at the National Institute of Justice in 1997. The National Science Foundation, National Institute of Mental Health, National Institute of Justice, National Institute of Corrections, the Open Society Institute, and others, have funded his research endeavours. He has authored or co-authored over 70 refereed journal articles, one textbook (Research Methods in Criminal Justice, McGraw-Hill, 1994) and three books (Human Territorial Functioning, Cambridge University Press, 1988; Breaking Away from Broken Windows, Westview Press, 2001; Community Criminology, New York University Press, 2015). He currently serves on the editorial boards of three journals: Environment & Behavior, Journal of Criminal Justice, and Journal of Quantitative Criminology. The American Society of Criminology recognized his contributions to the field by electing him a Fellow in 2011.

Dr. Taylor's empirical research activities have relied upon a wide variety of data types and research methodologies. Different studies have used Census, survey, archival, pictorial, or on-site assessment data sources; and employed experimental, quasi-experimental, or observational research designs. He has shared his expertise on these topics by teaching graduate and undergraduate research methods courses, graduate and undergraduate statistics courses, and guiding eight doctoral dissertations to completion since 2000.

A range of research problems have drawn Dr. Taylor's attention during his career. Most recently with colleagues Elizabeth Groff (Temple University) and Lallen Johnson (Drexel University) he has investigated how jurisdiction-level crime patterns change over time and space in a large metropolitan area. Further, he and colleague Jerry Ratcliffe have examined short and long term micro-scale reported crime changes over time. The two are currently finishing work on a multi-year externally funded project examining the impacts of predictive policing on reported crime using two randomized experiments.

The activities that may be most relevant to this proposal are recent contributions to stop or stop and frisk practices of different police departments. He along with Lallen Johnson co-authored five reports, providing input to Hon. Arlander Keys (Ret.), who is serving as the consultant for the ACLU-IL/City of Chicago/Chicago Police Department Settlement Agreement crafted in late 2015. Those reports examined compliance with the settlement agreement during the first half of calendar year 2016, and are available at <http://www.aclu-il.org/march-2017-stop-and-frisk-report/> where they are listed as Appendices A-E. Dr. Taylor served as first author on the report on post stop outcomes, and on the report on coded ISR narratives gauging the sufficiency of stop and, if relevant, frisk premises.

Also relevant is ongoing work for the Law Department, City of Philadelphia, reviewing data and reports, and generating reports, as part of the ongoing monitoring of stop and

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frisk practices of the Philadelphia Police Department mandated by the consent decree emerging from *Bailey et al. v. City of Philadelphia*. Duties here include analyzing data provided by the Philadelphia Police Department, and analyzing data and statistical reports provided by ACLU-PA as part of their monitoring.

Lawyers for the plaintiffs in *Melendres et al. v. Joseph Arpaio and the Maricopa County Sheriff's Office*, heard in Federal District Court in Phoenix, asked Dr. Taylor in 2010 to analyze MCSO stop data, write reports based on that, analyze reports prepared by the statistical expert employed by the defendants, and testify as an expert witness. He did. Judge G. Murray Snow, in his decision (5/24/2013 "Findings of Fact and Conclusions of Law") "credits Dr. Taylor's analysis and finds it credible and probative" (p. 83).





## **Roberto Villaseñor**

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Chief Roberto Villaseñor served with the Tucson Police Department for over 35 years, and served from May 2009 until his retirement in December 2015 as the Chief of the Department. He held positions in every division and bureau of the Department, including Patrol, Investigations, Internal Affairs, Bike Patrol, PIO, Hostage Negotiations, Community Policing, Administration and Communications. As an Assistant Chief for nine years, he commanded all four bureaus of the Department, and, as the Union Liaison, he had responsibility for discipline grievances and labor negotiations. His career has given him a thorough understanding

of all facets of policing and police management.

During Chief Villaseñor's tenure, overall crime numbers for the city of Tucson decreased by more than 12%, even though the Department experienced a nearly 20% drop in commissioned personnel. This was accomplished by overhauling response mechanisms and reevaluating special assignments to provide maximum service to the community. Emphasis was put on patrol functions, and several special assignment positions were morphed back into patrol in order to maintain presence in the community. In addition, community policing philosophies were entrenched in the training academy and field training programs with each graduating recruit required to identify a community problem in their beat and work with neighborhood stakeholders to address that problem through non- traditional methods.

In January of 2011, Tucson joined the roll call of cities that experienced tragic mass shootings perpetrated by individuals suffering from acute mental illness, when Jerrod Loughner shot 18 individuals at an event held by Congresswoman Gabby Giffords, who was the target of the attack and critically wounded. Six individuals were killed, including a Federal Judge. Recognizing that the mentally ill were being inadequately served, sometimes with fatal consequences, Chief Villaseñor directed the formation of the Mental Health Support Team (MHST), one of the first units of its kind in the nation that brought law enforcement, mental health court representatives and behavioral treatment providers together to help the mentally ill get the treatment they need and ensure that they adhere to their treatment programs.

Chief Villaseñor has served on several state and national boards and committees, including the Arizona HIDTA (Chairman), The Arizona Association of Chiefs of Police (President), the Police Executive Research Forum (PERF) Executive Board, the FBI CJIS/UCR Working Group, and the Customs and Border Protection (CBP) Ethics and Integrity Advisory Panel. In 2014, Chief Villaseñor was appointed by President Obama to the President's National Task Force on 21st Century Policing, and in 2015, was appointed by Arizona Governor Doug Ducey to the Arizona Criminal Justice Council.

Chief Villaseñor has a B.S. degree from Park University and a M.Ed. from Northern Arizona University. He attended the PERF Senior Management Institute for Police (SMIP), University of California at Long Beach Leadership Development Series, the FBI National Academy, and the FBI National Executives Institute (NEI).



Throughout his career, in addition to numerous Commendations and Letters of Appreciation, he received the Department's Medal of Distinguished Service, three Medals of Merit, and was Officer of the Year for 1996. In 2015, The Tucson Branch of the NAACP presented him an award for "Pursuing Liberty in the Face of Injustice", and the Tucson Hispanic Chamber named him as the 2015 Arizona Public Servant of the Year.

Since retiring from the Tucson Police Department, Chief Villaseñor became a founding partner and Principal Consultant of 21st Century Policing Solutions, LLC.

# Appendix B

## Appendix B: Conflicts of Interest

As noted in Section VII, in the view of our Team, there are no actual conflicts of interest that exist for any members of the Team. Below is full list of enumerated categories of potential conflicts of interests, the names of team members who fall into those categories and an explanation of why those past or current activities do not constitute a conflict of interest.

### a. **Current or former employment contracts or grants with the City of Baltimore, BPD, the State of Maryland, or the United States;**

None of the team members have current or former grants with the City of Baltimore, BPD or the State of Maryland except Dr. Taylor. In the early 1980s, while at the Johns Hopkins University Center for Metropolitan Planning and Research, Dr. Taylor received two small grants from the Office of the Mayor, City of Baltimore. One was to evaluate five juvenile programs. Another was to prepare a neighborhood fact book using 1970 and 1980 data. Each grant was less than \$10,000. Given the elapsed time since receiving those contracts, Dr. Taylor does not believe that this creates a current conflict of interest.

Several team members were formerly employees or consultants to the U.S. Department of Justice (DOJ):

- Mr. Davis was employed until early 2017 by the DOJ as Executive Director of the COPS Office and Executive Director of the President's Task Force on 21<sup>st</sup> Century Policing. Mr. Davis, while at the DOJ, served on the monitoring teams for the Washington, D.C., and Detroit police departments.
- Professor Harmon and Mr. Jerome both worked in the Civil Rights division. Professor Harmon was employed from 1998 to 2006. Mr. Jerome worked in the Civil Rights division from 1989 to 1997 and the Associates Office from 1997 to 2001.
- Dr. Taylor was a Visiting Fellow of the National Institute of Justice in 1997 and Chief O'Toole was a consultant to the Civil Rights division in 1999.
- Four team members served on the monitoring teams for past police-related Consent Decrees: Mr. Schlanger was the Deputy Monitor for the Los Angeles Police Department (2001-2008); Mr. Jerome was on the monitoring team for the Cincinnati Police Department Settlement (2002-2008) and Ms. Goodrich worked on the Seattle monitorship, serving as a liaison with the Monitor regarding all IT requirements of the Consent Decree (2014-2016).
- Three team members previously worked on projects with the National Institute of Justice. Messrs. Schlanger and Barge contributed to the national guidelines for police monitors; Mr. Barge was also a co-author of the national standards for internal affairs investigations, and Mr. Smoot was a co-author of Mending Justice: Sentinel Event Reviews.
- Chief Gainer was engaged by the Bureau of Justice Assistance to assess the Cleveland Police Department's readiness, compliance and equipment needs prior to the 2016 Republican Convention.

Given their expertise and reputations, most team members are currently working on DOJ monitorships or other projects as noted throughout the proposal:

- Messrs. Barge and Smoot, Commissioner Ramsey, Chief Aden and Ms. Goodrich all play leadership or SME roles on the Cleveland monitoring team. Mr. Barge and Chief Aden also work on the Seattle monitoring team, and Mr. Bethel and Ms. Goodrich are SME on the Newark monitoring team.

- Several team members are currently involved with COPS Office projects:
  - The four principals of 21<sup>st</sup> Century Policing – Messrs. Davis and Smoot and Chiefs Ramsey and Villasenor – and Ms. Drake are working on its Critical Technical Assistance Program.
  - Chiefs Gainer and Villasenor, Deputy Commissioner Joyce and Mr. Smoot are assisting with the Advancing 21<sup>st</sup> Century Policing program
  - Ms. Lawrence and Mr. Smoot are participating in the Collaborative Reform Initiative.
  - Ms. Drake, in her SAI role, serves as the Program Manager for three COPS Office grants.
  
- Deputy Commissioner Joyce, Mr. Smoot and Chief Villasenor are working on the National Institute of Justice’s Sentinel Event Review/Root Cause Analysis Grant.
  
- Ms. Goodrich serves as a subject matter expert for the Bureau of Justice Assistance’s Body Worn Video program and Chief Gainer is evaluating training programs for its VALOR program. He and Deputy Commissioner Joyce are both assisting with the BJA’s Violence Reduction Network.

There are no actual conflicts of interest stemming from team members’ past or present work on behalf of various DOJ entities. In fact, such work signals the depth of knowledge and understanding of the DOJ and its programs that the Team would bring to the Baltimore mentorship.

**b. Any involvement in the last ten years with a claim or lawsuit by or against the City of Baltimore or BPD, the State of Maryland, the United States, or any of their officers, agents, or employees;**

No members of the team have had any personal involvement with a claim or lawsuit against any of these entities or their officers, agents or employees. However, because of their positions as police chiefs or commissions, it was common for them to be named, in their official capacity, in lawsuits filed against their departments or their cities.

**c. Any close, familial, or business relationship with any of the mentioned entities; and**

Aden is related to Shelly Jackson, Deputy Chief (DOJ/CRT-Special Litigation Section), who is his aunt by marriage. This relationship does not impede his ability to perform the duties specified in the RFA for the Baltimore Consent Decree. Chief Aden and Ms. Jackson fully understand the boundaries of the familial relationship as they pertain to their respective work.

**d. Any member of the monitoring team who has been the proponent or subject of any complaint, claim, or lawsuit alleging misconduct.**

No team member has been the proponent or subject of any such complaint, claim or lawsuit.

# Appendix C

# OFFICE OF THE INDEPENDENT MONITOR OF THE LOS ANGELES POLICE DEPARTMENT



**FINAL REPORT**  
Issued June 11, 2009

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## Appendices

**Appendix A: *The Department of Justice's May 8, 2000 Notice of Investigation Letter to the City of Los Angeles***

**Appendix B: *The Department of Justice's Civil Complaint***

**Appendix C: *Consent Decree, United States of America, Plaintiff v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department, Defendants; C.A. No. CV-11769 GAF***

**Appendix D: *"Final Report Card" Summarizing the Monitor's Quarterly Evaluations of Compliance with the Consent Decree***

**Appendix E: *Constitutional and Effective Policing: Crime Statistics***

**Appendix F: *Timeline of Significant Events***

**Appendix G: *Monitoring Team Members' Biographies***

## I. Introduction

In the decade leading up to June 2001, the Los Angeles Police Department (LAPD) was troubled. Its reputation was blighted by headlines of corruption, excessive use of force, bias and arrogance. The LAPD seemed to be governed by itself, for its own purposes only peripherally related to the community it was sworn to protect. Over the past eight years, on these pages we have reported on the progress, imperfect at times, that the LAPD and the City of Los Angeles have made in instituting various reforms aimed at restoring not only constitutional policing but also the integrity and reputation of the LAPD. We are pleased to report that the LAPD has substantially complied with the requirements of the Consent Decree. We believe the changes institutionalized during the past eight years have made the LAPD better: at fighting crime, at reaching out to the community, in training its officers, in its use of force, in internal and external oversight, and in effectively and objectively evaluating each of the sworn members of LAPD. More specifically, the LAPD has become the national and international policing standard for activities that range from audits to handling of the mentally ill to many aspects of training to risk assessments of police officers and more.

These past eight years have clearly shown that with the right impetus, with goodwill and with a good plan, institutional reformation can be, and in Los Angeles has been, achieved. Most importantly, the past eight years have shown that constitutional policing can effectively coexist with and, indeed, foster the primary role of the police: ensuring the public safety. This report constitutes our final report and recommendation that the City of Los Angeles be found in substantial compliance with the Consent Decree.<sup>1</sup> However, we recommend the termination of the Consent Decree with a caveat. The process and institutions that have been created must be nurtured and strengthened by the City family in the years to come. Benign neglect will endanger the hard-won progress that the LAPD has made. We hope the Transition Agreement,<sup>2</sup> which is crucial to completing the work in the areas of the Department's early warning system,

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<sup>1</sup> This recommendation is made pursuant to the definition of substantial compliance contained in paragraph 179 of the Consent Decree: "'substantial compliance' means there has been performance of the material terms of this Agreement. Materiality shall be determined by reference to the overall objectives of this Agreement. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure to maintain substantial compliance."

<sup>2</sup> A Transition Agreement (TA), which covers those aspects of the Consent Decree for which the City and DOJ have agreed to continued judicial jurisdiction, has been filed with the Court. The TA is subject to the Court's review and potential modification. The TA as submitted specifically covers the areas of Financial Disclosure, TEAMS II and Biased Policing and calls for oversight and reporting on these areas to be provided by the Office of the Inspector General.

biased policing and financial disclosure, also gives further time for proactive leadership to focus on how to continue to maintain and grow the reform of LAPD.

## A. History

In June 2001, the Office of the Independent Monitor of the Los Angeles Police Department was established by order of the Honorable Gary Feess of the U.S. District Court for the Central District of California. The position was created pursuant to a Consent Decree that settled a civil suit brought against the City of Los Angeles by the U.S. Department of Justice (DOJ). The lawsuit sought to obtain injunctive and declaratory relief to eliminate the pattern or practice of misconduct by the LAPD found during an intensive DOJ investigation engendered by, among other events, the Rodney King beating and the Rampart scandal.<sup>3</sup>

Specifically, that investigation found that LAPD was at that time engaged in a pattern or practice of excessive force, false arrests and unreasonable searches and seizures in violation of the Fourth and Fourteenth Amendments to the Constitution.<sup>4</sup> It also found serious deficiencies in LAPD policies and procedures for training, supervising, investigating and disciplining police officers, all of which fostered and perpetuated officer misconduct. In addition, it found that the LAPD had failed to implement a comprehensive risk management system that would identify “at risk” officers; that the Department was not responding properly to citizen complaints of officer misconduct; and that neither the Police Commission nor the Inspector General (IG) had the resources required to provide meaningful oversight of the LAPD. Equally important, especially to the question of how things could be fixed, the investigation found that the majority of LAPD officers were “ethical, hardworking, and responsible individuals, who [had] not, themselves, violated the constitutional rights of the persons they serve[d] and protect[ed].”<sup>5</sup>

The 90-page Consent Decree contained specific provisions directed at correcting the identified deficiencies and created the position of Independent Monitor to act as an agent of the Court and charged the Independent Monitor with overseeing and reporting on the City’s implementation of the reforms required by the Consent Decree.

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<sup>3</sup> 42 USC 14141 authorizes the Attorney General to conduct investigations, and if warranted file civil litigation, to eliminate a “pattern or practice of conduct by law enforcement officers...that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. The Attorney General has delegated this authority to the Special Litigation Section of the Civil Rights Division of the US Department of Justice.”

<sup>4</sup> A copy of the DOJ’s May 8, 2000 letter to the City of Los Angeles outlining the findings of its investigation (hereinafter referred to as the DOJ’s *May 2000 Letter Report*), the civil complaint and the Consent Decree appear as Appendices A, B and C, respectively.

<sup>5</sup> Page 2 of the DOJ’s *May 2000 Letter Report*

Monitoring commenced in July 2001 and was scheduled for an initial period of five years. In May 2006, the Consent Decree was extended for an additional three-year period.<sup>6</sup> Over the past eight years, the Monitor issued 30 quarterly reports<sup>7</sup> covering the progression of the LAPD's compliance with the Consent Decree's mandated reforms. That progression now culminates in our declaration of substantial compliance with the Decree. More importantly, the Monitor believes that the Department, with the local civilian oversight provided by the Board of Police Commissioners and the Office of Inspector General (OIG) as laid out in the City Charter, will ensure that the reforms that have been achieved to date and embedded in the Department as best practices will be able to endure. That being said, while the Monitor is confident in the ability of the Department to maintain the reforms achieved, there are circumstances which could threaten the reforms that have been achieved. These risks are discussed in greater detail in our Conclusion, below.

This final report recounts the significant events of the Consent Decree period, including the crime reduction achieved during that time, and details the basis for our conclusions.

## **B. Involved Entities**

We have arrived at this point through the involvement of a number of different entities working together to reform the Department. The hard work and dedication of the many individuals working for those entities has led to this success. A brief review of those entities is in order.

### **The U.S. Department of Justice**

As noted above, the Special Litigation Section of the Civil Rights Division of the U.S. Department of Justice was the catalyst for reform when it instituted the investigation and subsequent litigation which gave rise to the Consent Decree. The DOJ, through staff attorneys of the Special Litigation Section, was a constant participant throughout the term of the Consent Decree, attending monthly Monitor status meetings, conducting targeted inquires and generally

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<sup>6</sup> At the inception of the three-year extension and again two years into the extension period, certain paragraphs of the Consent Decree for which substantial compliance had been achieved were deemed "inactive," with the ability of the Monitor to resume active monitoring if there were any indications of slippage with respect to compliance in those particular paragraphs.

<sup>7</sup> These quarterly reports can be found at <http://kroll.com/about/library/lapd/>. A "Report Card" showing the compliance findings for each quarter is included as Appendix D.

ensuring that the LAPD and City were meeting their obligations of reform as mandated by the Decree.<sup>8</sup>

## The City of Los Angeles

With more than 3.8 million residents, the City of Los Angeles is the nation's second largest city and the largest city against which litigation alleging police misconduct has been brought by DOJ.<sup>9</sup> The Consent Decree was negotiated in the latter part of 2000 under Mayor Richard Riordan and was approved by the City Council in November of that year. Both of Mayor Riordan's successors, James Hahn and Antonio Villaraigosa, have continued the City's full support of the Consent Decree and its objectives. In addition to the Office of the Mayor, the Office of the City Attorney and the Office of the Chief Legislative Analyst, which represented the City Council, were full participants. Like the Mayor's Office, each agency was fully supportive of the reform process.

## The Board of Police Commissioners

The Board of Police Commissioners consists of five civilian members appointed by the Mayor. The Police Commission serves as the head of the Los Angeles Police Department. While only one member of the Commission has remained over the entire period of the Consent Decree, in its role as head of the LAPD, the Commission has consistently been committed to ensuring that the Department met its obligations of reform. The Commission, and the civilian oversight that it provides, is a pillar upon which the success of the Department's compliance with the Consent Decree has rested. Going forward, the Commission will play a critical role in ensuring against any slippage in the reforms that have been achieved. The composition of the current Commission is ideally suited for this role. It is composed of four prominent attorneys and an icon of the civil rights movement in Los Angeles, is supported by a uniquely qualified and extremely competent Executive Director and has exhibited independence and steadfastness in its commitment to reform. Yet, it is clear that true reform cannot rest on the personalities of political appointees, but rather must be fully ingrained in the system. We will have more to say about that below.

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<sup>8</sup> For a full description of the Special Litigation Section's jurisdiction and activities see <http://www.usdoj.gov/crt/activity.php#spl>

<sup>9</sup> Among other cities that have been the subject of Consent Decrees or Memoranda of Understanding are Detroit, Washington, D.C., Cincinnati and Pittsburgh.

## **The LAPD**

The LAPD serves a city of nearly four million people with an authorized force of approximately 9,300 sworn officers, 3,000 civilian employees and an annual budget exceeding \$1 billion. The LAPD responds to over 900,000 calls for service each year. Today's LAPD is significantly different from the Department that the Monitor found at the beginning of the Consent Decree. The Department at that time was demoralized and badly battered by scandal, with a disciplinary system that was largely regarded as both unfair and ineffective. The Department was suffering from what the March 2000 LAPD Board of Inquiry Report to the Police Commission, Rampart Area Corruption Incident (hereinafter referred to as the March 2000 BOI Report), termed "mediocrity." It was this mediocrity that the Board of Inquiry (BOI) found had bred the lack of integrity leading to the Rampart scandal, an observation undoubtedly applicable to the problems that the DOJ found during its investigation. From the onset, the Department took its responsibilities under the Consent Decree seriously. Shortly after the approval of the Decree by the Mayor and City Council in November 2000, a Consent Decree Task Force was established. This task force became the Consent Decree Bureau and oversaw the establishment of the Audit Division (AD) mandated by the Decree. It was, however, under the leadership of a new Chief, William J. Bratton, who had served as a policing expert on the Monitoring team prior to his appointment in October 2002, that reform truly began its institutionalization throughout the Department. Chief Bratton raised the level of visibility and dedication to the Decree by appointing as a Deputy Chief equivalent a former member of the Board of Police Commissioners and former criminal defense attorney, Gerald Chaleff, to head the Consent Decree Bureau, which was charged with implementation of the Consent Decree provisions. Since his appointment, and notwithstanding occasional setbacks, Chief Bratton has been a staunch supporter of the Decree, repeatedly indicating that the Decree's mandates were nothing more than best policing practices and that the Decree's provisions were "the baseline for, and not the ultimate standard, by which the Department's commitment to excellence w[ould] be ultimately measured."

## **The Office of the Inspector General**

The creation of the OIG was a major reform recommendation of the 1991 *Report of the Independent Commission on the Los Angeles Police Department* (hereinafter referred to as the *Christopher Commission Report*), which was charged in July 1991 with examining the structure and operation of the LAPD in the wake of the Rodney King beating. The OIG was established as an arm of the Police Commission in 1996 and through a series of City Charter amendments now has subpoena power and authority to investigate any matter pertinent to the Police Department. The Consent Decree placed specific mandates on the OIG, most notably in the areas of audits, uses of force and the complaint process. The OIG discharged these mandates well and has acted as a full partner throughout the period of the Consent Decree. Indeed, with the continual improvement over the life of the Consent Decree, the OIG has garnered a national



reputation and is viewed as a model for other cities to emulate. It is anticipated that by working together with the Police Commission, the OIG will take the lead role in ensuring that the reforms achieved under the Consent Decree are maintained and built upon.

## **The Office of the Independent Monitor**

As noted above, the Office of the Independent Monitor was created by the Consent Decree itself. In May 2001, Michael Cherkasky and Kroll Inc. were appointed as the Independent Monitor by the Honorable Gary Feess. Mr. Cherkasky was designated as the Primary Monitor and Jeff Schlanger as the Deputy Primary Monitor. In addition to Mr. Cherkasky and Mr. Schlanger, the monitoring group consisted of professionals covering a range of disciplines, including policing, audit and technology. The monitoring group, which varied in composition over the years, was organized into teams corresponding to the various sections of the Consent Decree. Each team had a liaison in the LAPD Consent Decree Bureau and worked closely with them in obtaining necessary data and access in order to determine the degree of compliance with the individual mandates of their assigned sections.

The Office of the Independent Monitor issued 30 quarterly reports over the past eight years. In each of these, the Monitor reported on pre-designated Consent Decree mandates, examining the progress of compliance with those mandates. After the initial five-year term of the Consent Decree, the Monitor discontinued active monitoring of those mandates with which the LAPD had achieved substantial compliance. Similarly, two years into the extension period, active monitoring of those remaining mandates with which the LAPD had achieved substantial compliance was discontinued.<sup>10</sup> Details of the progression of compliance for the various categories of Consent Decree reform appear in Section II of this report, below.

## **The United States District Court**

The Honorable Gary Feess of the United States District Court for the Central District of California has presided over this matter for the entire time it has been pending.

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<sup>10</sup> A full listing of those mandates, the quarters in which they were examined and an indication of whether substantial compliance with the mandates had been achieved in that quarter is contained in Appendix D hereto.

## C. Constitutional and Effective Policing

One of the more notable aspects of the achievement of substantial compliance with the Consent Decree is the reduction in crime that has been realized over the same time period. The drop in homicides is indicative of drops that have been experienced in other serious felonies. Homicides have, in fact, dropped from 647 in 2002 to 381 in 2008. This trend is continuing into 2009, with a further 30% year-over-year drop through mid-May. While cause and effect can, perhaps, be argued, what is clear is that with proper management, constitutional policing and effective policing can go hand in hand.<sup>11</sup>

## D. A Chronology of Significant Events

There have been many significant events over the term of the Consent Decree. We have included a chronology of those events in Appendix F to this report.

## E. Overview of Compliance Assessments and Recommendations to the Court

As detailed in the section-by-section analysis contained in Section II of this report, below, we believe that overall substantial compliance with the Consent Decree has been achieved.<sup>12</sup> As such, and subject to the terms of the Transition Agreement, we recommend to the Court that the Consent Decree be terminated. We offer our thanks and appreciation to all who have contributed to this substantial effort and made our recommendation possible. We have acknowledged those individuals most centrally involved in the Acknowledgements section at the end of this report.

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<sup>11</sup> Appendix E contains crime statistics for homicide, rape, aggravated assault and robbery. Substantial reductions in each of these crime categories were achieved over the period of the Consent Decree. In addition, a recent study performed by the Harvard Kennedy School ([Policing Los Angeles Under a Consent Decree: The Dynamics of Change of the LAPD, Program in Criminal Justice Policy and Management; The Harvard Kennedy School](#)) contains analyses of trends of both crime statistics and social attitudes over the years of the Consent Decree. It should be noted, however, that neither the Monitor nor the DOJ was interviewed or consulted in the preparation of the Harvard Kennedy School Report.

<sup>12</sup> In addition to the paragraphs of the Consent Decree covered by the Transition Agreement, there remain a few paragraphs of the Consent Decree which have not achieved the >94% compliance rate that was the goal of full compliance. For the most part, those paragraphs which have not reached this level were administrative in nature, and the Department has made significant strides toward compliance over the life of the Consent Decree.

## **II. Overview of Compliance Assessments and Recommendations to the Court**

### **A. Management and Supervisory Measures to Promote Civil Rights Integrity**

#### **1. TEAMS II [Computer Information System]**

The Consent Decree was, inter alia, intended to set standards of conduct for LAPD officers. It was understood by all parties that accumulating good information that accurately and quickly identified those officers at risk for failing to meet those standards was critical for the successful implementation of the Decree. At the same time, there was explicit recognition that the system in use by the LAPD at the time was inadequate for the task of attempting to identify potentially at-risk officers. The *March 2000 BOI Report* recognized the need for an Early Warning System similar to that which had, at times, been deployed in certain major city jurisdictions, including Boston, Denver and Miami-Dade. Both the BOI and the Christopher Commission called for a system that would track officer activities such as personnel complaints, use of force (UOF) incidents and vehicle accidents in order to identify potential problem officers. TEAMS II became a critical success factor for the Decree and one of the most difficult to implement.

#### **Consent Decree Solutions**

The Consent Decree required the City to establish a database, known as the Training, Evaluation and Management System II (TEAMS II), containing relevant information about its officers, supervisors and managers, to be utilized to promote professionalism and best policing practices and to identify and address potentially at-risk behavior.<sup>13</sup>

The Consent Decree also required the Department to prepare and implement a plan for inputting historical data into TEAMS II, including relevant numerical and descriptive information

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<sup>13</sup> TEAMS II was required to contain information related to all lethal and nonlethal uses of force, canine bites, officer-involved shootings, injuries and deaths reviewed by the LAPD Use of Force Review Board (UOFRB), pursuits, collisions, complaints, discipline, commendations, arrest reports, crime reports, citations, claims and lawsuits, assignment, rank and performance evaluation information training, and actions taken pursuant to a review of TEAMS II information, including non-disciplinary actions.

about each item and incident. TEAMS II was required to utilize common control numbers for cross-referencing single incidents from multiple documents, and the City was required to prepare a design document and develop and implement a protocol for using TEAMS II.

The Department was required to enter information in TEAMS II in a timely, accurate and complete manner, to maintain the data in a secure and confidential manner; and to utilize that data pursuant to a protocol that would enable the detection of patterns that would indicate potentially at-risk behavior.<sup>14</sup>

The Consent Decree included a specific timeline for the development and implementation of TEAMS II, as well as a requirement that the LAPD designate a unit responsible for developing, implementing and coordinating LAPD-wide risk assessments.

### **Overall Achievements of the LAPD**

The TEAMS II risk management system was one of the bigger challenges required by the Consent Decree. Los Angeles, like most American cities, had dozens of legacy information systems that were outdated, unreliable and did not communicate with each other. Over the initial five-year term of the Decree and its three-year extension, the LAPD dedicated countless hours and resources to successfully develop TEAMS II. Its development and implementation is certainly among the City and Department's greatest achievements.

TEAMS II was designed as a tool for line supervision across the Department that would promote risk management as a top priority for every supervisor and Commanding Officer (CO) in the Department. The system combines risk-oriented data (uses of force, complaints, etc.) with operational data (arrests, traffic stops, citations, etc.) and is designed to automatically notify supervisory personnel when officers in their command deviate significantly from the norms of their sworn peers. TEAMS II has begun to facilitate a significant change in management practices. It is now incorporated into the LAPD Manual and in the daily business practices of a variety of areas, including promotions, pay-grade advancements, selections to specialized units such as GED, annual performance evaluations, transfers to new commands, daily use by the OIG, reviews by the Risk Management Executive Committee (RMEC) and all UOF and complaint investigations.

The system's success within the Department, and the accompanying recognition from both law enforcement agencies and academia, sets TEAMS II as a model for law enforcement agencies. In fact, the Department is now looked to as a leader in the Early Warning System arena, and

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<sup>14</sup> The City was required to maintain all personally identifiable information about an officer during their employment with the LAPD and for at least three years thereafter, and information necessary for aggregate statistical analysis must be maintained indefinitely.

departments such as Chicago, Detroit and New South Wales, Australia, are looking to the LAPD for guidance in this area.<sup>15</sup>

In order to meet Consent Decree requirements regarding the system, the City developed and deployed five new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database, the Risk Management Information System (RMIS) and the Deployment Planning System (DPS). The RMIS gathers data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis. The deployment of these systems was completed in the first quarter of 2007. While the timelines set by the Consent Decree were not met, it was always the position of the Monitor that it was more important to implement a well-designed system than one that resulted from haste. As described above, the system has proved that the time taken was worthwhile.

### **Consent Decree Compliance<sup>16</sup>**

The City submitted the first draft of the RMIS Requirements/Design Document to the DOJ in October 2001. That document began a dialogue between the City and the Department of Justice regarding the overall functionality of the system, as well as specific data elements and electronic documents necessary to conduct valuable behavior risk assessment. Numerous matrices and revised drafts of the design document were shared between the two parties and with the Monitor. As a result of this process, approval of the RMIS Requirements/Design Document was given by the DOJ in January 2003.

The Consent Decree also required a Data Input Plan for inputting historical data into TEAMS II. The Data Input Plan was written and approved by all parties in the third quarter of 2003 and included an appendix that described data elements and time periods to be included and the amount, type and scope of historical data, as required. Such historical data was imported into TEAMS II over the course of the last few years for all categories, including complaints, UOF, traffic collisions, vehicle pursuits, arrests, claims and lawsuits, and training.

All five TEAMS II systems were completed and rolled out Department-wide in early 2007. At that time, the Monitor began its assessment of the substantive paragraphs of the Consent Decree related to TEAMS II and found that TEAMS II access to all entities was appropriate and that the TEAMS II policy outlining access was approved and distributed as required by the

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<sup>15</sup> While other departments in the country have “early warning systems” in place, most are manual processes that involve reviewing reports on a monthly or quarterly basis. None are as automated or up-to-date as TEAMS II, which is updated nightly and includes daily reviews of officers.

<sup>16</sup> Some aspects of TEAMS II are subject to the provisions of the Transition Agreement.

Consent Decree. During the third quarter of 2007, the Monitor determined that the presence and accuracy rates for required data elements were in compliance with Decree requirements.

During the first quarter of 2007, the Monitor also attended training sessions for RMIS and the UOFS, and reviewed standard RMIS monthly reports, as well as different ad hoc queries, in order to ensure that TEAMS II has the capability to search and retrieve the information required. The Monitor found relevant and descriptive information about various items and incidents included in TEAMS II, and relevant scanned copies of certain documents were available in RMIS, the UOFS and other systems.

Additionally, the Monitor reviewed 34 different monthly reports produced by RMIS, including four individual summary and comparison reports, 15 different summary and comparison reports for units and/or workgroups and 15 different incident reports.<sup>17</sup> The Monitor determined that these reports met the Consent Decree requirement that TEAMS II have the capability to search and retrieve numerical counts, percentages and other statistical analyses for individual employees, LAPD units, groups of officers, incidents or items and groups of incidents or items. Currently, the TEAMS II staff can run ad hoc queries upon request until such time as RMIS allows these ad hoc reports to be created in its system.

The Consent Decree also required that a common control number be used to link information about a single incident in TEAMS II. The Monitor reviewed working papers for incidents that are associated with other incidents from other source systems that feed the RMIS database and are cross-referenced in RMIS. The TEAMS II staff and Monitor verified that the cross-references that were in the source systems still existed and were working in RMIS.

During the third quarter of 2007, the Monitor conducted a review of some of the TEAMS II protocols<sup>18</sup> by reviewing TEAMS II action items triggered during this time and found some overall issues regarding inconsistencies. Based on this review, the Department began to

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<sup>17</sup> These reports include comparisons of individuals and groups to various incidents or items for a particular date range selected, including but not limited to the number of uses of force to stops and arrests, the number of complaints to stops and arrests and the number of claims and lawsuits to stops and arrests, as well as information on each of the individual incidents.

<sup>18</sup> The Monitor reviewed whether supervisors regularly review and analyze all relevant information in TEAMS II about officers under their supervision to detect any pattern that may indicate that an officer, group of officers or LAPD unit may be engaging in at-risk behavior; whether appropriate managers and supervisors undertake a more intensive review of the officer's performance when at-risk behavior may be occurring based on a review and analysis; whether LAPD managers regularly review and analyze relevant information in TEAMS II about subordinate managers and supervisors in their command regarding the subordinate's ability to manage adherence to policy and to address at-risk behavior; and whether there was routine and timely documentation in TEAMS II of actions taken as a result of reviews of TEAMS II information.

remediate some of these issues by providing a Departmental Notice<sup>19</sup> and informal training to the command staff and all supervisors for further guidance on what constitutes appropriate review of action items and how to properly document such a review. The Monitor reviewed TEAMS II action items again in the third quarter of 2008 and found that all of action items were reviewed by supervisors on a regular basis and analyzed and that these action items were initiated when required. The Monitor found that 91% of the action items reviewed were in compliance with the requirements to conduct a further review when at-risk behavior may be occurring. Of those non-compliant action items, some supervisors or managers did not conduct thorough enough reviews of work histories, did not consider any specific incidents within the work histories and did not document the justification for their dispositions.<sup>20</sup>

The Monitor concluded that all action items were being reviewed and analyzed for adherence to policy and addressing potentially at-risk behavior on every review level by the appropriate managers and supervisors. The Monitor also found that managers were providing both direction and feedback for their subordinates' review and analysis of these action items and their adherence to policy and addressing at-risk behavior. The Monitor, however, did find that 14% of the action items reviewed took more than the maximum allowed time of 60 days for the completion of action item review. This deficiency was successfully addressed during the third quarter of 2008.

The Monitor also reviewed the same action items selected from the third quarter 2008 in order to assess compliance with additional requirements.<sup>21</sup> The Monitor found that the protocols appropriately provide the guidelines required for the numbers and types of incidents requiring a TEAMS II review. The Monitor also found that the protocols appropriately indicate the guidelines required for the follow-up managerial or supervisory actions, including non-disciplinary actions, to be taken based on reviews of the information in TEAMS II. The Monitor conducted a further review of those action items with dispositions other than "no action" and found that those action items with dispositions other than "no action" were appropriately dealt

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<sup>19</sup> Notice titled, "Use of Complaint Information When Responding to RMIS Action Items," November 18, 2008

<sup>20</sup> In the remaining, the supervisors only considered the specific incidents or categories that were triggered, rather than reviewing the employees' entire work histories within that evaluation period and documenting the justification for their dispositions.

<sup>21</sup> The requirements tested included the guidelines for numbers and types of incidents requiring a TEAMS II review by supervisors and managers and the frequency of these reviews; the follow-up managerial or supervisory actions (including non-disciplinary actions) to be taken based on reviews of the information in TEAMS II; the use of TEAMS II information as one source of information in determining when to undertake an audit of an LAPD unit or group of officers; and whether specific actions taken as a result of information from TEAMS II are based on all relevant and appropriate information, and not solely on the number or percentages of incidents in any category recorded in TEAMS II.



with 100% of the time, including resolutions of training, modified or non-field duties, informal meeting and complaints.

The Consent Decree also required that each officer be able to regularly review all personally identifiable data in order to ensure the accuracy of data. The Monitor found these provisions related to access were being met. The Monitor also reviewed a list of requests for corrections to TEAMS II and found the Department in full compliance with requirements related to correcting data errors.

During the third quarter of 2008, the Monitor reviewed the results of an organizational assessment TEAMS II staff conducted in March 2008. In that assessment, TEAMS II staff reviewed total Department-wide action items for the second quarter of 2008 and determined that Central Area Narcotics appeared to be statistically higher than the average of other specialized units for RMIS thresholds.<sup>22</sup> TEAMS II staff, in conjunction with the Risk Analysis Section (RAS), presented this finding to the LAPD RMEC. Through the review process, it was determined that Central Area Narcotics had a low number of stops due to the Narcotics Task Force's use of a Department-approved exception to completing Field Data Reports (FDRs), as stated in the LAPD Manual and Department policy. Additionally, it was determined that supervisors were becoming directly involved in uses of force, rather than serving in a supervisory capacity.<sup>23</sup>

As a result of these findings, the LAPD changed procedures to ensure that FDRs would be required from the Narcotics Task Force, and discussed with supervisors the importance of acting as a supervisor to an incident if possible, rather than getting directly involved in the UOF. TEAMS II staff and RAS continue to look at other specialized units, including gangs, vice and patrol, in each new organizational assessment and will explore alternative ways to review and assess the implementation of protocols regarding organizational assessments. In the organizational assessment conducted in the fourth quarter of 2008, the TEAMS II staff reviewed total Department-wide action items for the third quarter of 2008 and determined that some South Bureau gang units appeared to be higher than the average of other specialized units for RMIS thresholds.<sup>24</sup> TEAMS II staff, in conjunction with RAS, presented this finding to RMEC and it was determined that one Area had a high number of UOF but all were appropriately triggered. These organizational performance assessments are exactly the kind of data-based reviews

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<sup>22</sup> These specific action items referenced here are triggered when comparing the number of stops to the number of complaints and UOF. In this instance, Central Area Narcotics had a higher number of complaints and UOF when compared to the number of stops.

<sup>23</sup> This leads to a higher number of UOF incidents, compared to other Areas, if supervisors are also counted as involved officers in these UOF.

<sup>24</sup> These specific action items referenced here are triggered when comparing the number of UOF and complaints to the number of arrests.

envisioned by the Consent Decree and clearly have the potential of identifying problems in their early stages.

The Consent Decree also required that managers' and supervisors' performance in implementing the provisions of the TEAMS II protocol be taken into account in those individuals' annual performance evaluations. Additionally, whenever any officer transfers into a new Division or Area, the CO of the new division or Area was required to promptly assure a review of the transferred officer's TEAMS II record. The Department decided to develop system-generated action items to address these requirements in order to ease the burden on supervisors and ensure that such requirements are completed in a timely manner. Both types of system-generated action items were deployed Department-wide by June 2008. These action items allowed direct links to not only TEAMS II reports, but also to the Transfer Evaluation Report (TER) forms required for transfers and the performance evaluation forms for annual reviews.

Regarding system-generated action items for annual performance evaluations, the Monitor found that 87% of them were completed within the Department's 60-day requirement from the date of the supervisors' or managers' anniversary date, and 53% of them included assessments of the supervisors' or managers' performance in implementing the provisions of the TEAMS II protocol in their annual performance evaluations. Based on these results, the Monitor concluded that the requirements had not been fully addressed in these annual performance evaluations, nor were the action items related to these annual performance evaluations being completed in a timely manner.<sup>25</sup> To ensure that the implementation of the provisions of the TEAMS II protocol is assessed when evaluating supervisors or managers, TEAMS II has included instructions in the Performance Evaluations Report (PER) to prompt the reviewer to provide a response to this requirement. The Monitor also reviewed system-generated action items for transfers that had been completed in the third quarter of 2008 and found that the Department was not fully meeting the requirements regarding timeliness of the review, supervisory approval, adequate reviews and timely TEAMS II reports.

Requirements to train managers and supervisors, consistent with their authority, to use TEAMS II to address potentially at-risk behavior and to implement the TEAMS II protocol were met in the first quarter of 2007. The Monitor conducted this review again in the second quarter of 2008 and found that all supervisors who were required to do so had taken the RMIS TEAMS II training.

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<sup>25</sup> The Department indicated that these new TEAMS II requirements for the annual performance evaluations will be emphasized in the supervisors' upcoming training courses and in ongoing COMPSTAT meetings in order to ensure that these provisions are adhered to for future reviews.

The Consent Decree also required the City to maintain all personally identifiable information about an officer included in TEAMS II. During the second quarter of 2007, the Monitor reviewed a time period for three separate Deployment Periods (DPs), including all terminated employees' events, comparing such events to a current organizational summary report, and found that the employee events were included in the current data.

The Consent Decree required that LAPD designate a unit within Human Resources Bureau that would be responsible for developing, implementing and coordinating LAPD-wide risk assessments, the operation of TEAMS II and provide assistance to managers and supervisors using TEAMS II to perform the tasks required in the protocol. The Monitor reviewed these requirements over the course of the Consent Decree and reported in the second quarter of 2007 that the RAS within Risk Management Group (RMG) was providing the Department with assistance in connection with TEAMS II, including providing a help desk for LAPD personnel to call when guidance is needed on how to evaluate risk and write a proper narrative to support any conclusions made based on that evaluation.

Lastly, the Consent Decree required that Force Investigation Division (FID) and Internal Affairs Group (IAG) investigators conducting investigations have access to all information contained in TEAMS II, where such information is relevant and appropriate to such investigations. In the second quarter of 2008, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of pertinent Departmental policy, the TEAMS II Access Control Matrix and TEAMS II User Access Profiles for all FID and IAG investigators and found that all FID and IAG investigators had appropriate access, as required.

The Monitor commends the Department for the significant improvement made during the term of the Decree, which was especially notable from the 2007 evaluation to the 2008 evaluation. As a result of the TEAMS II staff providing new policy, further training and appropriate guidance to the Department, the reviews of action items by managers and supervisors have seen significant improvement in both the required analysis and the appropriate documentation.

## **Recommendations**

The Monitor commends the City, LAPD and specifically TEAMS II staff for their significant achievements in developing and implementing TEAMS II. After a slow start, the LAPD TEAMS II staff have, in the last three years, performed extraordinarily. What remains to be done is to ensure that the TEAMS II system continues to be institutionalized as part of the operations of LAPD. Because of the centrality of TEAMS to reform and the fact that it has not been fully operational for two years, teams will be subject to the terms of the Transition Agreement. Additionally, the Monitor offers the following recommendations to the LAPD, TEAMS II staff, AD and the OIG in connection with utilizing this system and proactively monitoring officers for potential at-risk behavior.

- The Department must promote greater compliance with the timeliness of evaluations generally.
- TEAMS II staff, the Department, AD and the OIG need to continue to carefully review and analyze action items by supervisors, managers and command staff to ensure that supervisors and managers are monitoring and identifying patterns of behavior for potentially at-risk officers. Reviews should be conducted of the documentation of analyses, the justifications for the dispositions of their reviews of these action items and the timeliness of the action.
- These entities should also continue to utilize TEAMS II to conduct their own audits and reviews of individual officers, units and Areas; such audits and reviews should include organizational assessments.
- The City and the Department should continue to monitor peer groups and thresholds to ensure that they are appropriate given the current status of the Department. These peer groups will change as the Department does. In addition, ongoing reviews of action items should be conducted to ensure they remain appropriate.
- The Department, AD and the OIG should attempt to utilize TEAMS II to its fullest capacity. New and powerful ways to use this robust system will hopefully be developed going forward.

## 2. Performance Evaluation System

One of the major findings of the *March 2000 BOI Report* was the failure of LAPD to meaningfully evaluate both its officers and its supervisors. The BOI found that “personnel [were] not being evaluated honestly or accurately – virtually all evaluations would be ranked as excellent or outstanding” and that “because an average evaluation is viewed as poor, those personnel who are evaluated accurately are penalized by the system.” The BOI recommended that the LAPD “restore integrity to [the] performance evaluation system so that it [could] be relied upon as a true measure of performance.”

Similarly, the DOJ’s investigation found that the LAPD “failed to utilize properly other supervision and risk management tools, including meaningful personnel evaluations...and assessments of officers’ history and performance when undertaking actions such as promotions and sensitive assignments.”

## Consent Decree Solutions

The Consent Decree required the LAPD to “develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees that accurately reflect the quality of each sworn employee's performance, including with respect to:

- a. civil rights integrity and the employee’s community policing efforts (commensurate with the employee’s duties and responsibilities);
- b. managers’ and supervisors’ performance in addressing at-risk behavior, including the responses to Complaint Form 1.28 investigations;
- c. managers’ and supervisors’ response to and review of CUOF and Non-Categorical Use of Force (NCUOF) incidents, review of arrest, booking, and charging (ABC) decisions, and review of requests for warrants and affidavits to support warrant applications; and
- d. managers’ and supervisors’ performance in preventing retaliation.

The Decree also required the plan to “include provisions to add factors described in subparts a-d, above, to employees’ job descriptions, where applicable.”

## Overall Achievements of the LAPD

At the inception of the Consent Decree, the requirements for the use of personnel evaluations were contained in Special Order No. 6, *Evaluation Procedure for Officers of the Rank of Lieutenant and Below – Revised*, originally issued on March 10, 1995. In 2004, a revised set of rules was promulgated by the Department.<sup>26</sup> The order included a revised evaluation form in which additional categories of evaluation were added.<sup>27</sup> Additionally, a section was added for details on training provided to the evaluated employee, particularly related to specialized assignments the employee might hold.

In May 2005, the LAPD issued an Office of Support Services Notice titled "Revised Dates for Completing Performance Evaluations for Lieutenants and Below." This notice revised the schedule for completion of performance evaluations by supervisors, requiring all sworn officers to be evaluated during the month in which they were appointed to their current rank, rather than completing all evaluations during the same month for a specific rank.

CRID completed the *Supervisory Performance Evaluations Audit* during the quarter ending June 30, 2008, and the audit was approved by the Police Commission on July 8, 2008. The audit

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<sup>26</sup> Special Order No. 47, *Performance Evaluation Procedures for Lieutenants and Below – Revised*, November 13, 2004.

<sup>27</sup> Specifically, the categories: “sets example of police integrity,” “effective supervisory oversight,” and “effective administrative investigations” were added.

found the Department in non-compliance with the requirements of subparagraphs 54a-d, as well as those of subparagraphs 62a and b, 70c, and 108i. The audit also found that many evaluations were either not completed on a timely basis or not completed at all.

The Department made significant improvements in the Department's performance evaluations process when it issued Special Order No. 44, *Activation of Standards Based Assessment – Lieutenants and Below*, dated November 25, 2008. The new Standards Based Assessment (SBA) focuses on supervisors providing an objective assessment of subordinates and uses documentation other than supervisors' subjective assessments to assess employee performance. The standards provided for officers to be rated as follows in the different subject areas:

- Greatly Exceeds Standards
- Meets or Sometimes Exceeds Standards
- Needs Improvement

The SBA requires documentation such as commendations and comment cards, which are, under these new guidelines, required to be attached to the completed rating form to support ratings of "Greatly Exceeds Standards" or "Needs Improvement." Additionally, COs are required to validate ratings other than "Meets or Sometimes Exceeds Standards" in order to ensure that ratings are not "inflated." The SBA will allow decision-makers to more easily distinguish candidates for promotion and selection to coveted positions. Although there has been no assessment of post-SBA compliance, the Monitor is confident that the implementation of the SBA combined with the oversight of AD, OIG and Police Commission will ensure that the Department continues to improve its performance evaluation system.

### **Consent Decree Compliance**

The Monitor first assessed paragraph 54 during the quarter ending June 30, 2007. As part of the methodology changes that took effect in the fall of 2006, the Monitor included the following subparagraphs in its paragraph 54 assessment:

- 62c: Supervisor Conduct at Search Warrant Services or Categorical Use of Force (CUOF) Incidents
- 70c: Watch Commander Approval of All Booking Recommendations
- 108i: Quality of Supervisory Oversight Regarding Use of Confidential Informants (CIs)
- 116: Competency of Field Training Officers (FTOs) in Successfully Completing and Implementing FTO Training

The Monitor found the Department in non-compliance with paragraph 54, as the performance evaluation rating form and related instruction and training were being developed and not yet completed.

The Monitor again found the LAPD in non-compliance with paragraph 54 during the quarter ending September 30, 2008, based on its review of CRID's *Supervisory Performance Evaluations Audit*.

As described above, the Department issued Special Order No. 44, *Activation of Standards Based Assessment – Lieutenants and Below*, dated November 25, 2008, which addresses the requirements of subparagraphs 62c, 70c, 108i and paragraph 116. The Monitor noted that the SBA provides much-needed enhancements of the Department's performance appraisal process; however, the Monitor withheld a determination of compliance with paragraph 54 during the quarter ending December 31, 2008, pending the Department's implementation of the SBA.

The Monitor is confident that the implementation of the SBA, combined with the oversight of AD, the OIG and the Police Commission, will ensure that the Department continues to improve its performance evaluation system consistent with best policing practice and with the requirements of the Consent Decree.

## **Recommendations**

The LAPD has made great strides in improving its performance evaluation system, and the Monitor is confident that the Department will continue to make improvements to its system. The Monitor offers the following recommendations:

- The LAPD should assess the SBA after it has been implemented for one year in order to gauge its effectiveness in the selection of officers to coveted positions such as Gang Enforcement Detail (GED) officers and FTOs.
- The Department should continue to audit compliance with the mandates of subparagraphs 62c, 70c, 108i and paragraph 116.

## **B. Incidents, Procedures, Documentation, Investigation and Review**

### **1. Use of Force**

During the course of its investigation of the LAPD, the DOJ found evidence of a pattern or practice of police misconduct and civil rights violations. DOJ allegations included the improper use of force and insufficient investigation into use of force incidents. The DOJ concluded the

LAPD's pattern or practice of police misconduct included, among other things, the unconstitutional use of force by LAPD officers. Also cited were "serious deficiencies" in training and supervision of officers. In reaching its conclusion, the DOJ reviewed LAPD policy statements, reports on officer-involved shooting (OIS) incidents in which nonlethal force was used, misconduct complaint files in which serious misconduct was alleged, information on civil suits filed against the LAPD and its officers, information on criminal charges filed against LAPD officers, information relating to police training and reports and memoranda prepared by the LAPD, the Board of Police Commissioners and the OIG. These allegations were deeply troubling to all who read of them and were at the heart of DOJ complaint. It has been the remediation of these deficiencies toward which much of the oversight effort has been directed. It is the LAPD's turnaround and notable success in this area that may be the single most encouraging aspect of the last eight years.

### **Consent Decree Solutions**

In an effort to address the conclusions reached by the DOJ, the parties agreed on a number of administrative requirements surrounding CUOF incidents. These administrative paragraphs, collectively known as paragraphs 55 through 69 of the Consent Decree, defined required policies and responsibilities for officers, investigators, supervisors, the OIG and the Police Commission with respect to uses of force, whether lethal or nonlethal.<sup>28</sup> The specific requirements follow.

#### *Establishment of an Investigation Division, Notification and Incident Response*

The LAPD was required to develop appropriate policy to address notification of and response to CUOF incidents. In particular, UOF paragraphs 55 through 61 of the Consent Decree required:

- Creation of a unit (FID), whose main responsibility was to conduct administrative investigations of CUOF incidents, including those formerly conducted by the Robbery Homicide Division (RHD) or the Detectives Headquarters Division (DHD). All CUOF investigations were to be conducted by the FID and the FID was required to be assigned to a unit that reported directly to the CO of Operations Headquarters Bureau (OHB). Investigators assigned to the FID were to be Detectives, Sergeants or other officers of supervisory rank.<sup>29</sup> The CO of the unit could not have direct line supervision for any LAPD

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<sup>28</sup> For purposes of the Consent Decree, lethal uses of force, known as CUOF, are defined as those uses of force involving an OIS, Neck Restraint, Head Strike with an Impact Weapon, Canine Bite requiring hospitalization, In-Custody Death (ICD) and a Law Enforcement Related Injury (LERI) requiring hospitalization. All other uses of force are nonlethal and classified as Non-Categorical Uses of Force (NCUOF).

<sup>29</sup> A supervisor is defined as sworn personnel at the rank of Sergeant I, Detective II or above.



geographic bureau. Finally, all investigators assigned to the unit were to be trained in conducting administrative investigations as specified in paragraph 80 of the Consent Decree;

- Immediate notification to the Chief of Police, the FID, the Police Commission and the OIG whenever there was a CUOF, and prompt “roll out” of FID investigators to all CUOF incidents 24 hours a day. The senior responding FID supervisor was to have overall command of the crime scene and investigation at the scene where multiple units were present to investigate a CUOF;
- A separate criminal investigation of a CUOF where the facts so warranted, which could not be conducted by the OHB Unit;
- Continued notification to the Los Angeles District Attorney’s Office (DAO) whenever an LAPD officer, on or off-duty, shot and injured any person during the scope and course of employment, and whenever an individual died while in the custody or control of an LAPD officer or the LAPD, and a use of force by the officer may have been a proximate cause of the death;
- A request of the appropriate bargaining unit(s) for a provision in its collective bargaining agreement that when more than one officer fires a weapon in a single OIS incident, then each officer should be represented by a different attorney during the investigation and subsequent proceedings;
- Immediate separation of all officers involved in or witness to an OIS until such time the officer(s) provide a statement to an investigator.<sup>30</sup>

#### *Supervisory Oversight of CUOF Incidents and Search Warrants*

In response to its concerns of insufficient supervision, particularly with supervisory oversight for CUOF incidents and the service of search warrants, the Consent Decree required the LAPD, within a seven-day time period, to review a supervisor’s response to either situation and conclude on the appropriateness. The review was to be considered for each supervisor’s annual performance evaluation. Recognizing the seriousness and potential impact of a CUOF, the Consent Decree required the referral of certain officers to the LAPD’s Behavioral Science Services (BSS) Unit for an evaluation prior to being returned to the field.

In line with requiring a review of supervisor response to a CUOF, at the conclusion of a CUOF investigation, an LAPD manager was required to consider an involved officer’s work history,

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<sup>30</sup> LAPD protocol is to permit a very limited public safety statement to the supervisor first to arrive at the scene. This statement is limited in scope to allow the supervisor sufficient information to address the situation, whether static or dynamic. The formal statement provided by an officer may be compelled should the officer decline a voluntary statement.

including information contained in the TEAMS II system, for any disciplinary or non-disciplinary recommendations.<sup>31</sup> Again, in concert with other required reviews, consideration of an officer's history, although administrative in appearance, is an important function – it is data that if collected and digested properly can and will provide insight into trends requiring attention.

#### *Other CUOF Administrative Requirements and Continued Practices*

To ensure the timely and accurate reporting of uses of force, the Consent Decree required self-reporting of uses of force without delay utilizing a UOF form with prescribed data fields to capture the type(s) of force used, to identify the impact area of force and to specifically identify fractures and dislocations. Officers were also required to include use of a bean bag shot gun as a type of force.

In its investigation of the LAPD, the DOJ identified several preexisting best practices implemented by the LAPD:

- Continued Police Commission review of completed CUOF incident investigations;
- Continued reporting of all NCUOF to a supervisor to conduct a timely supervisory investigation of the incident;
- Continued UOFRB review of all CUOF incidents; and
- Continued Chain of Command (COC) review of NCUOF within 14 days of the incident absent any investigation deficiencies.

With regard to Commission review of CUOF investigations, the Consent Decree mandated that an investigation had to be presented to the Commission at least 60 days prior to the running of any applicable statute of limitations.

#### **Overall Achievements of the LAPD**

In December 2001, the LAPD issued Special Order No. 39, *Critical Incident Investigation Division – Established*. This Special Order established and defined the Critical Incident Investigation Division (CIID), which was the unit responsible for conducting administrative CUOF incident investigations, and set the basic parameters of who should attend these administrative investigations. It also established the requirement to separate officers involved in the incident, assigned responsibility with respect to the duty to assess Supervisorial Response to a CUOF and provided direction for the directed referral to the BSS Unit for certain involved and witness

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<sup>31</sup> Prior to the Consent Decree, the LAPD had established the UOFRB and a use of force review policy that, among other things, considered officer CUOF history.

officers to a CUOF. Once this Special Order was established, the Department rather quickly came into compliance with the requirements for OHB to attend all CUOF incidents, notify the Chief, Police Commission and OIG, notify the DAO and cooperate with the District Attorney (DA) on scene and ensure officers were separated.<sup>32</sup>

The LAPD subsequently issued Special Order No. 35, *Duty to Assess a Supervisor's Response to a Categorical Use of Force*, in August 2003 to address the LAPD's lagging compliance with assessing a supervisor's response within the seven-day mandated period. However, the Department continued to struggle to achieve compliance throughout the remainder of the Consent Decree and the subsequent extension.

Between 2002 and 2006 the Department took additional steps to ensure that it remained in compliance with these administrative requirements, including improving their notification system and improving the time frame with which they reported the findings to the OIG and Police Commission.

As a result of findings identified and reported by the Monitor, specifically deficiencies reported by the Monitor related to the overall sufficiency of CUOF investigations and the LAPD's internal review of the CIID, the Department issued Special Order No. 8, *Force Investigation Division – Established*, in March 2006, which deactivated the CIID and established FID. The FID continues to operate under the direction of the Commanding Officer of Professional Standards Bureau (PSB).<sup>33</sup> Specific Department accomplishments related to the FID and its operations during the term of the Decree are described in detail below, and include:

- The LAPD appropriately established, defined selection criteria for,<sup>34</sup> staffed and trained those investigators assigned to the FID, and CUOF incident investigations were appropriately assigned to and managed by FID investigators.
- At the onset of the Consent Decree, the LAPD established a systematic process to address the notification and dispatching of investigators to CUOF incidents. To address continuing struggles with its response times, and in response to the Monitor's recommendation, during 2004 the LAPD enhanced its notification process, equipping necessary personnel with

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<sup>32</sup> The LAPD subsequently issued Special Order No. 15, *Revision to Special Order No. 39 – CIID Investigations*, dated April 10, 2002. This Special Order provided additional guidance requested by the Board of Commissioners to ensure the proper review of a CUOF investigated by the IAG. It also provided additional guidance for officer referrals to the BSS Unit.

<sup>33</sup> The CO of the CIID and its successor, the FID, never maintained geographical responsibility during the duration of the Consent Decree. As such, the LAPD was in compliance with this requirement throughout the term of the Consent Decree.

<sup>34</sup> The LAPD issued Special Order No. 30, *Selection and Assignment to Critical Incident Investigation Division*, in September 2003.

BlackBerry devices enabling the Department Command Post (DCP) to make electronic notifications.

- The LAPD successfully implemented a process whereby officers either involved in, or directly a witness to an OIS, were separated and remained separated pending providing a statement to an investigator.<sup>35</sup> In May 2003, the LAPD issued Special Order No. 19, *Obtaining a Public Safety Statement and Separating and Officer Following a Categorical Use of Force Incident – Established*. This Special Order provided guidance to officers and supervisors on the appropriate line of questioning for obtaining a public safety statement<sup>36</sup> at an OIS incident scene. It also expanded LAPD policy to require all officers involved in or witness to any CUOF to remain separated prior to providing a statement to an investigator. The Monitor commends the Department's adoption of this policy.

For virtually all uses of force reviewed by the Monitor, whether CUOF or NCUOF, the incidents were self-reported. At the onset of the Consent Decree, the LAPD enhanced preexisting use of force forms to capture the additional information required pursuant to the Consent Decree, and the forms were utilized throughout its duration.

With regard to NCUOF, although not a requirement of the Consent Decree, the LAPD recognized the importance of the supervisor's role in the investigation and precluded a supervisor involved in or witness to a use of force from completing the subsequent investigation.

Lastly, the LAPD enhanced FID investigative resources and self-imposed a more robust CUOF investigation completion schedule in an effort to provide completed investigations to the Commission well in advance of the mandated 60-day period.

### **Consent Decree Compliance**

As indicated earlier, this particular section of the Consent Decree includes a number of administrative requirements relative to the Department's response to and investigation of uses of force. To the Department's credit, very early on it built upon preexisting policy and procedure in an attempt to address these requirements. First, the LAPD issued Special Order No. 39, and the Department relatively quickly came into compliance with a number of basic policy requirements in this area, including the requirements for OHB to attend all CUOF incidents; notify the Chief, Police Commission and OIG; notify the DAO and cooperate with the

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<sup>35</sup> In certain incidents the Monitor recognized the logistical burden of transporting a large number of officers and looked to see whether involved officers were separated until questioned.

<sup>36</sup> A public safety statement is elicited by the first responding supervisor from all officers and witnesses to an OIS in order to secure the Area and prevent any further injury.

DA on scene; and ensure officers were separated.<sup>37</sup> The Department first came into compliance with some of these paragraphs in June 2002, and by December 2002, the Department had achieved compliance with many of the administrative requirements surrounding CUOF incidents. As described below, the exceptions to achieving compliance with these administrative provisions of the Consent Decree are the supervisory oversight requirements relative to the review of supervisor response to CUOF incidents, and the confidential psychological evaluation of officers in deadly CUOF incidents. By September 2008, the LAPD had not achieved compliance with these provisions.

Regarding the formulation and responsibilities of the FID, in 2006, the Monitor identified certain UOF paragraphs wherein the LAPD was deemed to be in substantial compliance and were rendered inactive for the purposes of monitoring. Of significance, the Monitor noted the following:

- As described above, the LAPD appropriately established, defined selection criteria, staffed and trained those investigators assigned to the FID. Training observed by the Monitor and deemed sufficient included “Assimilation Training” and Supervisory and Detective training. Evidence of attendance was adequately documented. It was the practice of the Monitor to review all completed CUOF incident investigations, wherein the Monitor noted all were assigned to and managed by FID investigators.
- At the onset of the Consent Decree, although the LAPD established a systematic process to address the notification and dispatching of investigators to CUOF incidents, the Department struggled with its response times. Timely notification was dependent on the DCP’s ability to contact and brief the long list of individuals with a need to know while continuing to meet its other responsibilities. In response to the Monitor’s recommendation, during 2004 the LAPD enhanced its notification process, equipping necessary personnel with BlackBerry devices enabling the DCP to make electronic notifications. Over the course of time, the FID timely dispatched adequate personnel in response to notification of a CUOF. Simultaneously, the LAPD adequately addressed notification to the Chief of Police, the Police Commission, the OIG and the DAO,<sup>38</sup> with few exceptions. Also at the onset of the Consent Decree and throughout its duration, the LAPD provided for cooperation with DAO personnel responding to a CUOF incident.
- In July 2002, the LAPD proposed meeting with the Los Angeles Protective League and the Command Officers Association to discuss providing officers with separate legal representation when more than one officer is involved in an OIS incident. Both organizations declined discussing the matter any further with the LAPD, and throughout the

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<sup>37</sup> Consent Decree paragraphs 56, 58-60

<sup>38</sup> Notification to the District Attorney’s Office was a pre-Consent Decree requirement and practice of the LAPD.

term of the Consent Decree, officers regularly were represented by the same attorney(s) when involved in an OIS.

- With the exception of one reporting period, the LAPD successfully implemented a process whereby officers either involved in or directly a witness to an OIS were separated and remained separated pending providing a statement to an investigator.

Through continued interviews, observations and review of CUOF investigations, the Monitor reaffirmed the LAPD's continued adherence to the paragraphs establishing and defining the FID. Where plausible, the Monitor alternatively placed reliance on certain *Categorical Use of Force Systems Audit Reports* and related working papers prepared by the LAPD's AD. Prior to placing reliance on AD's findings, the Monitor conducted meta-audits of AD's audits and findings to gain comfort with employed methodologies, analysis and conclusions.

Unlike those paragraphs addressing the formulation of the FID, during the initial five-year evaluation period and continuing through the present, the LAPD did not achieve substantial compliance with the supervisory oversight requirements relative to reviews of supervisor responses to search warrants and CUOF incidents. In reaching this conclusion, the Monitor either requested evidence of a review of supervisory response and oversight for virtually all CUOF incidents and samples of search warrants served during specified time periods or placed reliance on similar analyses completed by Civil Rights Bureau sworn personnel or placed reliance on certain LAPD AD reports. The illustrations below detail the level of compliance achieved by the Department for the entirety of the Consent Decree.<sup>39</sup>

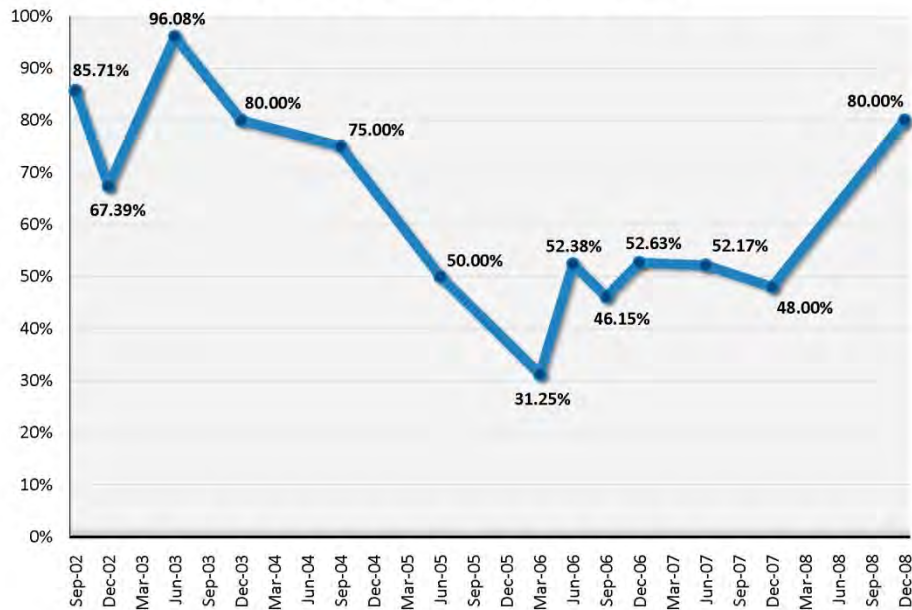
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<sup>39</sup> The Monitor deemed substantial compliance to equate to those paragraphs where the Department has been in compliance for two consecutive years.

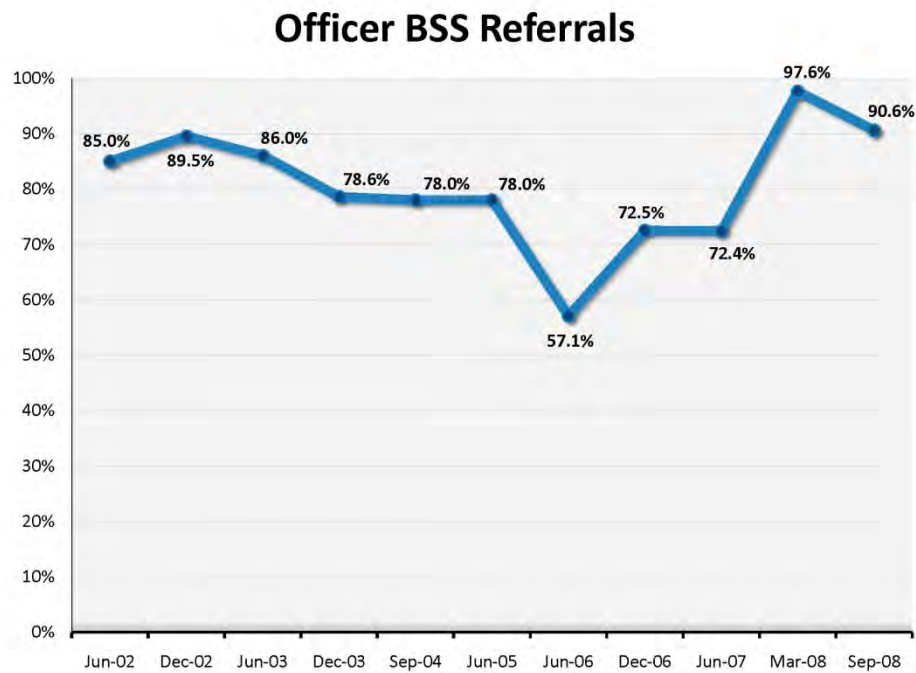
### Supervisor Response Search Warrants



### Supervisor Response CUOF



Although the Department was adept at identifying and referring officers involved in a CUOF for counseling, the LAPD did not achieve substantial compliance in that involved officers were allowed to return to the field prior to clearance by a BSS doctor or the underlying documentation was insufficient and did not permit an assessment of compliance. The following illustrates the LAPD's compliance over the duration of the Consent Decree:



The Monitor notes that the Department issued a Notice by the Consent Decree Bureau, "*Deployment Planning System Enhancement for Categorical Use of Force Incidents*," dated August 6, 2008. The Notice discusses a DPS enhancement that prevents "non-field certified" employees from being deployed in the field until otherwise advised by the CO of return to field status. The DPS enhancement was designed to address the documentation deficiencies previously identified by the Monitor, AD and CRID's inspections. Given the Department's performance just prior to the implementation of the DPS enhancement compared to performance subsequent to its implementation (97.6% compliance versus 90.6%, respectively), the Monitor was unable to conclude on its effectiveness.

In reviewing officer histories and recommending any disciplinary or non-disciplinary action, the LAPD's record was mixed. In virtually all CUOF incidents reviewed, the Monitor noted sufficient documentation that officer histories were reviewed and considered for non-disciplinary action.



This most frequently consisted of providing officers with varying levels of training to address tactical concerns identified either by the reviewing CO or members of the UOFRB. For those incidents in which the officers' actions were deemed administrative disapproval, the LAPD was inconsistent in documenting review. However, over the course of the Consent Decree, the LAPD was successful overall in considering officer work history and recommending discipline, and achieved substantial compliance.<sup>40</sup> It should be noted that for the majority of the monitoring period, the TEAMS II system was not available for officer history consideration; absent this requirement, the Monitor elected to render this paragraph inactive at the end of the initial monitoring period.

The Monitor noted that reviews of officer actions, particularly those reviews resulting in non-disciplinary action, frequently identified tactical concerns resulting in varying levels of recommended training. It was not always evident once training was ordered that sufficient follow-up occurred to ensure officers received the training. At the Monitor's recommendation, the LAPD implemented procedures to track and document training for future officer work history consideration, and the Monitor has since confirmed documentation of ordered training.

With regard to NCUOF, as mentioned above, the LAPD recognized the importance of the supervisor's role in the investigation and precluded a supervisor involved in or witness to a UOF from completing the subsequent investigation. Although the Monitor identified a handful of investigations wherein a supervisor arriving at the scene was witness to all or a portion of a UOF and conducted the investigation, the investigations were deemed sufficient and unbiased and were brought to the attention of the LAPD. By the end of the initial Consent Decree term, the LAPD and its supervisors demonstrated their ability to timely respond to and investigate the multiple less than lethal uses of force that occur on a daily basis. Therefore, the Monitor found the Department in substantial compliance with this requirement.

For CUOF investigations reviewed, the Monitor noted all were presented to a UOFRB containing appointees with varying levels of experience, expertise and perspective. On occasion, the Monitor observed the UOFRB process, noting that its structure and mandate serve the LAPD and its officers well. Over time, the OIG's role and participation has grown to the level expected at the onset of the Consent Decree. As the Department was always in compliance with this requirement, the Monitor concluded substantial compliance at the completion of the initial five-year term of the Decree.

Lastly, with the exception of two rating periods, the Monitor noted that the LAPD provided the Police Commission, via the OIG, with completed CUOF investigations in a timely fashion. For an approximate one-year period, there were delays in meeting the mandated time frame, largely attributable to the reorganization of the CIID to the FID and resource constraints. The LAPD,

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<sup>40</sup> In assessing compliance with this paragraph, agreement with the appropriateness of discipline administered was not criteria for compliance. Rather, the Monitor weighed multiple variables to include the overall documentation of review.

nonetheless, enhanced FID investigative resources and self-imposed a more robust investigation completion schedule in an effort to provide completed investigations to the Commission well in advance of the mandated 60-day period. In quick order, the LAPD was able to achieve and maintain substantial compliance.

## **Recommendations**

The Monitor recommends that the LAPD continue its practice of prompt notification to the Chief of Police, the Police Commission, the FID, the OIG and the DAO for all CUOF incidents. Additionally, OIG and DAO respondents should continue to be granted access to the incident scene. Although only a requirement for OIS incidents, the Monitor concurs with the LAPD's decision to expand the requirement of separation of involved and material witness officers for all CUOF incidents pending a statement, and recommends this as a continued best practice.

With regard to assessing supervisory response to the service of search warrants and CUOF incidents, the LAPD, with the oversight and assistance of AD and the OIG, should strive to achieve compliance and improve the overall quality of supervisor assessments. As important as it is to assess officer response to certain situations, the Department must similarly assess its supervisors, namely Sergeants and Lieutenants, who typically control incident scenes. Such assessments simply identify what individuals do right and wrong and often offer insight into situations previously not contemplated. Similarly, when considering officer actions for officers involved in a CUOF, equally important to documenting the review is ensuring officers receive the required training.

Lastly, the Department, with the assistance of the OIG or AD must monitor those DPS enhancements designed to ensure that officers are not scheduled for field duty until all administrative obstacles have been addressed and all decision-makers are confident it is within the officer's and the Department's best interest to return to field duty. Although an administrative step, it is nonetheless an important control procedure. Should the DPS enhancement prove ineffective, the LAPD must reassess and devise alternative measures to ensure this requirement is met going forward.

In numerous substantial and material ways, the LAPD has adopted and implemented best police practice in the use of force area, a far cry from the practices of eight years ago. It is crucial that the LAPD continue to police itself in this area, with the assistance of the OIG and outside governmental institutions like the Mayor, the City Council, the City Attorney, and the DA.

## **2. Search and Arrest Procedures**

For a period of time in the late 1990s, "Rampart" was a one-word symbol for out-of-control police corruption in the United States. Lack of controls and poor oversight and training in gang

units and in connection with search and arrest procedures were often cited as facilitating the scandal. The DOJ's investigation found that the LAPD was engaging in a "pattern or practice" of, inter alia, false arrests to include improper seizures of persons, making arrests without probable cause, and improper searches of persons and property with insufficient cause. DOJ concluded that "these types of misconduct occur on a regular basis in the LAPD."

In the *March 2000 BOI Report*, the Operations work group found that the Department Manual did not require supervisory review of a search warrant affidavit before it was submitted to a magistrate, and there was no system in place to track a search warrant unless it was actually served and registered with the County Clerk's Office. The work group also reviewed guidelines for the tactical service of search warrants and found that all operational bureaus required the presence of a Lieutenant at the service of any warrant other than those that are essentially administrative, e.g., telephone records.

The BOI's findings stressed a dire need for greater control and training regarding search warrants, as the preparation, service, and execution of search warrants and probable cause arrest warrants ("Ramey" warrants) is an operational process that exposes the Department to a multitude of risk-management issues. The BOI concluded that the LAPD should ensure adequate management review and oversight, including management review of a search and "Ramey" warrant affidavits prior to submission to a magistrate and should establish a tracking system for all warrants, served or not, to facilitate audit oversight and scrutiny.

Regarding arrests, the BOI recommended that "although booking advice should be obtained from a detective or specialized unit supervisor, booking and report approvals should always be obtained from the Area watch commander who should be responsible for visually inspecting each arrestee." The BOI also recommended that "whenever possible, the supervisor approving a booking should be the same supervisor who reviews and approves the related reports" in order to "[ensure] that sufficient probable cause is articulated in the arrest report and that any evidence seized is properly recorded and booked."

## **Consent Decree Solutions**

### *Warrants*

The Consent Decree reforms in connection with search warrants, Ramey warrants, and return service documents focused primarily on their quality and compliance with procedures. Specifically, the Consent Decree required supervisory review of all search warrants and Ramey warrants, to include the following:

- a. A review for completeness of the information contained therein and an authenticity review to include an examination for "canned" language, inconsistent information, and lack of articulation of the legal basis for the warrant.

- b. A review of the information on the application and affidavit, where applicable, to determine whether the warrant is appropriate, legal and in conformance with LAPD procedure.
- c. A review of the plan for executing the warrant and a review of the execution of the warrant after it occurs (after-action review). In addition, a supervisor was required to be present for the execution of the warrant.

In addition, the Consent Decree required each Area and specialized division of the LAPD to maintain a search warrant tracking log listing each search warrant, the case file where a copy of the warrant is maintained, the name of the officer who applied for the warrant and the name of each supervisor who reviewed the application for the warrant.

### *Arrests*

The Consent Decree required the Department to “continue to require all booking recommendations be personally reviewed and approved by a watch commander as to appropriateness, legality, and conformance with Department policies.” This requirement included three distinct subparagraphs:

- Subparagraph 70a required that “such reviews shall continue to entail a review for completeness of the information that is contained on the applicable forms and an authenticity review to include examining the form for ‘canned’ language, inconsistent information, lack of articulation of the legal basis for the action or other indicia that the information on the forms is not authentic or correct.”
- Subparagraph 70b required that “supervisors shall evaluate each incident in which a person is charged with interfering with a police officer (California Penal Code § 148), resisting arrest, or assault on an officer to determine whether it raises any issue or concern regarding training, policy, or tactics.”
- Subparagraph 70c required that “the quality of these supervisory reviews shall be taken into account in the supervisor’s annual personnel performance evaluations.”

This section of the Decree also required that “all detainees and arrestees brought to an LAPD facility shall be brought before a watch commander for inspection...for injuries as required by LAPD procedures and, at a minimum, ask the detainee or arrestee the questions required by current LAPD procedures, which are:

- 1) “Do you understand why you were detained/arrested?”
- 2) “Are you sick, ill, or injured?”
- 3) “Do you have any questions or concerns?”

If a watch commander was not available, the LAPD was required to “ensure that the person [be] inspected and interviewed by a supervisor who did not assist or participate in the person’s arrest or detention.” The supervisor or watch commander inspecting was required to sign the related booking documentation, which was required to indicate their compliance with these procedures.

## **Overall Achievements of the LAPD**

### *Warrants*

The Department’s efforts to comply with Consent Decree requirements regarding warrants began with the development and establishment of Special Order No. 25, *Search Warrant and Probable Cause Arrest Warrant Procedures*, dated August 10, 2001, which outlined procedures for tracking and monitoring the service of all search and Ramey warrants in accordance with Consent Decree requirements. Special Order No. 25’s search warrant policy was a good first step in institutionalizing supervisory oversight over warrants, and it was the first time the Department had a formalized tracking system for recording and monitoring search warrants.

The Department then published and distributed Special Order No. 28, *Activation of the Warrant Service/Tactical Plan Report*, dated July 15, 2003, which included a new search warrant tactical plan with a supervisor’s debriefing summary section and a CO’s analysis section, as well as a new search warrant tracking log with revised fields clarifying the information necessary to properly complete this log. The new search warrant tactical plan was different from prior tactical plans in that it required the CO to complete an analysis of the incident and a comment sheet for each supervisor who had oversight during the service of the warrant to assess the appropriateness of the service of the warrant.

An additional important aspect of the Special Order No. 28 policy was that it provided the Department’s supervisors and command staff with specific requirements regarding the debrief summary and CO’s analysis, so that there was less ambiguity in what was required for their supervisory review and oversight of the incident and post-incident review. In addition to the CO’s analysis on the tactical plan, Special Order No. 28 makes the CO responsible to ensure the following regarding warrants: presence of a supervisor during execution (Lieutenant if served by a gang unit); maintenance of a single location of warrant tracking logs in their Area or specialized division; accuracy on warrant tracking log of the warrant; provision of approval on warrant tracking log at completion of each DP; and completion of a detailed analysis of the performance of the supervisor at each scene of the service of the search or Ramey warrant on a “Comment Sheet” to be included in the supervisor’s personnel file.

### *Arrests*

In June 2001, the LAPD issued Special Order No. 12, which established specific evaluation procedures for arrests on charges of interfering, resisting arrest, or assault on an officer. Specifically, this order required the watch commander to ask all detainees and arrestees

brought into the division the three questions required by paragraph 73. A division supervisor was required to conduct this interview, even if the arrestee was not brought directly to the division.

In December 2001, the Department issued Special Order No. 42, which revised the detention tank log, the secure detention of juveniles log, and the non-secure detention of juveniles log. The redesign of the detention tank log specifically addressed the Decree requirement that watch commanders question the detainee upon arrival at the division. The new log provided a specific box for the watch commander to document that the mandated interview has been conducted. The order described the procedures required for completing the newly revised detention logs.

The Department issued Special Order No. 18, *Detention Logs – Revised*, on May 19, 2003, in which the secure and non-secure juvenile detention logs were revised to document the arrest charge of a detained juvenile and the name and relationship of the person to whom the juvenile is being released.

## **Consent Decree Compliance**

### *Warrants*

In the first three years of the Consent Decree, the LAPD took immediate steps to identify the problems with the service and tracking of search warrants, and began to develop procedures and guidelines to bring both search warrants and search warrant tracking logs into compliance with these Consent Decree requirements. Early on, the Monitor concluded that the Department was in compliance with requirements regarding completeness of the information on the application and affidavit and whether the warrant is appropriate, legal and in conformance with LAPD procedures. However, the Monitor found that the other requirements of this section were not being met. Specifically, the search warrant packages reviewed lacked a written execution plan when required, lacked supervisory approval or timely supervisor's approval, lacked a written debriefing critique/after-action report when required, lacked a CO's approval or timely CO's approval, lacked required forms within the search warrant package, lacked timely return of the search warrant and had inconsistent information between and among forms within the search warrant package. Regarding search warrant tracking logs, the Monitor found that the information on these logs was either missing, inconsistent with the related warrant or did not include supervisors' approval.

In early 2005, the Monitor reviewed and relied on AD's February 2005 *Warrant Applications and Supporting Affidavits Audit*, after conducting its own meta-audit of AD's audit and findings. AD had findings similar to the Monitor's earlier reported findings that search warrants had incomplete information, lacked documentation of required information for conformance with LAPD procedures and lacked supervisory oversight for approving warrants and post-incident review requirements. However, AD's findings differed from the Monitor's regarding search

warrant tracking logs, as AD found that the tracking logs reviewed were both complete and accurate in terms of their search warrant information. In 2006, the Monitor reviewed AD's subsequent February 2006 *Warrants Audit* and concurred with AD's findings that the Department had achieved compliance with the completeness requirement but was still not in compliance with other requirements, including underlying actions, conformance with LAPD procedures, supervisory oversight and post-incident review. In this audit, AD also found that the completeness and accuracy requirements related to the warrant tracking log were not being met.

The Department did not achieve substantial compliance with the Consent Decree's requirements related to search warrants and the search warrant log at the expiration of the original term of the Decree. As a result, the Monitor continued to assess the Department's compliance with these requirements during the extension to the Consent Decree. The Monitor's first review during the extension was based on AD's December 2006 *Warrant Applications and Supporting Affidavits Audit*. The Monitor concurred with AD's findings that the Department was not meeting the requirements regarding completeness, canned language, inconsistent information, appropriateness, legality and conformance with LAPD procedures, and supervisory oversight of application/affidavit, incidents and post-incident review. In addition, the warrant tracking logs were again *non-compliant* with requirements regarding completeness and accuracy. The Monitor reported that the Department continued to struggle with documentation requirements, as search warrant packages – in varying degrees – continued to fall short of complying with documentation requirements regarding completeness, authenticity, and the appropriateness and legality of officers' actions,<sup>41</sup> as well as requirements regarding supervisory oversight of applicable incidents and post-incident reviews and the completeness and accuracy of the Warrant Tracking Log.

The Monitor reviewed AD's December 2007 and December 2008 *Warrant Applications and Supporting Affidavits Audit*, both of which reported that, similar to the prior audits, the Department was struggling with search warrant and search warrant tracking log requirements. In both years' audits, the Department did not comply with requirements regarding completeness of information, inconsistent information, conformance with LAPD procedures, supervisory oversight of the application/affidavit and post-incident review for search warrants. In addition, the search warrant tracking logs were not meeting the requirements regarding completeness and accuracy of information. The Monitor recognized that although the Department did not meet the requirements regarding supervisory oversight of the application/affidavit and post-incident review, as indicated above, these compliance rates did increase significantly in the 2008 audit from the previous year's audit.

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<sup>41</sup> The Monitor notes that although there were concerns in relation to the documentation of the officers' actions, AD concluded that the Department was in 100% compliance with the articulation of the legal basis for the warrants.

In sum, the Monitor believes that substantial progress has been made on the most material aspects of these provisions, and recognizes that these warrants meet the specific requirements regarding legality. While there is work to be done, the Monitor is confident that the Department can remedy these additional deficiencies in the future with the assistance and oversight of AD and the OIG through, among other things, their continuing quality audits and reviews.

### *Arrests*

In its initial review of compliance with the requirements regarding the watch commanders' inspections of detainees and arrestees (paragraph 73) and requirements regarding supervisors' evaluation of incidents involving specified charges (subparagraph 70b), the Monitor found the LAPD in non-compliance. Regarding the watch commander inspections, the Monitor recommended that the Department reconsider how interviews and inspections are conducted, since the inspections/interviews taking place in the divisions were occurring in the presence of the arresting officer.<sup>42</sup> Regarding subparagraph 70b, the Department interpreted the requirement to mean that the watch commander review was only necessary on cases where these charges are the sole booking charge. The Monitor recommended that Special Order No. 12 be revised to instruct watch commanders to review all cases where the facts make up the elements of these charges and reported that regardless of the final interpretation of this requirement, this revision would not only provide better supervisory oversight but it would assist the Department in its own internal audit process.

In its first review of compliance with subparagraph 70a in 2002, the Monitor found the Department in overall non-compliance. The Monitor found that Special Order No. 13 sufficiently explained the supervisors' responsibilities during the arrest process. However, the Monitor found that the training for Basic Supervisor School and Watch Commander School was unsatisfactory, since neither curricula specifically addressed when and how supervisors should conduct their reviews. The Monitor also relied on AD's September 2002 *ABC Audit*, and agreed with the finding that only 55.5% of the arrest packages reviewed were in compliance. It was clear from this audit that Supervisors were either not adequately reviewing the arrest packages or unable to identify significant issues in the paperwork. The Monitor endorsed AD's recommendation to remind personnel of existing protocol for the completion of documents associated with arrest packages. The Monitor further recommended that this topic be addressed in formal training for both supervisors and the officers.

In 2003, the Monitor withheld a compliance determination with subparagraph 70b, as a final interpretation of the subparagraph's requirements had only recently been made. The Monitor

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<sup>42</sup> The Monitor noted that one of the fundamental purposes of this effort is for the watch commanders to interview the detainees in order to discover if any abuse had taken place at the hands of the arresting officers.



recommended that Special Order No. 12 and the revised training explicitly state the actual charges that fall under the umbrella of subparagraph 70b and clearly indicate that in any instance in which such a charge could be appropriately applied, the requirements of 70b would need to be met. Additionally, the Monitor recommended that the Department develop a means by which to identify all cases in which a 70b offense could be charged in order to allow for a more generous sample to measure compliance.

The Monitor concurred with AD's findings in its 2004 *ABC Reports Audit*, and found the LAPD in compliance with subparagraph 70a but in non-compliance with subparagraph 70b. The Monitor noted that the LAPD developed and implemented a new NCUOF policy and training that, while not developed to specifically address subparagraph 70a, focused on proper completion and oversight of the booking process. Following a review of the new policy, which was finalized on June 11, 2004, and attendance at the training sessions, the Monitor was satisfied that the training adequately addressed secondary compliance requirements with this subparagraph. The Monitor relied on AD's 2005 *ABC Reports Audit*, and found the LAPD in compliance with both paragraph 73 and subparagraphs 70a and 70b during the quarter ending December 31, 2005.

At the end of the initial term of the Consent Decree, the Monitor found the LAPD in substantial compliance with subparagraph 70a and paragraph 73; these paragraphs were no longer actively monitored. The Monitor continued to actively monitor compliance with subparagraph 70b during the extension period.

Based on the findings in successive *ABC Reports Audits* from 2006 through 2008, the Monitor found the LAPD in compliance with subparagraph 70b in 2006, and in non-compliance in 2007 and 2008. The 2008 audit found that 88% of packages it reviewed were in compliance with the requirements of subparagraph 70b. The remainder either contained no documentation of the incidents on the watch commander's daily reports or did not include the watch commander's evaluation of the incident on the Watch Commander's Log. While compliance did not reach the level of >94%, the Department is close to compliance, and the Monitor hopes that the combination of AD, OIG and Police Commission oversight can ensure that the Department retains a process to evaluate California Penal Code § 148 type incidents.

## **Recommendations**

The LAPD has made substantial progress in its oversight of the mainly administrative processes governing search warrants. There remain areas that need strengthening. With the policies and procedures put in place by the Department, and the oversight role of AD and the OIG to ensure that the policies and procedures are followed, the Monitor believes that, going forward, search warrants and warrant tracking logs will be properly prepared, reviewed, served and tracked under these strict guidelines and subject to adequate supervisory oversight. The Monitor offers the following recommendations regarding search warrants and warrant tracking logs.

- The documentation of supervisory oversight in connection with the debriefing summary, CO's analysis and Comment Sheet should include all outlined components of the Department policy and the Consent Decree and be sufficiently specific to ensure that proper supervisory oversight of each individual search warrant and the evaluation of the supervisor's actions are achieved.<sup>43</sup> AD and the OIG should continue their stringent practice of review, but consider the need for more specifics surrounding this supervisory oversight documentation, rather than general nonspecific statements of circumstances in such evaluations.
- The LAPD should provide refresher training to watch commanders and supervisors in order to ensure that all 70b incidents are documented appropriately.

The Department should continue to ensure that the watch commander inspecting a detainee or arrestee be uninvolved with the arrest or detention.

### 3. Initiation of Complaints

During the course of its investigation, the DOJ determined that the LAPD had in place policy and procedures for the acceptance of complaints. However, the DOJ's investigation also raised serious concerns that not all complaints lodged by civilians or sworn personnel were documented, preventing any investigation and resolution.

#### Consent Decree Solutions

This section of the Consent Decree mandated the methods by which the LAPD must receive complaints and maintain complaint materials. The requirements served to enhance the policies and practices already established by the LAPD. Specifically, the LAPD was required to have the capacity to accept any complaint in virtually any form,<sup>44</sup> anonymously, and at various locations.<sup>45</sup> Complaint material must include pre-addressed postage-paid envelopes in easily accessible Los

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<sup>43</sup> The Monitor often found generic statements from supervisors indicating that there were no problems during the service; such statements do not address specifics regarding a particular warrant's execution or the supervisor's oversight. By requiring the inclusion of specifics, the Department will cover any risk management issues that may arise, ensure that supervisors and COs are reviewing each individual search warrant, and allow the search warrants and the personnel files to adhere to both Decree requirements and best police practices.

<sup>44</sup> Receipt must be accommodated whether in writing, in person, by mail, by telephone, facsimile transmission or by electronic mail.

<sup>45</sup> LAPD headquarters, any LAPD station or substation, the offices of the Police Commission and the OIG.

Angeles locations in seven mandated languages.<sup>46</sup> Additionally, complaint materials must be readily available at the request of community groups and public and private centers. Lastly, the public must have continued access to the LAPD's 24-hour toll-free telephonic complaint hotline, and calls to this line must be recorded.

Another route for an individual to claim misconduct by an officer or other employee of the LAPD is to file a civil lawsuit on or claim against the City. All lawsuits and claims filed were required to be communicated to the LAPD so that the underlying allegations could be investigated.

Once a complaint was completed and presented to the LAPD, it had to be assigned a unique complaint number. Any complaint presented had to be accepted without requiring the complainant to sign any form that in any manner limited or waived his or her ability to file a complaint or a civilian lawsuit in court.

The LAPD was required to initiate a complaint against any officer who failed to assist any civilian from filing a complaint, such as refusing to provide complaint material, refusing to accept a complaint or attempting to dissuade the filing of a complaint.

Officers were also required to notify without delay the LAPD whenever they are arrested or criminally charged for any conduct, or named as a party in any civil suit involving their conduct while on duty. Additionally, an officer was required to immediately notify the LAPD if named as a defendant in a civil suit resulting in a temporary, preliminary or final adjudication in favor of a plaintiff complaining of off-duty violence, threats of physical violence or domestic violence by the officer.

Lastly, recognizing that misconduct, in certain situations, might be observed solely by another officer and that officers might be hesitant to report misconduct, the Consent Decree mandated that officers continue to report without delay certain misconduct they witness.<sup>47</sup> Witness officers were required to report alleged misconduct directly to the IAG or a supervisor for completion of a complaint form.<sup>48</sup>

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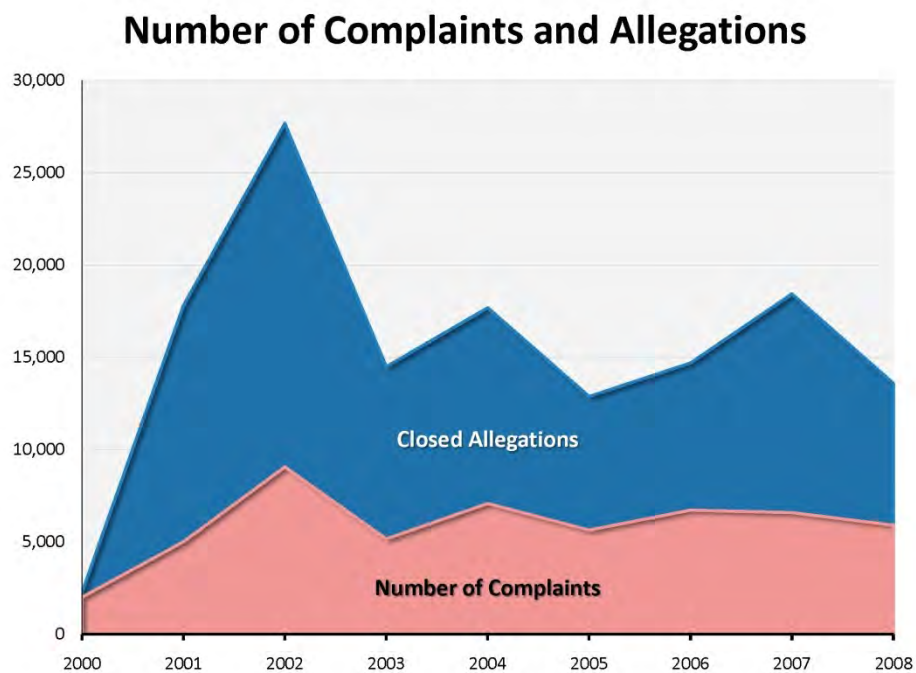
<sup>46</sup> English, Spanish, Japanese, Cantonese, Korean, Tagalog and Vietnamese

<sup>47</sup> Excessive use of force or improper threat of force; false arrest or filing of false charges; an unlawful search or seizure; invidious discrimination; an intentional failure to complete forms required by LAPD policies and in accordance with procedures; an act of retaliation for complying with any LAPD policy or procedure; or an intentional provision of false information in an administrative investigation or in any official report, log or electronic transmittal of information.

<sup>48</sup> This requirement applies to all officers, including supervisors and managers who learn of evidence of possible misconduct through their review of an officer's work.

### Overall Achievements of the LAPD

The LAPD issued Special Order No. 1, dated January 1, 1998, *Revised Definition of Personnel Complaint, Modification of Personnel Complaint Procedures and Revision of Complaint Related Forms*, that, among other things, mandated the reporting of any misconduct, regardless of significance, for investigation. The LAPD subsequently issued Special Order No. 8, dated February 24, 2000, *Complaint Reporting Procedures – Revised*. This policy superseded Special Order No. 1 and simply clarified the difference between public and Department complaints and further defined certain administrative requirements for the complaint intake process. During 2000, the LAPD experienced a significant jump in reported alleged misconduct, which placed a strain on its existing complaint investigation infrastructure, both COC and the IAG. The following chart reports, by year, the number of complaints received by the LAPD and the number of underlying allegations per closed complaint investigation:



Prior to the DOJ's investigation, the LAPD had established a thorough complaint intake process that included requirements to accept a complaint in virtually every required method and locale and to assign a unique case intake number, or CF number, for tracking and referral.

Within short order, the LAPD coordinated the production of complaint material and informative posters in the seven mandated languages and made such information available to the public and community groups. Posters were prominently displayed in all Divisions in all Bureaus.<sup>49</sup>

In July 2001, the LAPD issued Special Order No. 18, *Risk Management Group – Established*. This Special Order centralized the Department’s risk management under the Human Resources Bureau and specifically mandated maintaining liaison with the Office of the City Attorney to, among other things, reduce risk.

With respect to an officer’s duty to report misconduct, the LAPD issued Special Order No. 30, *Duty to Report Misconduct – Revised*, dated September 10, 2001. It, among other things, stipulates that employees “shall continue to report misconduct to a supervisor without delay” and added the provision allowing employees to report misconduct directly to the IAG. This special order also requires an investigating supervisor during the course of a complaint investigation to formulate additional allegations of misconduct if there is reason to believe additional misconduct occurred.

### **Consent Decree Compliance**

As described above, early on during the term of the Decree, the LAPD coordinated the production of complaint material and informative posters and made information available to the public and community groups. On many occasions the Monitor conducted unannounced verifications of complaint materials at various locations, primarily Divisions, and noted that, for the most part, the LAPD was in compliance.<sup>50</sup>

During the term of the Decree, the Monitor reviewed thousands of complaint investigations and not once did it identify any indications that officers asked or required a civilian in any way to execute documentation waiving or limiting their ability to file a complaint with the LAPD or any other entity, or file a lawsuit in court. Officers rightfully informed complainants that it was against the law to knowingly file a false complaint against an officer.

In the course of reviewing Ethics Enforcement Section (EES) audits of the complaint intake process, the Monitor noted instances in which complaints initiated by EES personnel were not always documented on a complaint intake form or, if documented, were not accurate, and the LAPD was held in non-compliance. In those instances where a complaint was not generated, the EES initiated a complaint against the involved officer(s). Similarly, for EES complaint intake

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<sup>49</sup> Special Order No. 19, *Complaint Information Provided in Additional Languages*, dated July 20, 2001.

<sup>50</sup> In some instances complaint material or pre-addressed postage-paid envelopes were not available in the public area of the location assessed. Typically it was a matter of bringing the deficiency to the attention of the Watch Commander who either immediately corrected the deficiency with material on hand or submitted requests for the additional material.

audits wherein the information suggested that an officer was reluctant to take a complaint or used language suggesting an attempt to dissuade, either a complaint was generated against the officer, or the EES concluded another audit was warranted at some point in the near future. Other than those instances identified during the course of EES' work, as well as the Monitor's overall review of complaints (in which a relatively small number included allegations of failing to accept a complaint), the Monitor is confident that the Department is making every effort to accept all complaints and in virtually all instances is doing so.

During early 2003, at a point in time when the LAPD received an allegation that officers were not documenting all complaints received, the Chief of Police directed the EES to significantly increase the number and frequency of intake audits to substantiate or refute this allegation. Although subsequent assessments noted some instances in which officers did not document a complaint, the LAPD's overall performance improved, and ultimately the Monitor held the Department in substantial compliance.

One requirement that the Department struggled with until just recently was its 24-hour toll-free complaint hotline, which was established for the receipt of complaints. The hotline was staffed with sworn personnel to receive complaints during normal business hours, and the system would default to voicemail in the event the call could not be taken. In assessing this requirement, the Monitor often placed reliance on AD's systems audit of the complaint intake process. In these audits, AD often found that the hotline was adequately staffed, but AD identified instances in which complaint forms were not initiated.

During early 2005, the responsibilities of the hotline were transitioned from the PSB to the DCP. At that time, the DCP was not capable of automatically recording all incoming calls. More recently, AD personnel, in the course of conducting their audit, telephonically contacted the hotline, noting that approximately 17% of the time their calls went unanswered or the voicemail system failed to engage and record the call. Analysis of the system identified a card error that was corrected, and subsequent testing by CRID found that the system performed flawlessly.

In order to track civil lawsuits on or claims against the City alleging misconduct by an LAPD officer, the LAPD established an efficient liaison between the RMD and the City Attorney's office, who regularly reconciled the LAPD's Claims/Litigation Information System Report (CLIS) with the City's report. The Monitor found the LAPD fully in compliance with the related requirements on six separate occasions between the quarters ended June 30, 2002 and March 30, 2006.

During the same time period, on five separate occasions the Monitor assessed the Department's compliance with the requirement that officers notify the Department, without delay, any time an officer is arrested or criminally charged for any conduct, named as a party in any civil lawsuit involving their conduct while on duty, or named as a defendant in certain civil suits. The Monitor found the Department in compliance in all five assessments after reviewing complaint

investigations, comparing randomly selected officers with various court indices, and querying claims and lawsuits filed with the City.

In assessing whether officers reported certain types of alleged misconduct by other officers, the Monitor reviewed completed complaint and use of force investigations for indicators that officers knew or should have known, and therefore reported, such misconduct. The Monitor's review spanned the quarter ended June 30, 2003, through to the quarter ended March 31, 2006. Toward the beginning of this assessment period, the Monitor identified some investigations containing information or officer statements suggesting knowledge of misconduct not subsequently reported; however, overall, the Monitor concluded that the investigations were complete and did not contain indicators of officers not reporting misconduct.

#### **4. Conduct of Investigations**

During the course of its investigation of the LAPD, the DOJ found evidence of a pattern or practice of police misconduct and civil rights violations. DOJ allegations included the improper use of force and insufficient investigation into use of force incidents. The DOJ concluded that the LAPD's pattern or practice of police misconduct included, among other things, the unconstitutional use of force by LAPD officers. Also cited were "serious deficiencies" in training and supervision of officers.

The DOJ also noted that the LAPD failed to respond properly to citizen complaints of officer misconduct and conducted inadequate investigations of civilian complaints. As a result, officers were not deterred from engaging in misconduct. Similarly, poorly trained officers were not identified for retraining or counseling. These two factors, when combined, created an environment for misconduct to occur.

In reaching its conclusion, the DOJ reviewed LAPD policy statements, reports on OIS incidents in which nonlethal force was used, misconduct complaint files in which serious misconduct was alleged, information on civil suits filed against the LAPD and its officers, information on criminal charges filed against LAPD officers, information relating to police training, and reports and memoranda prepared by the LAPD, the Board of Police Commissioners and the OIG.

#### **Consent Decree Solutions**

This section of the Consent Decree mandated a number of procedural changes to the manner in which the LAPD was required to conduct investigations of alleged misconduct, NCUOF and CUOF. Consistent with many other paragraphs of the Consent Decree, the mandates served to supplement policy, procedures and practices of the LAPD that preexisted the Consent Decree period. These procedural changes were intended to improve the overall quality and integrity of all complaint and use of force investigations.

Specifically, the LAPD was required to review all complaint face sheets within 10 days of receipt to determine whether they require investigative assignment to the IAG or COC supervisors.<sup>51</sup> For those investigations that included allegations requiring assignment to the IAG, and for all CUOF investigations, the assigned investigator(s) were required to ensure that:

- All interviews were tape recorded or videotaped;<sup>52</sup>
- The scene was canvassed and that complainants and witnesses were interviewed at convenient locations and times that might include their residence or place of business;
- Group interviews were prohibited;
- Involved officers and their supervisors were notified;<sup>53</sup>
- All supervisors were interviewed with respect to their conduct at the scene during the incident;
- All appropriate evidence was collected and preserved with the burden of collection on the LAPD; and
- All inconsistencies in officer and witness interview statements were identified and reported in writing.

For those complaint investigations assigned to the COC, i.e., any investigation not including allegations delineated by paragraphs 93 and 94 of the Consent Decree and for all NCUOF investigations, the LAPD was required to ensure that:

- group interviews were prohibited;
- all supervisors were interviewed with respect to their conduct at the scene during the incident; and

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<sup>51</sup> Paragraphs 93 and 94 of the Consent Decree define certain allegations that must be investigated by the LAPD's IAG. Please refer to the *Internal Affairs Group* section of this report for additional information on investigations requiring assignment to the IAG.

<sup>52</sup> This is required of all complainants, involved officers and witnesses. For certain CUOF investigations LAPD investigators elected to document statements of "heard only" witnesses that in some instances were not recorded. The Monitor concluded this was not a compliance issue.

<sup>53</sup> This requirement applies only to complaint investigations for purposes of paragraph 80. If the complaint is deemed confidential under law, notification will not take place.



- all appropriate evidence was collected and preserved with the burden of collection on the LAPD.

Lastly, if at any time during the course of any investigation of alleged misconduct or use of force the investigating officer had reason to believe misconduct occurred other than that already alleged, the investigator was required to notify his or her respective supervisor and an additional complaint investigation of the additionally identified misconduct must occur.<sup>54</sup>

### **Overall Achievements of the LAPD**

The following policies relevant to complaint and use of force investigations were issued by the LAPD during the Decree's term in an effort to attain compliance with the investigative requirements for complaint investigations and use of force investigations:

- Human Resources Bureau Notice *Categorical and Non-Categorical Use of Force Classifications and Investigative Responsibility*, dated July 30, 2001;
- Administrative Order 12, *Investigating a Personnel Complaint and Evaluating Witness Credibility*, approved by the Police Commission on September 25, 2001;
- HRB Notice, "Administrative Investigation Training," approved by the Police Commission on October 9, 2001;
- Special Order No. 36, *Complaint Reporting Procedures – Revised*, approved by the Police Commission on November 13, 2002;
- Special Order No. 1, *Department Complaint Process – Revised*, dated January 1, 2003;
- *Categorical Use of Force Classifications and Investigative Responsibility*, July 30, 2001;
- Special Order No. 27, *Investigation of Non-Categorical Use of Force Incidents*, approved by the Police Commission on September 25, 2001;
- Special Order No. 18, *Revision to Special Order No. 27, 2001 – Investigating and Adjudicating Non-Categorical Use of Force Incidents*;
- Human Resources Bureau Notice, *Consent Decree Required Information on Non-Categorical Use of Force Investigations*, approved by the Police Commission on January 28, 2003;

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<sup>54</sup> In most instances, this results in the formulation and addition of an allegation or allegations to the existing open complaint investigation.

- Human Resources Bureau Notice, *Non-Categorical Use of Force Reporting Where an Arrest Is Made*, published February 24, 2003; and
- Special Order No. 13, *Non-Categorical Use of Force Reporting – Revised*, dated May 26, 2004.

Despite the promulgation of these policies and procedures, as described below, there were some significant issues in the Department's road to compliance in this area of the Consent Decree. However, the Monitor found the Department in substantial compliance with Consent Decree requirements regarding NCUOF investigations at the end of the initial five-year term of the Decree. As described in more detail below, improvements in NCUOF investigations and the Department's ability to comply with the relevant requirements was due in large part to the Department's commitment to issuing and revising policy and the efforts of its Training Group.

In addition, the PSB continues to randomly audit complaint investigations conducted by IAG investigators in an effort to identify and address deficiencies, similar to the process used for CUOF Investigations, which has proven useful in improving the quality of those investigations.

In December 2008, the LAPD implemented a revised *Biased Policing Investigation Protocol*, which addressed concerns expressed by the Monitor and the DOJ with regard to interviewing all accused officers. The protocol requires investigators to gather and include all documents related to an incident, includes questions that should be asked of the complainant and officers, and requires any complaint that includes an allegation of biased policing to be reviewed by either the LAPD's Criminal Investigation Division or the PSB prior to distribution to the concerned CO. In addition, the PSB continues to randomly audit complaint investigations conducted by IAG investigators in an effort to identify and address deficiencies, similar to the process used for CUOF Investigations, which has proven useful in improving the quality of those investigations.

## **Consent Decree Compliance**

### *Categorical Uses of Force*

Although the Monitor noted some deficiencies in CUOF investigations during its initial review, which occurred during the third quarter of 2002, the Monitor concluded that the overall quality of investigations was sufficient. This trend carried through the Monitor's evaluation that occurred during the first quarter of 2003.

During a subsequent assessment in the third quarter of 2003, the Monitor noted deterioration in the quality of investigations. The Monitor identified instances in which the LAPD did not preserve evidence,<sup>55</sup> identify and report inconsistencies in statements, prohibit group interviews, or report possible misconduct uncovered during the course of the investigation. Indeed, the LAPD was in compliance with only one of the six subsections at the end of this reporting period. Our review of underlying supporting material identified considerable discrepancies when compared to the CIID report, a report ultimately furnished in substance to the Chief of Police and the Police Commission for review and consideration. As a result, the Monitor elected to expand its review of CUOFs during that same quarter and identified additional concerns after having reviewed only three additional investigations, two of which were ICD investigations. To the UOFRB's credit, it identified what appeared to be deficiencies in LAPD jail procedures and recommended a Board of Inquiry and an assessment of jail procedures. Although these requests dated back to mid-2001 and September 2002, neither was addressed until August 2003 following a verbal report by the Monitor to the parties.

Also of concern was the use of RHD detectives to conduct interviews of suspects and witnesses. The Monitor did not question the ability of these detectives to conduct thorough interviews but was concerned that their questioning might be skewed more toward determining whether or not the suspect committed the crime and not whether or not the officer(s) exhibited excessive or unnecessary force.

The Monitor again evaluated the merits of CUOF investigations during the quarter ended March 31, 2004, and determined that the deficiencies in CUOF investigations persisted. The Monitor continued to identify unrecorded witness interviews, insufficient documentation within investigation files, unidentified and unaddressed inconsistencies between witness and officer statements and uninitiated complaint investigations in connection with alleged misconduct identified during the course of the use of force investigation.

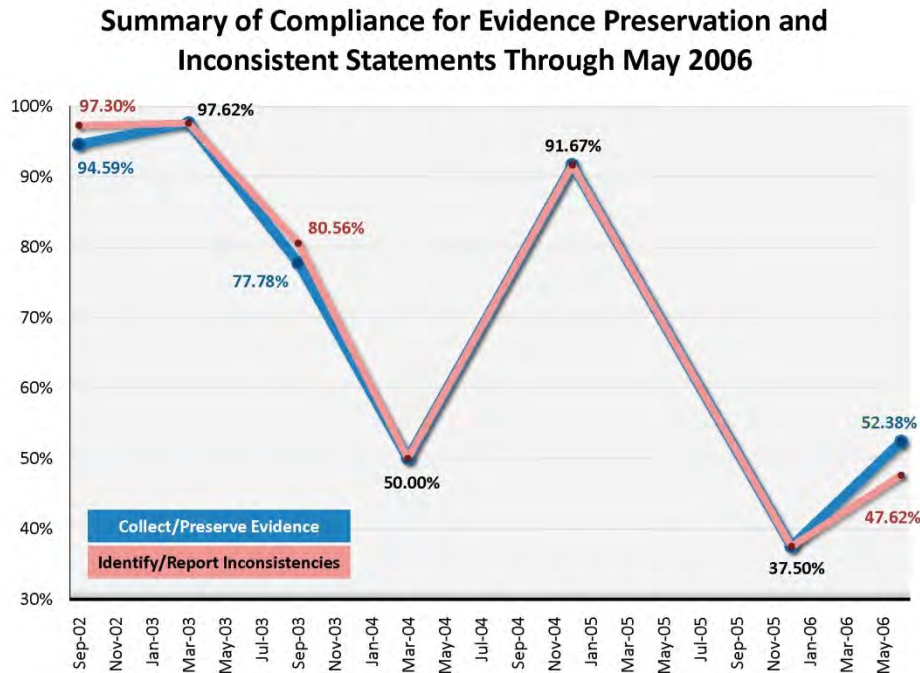
In response to the Monitor's findings, the PSB undertook an immediate independent review of the files and confirmed, in almost every respect, the Monitor's findings. This led to the reassignment of the CIID as a direct report to the Deputy Chief of the PSB. The Deputy Chief subsequently initiated a series of organizational and investigative changes to address the manner in which CUOF investigations were completed.

Another issue identified by the Monitor in the course of reviewing and assessing CUOF investigations involved two separate incidents in which a head strike with an impact weapon went unreported for a significant period of time. Both incidents were initially treated as NCUOFs, and the required protocol was not followed until they were upgraded to CUOFs.

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<sup>55</sup> The Monitor identified and reviewed several eyewitness statements that were not transcribed and were not referenced in the CIID's report. This led to the discovery of multiple occasions in which the CIID failed to identify and report material inconsistent statements and preserve essential evidence.

Of the six requirements delineated in this paragraph of the Consent Decree,<sup>56</sup> the two that strike closest to the core of the integrity of the investigation involve the collection and preservation of evidence and the identification, reporting and addressing of inconsistent statements. The following chart summarizes the history of the Department's compliance with these two requirements:



In mid-2006, the Monitor noted another troubling pattern in the quality of CUOF investigations, this one concerning leading questions. The Monitor noted that FID investigators more frequently utilized leading questions during interviews, particularly officer interviews, which the Monitor noted detracts from the overall quality of the investigation. The OIG also identified the repeated use of leading questions during its independent reviews of CUOF investigations and reported such to the LAPD.

Throughout the duration of the Consent Decree, the Monitor expressed its concern over the use of the hobble restraint device during certain incidents in which the suspects either died or were hospitalized with serious injuries.<sup>57</sup> Although the LAPD had in place specific policy and

<sup>56</sup> Paragraph 80

<sup>57</sup> The Monitor's review of these incidents yielded no evidence to conclude failure to properly place the suspect in a sitting position contributed to their death or hospitalization.

procedure for dealing with suspects who are hobbled, officers in several incidents did not follow procedure. Of note, policy required that any suspect restrained with a hobble device must be immediately placed into an upright seated position as a preventative measure for asphyxia. This is particularly important if the suspect exhibits signs of being under the influence of an unknown substance. In most of the investigations, the line of questioning appropriately included querying the involved officers' knowledge of policy and procedure. However, although these incidents were reviewed by the UOFRB and the Chief of Police, contrary to Department policy, training was not required for any of the involved officers with regard to proper positioning. To the Department's credit, though, in December 2007 it issued an order requiring officers to immediately place a hobbled suspect either in a sitting position or in the left lateral position.

Up to June 2006, the Department experienced setbacks with regard to the quality of investigations and could not show consistent compliance. As a result, the Monitor continued its review of CUOF investigations during the Consent Decree extension period. It was around this June 2006 time period, and continuing for the duration of the extension period, that the Monitor noted a marked improvement in the overall quality of CUOF investigations. Although not perfect, the Monitor felt more comfortable in considering the merits of each individual CUOF investigation as a whole and whether individual items of non-compliance impacted<sup>58</sup> the investigation's overall quality and the ability of the reviewer to properly adjudicate officer actions. By the end of the second year of the extension, the Monitor concluded that, overall, the Department attained sustained substantial compliance with Decree requirements regarding the investigation of CUOF. The LAPD's CUOF investigations rightfully are now recognized as state-of-the-art best practices that are studied by other law enforcement agencies nationwide.

#### *Non-Categorical Uses of Force*

In connection with NCUOF, the Monitor, in its earlier reviews, was unable to easily determine whether or not witnesses were interviewed separately during early assessments of compliance. Although each interview was substantively reported separately, the date, time and location of interviews were not sufficiently documented. As such, the Monitor held the Department in non-compliance absent any additional information. Similarly with regard to evidence, both the Monitor and AD found the Department in non-compliance due to poor documentation procedures, particularly with regard to photographs of either the suspect or involved officers for evidence of injuries or lack thereof. Subsequently, the Monitor initiated a conversation with the CO of Risk Management, who advised the Monitor that the LAPD was aware of the deficiencies and was in the process of amending current policy to address them. The LAPD then developed and implemented Special Order No. 13, *Non-Categorical Use of Force Reporting – Revised*, dated May 26, 2004, which addressed the reporting and documentation issues.

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<sup>58</sup> The Monitor excluded LAPD generated complaint alleging *Failure to Qualify*, *Failure to Appear* or a *Preventable Traffic Collision* from its calculation as these particular complaints are generated monthly.

During late 2003, the Monitor noticed improvements in the quality of NCUOF investigations in connection with documentation of collected evidence, time and place of the interview, and whether a group interview took place. The Monitor commended the LAPD for the marked improvement in the quality and consistency of NCUOF investigations. Much of the credit was attributable to the Department's commitment to issuing and revising policy and the Training Group's review of policy and procedures for completed NCUOF incident investigation.

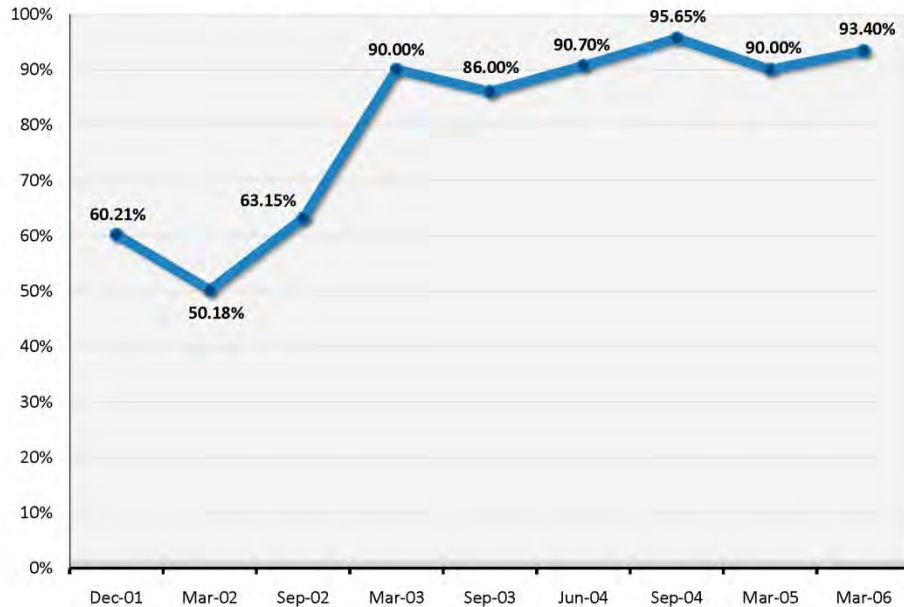
During mid-2005, the UOFRS and the Department's Training Division continued to track and review all completed NCUOF investigations in order to identify deficiencies in the investigations and any training issues. If an investigative deficiency or training need was identified, either UOFRS or the Training Division would contact the appropriate manager via correspondence requesting an explanation or clarification of the issue. At times an officer involved in an NCUOF would receive remedial training from the Training Division.

As a result of these efforts, the Monitor found the Department in substantial compliance with requirements regarding NCUOF investigations at the end of the initial five-year term of the Decree. The consistent quality of the investigations and related quality control review provided the Monitor with sufficient assurance that the LAPD would continue with best practices, and additional monitoring during the Decree extension was not required. Subsequent AD assessments for the most part validated continued adherence to these best practices..

#### *IAG Complaint Investigations*

Beginning with the quarter ended December 2001 and continuing through the quarter ended March 2006, the Monitor, through sampling, reviewed complaint intake face sheets for evidence that the face sheet was forwarded to the PSB for review and classification within the 10-day period mandated by the Decree. As illustrated in the following chart, initially, the LAPD's compliance rate was relatively low, but over the course of time, the Review and Analysis Unit managed to steadily improve the Department's compliance with this requirement. This was accomplished despite an increasing number of complaints and an increasing number of underlying allegations. As a result of these efforts, the Monitor concluded that the Department was in substantial compliance with the requirements related to the review and classification of complaint face sheets at the end of the original five-year term of the Consent Decree. The related paragraphs were no longer actively monitored during the extension.

### Complaint Face Sheet Review



During the initial five-year term of the Consent Decree, the Department issued a number of directives providing guidance to officers and supervisors with regard to complaint investigations. Many of these practices were entrenched in LAPD complaint investigations prior to the Consent Decree, and the Department was largely faced with fine-tuning the requirements and improving overall quality.

Three requirements proved to be the most difficult for the Department and, therefore, were actively monitored during the Consent Decree extension: tape-recording interviews of the complainants, witnesses or officers; collecting and preserving evidence; and identifying and reporting inconsistencies in witness and officer statements. Despite hiring freezes and an increasing caseload, the IAG’s investigators stepped up to the challenge, completing quality complaint investigations. Equally important, the Monitor witnessed steadily increasing improvement in the quality of manager review and related documentation, with some investigations returned to address open items.

During the quarters ended June 30, 2008 and December 31, 2008, at the request of and subsequent to an initial review conducted by the DOJ, the Monitor also reviewed complaint investigations that included an allegation of racial profiling. During its first review, the Monitor identified significant deficiencies in approximately 25% of the completed investigations, calling into question the appropriateness of the review process and the ultimate adjudications. The Monitor also noted disparities in the review and documentation of officer work history.

During its most recent review in December 2008, although significant issues were identified in approximately 10% of the complaint investigations, the Monitor noticed a marked improvement

in the quality of the investigations and rationale for the adjudications. The Monitor notes that the LAPD's implementation of a revised *Biased Policing Investigation Protocol* addressed many of the concerns expressed by the Monitor and the DOJ with regard to interviewing all accused officers.

Based on its reviews and as a result of the various steps taken by the Department, the Monitor concluded that the LAPD achieved and sustained compliance with these three remaining requirements during the extension period.

#### *Chain of Command Complaint Investigations*

In early 2003, the Monitor began its review of COC complaint investigations completed after commencement of the Consent Decree and attempted to determine whether one could reasonably conclude that interviews were conducted separately, evidence was collected and preserved, and the area had been canvassed for witnesses. More often than not, the investigations were not sufficiently or consistently documented with regards to the collection and preservation of evidence. As time progressed, the Department improved the quality of COC investigations, largely through the supervisory review process in which deficiencies were identified and returned to the investigator for correction. By the second quarter of 2006, the Monitor noticed a sustained significant improvement in the quality of COC investigations, particularly with regard to the collection and preservation of evidence. This improvement continued through June 2008, when the Monitor determined that, despite a few discrepancies, the Department had achieved substantial compliance with the requirement regarding COC investigations. The related paragraphs were placed on inactive monitoring status.

On eight separate occasions during the term of the Consent Decree and its extension, the Monitor evaluated the LAPD's compliance with requirements related to the identification of any potential misconduct for additional investigation. In some instances, the Monitor placed reliance on AD's audits. In seven of the eight reviews, the Monitor concluded that the LAPD was in compliance with these requirements. During the three-year extension period, the Monitor communicated to the LAPD all instances it identified in which there was evidence of additional misconduct on the part of an officer yet no indication that additional allegations were formulated to address the additional misconduct identified. The Monitor concluded that these instances identified during the extension period did not impact the Department's substantial compliance with the pertinent requirements.

#### **Recommendations**

In order to maintain and improve the quality of complaint and use of force investigations going forward, the Monitor recommends the following:



- The LAPD should continue to train all investigators assigned to either the FID or IAG, with such training to include many of the requirements of the Consent Decree. Although sometimes time-consuming, the Decree requirements are crucial to ensuring the overall quality of investigations. Training must emphasize the use of open-ended questions with all interviewees. For interviews of officers, investigators must strive to learn the intricacies of policy and be willing to question officers regarding their knowledge.
- The LAPD should continue to train all officers and supervisors on the definition of a CUOF and what is required of officers should a CUOF incident occur.
- The LAPD should continue to train officers and supervisors on the Hobble Restraint device and the proper treatment of individuals on whom the device is administered, particularly if they have exhibited signs of being under the influence of a substance. All officers need to understand the importance of immediately placing any hobbled individual in either the sitting or left lateral position in an effort to prevent asphyxia.
- The LAPD should regularly revisit LAPD jail procedures, particularly those identified as deficient by the UOFRB in connection with certain ICDs to ensure continued best practices when dealing with detainees with health and substance abuse issues. In sum, the Monitor believes that there has been measurable and sustained improvement in this area. The keys to success have been training and improved oversight. Those will be the keys to institutionalizing the gains made so far.

## **5. Adjudicating Investigations**

In line with its findings of inadequate investigations, the DOJ also concluded that poor information led to inadequate and problematic adjudication of civilian complaints. The LAPD's history includes a series of problematic events followed by insufficient investigations and a perception that the public was failed at the adjudication and discipline cycle of events. In reaching its conclusion, the DOJ reviewed LAPD policy statements, discipline reports and misconduct complaint files in which misconduct was alleged.

### **Consent Decree Solutions**

In an effort to address the deficiencies identified by the DOJ in the adjudication of civilian complaints, the parties agreed to a number of procedural changes to the manner in which the LAPD must adjudicate investigations of alleged misconduct. Consistent with many other paragraphs of the Consent Decree, the agreed-upon changes served to supplement existing LAPD policy, procedures and practices. These procedural changes were intended to improve the overall quality and integrity of all complaint investigations.

Upon receipt of a completed complaint investigation, the LAPD was required to review the complainant's and accused officer's statements using standard California jury instructions. Additionally, all complaints were to be adjudicated using a preponderance of the evidence standard, and no complaint investigation could be closed without a final adjudication.<sup>59</sup> For complaints that were withdrawn, filed anonymously, filed by a person other than the victim of misconduct or if the complainant was unavailable to make a statement, the LAPD was required to make reasonable efforts to complete the investigation.

Taking into consideration variables that include an investigation's complexity, the availability of evidence and witnesses, and other extenuating circumstances, the LAPD was required to complete at least 51% of all complaint investigations within 150 days of the complaint initiation date.

### **Overall Achievements of the LAPD**

In its initial efforts to attain compliance with the investigative requirements regarding complaint investigations, the LAPD issued Administrative Order 12, "Investigating a Personnel Complaint and Evaluating Witness Credibility," on September 6, 2001. This order reiterated certain information already documented in pre-Consent Decree LAPD manuals to better align LAPD policy with Consent Decree requirements. The LAPD continued its efforts towards compliance by issuing additional policy during the first few years of the Decree, including Special Order No. 1 dated January 1, 2003, "Department Complaint Process – Revised." Special Order No. 1 was designed to, among other things, "hasten resolution of minor complaints, hasten responses to complainants, and appropriately and better utilize existing police resources."<sup>60</sup>

At the onset of the Consent Decree, the LAPD faced a considerable backlog of complaint investigations not yet entered into its Complaint Management System. By mid-2002, the LAPD made significant progress in reducing this backlog, recognizing that timely entry into the system was the first step toward timely completion of the investigations.

Toward the end of 2004, the LAPD proposed the use of Settlement Agreements wherein the Department and the involved officer negotiate acceptable terms and the officer agrees not to dispute certain allegations. In return, the officer, or a representative, negotiates a mutually acceptable discipline. The Monitor reviewed certain Settlement Agreements, noting that the discipline, in virtually all instances, was reasonable.

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<sup>59</sup> Acceptable adjudications are *Sustained, Sustained-No Penalty, Not Resolved, Unfounded, Exonerated, Duplicate, No Department Employee, Insufficient Evidence to Adjudicate, No Misconduct* and *Withdrawn by the Chief of Police*.

<sup>60</sup> Other policies issued included Special Order No. 36, November 13, 2001; Chief of Staff Notice, May 9, 2002; Adjudicator's Confidential Work Sheet; and LAPD's Management Guide to Discipline, January 2002.

## Consent Decree Compliance

During 2002, the Monitor commenced selecting samples of complaint investigations for review that included assessing the LAPD's application of witness credibility, preponderance of the evidence and the final adjudication requirements. The Monitor's evaluations during the initial five-year period found that in some complaint investigations, undue preference was given to the officer against whom the complaint was alleged, and proper consideration was not given toward the civilians' or officers' histories, respectively. As such, the Department was held largely in non-compliance, and the Monitor continued to assess compliance with these requirements during the three-year extension period.

Over this same evaluation period, despite the findings of undue preference, the Monitor found that the LAPD, for the most part, adjudicated complaint investigations using the preponderance of the evidence standard and concluded that the LAPD was in compliance with the requirement to use one of the required resolutions. However, the LAPD did not demonstrate sustained compliance during the last two years of the initial term of the Decree, and the Monitor also continued to assess compliance with this requirement during the extension period.<sup>61</sup> This was largely the result of the use of an adjudication category denoted as *Other Judicial Review (OJR)* as reported by the Monitor during the quarter ended September 30, 2005. At that time, *OJR* was one of the agreed-upon adjudications, and it was utilized when a matter was heard in a judicial setting, during which time the underlying allegations of the complaint were ostensibly addressed. The Monitor noted that in several investigations selected for review that were adjudicated *OJR*, the LAPD did not follow its own internal policy, as the investigative files were devoid of documentation that the complainant, the complainant's attorney or the prosecuting attorney were interviewed or approached for interview. Most of the investigations reviewed also had no evidentiary hearing or any other documented review of the facts alleged in the complaint. Lastly, the complaint files were devoid of any specific court transcripts or dockets that would support whether the matter was truly addressed at any judicial proceeding.

The Monitor expressed concern that the *OJR* adjudication was a mechanism that permitted the LAPD to quickly render a decision on a complaint investigation in an effort to meet compliance requirements of the Consent Decree. In response, the LAPD issued Special Order No. 34, *Other Judicial Review as an Adjudication – Revised*, dated November 1, 2007, which rescinded the use of *OJR* as an adjudication.

Throughout the initial five-year term of the Decree, the Monitor reviewed samples of complaint investigations, some of which were initiated anonymously or by third parties. For virtually all reviewed complaints that were anonymous or filed by a third party, the Monitor concluded the Department made a good faith effort to identify the complainant and complete a thorough

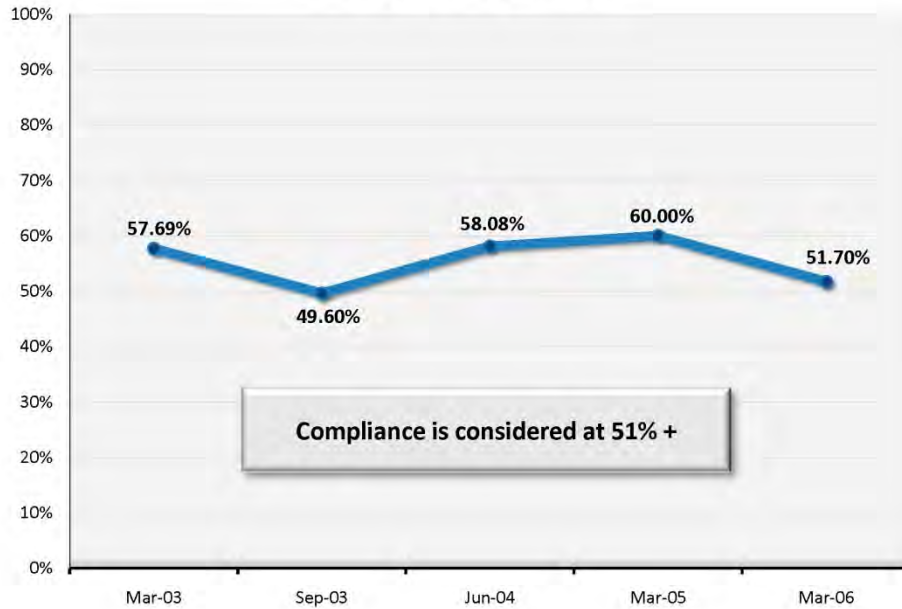
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<sup>61</sup> In assessing the Department's compliance with the undue preference and preponderance of the evidence requirements of the Consent Decree, the Monitor, at times, placed reliance on the AD's *Complaint Form 1.28 Investigations Audit*.

investigation. As a result, the Monitor concluded that the Department was in substantial compliance with the pertinent Consent Decree requirements, and assessment during the extension period for this particular requirement were placed on inactive status.

Beginning in the quarter ending March 31, 2003, and continuing through to the quarter ending March 31, 2006, the Monitor assessed the LAPD's compliance with requirements regarding the timely completion of complaints on five separate occasions. In assessing compliance, the Monitor analyzed reports generated by the LAPD that identified start and end dates for complaint investigations. The Monitor also completed analyses of completion rates separately for IAG-completed investigations versus COC-completed investigations. With the exception of one quarter, more often than not the LAPD completed complaint investigations within the 150-day mandated period. Understandably, IAG investigations are more complex, comprising multiple allegations lodged against multiple individuals, and require more time to collect the necessary evidence for adjudication and discipline. Additionally, IAG investigations require additional administrative mandates, such as tape-recording, not required of COC investigations. As such, the Monitor sought to determine that investigations, in aggregate, more often than not were completed within 150 days. In applying this methodology, the Monitor found the Department in substantial compliance at the end of the initial five-year period. The following chart summarizes the Department's compliance:

### Timely Completion



### Recommendations

The LAPD should remain committed to adequately staffing and training IAG in order to ensure the continued timely completion of complaint investigations. Supervisors must understand it is their duty to investigate and report the facts of each allegation of misconduct without bias. Equally important, reviewers of complaint investigations must take into consideration all facts and continue to reach fair conclusions that in many instances may result in an adjudication of “Not Resolved,” meaning a conclusion cannot be reached whether the officer committed the alleged misconduct.

### 6. Disciplinary and Non-Disciplinary Action

The Christopher Commission found that “the Police Commission receives summaries – prepared by the Department – of disciplinary actions against sworn officers and civilian employees involving charges of improper tactics, excessive force, discourtesy, or other significant misconduct carrying a suspension of five days or more. The Police Commission itself cannot impose discipline on sworn officers. By law, discipline of sworn officers is reserved exclusively for the Chief (subject to Board of Rights procedures and other limits on his discretion). Accordingly, the summaries received by the Police Commission are advisory only.”

The Christopher Commission further reported that, “moreover, the summaries themselves do not encourage involvement by the Police Commission in discipline issues. They consist of a single, brief paragraph on each incident, describing the incident superficially and without any background detail. The incidents are not sorted by type, officer, or division, making it difficult for the Police Commission to spot trends or problem areas. The Police Commission does not have adequate time or resources to analyze the summaries and look for patterns.” The report also indicated that “the Police Commission only receives the summaries about once a month, and they are not current. This system of reporting makes it impossible for the Police Commission to monitor systematically the discipline imposed by the Chief in use of force and other cases...But if the Police Commission cannot monitor disciplinary decisions, then it has no effective way to ensure that its policies are followed.”

The DOJ’s investigation concluded that “LAPD supervisors fail to supervise adequately LAPD officers carrying out their routine policing responsibilities,” and supervisors do not “to the extent necessary, direct, evaluate and monitor officer performance in the field.” The DOJ also found that the supervisory failures of the LAPD created an environment where officers could engage in misconduct without detection.

### **Consent Decree Solutions**

Under the Consent Decree, once a complaint investigation was completed, a manager was responsible for reviewing and evaluating its quality and completeness. This review included identifying underlying deficiencies and training needs. After the review and evaluation, the manager was responsible for implementing appropriate non-disciplinary action or making a recommendation to the proper LAPD entity to implement such action.<sup>62</sup>

After a complaint investigation was reviewed and open items or concerns resolved, the LAPD was required to inform the complainant in writing of its resolution, including the investigation’s significant dates, general allegations and disposition.

The Consent Decree also required the Chief of Police to report to the Police Commission on the imposition of discipline during the previous calendar quarter no later than 45 days from the end of each quarter; a copy of the report was to be forwarded to the IG. The IG was required to review, analyze and report to the Police Commission on each Quarterly Discipline Report (QDR). The Police Commission must review the QDR with the Chief of Police and make an assessment of the appropriateness of the Chief of Police’s actions, specifically with respect to CUOF.

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<sup>62</sup> LAPD Manual Section 3/830.20 and the LAPD’s “Department Guide to Discipline”

## **Overall Achievements of the LAPD**

Prior to the Consent Decree, the LAPD had established a practice of having managers review complaint investigations for quality and completeness and to identify training needs. Sworn personnel at the rank of Sergeant I, Detective II or above received training that included complaint review, documentation of review and documenting disciplinary or non-disciplinary action. It was also the LAPD's policy to provide the complainant with a written notice of an investigation's resolution.<sup>63</sup> Subsequent to the Consent Decree, sworn personnel at the rank of Sergeant I, Detective II or above received training that included complaint review, documentation of review and documenting disciplinary or non-disciplinary action.

Despite having policy in place, the LAPD struggled to comply with the requirements of this section. During the summer of 2003, in an effort to comply with the requirements and to address poor performance, particularly with regard to the complainant notification requirements, the LAPD implemented a policy change directed at the complaint review process. The policy change, among other things, required that a communication be forwarded to the complainant if a complaint remained open after a period of five months. Soon after the implementation of this policy change, the Monitor noticed a marked improvement in the accuracy and quality of the LAPD's communications with complainants. In the summer of 2003, the Department also implemented a requirement that complainants be notified if their complaint had not been completed within a five-month period.

Although the Consent Decree did not require that QDRs be made public, the LAPD opted to make them public documents. The Monitor commended the LAPD for this decision. The LAPD developed a revised QDR, which was generated for the first quarter of 2002, to correct deficiencies that were identified in prior reports by the IG. The Monitor viewed the revisions and additions made by the LAPD as a significant improvement over the previous report. At the end of 2002, the Department made critical modifications to its discipline report database that facilitated the inclusion of narrative summaries in the QDRs. This directly addressed early concerns expressed by the Monitor regarding the timeliness of the information presented in the QDRs and the lack of detail presented.

## **Consent Decree Compliance**

### *Managerial Review and Evaluation*

In order to assess the above requirements, the Monitor requested listings of completed complaint investigations and selected random samples to review. Where possible, the Monitor also placed reliance on the AD's *Complaint Form 1.28 Investigations Audit*. Over the course of

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<sup>63</sup> LAPD Manual 3/820/11 and the Chief of Staff Notice "Referencing the Investigation Date for Complaint Investigations," dated May 9, 2002

the initial five-year term, the Monitor reviewed thousands of complaint investigations and the related manager reviews and letters to complainants. For the most part, manager reviews were sufficient and contained requisite rationale on the officer's actions, with consistent and appropriate recommendations for either disciplinary or non-disciplinary action.<sup>64</sup> This trend generally continued throughout both the initial and extension periods of the Decree.

In all but one quarter, the Monitor determined that the LAPD was in compliance with requirements regarding manager reviews of complaint investigations.

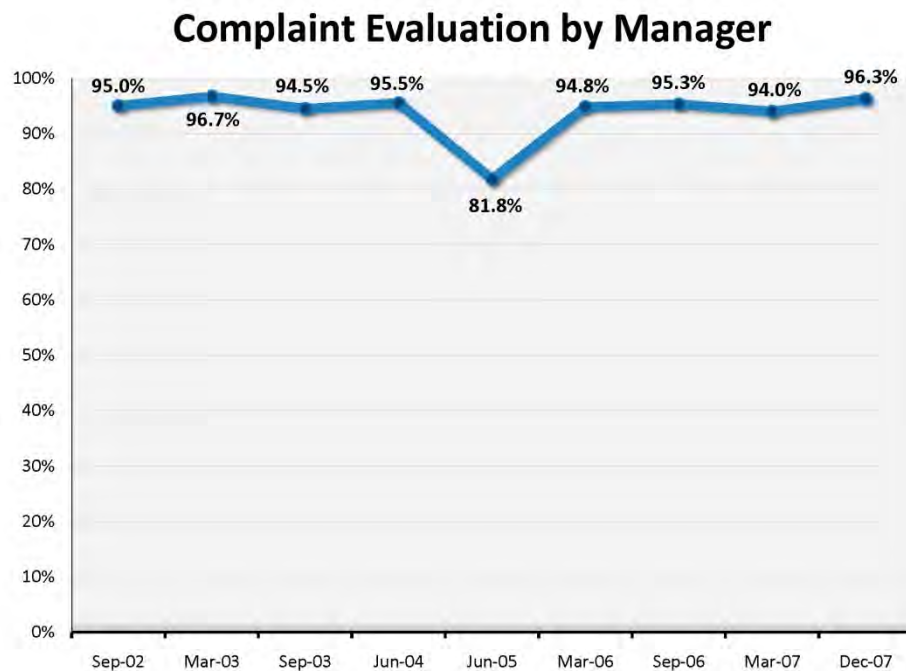
Although the Monitor concluded that the LAPD was in substantial compliance with these requirements at the end of the initial term of the Decree, during its reviews, the Monitor did note several investigations in which the manager either did not identify an incomplete investigation or did not properly document and address a pattern of behavior of misconduct. In some instances, the manager withdrew the investigation based on his or her own interpretation of the facts and knowledge of the officers against whom the complaint was alleged. This prompted the Monitor to extend its assessment of manager review into the extension period.

By the end of 2007, the Monitor concluded that the LAPD attained substantial compliance with requirements regarding manager review of complaints. The related paragraphs were no longer actively monitored during the remainder of the extension. The following graph summarizes the Department's compliance for the periods assessed:

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<sup>64</sup> In most instances, non-disciplinary action consists of recommending training, whether divisional or formal, for the accused officers. Disciplinary action ranged from an Official Reprimand to a termination based on the seriousness of the offense and the officer's work and disciplinary history.

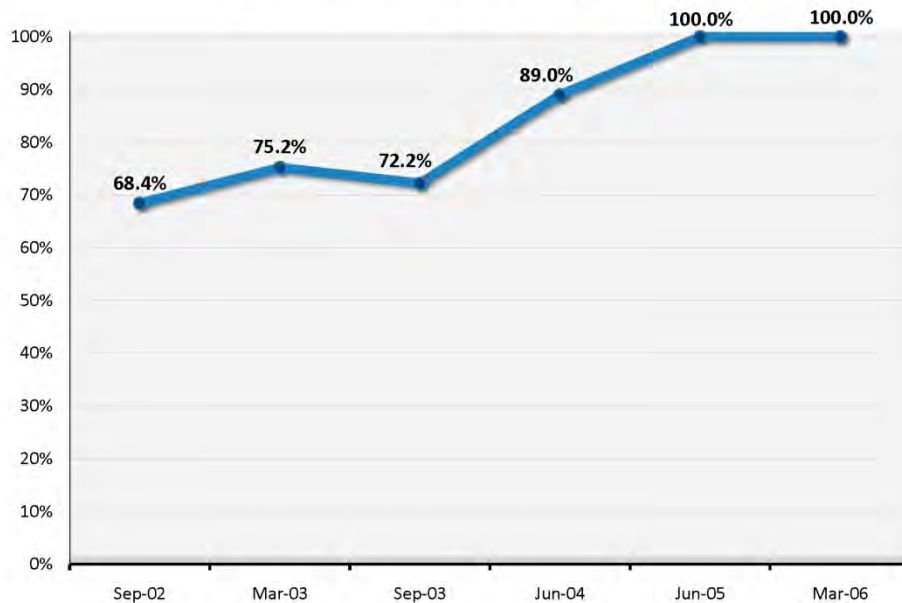




With regard to notification to the complainant once an investigation was completed, in early assessments, the Monitor determined that the policy was not necessarily followed. The Monitor noted that although the communications were sent to the complainant, the communications either did not document all required dates or did not adequately document the general allegations of the complaint.

The implementation of the policy change described above resulted in significant improvements in the LAPD's communications with complainants, and the Monitor found that the LAPD achieved substantial compliance during the last two years of the initial five-year term of the Decree. The following graph summarizes the Department's compliance for the periods assessed:

### Notification to Complainant



#### *Chief of Police and Police Commission Reviews*

Early during the term of the Decree, the Monitor expressed concerns about the timeliness of information presented in the QDRs. The Department continued to report discipline imposed after the case was closed, rather than the quarter in which discipline was imposed, as required. The Department expressed that due to the limitations of the previous complaint tracking system, the timeliness of data entered for use in the QDR did not allow for such reporting. However, the Department represented that the planned CMS would further enhance the timeliness of information included in the QDR.

At the end of 2003, in an effort to enhance the timeliness of QDR information, the Department began closing complaint cases prior to submission to the OIG for review. The IG supported this modification since complaint cases were being selected for review by the OIG on a sample basis, and the IG has the ability to request the Department to reopen a case if, in the IG's opinion, it was appropriate to do so.

The Monitor found that the Department's QDR for the third quarter of 2003 contained inconsistent information and was not timely approved by the Commission. Lastly, the QDRs for the third and fourth quarters of 2004 and 2005 were submitted in a timely manner, provided appropriate statistical data to reflect the outcome of the discipline imposed during the respective quarters and were presented in an adequate format.

During its initial reviews, the Monitor found that the Commission's written assessments of the discipline imposed by the Chief of Police mentioned CUOF cases but made no specific mention of their assessment of the discipline imposed. The IG's reviews of the QDRs for the third and fourth quarters of both 2004 and 2005 were timely, and the Police Commission received and approved the IG's review within the 75-day requirement included in a modification to the Decree.<sup>65</sup>

In sum, prior to the extension of the Decree, the Monitor concluded that the Department achieved substantial compliance with all requirements of this section of the Decree. Except as noted above with respect to requirements regarding manager reviews of complaint investigations, the Monitor did not assess compliance with these requirements during the extension period.

## **Recommendations**

The LAPD should continue its efforts to notify complainants after the initial five-month period of the status of their complaint investigation, whether completed or still in process. This provision allows the complainant, as well as the community, to know that the Department is sensitive to allegations of misconduct lodged by the public.

The Monitor recommends that managers continue to receive training on the review of complaint investigations, with emphasis on rationale and the interpretation and evaluation of witness credibility. Managers must continue to approach and review every investigation completely and impartially, no matter how familiar the facts. Regarding training, managers should look more closely at providing officers with informal divisional or directed training in order to provide them with the skills necessary to performing their duties.

## **7. Internal Affairs Group**

In its *May 2000 Letter Report* to the City of Los Angeles, the DOJ concluded that within the LAPD there were "[s]erious deficiencies in City and LAPD policies and procedures for training, supervising and investigating and disciplining police officers," and these deficiencies "perpetuate and foster officer misconduct." Also of concern for the DOJ was the LAPD's failure to utilize "meaningful personnel evaluations."

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<sup>65</sup> In the first quarter of 2005, the Consent Decree was modified by the Court after agreement by all parties to change the length of time that the Police Commission has to review the Chief of Police's Discipline Report provided by the OIG from 45 to 75 days.

On a daily basis, the LAPD is in receipt of or is otherwise aware of potential misconduct by officers, and it had in place a set of policies and procedures to address misconduct. The Monitor's interpretation of the DOJ's letter is not that there was not a system in place to investigate officers, particularly for alleged serious misconduct, but, rather, that the system in place was not effective.

### Consent Decree Solutions

Prior to the Consent Decree, the IAG historically was tasked with investigating the more egregious allegations of misconduct. The Consent Decree set out to specifically identify those allegations of misconduct that were to be investigated solely by the IAG.<sup>66</sup> Similarly, recognizing the sensitivity of certain allegations involving officer credibility, the Consent Decree mandated IAG investigation of the following:

- A civilian charged with interfering with a police officer, resisting arrest or disorderly conduct and either the prosecutor or the judge dismisses the charge(s) based on officer credibility;
- Instances in which evidence was suppressed because of a constitutional violation involving potential officer misconduct;
- Instances in which an officer was arrested or charged with a crime other than a low-grade misdemeanor; or
- Initiation of a misconduct investigation by a judge or prosecutor during the course of an official proceeding.

Complaint investigations involving serious misconduct understandably require substantial resources and, in many instances, a great deal of time. While in a perfect world any applicant to the IAG would have prior investigative experience, the reality is that this is not always the case. To meet the anticipated increase in IAG responsibilities under the Decree, the LAPD was required to dedicate the necessary resources to IAG. Parallel to this, the LAPD was also required to screen IAG applicants and, when filling positions, take into consideration prior investigative experience and, equally important, the applicant's work history.<sup>67</sup>

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<sup>66</sup> Paragraph 93 of the Consent Decree requires IAG investigation for any of the following allegations whether in a complaint, civil suit or claim for damages: unauthorized uses of force, invidious discrimination, unlawful search, unlawful seizure, dishonesty, improper behavior involving narcotics or drugs, sexual misconduct, theft or retaliation/retribution against an officer or civilian.

<sup>67</sup> Officers applying for IAG positions with a sustained investigation or discipline for the use of excessive force, a false arrest or charge, or an improper search or seizure, sexual harassment, discrimination or dishonesty are disqualified unless the IAG CO justifies their hiring in writing.

Once selected and retained by the IAG, an investigator's initial term of duty was limited to three years. Reappointment was allowed only after sufficient review and documentation attesting to the investigator's competency. An investigator could be removed from their tour of duty at any point in time for acts or behavior that might have disqualified them for selection in the first instance. Investigator evaluations, assessing their competency in following policies and procedures, were to occur regularly with periodic retraining and reevaluation.

Lastly, given that the nature of complaint investigations assigned to IAG, investigators might very likely identify facts indicating criminal conduct. It was required that whenever such facts or indicators were identified, the LAPD was obligated to refer the matter to the appropriate criminal prosecutorial authority for consideration.

### **Overall Achievements of the LAPD**

Just prior to and during the first 18 months of the Consent Decree, the LAPD implemented a number of policies, either in the form of Special Orders, Directives or other communications, to address the structure and staffing of its existing IAG.<sup>68</sup> In April 2001, to address misconduct allegations that arise or occur during court proceedings or involving serious criminal allegations against an officer, the LAPD issued a number of Department-wide directives defining IAG investigative responsibilities. In March 2002, the LAPD issued its transition plan that, among other things, established the IAG's investigative responsibilities to align with the requirements of the Consent Decree.<sup>69</sup> From April 2002 through December 2002 the LAPD orderly transferred investigative authority, pursuant to the Consent Decree, to the IAG.

Beginning with the quarter ending December 31, 2003, the Department was able to significantly reduce accumulated complaint investigations, largely through its commitment to exempt the IAG from a transfer freeze that was in place. The LAPD also continued its pre-Consent Decree practice of allowing a temporary tour of duty for supervisors to cycle through the IAG. This served many purposes, first and foremost of which was to provide the IAG with additional manpower to address accumulated complaint investigations. It also allowed the IAG a narrow time period to identify strong candidates for a permanent transfer to the IAG. These moves helped the Department overcome difficulties it had been having in complying with Decree requirements related to IAG staffing.

The LAPD required all commands, on a weekly basis, to produce a listing of all pending complaints not yet completed nearing the one-year statute deadline. This exercise, which was

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<sup>68</sup> These Special Orders and Directives are referenced in the Use of Force and Conduct of Investigations sections of this report.

<sup>69</sup> On September 27, 2002, the LAPD issued a revised Transition Plan to address transition of claims for damages and theft and dishonesty complaints.

designed to reduce the number of matters submitted past statute, enabled the Department to achieve compliance with Decree requirements governing criminal referrals of misconduct to prosecutorial authorities.

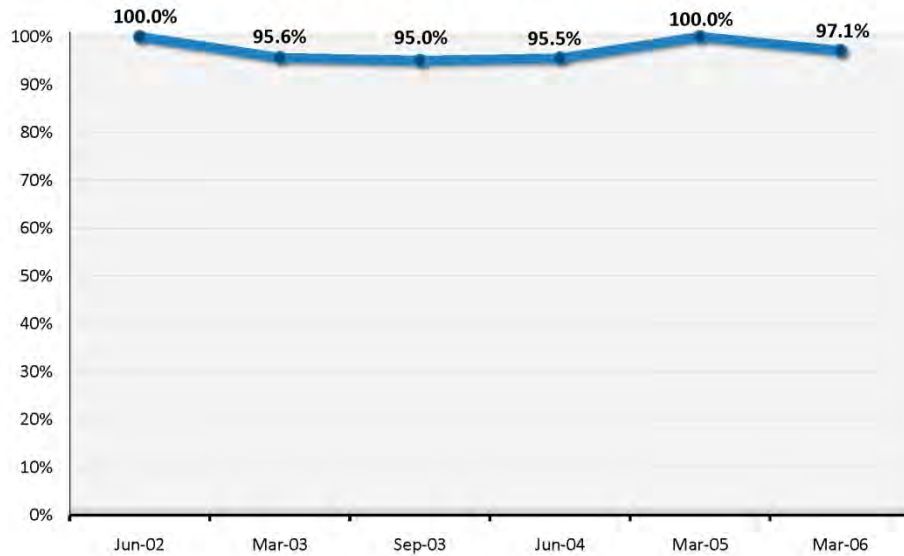
### **Consent Decree Compliance**

Commencing during the quarter ending March 31, 2003, and continuing through the quarter ending June 30, 2006, the Monitor reviewed samples of complaint intake documentation on five separate occasions and determined that the LAPD was in compliance with regard to appropriately assigning investigative responsibility either to the IAG or COC.<sup>70</sup> At the end of the initial five-year period of the Decree, the Monitor concluded that the LAPD was in sustained substantial compliance with this requirement, and the requirements were not actively monitored during the extension. The following graph summarizes the history of compliance for the assignment of investigations to the IAG:

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<sup>70</sup> Occasionally, while assessing other complaint investigation Consent Decree paragraphs, the Monitor happened upon investigations that should have been assigned to the IAG and were improperly assigned to COC. Such instances were brought to the attention of the LAPD.

### Assignment of Complaint Investigations to the IAG



Although the LAPD fastidiously defined the IAG’s investigative authority, it initially struggled to adequately staff the IAG. Through reviews of staffing documentation, personnel transfer orders and interviews of personnel, the Monitor reported staffing was in direct contravention of Consent Decree requirements. Additional assessments of staffing and complaint investigation backlog yielded predominantly non-compliance ratings through the Monitor’s assessment in the quarter ended December 31, 2003. It was during this quarter the Monitor noted a material reduction in accumulated investigations, which was, as mentioned above, largely attributable to the LAPD’s commitment to exempt the IAG from the transfer freeze.

Starting with its evaluation in the quarter ended December 2004 and continuing through a final evaluation in March 2006, the Monitor held the Department in compliance with regard to adequate IAG staffing. As described above, the Department’s achievement of substantial compliance was, in large part, attributable to its continuation of a temporary tour of duty for supervisors to cycle through the IAG and commitment to training.

Again, starting with the quarter ending June 30, 2002, and continuing through the quarter ending March 31, 2006, the Monitor assessed the LAPD’s compliance with requirements for establishing a term of duty in conformity with the requirements of paragraph 99. At the onset of the monitoring period, the LAPD implemented policy requiring an IAG investigator wishing to extend their tour of duty as an investigator to complete a Notification/Request form six months prior to the expiration of their term. In all five assessments, the Monitor noted that for those investigators whose terms exceeded three years, the LAPD maintained documentation of a complete review of the investigator’s proficiency and for the entire period assessed, none of the

officers had a complaint history containing disqualifying behavior. As such, the Monitor concluded the LAPD was in substantial compliance, and the requirements were not actively monitored during the extension.

Prior to the Consent Decree, the LAPD's practice was to evaluate supervisors assigned to the IAG. During the assessment period, although the LAPD's goal was to annually evaluate IAG supervisors, during an earlier assessment period the Monitor noted that although the evaluation was documented, it was late. However, during the remainder of the initial five-year assessment period, the Monitor noted evaluations were completed timely and thoroughly for most investigators. Based on these findings, the Monitor deemed the LAPD in substantial compliance and elected not to actively monitor compliance with this requirement during the extension.<sup>71</sup>

As of the implementation of the Consent Decree, the Los Angeles DAO established a documented protocol for referral of alleged criminal misconduct by law enforcement personnel.<sup>72</sup> During the quarter ended March 31, 2003, and continuing through the quarter ended September 30, 2005, the Monitor assessed the LAPD's compliance with regard to criminal referrals of officer misconduct on three separate occasions and found the LAPD in compliance each time.

Shortly after its initial assessment, allegations surfaced that the LAPD had a history of referring matters for prosecutorial consideration after the statute of limitations expired. Members of the Monitoring team met with PSB representatives and quickly ascertained that the allegations related pre-Consent Decree cases. Furthermore, as mentioned above, the LAPD's move to require all commands, on a weekly basis, to produce a listing of all pending complaints not yet completed nearing the one-year statute deadline was a significant factor in achieving compliance. The purpose of this exercise was to reduce the number of matters submitted past statute. For all three assessments, in the rare instances when the Monitor noted matters were referred past statute, information provided by the prosecutorial authority confirmed the matter was refused, not because of late filing, but rather because there was insufficient evidence. All in all, the Monitor concluded the Department was in substantial compliance with regard to criminal referrals of misconduct to prosecutorial authorities.

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<sup>71</sup> The Monitor also reviewed listings of training sessions attended by investigators for reasonableness and listings of training topics covered that, in the Monitor's opinion, were relevant.

<sup>72</sup> *Protocol for the Referral of Allegations of Criminal Misconduct by Law Enforcement Personnel to the Los Angeles County District Attorney*



## Recommendations

The importance of thorough complaint investigations, particularly of those complaints involving serious allegations, cannot be overemphasized. Such investigations provide the reviewer(s) the necessary information to make important judgment calls that, in some instances, lead to more difficult disciplinary decisions. The LAPD must continue its commitment to adequately staff the IAG and train and mentor its investigators. In many respects the adequacy of complaint investigations, the foundation of which is the investigator's competency, is the catalyst of public trust and the deterrent of unacceptable behavior.

## 8. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops

One of the major findings of the Christopher Commission was that "the problem of excessive force is aggravated by racism and bias within the LAPD." In the background section of its report, the Commission noted that in August 1965, the Governor's Commission on the Los Angeles Riots said in its report that there is "a deep and longstanding schism between a substantial portion of the Negro community and the Police Department" and recommended that the LAPD hire more minority officers. The Commission also noted the Blake Consent Decree of 1981, in which the LAPD agreed to settle discrimination suits by setting hiring goals for women, African-Americans and Latinos. In its review of patrol car transmissions, the Commission found a significant number of offensive remarks based on the race, gender and sexual orientation of both suspects and fellow officers. Additionally, the Commission found that female officers were having a difficult time being accepted on a full and equal basis. In its interviews, the Commission heard complaints of how African-Americans and Latinos were placed in the "prone-out" position "under circumstances that did not present any risk or harm to the officers and that did not involve a felony warrant." It recounted complaints of being "stopped in parts of the City where they might be considered out of place" and noted "the frequency and manner of use of police dogs in minority neighborhoods." The Christopher Commission made seven recommendations in this area, including that the Chief of Police should seek tangible ways to "establish the principle that racism and ethnic and gender bias will not be tolerated within the Department" and that the LAPD had to "establish a program of cultural awareness training to eliminate stereotypes for all officers."

The *March 2000 BOI Report* noted that "Rampart Area's demographics played a significant role in this corruption incident," as Rampart is "densely populated with predominantly Spanish-speaking people who have immigrated to the United States from Central American countries." It continued that many are "undocumented aliens who fear they will be deported by the police."

### Consent Decree Solutions

The Consent Decree required the LAPD to “continue to prohibit discriminatory conduct on the basis of race, color, ethnicity, national origin, gender, sexual orientation, or disability in the conduct of law enforcement activities.” It also required the Department to “continue to require that, to the extent required by federal and state law, all stops and detentions, and activities following stops or detentions, by the LAPD...be made on the basis of legitimate, articulable reasons consistent with the standards of reasonable suspicion or probable cause.” The Consent Decree further mandated that “LAPD officers may not use race, color, ethnicity, or national origin (to any extent or degree) in conducting stops or detentions, or activities following stops or detentions, except when engaging in appropriate suspect-specific activity to identify a particular person or group,” and they “may not give race, color, ethnicity or national origin undue weight.”

The Decree also mandated that the Department require LAPD officers to complete a written or electronic report each time an officer conducts a motor vehicle or pedestrian stop by November 1, 2001. The data collected was required to include information such as the officer’s serial number; driver’s apparent race, ethnicity, or national origin; driver’s gender and apparent age; reason for the stop; and whether the driver was required to exit the vehicle. This information was also required to be collected if a warrantless search was conducted.

### Overall Achievements of the LAPD

While the Department has fallen short of substantial compliance with the Consent Decree requirements in this area, this is clearly not reflective of a lack of effort on the part of the City or the Department. The major problem in determining compliance has rested with the difficulty, despite best efforts, in determining whether biased policing is occurring and, if so, to what extent, if any, it is systemic as opposed to isolated misconduct.

As described below, great strides have, in fact, been made by the City and Department to address biased policing during the eight years under the Decree. Training has been tremendously enhanced, and new rules have been promulgated relating to the investigation of biased policing complaints. In addition, the City and Department have committed to the installation of video cameras in patrol vehicles. It should be noted that there are significant indications that biased policing that may have been occurring at the inception of the Consent Decree has been significantly reduced. Specifically, opinions of minority communities about the LAPD have steadily improved under the Consent Decree.<sup>73</sup> Likewise, the minority composition of the Department has steadily increased.<sup>74</sup> Because substantial compliance was not achieved during the Consent Decree, biased policing is addressed in the Transition Agreement.

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<sup>73</sup> See *Harvard Kennedy School Report*.

<sup>74</sup> *Ibid.*

## Consent Decree Compliance

The Department issued Special Order No. 23 in August 2001, which prohibits all forms of invidious discrimination. Training on field data collection began in October 2001, and the LAPD began collecting motor vehicle and pedestrian stop (MV&PS) data in November 2001, on FDRs. At first, there was a significant backlog of FDRs that had not been entered into the system. The Department released six months of field data to the public. This data was collected from July 1, 2002, to December 31, 2002, on its website, the first such data to be posted.

On its own initiative, the Department committed resources to the development of a Portable Officer Data Device System (PODDS) in the hopes of streamlining the reporting process required by the Decree. The LAPD began using the PODDS device to collect stop data in May 2004.

The Department released a Request for Proposal (RFP) for analysis of the stop data collected from the field by officers completing FDRs<sup>75</sup> on May 14, 2003, with a response date of no later than July 15, 2003.

Training on the new FDR, implemented July 1, 2003, incorporated a significant non-discrimination component. This served to further the Department's commitment to prevent discriminatory practices. The Department incorporated interactive problem-solving training exercises in both CEDP Module VI, "Weapons of Mass Destruction," and Tools for Tolerance II trainings. This thoroughly addressed issues involving discrimination, with a particular emphasis on race. The Module VI training demonstrated to the Monitor that the LAPD is capable of creating and properly executing training that effectively instructs officers about biased policing and the Department's commitment to prevent such practices.

In July 2003, the LAPD redesigned its FDR form to correct design flaws and issued Special Order No. 29, *Data Collection for Motor Vehicle and Pedestrian Stops*. The LAPD began Department-wide training on the new form, as well as training on the Department's non-discrimination policy and the Fourth and Fourteenth Amendments to the U.S. Constitution. All of these were in secondary compliance with the requirements of these paragraphs.

AD completed its first *Motor Vehicle and Pedestrian Stop Data Collection Audit* in August 2003.<sup>76</sup>

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<sup>75</sup> The Department is required to collect specific field data for specified discretionary stops according to paragraphs 104 and 105 of the Consent Decree.

<sup>76</sup> AD also conducted *Motor Vehicle and Pedestrian Stop Audits* and follow-up reviews in 2004, 2005, 2006 and 2007. AD did not conduct a Motor Vehicle and Pedestrian Stop Audit during Fiscal Year 2007-08 due to the City's request and does not plan on conducting one until the fourth quarter of Fiscal Year 2008-09. A more detailed discussion of AD's work on this audit can be found in the audit section of this report under Paragraph 128(4).

The City, working through the Analysis Group, Inc.<sup>77</sup> prepared and released the “Final Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,” dated December 8, 2005. In developing the methodologies contained in the report, the City reviewed the “Proposed Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,” dated January 19, 2005. Public comments were solicited on that report, and responses to the public comments received. The City also posted the Report on its website.<sup>78</sup>

The Analysis Group, Inc. prepared and released the “Pedestrian and Motor Vehicle Post-Stop Data Analysis Report” on July 7, 2006. The report was also posted on its website.<sup>79</sup> The report analyzed the LAPD’s stop data collected from July 1, 2003, through June 30, 2004. The analysis performed indicated that while controlling for characteristics of the stop generally reduces the racial disparity in post-stop outcomes, significant disparities remain. Specifically, unexplained racial differences occurred most frequently for non-gang officer requests to exit the vehicle, pat-downs/frisks, and higher discretion searches. The report suggested that variables not considered by the study could possibly account for such differences. Still the report ultimately did not fully explain the disparity of the raw numbers or determine to what extent, if any, LAPD police officers were engaging in racial profiling.

On October 20, 2008, the ACLU of Southern California released a report prepared by Professor Ian Ayres of Yale University titled “A Study of Racially Disparate Outcomes in the Los Angeles Police Department.” The report consisted of an analysis of the same data that was analyzed by the Analysis Group in 2006. The study found substantial racial disparities in post-stop action. Based on the report, the ACLU made the following recommendations:

- The Department should continue to collect data on stops through TEAMS II. In addition, the Department should make better use of the data to identify officers or units with significant racial disparities by analyzing the data on at least an annual basis.
- The Department must further reform the racial profiling complaint process.
- IG should be given powers and resources to review the complaint investigations in real time.
- The Department should adopt additional anti-bias training focused on helping officers identify and eliminate even latent bias in policing decisions.

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<sup>77</sup> The Analysis Group, Inc. was the vendor selected by the Department to develop a methodology to analyze the field data in order to determine if the disparity can be explained and, if so, what those explanations are.

<sup>78</sup> The Report can be viewed at [www.lacity.org/lapdstops](http://www.lacity.org/lapdstops).

<sup>79</sup> The Report can be viewed at [www.lapdonline.org/consent\\_decree/content\\_basic\\_view/32822](http://www.lapdonline.org/consent_decree/content_basic_view/32822).

- The Department should reduce the disparate impact of consensual searches by requiring officers to inform subjects who they request to search that they have the right to refuse the search.

The Police Commission dedicated a large part of its August 19, 2008 meeting to the topic of racial profiling. Presentations were made by the PSB command staff, the Police Commission Executive Director and an expert on racial profiling. The Commission concluded that disparate treatment exists among different racial and ethnic groups nationwide for both stops and after-stop actions. The Commission noted that law enforcement agencies across the country reported no sustained profiling complaints, primarily because they are virtually impossible to prove. However, the Commission agreed that it would be incorrect to believe that racial profiling is not occurring. Based on that conclusion, the Commission approved the following recommendations:

- The Department must provide a quarterly report to the Commission on the number of complaints of racial profiling received and adjudicated by Bureau and Area.
- The IG must prepare an audit of racial profiling complaints that have been investigated and adjudicated since training has been provided to all Internal Affairs (IA) investigators. This training dealt with utilization of the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List.
- The Department must include a review of the Digital In-Car Video System (DICVS), if available, in the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List.
- The Department must revise the Alternative Complaint Resolution (ACR) process to allow some complaints of racial profiling to be resolved through mediation.
- The Department must change the term from “Racial Profiling” to “Biased Policing,” The concern was to be more inclusive of other biases, including religion and sexual orientation. Also, the Department must refine complaints of Discourtesy to the specific nature of the misconduct alleged.

As requested by the Police Commission, the LAPD responded to the ACLU’s report at the Commission’s meeting of January 13, 2009. The Department reiterated its commitment to eliminating biased policing by outlining the steps it has taken in this area:

- Focusing recruiting efforts on all areas of the City in order to reflect the diversity of the City.
- Exploring bias in hiring caused by questions in the polygraph portion of background checks.
- Integrating the topic into more than 200 courses for both Recruit and In-Service Training.
- Promoting minorities to command-level positions as more are hired.

- Recording stops through the use of in-car video.

Additionally, IAG updated the *Biased Policing Investigative Protocols*, and the Police Commission approved them at its meeting of December 9, 2008. The protocols, which took effect on January 1, 2009, require officers to articulate their complete reasons for conducting traffic and pedestrian stops. Under the IAG's November 2007 protocols, racial profiling cases were not allowed to be approved for closeout unless the protocols were followed. Additionally, the IAG implemented the following strategies:

- Amended the Complaint Investigation Checklist to include fields that query whether the protocols were followed and whether the Racial Profiling Checklist was included.
- Conducted four Internal Investigations courses that include a four-hour block of instruction on investigating racial profiling allegations.
- Designated an auditor to coordinate review of racial profiling cases to ensure consistency and adherence to the protocols. This individual also compiles information in an ad hoc database to further evaluate racial profiling investigations.
- Conducted occasional undercover surveillance to probe specific allegations of racial profiling.

At the end of March 2009, in an effort to achieve compliance with the data collection requirements of the Consent Decree, the Department developed and implemented Citywide an automated reporting system at the Area level. This system incorporates the collection of stop data as approved by DOJ and provides for its storage in TEAMS II. This system was devised as a result of the Department's inability to analyze and draw conclusions from the aggregate data and the significant expense of replacing the data collection devices, or PODDS. Data collection capability had diminished due to the degradation of the existing hardware at the time, although the Department continued to collect stop data.

Additionally, the City and Department have continued to move toward Department-wide implementation of cameras in cars (DICVS), which the Monitor has strongly endorsed and recommended as a best practice in monitoring potential bias in stops. The DICVS will help protect against biased policing while enhancing officer safety and risk management analysis, and mitigating liability claims. The first phase of the project will deploy cameras in South Bureau patrol vehicles by late summer 2009. All of the hardware and servers are installed in City Hall East and the Southeast, Southwest and 77th Area stations. Cameras have been installed in all patrol cars for Southeast, Southwest, 77th and Harbor Areas. The field testing of cameras by LAPD for functionality began in March 2009. Upon completion of the field tests and verification that the system is operating correctly, Southeast Area will be the first to have complete installation, followed by Southwest, 77th and Harbor Areas shortly thereafter. The Department plans on taking the following steps once the DICVS is in operation:

- Conduct regular audits of the audio and video, in addition to periodic inspections by supervisors.
- Bookmark and review the DICVS data from any incident involving vehicle pursuits, uses of force, incidents resulting in personnel complaints or other significant events.
- Review DICVS data relative to lawsuits or claims for damages.
- Conduct quality of service audits.
- Use DICVS data to identify and/or monitor at-risk officers who are subject to the Risk Management Executive Committee's oversight.
- Afford the OIG unfettered access to the DICVS data.

As mentioned above, the Department has not achieved substantial compliance with the requirements of this section of the Consent Decree, which are included in paragraphs 102-105. As noted in the Reports for the quarters ending September 30 and December 31, 2008, the Monitor is confident that the steps envisioned by the City to enhance the process and provide alternatives to the current method of data collection will, when fully implemented, sufficiently satisfy the requirements of the Consent Decree.

## **Recommendations**

The Monitor commends the City and the LAPD for the significant steps they have taken and the accomplishment they have achieved in their efforts to comply with the Consent Decree requirements regarding biased policing. With new policies and procedures in place, and the continued oversight role of AD, the Police Commission and the OIG to ensure that the policies and procedures are followed, deficiencies corrected and recommendations implemented, the Monitor is confident that the Department is on track to comply with these requirements. In addition to the Police Commission requirements noted above, the Monitor offers the following recommendations regarding biased policing:

- The LAPD has plans to equip all patrol cars with in-car video cameras. This initiative is critical and will protect against biased policing while enhancing officer safety and risk management analysis, and mitigating liability claims.
- The Police Commission and/or OIG should conduct a periodic evaluation to assess the effectiveness of the biased policing investigative protocols in order to enhance public confidence in investigations of biased policing complaints.
- The Police Commission should continue to direct the LAPD to provide quarterly updates on efforts to address biased policing.

## C. Management of Gang Units

The Consent Decree reforms in connection with the management of gang units grew out of the Rampart corruption scandal. The LAPD's internal probe into the administrative and operational failures that came to light during the internal investigation into wide-ranging misconduct identified the lack of supervisory oversight of the CRASH units as a significant problem within the Department.

The *March 2000 BOI Report* identified the need for the Department to focus on monitoring and reducing gang activity and establishing a closer working relationship between detectives and gang officers in order to develop a truly investigative gang operation with adequate responses to gang activity. The findings also stressed that a Department-wide audit of gang units should continue, but needed to be more comprehensive in terms of the depth of both subject matter and sampling. Specifically it was recommended that each gang unit's work product be audited to determine responsiveness to gang problems and supervisory practices including the span of control between gang supervisors and officers.

### Consent Decree Solutions

Regarding the management of gang units, the Consent Decree required that each gang unit was to be assigned to an Area or bureau, and managed and controlled by the Area or bureau command staff. The Citywide and Bureau Gang Coordinators (BGCs) were to direct the Bureau-wide and Citywide activities of these units, provide training and technical assistance, and help coordinate and provide information for the audits of these units.

The Consent Decree also established eligibility criteria for the selection of non-supervisory and supervisory officers in these units, and mandated that non-supervisory and supervisory officers were not to be reassigned to a unit until 13 LAPD Deployment Periods had lapsed since their previous gang assignment as an officer or supervisor. In addition, supervisors were required to document in writing their consideration of any sustained complaint, adverse judicial finding, discipline for use of excessive force, false arrest or charge, improper search and seizure, sexual harassment, discrimination and/or dishonesty in determining selection of an officer in these units. The procedures for the selection of all officers to the gang units was to include a formal, written application process, oral interview(s), and the use of TEAMS II and annual performance evaluations to assist in evaluating the application.

The Consent Decree also addressed tour limitations for gang personnel. Both supervisors and officers in the gang units were required to have limited tour assignments not to exceed 39 LAPD Deployment Periods. An extension of such assignment for up to three LAPD Deployment Periods was allowed with written approval of the bureau CO, and any longer extension required written approval by the Chief of Police.



Unit supervisors and non-supervisory officers in a gang assignment were to be subject to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees. In addition, a variety of reforms which had been initiated after the *March 2000 BOI Report* were to continue. These included: the wearing of Class A or C uniforms; the use of marked police vehicles for all activities; the requirement to check out and return all field equipment from the Area kit room on a daily basis; the requirement to attend scheduled patrol roll calls; and the requirement to base unit activities out of Area stations and the prohibition against holding arrestees or interview witnesses at off-site locations.

Additionally, gang unit supervisors were required to perform specific daily activities, including providing a daily field presence and maintaining an active role in unit operations. Supervisors were also required to brief the Area watch commander regularly regarding the activities of their units and coordinate unit activities with other Area supervisors. Area managers were required to ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations.

Lastly, BGCs were required to monitor and assess the operation of all units that address gang activity in their respective bureaus. They were required to inspect and audit at least one Area unit per month and submit audits to bureau, Area, OHB and Detective Support Division (DSD) COs and to the LAPD's AD.

### **Overall Achievements of the LAPD**

The Department has made substantial strides toward a better trained and supervised gang unit and toward compliance. However, the Department has not met the >94% level of compliance for many aspects of the gang unit mandates, and more work needs to be done.

Over the course of the original term of the Consent Decree and its extension, the Department successfully put into place various policies and procedures that established best police practices for the management of gang units, many of which were initiated prior to the formal implementation of the Consent Decree. Those requirements which were met during the initial term included Citywide and Bureau-wide gang unit coordination, some of the minimum selection criteria requirements for gang officers and supervisors, uniform and vehicle requirements, Area kit room procedures, attendance of patrol roll call, keeping base activities in Area stations and not holding arrestees at off-site locations at night.

In addition, during the initial term of the Decree, the Department met challenges which arose. Before the Consent Decree became operative, the review of the Rampart scandal caused the LAPD to reorganize the units that police gang-related crime. These new gang units, called Special Enforcement Units (SEUs), reported to command staff in their respective stations and were supported by the DSD. The Department also established new monitoring procedures and requirements of selection of gang personnel, as well as tour limitations and operational procedures, as required by the Consent Decree.

As a result of the new unit being staffed entirely in March 2000, the Consent Decree's mandate of term limits for these officers became problematic with most personnel scheduled for cycling out during the summer of 2003. Based on the Monitor's recommendation, the LAPD devised a strategy of staggering its deployment periods and prepared an SEU Transition Plan, dated August 16, 2002, which was approved by the Police Commission.

The Department established two additional significant policies related to gang units during the course of the Consent Decree. First, Special Order No. 27, *Selection and Assignment to Gang Enforcement Details*, dated July 10, 2003, established procedures for selection and assignment to a gang unit and tour limitations, per the Consent Decree. Second, Special Order No. 7, *Gang Impact Teams-Established*, dated February 25, 2004, sought to facilitate the development of long-term gang and narcotics enforcement units with increased supervisory oversight and accountability. The units, called Gang Impact Teams (GIT), included GEDs, formerly known as SEUs.

Training for these gang units was also a significant part of the progress made by the Department over the course of the Consent Decree. The Monitor found that the training sessions which had been developed addressed both the Consent Decree requirements related to the gang units and best police practices, and were well-organized, useful and well-executed by the trainers and command staff.

During the term of the Decree, the Department also made significant strides in its management of the gang units. The Department utilized COMPSTAT to hold supervisors accountable for the deficiencies found in BGC Inspections, AD's audits and reviews conducted by the OIG. During these COMPSTAT sessions, supervisors are asked to describe actions they are taking to correct identified deficiencies and to report, at the following meeting, the results from those actions taken. In addition, in their audits and reviews of gang-related activities, AD and the OIG have worked with command staff to remedy deficiencies identified.

### **Consent Decree Compliance**

Early on, the Department struggled significantly with the selection process requirements of the Consent Decree.<sup>80</sup> Improvements were seen in some area with the Department's establishment of Special Order No. 27 in July 2003, which outlined the specific criteria required for the selection process. This policy provided the Department with specific guidelines that helped the Department achieve compliance with the requirements regarding minimum selection criteria for

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<sup>80</sup> Some of the Monitor's early findings included selection packages not being completed, selection packages not including the required forms (i.e., TEAMS record, PER or oral interview), lack of documentation (i.e., written consideration of complaint history, approval signatures or oral interview notes) and a general lack of standardization and uniformity regarding selection procedures.

gang officers and supervisors. However, the Monitor and AD found that the Department continued to struggle with other selection requirements.<sup>81</sup>

By the inception of the extension in 2006, the Department had achieved substantial compliance with several additional selection requirements, including minimum criteria and written consideration of any complaint or adverse judicial finding for use of excessive force, a false arrest or charge, an unreasonable search or seizure, sexual harassment, discrimination or dishonesty, during the gang officer's assignment in the unit. During the extension period, the Department achieved substantial compliance with several other requirements, including the mandate that eligibility for selection into the gang unit include a position evaluation of the officer's TEAMS record and written consideration of sustained complaint, adverse judicial findings for the high risk areas, as mentioned above. As of the end of the Consent Decree extension period, the Department has not yet achieved compliance with the selection requirements regarding prompt review of any transferred officer's TEAMS I record;<sup>82</sup> and the implementation of a formal, written application process, oral interview(s) and the use of TEAMS II and annual performance evaluations to assist in evaluating the application.<sup>83</sup> AD continues to find these same concerns in its annual GED Selection Criteria Audit; the Monitor hopes that AD's findings can guide the Department into achieving these best police practices in the near future.

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<sup>81</sup> At the end of 2004, the Monitor began reviewing and placing reliance on AD's *Gang Selection Criteria Audit*, the first of which was issued in June 2004. This first audit found, as the Monitor did, that the minimum selection criteria for officers and supervisors were being achieved, but the Department was not yet in compliance with the other selection requirements.

<sup>82</sup> The Consent Decree required a prompt review of a transferred officer's TEAMS I record under one paragraph, but required the review of a transferred officer's TEAMS II record after inception of the TEAMS II risk management system. Therefore, the Monitor reviewed the TEAMS I record requirement initially and then reviewed and reported on the TEAMS II record requirement under that appropriate paragraph after the inception of TEAMS II. Please see the TEAMS II section for further discussion of the progress of this requirement.

<sup>83</sup> In its audit of this area of the Decree, AD found compliance with some of the selection procedures, including documentation regarding contacting UOFRD and inclusion of TEAMS II records and transfer applications. However, AD had concerns with some requirements concerning the formal, written application process, oral interview(s), and the use of TEAMS II and annual performance evaluations considered and documented in their selection packages as required. Issues included lack of written application, lack of current TEAMS II records, lack of performance evaluations, CO approval after selection or lack of approval, no documentation of oral interview, lack of evidence that the UOFRD was contacted and selections approved prior to the oral interview taking place. The Monitor concurred with AD's assessment.

Regarding limited tours in gang units, the Consent Decree mandates that officers cannot exceed 39 DPs, except by written approval from the Chief of Police for any longer period.<sup>84</sup> The Department did not achieve compliance with these requirements during the original term or the extension period. The Monitor found that there were gang officers who exceeded their time limit of 39 DPs in these units and did not have either proper extensions or transfers as required.<sup>85</sup> While the Department has struggled with some of these requirements, the Monitor has not identified any individual in recent years who was selected for a gang assignment but should not have been selected.

During the entire term of the Consent Decree, the Department's gang units have struggled to comply with the Consent Decree's more technical requirements regarding arrest, booking and charging procedures. For the first three years, the Monitor's reviews concluded that the Department lacked arrest documentation and supervisory approval, and the Monitor identified discrepancies among supervisory logs and arrest and detention documentation. In 2004, the Monitor began reviewing and placing reliance on AD's *ABC Reports Audits*, which had findings similar to the Monitor's. Prior to and through the first two years of the extension, the Department did not achieve substantial compliance with the requirements regarding gang unit arrest, booking and charging procedures, nor did they achieve compliance with these requirements in the first two years of the extension. During the last assessment of these requirements, the Monitor reviewed and placed reliance on AD's *September 2008 ABC Reports Audit*, in which AD found overall compliance with all requirements except post-incident review. Although the Monitor continued to have concerns regarding supervisory oversight of arrest procedures due to the Department's continued non-compliance with the supervisory oversight objective, the Monitor commended the Department for achieving much higher compliance ratings over the years and concluded that the LAPD is in overall compliance with the arrest, booking and charging requirements in this final assessment.

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<sup>84</sup> In order to clarify this requirement, the parties agreed that reassignment of an additional 26 DPs was appropriate if the officers met the same eligibility criteria required for initial assignment into the unit and the reevaluation process must include review of the officers' most current TEAMS and performance evaluation reports.

<sup>85</sup> Specific findings were related to lack of approval signatures, missing deadlines and lack of proper documentation (i.e., TEAMS II records and PERs) or appropriate reevaluation. AD's June 2004 *Gang Selection Criteria Audit* identified these same issues, as did subsequent audits. However, AD often reported overall compliance with the tour limitations requirement when the Monitor concluded non-compliance, primarily because AD reported issues regarding appropriate or timely TEAMS II records and PERs under "other related matters." The Monitor has always disagreed with this approach and encourages AD to test entire policies and report accordingly. With the one non-compliant instance related to the supervisor's signature prior to the TEAMS report, and four non-compliant instances related to current TEAMS II or performance evaluation records, the Monitor calculated a compliance rate of 87.2% (34 of 39).

Regarding requirements for uniforms, vehicles, Area kit room, roll call, Area station-based activities and interview locations, the Department quickly achieved compliance with all of these requirements except for Area kit room procedures. Although the Department had early issues with the Area kit room logs, including documentation and inconsistencies, it achieved substantial compliance with these requirements by June 2004 and has remained in substantial compliance with these and all other aforementioned requirements, and compliance with these requirements was not reviewed during the extension period.

In the early years of the Decree, specific issues identified by the Monitor included inadequate chain of command supervision and control; lack of adequate in-the-field supervision; inconsistent and inadequate record keeping in connection with required information, such as officers' daily reports indicating specific activities and supervisor signatures indicating oversight; and inadequate periodic audits of gang units' work product. AD also cited a lack of supervisory oversight of GED warrants and arrests as early as June and October 2004, respectively.

In October 2006, the Monitor began utilizing a new methodology agreed upon by the parties to review gang supervisory oversight. The Monitor began measuring gang supervision by reviewing daily supervisors' logs, audits completed by AD<sup>86</sup> and GED Supervisory Oversight Inspections conducted by CRID, rather than by reviewing gang supervisory logs alone. Prior to the extension, the Department did not achieve substantial compliance with the Consent Decree requirements regarding daily field presence, maintaining an active role, supervisors exercising proper control and oversight over planned tactical operations of the gang units, nor did they achieve compliance with these supervisory oversight requirements during the extension period.

During the extension period, the Department continued to fall short of complying with supervisory oversight requirements based on reviews conducted under the new methodology. AD's *ABC*, *NCUOF*, *SW*, and *GED Work Product Assessment Summaries* in 2005, 2006 and 2007 identified various oversight issues related to post-incident reviews, proper documentation and other inconsistencies with supervision.<sup>87</sup> The *GED Work Product Assessment Summary* in 2005 also identified various issues in regards to supervisory oversight. In 2007, the Monitor found that supervisory approval of daily logs was not present and supervisors' daily field presence was either not properly documented and/or included inaccuracies between the available field time and what was reflected in the supervisors' log narrative.

Although the Department had early struggles complying with requirements regarding the Citywide and Bureau-wide coordination of activities, training, technical assistance and audits of

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<sup>86</sup> These particular audits reviewed include *ABC Audits*, *NCUOF Audits*, *Search Warrant Audits*, *Confidential Informant Audits* and *GED Work Product Assessment Summaries*.

<sup>87</sup> The Monitor also reviewed the *GED Work Product Assessment Summary Audits*, for 2006 and 2005, AD reviewed its own audit reports and *Command Accountability and Performance Audits (CAPAs)* audits and identified numerous issues in regards to supervisory oversight.

gang units, it achieved compliance with these requirements prior to the end of the Consent Decree. However, the Department has consistently struggled with the requirements regarding the BGCs' monitoring and assessing the operations of all units that address gang activity. In the early years of the Decree, not all BGCs were conducting inspections of the Areas for the monthly audits, and those BGCs that were conducting inspections were not aware of the methodologies employed in the audits. The Monitor conducted a review of the BGC audits from all four bureaus for April and May 2002 (eight audits total) found a lack of uniformity in establishing a standards.

After this, steps were taken to improve the gang units' audit function. BGCs outlined the procedures to be used for the bureau gang audits, with AD assisting in the development of audit plans and methodologies, DSD reviewing completed audits and providing feedback and BGCs following up with Area COs regarding problems identified in monthly gang audits. However, the Monitor found that some bureaus did not use the audit matrices, while others used these matrices ineffectually. Although the LAPD continued to improve the quality of these inspections, the Monitor reported in 2005 that there were still deficiencies regarding the sampling and methodology, which the Department acknowledged, and the Monitor recommended that Special Operations Support Division confer with AD prior to each BGC inspection.

Since the Department did not achieve compliance with requirements regarding BGC inspections enduring the initial term of the Consent Decree, the Monitor continued to assess BGC inspections during the extension period. At the end of January 2008, the Department revised the BGC inspection process to review and train the BGCs to address deficiencies. In June 2008, Gang and Operations Support Division (GOSD) had been working directly with the Department Gang Coordinator (DGC), CRID and AD in connection with monthly inspection topics, training, sampling, methodology and inspection matrices for future inspections. GOSD had also developed its own inspection team, the Inspection Coordination and Assessment Unit (ICAU); after the BGC inspection team completes its inspection, ICAU conducts its own review of this sample to ensure the BGC inspection team is completing the inspection correctly. ICAU then follows up with the command staff and the BGC inspectors to discuss any deficiencies found.

By the end of the extension period, although the Monitor indicated that this new process was well-structured, the execution of the process was not yet adequate, as the Monitor continued to identify inconsistencies regarding the execution of the methodology, the answering of matrix questions, reporting and findings. The Monitor has reviewed the work product of the new GOSD staff and ICAU inspection team, including their methodology, instructions and follow-up documentation, as well as CRID's oversight in this process, and is pleased with the improvements that are being made.

Overall, the Monitor concluded that the Department has put into place policy and training that complies with the Consent Decree provisions related to gang units, and the implementation of such procedures has improved over the course of the Decree. While there are deficient areas

left, the Monitor is confident that the Department can remedy these deficiencies in the future with the assistance and oversight of AD and the OIG through among other things, their continuing quality audits and reviews.

## Recommendations

The Monitor offers the following recommendations regarding the management of the gang units and supervisory oversight:

- Going forward, the selection process of gang unit members should adhere to the requirements set out in the Consent Decree, which the Monitor believes are best practices. This includes a formal, written application process and oral interview(s), and consideration of TEAMS II and annual performance evaluations. The Department should continue to guard against insularity of the gang units by reasonably limiting tours for gang unit personnel. Any reappointment to the gang unit must be carefully evaluated and should include a review of all available information regarding the history of the officer.
- The Monitor encourages the Department to continue its focus on achieving appropriate and consistent supervisory oversight in the gang units. This includes supervisory oversight of arrest reports, search warrants, uses of force, CIs, daily operations, field presence and tactical plans, and the utilization of the TEAMS II early warning system. The Monitor also recommends that AD and the OIG continue to closely audit, review and monitor gang supervision, as they currently do in their CAPA and Consent Decree-related audits, and to assist the Department in resolving issues identified. The Monitor recommends that AD's audits closely consider what is risk assessment-based when testing to the related Department policy, as some policies not previously tested are essential to the accountability and oversight aspects of the operations of the Department.<sup>88</sup>
- The Monitor recommends that the Department continue to use BGC Inspections, as well as the CAPAs, in COMPSTAT meetings in order to hold supervisors and command staff accountable for deficiencies identified and to require follow-up in the form of remedies. The Monitor recommends that the BGC Inspections pay particular attention to gang supervision; in monitoring this area, GOSD should identify a better way to assess the quality of gang supervision regarding field presence than their current method of adding up the self-reported hours in supervisory logs. This may require on-site inspections, as well as further review into the supervisors' log narratives, and comparing them with related reports, such as Daily Field Activity Reports (DFARs).

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<sup>88</sup> This is true, for example, in AD's *GED Selection Audit* regarding tour limitation requirements, as agreed to by the parties regarding extensions, as well as its *SW Audit* regarding timeliness and the accuracy of the search warrant tracking log.

## D. Confidential Informants

The *March 2000 BOI Report* identified the improper use of informants as a significant problem within the Department.<sup>89</sup> The BOI found that former LAPD officer Rafael Perez, his partner and other officers in the CRASH gang unit were using informants inappropriately, putting informants in danger and seldom registering their CIs, as required by Department policy. The BOI further found that informant files were kept in various locations in each command, there were no guidelines mandating where the files were to be maintained, and there was no uniform system to track inquiries into those packages. They also found no clear guidelines specifying when an informant file was active or when it became inactive, and each file differed from the next as to content.

Interviews conducted during the BOI showed that the Department supervisors responsible for approving arrest reports lacked an understanding of the Department's policy on the use of informants and failed to recognize and appreciate the legal, risk management, supervisory, training and management issues inherent in the use of informants.

The BOI's findings stressed a dire need for greater control and training on the use and management of informants, for an informant manual which would establish uniform procedures for the use of informants Department-wide, for adequate training for both the officers who use informants and those responsible for their supervision, for supervisory oversight over those CI files on a regular basis and a centralized database for maintaining information on each informant.

### Consent Decree Solutions

The Consent Decree limited the use of informants to non-uniformed personnel<sup>90</sup> and required the submission of the informant control package for review and approval by the CO prior to utilizing any individual as an informant. Such informant control packages were required to be maintained in a secure location with restricted access and required a strict sign-out record and policy for approval by the watch commander.

The Consent Decree also required close supervision of all informant contacts. This included requiring a supervisor to meet with the informant at least once prior to the informant control package being submitted for approval by the commanding officer and requiring investigating

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<sup>89</sup> In the *March 2000 BOI Report*, then-Chief Bernard C. Parks stated that there was "near-universal ignorance" of the LAPD's rules for using informants and "even less comprehension of the dangers inherent in the use of informants."

<sup>90</sup> In 2005, the Consent Decree was modified to allow uniformed officers, under the strict guidelines of the Consent Decree, to utilize informants.



officers to confer with their supervisor prior to meeting with the informant. These investigating officers were mandated to document all meetings, significant contacts and information received from an informant in the control package, and to inform their supervisors of any contact with an informant. The Consent Decree also required the LAPD to establish a permanent Department-wide confidential database listing all LAPD informants and containing their CI numbers, names, aliases and dates of birth. There was also a requirement for the LAPD to publish a Confidential Informant Manual that further defined and expanded the procedures for identifying and utilizing informants, including all of the previously mentioned requirements.

Lastly, the Consent Decree required the LAPD to develop a CI policy that reflected these requirements, to train all appropriate personnel on the policy, to implement such policy requirements in the utilization and handling of all CIs, and to conduct audits of these control packages to ensure such policy and Consent Decree requirements were met.

### **Overall Achievements of the LAPD**

The use of informants is among the more sensitive areas of police work, and the Consent Decree requires the LAPD to use strict controls in the use and handling of CI information, the Monitor commends the LAPD for its achievements in this area. At the inception of the extension period, the Department made substantial strides in its use of informants and the related policies and procedures, although it had not achieved compliance with the >94% requirement in all areas. However, the Department achieved substantial compliance with the utilization and handling of informants during the extension period and over the course of the original term and the extension successfully put into place various policies and procedures that established best police practices for the utilization and handling of informants.

The Department released a Confidential Informant Manual in 2002 that incorporated all of the requirements of the Consent Decree. In 2008, the Department developed a new CI manual, discussed in detail below, that specifically outlines the Consent Decree requirements and provides a best practices approach to the handling of informants. This most recent manual provides specific protocols and improved informant forms that eliminate vagueness and ambiguity found in previous manuals, which resulted in confusion among officers handling informants. Based on a recommendation by the Monitor, the Department consolidated the Active Informant Database and the Undesirable Informant Database and updated the system to allow automated queries of information, eliminating the need for manual searches. This also facilitated a more coordinated tracking of all Department informants, and allowed the centralized personnel at Narcotics Division who are responsible for maintaining two databases to report informant information in a single database environment.

Based on the Monitor's recommendation, the Department developed and included in each informant package an instruction sheet with a checklist to remind officers of their documentation obligations. This system serves not only to remind officers of that which needs to be done but also provides a relatively quick method for supervisory review.

In addition, one of the early concerns of both the Department and the Monitor regarding informants was related to the small number of CIs maintained by the LAPD. The Monitor reported in its second quarterly report (Report for the Quarter Ending December 2001) that it noted a dramatic decrease in the number of available active informants.<sup>91</sup> Over the course of the Consent Decree, the Department has since increased its overall number of CIs while at the same time adhering to Consent Decree requirements.

The Department has developed sound policies and has trained on the implementation of those policies to provide officers and supervisors with the knowledge and tools to properly utilize and handle informants.

The Department now maintains all informant packages centrally at Narcotics Division, allowing for stricter supervisory oversight of these informant packages to ensure that Consent Decree requirements and LAPD procedures are met. Supervisory approval is received regularly on all package submissions and contacts with informants, and contacts with informants and documentation of information received are timely filed.

### **Consent Decree Compliance**

In the first three years of the Consent Decree, the LAPD took immediate steps to identify the problems associated with CIs and their control packages, and to develop procedures and guidelines to bring both new and existing packages into compliance with Consent Decree requirements. First, the LAPD Criminal Intelligence Group completed an audit of the CI packages in July 2001 and found that there was no standardized method to maintain informant packages. Although the Department issued a policy in January 2000 regarding the use of informants, which outlined standardized procedures to monitor informant files, and another policy in September 2001 regarding the establishment of a CI tracking system database for all CIs, neither policy was effectively implemented by the Department.

In February 2002, the Department attempted to address the lack of standardization by establishing a new policy regarding the use of informants and implementing a new Informant Manual. Shortly thereafter, the Monitor conducted a review of all CI packages maintained Department-wide and found a very low compliance rate with the requirements related to utilizing and maintaining informants. Although the Department had not yet achieve compliance with many of the requirements, it did achieve compliance with a few fundamental and important procedures, including establishing a CI number and an informant control package for each informant, admonishing each informant that he or she may not violate any laws in the

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<sup>91</sup> The Monitor identified a number of factors that may have contributed to the decline in numbers, including the diversion of resources as a result of the need to respond to terrorism threats post-9/11; shortage of experienced, trained gang officers during this time period; and officers in uniform being restricted from maintaining informants.

gathering of information, maintaining all CI packages in a locked and secure location, and ensuring no informants were maintained by unauthorized uniformed officers.

During this same time, the Monitor also conducted a review of the CI database and the Undesirable Informant database and found that the databases contained inaccuracies in the informant information and were missing required information for the informants. The Monitor recommended that all active informant packages be brought up to the standards of both the Consent Decree and the Department's Informant Manual dated February 26, 2002, and that supervisors throughout the ranks be held accountable for failures in this area.

Over the next few years, although the Department slowly improved in its efforts at complying with Consent Decree requirements, the Monitor continued to express concerns that compliance with various fundamental requirements in this area was not yet where it needed to be. Although no substantive failures were uncovered relating to misuse of CIs or other impropriety, the informant control packages continued to be deficient, many packages were missing relevant documentation, and the CI Manual needed revision to clarify requirements and procedures for maintaining informant control packages and the handling of informants. Training on the Informant Manual was occurring in only two Department courses, and the Monitor recommended that training be offered and made mandatory for all officers permitted to manage informants. The Monitor also recommended that the CI and Undesirable Informant databases be properly maintained and all required information captured. The Department worked hard to rectify the deficiencies in the informant packages and databases, but problems with documentation and accuracy of information continued to persist throughout 2003.

By the middle of 2004, the LAPD had made considerable improvements in supervisory oversight and maintenance of CI packages, and relevant training had taken place in March and April 2004 on the LAPD's newly revised Informant Manual dated June 2003. During this same time, the LAPD's AD was in the process of auditing Departmental compliance with the various components of the Consent Decree. In September 2004, the Monitor reviewed AD's *Confidential Informant Control Package Audit*, dated June 28, 2004, and found that AD identified the same issues with the informant packages and the informant databases that the Monitor had previously reported, including lack of documentation and supervisory approval of informant meetings and information and inaccuracies with the database information. In short, the Department had improved greatly but still fell slightly short of substantial compliance with Consent Decree requirements in this area.

Throughout 2005, the Monitor, AD and the OIG all noted that the Department continued to struggle in the area of supervisory oversight of CIs. Issues identified included lack of supervisory approval on payment forms, contact forms and sign-out cards; lack of supervisory approval prior to meeting with an informant; and missing forms and inconsistencies with regard to payments made to informants. However, the Monitor determined that the Department achieved substantial compliance with requirements related to the CI database, since the database's information and the informant packages were now both inclusive and accurate.

At the end of 2006, the Monitor, concurring with AD's findings in its *Confidential Informant Control Package Audit*, dated June 29, 2006, reported that although there was a significant delay in filling out contact forms in informant packages, overall, the maintenance and documentation of the CI packages had significantly improved from the prior years' reviews.

Another requirement regarding CIs was that supervisors who manage officers who handle informants be evaluated for this task on their annual performance evaluation. In CRID's Supervisory Performance Evaluations Audits for 2006, 2007 and 2008, they found that this requirement was not taking place appropriately, and the Monitor concurred.

The LAPD issued a revised Informant Manual in March 2008, which further outlines specific requirements regarding informants and helps to ensure adherence to these requirements, and also provides a best practices approach to the handling of informants that will carry the Department forward after the term of the Consent Decree extension expires. In addition to the development of a new manual, the Department also addressed the Monitor's and AD's findings regarding the delay in filing contacts with informants in the control packages. In June 2007, the Department, specifically Narcotics Division, put a procedure in place for sending interdepartmental correspondence to commanders and controlling officers to follow up on contact sheets not received within 30 days of a contact with a CI. The Department also adhered to requirements regarding documentation of contacts with informants, information provided by informants and the results of investigations conducted pursuant to the information provided; supervisory approval of such contacts with informants and the information provided; and maintaining access to such control packages.

By the end of 2008, the Monitor, AD and the OIG all concurred that the Department had achieved substantial compliance with all Consent Decree requirements relating to CI.

## **Recommendations**

The Monitor, as stated above, commends the LAPD for the accomplishments it has made in achieving compliance with Consent Decree requirements regarding the utilization and handling of CIs, the CI database and the CI Manual. With the policies and procedures in place, and the oversight role of AD and the OIG to ensure that the policies and procedures are followed, deficiencies corrected and recommendations followed up, the Monitor is confident that going forward CIs will be properly maintained under these strict guidelines and subject to adequate supervisory oversight. The Monitor offers the following recommendations regarding CIs, which are applicable to the Department, AD and/or the OIG where noted, or all three if not specified.

- The Department should consider training on the Informant Manual for other Department personnel who may encounter the need to understand the strict guidelines surrounding informants. These informant requirements should also be offered annually in Roll Call training.

- The Monitor urges that any policy changes, including the issuance of a new CI Manual, be approved and distributed prior to implementation, and that AD and the OIG ensure this takes place in their own future reviews.
- The Department needs to ensure that supervisors and managers overseeing officers who handle informants are getting evaluated on this task in their annual performance evaluation. AD and the OIG need to review and report on this process taking place.
- The Monitor commends the Department for ensuring that NCIs are appropriately managed in accordance with the same policies and guidelines as CIs, and recommends that this continue.

## **E. Development of Program for Responding to Persons with Mental illness**

Calls for reform in the way that the Department dealt with the mentally ill were made in the wake of a high-profile LAPD shooting incident that occurred in May 1999, involving a mentally ill 55-year-old homeless woman. The woman was stopped by two LAPD bicycle officers in Wilshire Area to determine if she was pushing a stolen shopping cart, and one of the officers shot and killed her after she had allegedly lunged at him with a 12-inch screwdriver. Chief Bernard Parks found the incident in policy notwithstanding Inspector General Jeffrey Eglash's conclusion that the woman did not pose a lethal threat to the officer and his partner. The Board of Police Commissioners voted 3-2 in finding the shooting out of policy. Department critics wanted to know why the officers had not used nonlethal means to subdue her. Her family subsequently filed a wrongful death lawsuit, and the City Council approved a \$975,000 settlement of that litigation.

### **Consent Decree Solutions**

In order to improve the LAPD's dealings with the mentally ill, the Consent Decree required the LAPD to evaluate best practices from other law enforcement agencies in the United States, including training, policies and procedures for dealing with persons who may be mentally ill. The requirement extended to reviewing specific incidents in other jurisdictions. The LAPD was also required to report the results of these evaluations to the Police Commission, including proposed changes to training, policies and procedures for dealing with persons who may be mentally ill. Lastly, the Decree required the Department to complete an audit to evaluate LAPD handling of calls and incidents involving persons who appear to be mentally ill and to incorporate the findings and recommendations.

## Overall Achievements of the LAPD

The LAPD achieved success in reaching substantial compliance with all Consent Decree requirements during the initial term of the Decree. Specifically, the Department, through a contract with Lodestar Management Research, thoroughly researched best practices throughout the United States and responded to recommendations of the DOJ and the Monitor relative to proposals for new policies and procedures. In addition, with the launch of a number of successful initiatives in this area, the specifics of which are detailed in the next section, the Department now has the recognized best practice in law enforcement for this subject area.

## Consent Decree Compliance

The LAPD submitted a RFP in July 2001 seeking a contractor to evaluate successful programs in other jurisdictions and study the procedures and training in place at the LAPD. In December 2001, the LAPD selected Lodestar Management Research (Lodestar) to prepare a report of their findings, which was to be forwarded to the Chief of Police who would then make recommendations to the Police Commission and then forward the report to the City Council and the Mayor. Lodestar was also tasked with reviewing the LAPD's training, policies, practices and procedures, and conducting a review of select incidents involving the LAPD's contacts with persons who may have been mentally ill.

On July 15, 2002, the LAPD submitted its report on the Consent Decree Mental Illness Project (CDMIP) to the Police Commission, containing the Department's findings and recommendations. The report and related funding requests were approved by the Police Commission on October 8, 2002. The Department's findings included a judgment that LAPD's incident tracking systems, including UOF, did not readily identify incidents that involved persons who may be mentally ill. As a result, the ability to evaluate the effectiveness of the LAPD's response and to identify trends or training issues was limited. The Department also found that there "may be better methods of training to ensure a greater understanding and sensitivity regarding persons who may be mentally ill," and issued a number of recommendations. These recommendations included centralizing authority for the Mental Health Crisis Response Program (MHCRP) under the supervision of the CO, Detective Services Group (DSG); expanding the System-wide Mental Assessment Response Team (SMART)<sup>92</sup> citywide; and expanding the Crisis Intervention Team Pilot Program (CIT), which was then located in the Central Area, to include the Van Nuys Area. The LAPD then requested Lodestar to provide additional analysis to assist in the development of evaluation criteria and an "evaluation tool" for expansion of the CIT program citywide, in the

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<sup>92</sup> SMART was a collaborative effort between the Department of Mental Health (DMH) and the LAPD to respond to calls involving persons who may be mentally ill.

light of concerns expressed by the DOJ and the Police Commission's request that the LAPD respond to the DOJ's concerns.<sup>93</sup>

During the first quarter of 2003, a four-hour Department-wide training session was provided to all field personnel at the level of Lieutenant and below in connection with the Department's philosophy and new policies and procedures concerning encounters with persons who may be mentally ill. The training included assessment and de-escalation skills specific to those encounters. A Mental Illness Update was provided in 2006 for all personnel who attended this course in 2003. During the summer of 2003, the Department adopted the MHCRP title in centralizing its programs and an MHCRP Coordinator was appointed. Additionally, a Department-wide philosophy/mission statement was developed; the CIT Program was extended from Central Bureau to Van Nuys, West Los Angeles and Harbor divisions; and the related 40-hour training course was implemented in these three Areas. Also in 2003, a new database was established by the Mental Evaluation Unit (MEU) to document encounters by CIT Officers with persons who may be mentally ill. Communications Division Order No. 10 was issued to implement procedures for handling calls involving persons with mental illness.

The Department's Mental Illness Program Implementation Plan was completed in November 2003. It addressed and reported on the status of all the Department's Mental Illness Project recommendations approved by the Police Commission in 2002 and the *Mental Illness Program Audit* required under Consent Decree paragraph 113. By December 2003, the Department implemented a review of all completed NCUOF and CUOF investigations involving persons who may be mentally ill and the UOF Form (face sheet) was modified to include additional indicators of impairment.

The LAPD's Information and Technology Division (ITD) received and installed a new computer server for MEU's database and tracking system, which became operational in April 2004. On May 10, 2004, the Board of Police Commissioners directed the Department to expand MEU/SMART to provide coverage 20 hours a day, seven days a week<sup>94</sup>. Beginning in November 2005, the MEU developed a SMART Pilot Program in which a SMART Unit<sup>95</sup> was assigned to Central Division three days a week during the hours of 7 a.m. to 3 p.m. The program's goal was to provide assistance to Central Division's Patrol<sup>96</sup> in its daily encounters with persons who may

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<sup>93</sup> In July 2002, the DOJ informed the City of its concerns with the LAPD report based in a comparison of that report to the analysis and recommendations contained in Lodestar's report.

<sup>94</sup> The MEU/SMART does not have coverage between 0200 and 0600. In 2005, there were 499 involuntary holds on individuals with suspected mental illness between these hours.

<sup>95</sup> SMART Units include both LAPD and Los Angeles County DMH personnel.

<sup>96</sup> Central Division was selected since it has the highest number of calls for service that involve persons suffering from mental illness.

have a mental illness. When such a person is identified, the SMART Unit conducts an assessment of the individual and then seeks appropriate care.

As of early 2005, the CDMIP team implemented a new proactive program designed to identify and deal with those persons who had a high volume or pattern of repeated LAPD calls for service, and coordinate their access to available mental health services. The DMH, DAO, City Attorney and other entities were involved in this program. Once those individuals were identified, the various Departments and agencies engaged in a “full court press” to proactively seek out and get help for them, including getting the person confined for treatment. In January 2005, the CDMIP coordinator reviewed the MEU database and identified 67 individuals who have been placed in at least six involuntary holds. These individuals had also been the subject of numerous arrests and/or radio calls, which resulted in a significant drain on patrol resources. The initial estimate indicated that these individuals represented 5,000 hours of lost patrol resources. By developing the Crisis Assessment and Management Program (CAMP), which addressed the needs of these individuals, the Department sought to create a system to better track these individuals and direct them to the appropriate mental health services instead of the criminal justice system. The CAMP Pilot Program began operating on September 18, 2005. The most significant success of the CAMP Program has been the reduction of time spent by patrol officers handling repeat calls for service involving persons with suspected mental illnesses. In mid-2008, CAMP became a permanent Unit within the Crisis Response Support Section.

The Monitor commends the Department for integrating SMART to the extent it has. As recently as 2006, SMART would arrive at the scene of crisis calls, such as suicides in progress or a barricaded suspect, and would be dismissed by the Incident Commander as “not needed.” As the program evolved, watch commanders and incident commanders learned the value of SMART Teams. SMART Teams have proven to be an invaluable tool for providing information and helping to develop strategies for reducing the potential for violent encounters between law enforcement and persons with suspected mental illnesses. SMART personnel also monitor dispatch calls and often respond to calls for service involving persons with suspected mental illnesses without being requested. This provides SMART the ability to assist patrol personnel and Incident Commanders at the early stages of critical incidents and may reduce injury to an individual who is taken into custody, while providing them with the appropriate mental health services, as opposed to being incarcerated.

As of December 31, 2008, the LAPD has expanded its MEU-related training. On a quarterly basis, MEU conducts CIT Training, a 24-hour POST certified course, which is open to outside law enforcement agencies. Several e-learning courses were completed during 2008 and 2009 and distributed Department-wide. A segment on supervisor responsibilities regarding handling calls for service involving the mentally ill was added to the Supervisor and Watch Commander Schools. Courses geared toward SWAT officers, as well as detention and dispatch personnel were provided late in 2008 in order to enhance their respective understanding of mental illness. MEU in partnership with the Autism Society of America has provided training to over 1,000 Department personnel on Autism Awareness. MEU has continued to carry out regular Roll Call



training to patrol personnel with an overview of MEU functions and patrol officer responsibilities.

The MEU has made significant advances in its program during the full term of the Consent Decree, and the LAPD continues to be in the national forefront of this important policing issue. The Monitor commends the Department and the dedication of those individuals who have been involved and associated with the LAPD's Mental Health Project.

## **Recommendations**

Simply put, the LAPD should continue to do what it has been doing.

## **F. Training**

### **1. FTO Program**

In regards to training, the Christopher Commission reported that there was "disturbing evidence that many FTOs openly perpetuate the siege ('we/they') mentality that alienates patrol officers from the community." The Commission also found that absent a requirement of one-and-a-half years experience and passing a test, "there were no other formal criteria for eligibility for FTO positions" or FTO "disqualification based on officers' disciplinary records." Among the Commission's recommendations were that "uniform criteria for selection of FTOs should be established" and that "successful completion of FTO School should be required before an FTO begins training probationers."

The *March 2000 BOI Report* focused considerably more time on supervisory training. The BOI noted that officers newly assigned to FTO duty should be given priority to attend FTO School. This was to ensure that they would not conduct their duties without being trained on them.

## **Consent Decree Solutions**

The Consent Decree required the LAPD to continue to implement formal eligibility criteria for FTOs, including demonstrated analytical skills, demonstrated interpersonal and communication skills, cultural and community sensitivity, diversity and commitment to police integrity, as well as a positive evaluation on the officer's TEAMS II record. The Consent Decree also stated that "FTOs may be removed during their tenure for acts or behaviors that would disqualify the officer from selection as an FTO." Lastly, the Decree required the LAPD to continue to implement a plan to ensure that FTOs receive adequate training and regular and periodic retraining to carry out their duties. This training must include training to be an instructor and training in LAPD policies and procedures.

### **Overall Achievements of the LAPD**

Training is an investment in the future of any police department. The LAPD has been tremendously successful in its effort to improve its training function. The Monitor is very optimistic that this success will build a great base for LAPD's future excellence. Field training is a crucial topic in the Consent Decree, as recruit training has far-reaching implications for the future of the LAPD.

On February 26, 2004, the Police Training and Education Division (PTE) assumed responsibility for FTO update school from Training Division. At this time the attendance rate for FTO update school was less than 30%. Upon assuming responsibility, PTE immediately organized the training list and contacted the training coordinators to get the officers into the classroom. Based on these efforts, in less than two months, PTE was able to raise attendance to 94%. As a result of PTE's extraordinary effort, the Department achieved compliance with certain FTO training requirements during the quarter ending March 31, 2004.

As a result of deficiencies identified, during the quarter ending September 30, 2005, the Monitor recommended that the LAPD centralize the administration of the FTO program so that LAPD management could more effectively identify, supervise and train FTOs. By the quarter ending December 31, 2005, the Monitor noted significant improvements. All of the FTO selection packages reviewed contained references that indicated TEAMS I reports had been reviewed prior to selection, and none of the officers selected as FTOs during the period reviewed had a sustained administrative investigation, adverse judicial finding or instance of discipline that fit the requirements of this subparagraph. As a result, the Monitor concluded that all of the officers reviewed were qualified to serve as training officers and found the LAPD in compliance with all related requirements.

During the quarter ending March 31, 2006, the Monitor found the LAPD in compliance with additional requirements, as FTOs found non-compliant in previous testing had either sufficiently rehabilitated their work performance to a satisfactory level and were qualified to perform as FTOs, or were prohibited from serving as FTOs through internal Departmental processes. During this period, the LAPD created a centralized FTO Unit at the Training Academy, commanded by a Lieutenant. The centralization of selection, training and record keeping of FTOs was a major step forward in management of the FTO Program.

As an extension to the FTO program, exchange and interaction with senior lead officers (SLOs) is introduced when the field training probationary period begins. The exposure to SLOs is very beneficial in combination with the FTO, as the new probationer learns how to apply policing procedures, including community policing skills. Currently in 2009, all SLOs attend the FTO course so they meet the State of California standards to allow SLOs to train recruit officers. Generally, new probationary officers are assigned and partnered during their probation with SLOs after their first 24 weeks of field training.

Although the Department had not achieved substantial compliance with all requirements regarding FTOs during the initial term of the Consent Decree, as a result of the efforts of the FTO Unit and the improvements implemented by the Department, the Department was able to achieve substantial compliance with all requirements during the extension.

### **Consent Decree Compliance**

The Monitor originally had difficulty evaluating these paragraphs because the Department's computer system did not identify FTOs to distinguish them from P-IIIs not serving as FTOs. This made sample selection impossible. In its Report for the Quarter Ending September 30, 2002, the Monitor reported that the Department would apply a new identifying code to existing and future records so FTOs could be identified.

Early assessments of compliance with Consent Decree requirements regarding FTOs revealed that the Department needed to make significant improvements in order to comply with those requirements. The Monitor found that selection files were not documenting that candidates were selected because they possessed the skills required, the Department had not developed a curriculum to fulfill the full number of hours required for FTO update training, FTO attendance at available courses was inadequate, annual performance evaluations were insufficient for some FTOs, and serious sustained complaints should have, but did not, disqualify some FTOs from the program. The Department subsequently developed the final eight hours of FTO update training, which began in January 2003, though it still reported insufficient officer attendance.

As described above, the PTE assumed responsibility for FTO update school in February 2004 and the Department soon achieved its first finding of compliance with requirements in this area. The Monitor also found the LAPD in compliance with additional requirements during the quarter ending June 30, 2004, as all FTO selection packages reviewed contained references that indicated TEAMS I reports had been reviewed prior to selection.

Despite these achievements, the Department continued to struggle with many of the requirements in this area. Significantly, the Monitor determined candidates possessed the necessary skills required of an FTO in 17 of 22 selection packages reviewed, and the Monitor identified a considerable number of FTOs who should not have been training probationary officers, as the officers in question were found administratively responsible for, among other things, fraud, domestic violence, inappropriate touching of a co-worker, false statement, inappropriate use of position for personal gain and enlisting a probationary officer to lie in an investigation.<sup>97</sup> Furthermore, although the LAPD was able to identify the total number of officers who were serving or had once served as FTOs, it was unable to identify the officers selected to serve as FTOs for the period requested for the Monitor's testing.

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<sup>97</sup> Some of these offenses resulted in significant suspensions, including 60 days and 88 days. In addition, the Monitor learned that at least two of the officers in a sample selected for review had never attended the 40-hour FTO School.

During the quarter ending March 31, 2005, the Monitor found the LAPD in noncompliance with requirements regarding FTO de-selection, as the Monitor identified a considerable number of FTOs who should not have been training probationary officers.<sup>98</sup> The Monitor then found the LAPD in compliance with this requirement during the quarter ending March 31, 2006. As described above, the Department's efforts to centralize selection, training, and record keeping of FTOs significantly improved the management of the FTO Program, which led to the Department achievement of compliance with the various requirements of this section of the Decree.

Since the LAPD had not achieved substantial compliance with all requirements during the initial term of the Consent Decree, the Monitor continued to actively monitor the pertinent paragraphs during the extension period.

During the extension, the Monitor found the Department in compliance with requirements regarding formal eligibility criteria for FTOs during the quarters ending December 31, 2006, and December 31, 2007; with requirements regarding the FTO de-selection during the quarters ending June 30, 2007, and June 30, 2008; and with requirements regarding an FTO training plan during the quarters ending September 30, 2007, March 31, 2008, and September 30, 2008. As a result, the Department achieved substantial compliance with the requirements of these paragraphs, and the Monitor discontinued active monitoring of them during the remainder of the extension period.

## Recommendations

The Monitor, as stated above, enthusiastically commends the LAPD for the accomplishments it has made in achieving compliance with the field training requirements. Policies and procedures are in place, and the oversight roles of AD, the Police Commission and the OIG clearly ensure that policies and procedures are followed, deficiencies are corrected and recommendations are implemented. The Monitor is confident that going forward, the Department will ensure that field training by the LAPD follows the "best practices" of law enforcement. The Monitor offers the following recommendations regarding the FTO program:

- The LAPD should ensure that FTOs are evaluated annually using the new Standards Based Assessment.

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<sup>98</sup> The officers in question were found administratively responsible for, among other things: fraud, domestic violence, inappropriate touching of a co-worker, false statement, inappropriate use of position for personal gain and enlisting a probationary officer to lie in an investigation. Some of the above-mentioned offenses resulted in significant suspensions, including 60 days and 88 days. In addition, the Monitor learned that at least two of the officers in the sample had never attended the 40-hour FTO School.

- The LAPD should have COs continue to review complaints sustained against currently serving FTOs in order to ensure their continued fitness for training probationers.
- The LAPD should continue to track FTO training and update training to ensure that FTOs remain fully trained in their duties and can impart the most up-to-date information to their recruit officers.

## 2. Training Content

The Christopher Commission reported that “the Department neither mandates nor monitors in-service training,” and noted that “Division commanders have discretion to conduct in-service days and to design the training program” and “there is no consistency in the usefulness of these programs across the Department.” The Commission recommended that the Academy “should take responsibility for roll call and other in-service training,” “develop detailed training outlines that every division would use,” and “have instructors available to assist watch commanders to implement those training programs.”

The BOI focused a considerable amount of time on training content and reported that “several supervisors noted the imbalance in favor of tactical training tended to perpetuate the siege mentality among the officers” in their divisions. The *March 2000 BOI Report* included several recommendations related to ethics and integrity training, including that “the Department must develop a comprehensive training program on ethics, integrity, mentoring, and leadership, to be given annually as a supplement to Area training efforts; all Department employees should receive greatly increased training in the areas of ethics and integrity and that training should be fully integrated into our regular training programs; and classroom instruction on ethics should be reinforced through other training opportunities such as commanding officer presentations during standardized roll call training, discussion in supervisory meetings, monitoring and auditing the work environment, and workshops in divisional training days that encourage frank discussions about this issue.”

### Consent Decree Solutions

The Consent Decree required the LAPD to “continue to provide all LAPD recruits, officers, supervisors and managers with regular and periodic training on police integrity,” including “the duty to report misconduct” and “cultural diversity.” The LAPD was also required to train all members of the public scheduled to serve on the Board of Rights (BOR) in police practices and procedures. Additionally, the Decree stated that “the City may establish a plan to annually provide tuition reimbursement for continuing education for a reasonable number of officers in subjects relevant to this Agreement, including subjects which will promote police integrity and professionalism.” Lastly, the Decree required the LAPD to “establish procedures for supervisors and officers of the LAPD to communicate to the LAPD Training Group any suggestions they may have for improving the standardized training provided to LAPD officers.”

### **Overall Achievements of the LAPD**

Again, the Monitor finds that the LAPD has had tremendous success in this training function. As a direct result of the Consent Decree, a basic blueprint for reforming the Department was outlined. Training was a core component of bringing about organizational change, and effective training was critical to institutionalizing those reforms. In 2001, there was not one law enforcement agency in the country using e-learning as a means of disseminating consistent training. Likewise, there were no law enforcement academies in the United States using an integrated approach to training on the various disciplines. Adult learning theory was not consistently modeled by any state or federal agencies as a means of training officers. The LAPD, however, embraced the recommendations of the RAND Report and began to research best practices in training.

As a result, eight years after the inception of the Decree, the LAPD uses adult learning theory and critical-thinking/problem-solving skills in all aspects of training. The Department researched and formed an e-learning unit that is now the cutting edge in distance learning in law enforcement, producing approximately 20 courses annually. The Department also created and staffed the first curriculum design unit of its kind that standardizes all lesson plans, incorporates adult learning theory, case studies and scenario exercises wherever feasible. It is also responsible for cross-staffing for consistencies in laws, policies and procedures to ensure that all lesson plans are consistent throughout the organization.

Recently, the Department launched its first ever learning management system, which will allow completely standardized lesson plans to be available and used by all trainers in the organization and will serve as a “one-stop shop” for employees to access annual training calendars. This system will also provide the capability to design a course catalogue, so that all employees will have the ability to plan their career paths and understand the training requirements for the various paths, as well as know when courses will be presented and how to fairly apply for such training and educational opportunities.

### **Consent Decree Compliance**

Although considered a permissive requirement, the Monitor found the LAPD in compliance with the requirement to establish a plan to annually provide tuition reimbursement for continuing education in subjects that promote police integrity and professionalism, as it established a tuition reimbursement program. The City announced the initiation of a tuition reimbursement program on June 28, 2001. It began receiving requests for reimbursement shortly thereafter. The Monitor found that the City approved most requests and properly denied the rest for a variety of administrative deficiencies, e.g., no proof of payment, no transcript submitted, course not completed.

As required by the Consent Decree, the Department implemented several procedures for communicating suggestions to the Training Group. The Department was receptive to suggestions and willing to develop training based on actual needs and, in fact, integrated seven suggestions into the training curriculum. In February 2002, the Continuing Education Division, along with the California Commission on Peace Officer Standards and Training, developed a revised Basic Supervisory School as a result of course evaluations and student interviews. The training that resulted required each Sergeant candidate to participate in two one-day ride-alongs with an experienced Sergeant.

After early struggles in complying with requirements regarding police integrity training, the Department made significant strides in improving and enhancing it this training over the term of the Decree. By 2003, the Department developed an interactive learning exercise that adequately addressed misconduct, the duty to report misconduct and the protections afforded to those who report misconduct and incorporated this exercise in CEDP Module VI, titled "Weapons of Mass Destruction." An exercise in the course required the class to break into small discussion groups to discuss legality of a stop, department policy prohibiting racial profiling, duty to report misconduct, retaliation and protections afforded to those that report misconduct. The Department also took significant steps toward monitoring its own compliance and began to get ahead of schedule with regard to officer attendance at a training module. Eventually, the Department successfully developed a training program with a comprehensive curriculum, a novel delivery plan, and measurements in place to ensure adequate attendance and consistent, quality training, and in 2005, a 90-minute web-based e-learning training module on police integrity was introduced, which enabled the Department to train greater than 95% of its personnel in six weeks. In 2006, the LAPD continued scheduling field, supervisory and command staff training for a number of in-service training modules that included portions of or all of police integrity training requirements, including the Workplace Discrimination and Retaliation Prevention Course, Risk Management/Civil Liabilities Three-hour Course, Vehicle Stops and End of Pursuit Tactics.

Beginning in the quarter ending September 30, 2002, the Monitor found the LAPD in non-compliance with the training requirements related to civilian BOR members. The Monitor found that the training was inadequate, especially in the area of tactics and Department policy, as it did not provide Board members with the requisite knowledge for them to fulfill their membership expectations. As a result, prior to the extension, the Monitor found the Department in substantial compliance with all requirements in this section of the Decree except for the requirements regarding training for civilian members of the BOR.

With the Monitor's participation, Police Commission staff developed lesson plans for civilian BOR training to meet the requirements regarding the training of Board members. An all-day training session was held on March 31, 2007, attended by 45 of the newly selected examiners, DOJ personnel and a member of the Monitoring Team. The three hearing examiners who did not attend the training attended a separate training session presented by the Police Commission's Executive Director. These efforts led the Department to achieve compliance with the pertinent requirements during the quarter ending March 31, 2007, and the Department

remained in compliance during subsequent assessments. As a result, the Department achieved substantial compliance with the BOR-related training requirements during the extension.

### **Recommendations**

The Monitor commends the LAPD for the accomplishments it has made in achieving compliance with the training content requirements. With the policies and procedures in place, the oversight role of AD, the Police Commission and the OIG will ensure that the policies and procedures are followed, deficiencies corrected and recommendations implemented. The Monitor is confident that going forward, the Department will be proactive in ensuring that training content continues to emphasize police integrity. The Monitor offers the following recommendations regarding training content:

- The LAPD should continue to ensure that new civilian members of the BOR receive training in police practices and procedures.
- The LAPD should continue to communicate to Training Group any suggestions from supervisors and officers on how to improve training programs.
- The LAPD should continue its adult learning and scenario-based approach to police integrity training.

### **3. Supervisory Training**

The *Christopher Commission Report* stated that “sergeants, lieutenants, and captains are expected to be leaders as well as administrators and should therefore receive formal leadership training including command accountability.” The report further stated that “supervisory and command officers must learn to be role models, to recognize problems in other officers, and to assist troubled officers through such difficulties.” The commission found that “the training emphasis is on administrative skills” and “not leadership or accountability,” and recommended that “command accountability and effective supervisory techniques should be the primary focus of the training of sergeants, lieutenants, and captains.”

In its *May 2000 Letter Report* to the City, the DOJ wrote that “serious deficiencies in City and LAPD policies and procedures for training, supervising, and investigating and disciplining police officers foster and perpetuate officer misconduct” and that “many supervisors do not have the training necessary to perform their supervisory responsibilities and correct deficiencies.”

The *2001 BOI Report* also focused a considerable amount of time on supervisory training and found that “over 230 sergeants ha[d] not attended the Supervisory Development Course” and “many of those sergeants ha[d] been in the field as supervisors for a year or longer with no



formal instruction on their duties.” The BOI recommended that “consideration...be given to reorganizing the Supervisory Development Course from a four-week block of instruction to a program of smaller blocks of instruction spread out over a longer period of time.” The BOI also recommended that “a one to three day introductory course...be developed for new sergeants, detectives II and non-sworn supervisors” and “no one...be permitted to work as a supervisor until he or she attends the course.”

### **Consent Decree Solutions**

Regarding supervisory training, the Consent Decree required the LAPD to “provide all officers promoted to supervisory positions, up to and including the rank of Captain, with training to perform the duties and responsibilities of such positions.” Such training was to be provided before they assumed their new supervisory positions. The Consent Decree also required the LAPD to provide regular and periodic supervisory training on reviewing the reports addressed in the Decree, incident control and ethical decision-making. Lastly, the Decree required the LAPD to “ensure that any supervisor who performs, or is expected to perform, administrative investigations, including chain of command investigations of uses of force and complaints, receive training on conducting such investigations.”

### **Overall Achievements of the LAPD**

The first step the LAPD took in its efforts to comply with Consent Decree’s supervisory requirements was to issue a notice, dated July 2, 2001, stating that members must be trained prior to assuming a new position. However, early in the term of the Decree, the Monitor found an insufficient number of officers were receiving supervisory training prior to assuming their posts, and some supervisors had last received training as far as 10 years previously. By the end of 2003, the Department had greatly improved its ability to train supervisors prior to assuming their duties.

As described in a focus issue in the Monitor’s Report for the Quarter Ending June 30, 2004, both the Monitor and the DOJ attended a training session on June 8, 2004, in which snide and inappropriate comments were overheard being made by several Supervisors. The Departmental response to the complaints of the Monitor and DOJ was admirable – upon learning of these remarks, the Department sent a clear and resounding message to its members that such sentiments expressed during these classes would not be tolerated. Specifically, on June 10, 2004, two days after the incident occurred, training coordinators were retrained. It was made clear that the comments expressed by the offending Supervisors reinforced the perceptions of those on the “outside” that the culture of the LAPD had not changed. The need for trainers to take responsibility for their classrooms and establish a professional environment was reinforced. The trainers were assured that they would have the support of the command staff, training group, CRID and Office of Human Resources should they need to “take on” a difficult student, especially one of a higher rank. In addition, the Chief of Police held a meeting

with all of the Command staff on June 15, 2004, reiterating his requirement of professionalism and respect, in the field as well as in the classroom. The Chief also circulated a letter on June 29, 2004, and a video in the beginning of August, to all members of the Department in which he stated that the behavior described to him was “unnecessary and unacceptable” and that “openness and transparency to the community must be reflected both inside the confines of our organization, including the classroom, as well in our field contacts.” This incident is an example of the attitude shift and strides the LAPD has made in the area of supervisory training.

The LAPD’s *Standardized Quarterly Supervisor Training*, launched in the fourth quarter of 2003 and still in place, provides information relative to the duties of all supervisors. To date, topics have included FDRs, UOF Reporting, Detention Log Review, Performance Evaluation Reporting Guidelines, Complaint Investigation Procedures and Police Officer Selection to FTO and GED Units.

### **Consent Decree Compliance**

During the quarters ending March 31, 2002, and March 31, 2003, the Monitor found the LAPD in non-compliance with the requirement to provide supervisory officers with relevant training prior to assuming new supervisory positions. The Monitor found that an insufficient number of the officers evaluated received supervisory training prior to assuming their posts. The Monitor reported similar findings during the quarter ending September 30, 2003, but withheld a compliance determination due to the need to ascertain whether the officers who had not received training signed affidavits stating that they refrained from performing supervisory duties until after they had received training. During the quarter ending December 31, 2003, the Monitor found the Department in compliance with this requirement, as 96% of promoted members received requisite training prior to promotion. The Monitor then found the Department in non-compliance with the requirement during the quarter ending September 30, 2004, and in compliance during the quarter ending September 30, 2005.

The Monitor found the Department in compliance with the requirement to provide regular and periodic supervisory training on reviewing the reports addressed in the Decree, incident control and ethical decision-making for the first time during the quarter ending September 30, 2003, as a sufficient number of supervisors had received the appropriate training on a regular and periodic basis. The Monitor found the LAPD remained in compliance with this requirement during subsequent assessments conducted during the remainder of the initial term of the Decree.

The Monitor found the Department in compliance with investigatory training requirements for supervisors for the first time during the quarters ending June 30, 2004, and then again during the quarter ending September 30, 2005. In both instances, the Monitor found that a sufficient number of supervisors received the appropriate training.

The Monitor concluded that the Department achieved substantial compliance with the supervisory training requirements of the Consent Decree by the expiration of the initial term of the Consent Decree. As a result, the Monitor did not actively monitor compliance with these requirements during the extension period.

## **Recommendations**

The Monitor commends the LAPD for the accomplishments it has made in achieving compliance with the supervisory training requirements of the Consent Decree. Policies and procedures are in place, and the oversight role of AD, the Police Commission and the OIG will ensure that the policies and procedures are followed, deficiencies corrected and recommendations implemented. The Monitor is confident that the Department will be proactive in ensuring that quality supervisory training in the LAPD will continue to take place. The Monitor offers the following recommendations regarding supervisory training:

- The LAPD should continue to ensure that supervisors are trained on how to conduct administrative investigations.
- The LAPD should continue to track supervisory training and update training to ensure that they remain fully trained in their duties.

## **G. Internal and External Oversight/Monitoring**

### **1. Ethics Enforcement Section Integrity Audits**

The DOJ's *May 2000 Letter Report* to the City of Los Angeles concluded that the LAPD "failed to supervise officers properly by failing to identify and respond to patterns of at-risk officer behavior." The DOJ continued to discuss the necessity of an adequate early warning system and the fact that the LAPD's current system was insufficient.

#### **Consent Decree Solutions**

In order to validate patterns of at-risk officer behavior, whether that risk is flagged by an early warning system, identified via consideration of an officer's work history, or reported by the public, the LAPD was required to establish a discrete unit responsible for conducting random and targeted ethics audits of officers. Of greatest concern were patterns of at-risk behavior that included unlawful stops, searches, seizures (including false arrests), uses of excessive force or discouraging the filing of a complaint or failing to report misconduct or complaints. The LAPD was required to develop and initiate a unit responsible for conducting such audits before July 1, 2001.

Once implemented, the LAPD was required to submit quarterly reports detailing the unit's efforts, and such reports were to be timely submitted to the Police Commission and the IG by the Chief of Police for review and consideration.

### **Overall Achievements of the LAPD**

At the onset of the Consent Decree, the LAPD established what is now commonly known as the EES.<sup>99</sup> Within the LAPD's organizational structure, this unit reports directly to the Deputy Chief of the LAPD's PSB.

The EES was tasked with conducting both random and targeted "sting audits."<sup>100</sup> Random audits assess officer conduct without any specific officer in mind whereas targeted audits are directed at officers identified through analysis, research or referrals<sup>101</sup> considered potentially at risk.

Prior to undertaking a targeted audit, the EES supervisor tasked with managing the audit first makes a determination whether the suspected behavior meets the defined at-risk criteria. If so, subsequent planning and consideration determines whether a staged scenario is appropriate for capturing the results of an audit.

As outlined in the "Integrity Audit Guide," EES developed specific procedures required of all of its audits as follows:

- Final Report with conclusion signed by Lieutenant of EES.
- Integrity Audit Request documenting the topic of the audit and the audit approach. This request requires review and approval by several levels of EES supervisors with the final approved by the CO of PSB.
- Site Survey identifying the desirable location(s) to stage an audit and the locations of the nearest police station and hospital for officer safety purposes.

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<sup>99</sup> Special Order No. 22, *Ethics Enforcement Section, Internal Affairs Group – Established*, dated August 1, 2001.

<sup>100</sup> Initially, in order to establish a data source for conducting "sting audits," EES staff entered information contained in over 5,000 complaint face sheets in order to conduct analysis to identify possible patterns of misconduct by officers.

<sup>101</sup> Referrals for sting audits may be generated through several sources, including, but not limited to: prior complaints, LAPD supervisors and managers, Risk Management Group, utilizing TEAMS data, as well as directly from other officers. Ideally the new TEAMS II system, by virtue of containing more consistent data and logic versus TEAMS, will identify officers deemed "at risk" for random or targeted audit.

- Operational Plan describing each component of the audit and the role of each EES participant. Also addresses safety concerns, the requisite equipment, as well as the briefing and staging areas.
- Video and/or audio equipment requests.
- TEAMS report(s) of the targeted and/or involved officer(s).
- History of any complaints and/or other reports that lead to the audit.
- Investigator notes, including a chronological log of the audit.

In 2002, the Monitor noted that sworn officers assigned to EES, particularly undercover officers, did not have access to counseling services of the LAPD's BSS. Undercover officers may require such support given the demands and stress placed on their performance and possible risk can be overwhelming. Also, officers completing a tour of duty with EES may encounter anxiety about re-entering the LAPD work force. The Monitor recommended that the LAPD arrange for counseling services for EES officers. In response, the LAPD provided EES personnel with access to BSS psychologists specifically assigned to PSB personnel. Recently, the Special Operations Division developed an integration/re-integration program for all EES officers working in an undercover capacity. With training and BSS assistance, undercover officers, whether transitioning into or out of the EES, are prepared for the psychological demands.

During mid-2003, the Chief of Police received information that complaints from the public were not always accepted at all the Divisions. As a result, the EES was tasked with significantly increasing the number of random complaint intake audits for all Divisions in order to determine whether employees were complying with this requirement.

Throughout the term of the Decree, the EES, the OIG and the Monitor met to discuss expectations when conducting and reviewing future complaint intake audits, whether random or targeted. The parties also discussed circumstances in which information on complaint forms contained inaccurate or incomplete information and EES' analysis and conclusions.<sup>102</sup> In 2005, all three parties agreed to include another audit classification, "pass-substandard." This finding acknowledged that although officer response to the audit was compliant, deficiencies were nonetheless noted requiring address. These deficiencies were typically administrative in nature.<sup>103</sup>

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<sup>102</sup> Up to this point in time, the EES reported audits as *Pass, Fail, Administrative Fail or Inconclusive*.

<sup>103</sup> Certain audits identified officer actions that did not conform with Department Policy and Procedures outside the scope of the intended audit. For many of these instances, the EES CO contacted the officer's CO to report the findings.

EES audits of officer conduct have contributed to the overall goals and objectives of the LAPD, specifically through conducting audits designed to test the integrity and “at-risk” behavior of officers and Department employees. Numerous officers were found to be exonerated of any alleged misconduct. Conversely other audits confirmed suspected or reported at-risk behavior, and ultimately those officers were disciplined. The Monitor noted a wide range of penalties imposed as a result of sustained complaints. Lastly, in all sting audits wherein the actions of officers were determined to be criminal in nature, the matters were referred to the DAO.

### **Consent Decree Compliance**

Throughout the entire monitoring process, members of the monitoring team regularly met with the CO and other personnel assigned to EES.<sup>104</sup> The Monitor was regularly extended tours of its facilities, demonstrations of its equipment and apprised of any developments with the unit. The Monitor also observed a targeted audit that included the pre- and post-audit briefings.

In assessing compliance, the Monitor reviewed and relied upon EES “*Risk Evaluation Reports*,” video and audio tapes, complaint investigations, use of force investigations and undercover officer notes. In 2005, the Monitoring Team tasked with reviewing EES audits commenced placing reliance on the OIG’s review of and reporting on the EES. In general, the Monitor and OIG were in agreement on the overall implementation, execution and scope of the EES audits.

Throughout the initial five-year term of the Decree, the Monitor held the LAPD in compliance with the Consent Decree reporting provisions for the EES. In reaching this conclusion, the Monitor reviewed quarterly *Ethics Enforcement Section Quarterly Reports* and related communications to the Police Commission and OIG.

Similarly, for the entire eight-year review period, the Monitor held the LAPD largely in compliance with regard to the unit’s formation and operation. Although the Monitor did not always agree with the unit’s approach to an audit or the ultimate conclusion reached, overall, the Monitor concluded that the unit was functioning as desired and designed. However, beginning in 2007, the Monitor reported a declining number of “at-risk” behavior audits conducted by the EES. Specifically, in the Monitor’s report for the quarter ended December 31, 2008, the Monitor noted no audits were conducted for unlawful stops (including racial profiling) and few audits were conducted to evaluate searches, seizures and uses of excessive force.

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<sup>104</sup> Many investigators have prior experience as IAG investigators as well as prior surveillance experience.

## Recommendations

- For audits of the complaint intake process, the Monitor recommends documentation of all audit findings involving all Department employees, from the initial intake of the complaint through all supervisors responsible for documenting the complaint in logs and reports. The Monitor also recommends and encourages the EES to develop a wider array of scenarios, particularly when auditing more than one Division within the same Bureau.
- The Monitor continues to recommend that the LAPD consider assigning certain audit responsibilities, such as neglect of duty audits not specifically mandated by paragraph 97, to units other than PSB. Consideration should also be given to assigning random complaint intake audits to other Department divisions or sections.
- In designing and planning audits, EES should also consider the locales used when conducting audits designed to test misconduct, such as excessive force, unlawful searches, unlawful arrests, unlawful seizures and enforcement of immigration laws. Many times audits were staged in areas with high vehicular or pedestrian traffic, leading the Monitor to conclude that the audited officer was less likely to exhibit misconduct given the potential for witnesses in close proximity.
- When EES was initially formed, there was sufficient equipment for conducting audits; however, additional, sophisticated equipment was soon needed in order to facilitate more sophisticated and complex audits. The Monitor recommends that the Department continue to invest in additional high-tech equipment as the complexity of scenarios evolves.
- As mentioned above, the Monitor reported a recent decline in the number of “at-risk” behavior audits conducted by the EES. The Department should consider how to best use EES as a resource in conducting these types of audits, including “biased policing” audits. There may be a need to provide specialized training to EES personnel in the design, development and implementation of such audits to ensure their effectiveness.

## 2. Audit Division Oversight

In preparing the *March 2000 BOI Report*, the Operations work group used audits to gather information, identified where the Department had failed to maintain the resources necessary to conduct these audits on an ongoing basis, and recommended that audits be used in the future to detect other failures in the Department’s systems.<sup>105</sup> Specifically, the BOI identified that

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<sup>105</sup> The BOI Report noted that “if there is one aspect that has been more discouraging than others, it is the degree to which our employees are failing to follow established Department procedures. That failure is compounded by the failure of their supervisors and managers to oversee their work.” See page 347 of the *March 2000 BOI Report*.

there had been serious erosion in the quality of and emphasis on audits and inspections over the years, and recommended that the audit systems at the Department, Bureau, Area and Divisional levels had to be significantly expanded. Additionally, the BOI identified that the current practice of allowing commands to “self-audit” rarely provided meaningful data. The BOI also identified that the Department’s Audit Guide must be updated and redistributed to all Department commands, a new Department audit schedule must be established, and these audits must be tracked and evaluated by the bureau inspection units. The BOI also recommended that the Operations bureaus and Areas should have well-trained and properly supervised full-time audit units to identify deficiencies in critical functions. The Board concluded that without a routine system of in-depth audits, the Department would be unable to ensure the quality of the employees’ work or hold their command structure accountable for the performance of their commands.

### **Consent Decree Solutions**

The Consent Decree outlined very specific audit requirements that were drawn from the concerns identified and recommendations proposed by the BOI, including:

- The Chief of Police was required to submit to the Police Commission, with a copy to the OIG, an Annual Audit Plan listing all specified Consent Decree audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits;
- The LAPD was required to establish an audit unit with sufficient resources to allow it to develop the Annual Audit Plan, coordinate, schedule, conduct and complete timely audits as outlined in the Annual Audit Plan and additional audits as may be required by the Chief of Police;
- AD was required to serve as a resource to other LAPD units wishing to conduct an audit, and to perform periodic assessments of the quality of these other audits; and
- The Chief of Police was required to provide to the Police Commission and the OIG quarterly audit status reports that described the current status of the audits listed in the Annual Audit Plan, and any significant results.

The Consent Decree also required that the LAPD perform regular, periodic audits of numerous aspects of policing, including warrants, arrests, uses of force, stops, CIs, complaints, gang units, financial disclosure and police training.<sup>106</sup> Each audit was required to examine a variety of issues, but a common theme among them all was the requirement to assess and report on

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<sup>106</sup> These audits are detailed in paragraphs 128, 129, 131, 132, 133 and 134.



compliance with other Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight.

### **Overall Achievements of the LAPD**

The Monitor believes that the LAPD has established and institutionalized a best police practice internal audit unit that will be a critical governor to ensure future self-correction by the LAPD.

After the inception of the Consent Decree, the Department formally established an audit unit (AD) on July 6, 2001. At that time there were 28 authorized positions, of which 11 were initially filled by sworn professionals and some administrative personnel. In July 2001, AD submitted its first audits. The Monitor concluded that these first audits had a flawed audit process, used inadequate samples and included questions that yielded imprecise results. These problems continued until September 2002, when the Monitor concluded that AD had significantly improved the planning, execution and reporting of its audits. The LAPD was able to accomplish these and future improvements by implementing various strategies to develop its resources and skills, including:

- Providing AD's staff with appropriate resources, including computer equipment and training in auditing and statistical methods.<sup>107</sup> AD personnel, along with personnel from the OIG and DSD, received four days of training from the Institute of Internal Auditors in 2001-02. Additionally, sworn members of AD began obtaining professional audit designations.<sup>108</sup>
- Hiring civilian staff with auditing, accounting and statistical experience, as recommended by the Monitor.<sup>109</sup> This allowed AD to develop a multidisciplinary team that combined civilian auditors who had auditing backgrounds with sworn officers who had policing backgrounds.
- Implementing improvements to the audit process including: clarifying the audit matrix questions used, developing reference materials that better defined critical areas being assessed, developing work papers for tracking and reporting audit results, developing a process for reviewing completed audit work at various stages during the audits, ensuring the audits included recommendations for the Department to review and implement, and developing a management process for reporting back to the various LAPD Areas being audited.

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<sup>107</sup> The Monitor recommended in February 2002 that AD contact the Institute of Internal Auditors to obtain information about audit training courses.

<sup>108</sup> The Captain and one of the Lieutenants in AD were the first to obtain their Certified Government Auditing Professional (CGAP) certifications from the Institute of Internal Auditors in 2003.

<sup>109</sup> The first civilian auditor joined AD in November 2002.

During 2003, the Monitor concluded that AD's audit process was continuing to improve, as many of the audits that were previously outstanding were completed and some audits met the qualitative requirements. In December 2003, AD assumed responsibility for the gang-related audits as recommended by the Monitor in 2002 because AD's processes were better than the DSD's/DOSD's, and because many DSD/DOSD audits were either not completed or were below an acceptable standard.<sup>110</sup>

By June 2004, AD was submitting audits on a timely basis, each of which was a quality audit.<sup>111</sup> The Monitor also found that the gang audits completed by AD were quality audits, but could not conclude they were in compliance as the Consent Decree required the gang audits to be completed by DOSD. Thus, the Monitor concluded that each of the paragraph 128, 129 and 131 audits submitted to June 2004 were quality audits.

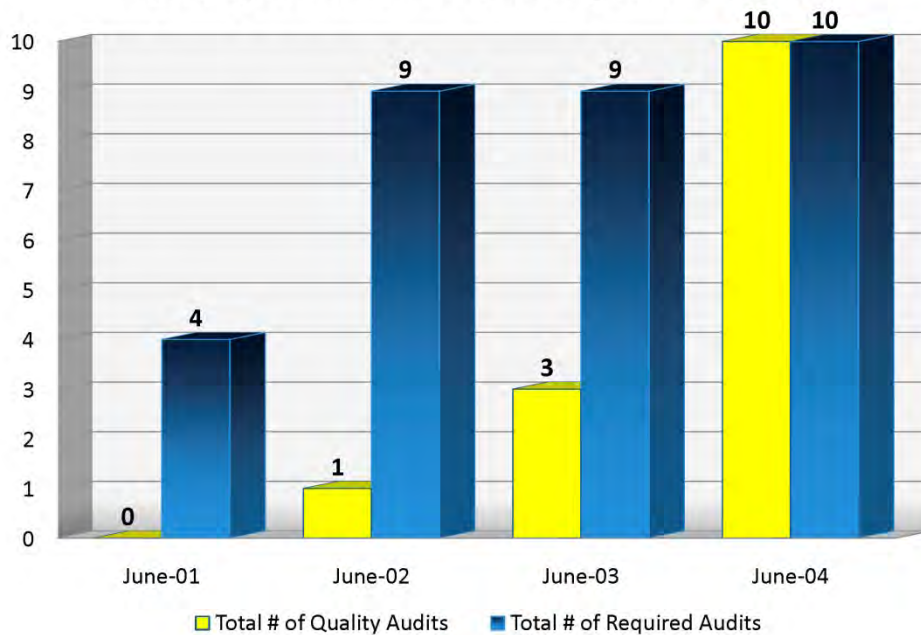
The above improvements resulted in an increase in the number of quality audits from 2001 to 2004, as reflected in the chart below:

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<sup>110</sup> This change was formalized by the court with modifications to the Consent Decree on June 2, 2005.

<sup>111</sup> Despite the significant improvements between 2001 and 2004, the Monitor identified some deficiencies, as a few audits due in 2003 were not completed on a timely basis; AD did not provide the support necessary for the Department to complete a quality paragraph 113 audit, resulting in excess Department time and resources used to complete the audit; and AD did not complete the quarterly status reports for the Police Commission. Consequently, although each of AD's audits was a quality audit, the Monitor did not conclude compliance on paragraph 124.

### Quality Audits to Total Required Audits



In light of the improvements in the timeliness and quality of AD's audits and the reliability of the audit results, commencing in September 2004, for certain audits produced by AD for which the scope of an AD audit directly addressed the requirements of a given Consent Decree paragraph, the Monitor elected to evaluate AD's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.<sup>112</sup> Instances of such reliance upon AD's results were clearly indicated in the Monitor's reports.

In addition to completing timely, quality audits, AD took other steps to enhance its professional approach, reputation within the LAPD and other police services, and its effect on the Department, including:

- Offering a four-day Police Performance Auditing Course, starting in September 2004. This program, which is one of the leading police performance auditing courses in the United States, has been offered on a quarterly basis since then.<sup>113</sup> It has been attended by 414

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<sup>112</sup> This is consistent with paragraph 162 of the Consent Decree, which states, "In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose."

<sup>113</sup> The Police Performance Audit program was certified by the California Commission on Peace Officer Standards & Training and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005. It covers auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process. This

LAPD employees and 251 employees from 42 other law enforcement agencies throughout the United States and Canada. AD also developed and offered an Intermediate Law Enforcement Auditing Course in 2007.

- Performing additional non-Consent Decree audits of gang units, CAPAs, the results of which are reported to the Police Commission. These audits review the practices of specific gang units on a quarterly basis and support the gang audit requirements of subparagraph 131a. The first CAPAs were completed in October 2004 and several have been completed on a quarterly basis since then.
- Formalizing its standards by developing an Audit Charter. This Audit Charter outlines AD's role, the requirement for independence, the goal of complying with Generally Accepted Government Auditing Standards (GAGAS), AD's access to records, and the scope of audits. It was originally approved by the Police Commission in January 2006 and was updated and re-approved in October 2007.
- Developing an Audit Protocol that set the standards for LAPD's audits, which was approved in April 2006. The protocol outlines the requirements for audit staffing, audit team member responsibilities and the audit process. It also includes direction on how AD conducts audits and covers topics such as audit planning, population identification and sampling methods, data collection and audit reporting.
- Participating as founding members of the International Law Enforcement Auditor's Association (ILEAA) and coordinating the first ILEAA conference in August 2007.
- Supporting its sworn and civilian professionals in their efforts to continue their training and improve their audit expertise.<sup>114</sup> Additionally, since March 2007, AD's professionals, through the Association of Local Government Auditors (ALGA), participated in peer reviews of the audit quality control systems for the City of Phoenix, City of Dallas and the City of Richmond, Virginia. AD is preparing to have a peer review of its audit quality control system by a team from ALGA.

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course has been attended by 414 LAPD employees and 251 employees from 42 other law enforcement agencies throughout the United States and Canada.

<sup>114</sup> As of April 2009, 24 current employees of Audit Division held 41 certifications as a Certified Fraud Examiner (CFE), Certified Internal Auditor (CIA), Certified Public Accountant (CPA), Certified Governmental Auditing Professional (CGAP), Certified Fraud Specialist (CFS), Certified Government Financial Manager (CGFM), Certified Law Enforcement Auditor (CLEA), Certified Information Systems Auditor (CISA) and/or Certified Financial Crimes Investigator (CFCI).

- Responding to requests by other departments within the City Group and other external city agencies to conduct audits and provide consulting services.<sup>115</sup> Additionally, representatives from other Police Departments have met with senior management of AD to gain insights regarding how to establish an audit division and how to successfully complete an audit.

The Monitor provided varying degrees of input into these developments.

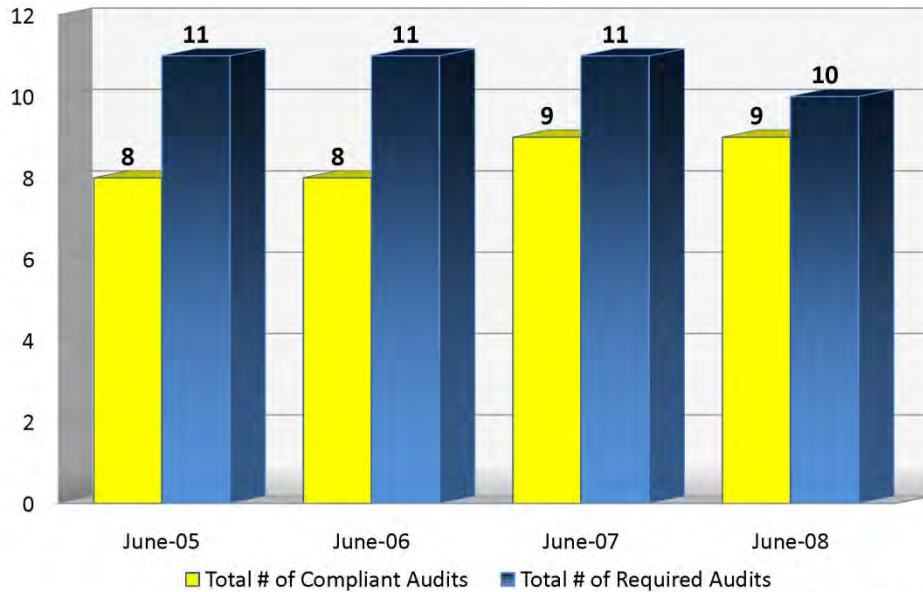
Despite the significant progress made by AD up to June 2004, during the next two years, the percentage of compliant audits decreased, as only eight of the required 11 audits were timely quality audits.<sup>116</sup> Although a determination of compliance was withheld with regard to one of the audits in each period, two audits in each year were found in non-compliance for a variety of reasons, including changes in how AD approached the audit, changes in Department policy resulting in greater interpretational concerns, and the Monitor's identification of new areas of concern that were not previously identified. As a result, although most of the audits were compliant, the overall number of compliant audits to total audits completed decreased in 2005 and 2006 as shown in the chart below.

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<sup>115</sup> In July 2007, audit personnel from Fiscal Operations Division were reassigned to AD to form a new team designated as the "Fiscal Audit Section." This team is lead by a Police Performance Auditor from AD. Additionally, AD was requested to conduct an audit that reviewed the policies and procedures for the Arson Unit of the Los Angeles Fire Department. This report was presented to the City of Los Angeles Board of Fire Commissioners in April 2009.

<sup>116</sup> The audits that were not found to be in compliance by June 2005 were AD's *Confidential Informants Control Packages Audit* and *Complaint Form 1.28 Investigations Audit*. The Monitor withheld a determination of compliance on AD's *CUOF Investigations Audit*. The audits that were non-compliant by June 2006 were AD's *Warrant Applications and Supporting Affidavits Audit* and AD's *Complaint Form 1.28 Investigations Audit*. The Monitor withheld a determination of compliance for AD's *GED Work Product Assessment Summary*.

### Compliant Audits to Total Required Audits



A determination of compliance was withheld for one audit in each of 2005 and 2006.

Notwithstanding that a few audits were non-compliant in 2005 and 2006, by June 2006 AD issued a total of 30 quality Consent Decree audits of which 26 had been submitted in the past three years (of the 32 total required audits). As many of the audits were in compliance for two years, the Monitor concluded that the Department had achieved substantial compliance with the pertinent paragraphs. The Monitor then revised its methodology for those areas/audits that were in substantial compliance for two consecutive years prior to the June 2006 extension. For some of these audits, the Monitor revised its methodology to perform a general review of the quality of the audit to gain assurance that the underlying areas being audited did not require active monitoring and that the quality of the audit had been maintained; for other audits, the amount of testing was reduced. For those audits that had not achieved substantial compliance, the Monitor continued with a full review of the audit report and associated documents.

Between June 2006 and June 2008, the audits that had been found in substantial compliance by June 2006 remained in substantial compliance. Additionally, by June 2008, the Monitor concluded that AD had achieved substantial compliance with three additional audit-related subparagraphs. To date, but for subparagraph 131a, AD has achieved substantial compliance with each of the Consent Decree paragraphs that require AD to conduct an audit. At the same time, AD has met all other requirements, including preparing annual audit plans and quarterly status reports for the Chief to provide to the Police Commission, and has acted as a resource to CRID and other departments to assist them in reviewing their processes and inspections so that the Department can achieve compliance. Furthermore, AD has acted as a resource for other

police departments on how to establish an audit unit. Based on these accomplishments, AD had led the way in how performance audits should be conducted.<sup>117</sup>

### **Consent Decree Compliance**

As described in the preceding section, the LAPD's AD achieved significant professional growth as an audit team over the past eight years. This development, which has had far-reaching effects throughout the Department, is reflected in the number of audits that were found in compliance as shown in the charts above. While AD's overall progress towards issuing compliant audits varied depending upon the type of audit, the audits generally fell into one of the following three categories:

- Audits conducted pursuant to paragraphs with which substantial compliance was achieved by June 2006 and limited reviews or reduced monitoring was conducted thereafter;
- Audits conducted pursuant to paragraphs with which substantial compliance was not achieved by June 2006 or which had other risks and required continued active monitoring; and
- Audits that have not yet been completed, as LAPD policy has not been developed, or which were one-time audits.

This next section describes AD's progress with the audits in each of these three categories.

#### *Audits That Were Substantially Compliant by June 2006*

There were five audits that the Monitor concluded were substantially compliant by June 2006: the *ABC Reports Audit*, *NCUOF Reports Audit*, *CUOF Systems Audit*, *Complaint Form 1.28 Systems Audit* and *GED Selection Criteria Audit*. The Monitor concluded that the first two of these audits could be subsequently monitored during the extension of the Consent Decree using a limited review of AD's audit methodology, while the other three could be subsequently monitored using smaller sample sizes than were used by the Monitor in its testing to June 2006.

#### *Substantially Compliant Audits Monitored With Limited Reviews of AD's Audit Methodology*

AD first achieved full compliance with the Department-wide and gang-related requirements relative to its *ABC Reports Audits* and its *NCUOF Reports Audits* in 2004 and 2005. Since these audits were found in compliance for two consecutive years, the Monitor concluded in June 2006

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<sup>117</sup> AD's significant development over the past eight years has also been recognized by the American Society for Public Administration, Los Angeles Metro Chapter, as it awarded AD with the Henry Reining Outstanding Organization Award on May 15, 2008.

that the Department was in substantial compliance with the required subparagraphs. The Monitor further determined that subsequent audits of these topics required only limited reviews of the audit methodology during the extension of the CD, rather than active monitoring. The purpose of the Monitor's limited reviews was to determine if AD used the same methodology as it had in prior compliant audits. The limited reviews consisted of comparing the current audit report, work plan, audit matrices and population documentation with the prior year's audit report, work plan, audit matrices and population documentation to determine if any change in methodology or findings warranted further review.

In each of the three years of the extension of the Consent Decree, the Monitor's limited review of audits did not identify any concerns that suggested these audits were not of the same quality as prior compliant audits. As a result, the Monitor concluded that the Department remained in substantial compliance with these paragraphs.

#### *Substantially Compliant Audits Monitored Using Reduced Testing*

In order to meet the Consent Decree requirements relative to the *CUOF Audit* and the *Complaint Form 1.28 Audit*, in June 2004 and December 2005, respectively, AD began splitting these audits into two reports: an interim audit report that covered those paragraphs that largely address specific process issues and a final audit report that assessed the quality of the CUOF investigations or the Complaint Form 1.28 investigations. By June 2006, AD's *CUOF Systems Audit* was found in compliance three times<sup>118</sup> and its *Complaint Form 1.28 Systems Audit* was found in compliance twice.<sup>119</sup>

The Monitor concluded that AD's subparagraph 131b *GED Selection Criteria Audit* was a compliant audit for the first time in December 2004 and then again in September 2005.

While each of these audits was in compliance for two consecutive years by June 2006, the Monitor concluded that it needed to monitor the audit methodology, as well as a sample of the topics tested in these audits, as these audits either reviewed paragraphs that were not in compliance or reviewed higher risk areas. Although the Monitor was confident that the audits would remain substantially compliant, to ensure this was the case, the Monitor completed a review of the report, audit work plan, audit matrices and population documentation as it did for the limited reviews and then conducted additional testing by selecting a sample of items to review AD's conclusions in relation to each item in the sample. The Monitor reduced its sample size from reviews of prior audits by using a one-tailed test and an error factor of +/-7% rather

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<sup>118</sup> The Monitor assessed compliance in September 2004, June 2005 and June 2006.

<sup>119</sup> The Monitor concluded that these were compliant audits in March 2005 and March 2006. The Monitor also concluded in June 2004 that AD's *Complaint Form 1.28 Audit*, which assessed both the systems and the quality of the investigations, was also compliant.



than using an error factor of +/-4%. This significantly reduced the size of the Monitor's samples from those used in prior reviews of these audits.

Based on the Monitor's reviews of these audits during the extension, the Monitor concluded that the Department remained in substantial compliance with these subparagraphs.

*Audits That Were Not Substantially Compliant by June 2006 or Audits with Other Risks*

There were four audits that the Monitor concluded were not substantially compliant by June 2006 and one audit which had other risks associated with it. The four audits which had not achieved substantial compliance consisted of AD's *Warrant Applications and Supporting Affidavits Audit*, *Confidential Informant Control Packages Audit*, *Categorical Use of Force Investigations Audit* and the *Complaint Form 1.28 Investigations Audit*. The Monitor concluded in June 2006, that although AD's *Motor Vehicle and Pedestrian Stops Audit* had achieved substantial compliance, there were other risks associated with this audit; accordingly, the Monitor concluded that this audit should continue to be actively monitored.

*Warrant Applications and Supporting Affidavits Audit*

AD's July 2002 *Warrant Applications and Supporting Affidavits Audit* was the first audit report issued by the LAPD that the Monitor concluded was a compliant audit. Although another *Warrant Applications and Supporting Affidavits Audit* was not issued until March 2004, the Monitor found this audit and the subsequent audit issued in February 2005 in compliance. However, the Monitor concluded that the February 2006 *Warrants Application and Supporting Affidavits Audit* was not in compliance, as the Monitor identified numerous instances of non-compliance within the packages that were not identified by AD. Consequently, the Monitor could not conclude that the Department was in substantial compliance by June 2006, and the Monitor continued to actively review subsequent audits.

The Monitor concluded that AD's December 2006 *Warrant Applications and Supporting Affidavits Audit* was non-compliant, as it contained numerous anomalies within the individual warrants, as well as packages in which the COs' analyses or the supervisors' debriefing summaries were insufficient. In its next two reviews, the Monitor concluded that AD's December 2007 and 2008 *Warrant Applications and Supporting Affidavits Audits* were compliant notwithstanding some concerns identified regarding supervisory oversight.<sup>120</sup> While these concerns would not have changed AD's overall conclusions, in light of the concerns expressed by the BOI regarding supervisory oversight, the Monitor recommends that AD continues to ensure in its assessment of supervisory oversight that the comments in the supervisor's debrief, CO's analysis and the comment card are specific to the search warrant and the supervisor in charge

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<sup>120</sup> Although AD had appropriately concluded the Department was not compliant with supervisory oversight, in some packages the Monitor identified other concerns in relation to the quality of the supervisors' debrief summaries and a lack of specificity in relation to the commanding officer's analysis and comment cards.

of the warrant and that they address the Department's policy requirements. Since this audit has been in compliance for two years in a row, the Department is now in substantial compliance.

#### *Motor Vehicle and Pedestrian Stops Audit*

The Monitor found AD's 2005 and early 2006 *Motor Vehicle and Pedestrian Stops Audits* in full compliance with the requirements of the Consent Decree to review the general population of stops and gang officers' stops. As a result, the Department achieved substantial compliance with the relevant subparagraphs by June 2006. However, since the Department was reviewing how the stops data were collected and whether or not the data could be used to assess if this Department's officers were racially profiling, the Monitor concluded that subsequent *MV&PS Audits* should continue to be actively monitored.

AD's first audit of this topic issued during the extension, the December 2006 *MV&PS Audit*, was in compliance with the requirements relating to Department-wide stops, but the Monitor withheld a determination of compliance in relation to the gang officers' stops, as AD's findings were based on a review of only one GED officer. AD did not submit a subsequent *MV&PS Audit* in December 2007 or December 2008 as the Department was changing how it collected the data needed to complete this audit. Going forward, once the Department has finalized the procedures for collecting data related to motor vehicle and pedestrian stops, AD will need to review the procedures and design an audit to test if they are being followed.

#### *Confidential Informant Control Package Audit*

The Monitor concluded that AD's June 2003 and June 2004 *Confidential Informant Control Packages Audits* were compliant audits. However, AD's June 2005 *Confidential Informant Control Packages Audit* was not in compliance, as the Monitor disagreed with how AD assessed and reported compliance for several substantive paragraphs, and AD did not identify various anomalies within individual CI packages. Consequently, the Department had not achieved substantial compliance with the required subparagraphs by June 2006, and the Monitor continued to actively review subsequent audits during the extension. The Monitor determined that AD's June 2006 and September 2007 *Confidential Informant Control Packages Audits* were in compliance; as a result, the Department achieved substantial compliance and the Monitor conducted a limited review of this audit in September 2008, concluding that the Department continued to be in compliance.

#### *CUOF Investigations Audit and Complaint Form 1.29 Investigations Audit*

The Monitor found AD's 2004 *CUOF Investigations Audit* and its 2004 *Complaint Form 1.28 Investigations Audit* compliant, but these were the only audits of these topics that were compliant through June 2006. Other audits of these topics prior to this date were non-compliant for a variety of reasons, including incomplete scope and issues that were not

identified by AD. Consequently, by June 2006, the Department was not in substantial compliance with the Consent Decree paragraphs requiring these investigative audits.

The Monitor found AD's *CUOF Investigations Audit* in compliance in September 2006 and 2007 and, as a result, conducted only a limited review of the subsequent audit in September 2008. The Monitor found AD's *Complaint Investigations Audit* in compliance in June 2007 and June 2008. As a result, the Department achieved substantial compliance with the Decree requirements relative to these audits.

#### *GED Work Product Assessment Summary*

In September 2003, December 2003 and March 2004, the Monitor found AD's *GED Work Product Assessment Summaries* were quality audits, but could not conclude they were compliant audits because they were conducted by AD rather than DOSD, contrary to the requirements of the Consent Decree. The Monitor concluded that AD's June 2004 audit was compliant after it was determined that the Court would approve a change in the Consent Decree to allow such audits to be completed by AD. In each of these four audits, AD assessed four or five GED units at a time.<sup>121</sup>

Subsequent to this, AD changed its approach to this audit by using its CAPAs as the primary source of information for these audits, which reviewed one or two Areas' gang officers' work product each quarter. Although the Monitor generally agreed that AD could use its CAPAs for its *GED Work Product Assessment Summary*, the Monitor identified a number of concerns and weaknesses with AD's approach since 2004. During this period, the Monitor, AD and the OIG met on numerous occasions to discuss the intent of the pertinent Consent Decree requirements and the findings that should be included in audits conducted pursuant to them. While AD made significant progress with this audit, there were two Areas about which the Monitor and AD were unable to agree, primarily relating to what information needs to be included and analyzed in this audit.<sup>122</sup> As a result, the Monitor found the Department in non-compliance with Consent Decree requirements relative to this audit in December 2005, March 2008 and December 2008 and withheld a determination of compliance between December 2005 and December 2007 either because AD was going to submit a second phase of the report or was due to issue a new report with new methodologies.

In its quarterly reports, in light of the inconsistencies in AD's approach to this audit, the Monitor has provided the following guidance regarding the basic requirements for the *GED Work Product Assessment Summary*:

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<sup>121</sup> At that time, the Monitor understood that AD would be submitting a summary report that pulled the results of each of these quarterly reports together, as well as assess other requirements of paragraph 131a.

<sup>122</sup> AD believes this disagreement is due to philosophical differences regarding what this Consent Decree paragraph requires.

- This audit must assess and report on the work product of all gang units, including an analysis of trends or patterns among officers, supervisors and/or areas whose work product appears to contain indicia of untruthfulness or other forms of misconduct, including breaches of the law, LAPD policies and procedures or the Consent Decree, or whose work product otherwise merits further review;
- This audit must assess and report on the work product of the BGCs, specifically their subparagraph 106h inspections; and
- This audit must assess and report on the findings from any paragraph 128 audits or BGC inspections that appear to contain indicia of untruthfulness or other forms of misconduct by any GED units or individuals.

Although the *GED Work Product Assessment Summaries* conducted over the past four years have addressed one or more of these requirements, they have not addressed all of these requirements at the same time.

#### Other Audit Paragraphs

##### *Audit of Police Officer Training*

The Consent Decree required the Department to conduct audits within 18 months of the effective date of the Consent Decree of police officer and supervisor officer training, using independent consultants to determine how the LAPD training could be improved to reduce incidents of excessive use of force, false arrests and illegal searches and seizures and make greater use of community-oriented policing training modes that take into account factors such as cultural diversity.

The Department hired RAND as the independent consultant to complete the training audit. After evaluating RAND's review, the Monitor concluded that RAND's report was not specific enough to the LAPD, despite comments from both the Monitor and the LAPD. However, subsequent to this, the Monitor worked with the LAPD to define the training requirements and found the LAPD in compliance with Consent Decree requirements in December 2004.

##### *Audit of Skeletal Fractures*

The Consent Decree required the Department to conduct audits within 18 months of the effective date of the Consent Decree of all uses of force resulting in skeletal fractures known to the LAPD, including the frequency of occurrence of skeletal fractures, medical care provided and quality, thoroughness, disposition and timeliness of the chain of command investigation and review of uses of force resulting in fractures.

The Monitor initially found the Department's *UOF-Skeletal Fractures Audit* non-compliant in March 2003, as it did not address many of the criteria required by the Consent Decree. The

Monitor next reviewed compliance with this paragraph in March 2005 in connection with a request by the DOJ that the Monitor perform an additional review to determine if skeletal fractures that occurred as a result of a NCUOF were subjected to sufficient oversight by the Department. The Monitor withheld its determination of compliance due to the small number of incidents that occurred after the issuance of Special Order No. 13, *Non-Categorical UOF Reporting – Revised*, which prevented the Monitor from determining if the investigations met the intent of paragraph 134. Subsequently, the City and the DOJ requested that the Monitor determine whether the intent of this paragraph and its one-time audit requirement had been met. In September 2005, the Monitor concluded that the intent of this paragraph was to determine whether sufficient scrutiny was provided by the Department of uses of force involving skeletal fractures. The Monitor concluded that with the introduction of Special Order No. 13 and the higher level of scrutiny it requires, the intent of this paragraph was met.<sup>123</sup>

#### *Audit of Financial Disclosure*

As described in section 5, below, the Financial Disclosure Audit was not completed and financial disclosure is subject to the Transition Agreement.

### **Recommendations**

The Monitor commends AD for all of its accomplishments over the past eight years. AD's highly professional audit team has not only worked to make the LAPD a better department through its audits, training and reviews, it has also assisted numerous other police agencies and community organizations to develop their own audit resources. While the Monitor is confident that AD has the processes and the people in place to ensure that it will continue to maintain the quality of its audits going forward, AD will be facing new challenges when the Department is no longer under the Consent Decree. As it faces these challenges, AD will need to address a number of significant areas as it transitions to conducting audits required by the Department. These issues include reviewing its audit standards, the standards it uses to evaluate LAPD's policing practices, revisiting its audit plan, maintaining an independent mindset and addressing any potential conflicts that may arise as a result of combining AD with the Inspections group.

#### *Standards Used to Conduct the Audits*

AD has indicated in its audit reports that it has been using Generally Accepted Government Auditing Standards (GAGAS) since January 2007.<sup>124</sup> Additionally, as described earlier in this

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<sup>123</sup> In September 2005, the Monitor introduced a new report card category "Compliance with Intent," which was utilized in situations where the Consent Decree requires a one-time effort that upon initial review did not meet the requirements, but has since been found to meet the functional intent of the paragraph.

<sup>124</sup> The Monitor's reviews did not address whether AD conformed to GAGAS, as the Monitor's reviews were confined to assessing whether the audits complied with Consent Decree requirements.

report, AD developed an Audit Charter and Audit Protocol which codifies AD's role within the Department, its overall audit standards, documentation access, staff requirements and responsibilities.

During the past eight years, the Consent Decree mandated that AD complete its audits in accordance with the specific requirements of paragraphs 128, 129 and 131 of the Consent Decree. AD therefore used these requirements to define the framework for its audit objectives. AD may wish to continue to use this framework for its audit objectives in future audits. Either way, AD should codify the specific standards that it intends to follow in the conduct of its audits, ideally within their Audit Protocol. In this way, its audits will be governed by GAGAS, by its Audit Protocol and by its Audit Charter, which will form the framework by which AD conducts its audits and will help to ensure that AD continues to issue quality audit reports that assess whether or not the Department is compliant with its policies and procedures.

#### *Standards Used to Evaluate the LAPD's Policing Practices*

The framework for AD's audits to date has been based primarily on an evaluation of the LAPD's policing practices compared to the standards described in the Consent Decree and further clarified by the Department's policies. In other words, the Consent Decree represented "the standard" for AD's Consent Decree-mandated audits. Although AD has referred to the Department's policies and procedures in its audits, historically it has generally reported a breach in policy as an "Other Related Matter" rather than as a compliance issue.

When the Department is no longer governed by the Consent Decree, the Department's policies and procedures will represent "the standard." As AD makes this shift in its audits, AD will need to update its audit matrix questions and compliance reporting structure so that it evaluates the Department's policing practices based on the LAPD's policies and procedures.<sup>125</sup> In this way, AD's audits will address the BOI's recommendation that audits be conducted to determine whether the Department is following established policies and procedures. Furthermore, as AD will now have a choice as to what parts of a policy will be tested in its audit objectives, the Monitor recommends that if AD elects to not test certain parts of a policy,<sup>126</sup> this information

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<sup>125</sup> AD could continue to use the Consent Decree as the standard for any topics that are not fully addressed in a policy.

<sup>126</sup> In some cases, in particular with AD's *Warrants Application and Supporting Affidavits Audit*, the Monitor identified areas within the policy that AD does not test, as it does not believe there are risks associated with these areas. For example, whether the supervisor's debrief is prepared within 24 hours of the search warrant service and whether the warrant tracking log contains all the information required by policy.

should be included in the audit report so that management is aware of this fact and can assess the implications.<sup>127</sup>

### *Audit Plan*

Currently AD plans to continue with the same audits that were required by the Consent Decree, as well as the CAPAs, through to June 2011. During this period, AD should assess if it is appropriate to continue with these same audits or if there are other audits that should be considered. In conducting this assessment, the Monitor suggests that AD look at various risk-based models to decide which audits to conduct. Some of the factors that AD may want to consider include:

- Are there audits in which the Department is fully compliant with the requirements tested and which AD could consider reducing the frequency of the audits, e.g., every second year rather than every year?
- Should AD focus on other areas of risk that may be identified in other audits, through complaints (either from the public or within the Department), or through other activities of the LAPD that are identified by the Department, the OIG, the Police Commission, the City or the public?
- Are there other entities, including the inspections area, that review related topics that provide additional oversight, which may allow AD to divert its resources to areas that do not receive additional review?
- Can AD provide insight into other areas, as recommended in this report, that AD has not previously reviewed, e.g., the LAPD performance appraisal process?
- Can AD make further use of TEAMS II in its audits?

### *Independent Mindset*

One of the greatest challenges for any audit team is that it continues to remain independent and skeptical in thought and action. To ensure AD maintains an independent mindset when conducting its audits, AD has introduced a robust analysis that covers different points of view. Since AD must serve as an independent body that will test whether the Department is complying with its own policies, it is particularly important for AD personnel to continue to remain skeptical and challenge reasons for substandard actions by Department personnel.

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<sup>127</sup> While AD's risk assessment may result in a decision by AD to only audit higher risk areas, AD should clearly describe the scope of their audits and should inform management regarding those sections of the policies that are not being tested. Currently, AD only defines the parts of the policy that are tested.

### *AD's Structure*

AD is now operating under a new structure, having merged with the inspections area into one combined division. There are advantages to this arrangement, as all audits and inspections are to be coordinated out of one division, allowing for standardization and consistency and the elimination of duplicate audits/inspections; however, the structure may also produce conflicts if AD is tasked with assessing the inspections, as is the case with the BGC Inspections. The Department will need to address this apparent conflict. The Department will also need to ensure that AD remains independent of investigative bodies such as FID and IAG so that it can continue to evaluate the work of these divisions.

Given the success of AD during the past eight years, the Monitor is confident that it will appropriately address these challenges going forward.

## **3. Inspector General Reviews and Audits**

The BOI concluded that the IAG, the IG, Department staff and command officers share responsibility to monitor and detect corruption within the LAPD. The BOI also concluded that the OIG should be provided sufficient staff to augment and support IAG's risk management monitoring efforts. Lastly, the BOI noted that the IG's role in the review of OIS cases needed to be defined and this role may include periodic audits of the process of investigating an OIS.

### **Consent Decree Solutions**

The Consent Decree addressed the responsibilities of the OIG in a number of areas, with a particular emphasis on the requirement to review and conduct various audits. It required the Department to provide to the IG copies of various audits required under the Decree,<sup>128</sup> so that the IG could review and evaluate each audit's quality, completeness and findings, and provide its evaluation of the audit to the Police Commission. In addition, the OIG was required to conduct its own audits of CUOF, NCUOF and Complaint Form 1.28 investigations.

In relation to TEAMS, the Consent Decree required the OIG to audit the quality and timeliness of the LAPD's use of TEAMS II to perform specific tasks required by the Consent Decree. It also required the OIG to periodically use TEAMS II to conduct audits of the LAPD and to review LAPD

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<sup>128</sup> This included all reports of specified audits prepared by the LAPD (which included those audits required under paragraphs 128, 129, 131, 132, 136, 137 and 138) and audits prepared in compliance with paragraphs 111, 113, 125, 126, 133 and 134. The IG was also authorized to request a copy of any other LAPD audit and evaluate it, at its discretion or at the direction of the Police Commission.



unit-specific and officer-specific audits,<sup>129</sup> as well as examine or identify at-risk practices as determined by trends within a unit or between and among units using the same criteria.

The Decree also required that the OIG be notified in a timely manner of all CUOF, and authorized OIG personnel to be present as an observer on CUOF roll-outs and at any UOFRB meeting.

Lastly, the Consent Decree required the OIG to receive, record and track complaints from LAPD employees alleging retaliation for reporting possible misconduct or at-risk behavior.

### **Overall Achievements of the OIG**

At the commencement of the Consent Decree, the OIG was a marginalized and thus ineffective operation that had little relevancy to how the LAPD performed. Today, the OIG is a respected partner in reform.

As the term of the Consent Decree began, the OIG set out to develop the policies and protocols that would enable it to fulfill its mandate to review UOF and complaint investigations<sup>130</sup> However, during the first two years of the Consent Decree, the OIG struggled with the requirements to review the Department's audits and conduct its own audits. As a result, the Monitor concluded that the OIG did not meet the requirements of the Consent Decree. In making this conclusion, the Monitor noted numerous issues: the OIG's audit samples were selected independently from the audit samples used by AD; the OIG's conclusions that the Department's audits were "generally thorough and complete" or "adequately addressed the issues set forth in the Consent Decree" were not supported or were inconsistent with findings in its reports; the OIG did not identify numerous deficiencies in the Department's audit reports, nor did it perform any population completeness tests; and, lastly, the OIG did not complete its reviews of the Department's audits and its own reviews of CUOF and NCUOF incidents and complaints on a timely basis.

By December 2003, although the OIG had achieved compliance with certain Consent Decree paragraphs related to its reviews of the Department's audits, resource constraints caused the OIG to be several months behind in its evaluations of many audits submitted by the Department, and more than a year behind in completing its own independent audits. This

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<sup>129</sup> These audits are to review officers demonstrating at-risk behavior as determined by their history of administrative investigations, (ii) misconduct complaints, (iii) discipline, (iv) uses of lethal and non-lethal force, (v) criminal or civil charges or lawsuits, (vi) searches and seizures, (vii) racial bias, (viii) improper arrests, or (ix) any other matter requested by the Police Commission or, subject to Charter section 573, any other improper conduct or at-risk behavior the IG has reason to believe exists.

<sup>130</sup> The OIG's Use of Force section developed a protocol on rollouts to UOF incidents. The LAPD also produced Special Order No. 17, which requires IAG to provide the IG with all complaint intake information.

pattern continued through to September 2004, when the Monitor expressed concern that the OIG had not yet effectively performed some of its mandated functions and questioned the OIG's ability to effectively oversee the LAPD given its inadequate resources.

In response to the issues raised by the Monitor, starting in 2004, the OIG began to develop tools to assist its staff in reviewing the Department's audits, conducting their own audits, and reviewing use of force investigations and complaint investigations. These tools consisted of matrices with questions that guided the auditor/reviewer through the documents they were looking at and a manual for conducting reviews, which was issued in the spring of 2005. In addition, in late 2004, the OIG commenced a reorganization of its entire office. This process involved converting existing "Management Analyst" positions into "Special Investigators" and "Police Performance Auditors," and recruiting candidates with the necessary legal, auditing and/or policy backgrounds to directly address the expertise issues that were preventing the OIG from achieving compliance in each area of oversight. Once an appropriate team of professionals was in place, the OIG developed a plan to approach the required reviews. For the OIG's audit team, this involved first issuing timely quality reviews of LAPD audits, and then addressing the requirements for completing its own reviews of NCUOF incidents and complaints. At the same time, the OIG's Use of Force section implemented the use of a matrix in conducting reviews of UOF incidents.

During the same period that the OIG was developing its resources and restructuring its team, the OIG worked in conjunction with the Monitor and the DOJ to change paragraph 136 to require the OIG to review rather than audit CUOF incidents, NCUOF incidents and complaints. Additionally, the focus of these reviews was changed to provide the OIG with more latitude in what the reviews would consider.

With the implementation of the changes described above, the OIG's compliance levels improved dramatically. The OIG achieved compliance with both the timeliness and quality criteria of its requirement to review the Department's audits in September 2005. After this, the OIG made significant strides in 2005 and 2006 in successfully implementing its role, and completed 16 timely reviews of the audits completed by AD and the EES. Additionally, the OIG conducted its first compliant reviews of complaints and CUOF and NCUOF incidents starting in March 2006 and June 2006. Each of these reviews and audits provided insightful comments, conclusions and recommendations to the Police Commission. By June 2006, the Monitor concluded that the OIG had developed a professional audit team that included police performance auditors and special investigators with the expertise to ensure that the OIG meets its mandate.

By June 2007, the OIG had completed a total of 30 quality reviews of Department audits. The OIG also continued to conduct quality reviews of CUOF, NCUOF and complaints. By July 2008, as a result of the number of compliant reviews, the Monitor concluded that the OIG had achieved substantial compliance with pertinent Consent Decree requirements and elected to conduct only limited reviews of selected OIG reports to ensure that the Department's compliance was maintained during the remainder of the extension period.

## Consent Decree Compliance

As described above, the OIG's transition to a team that consistently produced quality reviews and audits was achieved through a number of major initiatives and the development of a plan to address problems identified by the Monitor and to achieve compliance with Consent Decree requirements. This plan was implemented in various stages, starting first with its review of the Department's audits, then with the requirement to conduct its own reviews of UOF and complaints, and, lastly, once TEAMS II was implemented, with the requirements for the OIG to review the Department's use of TEAMS II and to use TEAMS II to conduct audits of the LAPD or to review LAPD unit-specific and officer-specific audits conducted by the LAPD.

### *Requirement to Provide Timely Reviews of AD's and the EES' Audits*

The Monitor concluded that the OIG's review of the Department's audits was in compliance for the first time in December 2002.<sup>131</sup> Although compliance was achieved based on the quality of the reviews conducted, the OIG did not submit quality reviews on a timely basis until June 2005. Subsequent to September 2005, although there were a few quarters in which the OIG did not submit its review on a timely basis, the Monitor consistently found that the OIG's reviews were quality reviews. From June 2006 onwards, the OIG submitted timely quality reviews of audits conducted by both AD and the EES.

### *Requirement for the OIG to Conduct Reviews of Complaints and CUOF and NCUOF Incidents*

As indicated above, the OIG completed its first compliant review of complaint investigations in March 2006. This occurred after the OIG implemented its restructuring strategy described in the preceding section. In June 2006, the OIG submitted a quality NCUOF review and the OIG's reviews of each CUOF incident, which were provided to the Police Commission, were determined to be quality reviews. Since that time, the Monitor concurred with most of the OIG's findings and concluded that the OIG continued to submit quality reviews of CUOF incidents, NCUOF incidents and complaints, notwithstanding significant disagreement from the Department regarding the findings from these reviews, both prior to the OIG issuing its reports and afterwards.<sup>132</sup> This ability to remain independent of the Department is a cornerstone of the OIG's future success.

### *Requirement to Review the LAPD's Use of TEAMS II Protocol*

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<sup>131</sup> This finding was based on the OIG's October 2002 review of AD's *Search Warrants and Supporting Affidavits Audit*, the OIG's November 2002 review of the Criminal Intelligence Group's *Confidential Informant Control Packages Audit* and the OIG's August 2002 review of DSD's *Gang Unit Use of Confidential Informants*.

<sup>132</sup> In some instances, during the closeout meetings and when the OIG's reports became public reports, the OIG has received substantial criticism for its findings from areas that were dissatisfied with the findings. This is to be expected given the OIG's oversight role.

Once TEAMS II was fully implemented in the spring of 2007, the OIG commenced its audit of TEAMS II, which requires the OIG to audit the quality and timeliness of the LAPD's use of TEAMS II to perform the tasks identified in paragraph 47. In this audit, the OIG split its review into two reports: a Phase I report, which covered system-generated action items, and a Phase II report, which covered supervisor-generated action items and routine system-generated action items.<sup>133</sup> The Monitor agreed with this approach and similarly split its evaluation of paragraph 137 into two separate evaluations.

The OIG submitted its TEAMS II Phase I audit in November 2007, its Phase II audit in June 2008 and another Phase I audit in October 2008. The Monitor concluded that each of these audits were compliant, and the Monitor provided input to the OIG regarding areas in which the OIG could improve its reviews. The Monitor anticipates that the OIG will address these requirements in the OIG's future TEAMS II audits.

#### *Requirement for the OIG to Use TEAMS II to Conduct and Review Audits*

The Monitor withheld a determination of compliance with requirements for the OIG to use TEAMS II to conduct and review audits in September 2008. In December 2008, the Monitor found the OIG in compliance with the requirement to examine and identify officers with at-risk behavior, but withheld a determination of compliance with the requirement to examine and identify trends. The Monitor and the OIG subsequently met and the OIG outlined a strategy for approaching the trending requirements which the Monitor concurs with.<sup>134</sup> Going forward, the OIG and Department will need to implement this strategy and the DOJ will need to confirm that the OIG has conducted sufficient review of at-risk practices or trends within units or between units. The Monitor is of the opinion that if the OIG implements this strategy, it will meet these requirements.

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<sup>133</sup> At the time the OIG issued its first TEAMS II report, it originally intended to include only supervisor-generated action items in the Phase II report. However, after the OIG issued its Phase I report, increased automation of TEAMS II significantly reduced the number of supervisor-generated action items but increased the number of system-generated action items. These new system-generated action items are not generated as a result of an officer exceeding a threshold, but as a result of a promotion or transfer. As a result, they are routine and involve less risk. These lower risk action items were also assessed in Phase II, along with any supervisor-generated action items.

<sup>134</sup> The strategy involves the OIG obtaining and reviewing action item reports on a semi-annual basis to identify areas that appear to be at risk for one of the criteria listed in paragraph 138a. After preparing a report of their findings, the OIG will submit this report along with suggested areas for discussion to RMEC for review and follow-up with the appropriate Department Captain or other senior management who should respond to the report in a reasonable time.

## Recommendations

Over the past eight years, the OIG has developed into a team of professionals that continues to consistently conduct quality reviews of Department audits and audits of the Department's CUOF, NCUOF and complaints. The OIG has also taken on other special projects, including reviews of specific incidents such as the MacArthur Park May Day incident that occurred in 2007. The Monitor believes the OIG is well-positioned to continue its role of civilian oversight of the Department and to take on further responsibilities previously held by the Monitor. At the same time, the Monitor worries about the independence of the OIG under a different Police Chief or a different Police Commission. The City family needs to look at potential structural changes that can ensure independence in the future.

In order to be successful at this role, it is critical that the OIG remain independent and challenge the findings of FID, AD, IAG and other groups within the Department. For the most part, the OIG has accomplished this task in the past three years, notwithstanding significant feedback from the Department in response to reports that are less than favorable. This has ensured that the Department has addressed shortcomings in how it conducts internal investigations and audits of various areas.

Going forward, like AD, in order to ensure the best use of its resources, the OIG will need to assess which reviews it should continue to conduct and its approach to these reviews. The OIG may wish to maintain the same reviews, or it may be appropriate to take on additional reviews. As recommended above in relation to the OIG's reviews and use of TEAMS II, the OIG is still fine-tuning its approach to reviewing these requirements. The Monitor recommends that the OIG continues to challenge itself and the Department in how they use TEAMS II as a tool to improve the Department's ability to recognize at-risk officers and units. The Monitor commends the OIG for its progress and supports the OIG in continuing to develop as one of the primary oversight bodies of the LAPD.

## 4. Police Commission Oversight

The *Christopher Commission Report* dedicated an entire chapter to the status and role of both the Police Commission and Chief of Police, and their relationship with each other and other City entities. The Christopher Commission identified numerous systemic problems in relation to how the Police Commission functions and provides oversight. These included the inability of the Police Commission to review and monitor disciplinary matters, failure to provide sufficient information to the Police Commission so that it could effectively monitor the Department's uses of force or make policy recommendations. The Christopher Commission also reported that "although the Police Commission is responsible for reviewing and approving the Department's annual budget, it has insufficient resources to participate meaningfully in the budget

process,”<sup>135</sup> and cited a lack of ability on the part of the Police Commission to ensure that a recommended policy change was implemented by the Department. Overall, the Christopher Commission concluded that “the Police Commission – while given broad authority over the Department and its Chief – has neither the resources nor the real power to perform effective oversight and control.”<sup>136</sup>

The BOI focused on the role of the Police Commission in reviewing OIS incidents in order to ensure a complete, thorough and impartial examination of how these incidents are reviewed. This process includes reviewing the Chief of Police report<sup>137</sup> and issuing a report of the incident.

Although the DOJ’s *May 2000 Letter Report* did not specifically refer to the role of the Police Commission, the DOJ indicated that they interviewed members of the Police Commission as part of its investigation, which cited deficiencies in LAPD policies and procedures that resulted in multiple concerns regarding supervisory oversight and an overall failure to implement a system that would identify and respond to patterns of at-risk officers. Since the Police Commission is the ultimate oversight body for the LAPD, these concerns suggested problems with the oversight provided by the Police Commission.

### **Consent Decree Solutions**

The Consent Decree required the Police Commission to review and evaluate all CUOF to determine conformance with LAPD policies and procedures, and the requirements of the Consent Decree. The Commission’s findings were to be included in a publicly available annual report.

The Police Commission was also charged with reviewing various audits to determine whether changes in LAPD policies were necessary; all such changes were to be approved by the Police Commission. In addition, the Police Commission was required to conduct annual reviews of the Chief of Police and was also charged with investigating complaints against the Chief of Police. While conducting its annual review of the Chief of Police, the Police Commission was required to consider the Chief’s responses to UOF incidents, complaints of officer misconduct, assessment and imposition of discipline, and other specified matters.

The Commission was also required to continue to review and approve the LAPD’s budget requests.

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<sup>135</sup> See page 192 of the Report of the Independent Commission on the Los Angeles Police Department, 1991.

<sup>136</sup> See page 207 of the Report of the Independent Commission on the Los Angeles Police Department, 1991.

<sup>137</sup> For each CUOF incident, the Chief issues a report analyzing the incident and assessing whether or not there are concerns with the officers’ tactics.

## Overall Achievements of the Police Commission

On March 20, 2001, the Police Commission passed an Action specifically requiring that the review of CUOF investigations must include a determination that the officer acted in compliance with the Consent Decree and report its findings to the Chief of Police regularly. After review of each CUOF, the IG prepares an analysis of the incident and forwards it to the Commission as their independent review. The IG's analysis, the Chief's recommendations and the FID report are presented to the Police Commissioners for their review and adjudication. Discussions regarding the incidents are held with the Chief of Police in closed session. Overall, disagreements concerning the ultimate outcome of an incident are rare.

The Police Commission's Annual CUOF Reports have contained a great deal of informative information. The first report reviewed by the Monitor was for incidents which occurred and/or reviewed by the IG and Police Commission during 2001. The Monitor found that report to be especially informative when discussing gender, ethnicity and age of both the suspects and officers involved in the CUOF incidents.

The OIG noted that it was difficult to track training for officers involved in CUOFs when it had been recommended by the Chief of Police. As a result, the Commission directed the Department to develop a process to ensure that all directed training was tracked.<sup>138</sup> The OIG also began to track that officers had actually received the training and requested that the Department report the status of the training to the Commission on a monthly basis.

The Police Commission initially had problems developing a system to track audits conducted by the LAPD and reviews or audits conducted by the OIG. The Monitor provided assistance in developing a process to track these audits in September 2003, and the Police Commission presented its system to the Monitor in September 2004. By September 2005, the Police Commission had successfully implemented this system so that it could track all audits and reviews. Since that time, the Police Commission has continued to refine its system to ensure that it reviews all audits, considers if any changes in policy are needed as a result of the audits, and receives feedback from the Area command staff explaining any deficiencies identified in the audits and the steps taken to resolve these deficiencies.

Early in the Consent Decree, the Monitor also found that there was no tracking system at the Police Commission that could be compared with the records maintained by the IG to determine if all complaints received by the Police Commission were forwarded to the OIG. During the quarter ending December 31, 2002, the Monitor recommended that a record-keeping system be put in place at the Police Commission to track all misconduct complaints filed against the Chief of Police in order to allow for comparison with records maintained by the Inspector General and

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<sup>138</sup> Implementation of Special Order No. 17, *Training Update Subsequent to a CUOF*, provides officers with training for issues raised during the initial stages of CUOF investigation. Training is required to be provided within 21 days of the incident.

contained on the Chief's TEAMS Report. Early in 2003, the Police Commission established a log for the purpose of tracking complaints filed with the Commission against the Chief of Police.

## **Consent Decree Compliance**

### *Police Commission's Review of Categorical Use of Force Incidents*

The Monitor reviewed CUOF packets that were submitted to the Police Commission on several occasions during the term of the Decree. In all instances, the packets were complete, containing all the necessary and appropriate documentation in order to evaluate the incident. As a result, in March 2006, the parties to the Consent Decree agreed that the Department had achieved substantial compliance with this requirement.

During most reviews conducted during the Decree, the Commission's Annual CUOF Report was found to address most Consent Decree requirements with regards to the publication of the report; however, there were delays in the publications of the 2002 and 2003 Annual Reports due to staffing problems of the OIG. Although these reports were of a quality nature once published, the delays resulted in a determination of non-compliance. As a result the Monitor continued to audit this requirement during the extension. The Monitor found that subsequent Annual Reports were in compliance with requirements regarding timing and content. As a result, the Monitor concluded that the Department was in substantial compliance with Decree requirements by the quarter ending March 31, 2008.

### *Police Commission's Review of Consent Decree Audits*

Up to September 2004, the Police Commission had either not developed a process to track the LAPD's and OIG's audits or the resulting analysis was missing several LAPD audits and OIG audits and reviews. Consequently, the Police Commission and its staff were unaware of the status of many of the audits/reviews expected to be issued. As a result, the Monitor found the Department in non-compliance with requirements regarding the Commission's reviews of Decree audits.

In September 2005, the Monitor determined that the Police Commission had developed a system for tracking the audits that contained most of the required information. Upon reviewing additional information in December 2005, the Monitor determined that the Police Commission had reviewed and approved all appropriate audit reports and considered if any changes in policy were needed. As a result, the Monitor concluded for the first time that the Department was in compliance with the audit review requirements.

The Monitor continued to review compliance with these requirements during the Consent Decree extension, as the Department had only achieved compliance once prior to the extension. In September 2006, the Monitor identified that the Police Commission had refined its system for tracking audits and again found the Department in compliance. By September 2007, in addition



to tracking the audit and review reports, the Police Commission instituted a system whereby command staff was required to appear before the Police Commission to explain any deficiencies and provide progress reports of actions taken to resolve the deficiencies. Based on these successes, in July 2008 the Monitor concluded that the Police Commission was effectively performing its oversight role relating to the recommendations from the audits and the Department was in substantial compliance with these requirements; the Monitor further concluded that active monitoring of compliance with these requirements was no longer required during the balance of the extension.

*Police Commission's Inclusion of Audit Results in Its Evaluation of the Chief of Police*

The Monitor first concluded the Department was in compliance with the requirement to include the audit results in the evaluation of the Chief of Police in December 2003. In June 2005, the Monitor withheld a determination of compliance as there was no specific indication that the Police Commission had considered the results of the audits in its evaluation, but the Monitor was informed that this information had been considered. The Monitor found the Department in compliance again in December 2005, as the Chief's review specifically considered the results of the audit. As a result, in June 2006, the Monitor concluded the Commission was in substantial compliance with this requirement, and did not actively monitor compliance with the requirement during the extension.

*Police Commission's Review and Approval of New/Changed Policies and Procedures*

In March 2003, the Monitor found the Commission was not in compliance with this paragraph, as the review of the policies and procedures was not completed on a timely basis. However, in September 2003, December 2004 and December 2005, the Monitor determined that the Commission was in compliance, in that they had reviewed and approved all new policies and that all special Orders and Procedures adopted by the Police Commission were date-stamped as approved by the Board of Police Commissioners. As a result, in June 2006, the Monitor concluded the Commission was in substantial compliance with this requirement, and did not actively monitor compliance with the requirement during the extension.

*Police Commission's Annual Review of the Chief of Police*

The Police Commission's annual review of the Chief of Police for the period covering July 1, 2002 through June 30, 2003, encompassed six distinct areas of performance, considered the requirements of the Consent Decree and included consideration of the Police Commission's assessment of the appropriateness of discipline imposed by the Chief. The Monitor concluded that this annual review was compliant with the Decree requirements. The Police Commission subsequently completed compliant annual reviews of the Chief of Police covering the periods

July 1, 2003 through June 30, 2004, and July 1, 2004 through June 30, 2005.<sup>139</sup> As a result, the Monitor concluded that the Department achieved substantial compliance with these requirements prior to the extension of the Decree, and the Monitor did not actively assess compliance with these requirements during the extension period.

*Police Commission's Investigation of All Misconduct Complaints Against the Chief*

Due to the sensitive nature of complaints filed with the IG<sup>140</sup> against the Chief of Police, the City only provided documentation directly to the Chief Monitor or his Deputy.

The LAPD was found to be in non-compliance with these requirements during the quarter ending June 30, 2003, due to discrepancies between the Chief's TEAMS Report and databases maintained by IAG and the OIG, and between documentation kept by the Police Commission and OIG. The Monitor found the complaint investigations to be thorough and of good quality, although one complaint was terminated due to the Chief's retirement. The Monitor found no policy or procedure in effect concerning the termination of complaint investigations upon the retirement of a Chief of Police. The IG represented to the Monitor that all future investigations will continue regardless of the Chief's employment status. The Monitor again found the Department in non-compliance during the quarter ending September 30, 2004, because the OIG had no written protocol for the investigation of, and reporting on, complaints against the Chief of Police.

The Monitor found the LAPD in compliance with requirements regarding the Police Commission's investigation of misconduct complaints against the Chief during the quarter ending June 30, 2005. The Deputy Monitor reviewed the status of OIG complaint investigations against the Chief of Police and determined that the OIG put into place written protocols for the investigation of, and reporting on, complaints against the Chief. The Deputy Monitor also reviewed the pending complaints against the Chief of Police and found them to be compliant with those protocols and with appropriate standards of investigation.

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<sup>139</sup> In the review covering July 1, 2003 through June 30, 2004, there was no specific indication that the Police Commission considered its assessment of the appropriateness of discipline imposed by the Chief in its evaluation. The Executive Director of the Police Commission indicated that he believed that this was considered, even if it was not specifically declared in its written evaluation. The Commission's next review for the period July 1, 2004 through June 30, 2005 specifically considered the Chief's responses to UOF incidents and complaints of officer misconduct, assessment and imposition of discipline.

<sup>140</sup> The OIG conducts investigations concerning misconduct complaints filed against the Chief of Police and maintains files pertaining to each investigation. At the conclusion of each investigation, the IG makes a recommendation to the Police Commission as to the appropriate disposition of the complaint. The Commission may adopt the recommendation of the IG or determine a different disposition.

At the end of the initial term of the Consent Decree, the Monitor found the Department in substantial compliance with these requirements, and compliance with them was not actively monitored during the extension period.

*Police Commission's Review and Approval of the LAPD's Budget*

The Monitor found during 2002, 2003, 2004 and 2005 that the Police Commission reviewed and approved LAPD budget requests before submission to the City. Each year, the Monitor noted the requested amount, the size of the increase from the prior year and date the approved budget request was forwarded to the City. As a result, the Monitor concluded that the Department achieved substantial compliance with this requirement prior to the extension of the Decree, and the Monitor did not actively assess compliance during the extension period.

## **Recommendations**

The Monitor commends the Police Commission for assuming a larger oversight role in the LAPD operations. In moving forward, the Monitor offers the following recommendations:

Since the Police Commission is the final authority on all activities related to the LAPD, the Police Commission must remain independent and impartial, but at the same time remain involved at a supervisory level in the activities of the LAPD and the COP. The current Police Commission has consistently shown the level of review and involvement needed. The Monitor encourages the Mayor and City Council to ensure that the future members they appoint and confirm to the Police Commission have the necessary skills, training and interest in the activities of the LAPD and the Chief of Police to maintain this level of review.

## **5. Financial Disclosure**

The Consent Decree required regular and periodic financial disclosures by all LAPD officers and other LAPD employees who routinely handle valuable contraband or cash and periodic audits of such disclosures. In addition, the LAPD was required to periodically audit a random sample of such disclosures to ensure their accuracy.

On January 17, 2006, the issue of financial disclosure came before the Court in the form of a motion filed jointly by the City and DOJ to amend the Decree as allowed by the "Meet and Confer" process required by California law. The City indicated that the proposed amendment to the Consent Decree was the product of that Meet and Confer process. The Monitor opposed the amendment in its February 16, 2006 filing because, in the Monitor's judgment, it did not fulfill the intent of the paragraph, which as written represents best practice with the potential of preventing corruption in susceptible positions in ways that the proposed amendment did not. The Court denied the motion to amend at a March 21, 2006 hearing, leaving the paragraph as unfulfilled and in non-compliance.

At the end of the initial period of the Consent Decree, the Monitor, with the approval of the parties, planned to actively monitor paragraph 132 during the extension period pending the full implementation of appropriate financial disclosure. Subsequent to the Court's decision, the City was unfortunately unable to reach an agreement with the Police Protective League on the appropriate parameters of financial disclosure, which led to the unilateral adoption by the Police Commission of the current policy.

On December 20, 2007, the issue moved forward with the proposal by the Police Commission of a policy intended to appropriately address the requirements of the paragraph. The Police Protective League took the position that the proposal violated California law and various meet and confer provisions, and filed suit in State Superior Court that same day seeking judicial intervention to prevent the adoption of the policy. The policy allows a two-year grace period for officers currently serving in affected units, thereby allowing officers who so object to the requirements to seek assignments in other units of the Department. The Monitor wrote at the time that "because of this grace period, it will not be possible to meet the requirement of two years of substantial compliance during the term of the current extension of the Decree. Accordingly, it is possible that the Court will require an extension of this provision to ensure two years of substantial compliance."

On January 15, 2008, the Los Angeles City Council asserted jurisdiction over the financial disclosure policy approved by the Police Commission but dropped its objection to the plan on February 6, 2008. Judge Feess granted a temporary restraining order on the implementation of the financial disclosure policy on June 13, 2008, and then decided on August 22, 2008 not to block the plan. The Police Protective League appealed the decision and on September 12, 2008, the 9th Circuit Court of Appeals put the financial disclosure policy on hold pending appeal. On February 27, 2009, the 9th Circuit rejected the Police Protective League's bid to block financial disclosure, and the LAPD vowed to implement the plan within 30 days.

As a result of the activity described above, substantial compliance with financial disclosure requirements has not been achieved, and the requirements are one of the subjects of the Transition Agreement.

## **6. General**

In addition to identifying the need to establish the AD and conduct audits on a regular basis, the BOI report identified that it was critical to track the implementation of recommendations from previous audits so that command staff do not make the same mistakes over and over again.

## **Consent Decree Solutions**

The Consent Decree required the City and the Department to take appropriate, timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Police Commission, the IG, and the Department under the Consent Decree.

## **Overall Achievements of the LAPD**

Initially, the City disagreed that this paragraph required any action by the LAPD. Notwithstanding this, CRID developed a Recommendations Tracking System (RTS), which was used to generate an *Audit Recommendations Status Report* for the Police Commission. This report listed each of over 500 recommendations from the LAPD and OIG's audits and reviews, tracked the steps undertaken to address such recommendations and identified which recommendations were to be implemented. Additionally, the OIG implemented a separate system in early 2005 to track the audit recommendations made from its confidential reviews of the EES quarterly reports. Over the term of the Decree, the LAPD has continued to update and improve the system, first by creating a more sophisticated database to better track the extensive number of recommendations generated by AD and the OIG and then by enhancing the information within the system to ensure that the relevant parties were aware of who was responsible for ensuring each recommendation was addressed by the Department.

## **Consent Decree Compliance**

In December 2002, the Monitor reported that there were numerous recurring deficiencies identified in successive audits that were not yet addressed, and neither the City nor the Department had developed a process to track the LAPD's implementation of recommendations emanating from audits and other reviews and reports required by the Consent Decree.

The Monitor reported in September 2003 that the LAPD had developed a system to track recommendations and to correct deficiencies identified in the LAPD's audits, but this process was incomplete, as there was not yet a process to track the OIG's audit recommendations and actions thereon.

The Monitor found the Department in compliance with paragraph 154 for the first time in December 2004 and again in December 2005, after reviewing CRID's *Audit Recommendations Tracking Reports* for each of the four preceding respective quarters and printouts from the OIG's recommendations tracking system for the EES audits. By December 2006, the Monitor identified that CRID had expanded the system to include other non-Consent Decree audits. The Monitor continued to find the Department in compliance with paragraph 154 in December 2007 and December 2008. As a result, the Department achieved substantial compliance with this requirement.

## Recommendations

CRID and the OIG have each created a database and system for ensuring that recommendations from reports are assigned, tracked, reviewed and assessed as to whether or not they should be implemented. The Monitor commends CRID and the OIG for creating these systems and encourages both bodies to maintain these systems.

## H. Community Outreach and Public Information

The Christopher Commission reported that the LAPD's approach to policing was a "professional approach" that emphasizes crime fighting and "isolated the police from the communities and the people they serve." The Commission wrote that although "this style of policing produces results," it "does so at the risk of creating a siege (we/they) mentality that alienates the officer from the community." The commission recommended that the LAPD move toward a community policing model that "treats service to the public and prevention of crime as the primary function of police in society." The commission wrote that "using a community-based style of policing, LAPD officers can continue to be active and energetic in preventing crime, as well as reacting to it, without unnecessarily aggressive confrontations with the public."

The *March 2000 BOI Report* noted a need for a community police approach, and noted that CRASH operations appeared to be lacking community involvement and community outreach. Due to the demographics of Rampart Area, the BOI wrote that the predominantly Spanish-speaking Central American immigrants, many of whom are undocumented aliens who fear deportation by the police, were "inherently reluctant or fearful of making complaints," thus allowing "corrupt officers [to be] freer to operate without the fear of being caught." A common theme in the report was that "officers must be reminded of the community problem-solving goal, especially those working in 'elite assignments' where the culture is viewed as more aggressive and seems to work under a different set of rules."

### Consent Decree Solutions

The Consent Decree required the Department to conduct a Community Outreach and Public Information program for each LAPD geographic Area. This program was to consist of open public meetings to inform the public about the provisions of the Decree and the methods of filing a complaint against an officer, and to provide information on the LAPD and LAPD operations in order "to enhance interaction between officers and community members in daily policing activities." These meetings were to be held each quarter in each of the 18 geographic Areas in the first year of the Decree, and one meeting in each Area held annually thereafter. The City was also required to publish notice of the meetings.

The Department was also required to prepare and publish on its website semiannual public reports. These reports were to contain aggregate arrest, stops and UOF statistics broken down by each LAPD geographic Area and for the OHB and by the race/ethnicity/national origin of the citizens involved. The LAPD was also required to post results of Consent Decree specified audits, a summary of all discipline imposed during the period reported by type of misconduct, and any new policies or changes in policies made by the Department to address the requirements of the Decree, as well as the City's semiannual status reports to the Court and the Independent Monitor's quarterly reports.

Lastly, the LAPD was required to continue to utilize community advisory groups in each geographic Area and to meet quarterly with the communities they serve, and to establish a media advisory working group to facilitate information dissemination to the predominant ethnicities and cultures in the city.

### **Overall Achievements of the LAPD**

At the outset of the Decree, the LAPD took immediate steps to comply with Consent Decree's community outreach requirements. First, the LAPD issued Administrative Order 8, dated July 25, 2001, which organized the Department's outreach programs and established new procedures that compliance with the Decree's requirements. Significantly, before the end of the first quarter of the Decree (September 30, 2001), all 18 LAPD geographic Areas scheduled and held their first Consent Decree-required community meetings, in which they presented all required information. The Department continued to hold the required community meetings during the remainder of the original term of the Decree.

On October 2, 2001, the first semiannual LAPD report was published on the Department's website, documenting the time period January 1 through June 1, 2001. In this report, the Department complied with the following publication requirements:

- Aggregate statistics by geographic Area;
- Report of specified audits and any corrective actions taken;
- Summary of all disciplinary actions; and
- New policies and procedures.

The Media Relations Group met in October 2001 and again in November 2001; the group included seven members from the various council districts and three members of the LAPD.

During the quarter ending December 31, 2001, the LAPD's Community Affairs Group published meeting schedules both on the City's and the Department's website well in advance of the actual meeting dates. Schedules were also posted in 11 citywide newspapers in the following languages: English, Farsi, Japanese and Spanish. Some divisions augmented the City's list of

publications and advertised in additional publications that were representative of their community. For example, the Southeast Division advertised their meeting in *New Times LA*, *African Times*, *LA Weekly*, *Herald Dispatch*, *LA Watts Times* and *Para Ti*. The Monitor found that although some divisions were thorough in documenting their efforts to comply with the Consent Decree, other divisions did not document where and when they placed flyers or who had presented at their meetings. Although meeting content was to focus on LAPD operations, each Division determined the subject matter to be covered. The Wilshire Division's meeting titled "Racial Profiling or Data Collection? Find out what the Consent Decree requires of the LAPD" was especially timely with the beginning of data collection in November 2001.<sup>141</sup>

The Media Advisory Group met on March 22, 2002, and again on November 22, 2002. The Monitor noted that only four people attended the latter meeting. The LAPD also successfully publicized and held quarterly Media Advisory Group meetings during the quarter endings March 31, 2003, and June 30, 2003.

Although the LAPD continued to post on its website much of the information required by the Consent Decree, not all of the required information was included. Information collected from pedestrian and vehicle stops was not posted, preventing the LAPD from complying with pertinent requirements during the quarters ending March 31, 2002; June 30, 2002; September 30, 2002; and December 31, 2002. The Monitor recommended that the Department organize all required reports/postings under one hyperlink to simplify access to this information. The Monitor found the LAPD in compliance with these requirements during the quarter ending March 31, 2003, as by that point the LAPD's website now contained all the required information, including: pedestrian and traffic stop data for the period evaluated, a summary of all discipline imposed during this period, reports of audits completed during the period, and new policies or changes in policies made by the Department to address the Consent Decree for the relevant six-month period. The Monitor found that the website continued to contain all of the required information during all subsequent assessments made during the remainder of the original term of the Decree.

The LAPD publicized and successfully held a Media Advisory Group during the quarter ending September 30, 2003, which focused on outreach to the city's Korean community. Two

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<sup>141</sup> During the quarter ending March 31, 2002, the Monitor discovered alarming evidence that certain officers were making negative statements at community meetings about the Consent Decree and the Monitor. They portrayed the Decree as a frivolous exercise imposed from outside that the LAPD must endure for the next five years, rather than an opportunity for substantive reform. In striking contrast, the Monitor noted that an officer responsible for a meeting in the Foothill division made a thorough and quite professional presentation, explaining that the Consent Decree had been imposed as a result of the Rodney King and the Rampart scandals, and because the government believed the Department had engaged in racial profiling. He told the audience that "all of the points included were good and it would not hurt the Department to implement them."



representatives from Councilmember Jan Perry's office attended. However, no meeting was held during the quarter ending December 31, 2003, due to a lack of response from Media Advisory Group members.

### **Consent Decree Compliance**

As described above, within the first six months of the Decree, the Department enacted new policies to provide for the required community meetings and publishing of information to the Department's website. And, by the first quarter of 2003, all of the requirements of the Decree, including the posting of all required information on the Department's website were in compliance.

The Monitor found the Department in compliance with requirements regarding community advisory groups and a media advisory working from December 2002 to September 2003, but found the Department in non-compliance in December 2003, as a meeting was not held due to the lack of response from Media Advisory Group members. However, the parties requested an amendment to this requirement, among others, in their Joint Request to Amend the Consent Decree Pursuant to Paragraph 180 of the Consent Decree, filed with the Court on April 15, 2005.<sup>142</sup> On June 2, 2005, the Court approved the amendment, which added "through the third year of the Consent Decree" to the original text in order to read, "The Department shall establish a media advisory working group to facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles through the third year of the Consent Decree."

As a result, the Department achieved substantial compliance with all requirements of this section of the Decree by the expiration of its original term, and the Monitor did not actively monitor compliance with these requirements during the extension period.

### **Recommendations**

The Monitor commends the LAPD for the accomplishments it has made in achieving compliance with the requirements in the area of community outreach. Policies and procedures are in place, and the oversight role of AD, the Police Commission and the OIG continues to ensure that the policies and procedures are followed, and that deficiencies are corrected and recommendations

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<sup>142</sup> The parties wrote in their filing that "the media advisory group was appropriate during the first year of Decree implementation" and that "the media group has served its purpose, as illustrated by the media's unwillingness to attend meetings." As "efforts to work with the media to facilitate delivery of information to all Los Angeles communities are now better served by other LAPD public relations efforts," they wrote, "the requirement for a media advisory group should sunset at this time."

are implemented. The Monitor is confident that the Department will continue to be proactive in the area of community outreach, and offers the following recommendations in this regard:

- The LAPD should continue posting all required information on its website. The Department may consider having the information available for those members of the public who do not have Internet access.
- The LAPD should maintain its partnership with Community Police Advisory Boards (CPABs) for all Areas and continue to report to the Police Commission on their activities.

### **III. Conclusion**

Over the past eight years, the Monitor has approached the oversight of LAPD as being controlled by the specific mandates of the Consent Decree and the overall intent of the Decree. The mandates of the Decree, as found in its 90 pages, were operationalized in a 200-plus page methodology that required hundreds of specific actions by the LAPD, and described the metrics by which the Monitor was to statistically measure progress toward >94% compliance. This disciplined and technical approach was at times frustrating for all parties, but the granularity was necessary in order to ensure that real reform was taking hold across the Department. At the same time, the Monitor never lost sight of the overall intent of the Decree: to help transform the LAPD into a department that effectively fights crime while honoring and protecting the rights of the residents of Los Angeles.

In the areas of officer-involved shootings and use of force investigations, training, auditing, handling of the psychologically disturbed, complaint acceptance and investigations, the use of Early Warning Systems and risk assessments, and the role of an Inspector General, Los Angeles is a model for best practice policing in the United States and abroad. But these areas of improvement may still be too granular if it causes us to miss the more subjective changes in attitude and realization of responsibility that we have seen over the past eight years. Eight years ago, respect for civil rights by the LAPD was, at times, viewed as a reason for non-policing. We heard, for example, how officers would not make stops if they were required to complete Field Data Reports on stops they were making. We saw, while on ride-alongs, the mentality of an occupying force on the part of the officers and a not unsurprising resentment and distrust of police on the part of those being occupied. Today, there is not just general acceptance of the best practice policing that the Consent Decree has fostered but, for the most part, a willing adoption and understanding of the importance of these practices in fighting crime effectively by creating goodwill in the community. Today, communication with, respect for and caring about the community is the standard practice of a new LAPD.

With this Final Report, the Monitor recommends to the Court that the City of Los Angeles and its Police Department be found in substantial compliance with the Consent Decree and, consistent with the Transition Agreement, be released from its strictures. Our recommendation to the Court is made not because every paragraph has been fully complied with, or because there is no need for continued reform, or that there is absolute certainty about the future of LAPD. Rather, the Monitor recommends the finding of substantial compliance because we believe that the City and Department have complied with the material intent of the Consent Decree. While there is still room for additional reform, as required by the Transition Agreement, we believe that the significant accomplishments to date have brought us to the point where, with oversight provided by the Police Commission and Office of Inspector General, the LAPD can, itself, effectively maintain and advance reform while at the same time ensuring the public's safety.

Our recommendation does not come without reservations. We believe the Transition Agreement is crucial to complete the work on three important initiatives: Teams II, biased policing and financial disclosure. In addition, we are mindful that, inevitably, changes in the factors and personalities that have brought about reform will occur. The consistency of the oversight of the Federal Court, the Department of Justice and the Monitor will end, and there will, at some point, be a new Police Commission, a new Police Chief and a new Mayor. The question is: Will the institutions of Los Angeles, under new management, be able to protect and enhance the reforms that have been achieved? The City and its stakeholders must give careful and continuing consideration to the question of how to best perpetuate the changes that have been made. How can a vigorous and independent Inspector General and Police Commission be assured? What steps can be taken to further promote the institutionalization of internal audit, training, non-biased policing and the use of TEAMS II? While these are issues outside the scope of the Consent Decree, they are challenges that must be met in order to make the past eight years meaningful and the reforms achieved enduring.

## Acknowledgments

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That which has been achieved could not have been done without the dedication of the vast majority of the men and women of the LAPD. Specifically, the Monitor extends its thanks to the following police personnel who were most intimately involved in bringing reform to LAPD: In addition to Chief Bratton, former Chief Bernard C. Parks and former Interim Chief Martin Pomeroy. From the LAPD Consent Decree Bureau (with rank at the time): Police Administrator III Gerald Chaleff, Executive Secretary Armida Lomeli, former secretary Sally Greer, Lt. Scott Sargent, Lt. Brian Pratt and Lt. Rosa Moreno. From the LAPD Audit Division (with rank at the time): Capt. Ron Sanchez, Capt. Walt Schick, Capt. Jodi Wakefield, Lt. John Baronowski, Lt. Tina Nieto, Lt. Kelly Muldorfer, Lt. Art Sandoval and Police Performance Auditor IV Erin Kenney and all of AD's project managers and other audit team members. From the Civil Rights Integrity Division and Consent Decree Bureau (with rank at the time): Capt. Scott Kroeber, Capt. Sandy Jo MacArthur, Capt. Kevin McClure, Lt. Jeff Greer, Lt. Len Hundshamer, Lt. Robert Lopez, Sgt II Alex

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A number of members of the Monitor's team, in addition to Mr. Cherkasky and Mr. Schlanger have served for the entire eight years of the Consent Decree. These include Tom Frazier, our designated policing expert and former Commissioner of the Baltimore Police Department; Joe Buczek, a former agent with the Federal Bureau of Investigation, who headed our Use of Force and Complaints Team; and Christi Gullion, who ultimately led the TEAMS II, Search Warrant, Gang Unit and Confidential Informants teams. Hazel de Burgh served for all but the first six months of the Consent Decree as head of the Monitor's Audit Team. In addition, Penny Cookson served for more than five years as one of the core members of our Audit team and, for more than three years, assumed responsibility for managing the day-to-day operations of the team. Meg Reiss served for four years leading our Training and Biased Policing Teams, before leaving to become Executive Assistant District Attorney in Nassau County, New York. In addition there were many members of the team whose stays were relatively short, but whose contributions were significant: Edward Nagel, David Horner, Terry Penney and Andrew Shin on the Audit Team; and Lee Curtis, Daryk Roland and Kelly McBride on TEAMS II. A special thanks to Rene Salazar, who has served the team extremely well in a variety of both administrative and substantive capacities, and to Kathy Grillo who worked closely with Joe Buczek on the Use of Force and Complaints aspects of the Decree. Lastly, Ron Filak has worked tirelessly, mostly behind the scenes, and has provided invaluable assistance in the editing of this Final Report and the vast majority of our quarterly reports. Biographies of the current members of the Monitoring team appear in Appendix G.

Most importantly, the Monitor would like to thank the residents of Los Angeles whose quest for true reform throughout this process has been our driving force.

# Appendix D

# Final Report for the Comprehensive Review of the University of Cincinnati Police Department



Submitted to:  
The University of Cincinnati  
Office of Safety and Reform

June 1, 2016



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# I. Introduction

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The shooting death of Samuel DuBose is a tragedy that shook the University of Cincinnati (the “University” or “UC”), its Police Department (the “Department” or “UCPD”) and the Cincinnati community to their core. In the wake of that tragedy, the University Administration has commendably taken a series of steps to determine what led to the shooting and how to best ensure that mistakes of the past are never repeated. One such step was the engagement of the Exiger team to perform a comprehensive review of UCPD.

Over the last four months the Exiger team has spoken to a significant number of members of the University faculty, staff, administration, student body, as well as numerous Cincinnati residents and reviewed thousands of pages of documents in an effort to fully understand the improvements that are necessary to help transform UCPD into a model law enforcement agency by combining best practices of urban, university and community policing.

This is the Exiger team’s final report in which we present our findings and recommendations for remediation and reform of the organization. Many of the recommended reforms are significantly underway, some being undertaken even prior to our arrival. Our report consists of this Introductory Section, an Executive Summary including the “Fundamental Recommendations” which form the foundation for UCPD to become the model agency toward which it strives; a background section that covers the history of the UCPD, and the incident that gave rise to this assignment; a section outlining the scope of the assignment; followed by a section on the methodology utilized for completion of the assignment; and finally, a section containing the biographies of the members of the Exiger team. This is followed by a series of sections that cover each of the subject matter areas specified in the Request for Proposal. All told, there are 14 Fundamental Findings with 25 corresponding Recommendations, and there are 115 additional findings with 251 specific recommendations which the team believes, if implemented, will collectively transform the Department.

## II. Executive Summary

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It can be said that nothing is more important to the perception of fairness in government than the way in which that government polices its residents. This is no less true for a university police department than it is for a municipal or state police department. While the primary role of the police is to ensure public safety, the manner in which it does so, and the extent to which, as an organization, it follows the rule of law, and is true to its own mission and values, is as vital to the health of a law enforcement organization as the ultimate statistics measuring crime. The undertaking of a comprehensive review by the University is the first step in ensuring that all processes and operations of the UCPD are operating in an appropriate manner and represent best practices in policing today.

In executing this Review, the Exiger team collected and analyzed documents and conducted interviews pertaining to each of the 13 substantive areas covered by the scope of work with the goal of identifying gaps between the current state of the UCPD and its ideal state in terms of mission, values and the utilization of best practices.

Part of the Review necessarily included an examination of whether the UCPD is striking the appropriate balance between the measures necessary to ensure safety, deter crime and provide a sense of security to all its constituencies, and, the desire to maintain UC as a welcoming and open environment that serves not only a diverse faculty, student and staff population, but also the economically and racially diverse populations that live in the surrounding communities.

What we found was that, despite an extremely dedicated and good-willed staff of both sworn and unsworn personnel, many of the critical processes and functions of the department fell well short of best practice. We believe, however, that with the right oversight and a relentless commitment to purpose, best practices can, in relatively short-order, be woven into the fabric of the organization, with UCPD becoming a model for not only university policing, but moreover, for the community problem oriented policing (CPOP) model that holds the key to solving many of the issues facing policing in America today.

### A. Fundamental Findings and Recommendations

While all of the Findings and Recommendations contained in this report are important and represent best practice, the following Fundamental Findings and Recommendations lie at the foundation and core of the reform necessary to begin the process of addressing the shortcomings of the Department.

**Finding 1:** UCPD does not currently have a mission statement

that clearly describes its function, and reflects its basic philosophy.

**Recommendation 1A:** UCPD should adopt a mission statement that will serve as a foundation and guidepost for its going-forward reforms.

**Recommendation 1B:** UCPD's mission statement should (1) provide for the safety and security of faculty, staff, students and visitors, (2) promote concepts of fairness, non-biased policing with minimal intrusion, and (3) promote service to the broad University community.

**Finding 2:** The UCPD currently has no internal audit, inspectional service, or monitoring function.

**Recommendation 2A:** UCPD should establish an internal audit or inspectional service that reports directly to the Vice President of Safety and Reform.

**Recommendation 2B:** Critical areas and functions of the Department should be audited on a regular cycle, as memorialized in an annual audit plan.

**Recommendation 2C:** In addition to the audits, a voluntary monitoring function, similar to that imposed in the DOJ Consent Decrees, should be established to track each of the reforms outlined in the recommendations of this report and ensure that they are implemented according to the suggested or agreed upon schedule.

**Finding 3:** UCPD lacks an effective process for developing and managing new policies and procedures, and reviewing and updating existing ones.

**Recommendation 3A:** UCPD should update its policies and procedures to reflect campus law enforcement best practices, and assign ongoing responsibility for ensuring that they are kept current.

**Recommendation 3B:** UCPD should, at a minimum, become certified by CALEA<sup>1</sup> and/or IACLEA.<sup>2</sup>, if not

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<sup>1</sup> The Commission on Accreditation for Law Enforcement Agencies (CALEA) is a credentialing authority, based in the United States, whose primary mission is to accredit public safety agencies, namely law enforcement agencies, training academies, communication centers, and campus public safety agencies.

<sup>2</sup> The International Association of Campus Law Enforcement Administrators (IACLEA) is a leading voice for the campus public safety community, and its membership represents more than 1,000 colleges and universities. Its goal is to advance public safety for educational institutions by providing educational resources, advocacy, and professional development services.

both, of these certifying entities.

**Finding 4:** Prior to the shooting death of Samuel DuBose, traffic stops were being conducted in unprecedented numbers as part of the philosophy of the then newly installed Chief.

**Recommendation 4A:** Traffic and pedestrian stops should not be used as a crime fighting tool by UCPD. Clear guidance by policy and procedure should be given as to how traffic stops should be conducted and when, if ever, off-campus traffic stops are permissible.

**Recommendation 4B:** The Office of Safety and Reform, must continue to ensure the collection, aggregation, and analysis of all relevant stop data.

**Finding 5:** UCPD does not have an implemented policy on biased policing.

**Recommendation 5A:** UCPD should fully implement a policy on biased policing that clearly and unequivocally indicates that UCPD officers may not use race, color, ethnicity, or national origin, to any extent or degree, in conducting stops or detentions, or activities following stops or detentions, except when engaging in appropriate suspect-specific activity to identify a particular person or group.

**Recommendation 5B:** UCPD should develop a curriculum and institute training on the biased policing policy including training on implicit bias and should deliver such training both to new and existing members of the department. In-service training on the topic should be developed and delivered annually.

**Finding 6:** UCPD's policies on Use of Firearms and Deadly Force and Less Lethal Uses of Force are insufficient, do not reflect current best practices and lack clarity regarding the circumstances under which the use of force is authorized.

**Recommendation 6A:** UCPD should draft and implement a single Use of Force policy that should cover both when force is permitted to be used as well as the resulting departmental investigation and review process of uses of force.

**Recommendation 6B:** UCPD's new use of force policy should emphasize de-escalation and sanctity of life.

**Finding 7:** UCPD does not currently arm UCPD officers with

Conductive Energy Devices (CEDs), removing an option that would allow officers the ability, in appropriate circumstances, to disable an individual from a safe distance and avoid potential resort to deadly physical force.

**Recommendation 7A:** UCPD should expand the alternatives that its officers have to the use of deadly physical force by arming UCPD officers with CEDs, complying with whatever constraints may exist from the settlement of prior lawsuits.

**Recommendation 7B:** A clear policy statement governing the use of less-lethal weapons should be included in the revised use of force policy.

**Recommendation 7C:** UCPD should develop intensive training on the use of CEDs and the relevant policies related thereto. Training should include scenarios in which the utilization of CEDs is appropriate and those instances where it is not.

**Finding 8:** UCPD lacks a clearly defined method of investigating uses of force by its members.

**Recommendation 8A:** UCPD should establish a protocol for the timely review of every use of force to determine the appropriateness of such use of force from an administrative point of view and whether or not further investigation, including potential criminal investigation, or discipline is appropriate.

**Finding 9:** UCPD's written policies and procedures for hiring do not prioritize the need to establish a police officer candidate pool that is representative of the diverse community it serves.

**Recommendation 9A:** UCPD should update its hiring policy by requiring a diverse slate of candidates throughout the police officer recruitment process.

**Finding 10:** Training Policies and Procedures are generic and out dated and do not meet the needs of UCPD.

**Recommendation 10A:** UCPD should draft and adopt consistent policies and procedures for the development and approval of all UCPD courses and ensure that all such courses are consistent with the mission and philosophy of the department.

**Finding 11:** UCPD policies with respect to complaint receipt, investigation, and disposition are inadequate.

**Recommendation 11A:** UCPD should draft comprehensive Complaint Initiation Policies and Procedures that define the workflow of the different categories of complaints from investigation to adjudication.

**Recommendation 11B:** These policies and procedures should, among other things, prohibit any attempt to dissuade an individual from filing a complaint, and require officers to report the misconduct of other officers including improper use or threatened use of force, false arrest, unlawful search or seizure, or perjury.

**Finding 12:** UCPD's effort to develop and maintain a robust community affairs program is not centralized or coordinated.

**Recommendation 12A:** The essential nature of the community affairs function within the UCPD should be recognized and appropriate resources dedicated to it.

**Recommendation 12B:** Community Oriented Problem Solving Policing should be infused throughout the fabric of UCPD.

**Finding 13:** UCPD is currently using several different systems for collecting and storing data, including the Computer Aided Dispatch (CAD) system, Automated Records Management System (ARMS), Guardian Tracking, the Institute of Crime Science (ICS) Dashboard, and a number of unconnected Microsoft Access Databases (MADs).

**Recommendation 13A:** To the extent that it is possible, UCPD should integrate its data collection systems into one large database that tracks all of its data, or create an umbrella program that would operate like a search engine to allow UCPD to search and pull relevant data from all the UCPD databases.

**Finding 14:** The UCPD has historically made little use of the vast resources of the University at large.

**Recommendation 14A:** UCPD should make maximal use of UC's resources in order to fully implement the recommendations made in this report.



### III. History of the Department

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The UCPD is a fully empowered law enforcement agency that provides all public safety and emergency services for the University of Cincinnati, a state university, with 14 colleges, approximately 44,000 students and 15,000 employees, and an economic impact of more than \$3 billion. All UCPD Police Officers have full police authority, and are certified law enforcement officers by the State of Ohio, having completed all training requirements required by the Ohio Peace Officer Training Commission (OPOTC). UCPD currently has an authorized strength of 74 sworn members throughout all ranks, and currently employs 26 security officers.

The UCPD was formed in 1965 when administrators of the University and Cincinnati General Hospital decided that a formal police department was needed. Prior to 1965, the campus had private police and contract guards. The first certified police officers that were hired acted as supervisors for the contract security officers and building guards working in those campus areas. In 1967, retired Cincinnati police lieutenant Paul Steuer was hired as police chief of the University, and retired Cincinnati police officer John Reed was hired as chief of police for Cincinnati General Hospital. The officers were not armed until 1968. In 1975, campus security formally became the Department of Public Safety. The UCPD and the General Hospital Police merged into one department with state police authority when the University became a state university in 1977.

From 1978 through January of 2011, the UCPD was run by Chief Gene Ferrara. Over the course of its 50-year history, the UCPD was involved in four police officer related deaths, two of which occurred during Chief Ferrara's tenure. The first occurred in February of 1997, when Lorenzo Collins, a 25-year-old African American man with a history of mental illness, was shot three times by both a UCPD officer, and an officer of the Cincinnati Police Department ("CPD"). Minutes before the shooting, Mr. Collins had escaped from the psychiatric ward of the University Hospital, and at the time of the shooting, he was threatening the officers with a brick. After an investigation by both the CPD and the UCPD, no disciplinary action was taken against either officer. The second occurred in January of 2010, when Kelly Brinson, a 45-year-old African American male and mental health patient died after he was tased and restrained by UCPD officers inside the University Hospital. The UCPD officers alleged that Brinson had assaulted a law enforcement officer and ignored repeated directives to stop. None of the officers involved received any form of discipline as a result of this incident.

During this period there were other incidents that caused un-



rest between the Cincinnati community and the officers who police them. In 2001, between April 9 and April 13, there were a series of protests in downtown Cincinnati, as a result of the shooting of an unarmed African American man by the CPD. Violent protesters threw objects at policemen, and vandalized and looted businesses causing \$3.6 million in damage to businesses and another \$1.5 to \$2 million to the city. Thereafter, the City worked with the community and police to improve training and policies. In addition, in December of 2002, a United States District Court Judge for the Southern District of Ohio appointed Saul A. Green and a team of eight policing experts to monitor compliance with, and implementation of, the Memorandum of Agreement (MOA) between the United States Department of Justice, the City of Cincinnati and the CPD. Over the course of the six-year monitorship, the monitoring team published one final report and 21 quarterly reports chronicling the state of compliance by the parties with the MOA.

In January of 2010, as a direct result of increasing crime against students in the areas surrounding the University, the UCPD entered into a Memorandum of Understanding (MOU)<sup>3</sup> with the City, which gave the UCPD broader jurisdictional authority within the City limits. Specifically, the MOU allowed UCPD officers to:

- Conduct felony arrests off campus and then turn the case over to the CPD;<sup>4</sup>
- Conduct misdemeanor arrests off campus and maintain responsibility for the case;<sup>5</sup>
- Investigate crimes that occur on campus and which continue into the jurisdiction of the City of Cincinnati.<sup>6</sup>
- Conduct off-campus arrests for serious motor vehicle violations — including operating a vehicle while intoxicated and motor vehicle violations causing death or serious harm — and then turn the case over to the CPD.<sup>7</sup>
- Conduct arrests for all other off-campus motor vehicle violations and maintain responsibility for the case.<sup>8</sup>

In January of 2011, Chief Ferrara retired after 33 years of service, and the UCPD entered a period of instability in its leadership. Immediately after Chief Ferrara's retirement, Assistant Chief Jeff Corcoran was appointed as Interim Chief. He served for 10 months before being replaced in November of

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<sup>3</sup> The title of the document is "Mutual Assistance In-Progress Crime Assistance Agreement Between the City of Cincinnati and the University of Cincinnati." It appears that while drafted in 2009, the MOU was not signed, at least by one signatory, until January 8, 2010. The document itself remains undated.

<sup>4</sup> MOU Section I. A

<sup>5</sup> Id.

<sup>6</sup> MOU Section III.

<sup>7</sup> MOU Section I. B.

<sup>8</sup> Id.

2011, by Chief Michael Cureton. Chief Cureton served for 20 months before resigning in July of 2013. Assistant Chief Corcoran again served in the role of Interim Chief, until November of 2014, when replaced by Chief Jason Goodrich. Chief Goodrich served until February 2016, when he was asked to resign as a result of an investigation, conducted by Exiger, into certain statements and representations to the senior administration of the University that he made following the DuBose shooting<sup>9</sup>.

During this period of shifting leadership, the UCPD was involved in two additional officer involved fatalities. The first occurred in August of 2011, when a UCPD officer deployed his TASER resulting in the death of Everette Howard, an 18-year-old African American high school graduate enrolled in UC's Upward Bound Program. The officer involved indicated that Howard was "agitated" and "charged" at him. The officer claimed he ordered Howard to stop prior to using his TASER, but that Howard refused. As a result of this incident, in August 2011, the UCPD removed TASERs from use.

The last officer involved death, that of Samuel DuBose, occurred on July 19, 2015. This incident served as the catalyst that led to Exiger's review, and is discussed in further detail in the following section.

Following the death of Samuel DuBose, the Chief of Police, who previously had reported directly to the Senior Vice President of Administration and Finance, began reporting to the new Director of Public Safety who was appointed in August of 2015. The Director of Public Safety, in turn reported to the Senior Vice President of Administration and Finance until April of 2016, when the reporting structure changed, with the Director of Public Safety reporting to the Vice President for Safety and Reform, who in turn reported directly to the President of the University. We believe this change was important and appropriate.

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<sup>9</sup> During the first weeks of this comprehensive review, facts came to light that called into question the statements and representations made by Chief Goodrich following the shooting of Samuel DuBose. As a result of the questions raised, Exiger was asked to undertake an investigation of the facts and circumstances surrounding the statements and representations made by the Chief. A report of that investigation was delivered to the University on February 29, 2016.

## IV. Background of the Assignment

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On July 19, 2015, former-UCPD Officer Raymond Tensing conducted a traffic stop approximately one mile off-campus. During this stop, an altercation occurred between the driver of the car, Samuel DuBose, and the officer, resulting in the shooting death of Mr. DuBose by Officer Tensing. The CPD conducted the initial investigation and provided all investigative materials to the Hamilton County Prosecutor's Office. Officer Tensing was indicted for the murder of Samuel DuBose by a Hamilton County Grand Jury and subsequently dismissed from UCPD.

The immediate days and weeks following the incident saw calls for reforms from both City officials and the community. As a result, the UC Administration engaged in a number of review and reform efforts, including:

- Creating the UC Office of Safety and Reform (OSR);
- Appointing Dr. Robin Engel as Vice President of Safety & Reform to oversee all review and reform efforts related to the UCPD, and public safety more broadly;
- Creating the position of the Director of Public Safety, to whom the Chief of Police would report, and hiring James Whalen to fill that position;
- Creating the position of the Director of Police-Community Relations, and hiring S. Gregory Baker to fill that position; and
- Establishing the UC Safety and Reform Community Advisory Council (CAC), consisting of 19 members representing various groups from the University and the larger Cincinnati community, for the purpose of building, enhancing and expanding UCPD's relationships with the diverse local communities.

On July 31, 2015, the University retained Kroll Inc. to conduct an external review of all aspects of the officer-involved shooting. On September 11, 2015, Kroll issued a report concluding that although the traffic stop was justified, Officer Tensing "made critical errors in judgment that created an elevated risk of a serious or fatal bodily injury."<sup>10</sup> The Kroll Report further concluded that Officer Tensing was not justified in using deadly force on Samuel DuBose.

The Kroll Report went on to offer a series of recommendations, including that the UCPD should:

- Consider limiting the parameters of off-campus patrol;
- Re-assess its defined mission and determine if it has the skill sets necessary to perform the requirements of urban policing;

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<sup>10</sup> Kroll Report, Page 46

- Perform a more extensive review of its policies and procedures;
- Evaluate how to create a diversified police force that more accurately reflects the rich diversity of the University of Cincinnati and surrounding communities; and
- Further evaluate and assess existing training requirements to ensure they incorporate statewide objectives.<sup>11</sup>

As a result of the Kroll Report's recommendations, on November 16, 2015, the University, in collaboration with the CAC, issued a Request for Proposal (RFP), seeking a comprehensive external review of the UCPD's policies, procedures, practices, and training, "in an effort to strengthen UC's commitment to incorporate trust, open communication and cooperation between the UCPD, members of the UC and surrounding neighborhoods."<sup>12</sup> On December 21, 2015, Exiger submitted a proposal to the University in response to the RFP. On or about February 1, 2016, the University informed Exiger that its team had been chosen to perform the Review, which commenced on February 8, and will last through the delivery of this report and a number of subsequent meetings to discuss its contents.

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<sup>11</sup> Kroll Report, Pages 61-63  
<sup>12</sup> See RFP, Page 9.

## V. Scope of the Assignment

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To perform the Review of the UCPD, the University asked Exiger to focus on the following 13 areas:

- Policies and Procedures;
- Data Collection Systems, Data Usage, Automation, and Records Management;
- Training;
- Accountability Mechanisms;
- Officer Recruitment, Hiring, Promotion, and Retention;
- Equipment;
- Training;
- Use of Force;
- Pedestrian and Traffic Stops;
- Encounters Involving Individuals with Mental Health Concerns;
- Community Engagement, Community-Oriented Policing, and Student Engagement;
- Problem Solving, Problem-Oriented Policing, and Use of the SARA Model; and
- Crime Prevention Tools, Practices, and Strategies;

For each of these 13 areas, Exiger was asked to perform a series of tasks, some of which were specific to that particular area of the Review. In each area of the Review, Exiger was asked, at a minimum, to:

- Review the UCPD's relevant policies and procedures;
- Assess the extent to which the UCPD's practices compare with best practices for urban university police agencies;
- Identify areas where the UCPD needs improvements; and
- Provide actionable recommendations to rebuild trust between the UCPD and the community.

## VI. Methodology

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Prior to being awarded the contract, Exiger began planning and ultimately devised a methodology that allowed us to accomplish the goals of the Review in an efficient and cost effective manner. During the first week of the Review, a large document request was sent to the University, seeking all relevant written documents – including the UCPD’s written policies, procedures, training manuals, and practices. In response to this request, several hundred electronic documents were received from the University, which were placed into a secure online repository where they could be viewed by all Exiger team members.

On February 15, 2016, several members of the Exiger team conducted the first of many site visits at the University. While there, the Exiger team familiarized themselves with the UCPD, the University, and the City, met with key stakeholders,<sup>13</sup> and picked up written documents and materials that could not be transmitted electronically. Over the course of the engagement many of the team members made additional trips to the University in order to further observe the practices of UCPD, conduct follow-up interviews with UCPD officers and other key personnel, meet with community leaders, and collect additional documents.

For each of the thirteen areas of the Review, Exiger assigned one team member to act as the team lead. Each team lead was responsible for reviewing relevant documents, conducting interviews, observing UCPD practices, and providing findings and recommendations for his/her area of the review. For most of the areas reviewed, Exiger also assigned an additional team member to provide assistance to the team lead. The findings and recommendations made by the team leads were then shared with the rest of the team, so that other Exiger team members could read them and provide feedback. Over the course of the project, the Exiger team conducted a weekly conference call, during which the team leads provided the project lead and other team members with status updates, including any new findings or recommendations.

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<sup>13</sup> During this visit the Exiger team met with the University Administration, representatives of the UCPD, representatives of the Office of Safety and Reform, and the Community Advisory Counsel, members of the community at large, and student representatives.

## VII. Team Members

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Exiger assembled a seasoned group of highly respected law enforcement professionals and policy experts to work on the Review. The key team members include the following:

### **Jeff Schlanger – Project Lead; Team Lead: Review of Pedestrian and Traffic Stops**

As Project Lead for the University of Cincinnati, Mr. Schlanger was responsible for directly overseeing the designated team leads. Mr. Schlanger also served as the team lead for the Pedestrian and Traffic Stop component of the Review. Mr. Schlanger has more than 30 years of experience in law, prosecution, law enforcement, and, perhaps most critically, police department monitoring. Mr. Schlanger founded the Government Services practice at Kroll, and, as a subset of that practice, began, with William Bratton, consulting to major police departments around the world. Mr. Schlanger was instrumental in the design and execution of the monitoring methodology in Los Angeles, serving as the Deputy Primary Monitor for the LAPD consent decree, and has performed significant independent investigations at the request of large police departments throughout the country including the Tennessee Highway Patrol, the San Francisco Police Department, and the Austin Police Department. Significantly, Mr. Schlanger has served on the Executive Committee of the Working Group for National Guidelines for Monitors, developing the National Guidelines for Police Monitors. Before joining Exiger, he was Chief of Staff at the Manhattan District Attorney’s Office, overseeing not only the day-to-day operations of New York’s largest prosecutor’s office, but also handling its “Extreme Collaboration” initiative with the NYPD. This included the funding, through forfeiture monies, of the mobility initiative for the NYPD. Mr. Schlanger continues to serve as a pro-bono advisor to NYPD Commissioner William Bratton and those within the NYPD working on the “re-engineering” of the Department.

### **Charles Ramsey – Team Lead: Review of Use of Force**

Commissioner Ramsey served as the team lead for the Use of Force component of the Review. A native of Chicago, Illinois, Commissioner Ramsey joined the Chicago Police Department in 1968, and served for 30 years, holding several prominent positions, including the Commander of the Narcotics Section, the Deputy Chief of the police force’s Patrol Division, and eventually the Deputy Superintendent. From 1998 until 2006, Commissioner Ramsey served as the Chief of the MPDC in Washington DC, where he implemented programs that expanded community policing, and improved

MPDC's recruiting, hiring, and training standards. His eight-year tenure as Chief of the MPDC saw crime rates decline approximately 40%. In 2008, Commissioner Ramsey came out of retirement to become the Police Commissioner in Philadelphia, where he once again implemented a community-based approach to policing, and saw a marked decrease in city-wide homicides and violent crimes. In recent years, Commissioner Ramsey served as the Co-Chair of President Obama's Task Force on 21st Century Policing, as well as President of the Police Executive Research Forum (PERF) and the Major Cities Chiefs Association (MCCA). On January 7, 2016, Commissioner Ramsey retired as commissioner of the Philadelphia Police Department.

### **John Thomas – Team co-Lead: Review of Policies and Procedures**

Chief Thomas served as the team co-lead, along with Chief Porter, for the Review of the UCPD's Policies and Procedures. He also was assigned to provide assistance to other team leads in areas of the Review that call for expertise on campus policing. Chief Thomas is currently the Chief of the USC Department of Public Safety and is responsible for overseeing the management and control of over 280 officers responsible for the safety of members of the USC campus and surrounding community. Since his appointment and implementation of crime reduction and quality of life strategies in 2006, the campus community has experienced over a 70% decrease in overall violent crimes. Prior to his work at USC, Chief Thomas spent twenty-one years as a member of the LAPD where he retired at the rank of Lieutenant in December 2005. While with the LAPD, he worked in undercover narcotic enforcement as a member of the Department's FALCON (Focused Attack Linking Community Organizations and Neighborhoods) Unit for which he was awarded the City of Los Angeles' City Angel Award for Outstanding Community Enhancement and the Department's Meritorious Unit Citation. Chief Thomas is also a member of the International Association of Campus Law Enforcement Administrators (IACLEA), the Police Executive Research Forum (PERF), the International Association of Chiefs of Police (IACP) and the National Organization of Black Law Enforcement Executives (NOBLE).

### **Mark Porter – Team co-Lead: Review of Policies and Procedures**

Chief Porter served as the team co-lead, along with Chief Thomas, for the Review of the UCPD's Policies and Procedures. He also was assigned to provide assistance to other team leads in areas of the Review that call for expertise on



campus policing. With over 30 years of experience in law enforcement management in the higher education field, Chief Porter has extensive knowledge and experience in strategic planning processes and community-based service models to enhance community safety, officer accountability, and police-citizen interactions. Chief Porter began his career as a patrol officer in the Northeastern University Public Safety Division, where he served for 14 years. From 1996 until 2005, Chief Porter served as the Chief of Police and Director of Public Safety at the University of Massachusetts-Dartmouth. Since 2005, Chief Porter has been the Executive Director of Public Safety and Chief of Police at Brown University, where he develops and oversees the implementation of policies including, in 2006, a comprehensive training program in response to the University's decision to issue firearms to officers. Chief Porter is a member of PERF, and in 2008 received a Distinguished Community Contribution Award from the NAACP.

**Beth Corriea – Team Lead: Review of all UCPD Data Collection Systems, Data Usage, Automation, and Records Management**

Beth Corriea served as the team lead for the Data Collection Systems component of the Review. Ms. Corriea is an attorney and consultant to police departments in the area of risk management. From January 2012 to January 2014, she served as the Department Risk Manager for the LAPD, having been appointed to the newly created position by the Chief of Police, Charlie Beck. As the Department Risk Manager, Ms. Corriea was part of the senior staff and a direct report to the Chief of Police, providing oversight, direction, and management for the various aspects of the LAPD's liability concerns, which includes the high-risk issue of use of force, and interfacing with the LAPD's Early Warning System ("TEAMS II"). Before her appointment to the LAPD, Ms. Corriea worked for the Los Angeles City Attorney's Office as a Deputy City Attorney from July 2005 to December 2011. Ms. Corriea was assigned to the LAPD Employment Litigation Section and became its supervisor in February 2010.

**Sandy Jo MacArthur – Team Lead: Review of Training**

Assistant Chief MacArthur served as the team lead for the Review of Training. Chief MacArthur had a career in policing spanning over 35 years of service with the LAPD. Her early assignments included Patrol, Vice, Special Problems Unit, Training, Ombudsperson, Press Relations and Risk Management. After being promoted to Captain and assigned to the Civil Rights Integrity Division, she was responsible for overseeing implementation of the requirements of the the 2001

federal Consent Decree and of all other department court settlements. In 2010, Chief MacArthur was promoted to the rank of Assistant Chief, director of the Office of Administrative Services. She managed a billion-dollar budget and led challenging LAPD initiatives including the State Diversity and Discrimination Training Programs, the Multi-Assault Counter Terrorism Action Capabilities (MACTAC) regional training program, and the redesign of the recruit training program by applying principles of adult learning theory and critical thinking skills. Also, in 2006, she established the LAPD Leadership Enhancement and Development Sessions (LEADS) training program that is conducted on a quarterly basis for LAPD Command Staff.

### **Patrick Harnett - Team Lead: Review of Accountability Mechanisms**

Chief Harnett served as the team lead in the review of Accountability Mechanisms. He began his career in law enforcement as a member of the NYPD where he remained for 32 years. During this time, he was responsible for implementing the NYPD's Crime Stoppers Hotline and commanding its Major Case Detective Squad. He also contributed to the evolving process of CompStat (short for Computer Statistics), which is a management philosophy and organizational tool for police departments. After retiring from the NYPD, Chief Harnett worked as a consultant for New York State's Division of Criminal Justice Services implementing the CompStat process in the Buffalo, Niagara Falls, and Schenectady Police Departments. Chief Harnett also served as the Chief of Police in Hartford, Connecticut from June 2004 until July 2006. Since January of 2000, Chief Harnett has consulted as a police management and public safety expert conducting operational and organizational reviews of numerous public safety entities, including domestic municipal police departments, foreign police departments, and large university and municipal school systems. His reviews focused on assessing and enhancing existing agency organization and operations, as well as implementing specific action plans to improve management accountability at all levels while improving service delivery and reducing crime. He has worked with many municipal police departments including in Los Angeles, Detroit, Baltimore, Miami, Trenton, and Columbus, Ohio, as well as several University police forces including Brown University and the University of Chicago.

### **Nola M. Joyce - Team Lead: Review of Officer Recruitment, Hiring, Promotion, and Retention**

Deputy Commissioner Joyce served as the team lead on the recruitment, hiring, promotion and retention component of

the Review. She is nationally recognized as a leader in policing policy, research, and practice. She served for eight years as the Chief Administrative Officer and Chief of Staff of the MPDC, under Commissioner Ramsey. During her time with the MPDC, Commissioner Joyce exercised direct oversight over many of the department's most important divisions and was responsible for ensuring that all elements of the organization aligned their work with Commissioner Ramsey's vision for community-based policing. From 2008 until February of 2016, Commissioner Joyce served as the Deputy Commissioner of the PPD, directly under Commissioner Ramsey. She was the leader of the Organizational Services, Strategy and Innovation Unit within the PPD, which contains 1,142 employees and was responsible for all of the department's administrative, policy, research, technology, and training functions. From 1983 through 1993, Commissioner Joyce was the Manager of Budget, Planning and Research for the Illinois Department of Corrections, where she managed a half-a-billion dollar operating budget.

#### **Maggie Goodrich – Team Lead: Review of Technology**

Chief Information Officer Goodrich served as the team lead on the Technology component of the Review. She is currently the Chief Information Officer for the LAPD, where she manages a \$30 million annual technology budget, and is responsible for the management, oversight, and implementation of all technology for all facets of the police department, including patrol, administration, and special operations. She also manages the day-to-day operations of the IT Bureau, including directing staff who support a variety of IT functions. Prior to this, from 2006 through 2009, Chief Goodrich served as Commanding Officer for the Management Systems Reengineering Project, and was responsible for the development and implementation of all LAPD Training Evaluation and Management Systems (TEAMS II), which include: The Complaint Management System; the Use of Force System; the Officer Early Intervention System; and the Data Warehouse.

#### **Roberto A Villaseñor – Team Lead: Review of Equipment; Team Lead: Review of Encounters with Individuals with Mental Health Issues**

Chief Villaseñor served as the team lead on the Equipment and the Mental Health Issues components of the Review. He recently retired as the Chief of Police for the Tucson Police Department, where he was responsible for the leadership and management of over 1,400 employees, including over 1,000 sworn officers. Chief Villaseñor spent the entirety of his 35-year career in law enforcement as a member of the

Tucson Police Department. Chief Villaseñor served as Tucson's Assistant Chief of Police from March of 2000 until May of 2009, when he was appointed Chief. Because of his involvement in policing issues at a national level, in 2014 President Barack Obama appointed him to the President's Task Force on 21<sup>st</sup> Century Policing. In 2015, he was appointed to both the Department of Homeland Security Committee on Ethics and Integrity for Customs and Border Patrol, and the Arizona Criminal Justice Commission.

**James McShane - Team Lead: Community/Student Engagement, Problem-Oriented Policing, Campus Crime Prevention Tools**

Chief McShane served as the team lead in the review of (1) Community Engagement, Community-Oriented Policing, and Student Engagement; (2) Problem Solving, Problem-Oriented Policing, and Use of the SARA Model; and (3) Crime Prevention Tools, Practices, and Strategies. A 24-year veteran of the NYPD, Chief McShane began his career on patrol in the 52nd Precinct, eventually becoming the Commanding Officer of the Traffic Control Division. During this time, Chief McShane also received his Masters of Public Administration from Harvard University and his Juris Doctor from St. John's University School of Law. His career in campus policing began in January of 2004 when he joined the Department of Public Safety at Columbia University. Chief McShane is responsible for all elements of security and public safety at the three campuses of Columbia University, which house a total of 23,000 students, and is located in Upper Manhattan. He oversees all uniformed operations and investigations, and is responsible for security technology and access control. He commands a security force of more than 150 proprietary uniformed personnel and 200 contract guards, as well as a supervisory, investigative, and administrative team of fifty personnel.

**Joan Brody - Coordinator/Report Specialist**

Joan Brody served as a writer for the Review. Ms. Brody works with government and non-profit agencies on strategic planning and organizational assessment projects. Ms. Brody has also worked on project coordination tasks as well as writing and editing reports and policies and procedures manuals with parties involved in federal investigations and consent decrees. Ms. Brody has worked during the past 30 years with governors, mayors, police chiefs, sheriffs, district attorneys and other government and non-profit organization leaders. In 2008, she worked with William Bratton's consulting group on the University of Chicago Safety and Security Enhancement Project to conduct an assessment of the cam-

pus police department. She also has worked on similar projects for Brown University and the University of Southern California.

### **Elizabeth Carreño - Team Assistant on Several Areas of The Review**

Elizabeth Carreño provided assistance to the team leads in the Review. Ms Carreño has been a member of the USC Department of Public Safety, and currently serves as its Community Relations Manager, where she supervises student workers assigned to the Community Relations Office, as well as overseeing media relations and media operations. Prior to this she served as a Community Relations Officer, where she was involved in both event planning and educating students and the USC community about the resources afforded to them through the University. Ms. Carreño received her Bachelors of Science Degree in Criminal Justice from California State University in California.

## VIII. Substantive Areas of Inquiry

Our findings and recommendations relative to each of the substantive areas of inquiry contained in the RFP are detailed below. For the purposes of this report, we have reordered the areas of inquiry from the order presented in the RFP, and have collapsed the three areas involving community engagement, problem oriented policing, and crime prevention into one section.

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### A. Review of Pedestrian Stops and Traffic Stops

#### Introduction

Perhaps nothing is more central to the questions raised after the shooting death of Samuel DuBose than the efficacy and appropriateness of UCPD conducting on and off-campus vehicle stops as a crime reduction tool. Vehicle stops conducted within the bounds of applicable law have traditionally been utilized by police departments around the country not only for the promotion of traffic safety but also as a proactive method of crime fighting. Similarly, pedestrian stops have been used as a crime fighting tool. While potentially a valuable tool when used appropriately with proper supervision, the efficacy of vehicle and pedestrian stops as a crime fighting tool has, in some instances, come under criticism and has led to charges and, in at least one case, a judicial determination, of unconstitutional biased policing.<sup>14</sup> Further, such tactics have been viewed by some as “over-policing” that, when conducted in disadvantaged high-crime minority neighborhoods, leads to the arrests and convictions of residents of those neighborhoods for minor crimes that are committed in equal numbers in more-affluent, non-disadvantaged white neighborhoods.

From a best practices point of view, it is therefore essential, in order to ensure that traffic and pedestrian stops are being conducted constitutionally, that relevant data is collected, aggregated, and analyzed, and that appropriate field supervision is in place, before utilization of such stops as a crime fighting tool is considered. Even then, given the mission of the UCPD, the use of traffic stops as a method to fight crime is questionable, at best.

Some level of off-campus traffic stops have been occurring at UC since at least 1989, when the University and City first

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<sup>14</sup> See *Floyd v. The City of New York*, 959 F. Supp. 2D 540. Specifically, in order to prohibit discriminatory conduct on the basis of race, color, ethnicity, national origin, gender, sexual orientation, or disability in the conduct of law enforcement activities, UCPD must by policy and supervision require that all stops and detentions, and activities following stops or detentions, by the UCPD be on the basis of legitimate, articulable reasons consistent with the standards of reasonable suspicion or probable cause. Race, color, ethnicity, or national origin may simply not be used in conducting stops or detentions, or activities following stops or detentions, except when officers are seeking one or more specific persons who have been identified or described in part by their engaging in appropriate suspect-specific activity to identify a particular person or group.

entered into a Mutual Aid agreement by MOU. That MOU was most recently renewed in 2010.<sup>15</sup> In November of 2014, however, the then-newly installed Chief began placing an unprecedented emphasis on traffic stops as a crime fighting tool.

In August of 2015, in response to the shooting of Samuel DuBose, UC, through the newly appointed Vice President for Safety and Reform, collected, analyzed, and released to the public, information regarding the number of stops that had historically been conducted along with the race of those being stopped. This data, previously available, but neither aggregated nor analyzed by UCPD, showed that for the one year period prior to the arrival of Chief Goodrich, stops were averaging 86.5 per month; subsequent to his arrival, stops were averaging 271.5 per month, a more than three-fold increase.<sup>16</sup> In fact, during the two months prior to the shooting death of Samuel DuBose, stops averaged an all-time high of 412 per month, an almost five-fold increase over the average before Chief Goodrich's arrival.<sup>17</sup> The undertaking of such a significant increase in traffic stops, coupled with the lack of data aggregation and analysis as well as the relative lack of field supervision and training, was, simply put, a recipe for disaster.

In fact, had the data been reviewed by the UCPD hierarchy, it would have shown that Officer Raymond Tensing, the officer involved in, and indicted for, the Samuel DuBose shooting, led the department not only in the number of stops and citations, but also in the racial disparity among those being stopped.<sup>18</sup> It would also have shown that vehicle pursuits had risen significantly with all of the concomitant dangers involved in such pursuits. Interestingly, however, while one might have expected an increase in civilian complaints as a result of the increased activity, the records maintained show no such increase. Whether this is a result of a poor complaint process or a testament to the way in which UCPD officers generally conducted themselves during traffic stops is unclear.<sup>19</sup>

Following the shooting of Samuel DuBose, the City of Cincinnati issued an Ordinance<sup>20</sup> seeking to revoke the traffic

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<sup>15</sup> See footnote 3.

<sup>16</sup> Covering the period of time from July 2013 through October 2014 versus November 2014 through June 2015 as compiled by UC.

<sup>17</sup> Covering the period of May and June 2015 as compiled by UC.

<sup>18</sup> These facts cannot, and should not be used to draw any conclusions relative to Officer Tensing's criminal or administrative responsibility in connection with the Samuel DuBose shooting.

<sup>19</sup> The infirmities of the complaint process are dealt with elsewhere in this report.

<sup>20</sup> Ordinance 264, Issued August 5, 2015.



enforcement terms of the MOU of 2010.<sup>21</sup> UCPD has been operating under the intent of that Ordinance and has essentially ceased all voluntary traffic stops off campus. While effectively stripped of its off-campus traffic enforcement power, UCPD has been left with all other police powers off-campus, including the ability to make misdemeanor and felony arrests and to issue citations for lesser, non-traffic, offenses. Interestingly, since the inception of the order in August of 2015, and a near-cessation of off-campus stops, off-campus crime has continued to fall.

Also, in response to the shooting, the University and UCPD took a number of steps in order to get systems into place that would allow for the appropriate collection and analysis of data relative to vehicle and pedestrian stops. Specifically, the department created a new Field Contact Card, replacing an inadequate prior form, and brought UCPD stop data into a database previously being developed under contract with UCPD by UC's Institute of Crime Science ("ICS").

The scope of this section is limited to providing findings and recommendations relative to vehicle and pedestrian stops engaged in by UCPD, and by extension some related issues involving biased policing. Excluded from the scope of this section is any determination as to whether biased policing was, in fact, being engaged in by any UCPD officers. While the disparity in race of those stopped by some officers is striking, for most officers the disparity was not as alarming. Determining whether the disparity, even where particularly striking, was the result of racial profiling or otherwise unconstitutional behavior on the part of UCPD officers, is difficult, at best, to do, and beyond the scope of this assessment. We can say, however, that our review did not uncover any indication that racial profiling, as such, was affirmatively promoted or suggested. That being said, we did find that the UCPD top leadership was willfully blind to the disparities of some officers and, by extension, indifferent to the potential existence of biased policing for which the disparity would have been a leading indicator.

## Findings and Recommendations

**Finding 1:** Prior to the shooting death of Samuel DuBose, traffic stops were being conducted in unprecedented numbers as part of the philosophy of the then newly installed Chief. The Chief failed to understand the potential implications of the initiative given the decision not to aggregate and analyze data on the nature and frequency of such stops.

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<sup>21</sup> There is a question as to whether the City Manager took the steps necessary to effectuate the Ordinance and revise the MOU of 2010 in accordance with its terms.



**Recommendation 1A:** Traffic and pedestrian stops should not be used by UCPD as a crime fighting tool. The potential benefit of such aggressive tactics in terms of crime reduction in the UC setting is modest at best and clearly outweighed by the negative perception of and feelings toward UCPD engendered by such tactics. Clear guidance by policy and procedure should be given as to how traffic stops should be conducted and when, if ever, off-campus traffic stops are permissible.

**Recommendation 1B:** Involuntary off-campus pedestrian and traffic stops should only be allowed when the officers possess reasonable suspicion to believe that a pedestrian or motorist is engaged in a criminal, non-driving offense.

**Recommendation 1C:** To the extent that that UCPD continues to make involuntary off-campus stops, the Office of Safety and Reform, must ensure that such stops are consistent with policy and must continue the collection, aggregation, and analysis of all relevant stop data. Regular meetings should be held among the Office of Safety and Reform, the Chief of Police, and the Director of Public Safety in which the analysis of such data is reviewed to determine whether there exist outlying officers in terms of number of vehicle and pedestrian stops or in terms of any racial disparities among those stopped.

**Recommendation 1D:** The University should consider equipping officers with tablets which among other things would enable the electronic capture of stop data through an electronic version of the Field Contact Card. The many other benefits of a mobility platform are discussed elsewhere in this report.

**Recommendation 1E:** Enhanced training should be given to officers on the risks and inherent dangers of traffic stops including appropriately dealing with individuals who are stopped.

**Finding 2:** UCPD did not, until very recently, have a policy on biased policing. Its new policy has not been fully implemented.

**Recommendation 2A:** UCPD should continue its full implementation of the recently enacted policy on biased policing. The implementation should include training and should ensure that UCPD officers not use

race, color, ethnicity, or national origin, to any extent or degree, in conducting stops or detentions, or activities following stops or detentions, except when engaging in appropriate suspect-specific activity to identify a particular person or group. The training and implementation should further ensure that even when UCPD officers are seeking one or more specific persons who have been identified or described in part by their race, color, ethnicity, or national origin, they may rely in part on race, color, ethnicity, or national origin only in combination with other appropriate identifying factors and may not give race, color, ethnicity, or national origin undue weight.<sup>22</sup>

**Recommendation 2B:** UCPD’s training on the biased policing policy should include training on implicit bias and such training shall be delivered both to new and existing members of the department. In-service training on the topic shall be developed and delivered annually.<sup>23</sup>

**Finding 3:** UCPD does not have a protocol for investigating complaints of biased policing.

**Recommendation 3A:** UCPD should develop and implement a protocol for the investigation of complaints of biased policing.

**Recommendation 3B:** UCPD should train any officers conducting investigations of complaints of biased policing on the protocol to be employed in such investigations.

**Recommendation 3C:** The Office of Safety and Reform should audit all investigations of complaints of biased policing to ensure that they are being conducted in accordance with established protocols for such investigations.

**Finding 4:** Both pedestrian and traffic stops have been anecdotally reported on occasion to be over-staffed, with multiple cars and officers responding to otherwise routine stops, which some members of the community described as giving them the impression that they were living in a police state.

**Recommendation 4A:** While officer safety must al-

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<sup>22</sup> UCPD is in the process of implementing a policy that is the result of training received in 2015 on fair and impartial policing.

<sup>23</sup> Following the shooting death of Samuel DuBose, UC and UCPD secured training in “Fair and Impartial Policing” from renowned expert Lorie Fridell. This was an important first step in combating implicit bias.

ways be a paramount consideration, the Office of Safety and Reform and UCPD should determine appropriate levels of response and enforce strategies, including polite explanation, to combat the negative perception created by enhanced response levels.

## Conclusion

Traffic and pedestrian stops carry inherent risks not only for the police officers conducting such stops, but also for police departments that are not attuned to the reputational and community-relations risks involved in decisions of how aggressively, if at all, to utilize such stops as a crime-fighting tool. The risks are significantly exacerbated when there are inadequate controls in place to monitor the activities of officers and a lack of adequate field supervision to ensure that any such activities are being performed in a constitutionally permissible manner. Even when such prophylactics are in place, the risk-reward quotient must be examined in the context of the mission of the department. Such examination in the case of UCPD leads to the conclusion that the undertaking of aggressive crime-fighting vehicle stops without any of the checks necessary to ensure constitutional un-biased policing, was a significant mistake. The recommendations made herein are designed to ensure that such a mistake does not occur in the future.

## B. Review of Use of Force

### Introduction

The use of deadly force against another person is the most serious act a police officer can take, and the degree of accountability of police departments for their uses of force, especially deadly force, is, perhaps, the greatest challenge facing law enforcement today. Accountability, in the context of use of force, has four essential pillars, the first of which is ensuring that appropriate policies and procedures governing the use of force are in place and comport with best practice. The second pillar requires these best practices to be imparted to every officer through extensive and appropriate training that best ensures that force will only be used when, and to the extent, necessary. The third pillar requires that each use of deadly force carries with it an impartial review as to whether that use of force comported with applicable policies and procedures. The last pillar requires that any use of force that is determined to be out of policy, must be remediated through appropriate re-training and/or discipline, up to, and including, termination. It is only through the conscientious application of these four pillars that police departments can hope to garner the trust of the communities they serve. Without trust, police agencies will lack the legitimacy so es-

sential for effective law enforcement.

In short, the public needs confidence that their police department values the life of each of its residents equally, will use deadly force only as a last option, and that if deadly force is ever misused that the system, both administrative and criminal, will deal with the transgression appropriately under the circumstances. In order to instill this confidence, each of the four pillars as they currently stand at UC will need to be reformed.

Exiger has conducted a review of both UCPD's current and prior use of force practices. In performing this review, Exiger has reviewed the relevant historical data, has conducted interviews and has reviewed relevant UCPD Policies and Procedures, Practices, Training, and Data. The intent was to arrive at findings and recommendations regarding the UCPD's use of force policies and practices, and relate these recommendations to the overall mission and goals of the UCPD, and to help the UCPD rebuild trust with the community.

## Findings and Recommendations

**Finding 1:** UCPD's Standard Operating Procedures (SOP) on Use of Firearms and Deadly Force (SOP 1.3.200) and Less Lethal Uses of Force (SOP 1.3.400) are insufficient. These procedures do not reflect current best practices and lack clarity regarding the circumstances under which the use of force is authorized.

**Recommendation 1A:** UCPD should combine SOP 1.3.200 and SOP 1.3.400 with its policies and procedures regarding Use of Force (SOP PE 05). This single Use of Force policy should cover both when force is permitted to be used as well as the resulting departmental investigation and review process.

**Recommendation 1B:** UCPD's new use of force policy should emphasize the following:

- a. The primary duty of all sworn personnel is to preserve human life and that whenever possible, de-escalation techniques shall be employed to safely gain voluntary compliance by a subject.
- b. In cases in which de-escalation is not safe, not feasible or not effective, only the reasonable force necessary to gain compliance, control or custody of a subject will be utilized.
- c. The most serious act in which a police officer can engage during the course of their

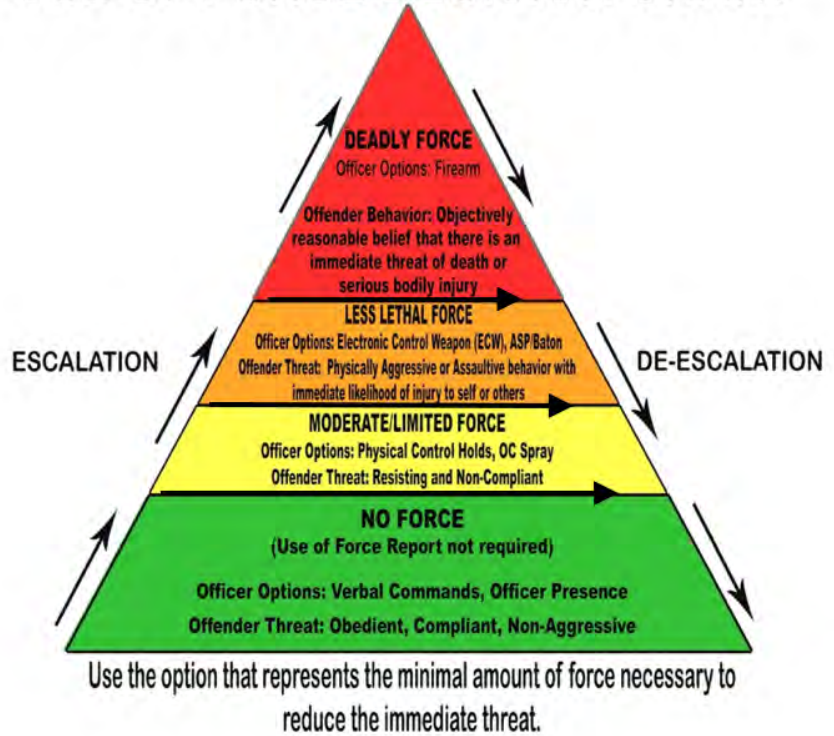
- official duties is the use of deadly force. The authority to carry and use firearms in the course of public service is an immense power, which comes with great responsibility.
- d. Deadly physical force will be used ONLY as an objectively reasonable last resort to protect the officer and/or others from serious physical injury or death.
  - e. An officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect is dangerous, even if deadly force would have been justified at an earlier point in time.
  - f. When feasible under the circumstances, police officers will give the suspect a verbal warning before using deadly force.
  - g. Police officers using their professional judgment should not discharge their weapon when doing so might unnecessarily endanger bystanders.
  - h. Officers should be mindful when making use of force decisions that subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers.
  - i. After using deadly force, officers shall immediately render the appropriate medical aid and request further medical assistance for the subject.
  - j. In instances of obvious fatalities, appropriate respect shall be paid to the remains of the subject.
  - k. Officers who witness inappropriate or excessive force have a duty to report such violations to a supervisor and Internal Affairs.

**Recommendation 1C:** UCPD's use of force policy should define the following terms: Objectively Reasonable, Active Resistance, Passive Resistance, and Serious Bodily Injury.

**Recommendation 1D:** The UCPD should include a revised use of force continuum or critical decision making model in its use of force policy, which makes clear that the goal of force is to de-escalate any situation, and that only the minimal amount of force necessary should be used to overcome an immediate threat or to

effectuate an arrest. A chart showing an appropriate force continuum appears below:

## USE OF FORCE DECISION CHART



**Finding 2:** UCPD’s current use of force policies fail to list specific prohibitions relative to the use of deadly force by a sworn member of UCPD.

**Recommendation 2A:** The following prohibitions should be added to the revised SOP:

- a. Police officers shall not draw their firearms unless they reasonably believe there to be an immediate threat of serious bodily injury or death to themselves or another person.
- b. Police officers shall not discharge their firearms in defense of property.
- c. Police officers shall not use a firearm as a club.
- d. Police officers shall not fire warning shots under any circumstances.
- e. Police officers shall ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to withdraw, take cover or reposition, rather than the immedi-

- ate use of force.
- f. Police officers shall not discharge their firearms to subdue a fleeing individual who presents no immediate threat of death or serious physical injury to another person.
  - g. Police officers shall not discharge their firearms to subdue an individual who poses a threat only to him or herself.
  - h. Police officers shall not discharge their firearms from a moving vehicle unless the officers are being fired upon. Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop a threat of another person.
  - i. Police officers shall not discharge their firearms at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle (e.g., officers or civilians are being fired upon by the occupants of the vehicle).
  - j. A moving vehicle alone shall not presumptively constitute a threat that justifies an officer's use of deadly force.
  - k. Officers should not move into or remain in the path of a moving vehicle, and doing so is not justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle.
  - l. Officers should never place themselves or another person in jeopardy in an attempt to stop a vehicle.
  - m. Barring exigent circumstances, (e.g., the driver is unconscious and the motor is still running), an officer shall never reach into an occupied vehicle in an attempt to shut off the engine or to recover evidence.
  - n. Police officers with revolvers shall not under any circumstances cock a firearm. Firearms must be fired double-action at all times.

**Finding 3:** UCPD does not have a clear policy statement governing the use of less lethal weapons.

**Recommendation 3A:** A clear policy statement governing the use of less-lethal weapons should be included in the revised use of force policy.



**Recommendation 3B:** The following definitions should be included in the revised policy to further enhance clarity: Arcing, Activation, Air Cartridge, Confetti Tags, Cycle, Display, Drive Stun, Duration, CED, Laser Painting, Probes, Probe Mode, Resistance, Active Resistance, Passive Resistance, Serious Bodily Injury, and Spark Test.

**Recommendation 3C:** A clear policy statement governing the use of Conducted Energy Devices (CEDs) should be included in the revised use of less-lethal weapons policy, and should include the following:

- a. A CED is classified as a less-lethal device. A CED is intended to provide a greater margin of safety for officers who might otherwise be forced to physically subdue a dangerous subject or as an alternative to deadly physical force where it would be otherwise legally permissible.
- b. A CED should only be used against persons who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present.
- c. A CED should only be used in situations that allow for the use of physical force.
- d. Officers should issue an appropriate warning, consistent with personal safety, to the intended subject and other officers present prior to discharging the CED.
- e. When a CED is used against a subject it shall be for one standard discharge cycle, after which the officer should reassess the situation. Only the minimum number of cycles necessary should be used.
- f. When practical, the CED should be discharged at the subject's back, and avoid discharging it at an individual's head, neck, and chest.
- g. When possible, the CED should not be used on children, the elderly, obviously pregnant females, or against subjects operating or riding on any moving device or vehicle.

**Finding 4:** UCPD Directive PE 05 addresses the use of a device called a Kubotan.

**Recommendation 4A:** UCPD should consider banning the use of the Kubotan. Given the range of other less lethal options, the use of this somewhat obscure de-



vice is not necessary for UCPD.

**Finding 5:** There is currently no process in place to collect data relative to UCPD officers use of force in a consistent and timely manner.

**Recommendation 5A:** UCPD should establish a system for the collection, storage and retrieval of data regarding uses of force by members of the UCPD.

**Recommendation 5B:** UCPD should, to the extent possible, integrate such data into ARMS.

**Finding 6:** UCPD lacks a clearly defined method of investigating uses of force by its members.

**Recommendation 6A:** UCPD should establish a protocol for the timely review of every use of force to determine the appropriateness of such use of force from an administrative point of view and whether or not further investigation, including potential criminal investigation, or discipline is appropriate.

**Recommendation 6B:** Investigators assigned to investigate police uses of force should receive specialized training to ensure they understand UCPD policies and procedures and are capable of conducting thorough unbiased investigations.

**Recommendation 6C:** UCPD should engage an independent consultant to conduct any administrative investigation in cases of use of force resulting in death, officer involved shootings resulting in serious injury or death, or in-custody deaths.

**Recommendation 6D:** UCPD should allow CPD, or other appropriate state agency, to conduct any criminal investigation in cases of use of force resulting in death, officer involved shootings resulting in serious injury or death, or in-custody deaths.

**Recommendation 6E:** The identity of the officer(s) directly involved in the discharge of a firearm shall be released to the public within 72 hours except in cases where threats have been made toward the officer(s) involved or the department.

**Recommendation 6F:** UCPD should create a Use of Force Review Board (UFRB) to review all cases where members used deadly force or deployed a CED, or any incident that results in serious injury or death.

Cases for review will be presented by the Internal Affairs investigator or appropriate investigator from the Cincinnati Police Department who handled the case.

**Recommendation 6G:** The UFRB should be comprised of, at minimum, a high ranking member of UCPD appointed by the Chief of Police, a member appointed by the President of the University, a member of the student body, a patrol officer (or union representative), and a member of the neighboring University of Cincinnati community. The UFRB will (1) review investigative findings of cases involving designated uses of force by UCPD officers, whether or not an injury occurs; (2) make recommendations regarding disciplinary action or additional training of officers (the UCPD Chief should have the final determination of what discipline, if any, should be imposed); (3) make recommendations regarding any changes to use of force policy or training; and (4) create an annual report that contains an analysis of UCPD use of force data, that is disseminated internally and publicly.

**Recommendation 6H:** UCPD should make the findings of an Officer Involved Shooting (OIS) public upon completion of the investigation.

**Finding 7:** UCPD's current training on use of force is insufficient and inconsistent with the new standards created by the Ohio Collaborative Community Police Advisory Board.

**Recommendation 7A:** The UCPD should establish training to ensure all members of the department have a thorough understanding of the use of force policies and procedures.

**Finding 8:** UCPD does not currently employ realistic, scenario-based training.<sup>24</sup>

**Recommendation 8A:** Training for sworn personnel should be held twice annually to include live fire exercises and Reality Based Training (RBT). All training should emphasize de-escalation and sanctity of life.

**Recommendation 8B:** Crisis Intervention Team Training (CIT) should be a part of both basic recruit and in-service officer training.

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<sup>24</sup> UC is currently in the process of purchasing a product to address this.

## Conclusion

While the adoption of these recommendations will, along with other recommendations contained in this report, go a long way to reduce the unnecessary use of force, and thus build trust in the community, there can be no guarantee that despite best efforts, uses of deadly physical force will not occur. The hope is that if such uses of force do occur, the public believes that systems are in place to fairly and appropriately determine whether that use of force was justified and, when not, that the system will deal appropriately with the transgressor.

## C. Review of Policies and Procedures

### Introduction

Written policies and procedures define the roles and responsibilities of any police department and provide operating guidelines for the department's personnel. They inform personnel of what is expected of them and provide a basis for a disciplinary process dealing with transgressions of the rules. UCPD policies and procedures should be under continuous review by the Department and appropriate university staff, in order to ensure that they continue to represent best practice.

Over the course of February, March, and April of 2016, Exiger conducted a thorough examination of UCPD's policies and procedures. As a result, Exiger has made a series of findings and recommendations detailed in this section.

Exiger found that well before the arrival of our team, UCPD had recognized the need to revise and put greater control and emphasis on its policies and procedures. To this end, UCPD implemented a new electronic document management software system (PowerDMS) and in October 2015, hired an experienced manager as the new Organization Development Coordinator (Coordinator) to oversee the policy software system and to assist the Department with organizing and structuring their policies and procedures. According to our interview with the new Coordinator, this position is a direct report to the Chief of the UCPD, and geared to assist in the following areas:

- 1) Accreditation programming - as a primary function, leading the agency in acquiring accreditation. The Coordinator made a recommendation to the former Chief to enroll in CALEA accreditation process by paying the initial fee for the self-assessment three-year period. UCPD has not committed any funding as of the date of this report.

- 2) Policy development - assisting a team in developing policies and procedures.
- 3) Training development - assisting the department by working with others in developing career and promotional tracks.
- 4) Strategic planning - assisting with goals development and research.

These are critical tasks, and challenging ones. Shepherding a department through an accreditation process is, by itself, an arduous process requiring a significant amount of effort. However, as of the end of March of 2016, the Coordinator still did not have any additional staff to assist him in carrying out his mandate. Since his hiring, the Coordinator has been managing the new software system, and adjusting and revising several policies without any assistance.

The Exiger team reviewed policies and procedures from UCPD's PowerDMS SOP, which we understand to be the policies from which UCPD is currently operating. These policies are derived from an older CALEA model and indeed appear to have been adopted piecemeal without re-numbering the policies. The result not only is an inexplicable numbering system, but an indication to the reader of a lack of real understanding as to the import of the document. Not surprisingly given their genesis, most of the UCPD's policies reviewed did meet a best practice standard. There are several areas, however, that need improvements.

UCPD must customize its policies so that they are consistent with the university defined mission and the most modern thinking in policing today. In our review, we focused on high risk areas for campus law enforcement and assessed whether they were consistent with best practices in the profession. Note that the findings and recommendations directly related to subject matter areas that are covered in other sections of this report are not discussed below. For example, detailed findings and recommendations on Policies and Procedures related to Hiring, Traffic Stops, Use of Force, and Mental Health are discussed in great detail in other sections.

## Findings and Recommendations

**Finding 1:** UCPD lacks an effective process for developing and managing new policies and procedures, and reviewing and updating existing ones.

**Recommendation 1A:** UCPD should update its policies and procedures to reflect campus law enforcement best practices, and assign ongoing responsibility for ensuring that they are kept current.

**Recommendation 1B:** UCPD should establish a policy and procedure review committee consisting of a cross section of the UCPD and appropriate University resources to assist in updating and developing critical policies and procedures.

**Recommendation 1C:** Working with the newly hired Organization Development Coordinator, UCPD should fully implement the electronic document management software system which it has recently begun utilizing.

**Recommendation 1D:** The Coordinator should be provided with the resources and support necessary to meet the requirements of his position (clerical, special assignment from patrol, etc.), and to implement a critical but challenging agenda.

**Recommendation 1E:** UCPD should establish a procedure for the review of its policies and procedures by appropriate UC personnel including the Vice President for Safety and Reform, and the General Counsel or his/her designee.

**Finding 2:** Many of UCPD's policies and procedures are based on CALEA standards, and were adopted without being tailored to the specific needs of the UCPD.

**Recommendation 2A:** UCPD should establish adequate and consistent policies and procedures in several key critical areas including officer supervision and accountability, department transparency, effective diversity recruitment, and essential goal setting to develop community trust and partnership.

**Finding 3:** UCPD's policy on Field Interrogations (SOP 41.2.300) does not properly articulate the Constitutional basis for initiating field encounters.

**Recommendation 3A:** This policy should be rewritten to articulate the basic tenets of Constitutional policing, including that stops be based upon probable cause and reasonable suspicion criteria.

**Recommendation 3B:** UCPD should remove problematic verbiage such as "Persons not fitting the place, time or area."

**Recommendation 3C:** The procedure on when an officer can conduct a "pat down" for officer safety needs clarification.

**Finding 4:** UCPD's Trespass Warning (SOP 1.2.500) does not properly articulate the Constitutional basis for initiating trespass encounters.

**Recommendation 4A:** The warning should articulate tenets of Constitutional policing as the basis for initiating trespassing encounters and clearly articulate probable cause and reasonable suspicion.

**Recommendation 4B:** The policy should be revised, including the clarification of seemingly contradictory language suggesting both that UC is "public property," yet, "under the laws of Ohio, UC has the right to forbid a person to come onto this property."

**Finding 5:** UCPD's Collateral (Off-Duty) Employment policy (SOP 22.3.400) is incomplete and is not consistent with best practices.

**Recommendation 5A:** UCPD should consider limiting the number of off-duty hours officers can work to 20-30 hours in addition to their normal work week.

**Recommendation 5B:** UCPD should require that it approve any collateral employment to prevent conflict of interests between the primary employer and the agency hiring the officer for the off-duty employment.

**Finding 6:** UCPD's Bicycle Assignment & Maintenance policy (SOP 41.1.401), which allows officers to deploy bikes for both patrol and general transportation, is not consistent with best practices.

**Recommendation 6A:** UCPD should require that officers complete a police/public safety officers' bike course, and receive a certification prior to being allowed to deploy on a bicycle.

**Finding 7:** UCPD's policy on Unlawful Assemblies (SOP 46.1.300) addresses labor protests but does not address potentially unlawful student assemblies.

**Recommendation 7A:** This policy should include a section that addresses when student assemblies can and/or should be deemed unlawful.

**Finding 8:** UCPD's policy on Plain Clothes Detail (SOP 41.2.109), which addresses one of the most dangerous areas in law enforcement, is not detailed enough and is not consistent with best practices.

**Recommendation 8A:** UCPD should rewrite the policy to address issues such as supervisory oversight, notification protocols (UCPD and CPD), when plain clothes details may be utilized and collateral issues to plain clothes deployment.

**Finding 9:** UCPD's policy on Use and Control of Confidential Informants (SOP 42.2.900) is not consistent with best practices, and requires more inquiry.

**Recommendation 9A:** UCPD should, because of risk and perceptual concerns, consider prohibiting the use of Confidential Informants (CIs) except in extraordinary circumstances with clearance at the University reporting level.

**Finding 10:** UCPD's policy on Gangs (SOP 43.1.100) does not contain a number of crucial definitions and is not consistent with best practices.

**Recommendation 10A:** This policy should be rewritten to focus on what specific behaviors constitute a constitutional stop or other law enforcement encounter with a gang member, and to clarify what constitutes gang activity, and how an individual becomes classified as a known gang member.

**Finding 11:** UCPD's Active Shooter policy (SOP 46.1.10) is very general in its scope and not consistent with best practices.

**Recommendation 11A:** This policy should be revised so that the section on tactical responses is consistent with Multi-Assault Counter-Terrorism Capability (MACTAC).

**Finding 12:** UCPD's Bomb Threats policy (SOP 46.1.600) is not aligned with the current realities of today's terrorist bombers.

**Recommendation 12A:** UCPD should update this policy to incorporate the likely motivations of modern bomb threat callers and to ensure alignment with current realities of today's domestic and foreign terrorist bombers.

**Finding 13:** UCPD has historically made Clery<sup>25</sup> notifications for non-Clery-reportable off-campus crimes.

**Recommendation 13A:** UCPD should only make Clery notifications for reportable Clery incidents. Other crime data should be made available on the University's website.

**Finding 14:** UCPD does not currently have a dedicated Emergency Operations Center (EOC).

**Recommendation 14A:** UCPD, working with the Director of Emergency Management, should build out a dedicated EOC, designed to facilitate planning and response to both planned and unplanned campus events in coordination with other federal, state and local agencies.

## Conclusion

By reviewing and revising current policies and procedures, and putting in place a system for ongoing quality control, UCPD can ensure that it has an operating framework which is consistent with best practices for campus law enforcement while meeting the specific needs of this Department.

## D. Review of Officer Recruitment, Hiring, Promotion, and Retention

### Introduction

Any assessment of a police force's effectiveness must include a discussion of who the police are and how they were recruited, selected, promoted, and retained with a special attention to the issue of diversity. Diversity alone will not address the concerns of fair and impartial policing. However, having a police force that reflects the demographics of the population it serves will increase trust between the police department and the people it serves.

Unfortunately, for a variety of reasons, the UCPD force does not reflect the demographics of either the University community or its surrounding community. That being said, the new leadership of the Department has made a commitment to have its force better reflect the diversity of local demographics. When achieved, a more diverse Department will

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<sup>25</sup> The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, signed in 1990, is a federal statute codified at [20 U.S.C. Sec 1092\(f\)](#), with implementing regulations in the [U.S. Code of Federal Regulations at 34 C.F.R. 668.46](#). The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. Compliance is monitored by the United States Department of Education, which can impose civil penalties up to \$35,000 per violation, against institutions for each infraction and can suspend institutions from participating in federal student financial aid programs.



accomplish several goals:

- increase trust between the community and the Department, and thus potentially ease any tensions caused from prior police-citizen encounters;
- produce a greater willingness by victims to report incidents and cooperate with the police in investigations;
- start building a police culture open to differences and more receptive to change; and
- open the pathway to a career and a decent income that was once closed for some.

It is for these reasons that the UCPD must recruit, hire, promote, and retain a more diverse workforce of both sworn and unsworn staff. Contained in this section are the findings on UCPD's current practices and recommendations to improve recruitment, hiring and promotion of diverse candidates.

As of April 1, 2016 the UCPD had an authorized strength of 74 sworn members. There is only one non-white officer, a male black patrol officer. Only eight of the 74 members are females. All sworn command ranks, lieutenants and higher, are filled by white males.

UCPD expanded its force through a hiring campaign that started in April 2014. By June 2014, 11 officers were hired, 11 more were added in September of 2014, and another 12 were hired in February 2015. This hiring campaign did not increase the number of non-whites on the UCPD. In fact, during this same time period UCPD lost three non-white officers resulting in smaller numbers in the non-white category in 2016 (2 non-white officers)<sup>26</sup> than in 2013 (5 non-white officers).

A baseline often used to determine if a police department's diversity is acceptable is comparing it to the demographics of the population it serves. The table below provides the demographics of the city of Cincinnati, the neighborhoods where UCPD patrols, the undergraduate student body at the University of Cincinnati, and the faculty at the University.

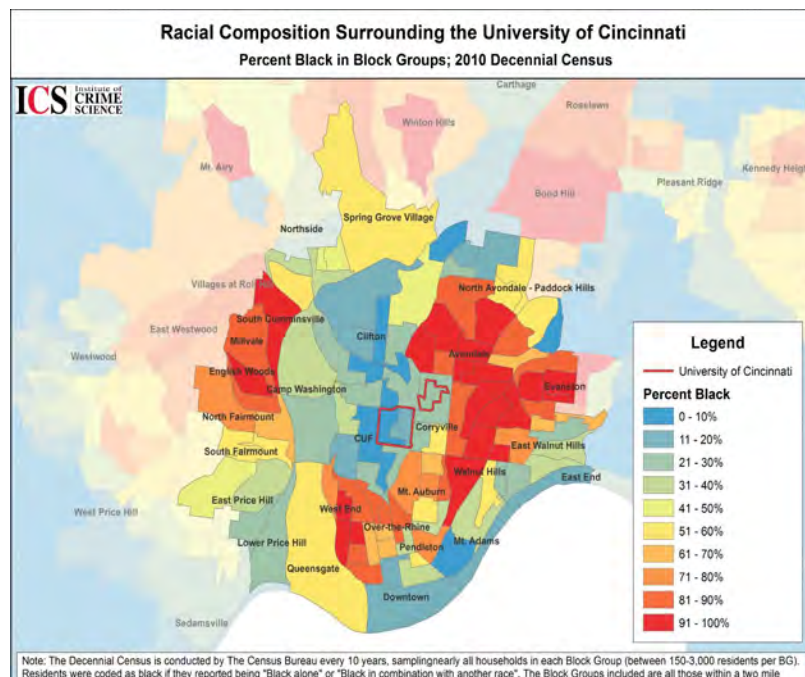
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<sup>26</sup> One of the two non-white sworn members of the Department, a Captain, resigned during the pendency of Exiger's assignment in order to become the Chief of another university police department.

AREA	DEMOGRAPHICS OF AREA BY PERCENTAGE		
	White	Black	Other
UCPD	97.0%	1.5%	1.5%
University Students	68.9%	8.4%	22.7%
University Faculty	71.6%	15.2%	13.2%
Clifton	72.1%	16.8%	11.1%
CUF	73.6%	14.9%	11.5%
Avondale	7.5%	91.1%	1.4%
Corryville	49.1%	36.1%	14.8%
Mt Auburn	29.6%	65.9%	4.5%

**Table 1: Percentage of Racial Population by Area.**

The map below also illustrates the racial make-up of the areas surrounding the University. Although there is not agreement as to what extent a police department should reflect the community it serves, certainly UCPD’s demographic makeup must become more diverse. The demographics of UCPD at 97 percent white do not adequately reflect the demographics of the population it serves.



In an attempt to understand what led to the lack of diversity at UCPD, Exiger examined a review of UCPD 2014-2015 Hiring Process,<sup>27</sup> including the job-advertising sources that were used in the last three hiring efforts. To determine the impact of the various advertising methods, the Exiger Team examined aggregate data from each of the three hiring waves. The results are shown in the table below.

<sup>27</sup> Review of UCPD 2014-2015 Hiring Process. Robin S. Engel, Ph.D. (2016).

Hiring Wave	Number of Applicants	Percent of White, Male Applicants	Number of Days Posted	Number of Applicants / per Day
1	95	71%	16	6
2	159	78%	23	7
3	99	68%	14	7

**Table 2: Effectiveness of Each Hiring Wave**

The first hiring wave used CareerBuilder, Cincinnati Herald, and Ohio Association of Chiefs of Police Web Site. The announcement was opened for sixteen days resulting in 95 applicants. Wave 2 produced 159 applicants but it was open for twenty-three days. A ratio of the number of applicants per day was calculated to produce a standardized measure. The first wave produced six applicants per day compared to seven produced in waves 2 and 3. Another measure is the percentage of white, male applicants. Wave 2 produced the highest percentage of white males at 78 percent compared to Wave 3 with 68 percent. It is difficult to draw clean conclusions based on the aggregate data examined but it does suggest that the use of CareerBuilder did add to greater diversity.

Poor record keeping makes it difficult to determine potential problematic approaches and barriers associated with the current policy, beyond the now eliminated academy pre-certification requirement discussed below. According to UCPD, data collected at each stage of the process is limited.

In any event, only 9.6% of the 353 applicants during the 2014 and 2015 hiring waves were recommended for hire. The outcome by race is noteworthy. 32 (12%) of the 274 white applicants were recommended for hire as compared to only two of the 48 black applicants (4.2%). None of the 18 applicants from the 'other' races category were recommended for hiring.

The hiring process reduces the pool of eligible candidates. Our research found that just over 67%<sup>28</sup> of applicants, 239 in total, met the minimum qualifications. The minimum qualifications were: (1) being OPOTC Certified; (2) being 21 years of age or older; and (3) having a valid Ohio driver's license. Meeting these minimum qualifications allowed the candidate to move on to the next stage of the process. It was at the next stage that a further reduction of candidates occurred. The next round of the hiring process had additional require-

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<sup>28</sup> Of the 353 applicants, Human Resources at UC determined that 114 did not meet the minimum requirements yielding a 67.7% qualifying rate. This held true for both black and white applicants; for other non-white candidates the figure was 58%.

ments, including passing: (1) a physical agility test; (2) a written test; (3) a background investigation (criminal and traffic background record check and references); (4) a polygraph; (5) a psychological exam; and (6) a formal interview.<sup>29</sup> Failure to pass any of these additional tests eliminated the candidate.

While 37.8% of the white candidates passed the written and agility tests, only 21.2% of the black candidates did so. The data did not differentiate between results for the two tests, however, based on anecdotal information, a larger number of black candidates failed to continue in the process after the two tests.<sup>30</sup>

74 of the 353 (79 non-white and 274 white) applicants were considered 'eligible' and made it to the interview stage: only six of the 79 (8%) non-white applicants advanced compared with 68 of the 274 (24.8%) white applicants. Of those candidates, three (4.4%) of the white candidates, two of the black candidates and two of the "other" candidates (together 66.6%) dropped out before the interview stage. At the end of the hiring process, only 2 of 79 non-white applicants and 32 of the 274 were recommended for hire. Non-whites had a 97% failure rate compared to an 88% failure rate for white applications.

It is important, going forward, for UCPD to be as granular as possible in understanding the dropout at each stage of the process. Understanding why applicants fail or withdraw will help to target the recruiting process and enable the UCPD to provide support mechanisms for the applicants. For example, suppose that applicants are dropping out because they believe that they cannot pass the agility test; in that case, UCPD can offer free sessions, coaching applicants on the requisite exercises.

Many police agencies are setting up ways to help applicants make their way through the hiring process. This may be something as simple as maintaining contact with the applicant, answering questions, or providing reassurance and suggestions on preparing for the tests and reviews. More and more, agencies are providing information to the applicant about the process and how to prepare. For example, the Philadelphia Police Department has a video about the agility test and how to perform and prepare for the test. They offer

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<sup>29</sup> Dr. Engel (2016) reports that the background investigation is administered by UCPD investigative lieutenants and includes contacting current and past employers, contacting all references, investigating social media, in-home interview, and other background resources available to the lieutenants. Tri-State Polygraph administered the polygraph exam. Dr. James Daum, a consultant, conducted the psychosocial evaluation.

<sup>30</sup> The agility exam is modeled after the OPOTC standards and is administered by the UC Public Safety. See Engel Report, 2016

opportunities for applicants to come out and work with a trainer. The CPD provides a detailed document about their process including how to take the written test. A promising candidate does not have to be excluded from employment because of a deficiency that could be corrected with some work.<sup>31</sup>

Since the 1970s, police departments have used a screening process very similar to UCPD's process. This process is focused more on 'selecting out' candidates as opposed to 'selecting in' candidates. The process is aimed at finding flaws in a candidate that "disqualifies" him/her from continuing on in the hiring process. As community policing became a predominant policing model, some police executives recognized the need for a shift in hiring practices, with a greater emphasis placed on selecting officers with the skills to engage the community in proactive problem solving.<sup>32</sup>

As part of this review, and at the request of UCPD, the Exiger team considered a Public Safety Diversity Plan, submitted by Directors Whalen and Baker. The Public Safety Diversity Plan consists of short and long term hiring plans, a recruitment advertising proposal, and an entry level examination proposal.

Importantly, the plan seeks to target recruits from three pools. First, the draft hiring plan outlined recruiting from the diverse pool of UCPD Security Officers. Not only does this provide a career path for security officers, which will help to improve the quality of those positions, it also allows the Department to identify successful police officer candidates from among those security officers whose work ethic and judgment has already been observed and evaluated. Several security officers have completed a police academy and others have expressed interest in going into an academy.

UCPD will use a streamlined version of the hiring process for experienced UCPD Security Officers. The applicant will be exempt from normal qualifying tests given his/her experience and working knowledge. These applicants are still required, however, to have a home interview, polygraph, psychological examination, panel interview, and a final interview with the Director of Public Safety. This streamlined process allows UCPD to bring Security Officers on board more quickly than other applicants.

Second, the Diversity Plan includes recruiting officers from other agencies. The value of hiring experienced officers is obvious. Unfortunately, experience can also bring cynicism

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<sup>31</sup> Albert & Kohlhepp, 2010

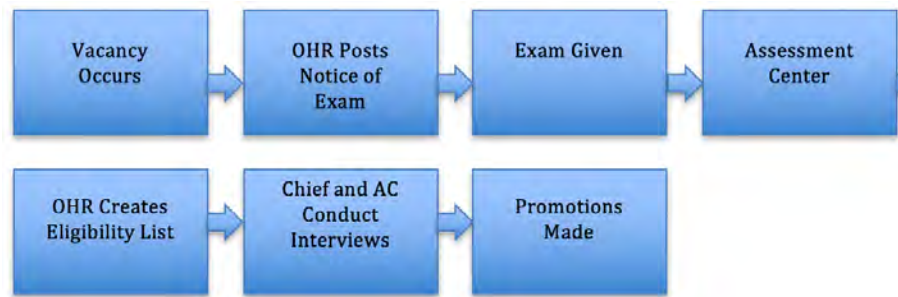
<sup>32</sup> Wilson, Dalton, Scheer, & Grammich, 2010

and poor work habits. Thus, UCPD must be careful in selecting only those experienced officers possessing the right values and service orientation.

Third, the plan includes relaxing the OPOTC certification requirement for some diverse candidates interested in becoming a police officer and sponsoring them to attend an academy. We understand from the Plan that UCPD has already created an apprentice officer position to hire external candidates who lack certification, and sponsor them to attend an academy full-time.

As part of our review Exiger also examined the UCPD's promotional process. UCPD follows a standard promotional process which is used by the vast majority of police departments, and is illustrated in Figure 3:

**FIGURE 3: Promotional Process:**



Although, by policy,<sup>33</sup> this process was set for promotion to Lieutenant, this same process was used in the recent promotion of sergeants. The promotional process for the Captain rank used to require a written test, but now consists of panel interviews with members of student safety board, university executives, and UCPD members.

By policy a Notice of Promotional Exam is posted by the Office of Human Resources (OHR) and is distributed by e-mail or posted on electronic bulletin boards for at least ten days, and contains a description of the position including job duties, working hours, special qualifications required, name and rank of supervisor, and location of reporting and working. The FOP contract clearly states that it is the sole right and responsibility of UCPD to develop, administer, and evaluate all promotional examinations, assessments, and testing procedures.<sup>34</sup> Examinations are required to be developed by either an independent testing service or OHR.

The FOP contract also details the scoring process to be em-

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<sup>33</sup> SOP 34.1.100

<sup>34</sup> University of Cincinnati and FOP, Ohio Labor Council, 2014, p. 19



ployed in evaluating candidates for promotion. The written exam is scored with a maximum total of 100 points. College degrees can provide two additional points for an associate degree and five additional points for a bachelor degree. Military credit can provide an additional four points. The candidate must score at least 70% on the written exam to move on to the assessment center phase. The final score is weighted as: written exam, military credit and college credit is worth 20%, the interview is worth 30%, and the assessment center is worth 50%. The promotion selection must be made from the top three employees.<sup>35</sup>

The weighting of these factors is by design skewed, with the assessment center carrying the greatest weight and when added to the Chief's interview amounting to 80% of the total score. This weighting gives UCPD flexibility in focusing these components on identifying the desired traits in a supervisor, rather than rigidly focusing on an examination.

Exiger also assessed UCPD's ability to retain its employees, and found that UCPD's attrition rate from the period of January 1, 2014 to January 25, 2016 was excessive. There was no information provided that would enable us to make any specific findings regarding the causes of the high attrition rate. However, we can offer some possible explanations for consideration.

A total of 12 officers left UCPD between January 1, 2014 and January 25, 2016.<sup>36</sup> This attrition occurred during three hiring waves, which makes determining the denominator of the ratio of attrition to total officers difficult. At a minimum, however, this represents a significant rate of attrition. Turnover is not always a negative as it allows for new people and ideas to enter the department, and can rid the department of poor performers. That being said, there is a cost to turnover and the loss of experienced personnel can adversely affect operations.

As indicated, there has been no reliable data collected relative to employees leaving the Department. Employees also may leave agencies because of organizational dysfunction, poor supervision, and leadership. The high turnover of Chiefs and Interim Chiefs, the lack of first line supervisors, and organizational dysfunction detailed in this report may have all contributed to the high turnover rate for the past few years. Additionally, opportunities for policing in more active municipal environments may also be a factor in the attrition rate for the Department. Going forward, the Department should make every effort to understand the reasons for individuals

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<sup>35</sup> University of Cincinnati and FOP, Ohio Labor Council, 2014, p. 20

<sup>36</sup> Engel, 2016

leaving the Department.

With regard to staffing, of the 74 authorized sworn positions in UCPD, there are 50 Uniform Law Enforcement Officer (ULEO) positions. While a simple analysis of “calls for service” might indicate that a lesser number of sworn officers could suffice, we believe that 74 authorized positions is an appropriate staffing level given the size of the University, the open-campus nature of the university, the satellite facilities requiring police services, the mandate to patrol the off-campus surrounding community, and the specialty assignments that we have recommended in this report.

Lastly, Exiger reviewed compensation for members of the Department. It appears that the salary and benefits package of UCPD is competitive with other agencies at the base salary for police officers, but diminishes in competitiveness at the higher ranks of the Department due to both base pay disparity and overtime eligibility.<sup>37</sup>

The UCPD has created a career ladder for police officers by establishing ULEO1, ULEO2, and ULEO3. Movement up the ladder requires a minimum time in the prior position plus a set number of training hours above the required training. Once an officer attains the position of ULEO3, he/she must move in rank in order to progress financially. As noted above, UCPD recently added sergeant positions, which offers another rung in the career ladder. One major advantage in terms of compensation is that UCPD also offers tuition reimbursement and remission for spouses, domestic partners, and dependents. Utilized correctly, this generous benefit can provide advantages in recruiting and retention.

## Findings and Recommendations

**Finding 1:** UCPD’s written policies and procedures for hiring do not prioritize the need to establish a police officer candidate pool that is representative of the diverse community it serves.

**Recommendation 1A:** UCPD should update its hiring policy by requiring a diverse slate of candidates throughout the police officer recruitment process.

**Recommendation 1B:** UCPD should consider partnering with well-established minority groups who will share and forward the UCPD’s recruitment advertise-

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<sup>37</sup> The entry salary for a UCPD Law Enforcement Officer Apprentice is \$44,221 and a University Law Enforcement III top salary is \$62,213. This is competitive with the CPD salary range of \$42,572 to \$60,330. With respect to captains, a UCPD captain earns \$81,600 with no overtime allowed versus average earnings of \$112,000 for CPD captains who do earn overtime pay.



ments to a much broader community network.

**Finding 2:** The absence of a clear UCPD mission and strong employer brand impedes recruitment and hiring efforts.

**Recommendation 2A:** UCPD should work with their officers, student population, and community members to craft a UCPD mission statement that clearly states the reason that UCPD exists, describes what UCPD does, and reflects its basic philosophy.

**Recommendation 2B:** UCPD should develop a strong employer brand that will contribute to its becoming the law enforcement employer of choice in Cincinnati and the region.

**Finding 3:** UCPD's past recruitment efforts have been limited and lacked effective strategies to establish an appropriate officer candidate pool that was representative of the diverse community it serves.

**Recommendation 3A:** UCPD should expand their search for police officer candidates by partnering with well-established groups to assist with sharing and forwarding the Department's recruitment advertisement to a much broader community network.

**Recommendation 3B:** In addition to enhancing the all-around recruitment effort, UCPD should target all groups including women, Hispanic, Asian, African American, and LGBTQ both in the community and on campus.

**Recommendation 3C:** UCPD should increase recruitment efforts among the more diverse pool of UCPD campus security officers and other University employees who serve in different campus departments who have demonstrated commendable performance and good judgment.

**Recommendation 3D:** UCPD should ensure that recruitment campaigns reflect UCPD's commitment to diversifying the Department and market such values as community engagement, partnerships, and shared responsibility for crime prevention.

**Recommendation 3E:** UCPD should leverage its family tuition payment program, in an attempt to bring seasoned, diverse, and mission-appropriate candidates into the recruitment mix.

**Finding 4:** There is an SOP which governs the hiring process for police and security officers but none that covers recruitment.

**Recommendation 4A:** UCPD should revise and update the Department's current recruitment policy to a true best practice recruitment plan that acknowledges the need for diversity and sets diversity of applicants as a goal.

**Finding 5:** While the advertising component of the new Diversity Plan appropriately expands on previously limited recruiting efforts and puts forward new approaches that have the potential to expand the diversity of the applicant pool, there are some additional steps that should be considered.

**Recommendation 5A:** UCPD should explore the adoption of the Community Collaboration Model for recruitment and consider consulting with the Hartford Police Department on their experience with the model.

**Recommendation 5B:** UCPD should ensure that recruitment outreach is inclusive of all on and off campus communities including the LGBTQ community.

**Recommendation 5C:** UCPD should carefully select and train officers who attend recruiting events like career fairs.

**Recommendation 5D:** UCPD should establish recruitment ambassadors, comprised of University staff, students, and community members, who will work independently and with officers to help recruit applicants.

**Recommendation 5E:** UCPD should work toward making recruitment part of UCPD officers' regular interactions with the community.

**Finding 6:** While UCPD's recent decision to no longer require candidates to be pre-certified as police officers along with its decision not to give special consideration to candidates who have already completed the academy are critical steps toward increasing the diversity of the applicant pool, the plan can be enhanced.

**Recommendation 6A:** UCPD should track the performance of former Security Officers to assess any impact of the streamlined hiring process.

**Recommendation 6B:** UCPD should use lateral and retired officers only after it has carefully screened those

candidates to ensure that their qualifications and background are consistent with the mission and philosophy of UCPD.

**Recommendation 6C:** UCPD should consider a relocation bonus for qualified and appropriate lateral hires.

**Recommendation 6D:** UCPD should build a process whereby Cincinnati residents who are at the beginning of a career, as well as those that might be in transition from a previous career and whose career aspirations are consistent with the mission and philosophy of UCPD, are given priority for sponsorship to a police academy.

**Recommendation 6E:** UCPD should actively work with local high schools to identify and work with young people who may aspire to a career consistent with the UCPD mission and philosophy.

**Recommendation 6F:** UCPD should consider creating a UCPD Police Cadet program and a student intern program.

**Recommendation 6G:** UCPD should consider offering a free Candidate Applicant Preparation Program (CAPP).

**Finding 7:** Poor record keeping makes it difficult to determine potential problematic approaches and barriers associated with the current policy, beyond the proposed elimination of academy pre-certification requirement.

**Recommendation 7A:** UCPD should ensure that the annual evaluation process proposed in the Diversity Plan include the collection of data at every step, test, and exclusion point in the hiring process, including those who voluntarily drop out of the process. UCPD should use this data, as well as data regarding actual hires and feedback from new hires, to continuously improve the hiring process.

**Finding 8:** While the Diversity Plan proposes a re-engineering of the hiring process, including improved data keeping, contracting out of entry-level testing, and a re-ordering of the process which on its face looks appropriate, there are certain items for consideration that could enhance the proposed plan further.

**Recommendation 8A:** UCPD should consider developing and providing support mechanisms for all appli-

cants to reduce the number of no shows and failures.

**Recommendation 8B:** UCPD should ensure that the proposed suitability assessments of the applicants to the agency is tailored to the UCPD mission statement.

**Recommendation 8C:** UCPD should ensure that where the candidate has previous law enforcement experience, the background investigation should include inquiry into the candidate's use of force training, and any history of use of force, civilian complaints, or discipline.

**Recommendation 8D:** The Plan utilizes a panel interview conducted by UCPD/external stakeholders. While an assessment center approach offers benefits, a diverse interview panel is acceptable.

**Recommendation 8E:** UCPD and relevant stakeholders should review the process to be used by the contractor, confirm that it has been tested for bias and is aligned with the UCPD mission and philosophy.

**Finding 9:** While UCPD follows a standard promotional process, there appears to be no definition of the desired qualities for each supervisor position consistent with the mission and philosophy of the Department.

**Recommendation 9A:** UCPD should define the desired traits and qualifications for a supervisor, consistent with the mission and philosophy of the Department, and those traits and qualifications should be reflected in assessment center exercises, interview questions and scoring protocol.

**Finding 10:** Current procedures for review of promotion decisions and the promotion/ career development process are inadequate.

**Recommendation 10A:** UCPD should ensure that as required by the current SOP, the process for promotion is evaluated annually by the Chief, Assistant Chief, and Lieutenants. Additionally, UCPD should consider annual review of both the promotion and career development process by both the Chief and the Director of Public Safety.

**Finding 11:** Current interviews and assessment center process do not include participation from the student body and community.

**Recommendation 11A:** UCPD should use students and community members in the assessment center exercises and in the interview processes.

**Finding 12:** Current policies and procedures do not contemplate the recently established supervisory position of sergeant.

**Recommendation 12A:** UCPD should update its promotional policies and procedures to reflect the position of sergeant.

**Finding 13:** Despite UCPD's salary and benefits package being competitive with other law enforcement agencies in the area, there was an excessive attrition rate from the period of January 1, 2014 to January 25, 2016.

**Recommendation 13A:** An appropriate turnover/attrition metric should be identified with deviations from the expected rate yielding increased attention to potential issues.

**Recommendation 13B:** Enhance recruitment and hiring process to ensure that candidates have the right expectations and are the right fit for the job.

**Recommendation 13C:** Conduct, maintain, and analyze exit interviews in order to better understand any deviations from the expected attrition rate.

## Conclusion

UCPD has recognized the need to re-engineer its recruitment and hiring practices in order for the police force to reflect the demographics of the communities it serves and meet the demands of policing in an urban university setting. It has taken key first steps in that direction. Building on those efforts, as recommended in this section, will best position the Department to recruit, hire, promote, and retain qualified officers who meet these essential goals.

## E. Review of Training

### Introduction

Twenty-First Century policing demands a highly agile, well-trained workforce that can manage a vast array of problems from community quality of life issues to violent crime and beyond. Today's officers must be problem solvers with critical thinking and community relations skills, just as much as they need to be proficient at the traditional abilities required of a patrol officer. These skills will only be developed

through sound training and education beginning at the academy and continuing throughout their careers.

A police department must have a clear mission and vision, and an articulable set of values that all employees should know and be able to actualize. The mission, vision, and values should be supported at all levels of the organization and be the foundation from which a training curriculum is developed.

Our review of UCPD training identified a number of critical deficiencies in policies, procedures, and practices. The recommendations presented below provide a roadmap to a re-engineered training function that can effectively prepare officers for the complex challenges of their role.

The UCPD Training Unit (TU) is led by a lieutenant (TU Lieutenant) who is responsible for oversight of all of the UCPD training. The TU Lieutenant is also tasked with numerous other responsibilities such as recruiting, hiring, and promotions. Without proper support, it is difficult for the TU Lieutenant to focus on and to thoroughly exercise proper command oversight of the training program.

The TU Lieutenant should have full knowledge and oversight of all training budget information and staffing allocations in order to be able to budget both on-site and off-site training. The Exiger team found that in the past, the TU Lieutenant was not always provided this critical management and budget information.

The TU Lieutenant is responsible for ensuring that all new police officer hires have attended a State certified academy prior to hire, schedules police and security officers for their mandatory orientation training, and maintains files to track all training information for all UCPD employees. Exiger team members reviewed excel spread sheets that track annual training. In 2015, all but one individual tenured officer attended the mandatory four hours of training required by the State of Ohio.<sup>38</sup> Further review indicated that all employees met or exceeded the minimum UCPD requirement of 20 hours of in-service training for the year. There was little information in the 2015 spreadsheet regarding the specific training courses the employees had completed. However, in 2016 the new TU Lieutenant began to document all in-service training attended by each employee. This is an improvement from prior years.

There were several deficiencies noted in command oversight

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<sup>38</sup> The number of mandatory hours was increased to 11 hours for the calendar year 2016 by 109.803 of the Ohio Revised Code (OIC)

of training. The Training Procedures (SOP 33.5.100) require all training to be reviewed and approved by the TU Lieutenant and by a training committee to ensure that training goals are reasonable as assessed by stakeholders. The Exiger team saw no evidence, however, that training has been reviewed by the TU Lieutenant over the past several years. There is no training committee and the TU Lieutenant was not aware of the existence of any training committee during his 15-year tenure with UCPD.

Also, according to the SOP, the TU Lieutenant is primarily responsible for the administrative side of training, including approving the courses and tracking attendance by UCPD employees. There is no evidence that the TU Lieutenant attended training for the purpose of oversight of the training being presented.

The current TU Lieutenant was appointed in late 2015 and immediately began the process of organizing training files, which were previously maintained in an antiquated record keeping system. There were no files, a lack of documented curricula, and few lesson plans had been formally developed. Employee training records were not adequately kept and as such it was difficult to track what training any individual employee had attended.

Furthermore, in assessing a training program, it is important to consider the actual training environment to ensure it is creating opportunity for students to learn and grow. The facilities provided by an agency send a message to its employees about the extent to which training is valued by the organization. In this regard, the message sent to UCPD officers is not reassuring.

UCPD officers are not trained at any of the available quality classrooms on the University's campus. Rather, the UCPD training site is located several miles from the campus in a warehouse facility with missing, broken, and/or water stained ceiling tiles, old plastic tables, and uncomfortable chairs, none of which make for an effective learning environment. There is a large mat room with some equipment available to teach skills such as defensive tactics and baton techniques. Notably, the equipment was purchased by the defensive tactics instructor and not by the University or the UCPD. The square footage of the two training rooms is adequate; however, the location is dilapidated and suggests a lack of support for training from the top leadership of both the University and UCPD. Finally, the main office for the TU is housed at the warehouse training site, making the entire unit isolated from the rest of the UCPD.

OPOTC standards for training are out of the hands of UCPD; that said, Ohio has taken recent measures to improve the basic training framework for officers. In 2015, Ohio Governor Kasich created a Task Force to address the fractured relationships that existed between some communities and law enforcement agencies.<sup>39</sup> The Task Force reviewed the OPOTC standards for both recruit and in-service training. The Task Force recommended many changes to Ohio laws and regulations to improve training standards for all police officers. One recommendation was to increase the number of hours required in the basic training academy curriculum to be more consistent with best practices; Ohio requires only 605 hours of basic training, less than bellwether states California (664), New York (649), and Texas (618). Recommendations specific to training include dealing with juveniles, people with mental health issues, recognizing personal biases, police-community relations and simulated shoot/no-shoot and other scenarios. These additions are in line with best practices and will assist UCPD in the development of new officers.

In addition to the basic academy training, which meets the aforementioned OPOTC standards, UCPD requires all new hires (police and security officers) to attend an 80-hour in-house orientation course where UCPD instructors teach the following topics:

- Defensive tactics
- Firearms and firearms qualification
- Communications and professional standards
- Campus familiarization
- Rules of conduct
- Defensive driving
- Radio and Mobile Digital Computer communications
- Title IX
- Lesbian Gay Bisexual Transgender Questioning (LGBTQ)
- Body cameras
- HAZMAT safety
- Fire safety
- Use of Force
- Investigations
- Standard Operating Policies and Procedures

The Exiger team agrees that these are important subjects that should be taught by an agency to ensure new hires understand agency policy and procedures, and to set the tone from the top. However, there are several critical areas that appear to be missing from the orientation training such as community relations and the Clery Act. Additionally, training should be delivered on the mission, vision, and values of

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<sup>39</sup> Ohio Task Force On Community-Police Relations, Final Report, April 29, 2015.



UCPD. Our review found an absence of classes for both police officers and security officers on several areas including community-police relations, building partnerships with communities both on and off campus, interacting with persons with mental illness, substance abuse, date rape, leadership, critical thinking, and problem solving.

Furthermore, the Exiger Team found that the UCPD is exposed to risk due to the irregular orientation training schedule. Because of the sporadic hiring schedule and the small number of new hires entering employment at UCPD at any given time, orientation training is not scheduled until there are enough new hires for a full class. Therefore, new hires may wait six months or more before attending the orientation classes. During the interim, the untrained new hires work in patrol functions.

As for continuing education, the UCPD currently requires all police and security officers to attend 20 hours of continuing education annually, nine hours more than the current State mandate. While the quantity of training required of all UCPD employees is sufficient, there is no assurance that the training an officer attends is consistent with UCPD policies, or with the mission, vision, and values of the University or the UCPD.

The majority of continuing education training for all employees is conducted off-site, and is led by third-party instructors, not UCPD personnel. According to SOP Number 33.5.100, Training Procedures, training may be conducted while off-duty and at the employee's expense. Some continuing education training opportunities are found in the UCPD training calendar, but most are found by the individual employee through their own research. All supervisors have access to the training calendar, which is maintained by the TU Lieutenant. Employees may request training through their supervisor or be assigned to training by the TU Lieutenant. Once employee training requests are approved by the supervisor, the request is forwarded to the TU Lieutenant for final approval at which time the employee is notified via Department email. Unfortunately, numerous employee requests for outside training go unfulfilled; requests are often held up at the initial supervisory approval level, with approval only obtained after the date the training was scheduled to occur.

There was no in-service training for police or security officers scheduled during the site visit, nor any scheduled prior to the completion of this report. However, the team identified several deficiencies in the quality of training. Training delivery currently is left to the decision of each individual instructor at UCPD. Since there are no lesson plans to evaluate, or

training to observe, there was no way to conclusively determine the training delivery methodologies used by instructors. The Exiger team found that much of the training was in lecture format, and based on instructor experience and limited outside instructor training. Defensive training classes did include some scenarios and role playing. However, lesson plans were not available to establish whether this is a requirement in the delivery of the materials or if it is left solely to the discretion of the instructor. Furthermore, the TU Lieutenant expressed frustration over the lack of readily available historical training information.

Currently, UCPD instructors are not required to attend a certified instructor development course. The State of Ohio offers an 80-hour instructor development course that instructs on adult learning modalities, curriculum and lesson plan development, and facilitation skills. A review of this instructor development course curriculum revealed that it is consistent with best practices. To the best of the TU Lieutenant's knowledge, no UCPD instructor other than himself has attended this course or is scheduled to attend this course in the future.

There is no identifiable process in which UCPD training curricula is developed. Three knowledge domains should drive the development of curriculum: Cognitive, Affective, and Psychomotor. Course objectives should be developed so that students are aware of the level to which the agency will expect the student to perform. UCPD training contains no clear statement of the mission, vision, and values of UCPD which is needed to set a foundation from which to build all training curricula.

There is no indication that adult learning methodology is consistently applied in courses at UCPD. Adults learn best in a hands-on setting where it is safe to make mistakes and learn from them in a controlled environment. Adults need to link new learning to past experiences to ensure development. Through problem-solving, scenario-based training, table top exercises and role play, students have the opportunity to apply what is presented in the course and instructors are able to assess and make corrections in the moment. Understanding that officers come to training with varying degrees of knowledge, skills, and experience, adult-learning techniques allow the instructor to acknowledge experience and build upon it. Trainers should recognize that students learn from each other in the process, which makes for a rich learning environment.

Topics and skills taught in all in-service training classes appear to be taught in isolation of one another. There does not

appear to be any integration of topics such as community relations within use of force course, or unique campus life issues within the defensive tactics course. Integrating topics is a more relevant, realistic and effective way of training and developing employees.

Finally, establishing a *lessons learned* program to aid in the development of quality police training curriculum is a best practice.<sup>40</sup> Such a program is helpful for ensuring that employees understand where prior efforts have fallen short and that can help develop a roadmap for change/improvement so that the agency learns from, and does not repeat, mistakes. Currently the TU Lieutenant is not required or allowed to review all use of force reports, internal complaint investigations, and law suits to identify lesson learned and infuse those lessons into training curricula.

Based upon a review of available training materials, the UCPD-led training does not appear to properly prepare the police and security officers to police in a large university and in urban areas. Further there does not appear to be training directed toward effective interactions with diverse populations. Campus police and security officers must be able to move seamlessly from handling a traditional campus security concern such as a burglary from a motor vehicle to an active shooter incident. Police and security officers must know their roles and be trained to the unique characteristics of university campus life. This can only be accomplished through a strong and well-articulated mission, vision, and values statement from the agency and training developed to accomplish the mission. All courses taught by UCPD instructors are attended by both police and security officers with the exception of firearms training. This is a best practice so that each understands their role in policing and security.

## Findings and Recommendations

**Finding 1:** Training Policies and Procedures are generic and out dated and do not meet the needs of UCPD.

**Recommendation 1A:** UCPD should draft and adopt consistent policies and procedures for the development and approval of all UCPD courses and ensure that all such courses are consistent with the mission and philosophy of the department.

**Recommendation 1B:** UCPD should ensure appropriate oversight of outside training to ensure it is consistent with the Department mission, vision, and values.

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<sup>40</sup> Training the 21<sup>st</sup> Century Police Officer, RAND Report, August 31, 2003.

**Recommendation 1C:** UCPD should require proper tracking, and evaluation of all courses and instructors.

**Recommendation 1D:** UCPD should require instructors to attend a certified instructor development course.

**Recommendation 1E:** UCPD should ensure training is consistent with officer tasks and competencies to successfully serve in an urban and campus environment.

**Recommendation 1F:** UCPD should establish and maintain a “lessons learned” program.

**Recommendation 1G:** UCPD should establish a Training Committee responsible for review of training policies and procedures, curricula development, and course delivery.

**Recommendation 1H:** UCPD should ensure that training opportunities are available to all employees both sworn and unsworn.

**Finding 2:** Current training-related facilities are inadequate.

**Recommendation 2A:** UC and UCPD should locate the training office within headquarters and create a state of the art on-campus learning environment by identifying a professional setting for in-service training.

**Finding 3:** New hires may wait six months or more before attending the 80-hour UCPD orientation class during which time they will be working in patrol functions.

**Recommendation 3A:** UCPD should develop a portion of the 80-hour class in an e-learning format, to be delivered immediately upon swearing in, so as to allow for appropriate orientation before the commencement of patrol functions. At a minimum, this should include orientation as to the mission and philosophy of the UCPD, a primer on problems unique to campus policing, Use of Force policies and procedures, an introduction to community relations, and diversity training.

**Finding 4:** Several critical areas appear to be missing from the orientation training such as community relations, the Clery Act, and a statement of mission, vision, and values of UCPD. It is unlikely that the 80-hours of training provide sufficient time to cover the additional subjects that new hires should receive.

**Recommendation 4A:** Develop introductory curricula, with time allotment and method of delivery (e-learning versus classroom) for inclusion in orientation training; curricula should include the Clery Act; mission, vision, and values of UCPD; and community relations.

**Finding 5:** Based upon a review of available materials, specialized and in-service training does not appear to properly prepare police and security officers to police in a large university and in urban areas or adequately train toward effective interactions with diverse populations.

**Recommendation 5A:** UCPD should design courses to specifically meet their unique training needs, including courses addressing the unique intersection of urban and university policing, and training designed to promote effective interactions with diverse populations.

**Finding 6:** UCPD does not conduct an annual review of training or formal needs assessment process with regard to orientation or continuing in-service training.

**Recommendation 6A:** Build on the recommendations of this report relative to needs assessment and conduct a formal review of training, to be repeated on an annual basis.

**Recommendation 6B:** Develop an annual training plan consisting of goals and strategy based on an annual formal needs assessment, with input from the Chief of Police, a training committee comprised of appropriate UCPD personnel, training unit officer-in-charge, as well as input from community and feedback from other officers and supervisors.

**Finding 7:** While the hours of mandatory in-service training required of all UCPD employees (16 hours beyond the 2015 State mandated training and 9 hours beyond the new 2016 requirement) is sufficient, additional training time would be beneficial.

**Recommendation 7A:** Develop as part of the annual training plan a mandatory training curriculum in modular format, to be reviewed and modified annually, including the state-mandated training as well as those courses which are determined to be best suited for UCPD-mandated annual training.

**Recommendation 7B:** The curriculum developed

should be infused with elements of community policing, including a clear and unified message as to the UCPD's commitment to community policing, as well as with critical thinking and problem solving skills training throughout.

**Recommendation 7C:** Develop a series of elective courses in different relevant subject matter areas all of which would have to be completed over a three-year period.

**Recommendation 7D:** UCPD should initially consider courses for the mandatory training that include updates on trends and innovations in both municipal and university policing, an update on Ohio criminal law, a use of force update including de-escalation techniques, community and problem solving policing updates, and anti-bias training.

**Recommendation 7E:** Elective courses should include (titles included here would be advanced extensions of any mandated course with similar subject matter):

- a. Community-police relations
- b. Traffic stops
- c. Constitutional use of force
- d. Building partnerships with communities both on and off campus
- e. Critical thinking and problem solving
- f. Ethics and Integrity
- g. Human trafficking
- h. Diversity
- i. Biased policing
- j. Substance Abuse
- k. Date rape
- l. Leadership
- m. De-escalation skills through the perishable skills training (defensive tactics, firearms, driving and communication skills)
- n. Equal Employment Opportunity
- o. Interactions with persons with mental illness

**Recommendation 7F:** Determine the appropriate split of total mandatory annual training hours between mandatory and elective courses. This would not preclude additional approved specialized training offered by UCPD or outside agencies or entities.

**Recommendation 7G:** Increase diversity and biased policing training and require these subjects to be recurrent training annually.

**Recommendation 7H:** Records of all training should be centralized and maintained in an electronic format which becomes part of an Officer's personnel package.

**Finding 8:** There is no identifiable process by which UCPD training curricula is developed.

**Recommendation 8A:** UCPD, working with the University should develop a process by which it develops its curricula.

**Finding 9:** There currently is no lessons-learned program by which the Department can embark on a path of continuous improvement.

**Recommendation 9A:** Establish a lessons learned program, derived from UCPD uses of force, post-incident debriefings, employee suggestions, personnel complaints and case law updates, which would inform 1) the development and modification of policy and procedures, 2) the creation of tactical concepts and 3) the development and modification of training curriculum.

**Finding 10:** While the UCPD Field Training Program is a sound structure and commonly used throughout the country, the core success of any Field Training Program is based on the quality of the FTO for which UCPD does not have a written selection protocol.

**Recommendation 10A:** Develop a list of tasks and skill competencies expected of an FTO.

**Recommendation 10B:** Create a selection process to assess whether an applicant has the skills necessary to train new officers.

**Recommendation 10C:** Ensure that all FTO's support the Mission, Vision, and Values of UCPD and will be a strong role model for new employees.

**Recommendation 10D:** Ensure that the selection process includes a detailed review of the disciplinary and merit file of the candidate.

**Recommendation 10E:** Ensure that there is a policy that requires a timely suitability review of any FTO in

the case of a sustained complaint involving that FTO.

**Finding 11:** Currently, instructors at UCPD are not required to attend an OPOTC Certified instructor development course.

**Recommendation 11A:** Require instructors to be OPOTC Certified Instructors.

**Finding 12:** Training delivery currently is left to the discretion of each individual instructor at UCPD. There is no standard requirement that the training include role play, scenarios or table top exercises and no indication that adult learning methodology is consistently applied.

**Recommendation 12A:** Require all courses taught by UCPD instructors to have written lesson plans that include clearly stated, realistic performance objectives and learning activities that utilize multiple learning modalities.

**Recommendation 12B:** Base the training approach on the tenets of adult education, promoting decision-making and critical thinking.

**Recommendation 12C:** Develop problem-based scenarios and case studies that allow the student to apply problem solving skills & knowledge of diverse populations.

**Recommendation 12D:** Require curriculum review before a class is taught.

**Recommendation 12E:** Observe instructors and rate performance.

**Recommendation 12F:** Survey students confidentially relative to the performance of their instructor and adequacy of training generally.

**Finding 13:** There does not appear to be any integration of topics such as community relations within use of force courses, or unique campus life issues within the defensive tactics course.

**Recommendation 13A:** UCPD should ensure that community relations issues are included in use of force courses and that unique campus life issues are included in the defensive tactics course.

**Finding 14:** The majority of continuing education training for all employees is conducted off-site, by non-UCPD instructors



and without any requirement that the curricula be reviewed or approved by UCPD or that officers who attend such training bring a copy of the syllabus back for their training files.

**Recommendation 14A:** UCPD should require by policy that all non-UCPD training be reviewed and approved prior to authorizing attendance at such program, and that a syllabus of such training be obtained for inclusion in the attending employee's file.

**Finding 15:** There are serious deficiencies noted in command oversight of training including: the lack of a Training Committee (despite it being named in the SOP); the lack of review (or available evidence of review) of course curricula by the TU Lieutenant or Training Committee; the lack of an annual Continuing Education Plan and Learning Needs Assessment; and the lack of oversight over outside training.

**Recommendation 15A:** UCPD should ensure that the TU Lieutenant is devoted primarily, if not exclusively to all of the tasks attendant to training and should determine whether additional assistance is required.

**Recommendation 15B:** UCPD should re-establish the Training Review Committee under the direction of the TU Lieutenant and include a member from the University and two members from the community.

**Recommendation 15C:** UCPD should ensure that an annual Continuing Education Plan and Learning Needs Assessment is conducted.

**Recommendation 15D:** UCPD should review, approve, and maintain the curriculum of every outside course approved for attendance by a UCPD officer.

**Finding 16:** The Training Unit lacks basic management practices including: the lack of creation, maintenance and retention of curriculum, expanded course outlines, and/or lesson plans for courses; best practice templates for the design and evaluation of training; and regular course assessments.

**Recommendation 16A:** UCPD should obtain a Learning Management System (LMS) (or utilize the University's LMS *Blackboard* if appropriate) to track all training records, retain expanded course outlines and lesson plans, allow for automated employee training requests and approvals.

**Recommendation 16B:** UCPD should use best practice templates to design training, and evaluate training de-

livery and instructors.

**Recommendation 16C:** UCPD should complete regular assessments of courses and training delivery and ensure that curricula include relevant and realistic officer tasks and competencies.

**Recommendation 16D:** To ensure consistency with UCPD policies, procedures, practices and agency mission, vision, and values, UCPD should assure that the TU Lieutenant approve all internal courses and lesson plans, and outside courses prior to allowing employees to attend.

**Finding 17:** The Training Unit lacks an identified budget.

**Recommendation 17A:** UCPD should identify the actual training budget for equipment and off-site training each year and hold the Department accountable for working within its training budget.

**Finding 18:** There appears to be no control over the selection of instructors or ongoing evaluation of their performance.

**Recommendation 18A:** UCPD should work with the University to develop a policy with respect to the selection of instructors and for the evaluation of their performance.

**Finding 19:** There is no policy that requires the TU Lieutenant to attend training for the purpose of oversight of the training being presented.

**Recommendation 19A:** UCPD should develop a policy which charges the TU Lieutenant with mandatory attendance (either by himself or an appropriate designee) of training so that he can evaluate its effectiveness in writing.

**Finding 20:** The UCPD has essentially no collaboration with the University in the area of training.

**Recommendation 20A:** UCPD should extensively collaborate with the University on issues of training and should consider the creation of a Community-Police Academy for surrounding communities and a Student Community-Police Academy for campus communities.

**Finding 21:** The UCPD has little collaboration with the CPD in the area of training.

**Recommendation 21A:** UCPD should consider collaborating with CPD on issues of training.

**Finding 22:** The UCPD currently has a basic OPOTC-certified Police Academy located on its Clermont Campus which is unused by UCPD.

**Recommendation 22A:** UCPD should consider utilizing the Clermont Campus OPOTC-certified Police Academy as its own internal academy where UCPD sponsored/hired cadets could attend.

## Conclusion

Training can be an important catalyst to bring about change within an organization. It is a necessary element to drive change and institutionalize it within an organization. The basic tenets are present for the UCPD to create a state of the art training program for police and security officers. The UCPD is housed on a university campus and has the ability to interact with a state certified academy housed on a separate campus. The current TU Lieutenant has been educated on instructor development and curriculum design, and has the desire to shift training at UCPD into a 21<sup>st</sup> Century model. However, creating a state of the art training program will only be accomplished through the support of the University and Public Safety leadership. Both must make training a priority, provide the proper support and communicate this focus through words, policy, and action.

## F. Review of Accountability Mechanisms

### Introduction

The mechanisms in place to ensure that the obligations and responsibilities of each individual in a police organization are understood and adhered to, and that deviations from those obligations and responsibilities are appropriately dealt with, are a foundational requirement of any modern police department. These mechanisms include appropriate supervision and spans of control, a system to detect and deal with potentially at-risk officers, a disciplinary system that deals with alleged transgressions of policies and procedures in a fair and consistent manner, and an inspectional system designed to uncover deviations from policies and procedures. In some cases, where a police organization is in need of significant reform, a temporary external entity is also necessary to ensure that all remediation efforts are being implemented in a timely and effective manner.

With regard to supervision and span of control, the need for strong leaders and supervisors throughout the chain of

command cannot be overstated. Every individual in the organization must know who their immediate supervisor is, and what their performance expectations are. Perhaps most important, however, is that first line supervision of patrol officers usually provided by sergeants in most police agencies, be adequate and appropriate.

Until recently, there were no sergeant positions in the UCPD. Instead, each platoon was staffed by two lieutenants. In theory, this arrangement provided that there would always be at least one lieutenant working. However, that was not always the case, given vacations and illness, among other things. On those occasions when there was no lieutenant working, one of the police officers on duty was designated as the officer in charge. Because there were two lieutenants assigned to each shift, neither was clearly the shift commander and it was reported that officers often received confusing and conflicting directives from their supervisors. In essence, there was no consistency or clarity in first line supervision, and, in fact, an individual officer's supervisor one day could be his or her supervisee the next.

Simply put, this lack of adequate supervision was dangerous and completely unacceptable. This failure became even more egregious when the UCPD doubled its numbers and increased its role off-campus. These changes required greater oversight and supervision, given the young and inexperienced new members of the Department who were engaging in relatively high-risk municipal policing.

Despite the expanded responsibilities of the patrol force, no sergeant positions were created until 2015. The present organization chart shows two sergeant positions and one lieutenant position for each of the three patrol squads. This is a significant improvement because it establishes one commander per tour (the lieutenant) who can provide leadership and clear direction to the sergeants and officers assigned to them. The Exiger team has been informed that UCPD has now filled two vacant sergeant positions so that each watch will have a lieutenant and two sergeants.

An Early Warning System (EWS) is another component of a fulsome approach to accountability. The University has recognized the need for an EWS. In April 2015, the University undertook a first step in implementation of such a system with the purchase of the Guardian software, the full installation of which was completed in September of 2015. Exiger has made recommendations with respect to the EWS. For the purpose of this section of the report, it is important to understand that the EWS is a vital part of the overall accountability ecosystem serving to collect and analyze dis-

parate data with the hope of early identification of an officer whose behavior is such that he or she may be at risk of serious future actions or policy violations. In cases where the identification of such an officer is made, appropriate intervention, pursuant to an established protocol, is required.

While the Early Warning System is designed to identify potentially at risk officers through an analysis of various aspects of their police work, which may include complaints, the complaint process deals with the actual alleged transgressions of policies and procedures by an officer. How a police agency accepts, records, and investigates complaints that are reported from any source, be it from citizens or from within the department, is another measure of the maturity of accountability within a police department.

Exiger reviewed the complaint process within the department and found it to be in disarray. First, there was an absence of leadership. Although a captain had been assigned to act as the leader of the Professional Standards function, the designated captain had recently resigned. A lieutenant was in the process of being appointed to the position.

Second, the Exiger team was unable to review any complaint and/or report of investigation files for the last six years or even a log of the complaints. The complaint and investigation files should contain details on the date and time a complaint was received, the identity of the officer(s) involved, the nature of the complaint, and the name of the supervisor assigned to the investigation. The file should also document all the investigative steps taken to prove or disprove the allegations that were made against an officer(s). These folders should also include notifications that were made to the chief and others including the FOP. Exiger did not undertake an independent review of any of the individual complaint files; the files were secured inside a locked drawer of a file cabinet in a locked office. The Exiger team did review disposition reports which were provided as part of our document request. In most of the disposition reports that were reviewed, no disciplinary action was taken. However, in a few instances, written counseling was recommended.

UCPD is required by policy to maintain a log of complaints (SOP 52.1.100). The log should contain the date and time the complaint was received, the identity of the officer(s) involved, the nature of the complaint, the name of the supervisor assigned to investigate the complaint, the result of the investigation, and the ultimate disposition of the complaint. The Exiger Team was informed that UCPD had not maintained a log for at least the last six years.

With regard to investigations of complaints, best practice requires that complaints be investigated fully and fairly in a timely manner. After investigation, the complaint must be adjudicated as being “sustained,” “unfounded,” “not resolved,” or “exonerated.” In cases where a complaint is sustained, there must be a determination of appropriate response by the Department, ranging from “no discipline,” “remedial training,” “loss of pay,” “suspension,” or “termination.” The decision of what constitutes appropriate discipline in any situation should lie with the Chief of the Department. That being said, the review of an investigation, its adjudication, and a recommended penalty in cases of sustained complaints, can, and we recommend should, involve civilians drawn from the community.

The Exiger team also found a lack of any operational audit function. A strong system of accountability should include an audit function, serving to ensure that the systems that are in place are operating as expected and in conformity with best practice. Ideally, this unit should report (by at least dotted line) to the Vice President for the Officer of Safety and Reform. The unit should have an annual audit plan that calls for examination of each of the critical areas of operation in the Department. Personnel assigned to this unit should undergo specific training and certification.

Until the audit function described above is properly and fully established in the Department, and because of the number and nature of the reforms recommended in this report as being necessary to bring the Department into compliance with best practices, the undertaking of a voluntary independent monitorship is recommended to ensure that such reforms are appropriately implemented according to an agreed upon schedule, and that the Board of Trustees and public is apprised of the progress of reform. The independent monitor would initially work with the Department to determine which recommendations the University agrees with implementing, the timeline for implementation of those recommendations, and the measure by which the success of implementation will be assessed. Thereafter, the Independent Monitor would report to the Board of Trustees and the public on the progress of reforms.

## **Findings and Recommendations**

**Finding 1:** UCPD’s level of supervision has been seriously inadequate, but the recent creation and filling of sergeant positions and realignment of lieutenant positions are much needed organizational improvements.

**Recommendation 1A:** Each of the three patrol shifts

should be made up of two squads of officers, with each squad having a permanently assigned sergeant who works the same rotating schedules as their officers.

**Recommendation 1B:** The Organization chart should be redesigned and comprised of sub charts showing Field Operations and Support Services in greater detail. The Organization chart should also be updated to reflect latest personnel changes, including each squad sergeant and the officers assigned to the squad.

**Recommendation 1C:** A comprehensive review of the patrol chart should be conducted to determine if it deploys the patrol force and the supervisors in the most effective manner.

**Finding 2:** UCPD uses Guardian Tracking, a tracking and management software program designed to assist supervisors in their duties of documenting and monitoring their subordinate employee's performance.

**Recommendation 2A:** UCPD should integrate aspects of the Guardian system with the ICS data system in order to build a comprehensive EWS.

**Finding 3:** Despite the requirement that written statements of the duties and responsibilities of each specific position be maintained, there appears to be no current listing of duties and responsibilities for Sergeants and Lieutenants other than a general listing of duties for persons seeking the promotion/position.

**Recommendation 3A:** UCPD should develop a list of critical duties and responsibilities for these positions.

**Recommendation 3B:** UCPD should consider requiring that patrol sergeants perform documented visits, preferably in the field, to each subordinate during their shift.

**Finding 4:** Despite SOP 35.1.100 requiring regular performance evaluations, and supervisor-employee meetings to discuss the evaluation, some officers reported that they had not been evaluated in a few years, and that evaluations had been forwarded by computer.

**Recommendation 4A:** UCPD should implement a quality control process to ensure compliance with the performance evaluation requirements, and incorporate related duties on the list of supervisor responsibilities.



**Finding 5:** UCPD policies with respect to complaint receipt, investigation, and disposition are inadequate.

**Recommendation 5A:** UCPD should draft Complaint Initiation Policies and Procedures that (a) call out the different methods of initiating/receiving complaints (by mail, telephone, fax or email and via the UCPD website); (b) allow for the receipt of anonymous complaints; (c) provide for walk-in complaints at UCPD headquarters; (d) prohibits any attempt to dissuade an individual from filing a complaint; (e) requires appropriate notification from UC General Counsel anytime a lawsuit alleging police misconduct is filed; (f) requires notification to UCPD by any officer who is arrested or otherwise criminally charged or the subject of a lawsuit that alleges physical violence, threats of physical violence or domestic violence; (g) requires officers to report the misconduct of other officers including improper use or threatened use of force, false arrest, unlawful search or seizure, or perjury; and (h) allows for the processing of internally generated complaints.

**Recommendation 5B:** UCPD should draft Complaint Investigation Policies and Procedures that (a) requires the categorization of complaints; (b) defines the workflow of the different categories of complaints from investigation to adjudication; (c) provides time frames for the investigative process; and (d) establishes complaint investigation protocols. The revised SOP should provide for confidentiality to the extent otherwise permissible where disclosure would compromise the investigation.

**Recommendation 5C:** UCPD should draft Complaint Adjudication Policies and Procedures that (a) set forth the standard of proof; (b) prohibits automatic credibility preference being given to an officer's recitation of facts; (c) defines the categories of potential disposition; (d) and, sets the timeframe in which adjudication should be completed.

**Finding 6:** UCPD does not maintain a complaint log as is required in the Internal Affairs policy (SOP 52.1.100).

**Recommendation 6A:** Complaint information should be compiled into a simple database, which can be accessed by the ICS system, and should include fields for: the sequential number of that complaint in that year, date complaint received, nature of the com-



plaint, employee who is the subject of the complaint, the supervisor assigned to investigate the complaint, disposition, and date investigation completed.

**Finding 7:** No brochures about the complaint process or complaint forms were observed in UCPD public spaces.

**Recommendation 7A:** UCPD should develop brochures, in hard copy and for inclusion on UCPD's website, about the complaint process and complaint forms and make such materials available and include as a requirement in a new SOP governing civilian complaints.

**Finding 8:** There is no complaint review process by any outside civilian entity.

**Recommendation 8A:** UCPD should consider establishing a subgroup of the Community Advisory Council to review the department's investigation of complaints made against UCPD employees.

**Finding 9:** The UCPD disciplinary process is governed by the FOP contract and there appears to be no governing SOP.

**Recommendation 9A:** A separate SOP should be created detailing how disciplinary matters should be handled by UCPD. Such a procedure should include creating a form that summarizes details of an allegation of misconduct and creates a log listing the number of the issue starting at 001 of year and including the name of the employee, the dereliction charged, the name of the supervisor reporting and/or investigating the matter, and the date adjudicated.

**Finding 10:** There is no inspection or operational audit function within the Department.

**Recommendation 10A:** UCPD should consider establishing an Inspectional Services or Audit unit, reporting directly to the Vice President for Public Safety and Reform.

**Finding 11:** There is no provision for an on-going outside independent assessor of the state of reforms of the UCPD.

**Recommendation 11A:** UCPD should consider entering into a voluntary independent monitorship which would provide regular status updates to the Board of Trustees and the public relative to the progression of reform within the Department.

## Conclusion

In recent years UCPD's level of supervision and other accountability systems have been seriously inadequate. Recent efforts such as enhancements to the supervisory structure are important improvements, however additional steps are necessary before the Department has the necessary controls in place to operate effectively.

## G. Review of Specific Tactics Including Community Engagement, Problem-Oriented Policing, and Crime Prevention

### Introduction

It is crucial for any law enforcement organization to build and maintain a strong, productive working relationship with the community that it serves. It is only through a strong collaborative partnership between the police and the community that solutions and initiatives can be developed and implemented that will result in a community that not only is safe, but feels safe as well. The importance of this relationship is even more pronounced in a campus environment where there is traditionally less crime, particularly violent crime, than in the community at large. Accordingly, regardless of how effective a campus police department is in reducing crime, its Community Affairs component must be comprehensive, resilient, and fully engaged if the department is going to succeed and be embraced by the community it serves.

Because of this infrequency of violent crime on college campuses, crime prevention, problem-oriented policing, and community-oriented policing are closely related. For this reason, we have chosen to deal with the three subject matters collectively in this section.

UCPD Community Relations SOP 45.2.101 recognizes the need for "strong community ties between the University Police and the community [they] serve." The procedure states that it is the responsibility of every officer to work toward the goal of establishing close ties with and responding to the needs of the community. However, the specific responsibility for the community relations function is assigned to the crime prevention officers.

Under the current UCPD Organizational Chart, there is a Community Affairs Unit that reports to the Professional Standards Captain. Among the other units reporting to this captain are: Internal Affairs, the Organizational Development Coordinator, and Training. Presently, there is no Captain assigned to Professional Standards as the incumbent recently left the Department for a position at another University.

There appears to be significant confusion over the organizational reporting structure for the Community Affairs function. To begin, there does not appear to be any rationale for Community Affairs reporting to Professional Standards, given their different missions. Moreover, this confusion has been somewhat heightened by the newly created position of Director of Community Police Relations.

The Community Affairs group includes two Community Engagement Officers (CEO's), the Victim Services Coordinator, Night Ride, and Campus Watch. These functions apparently now report directly to a lieutenant. It appears that the two CEO's are also tasked as the crime prevention officers referenced in the Community Relations and Crime Prevention SOPs.

In practice, it appears that most, if not all, of the existing community engagement activities are being carried out by the CEO's, with the support and encouragement of the Department's Public Information Officer (PIO). The PIO, who joined the Department in June, 2014, and who reports directly to the Chief, has designed and sought to implement a number of community engagement strategies during her tenure at UC. Among these are a social media strategy, a social media calendar, a Public Safety Communications Plan, and a Public Safety/Residence Education Partnership.

The PIO also serves as UCPD's advisor to the Student Safety Board (SSB), a group whose mission is to act as a liaison between the student body and the Office of Safety and Reform and to raise awareness through continuous education and peer services to create a safer environment for the UC community. The SSB has implemented a number of initiatives, including a Student Organization Awareness Program, (SOAP). As part of the SOAP initiative, each student organization must complete a safety presentation given by SSB as part of the organization's annual requirements. The presentation includes safety resources offered by Public Safety and the University as well as instruction on general personal safety, fire safety, and, among other things, hazing.

SSB also hosts Student Safety Week. This year, during Student Safety Week, which was held the week of March 14, 2016, students participated in an educational outreach event with UCPD and CPD.

The senior CEO at UCPD is both the institutional memory and the driving force behind UCPD's Community Engagement efforts, initially serving as a CEO during the tenure of Chief Ferrara. Although this position, like investigators, was

subject to a rotation period of four years, pursuant to the Collective Bargaining Agreement, the officer served in the role for an additional two years because of his affinity for the position and the success he was having. After being replaced after his six years in the position and returned to patrol for a period, he was asked to return to the position of CEO in 2013 and continues in the position today.

Since the 1980's, police departments across the U.S. have implemented successful Community Policing strategies. Perhaps best defined by Police Commissioner William Bratton, Community Policing relies on three P's: Partnership, Problem Solving, and Prevention. The police in partnership with the community work together to solve crime and quality of life problems leading to reduced crime and disorder and successful crime prevention outcomes.

Police practitioners first embraced Community Policing at the Harvard Executive Sessions on Policing in the 1980's where they learned about research by Dr. George Kelling (e.g., Broken Windows), Dr. Herman Goldstein (e.g., Problem-Oriented Policing), and Dr. John Eck, who introduced the SARA Model of Policing. Under the SARA Model of problem solving, patrol officers Scan or identify a community for problems or concerns; Analyze all inputs and information; design and implement an appropriate Response; and then follow up to Assess if that response produced the desired outcomes.

The SARA model has influenced current successful policing practices including CompStat (Computer Statistics), which was first introduced in New York City in 1994 by Commissioner Bratton. CompStat is a data-driven police management and accountability tool that has been credited with decreasing crime and increasing quality of life in New York and other cities across the nation that replicated the New York program. Similar to the SARA Model, CompStat relies upon: timely and accurate intelligence; effective tactics; rapid deployment; and relentless follow-up and assessment. Today, Community Policing and the SARA Model are evidenced in high performing police departments through effective crime prevention and community engagement strategies.

As part of the review of UCPD's Community Policing efforts, the Exiger Team also evaluated its crime prevention initiatives. In any effective police organization, all officers should be a part of the crime prevention process. UCPD's SOP 45.1.100 recognizes this principle. The procedure provides that two officers are to be assigned specifically to Crime Prevention; those officers are under the supervision of the Investigative Lieutenant, and with full time responsibilities

including planning and coordination of crime prevention activities. As noted above, the two Crime Prevention Officers called for in the current SOPs are serving as the Community Engagement Officers as well. While the Community Affairs Unit's responsibilities can and should include support for crime prevention strategies, through activities such as facilitating safety presentations, and establishing and maintaining neighborhood watch groups, this overlap should not give rise to a consolidation of the functions. Rather, the overall goals of Community Affairs and Crime Prevention will be best achieved by separate resources dedicated to each function.

A number of crime prevention initiatives were developed during the initial assignment of the Senior CEO many of which were discontinued when he returned to patrol. Thought should be given to reinstating many of those initiatives again, as well as some innovative initiatives proposed by the PIO.

There are presently a number of crime prevention initiatives in place at UCPD that contribute to the safety and the sense of well-being of the UC community and the surrounding areas. Additionally, by directly involving students, crime prevention initiatives help build bridges between the UCPD and the UC Student Body. Among these initiatives are the following:

- U.C. Ambassadors Program;
- Night Ride Program;
- Campus Watch;
- Live Safe App;
- Student Safety Board;
- Burglary Prevention Door Hanger Initiative;
- Theft from Auto Prevention Report Card;
- Campus Safety survey;
- Case Watch.

## Findings and Recommendations

**Finding 1:** UCPD's effort to develop and maintain a robust community affairs program is not centralized or coordinated.

**Recommendation 1A:** The essential nature of the community affairs function within the UCPD should be recognized and appropriate resources dedicated to it.

**Recommendation 1B:** The Community Affairs organization, as currently described in the Organization Chart, should be elevated to a more prominent position in the organization and should be staffed appropriately. The newly created position of Director of Community Police Relations appears to be the appro-

priate position for leadership of the organization.

**Recommendation 1C:** UCPD should create a separate Community Affairs Office that has dual reporting to both the Director of Community Police Relations and the Chief, thereby providing for greater visibility and operating authority throughout the Department.

**Recommendation 1D:** The existing SOPs should be reviewed and revised to reflect the new structure and mission of the unit, and consistent with current practice, its responsibility for community based crime prevention activities.

**Recommendation 1E:** Consideration should be given to whether the Victim Services Coordinator belongs in the Community Affairs Office or whether it might be more appropriately housed elsewhere within UCPD or the University.

**Finding 2:** Beyond the Director of Community Police Relations, daily supervision and leadership of the Community Affairs Program currently relies on the good faith efforts and initiative of the Community Engagement Officer and the Public Information Officer, both of whom lack the formal responsibility or authority to be able to implement ideas and programs effectively.

**Recommendation 2A:** The daily activities of the Community Affairs Office should be managed by a supervisor with formal operational authority to manage all of the various components of the Community Affairs mission, who has dual reporting to both the Director of Community Police Relations and the Chief.

**Recommendation 2B:** The supervisor position could either be a civilian title or a uniformed title but should be of sufficient stature as to be able to coordinate resources across the organization, particularly those resources that are not specifically assigned to Community Affairs duties.

**Recommendation 2C:** The Community Affairs Office should be staffed by a minimum of two officers whose sole responsibilities are community affairs duties.

**Recommendation 2D:** UCPD should assign officers throughout the Department as community liaisons to designated community groups, reporting in this function to the Community Affairs Office.

**Recommendation 2E:** UCPD should consider revising the provision of the Collective Bargaining Agreement that prescribes a four-year rotation period for CAOs given:

- The nature of the assignment is such that it requires a specialized type of experience and, perhaps more importantly, a strong sense of commitment by the assigned personnel;
- It is counterproductive to reassign qualified and committed staff from these positions;
- It results in a loss of continuity and institutional memory; and
- It diminishes morale and removes the incentive to excel.

**Recommendation 2F:** UCPD should design and implement a selection process for the Community Engagement Officers which evaluates candidates against the specific qualifications necessary for effective performance of the function, and includes the opportunity for community and student body input.

**Finding 3:** The Community Affairs Office staff is not currently receiving proper training.

**Recommendation 3A:** Community Affairs Office staff should receive specialized training on, among other things, the following topics:

- Public Speaking
- Crime Prevention (National Crime Prevention Council and Community Oriented Policing Services)
- Crime Prevention through Environmental Design (CPTED)
- Labor Relations
- Social Media

**Finding 4:** UCPD does not have a dedicated Event Coordinator who would be charged with primary responsibility for public safety planning for, resourcing of, and response to the myriad of events occurring on campus.

**Recommendation 4A:** UCPD should establish the supervisory position of Event Coordinator, with appropriate staff, whose responsibilities would include, but not be limited to:

- Review event permit applications in the University database and communicate with event planners to address security and safety concerns.
- Conduct a risk analysis of proposed special events to



determine the mitigation actions required including the number and type of security staff needed.

- Coordinate provision of security staffing and operations supporting events with university departments that facilitate events, including Transportation, Fire Safety, Facilities Management, Campus Activities, Hospitality, and Campus Filming.
- Represent the department in regular campus event and stadium event management meetings, and attend occasional production meetings, event walk-throughs, or meetings with individual event organizers.
- Plan and assign department staffing for events and security details.
- Prepare detailed written instructions/post orders for officers assigned to event or security details, and write operations plans for large or complex event details.
- Prepare and send cost estimates and invoices to event organizers for department event staffing, and assist department accounting staff in following up with event organizers regarding unpaid invoices.
- Serves as officer-in-charge for major event details conducting officer briefings and managing the events, such as student Move-in Day, football games, student concerts, Commencement and other major university events.
- Coordinate and liaise with outside law enforcement and public safety agencies regarding university events with wider impact, or community events that may impact both the university and surrounding community.
- Serve as UCPD point-of-contact for dignitary visits to the campus, coordinate with public or private security personal protection details (including Secret Service and protective details for other elected officials), and plan and arrange department staffing as needed.
- Serve as department point-of-contact for protests and demonstrations, and plan or coordinate department staffing as needed.
- Review and provide department approval for requests to serve alcohol at events at campus locations not licensed to do so, in coordination with Hospitality Services.
- Supervise any event coordination staff.

**Finding 5:** Our review found little evidence that UCPD has adequately integrated a problem-oriented policing approach into their policing practices.

**Recommendation 5A:** All UCPD personnel should be trained in a community policing problem solving approach.

**Recommendation 5B:** UCPD should consider enhanc-



ing the SARA model by adopting the CAPRA<sup>41</sup> community policing problem solving model being used by the LAPD and other police departments in the U.S. and Canada.

**Recommendation 5C:** UCPD, in partnership with the communities it serves, should develop a problem solving approach to chronic crime and disorder problems.

**Recommendation 5D:** If UCPD continues to patrol off campus, then problem-solving groups should be established that include community residents and CPD.

**Recommendation 5E:** A policy should be developed that outlines the problem-solving program, and contain clear roles, responsibilities and expectations regarding the UCPD's problem-solving efforts.

**Finding 6:** While the UCPD currently has a number of effective crime prevention initiatives in place, additional programs should be implemented.

**Recommendation 6A:** UCPD should increase the number of CCTV cameras deployed in both the on and off campus communities, and should collaborate with both UCPD and CPD investigators to identify strategic locations to place the additional cameras.

**Recommendation 6B:** UCPD should institute a 'Safe Haven' program whereby local businesses register with UCPD, agree to display a distinctive logo on their storefronts that identifies them as a Safe Haven, and pledge to assist University affiliates in distress.

**Recommendation 6C:** UCPD should consider implementing Operation Blue Light, a program that authorizes UCPD personnel to mark property with an invisible ink discernible only under a special blue light.

**Recommendation 6D:** UCPD should consider implementing Operation ID, a nationwide program that aims to deter theft by permanently identifying valuable property with an indelible, inconspicuous, specially assigned number.

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<sup>41</sup> CAPRA is a Problem Solving Model from the Royal Canadian Mounted Police. It is a circular model, designed to reinforce the need to continually adapt, redefine, seek additional information, assess, respond, reassess, adapt responses, and reassess. The model focuses on the need to keep the clients and partners in mind at all times throughout the process. The letters stand for: C: Understanding CLIENTS (or COMMUNITY), their needs, demands, and expectations. A: ACQUIRING and ANALYSING information. P: Establishing and maintaining PARTNERSHIPS for problem solving. R: Application of RESONSE strategies to solve problems. A: Continuous ASSESSMENT of performance.

**Recommendation 6E:** UCPD should consider implementing PC PhoneHome/Mac PhoneHome, a program that allows authorities to locate a lost or stolen computer by identifying its location when the machine is connected to the Internet.

**Recommendation 6F:** UCPD should consider employing Stop Theft Tags, which possess a unique ID number that is entered into the STOPTHEFT worldwide database, and allow lost or stolen property to be reunited with its owner.

**Recommendation 6G:** UCPD should explore a Bicycle Registration program, where a permanent decal is affixed to the bicycle, thus giving it a unique ID number that is registered with the UCPD.

## Conclusion

There are many productive Community Engagement initiatives at UCPD. Some initiatives are already in place and others that have not yet been implemented because of organizational and staffing deficiencies. Although there is the nucleus of a good community engagement program at UCPD, additional organizational and operational recommendations are presented herein to enhance this program even further.

## H. Review of Encounters with Individuals with Mental Health Concerns

### Introduction

The UCPD has a checkered past when it comes to dealing with individuals with mental health concerns. The University Hospital, which contains a large psychiatric ward, was within the UCPD's jurisdiction until December 31, 2012. On a number of occasions, UCPD officers have found themselves in potentially problematic situations with patients at this facility, most notably the 1997 shooting death of escaped mental health patient Lorenzo Collins, and the 2010 death of Kelly Brinson, who was tased inside of the University Hospital. These incidents left many to question whether the UCPD was properly equipped to handle policing people with mental illnesses. Understanding the types of mental illnesses that can affect people, and knowing how to handle people suffering from such afflictions is crucial for any university police force. Furthermore, studies have shown that college students are likely to develop issues including depression, and that police officers are typically the first line of contact for people who are undergoing a mental health crisis.

Currently, the UCPD has one policy on mental illness response. The policy is antiquated and applies to the hospital

that the Department no longer contracts with. To its credit, interviews with officers revealed that a significant majority of the Department has undergone Crisis Intervention Training (CIT), a 40-hour course that includes discussions with mental health providers and family advocates, and role playing exercises. In addition to CIT, officers complete a yearly two hour Ohio Attorney General's online training course on de-escalating mental health crises. A minimum of two CIT trained Officers are assigned to each patrol watch, with this number expected to grow as more officers receive this training.

The frequency of mental health responses has not historically been captured on a department-wide level. Anecdotally, one officer stated that she responded to approximately three mental health crisis calls during her two-year employment with the Department. Such calls pertained to possible depression and anxiety caused by a student being away from home for the first time, as well as romantic relationship disillusionment. The common practice, not supported by any formal policy or procedure, is for officers in such cases is to transport students to the Student Health Center on the campus. When incidents like this occur during non-business hours, common practice is for officers to transport students to Deaconess, a City mental health facility near campus. There is, however, no SOP supporting this protocol.

While UCPD does stress CIT training for the majority of their officers, thus recognizing the increasing occurrence of this type of event in its police work, it is important to delineate the following concerns that face police, particularly campus police, while dealing with individuals suffering from mental health issues:

- Police officers are typically the first line of contact for people who are undergoing a mental health crisis;
- Mental illness typically manifests itself in people ages 16-24 (college age);
- Nearly 10% of all police contacts involve some aspect of individuals suffering from mental illness;
- People who suffer from mental illness are more likely to harm themselves than others;
- In a college campus environment, despite a host of resources available to most college students during business hours, campus police are typically the only resource available 24 hours a day, 7 days a week and during the hours when students are most likely to experience manifestations of their illnesses;
- Handling of a mental health crisis becomes increasingly dangerous when alcohol or drugs have been consumed - an increased risk within a University setting;
- Diversion to imprisonment rather than mental health services prolongs possible treatment, overcrowds jails,

and ultimately, increases and exhausts the use of law enforcement and criminal justice resources.

## Findings and Recommendations

**Finding 1:** While there are some existing practices, UCPD does not have adequate policy or procedures articulating how to deal with incidents involving individuals suffering from mental health issues.

**Recommendation 1A:** UCPD should establish clearly written policies and procedures based upon existing best practices used by other campus police departments.

**Recommendation 1B:** The new policy should include a list of generalized signs and symptoms of behavior that may suggest mental illness.

**Recommendation 1C:** The new policy should include a list of indicators that will help an officer determine whether a person with a mental illness represents an immediate or potential danger to him/herself, the officers, or others.

**Recommendation 1D:** The new policy should include guidelines for officers to follow when dealing with persons they suspect are mentally ill. These guidelines should, at a minimum, include:

- A requirement that officers request backup when responding to situations involving a mentally ill person, especially when there is the potential for an arrest;
- A section that makes clear that the officer's objective is to de-escalate, in effect to calm the situation, and provides techniques for doing so;
- Procedures for placing a mentally ill individual under arrest; and
- Procedures for transporting that individual.

**Recommendation 1E:** UCPD should review applicable reports from other jurisdictions, including the University of Southern California General Order on Responding to Persons with Mental Illness, and the report from the County of Los Angeles Mental Health Advisory Board, and incorporate suggestions from those reports in policies, procedures, and training.

**Finding 2:** There is no holistic or synergistic approach being used among all affected University entities that may be

called upon to deal with individuals suffering from mental health issues.

**Recommendation 2A:** The University should implement a Student Concerns Committee similar to those in place at other universities. This committee should consist of first responders and those potentially in a position to take early notice of irrational student behavior, including: a UCPD representative, preferably at the command level, and representatives from other university offices, such as student affairs, student health and disability service providers, residential life, student counseling, student judicial affairs, and veteran resources.

**Recommendation 2B:** The Student Concerns Committee should meet on a weekly basis to discuss issues that took place during the previous week and are potentially related to mental health, and collaboratively create a plan of action. Such action may include contacting a counselor to meet with the student, delaying the student's academic demands (to assist with issues such as anxiety), or simple monitoring.

**Finding 3:** There is no apparent recognition of potential peak periods of stress for students that may bring on increased manifestations of emotional crisis.

**Recommendation 3A:** Until all UCPD officers are CIT certified (see Recommendation 4A), to the extent that it is practical, UCPD should ensure that additional officers trained in crisis intervention are deployed during potential peak periods of stress for students (midterms, finals, holidays), including at least one CIT trained officer working on each tour.

**Finding 4:** While UCPD's current mental health training practices exceed those of most other Campus Law Enforcement Agencies, there are additional measures that represent best practices in this area.

**Recommendation 4A:** All sworn officers should be trained and certified in Crisis Intervention, with documented refresher training on a bi-annual basis.

**Recommendation 4B:** UCPD should utilize UCMC experts to educate officers on issues specific to student populations, particularly those within the University community. This should include sensitivity training, highlighting the challenges faced by students who are away from home for the first time.

**Recommendation 4C:** UCPD should consider establishing proactive response teams pairing an on-call UCMC clinician with a law enforcement officer to provide emergency field response to situations involving mentally ill, violent, or high risk individuals.

**Finding 5:** UCPD does not currently keep a record of all encounters with individuals suffering from mental illness.

**Recommendation 5A:** After every encounter with an individual suffering from a mental illness, UCPD should mandate detailed reporting for inclusion in the ARMS system.

**Recommendation 5B:** In order to improve performance, UCPD should annually audit its handling of mental health-related calls and incidents for that year.

## Conclusion

Despite a history of problematic interactions with individuals having mental health issues, the UCPD's current mental health training and implemented informal practices are satisfactory. There are still a number of enhancements, however, that the UCPD needs to make. The recommendations made herein are designed to ensure that the UCPD continues to improve its ability to work with individuals with mental health issues, thus minimizing the likelihood of encountering situations that could unnecessarily lead to the use of deadly force.

## I. Review of Equipment

### Introduction

In the aftermath of the shooting death of Samuel DuBose, questions arose as to the quality and nature of the weapons with which the UCPD was arming its officers. That question was broadened for purposes of this review to a mandate to look at all equipment utilized by UCPD. The Exiger team also included as part of the review, a look at existing facilities to determine whether the facilities meet the needs of UCPD and comport with best practice.

With regard to weapons, it is common sense that there is a reduction in the likelihood of serious physical injury or death to both suspects and officers during a confrontation where the patrol officer is equipped with a range of appropriate non-lethal weapons. UCPD has, however, previously restricted the spectrum of less-lethal weapons available to its officers. Notably, in August 2011, UCPD removed use of TASERS

as the result of two TASER related deaths within a 20-month period. One of the purposes of this portion of the Review was to determine whether any change to that policy should be made.

In completing this section of the Review, the Exiger team conducted a thorough analysis of the equipment currently being used by the UCPD. For purposes of this introduction, we will provide a brief description of this equipment, which can be broken down into the following categories: communications equipment, vehicles, technology (including audio-visual equipment), weapons, hazardous device response equipment and facilities.

With regard to communications equipment, UCPD currently has 170 radios for all members of public safety, including police, security, fire inspectors, technicians, and communications personnel. This number also includes spare and back up radios as well as radios designated for special assignments such as command centers, auxiliary police and Campus Watch. The number appears to be sufficient and the quality of the devices appears to be adequate, allowing for appropriate operational communications.

With regard to vehicles, UCPD currently has 27 vehicles (marked and unmarked). 12 of the vehicles are equipped with Mobile Data Terminals (MDTs) and one has a License Plate Reader (LPR). Additionally, the UCPD has four Harley Davidson motorcycles, four Segway Transporters, and five patrol bicycles for alternative patrol units. There are an additional 22 vehicles in the UCPD inventory, including three Fire Prevention vehicles, four Alarm Technician vehicles, five Access Control vehicles, and 10 vehicles for the Night Ride program. A visual inspection of vehicles that were observed showed that the fleet is in generally good repair.

With regard to technology, the UCPD has the aforementioned MDTs and LPR, as well as ten tablets that are issued to the Night Ride program. In addition, UCPD officers told Exiger that there are approximately 30 desktop computers and approximately 30 laptop computers. Exact numbers were not supplied, nor were any serial or identification numbers.

There are 269 surveillance cameras placed throughout the campus with approximately 25 of them being Point/Tilt/Zoom (PTZ) cameras and the rest being fixed focus cameras. UCPD officers informed Exiger that the PTZ cameras need new upgraded components. There are 10 cameras available for investigative purposes as well as a handheld video camera for filming any demonstrations. The



UCPD also has five GPS tracking units and three crime scene processing kits.

With regard to weapons, each officer is issued a Sig Sauer .40 caliber handgun as well as an expandable baton and OC (oleoresin capsicum or pepper) spray. Each officer must receive training and qualify with these weapons before being allowed to deploy with them. The UCPD has, for use in an active-shooter situation, 20 Remington 12 gauge shotguns and 20 AR15 rifles, which are deployed in the trunk of patrol vehicles. There is also a single Remington bolt-action sniper rifle designated as a SWAT weapon. Once again, officers must be trained in their use and qualify with each of these weapons before being authorized to utilize them. In addition, the UCPD has two 40mm Launchers for use with less-lethal projectiles, such as bean bags; the launchers can only be operated by trained supervisors. Finally, there are 16 side handle PR-24 Batons which policy states can only be used by properly trained and qualified officers for riot control situations. There does not, however, appear to have been any recent training in riot control or relative to the use of the PR-24 batons.

In evaluating UCPD's available weapons, the lack of CEDs, of which TASER is one brand, was notable. As indicated above, UCPD did provide CEDs to its officers before 2011, but removed them from use after a second fatal incident involving the deployment of a CED. As the two fatal incidents vividly point out, less-lethal weapons, including CEDs are not a panacea, nor do they entirely remove the risk of serious physical injury or death. What less-lethal weapons are intended to do, however, is provide an officer with an alternative to the use of deadly physical force, and in the case of a TASER, an alternative to close combat with strikes, batons, or OC spray. The provision of the less-lethal alternative serves to lessen the risk of serious physical injury to both the suspect and involved officers.

With regard to hazardous response equipment, UCPD has a Hazardous Devices Unit for response to Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) weapons of mass destruction. This is becoming more common in universities located in urban environments, and UCPD has well-equipped this unit. UCPD has two full bomb suits, two Self-Contained Breathing Apparatus (SCBA) and numerous other protective items as well as equipment, including a remote-controlled bomb robot, to help them detect and disrupt explosive devices. In addition to the equipment for the designated Hazardous Devices Unit, the UCPD also have 10 Kevlar Helmets, 25 M40 Gas Masks, 50 CBRN filters for those masks,



and 25-rubber chemical over boots – presumably for additional officers to use in case they do have a CBRNE incident. There are two canine officers who deploy with dogs trained for explosive work, not patrol work. These units are particularly useful during special events such as dignitary visits, political rallies, or major sporting events.

With regard to facilities, the Exiger team has reported on the inadequacy of UCPD training facilities elsewhere in this report. In addition to this deficit, Exiger also noted that UCPD does not currently have an Emergency Operations Center from which emergency personnel from UCPD and Office of Emergency Management can operate for both planned and unplanned events coordinating with outside federal, state, and local agencies.

## **Findings and Recommendations**

**Finding 1:** While UCPD is very well-equipped to handle situations in which deadly force is required, a significant gap in the less-lethal force continuum exists. UCPD does not currently utilize CEDs, removing an option that would allow officers the ability in appropriate circumstances to disable an individual from a safe distance and avoid potential resort to deadly physical force.

**Recommendation 1A:** UCPD should re-deploy CEDs under whatever constraints may exist from the settlement of prior lawsuits, thereby expanding the alternatives that its officers have to the use of deadly physical force.

**Recommendation 1B:** UCPD should review all policies and procedures related to the use of CEDs to include, but not be limited to, when the use of the devices is authorized and the allowable number of discharges of the device.

**Recommendation 1C:** UCPD should develop intensive training on the use of CEDs and the relevant policies related thereto. Training should include scenarios in which the utilization of CEDs is appropriate and those instances where it is not.

**Recommendation 1D:** UCPD should designate an officer as a CED training officer; that officer should receive training as a trainer and whose responsibilities should include remaining current on all relevant literature and data on the use of CEDs.

**Finding 2:** There is currently limited utilization of video sur-

veillance in the off-campus designated patrol areas.

**Recommendation 2A:** UCPD, working with CPD and appropriate neighborhood organizations, should consider providing significantly greater deployment of video surveillance in the off-campus patrol areas. Video surveillance can potentially be monitored for crimes in progress, holding promise for both apprehension and deterrence, as well as being reviewed as an evidentiary tool in the case of a past crime.

**Finding 3:** Components of the currently deployed on-campus video surveillance system should be upgraded.

**Recommendation 3A:** A review of all existing video surveillance equipment should be undertaken in conjunction with the exploration of an off-campus video system.

**Finding 4:** UCPD has 16 side handle PR-24 Batons for use in crowd control. By policy, these batons can only be used by trained and qualified officers, and yet the requisite training has not been provided.

**Recommendation 4A:** UCPD should develop or adopt appropriate training for the use of the batons, and ensure that every sworn member of UCPD receive such training in order to be properly qualified for use of the baton in crowd control.

**Finding 5:** UCPD's method of tracking equipment does not comport with best practice.

**Recommendation 5A:** UCPD should evaluate and choose an automated, commercial off-the-shelf product for tracking of all equipment.

**Finding 6:** UCPD maintains a remote controlled bomb robot within its inventory. It is unclear if any member of the department is appropriately trained on its use, nor are there policies in place for its deployment and utilization.

**Recommendation 6A:** UCPD should evaluate the need and potential utilization of the bomb robot. UCPD should consider the mutual aid agreements with and response times of bomb squads in neighboring jurisdictions against the total cost of maintaining the robot and providing adequate training for its utilization.

**Recommendation 6B:** Should the above-recommended evaluation conclude that there is justi-

fication to retain the robot, appropriate initial and refresher training and qualification of a select group of sworn officers on the utilization of the robot and related skill sets including bomb disposal should be developed and deployed. Training should include exercises with those agencies that would provide mutual aid in relevant situations.

**Finding 7:** UCPD maintains a Remington bolt action sniper rifle within its equipment inventory designated as a SWAT weapon. It appears that no member of the department is trained on its use, nor are there policies in place for its deployment and utilization.

**Recommendation 7A:** UCPD should evaluate the need and potential utilization of the sniper rifle taking into consideration mutual aid agreements with and response times of SWAT teams in neighboring jurisdictions against the total cost of maintaining adequate training for its utilization.

**Recommendation 7B:** Should the above-recommended evaluation conclude that there is justification to retain the rifle, appropriate initial and refresher training and qualification of a select group of sworn officers on the utilization of the rifle should be developed and deployed. Training should include exercises with those agencies who would provide mutual aid in SWAT situations.

**Finding 8:** UCPD does not currently have video recording capabilities in their vehicles.

**Recommendation 8A:** UCPD should consider the installation of in-car video as an adjunct to the current deployment of body cameras, providing for potential additional views of and redundancy in any critical incident.

## Conclusion

A police department that is properly equipped is in a much better position to safely and effectively discharge its mission. UCPD is a generally well-equipped department. The return of TASERs to the Department and the implementation of the other recommendations made herein will put the Department in an excellent position to not only safely and effectively discharge its mission, but also to restore community trust in the Department.

## J. Review of Technology

### Introduction

A law enforcement agency's vision for technology must be driven by its operational objectives and goals for public safety. When utilized effectively, a police department can leverage technology to enhance how the community and the police interact. The future of technology in any agency should focus on moving the agency into the digital age, enabling its officers and community to leverage quickly-advancing mobile technologies and should always include clear metrics for determining the outcomes realized by each technology implementation. In this manner, technology can become a force multiplier, increasing efficiency and effectiveness and reducing crime. Equally as important, a successful technology program can elevate the police experience for the community member, shifting the interaction with the police from a "response" to a "service."

One significant technology that the UCPD is currently using is body cameras. UCPD began researching body cameras in 2013. The Department tested multiple cameras, and ultimately selected the Axon Body 1 from TASER International (TASER). The initial deployment of body cameras did not leverage TASER's hosted storage and video management solution, Evidence.com. Instead, the UCPD decided to store the video locally on premise. When Chief Goodrich joined UCPD, he approved the transition to Evidence.com, and the UCPD began using the hosted solution for storage and video management. All video from the initial deployment, however, remains in local storage and had not been migrated to Evidence.com.

UCPD is also currently making use of dispatch technology. Dispatch technology typically includes a 9-1-1 telephone system for the receipt of 9-1-1 calls, a CAD system utilized to deploy officers to incidents in the field, a radio system for officer communications, and a radio and voice logger to record all 9-1-1 calls and radio transmissions. Many dispatch centers are supplemented with various other ancillary systems and responsibilities, depending on the operations of the particular agency.

The UCPD has utilized the Motorola PCAD platform for CAD since 2006. Dispatchers access CAD via the consoles in the dispatch center, and officers in the field access CAD via the MDC's in the vehicles. The CAD platform is provided by the City of Cincinnati via a lease arrangement. The City of Cincinnati supports the CAD platform itself (hardware and software), and University Public Safety Technical Services staff supports console workstations in the UCPD dispatch center. UCPD staff can pull incident history from the CAD, however,

other data appears difficult to access. In addition to dispatching its own officers, the UCPD also performs the dispatch function for Cincinnati State.

The City of Cincinnati is decommissioning the Motorola CAD platform and migrating to a CAD developed by TriTech later in 2016. The City police department and UCPD will move at the same time. The City will provide training to UCPD dispatch. The UCPD is expected to have better access to dispatch data via the TriTech platform than it does on the current platform.

UCPD's 9-1-1 telephone capabilities are integrated with and dependent on the University of Cincinnati phone system. The UCPD utilizes a platform called Higher Ground to record 9-1-1 calls and radio transmissions.

UCPD also has public safety IT systems supported by Public Safety Technical Services, under the direction of the Technical Services Manager, including, but not limited to:

- Alarm System
- Access control and badging (and a related third party reporting system)
- DVTEL video management system (for CCTV)
- Key management system
- SMS server as back up to Nixle
- Nixle administration
- GTRI monitoring system
- Iris reader for secure doors
- Fire Inspection System
- Web Check for fingerprinting

UCPD also has Public Safety Technical Services, under the direction of the Technical Services Manager, including the following resources:

- 2 IT (1 Hardware/Systems, and 1 programmer) for desktop support
- 2 front desk (badging, card access, finger printing, web checks)
- 1 Supervisor (card readers, door lock schedules, cctv cameras)
- 2 Technicians (card readers, door lock schedules, cctv cameras)
- 2 Lock Smiths
- 1 Fire Supervisor (service alarms and smoke detectors)
- 6 Fire Technicians (service alarms and smoke detectors)
- 1 Fire Inspector Supervisor
- 3 Fire Inspectors

## Findings and Recommendations

**Finding 1:** UCPD has implemented body cameras which already places it ahead of most University police departments. The body camera policy, however, does not address a number of issues, including how video is handled subsequent to an incident involving a shooting or serious use of force.

**Recommendation 1A:** UCPD should implement a requirement that each officer create a test recording before they deploy to the field each day to ensure the camera is functional. If a camera is not functioning properly, the officer should be required to check out a new, functioning camera before he/she deploys to the field.

**Recommendation 1B:** The policy should address how to specifically handle video in use of force cases (i.e., who takes custody of the camera, who uploads and reviews the video, when should an officer review video, etc.).

**Recommendation 1C:** Those developing the body camera policy should continue to refine and improve the policy as lessons are learned throughout the deployment. They should also collaborate with other agencies that have deployed cameras to learn from those experiences.

**Recommendation 1D:** The UCPD should consider including the body camera policy as a topic of discussion in community forums, student body meetings, etc.

**Finding 2:** The battery life of the body cameras is only 7-8 hours. Some of the cameras deployed go into “offline mode,” which means the camera must be “reassigned” to the officer in Evidence.com by the system administrator. UCPD purchased very limited storage space (400 GB of storage for the entire camera deployment), which will fill up quickly, requiring video to possibly be deleted earlier than retention requires.

**Recommendation 2A:** UCPD should consult a subject matter expert to assist in negotiating an agreement for cameras and storage so that it includes a number of critical terms (e.g., discounted pricing; a “termination for convenience” clause; the appropriate level of on-site training and support from the manufacturer; etc.). At a minimum, the contract should include increased cloud storage and the ability to swap out

cameras as technology advances.

**Recommendation 2B:** UCPD should identify any video in the UCPS on premise storage that must be retained into the future, and work with the storage provider to migrate that video to the cloud for long-term storage.

**Recommendation 2C:** UCPD should consider engaging a provider for additional system training, to ensure the Department is making full use of the features and functionality of its video management system.

**Finding 3:** Officers are not consistently categorizing the video as they capture it, leaving a considerable number of uncategorized videos. This could have a significant impact on video retention, and UCPDs ability to produce video as required by law. The current practice is to label or “tag” each video with a suspect’s name.

**Recommendation 3A:** UCPD should modify its practice of tagging video with only a suspect’s name. Instead, it should consider utilizing additional identifiers, such as the CAD incident number and/or an RMS record number.

**Recommendation 3B:** To aid in the effort of properly tagging video, UCPD should consider contracting with a vendor that allows for CAD integration with its video management system. By interfacing with CAD, the video management system would be able to utilize various attributes (e.g., date, time, geo-location, officer involved, etc.) to automatically associate video with the related incident in CAD.

**Finding 4:** ARMS, an electronic records management system, appears to be well supported and is being upgraded to the most recent version of the software.

**Recommendation 4A:** The UCPD, in conjunction with the IT staff, should ensure that all business/functional requirements for ARMS are clearly documented and that testing of the upgraded ARMS is conducted against those requirements before the system is accepted.

**Finding 5:** Currently, officers must return to a station or sub-station to complete a report in ARMS.

**Recommendation 5A:** The UCPD should consider implementing an ARMS Mobile Product on MDCs and/or tablets to enable officers to complete reports from the

field. This could be accomplished by issuing a mobile device to each officer, or by deploying tablets to various locations across campus.

**Finding 6:** The dispatch center includes three CAD positions for dispatching, but only two of those positions are equipped with a radio console.

**Recommendation 6A:** The UCPD should add a radio console to the third position so the Department can better handle multiple calls at the same time.

**Finding 7:** A 9-1-1 call typically comes into the dispatch center with only a phone number or a name to identify the caller, and without a building name, address, or room number. If a caller is unable to identify their specific location, the dispatcher must look up the phone number or name in a separate University directory to determine the location of the caller.

**Recommendation 7A:** UCPD should implement a 9-1-1 system that provides the actual geo location of the call, as is standard in dispatch centers across the country. Moving to a traditional 9-1-1 platform also allows the UCPD to consider enabling “text-to-911” functionality, as well as “next generation” dispatch functionality (i.e., digital photos and videos to 9-1-1).

**Finding 8:** The UCPD has implemented “Live Safe,” a mobile application that allows students to text tips to UCPD Dispatch and attach photos, call the campus police, or dial 9-1-1. Dispatchers monitor the system for tips, and to ensure that if a true emergency is submitted as a tip, officers can respond accordingly. The Live Safe app also provides “follow me” functionality so a student can have a friend watch his/her location as they walk across campus.

**Recommendation 8A:** Live Safe provides a great safety feature that should be implemented at colleges across the country. The UCPD should explore ways to expand adoption both on campus and potentially off-campus as well.

**Finding 9:** The existing card access system that controls the doors on campus buildings is going to expire and must be replaced. While the vendor will offer limited extended support until 2020, it is growing increasingly difficult for IT staff to support the system and obtain replacement parts for the system.



**Recommendation 9A:** Funding for a replacement card access system should be identified, and an RFP should be drafted for the procurement of a new system.

**Recommendation 9B:** As part of the preparation for procurement, Public Safety Technical Services should document the requirements for a replacement system and include a plan for potentially integrating the card access system with an existing key management system that was developed in-house.

**Finding 10:** Public Safety Technical Services lacks project management resources to manage system implementations. IT projects may be at risk not because of technical issues, but due to lack of proper project management.

**Recommendation 10A:** The University should consider adding one IT Project Manager to its Public Safety Technical Services staff to ensure large IT projects are implemented according to IT project management best practices.

**Recommendation 10B:** Public Safety Technical Services should engage in a study to determine the appropriate IT staffing levels. It appears that additional Technicians are likely required to support the IT needs of the Department.

## Conclusion

If implemented properly, the UCPD can utilize technology to improve efficiencies and productivity, enhance situational awareness, and increase public trust. The existing public safety technology appears to be maintained and supported from a technical perspective. However, to grow as an organization, the IT organization must be positioned and resourced to also support system upgrade and replacement, as well as support new and emerging technologies, such as body worn cameras and next generation CAD. Further, the UCPD must invest the time and resources in developing policies and training for each of its technologies to ensure consistent use and application of the various systems.

## K. Review of Data Collection Systems, Data Usage, Automation, and Records Management

### Introduction

The collection of data is not new to law enforcement. Since the 1930s, the federal government has asked local law enforcement agencies to report regularly on specific crimes in order to monitor and assess crime in America. The primary objective of the reporting was to generate reliable information for use in law enforcement administration, operation, and management. Over the years, however, such data collection has become one of the country's leading social indicators and has enabled various governmental research and planning initiatives.

Today the amount of data and its use by law enforcement is limited only by an agency's imagination. And, with growing local and national concerns regarding the constitutional practices of law enforcement agencies and officers, there is a heightened need for law enforcement agencies to harness data in new, myriad ways in an on-going and proactive manner.

The shooting of Samuel DuBose has caused many to question what data collection and analysis was being performed by UCPD and whether his death could have been prevented with more thoughtful analysis. While the scope of this review will cover what data is or should be collected and used by UCPD for administrative, operational, and management purposes, it will also look at what types of data is or should be collected and used by UCPD to engage in proactive risk management efforts to ensure constitutional policing by UCPD personnel.

As discussed in the previous section, UCPD currently utilizes a CAD system owned and operated by the CPD. This CAD system is in the process of being upgraded and coordinated with the Hamilton County CAD system. The new CAD system is being provided by TriTech, a company utilized by many law enforcement agencies nation-wide. UCPD will also be part of this new CAD system. By being part of this new multi-agency CAD system involving Hamilton County, the City of Cincinnati, and UCPD, each agency will have real-time information for all law enforcement, fire, and EMS activities within each jurisdiction and allow for coordinated responses.

The current UCPD CAD system allows for the collection of data that is reliable, and consistent with best practices in law enforcement. The CAD system functions include resource management, call taking, location verification, dispatching, unit status management, and call disposition. The CAD system also properly categorizes incidents through a uniform coding system; that coding system is consistent with the

CPD CAD system, thereby allowing personnel from both agencies to readily identify and understand the types of incidents to which they are responding. The data entry interface for CAD has specific data fields and utilizes pull down menus for data entry thereby limiting the ability of the data entry person to enter inconsistent information.

UCPD currently utilizes an electronic records management system called ARMS developed by End2End, a leading records management system provider for law enforcement. ARMS allows for the storage, retrieval, and viewing of information, records, documents, and files related to UCPD's law enforcement operations. The ARMS system is up-to-date and is utilized by UCPD for the majority of its reports, including offense reports, information reports, and traffic reports. UCPD's ARMS system tracks all relevant data for mandated Uniform Crime Report submissions and Clery Act submissions. In addition to the basic crime and informational reports, UCPD's ARMS system allows for entry of evidence records, crime scene photos, and other types of records that can be scanned and linked to an incident, such as signed witness statements and booking papers. The typical incident report contains the factual information for the incident, including offense information, suspect information, evidence, case status and information pertaining to perpetrators, witnesses, and victims. Once reviewed and approved by a supervisor, the report is locked and cannot be edited or changed. UCPD's ARMS system also allows for the use of supplemental reports, which is used to add new information to the initial incident report. Once approved, supplemental reports are also locked and stored. UCPD investigators also utilize the ARMS system to record their investigations.

UCPD is in the process of adding the Use of Force Module offered by ARMS. This module allows use of force information to be reported and stored with the related incident. UCPD, however, has not obtained access to ARMS' module for Field Contacts. A Field Contact is typically triggered when the law enforcement officer observes suspicious or unusual activities of interest; these observations would not otherwise be documented in a records management system as such systems are used to report and store information related to criminal and non-criminal events (e.g., traffic collisions). In addition to basic information related to time and location, general circumstances, names and descriptions of persons, identifying information on vehicles or other property, the Field Contact Module allows for the collection of demographic data for analysis of potential biased policing problems. Realizing the need to collect this type of data for analysis, UCPD created a Microsoft Access database to track demographic data associated with pedestrian and traffic

stops. This Access database, however, does not feed into ARMS.

UCPD's ARMS system allows for immediate access to incident reports and records related to the incident. The ARMS system also has the ability to generate the mandated Uniform Crime Report and Clery Act reports. In 2013, UCPD began working with UC and CPD personnel to study and analyze crime occurring on campus and in the immediate area surrounding UC. Data from ARMS has been leveraged during biweekly meetings with UCPD and CPD command staff and senior UC Administrators. The ARMS data, along with other strategies, has successfully led to the overall reduction of crime in the last two years. The collection and analysis of crime data from ARMS is performed by ICS.<sup>42</sup>

UCPD utilizes two hard copy forms to track off-campus properties associated with UC students. The Dispatched Party Location Form is used by patrol officers when they are dispatched to a report of a loud party off campus that may involve UC students. UCPD receives notification of these by several means, including: phone call to UCPD, Livesafe phone app, notification from CPD, and proactive patrol. This data is collected and stored in a Microsoft Access Database. The Party Problems Form is used by patrol officers to check off-campus properties known to be occupied by UC students and to have a history of loud parties or excessive trash in the yards, among other things. A property will make it on this list if it is noted for any violations two or more times during a 30-day period. The property will remain on this list until 30 days pass with no activity. Patrol officers will check the properties nightly and note their findings. This data is collected and stored in a Microsoft Access Database.

UCPD works with ICS on crime analysis. ICS obtains the data for its analysis by accessing the data in UCPD's CAD system and ARMS system. The Dashboard created by ICS provides data analytics and visualization, as well as crime analysis and mapping for the UC campus and the immediate area surrounding the campus.

Following the shooting of Samuel DuBose, UCPD revised its field contact form (now Contact Card) to collect data related to traffic and pedestrian stops. The Contact Card now requires the recording of demographic data related to a stop. UCPD officers are required to complete a Contact Card for

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<sup>42</sup> The Institute of Crime Science provides evidence-based, empirically tested solutions for national, regional, state, local and international law enforcement and criminal justice agencies. Aside from this use of ARMS data by ICS for the bi-weekly meetings, UCPD does not utilize ARMS data for regular crime, operational, staffing or performance analytics with UCPD personnel. Additionally, the ARMS table structure is complicated and makes the pulling of data for aggregate reporting and analysis difficult.

all involuntary stops. The data collected from Contact Cards is stored in a Microsoft Access database. If the stop leads to a citation or arrest, the Contact Card is scanned and stored in the ARMS database. The Microsoft Access database collects the following data from the Contact Card: report number, officer(s) name, date, time, location, whether the stop was initiated by the officer, the reason for the stop, and the action taken. The database also collects information on the race, gender, and approximate age of the individual stopped. The Microsoft Access Database is user friendly; the user can either check boxes related to the data collected on the forms or make a selection from a pull down menu for available options. This allows for uniform data collection and reduces the chances for input errors.

UCPD currently utilizes Guardian Tracking software to document employee performance and to flag potential patterns in employee performance for early intervention. In early 2015, the prior UCPD administration established the software's use-parameters. For performance issues, Guardian Tracking software comes with stock categories and sub-categories, but also allows for customization. Categories utilized by UCPD include: Awards/Recognition, Staff Employee Performance, General, Recognition Classification, File Purposes, Leadership, Professional Standards, and Discipline. UCPD has also identified over 80 sub-categories to track employee performance. Many of the sub-categories are duplicative and some sub-categories have not been used at all. Having too many sub-categories, some of which are duplicative, causes not only confusion but also inhibits the ability to properly track employee performance and identify potential patterns that may need intervention. UCPD utilizes three flagging categories and 19 sub-categories. Sub-categories are then weighted based upon seriousness and then time periods are chosen for which a total score will trigger a flag. For example, a score of 3 in 90-days. UCPD's categories and sub-categories have duplicate fields with inconsistent criteria. For example, the same sub-category is weighted differently for different flagging categories. Additionally, the weight chosen for the different sub-categories appears arbitrary and illogical.

By inputting employee performance into an electronic database, UCPD has provided immediate access to employee performance data to not only supervisors and management, but also to the employees themselves. This allows managers, supervisors, and employees to be regularly informed on performance issues and to take appropriate action. The interface of Guardian Tracking is simple and user-friendly. After selecting the appropriate performance category, the user identifies the date and the person being reviewed. Then,

there is a text field for the user to document appropriate performance issues. Relevant documentation can be attached to the entry. Once the entry is completed, it is sent to the relevant supervisor or manager for review and approval.

## Findings and Recommendations

**Finding 1:** UCPD is currently using several different systems for collecting and storing data, including the CAD system, ARMS, Guardian Tracking, the ICS Dashboard, and a number of unconnected Microsoft Access Databases.

**Recommendation 1A:** To the extent that it is possible, UCPD should integrate its data collection systems into one large database where all of UCPD's information can be retrieved and analyzed. Alternatively, UCPD should create an umbrella program that would operate like a search engine to allow UCPD to search and pull relevant data from the various freestanding UCPD databases.

**Finding 2:** The UCPD CAD system does not allow for easy access to stored data, and is not integrated with the UCPD's ARMS system.

**Recommendation 2A:** UCPD should utilize its seat at the table in the TriTech CAD system upgrade to ensure that access to stored CAD data is easily obtainable and meets, at a minimum, UCPD's mandated reporting functions to the state and federal governments.

**Recommendation 2B:** UCPD should research whether the new CAD system from TriTech can be integrated into ARMS. Many electronic records management systems, including ARMS, allow for an integrated CAD that imports related CAD data into the electronic records management system's incident report, thus eliminating the need for manual entry of CAD-related data to an incident report and the risk of data entry errors.

**Recommendation 2C:** If integration is not possible, UCPD should continue to use the CPD CAD because the benefits of being connected with the CPD outweigh the benefits of UCPD having its own CAD that would be integrated into ARMS.

**Finding 3:** UCPD has not obtained access to ARMS' module for Field Contacts, and instead uses a Microsoft Access database to track demographic data associated with pedestrian and traffic stops. This database, however, does not feed

into ARMS.

**Recommendation 3A:** UCPD should evaluate the ARMS module for Field Contacts, and ensure that all required data fields can be reported through the module.

**Recommendation 3B:** If the data fields are not and cannot be included, or the ARMS' module for Field Contacts utilization is otherwise undesirable, UCPD should maintain the Microsoft Access database and ensure that all data is transferred into the ICS Dashboard.

**Finding 4:** UCPD's ARMS system allows for immediate access to incident reports and records related to an incident, and can generate mandated Uniform Crime Reports and Clery Act reports. UCPD does not utilize ARMS data for regular crime, operational staffing, or performance analytics with UCPD personnel.

**Recommendation 4A:** UCPD should work with ICS and UCPD IT experts to identify standardized reporting from ARMS data in a variety of formats, such as bar graphs, pie charts and line graphs, that will assist UCPD in analyzing crime, operational staffing and performance data on various indicators, including: current period vs. prior period, current period vs. historical period, percentage totals by beats shifts and personnel, and percentage change from prior periods.

**Finding 5:** UCPD utilizes two hard copy forms to track off campus properties associated with UC students—the Dispatched Party Location Form (DPLF) and the Party Problems Form (PPF). The data contained in these form are stored in a Microsoft Access database.

**Recommendation 5A:** UCPD should determine the feasibility of integrating the DPLF and PPF databases into the ARMS system. If integration is not possible, then UCPD should continue to collect this data and ensure that the data can be imported into the ICS Dashboard.

**Finding 6:** UCPD works with ICS on crime analysis. ICS has developed a visual, analytic tool that pulls crime data from both the CAD and ARMS systems, and analyzes crime, individual officer activity, staffing levels, and overtime expenditures. The tool can pull data from several different types of database applications, including Microsoft Access, and display the data in a variety of different ways on a dashboard



customized to exhibit relevant information at different levels of responsibility with UCPD and its supervisors.

**Recommendation 6A:** UCPD should continue to work with ICS to further develop the functionality of the ICS tool and its Dashboard.

**Recommendation 6B:** UCPD should, whenever possible, capture data relative to race, gender, age and ethnicity, so as to better foster transparency and legitimacy.

**Finding 7:** Following the shooting of Samuel DuBose, UCPD revised its field contact form (now Contact Card) to collect data related to traffic and pedestrian stops. The data collected from Contact Cards is stored in a Microsoft Access database, which is missing a number of relevant data fields.

**Recommendation 7A:** UCPD should add the following fields to its database: whether the stop was a traffic or pedestrian stop, whether there was a frisk or search of the person or property, and whether force was used during the stop. The addition of these fields will assist UCPD in identifying potential problematic behavior, patterns, or trends.

**Recommendation 7B:** Stop data should be monitored regularly as part of an early warning system, surfacing potentially at-risk behavior of policy violation or biased policing.

**Finding 8:** UCPD is currently using the Guardian Tracking software to document employee performance and to flag potential patterns in employee performance for early intervention. The interface of Guardian Tracking is simple and user-friendly, but UCPD is not currently using the categories and sub-categories correctly.

**Recommendation 8A:** UCPD should continue to utilize the Guardian Tracking electronic database for documenting and tracking positive and negative aspects of employee performance.

**Recommendation 8B:** UCPD should conduct a full review of the capabilities of the Guardian Tracking system and its potential interface with the ICS tool with an eye toward including Guardian Tracking data in ICS dashboards and therefore building a more full-some early warning system.

**Finding 9:** UCPD does not have a database for the collection



of data related to internal affairs complaints, their investigation or their dispositions. UCPD procedures state only that the Internal Affairs Lieutenant should maintain a log of internal affairs complaints, but UCPD has not done so consistently.

**Recommendation 9A:** UCPD should establish an electronic database to track and maintain data related to internal affairs complaints, and can readily communicate with other UCPD databases. The ARMS system should be used if it supports the intake, investigation, and tracking of such complaints. The minimum data that should be tracked, includes: Report Number; Complainant Name, Race, Gender and Age; Accused Name, Rank, Assignment; Time and Place of Occurrence; Allegation Types; Brief Description; Investigator Name, Rank and Assignment; Complainant Arrested; Charges Filed; Investigation Status; Investigation Details, Adjudications of Each Allegation and Discipline Imposed.

**Finding 10:** UCPD does not have a database for the collection of data related to use of force incidents and only maintains hard copies of force reports and investigations.

**Recommendation 10A:** UCPD should establish an electronic database to track and maintain data related to uses of force, and investigations thereof. To the extent that the ARMS system supports use of force reporting, investigation, adjudication and tracking, and is capable of exporting of relevant data to the ICS tool, it should be utilized. The minimum data that should be tracked, includes: Report Number; Officer/Guard Information; Time and Place of Occurrence; Suspect Name, Race, Gender and Age; Criminal Allegations; Arrested; Charges Filed; Types of Force Used; Brief Description; Resisting Arrest; Weapon Used by Suspect; Injury to Officer/Guard; Injury to Suspect; Investigator Name, Rank and Assignment; Investigation Status; Investigative Reports, Adjudications of Use of Force (In Policy/Out of Policy) and Discipline Imposed.

**Finding 11:** UCPD does not utilize a regular CompStat management accountability process with UCPD personnel. UCPD Command Staff does, however, participate in bi-weekly crime reduction meetings with CPD Command Staff and UC Administrators to discuss crime trends and enforcement strategies for the UC campus and the immediate area surrounding the campus.

**Recommendation 11A:** UCPD should better integrate the data and analysis available from the ICS tool into the bi-weekly UCPD/CPD meetings and should consider adding additional UCPD command staff to the meeting.

**Recommendation 11B:** UCPD should institute a regular CompStat-like management accountability process which goes beyond just examination of crime data, analyzing other relevant information including, but not necessarily limited to: Uses of Force, Complaints, and other performance-related issues.

**Finding 12:** UCPD does not have a proactive risk management program, and does not track important performance data, including data related to internal affairs complaints and use of force incidents. Furthermore, UCPD does not effectively utilize the Guardian Tracking system to full capacity, by effectively identifying and monitoring employee performance.

**Recommendation 12A:** UCPD should leverage the technology available in the ICS tool to build a proactive risk management database, which will track and analyze risk related information and data related to a series of performance indicators.

**Recommendation 12B:** Analysis should include the crime and performance data currently available in the Dashboard in order to obtain a more holistic picture of an officer's performance.

**Recommendation 12C:** UCPD should work with ICS to establish appropriate performance thresholds triggers, including Department-Level Thresholds (e.g., three internal affairs complaints in 12 months); Peer Officer Averages (compares performance with similarly situated officers); and Performance Indicator Ratios (e.g., ratio of UOF incidents to number of arrests).

**Recommendation 12D:** UCPD should establish a protocol for the resolution of Early Warning Systems (EWS) notifications of potentially at-risk officers.

**Finding 13:** UCPD currently identifies some but not all publicly available and relevant data on its website.

**Recommendation 13A:** UCPD should consider including the following data on its website: (1) yearly totals for Part 1 and significant Part 2 crimes; (2) an incident map; (3) the Daily Crime Log; (4) pedestrian and traf-

fic stop totals broken down by demographic data; (5) use of force data broken down by type of force used and whether the force was in or out of policy (no officer names should be provided); and (6) sustained internal affairs complaints with the disciplinary action taken (no officer names should be provided).

## **Conclusion**

If implemented properly, the UCPD can utilize data collection systems to improve efficiencies and productivity, and enhance situational awareness. The existing systems appear to be maintained and supported well, from a technical perspective. However, these systems are not currently being used in a sufficiently efficient manner. UCPD is currently using several different systems for collecting and storing data, and if possible should integrate its data collection systems into one large database that tracks all of UCPD's information, or create an umbrella program that would operate like a search engine to allow UCPD to search and pull relevant data from all the UCPD databases. Further, UCPD must invest the time and resources in developing policies and training for each of its systems to ensure consistent use and application of the various systems.

## IX. Conclusion

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In the preceding findings and recommendations we have set forth the changes that, if implemented, will enable UCPD to become a model urban university police department. While the genesis of the changes laid out in these pages is a tragedy that befell the family of Samuel DuBose, with profound impact on the University, its police department, and the broader Cincinnati community, the steps outlined will help prevent such tragedies in the future and will aid in building the trust so necessary to promote both safety and fairness in our communities.

# Appendix A

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## Recommendations Matrix

While each recommendation made in this report is important to the success of reform efforts, we have, in the Recommendation Matrix that follows, attempted to provide the relative criticality of our recommendations as well as relative cost and relative degree of difficulty for each recommendation.

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
Fundamental Recommendations										
1A	Adopt a mission statement that will serve as a foundation and guidepost for its going-forward reforms.			X	X			X		
1B	In developing the mission statement, consider (1) providing for the safety and security of faculty, staff, students and visitors, (2) promotion of concepts of fairness, non-biased policing with minimal intrusion and (3) promotion of service to the broad University community			X	X			X		
2A	Establish an internal audit or inspectional service unit that reports directly to the Vice President of Safety and Reform			X		X			X	
2B	Perform on-going audits for critical areas and functions on a regular cycle to be memorialized in an annual audit plan.			X		X			X	
2C	Implement a voluntary on-going monitoring function to track each of the reforms outlined in the recommendations and ensure that they are implemented according to the agreed upon schedule			X		X		X		
3A	Update its policies and procedures to reflect campus law enforcement best practices, and assign ongoing responsibility for ensuring that they are kept current.			X						
3B	Become certified by CALEA and/or IACLEA.			X		X				X
4A	Traffic and pedestrian stops should not be used as a crime fighting tool by UCPD. Clear guidance by policy and procedure should be given as to how traffic stops should be conducted and when, if ever, off-campus traffic stops are permissible			X	X			X		
4B	Traffic and pedestrian stops should not be used as a crime fighting tool. Clear guidance by policy and procedure should be given as to when, if ever, off-campus traffic stops are permissible.			X	X			X		
5A	Adopt a policy on biased policing, clearly indicating that UCPD officers may not use race, color, ethnicity, or national origin, to any extent or degree, in conducting stops or detentions, or activities following stops or detentions, except when engaging in appropriate suspect-specific activity to identify a particular person			X	X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
5B	Develop a curriculum and institute training on the biased policing policy including training on implicit bias and shall deliver such training both to new and existing members of the department.			X		X			X	
6A	Draft and implement a single Use of Force policy that covers what force is permitted and the resulting departmental investigation and review process			X	X			X		
6B	The new Use of force policy should emphasize de-escalation and sanctity of life			X	X			X		
7A	Arm UCPD officers with CEDs			X		X			X	
7B	Include a clear policy statement governing the use of CED in the revised use of less lethal weapons policy			X	X			X		
7C	Develop intensive training on the use of CEDs and the relevant policies, including scenarios in which the utilization of CEDs is appropriate and those instances where it is not.			X		X				X
8A	Establish a protocol for the timely review of every use of force to determine its appropriateness from an administrative point of view and whether or not further investigation, including potential criminal investigation, or discipline is appropriate.			X	X			X		
9A	Update hiring policy by requiring diversity applicants throughout the police officer candidate recruitment process.			X	X					X
10A	Draft and adopt consistent policies and procedures for the development and approval of all UCPD courses and ensure that all courses are consistent with UCPD mission and philosophy.			X	X			X		
11A	Draft comprehensive Complaint Initiation Policies and Procedures that define the workflow of the different categories of complaints from investigation to adjudication.			X	X				X	
11B	Complaint Initiation Policies and Procedures should prohibit any attempt to dissuade an individual from filing a complaint, and require officers to report the misconduct of other officers.			X	X				X	
12A	Recognize the essential nature of the community affairs function within the UCPD and appropriate resources dedicated to it.			X		X		X		
12B	Infuse Community Oriented Problem Solving Policing throughout the fabric of the UCPD.			X	X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
13A	Integrate the data collection systems into one large database that tracks all data.			X		X				X
14A	Make maximal use of UC's resources in order to fully implement the recommendations made in this report.			X		X			X	
Review of Pedestrian and Traffic Stops										
1A	Traffic and pedestrian stops should not be used as a crime fighting tool. Clear guidance by policy and procedure should be given as to when, if ever, off-campus traffic stops are permissible.			X	X			X		
1B	Involuntary off-campus pedestrian and traffic stops should only be allowed when the officers possesses reasonable suspicion to believe that a pedestrian or motorist is engaged in a criminal, non-driving offense.			X	X			X		
1C	To the extent that any safety-related off-campus traffic stops are allowed, particular scrutiny of each such stop should be applied by UCPD Administration.			X	X			X		
1D	Consider equipping officers with tablets which among other things would enable the electronic capture of stop data through an electronic version of the Field Contact Card.	X				X				X
1E	Give officers enhanced training on appropriately dealing with individuals who are stopped.			X	X			X		
2A	UCPD should continue its full implementation of the recently enacted policy on biased policing.			X	X			X		
2B	UCPD's training on the biased policing policy should include training on implicit bias and such training shall be delivered both to new and existing members of the de-partment. In-service training on the topic shall be de-veloped and delivered annually.			X		X			X	
3A	Develop and implement a protocol for the investigation of complaints of biased policing.			X		X			X	
3B	Train officers conducting investigations of complaints of biased policing on the protocol to be employed in such investigations.			X		X			X	
3C	OSR should audit all investigations of complaints of biased policing to ensure that they are being conducted in accordance with establish protocols for such investigations.		X		X				X	



RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
4A	Determine appropriate levels of response and mitigative strategies, including polite explanation, to combat the negative perception created by enhanced response levels.		X		X			X		
Review of Use of Force										
1A	Combine SOP 1.3.200, and SOP 1.3.400 with SOP PE 05 into a single Use of Force policy covering when force is permitted to be used as well as the investigation and review process.			X	X			X		
1B	The new Use of force policy should emphasize de-escalation (see specific language in Report)			X	X			X		
1C	The use of force policy should define the following terms: Objectively Reasonable, Active Resistance, Passive Resistance, Serious Bodily Injury.			X	X			X		
1D	Include a revised use of force continuum or critical decision making model in the use of force policy, which makes clear that the goal of force is to de-escalate any situation, and that only the minimal amount of force necessary should be used to overcome an immediate threat or to effectuate an arrest.			X	X			X		
2A	The SOP on Use of Force should include a series of prohibitions for officer use, and discharge of a firearm.			X	X			X		
3A	A clear policy statement governing the use of less lethal weapons should be included in the revised use of force policy.			X	X			X		
3B	Include the following definitions in the revised policy to further enhance clarity. Arcing, Activation, Air Cartridge, Confetti Tags, Cycle, Display, Drive Stun, Duration, CED, Laser Painting, Probes, Probe Mode, Resistance, Active Resistance, Passive Resistance, Serious Bodily Injury, Spark Test.			X	X			X		
3C	Include a clear policy statement governing the use of CED in the revised use of less lethal weapons policy			X	X			X		
4A	Consider banning the use of the Kubotan.	X			X			X		
5A	Establish a system for the collection, storage and retrieval of data regarding uses of force by members of the UCPD.			X	X				X	
5B	Integrate the use of force data into ARMS.		X			X				X

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
6A	Establish a protocol for the timely review of every use of force to determine its appropriateness from an administrative point of view and whether or not further investigation, including potential criminal investigation, or discipline is appropriate.			X	X			X		
6B	Provide specialized training to investigators assigned to investigate police uses of force.		X			X			X	
6C	Engage an independent consultant to conduct any administrative investigation in use of force cases that result in death, officer involved shootings resulting in serious injury or death, or in-custody deaths.		X				X		X	
6D	Allow CPD, or the appropriate state agency, to conduct any criminal investigation in cases of use of force resulting in death, officer involved shootings resulting in serious injury or death, or in-custody deaths.		X		X			X		
6E	The identity of the officer(s) directly involved in the discharge of a firearm shall be released to the public within 72 hours except in cases where threats have been made toward the officer(s) involved or the department.		X		X			X		
6F	Create a Use of Force Review Board (UFRB) to review all cases where members used deadly force or deployed a CED, or any incident that results in serious injury or death.		X		X				X	
6G	The UFRB should be comprised of, at minimum, a high ranking member of UCPD appointed by the Chief of Police, a member appointed by the President of the University, a member of the student body, a patrol officer (or union representative) and a member of the neighboring University of Cincinnati community.		X		X				X	
6H	Make the findings of Officer Involved Shooting (OIS) investigation public upon completion		X		X			X		
7A	Establish training to give all members of UCPD a thorough understanding of the use of force policies and procedures.			X		X				X
8A	Hold training for sworn personnel twice annually to include live fire exercises and Reality Based Training (RBT).			X		X				X

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
8B	Crisis Intervention Team Training (CIT) should be a part of both basic recruit and in-service officer training.		X			X			X	
Review of Policies and Procedures										
1A	Update policies and procedures to reflect campus law enforcement best practices, and assign ongoing responsibility for ensuring that they are kept current.			X		X				X
1B	Establish a policy and procedure review committee consisting of a cross section of the UCPD and appropriate University resources to assist in updating and developing critical policies and procedures.		X			X			X	
1C	Work with the newly hired Organization Development Coordinator to fully implement the electronic document management software system.		X			X				X
1D	Provide the Coordinator with the resources and support necessary to meet the requirements of his position, and to implement a critical but challenging agenda.		X				X	X		
1E	Establish a procedure for the review of policies and procedures by appropriate UC personnel including the Vice President for Safety and Reform and General Counsel or his/her designee.		X		X				X	
2A	Establish adequate and consistent policies and procedures in several key critical areas including officer supervision and accountability, department transparency, effective diversity recruitment and essential goal setting to develop community trust		X		X				X	
3A	Rewrite Field Interrogations policy to require that stops be constitutional and based upon probable cause and reasonable suspicion criteria.		X		X			X		
3B	Remove problematic verbiage such as "Persons not fitting the place, time or area."		X		X			X		
3C	Clarify sections in the procedure on when an officer can conduct a "pat down" for officer safety.		X		X			X		
4A	Rewrite the Trespass Warning to articulate tenets of Constitutional policing as the basis for initiating trespassing encounters and clearly articulate probable cause and reasonable suspicion.		X		X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
4B	Remove contradictory language suggesting both that UC is “public property”, yet, “under the laws of Ohio, UC has the right to forbid a person to come onto this property.”		X		X			X		
5A	Limit the number of off-duty hours officers can work to 20-30 hours in addition to their normal work week.		X		X				X	
5B	Require UCPD approval of any collateral employment to prevent conflict of interests.	X			X				X	
6A	Require that officers complete a police/public safety officers’ bike course, and receive a certification prior to being allowed to deploy on a bicycle.	X			X			X		
7A	Rewrite the Unlawful Assemblies policy to include a section on when student assemblies can/should be deemed unlawful.	X			X			X		
8A	Rewrite the Plain Clothes Detail policy to address supervisory oversight, notification protocols (UCPD and CPD), when plain clothes details may be utilized and collateral issues to plain clothes deployment.	X			X			X		
9A	Prohibit the use of Confidential Informants (CIs) except in extraordinary circumstances with clearance at the University reporting level.	X			X			X		
10A	Rewrite the Gangs policy to focus on what specific behaviors constitute a constitutional stop or other law enforcement encounter with a gang member, and to clarify what constitutes gang activity, and how an individual becomes classified as a known gang	X			X			X		
11A	Revise Active Shooter policy so that the section on tactical responses is consistent with Multi-Assault Counter-Terrorism Capability (MACTAC)			X	X			X		
12A	Update Bomb Threats policy to incorporate the likely motivations of modern bomb threat callers and to ensure alignment with current realities of today’s domestic and foreign terrorist bombers.	X			X			X		
13A	Make Clery notifications for reportable only for Clery incidents, and make other crime data available on the University’s website		X		X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
14A	Build out a dedicated Emergency Operations Center, designed to facilitate planning and response to both planned and unplanned events in coordination with other federal, state and local agencies.		X				X		X	
Review of Officer Recruitment, Hiring, Promotion, and Retention										
1A	Update hiring policy by requiring diversity applicants throughout the police officer candidate recruitment process.			X	X					X
1B	Partner with well-established minority groups who will share and forward the UCPD's recruitment advertisements.		X			X			X	
2A	Work with officers, student population, and community members to craft a UCPD mission statement that states the reason that UCPD exists, what IT does, and reflects its basic philosophy.		X		X			X		
2B	Develop a strong employer brand that will contribute to its becoming the law enforcement employer of choice in Cincinnati.	X			X					X
3A	Expand the search for police officer candidates by partnering with well-established groups to share and forward recruitment advertisement to a broader community network.		X		X				X	
3B	Target all groups including women, Hispanic, Asian, AA and LGBTQ both in the community and on campus.		X		X				X	
3C	Increase recruitment efforts among the more diverse pool of UCPD campus security officers and other university employees who serve in different campus departments who may have demonstrated commendable performance and good judgment.		X			X			X	
3D	Ensure that recruitment campaigns reflect UCPD's commitment to diversifying and market values like community engagement, partnerships, shared responsibility for crime prevention, etc.			X	X			X		
3E	Leverage, to the greatest extent possible, its family tuition payment program, in an attempt to bring seasoned, diverse, mission-appropriate candidates into the recruitment mix.		x		X				X	
4A	Revise and update the current hiring policy to a true best practice recruitment and selection plan that acknowledges the need for diversity and sets diversity as a goal.			X	X			X		
5A	Explore the adoption of the Community Collaboration Model for recruitment.	X			X				X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
5B	Ensure that recruitment outreach is inclusive of all on and off campus communities including the LGBTQ community.		X		X			X		
5C	Carefully select and train officers who attend recruiting events like career fairs.		X			X			X	
5D	Establish recruitment ambassadors, comprised of University staff, students and community members, that will work with officers and on their own to help recruit applicants.		X		X				X	
5E	Work toward making recruitment part of UCPD officers' regular interactions with the community.		X		X				X	
6A	Track the performance of former Security Officers to assess any impact of the streamlined hiring process.		X		X				X	
6B	Use lateral and retired officers, after careful screening to ensure that their qualifications and background are consistent with the mission and philosophy of UCPD.	X				X			X	
6C	Consider a relocation bonus for lateral hires.	X				X		X		
6D	Build a process that gives priority to Cincinnati residents (1) at the beginning of a career or (2) in transition from a previous career and whose career aspirations are consistent with the mission and philosophy of UCPD.	X			X			X		
6E	Actively work with local high schools to identify and work with young people who may aspire to a career consistent with the UCPD mission and philosophy.	X				X			X	
6F	Consider creating a UCPD Police Cadet program and a student intern program.	X				X			X	
6G	Consider offering a free Candidate Applicant Preparation Program		X			X			X	
7A	Ensure that the annual evaluation process proposed in the Diversity Plan include the collection of data at every step, test, and exclusion point in the hiring process, including those who voluntarily drop out of the process. Use this data to continuously improve the hiring process.		X		X				X	
8A	Consider developing and providing support mechanisms for all applicants to reduce the number of no shows and failures.		X		X				X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
8B	Ensure that the proposed suitability assessments of the applicants to the agency is preceded by the adoption of a roadmap to change existing culture to the extent necessary to align it with that of the newly defined mission of the department.		X		X				X	
8C	The panel interview should be conducted by a diverse panel.		X		X			X		
8D	Review the process to be used by the contractor, and confirm it's been tested for bias and is aligned with the UCPD mission.		X		X			X		
8E	The annual evaluation process proposed in the Diversity plan should include the collection of data at every step, test, and exclusion point in the hiring process, including those who voluntarily drop out of the process.		X		X			X		
9A	Define the desired traits and qualifications for a supervisor, and those should be reflected in assessment center exercises, interview questions and scoring protocol.		X		X				X	
10A	Ensure that the process for promotion is evaluated annually by the Chief, Assistant Chief and Lieutenants, and consider annual review of both the promotion and career development process by both the Chief and the Director of Public Safety		X		X				X	
11A	Use students and community members in the assessment center exercises and in the interview processes.		X		X				X	
12A	Update the promotional policies and procedures to reflect the position of Sergeant.		X		X			X		
13A	Select a turnover/attrition metric to identify and react to deviations from the expected rate.		X		X				X	
13B	Enhance the recruitment and hiring process to ensure that candidates have proper expectations and are the right fit the job.		X		X				X	
13C	Conduct, maintain and analyze exit interviews in order to better understand any deviations from the expected attrition rate.		X		X				X	
Review of Training										
1A	Draft and adopt consistent policies and procedures for the development and approval of all UCPD courses and ensure that all courses are consistent with UCPD mission and philosophy.			X	X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
1B	Ensure appropriate oversight of outside training to ensure it is consistent with Department Mission, Vision and Values.		X		X			X		
1C	Require proper tracking, and evaluation of all courses and instructors.			X	X			X		
1D	Require instructors to attend a certified instructor development course.		X		X			X		
1E	Ensure training is consistent with officer tasks and competencies to successfully serve in an urban and campus environment in a manner consistent with Department Mission, Vision and Values.			X	X			X		
1F	Establish and maintain a "lessons learned" program.		X		X				X	
1G	Establish a Training Committee responsible for review of training policies and procedures, curricula development and course		X			X			X	
1H	Ensure that training opportunities are available to all employees both sworn and unsworn.		X		X			X		
2A	Locate the training office within headquarters and create a state of the art on-campus learning environment by identifying a professional setting for in-service training.		X			X			X	
3A	Develop a portion of the 80-hour class in an e-learning format, to be delivered immediately upon swearing in, so as to allow for appropriate orientation before the commencement of patrol functions.		X			X				X
4A	Develop introductory curricula, with time allotment and method of delivery (e-learning versus classroom) for the Clery Act; Mission, Vision and Values of UCPD; and community relations for inclusion in orientation training.		X			X		X		
5A	Design courses to specifically meet unique training needs including courses addressing the unique intersection of urban and university policing, and training designed to promote effective interactions with diverse populations.		X		X				X	
6A	Build on the recommendations of this report relative to needs assessment and conduct a formal review of training, to be repeated on an annual basis.		X				X		X	



RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
6B	Develop an annual training plan consisting of goals and strategy based on an annual formal needs assessment, with input from the Chief of Police, a training committee comprised of UCPD personnel, training unit officer-in-charge, and the community.			X			X		X	
7A	Develop as part of the annual training plan a mandatory training curriculum in modular format, to be reviewed and modified annually, including the state-mandated training as well as those courses which are determined to be best suited for UCPD-mandated annual training.		X			X			X	
7B	Infuse the curriculum developed with elements of community policing, including a clear and unified message as to the UCPD's commitment to community policing, as well as with critical thinking and problem solving skills training throughout.		X		X			X		
7C	Develop a series of elective courses in different relevant subject matter areas all of which would have to be completed over a three year period.		X			X			X	
7D	Consider courses for the mandatory training that include updates on trends and innovations in both municipal and university policing, an update on Ohio criminal law, a use of force update including de-escalation techniques, community and problem solving policing updates, and anti-bias training.	X			X			X		
7E	Elective courses should include: Community-police relations; Building partnerships with communities both on and off campus; Critical thinking and problem solving; Ethics and Integrity; Diversity; Biased policing; Substance Abuse; Date rape; Leadership; De-escalation skills through the perishable skills training (defensive tactics, firearms, driving and communication skills); Equal Employment Opportunity; Interactions with persons with mental illness.		X		X			X		
7F	Determine the appropriate split of total mandatory annual training hours between mandatory and elective courses.		X		X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
7G	Increase diversity and biased policing training and require these subject to be recurrent training annually.			X		X		X		
7H	Centralize and maintain records of all training in an electronic format which becomes part of an Officer's personnel package		X		X			X		
8A	Develop a process by which UCPD develops its curricula.		X			X				X
9A	Establish a lessons learned program, derived from UCPD uses of force, post-incident debriefings, employee suggestions, personnel complaints and case law updates.		X		X				X	
10A	Develop a list of tasks and skill competencies expected of an FTO.		X		X			X		
10B	Create a selection process to assess whether an applicant has the skills necessary to train new officers.		X			X			X	
10C	Ensure that all FTO's support the Mission, Vision and Values of UCPD and will be a strong role model for new employees.		X		X				X	
10D	Ensure that the selection process includes a detailed review of the disciplinary and merit file of the candidate.		X		X			X		
10E	Ensure that there is a policy that requires a timely suitability review of any FTO in the case of a sustained complaint involving		X		X				X	
11A	Require instructors to be OPOTC Certified Instructors.		X		X			X		
12A	Require all courses taught by UCPD instructors to have written lesson plans that include clearly stated, realistic performance objectives and learning activities that utilize multiple learning modalities.		X		X			X		
12B	Base the training approach on the tenets of adult education, promoting decision-making and critical thinking.	X			X			X		
12C	Develop problem-based scenarios and case studies that allow the student to apply problem solving skills & knowledge of diverse populations.	X			X				X	
12D	Require curriculum review before a class is taught.		X			X			X	
12E	Observe instructors and rate performance.		X			X			X	
12F	Survey students relative to the performance of their instructor.	X			X			X		
13A	Ensure that community relations issues are included in use of force courses and that unique campus life issues are included in the defensive tactics course.		X		X			X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
14A	Require by policy that all non-UCPD training be reviewed and approved prior to authorizing attendance at such program, and that a syllabus of such training be obtained for inclusion in the attending employee's file.		X		X			X		
15A	Ensure that the training lieutenant is devoted primarily, if not exclusively, to all of the tasks attendant to training.		X		X			X		
15B	Re-establish the Training Review Committee under the direction of the training lieutenant and include a member from the university and two members from the community.		X			X		X		
15C	Ensure that an annual Continuing Education Plan and Learning Needs Assessment is conducted.	X			X			X		
15D	Review, approve, and maintain the curriculum of every outside course approved for attendance by a UCPD officer.	X			X				X	
16A	Obtain a Learning Management System (LMS) to track all training records, retain expanded course outlines and lesson plans, allow for automated employee training requests and approvals.		X			X			X	
16B	Use best practice templates to design training, evaluate training delivery and instructors.		X		X			X		
16C	Complete regular assessments of courses and training delivery. Ensure curricula includes relevant and realistic officer tasks and competencies.		X			X			X	
16D	Training Unit lieutenant should approve all internal courses and lesson plans, and approve all outside courses prior to employees being allowed to attend to ensure consistency with UCPD policies, procedures, and agency mission, vision and values.	X			X			X		
17A	Identify the actual training budget for equipment and off-site training each year and hold the department accountable for working within its training budget.		X		X				X	
18A	Develop a policy with respect to the selection of instructors and for the evaluation of their performance.		X		X				X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
19A	Develop a policy which charges the training lieutenant with mandatory attendance (either by himself or an appropriate designee) of training in order to evaluate, in writing, its effectiveness.	X				X				X
20A	Extensively collaborate with the University on issues of training and should consider the creation of a Community-Police Academy for surrounding communities and a Student Community-Police Academy for campus communities.	X			X					X
21A	Collaborate with CPD on issues of training	X			X			X		
22A	Utilizing the Claremont Campus OPOTC-certified Police Academy as its own internal academy where sponsored/hired cadets could attend.	X			X			X		
Review of Accountability Mechanisms										
1A	Each of the three patrol shifts should be made up of two squads of officers, with each squad having a permanently assigned sergeant who works the same rotating schedules as their officers.		X		X				X	
1B	Consider redesigning the Organization chart so that it is comprised of sub charts showing Field Operations and Support Services in greater detail, and should be updated to reflect latest changes and clearly reflect each squad sergeant and the officers assigned to the squad.		X		X				X	
1C	Conduct a comprehensive review of the patrol chart to determine if it deploys the patrol force and the supervisors in the most effective manner.	X				X			X	
2A	Finalize the Managing Performance and Early Intervention policy and procedure that documents the use of Guardian Tracking.		X			X			X	
3A	Develop a list of critical duties and responsibilities for these positions.		X		X			X		
3B	Consider requiring that patrol sergeants perform documented visits, preferably in the field, to each subordinate during their shift.	X			X					X
4A	Implement a quality control process to ensure compliance with the performance evaluation requirements, and incorporate related duties on the list of supervisor responsibilities.		X			X				X

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
5A	Draft Complaint Initiation Policies and Procedures that (a) call out the different methods of initiating/receiving complaints; (b) allow for the receipt of anonymous complaints; (c) provide for walk-in complaints at UCPD headquarters; (d) prohibit any attempt to dissuade an individual from filing a complaint; (e) requires appropriate notification from UC General Counsel anytime a lawsuit alleging police misconduct is filed; (f) requires notification to UCPD by any officer who is arrested or otherwise criminally charged or the subject of a lawsuit that alleges physical violence, threats of physical violence or domestic violence; (g) requires officers to report the misconduct of other officers including improper use or threatened use of force, false arrest, unlawful search or seizure, or perjury; and (h) allows for the processing of internally generated			X	X				X	
5B	Draft Complaint Investigation Policies and Procedures that (a) requires the categorization of complaints; (b) defines the workflow of the different categories of complaints from investigation to adjudication; (c) provides time frames for the investigative process; and (d) establishes complaint investigation protocols.			X	X				X	
5C	Draft Complaint Adjudication Policies and Procedures that (a) set forth the standard of proof; (b) prohibit automatic credibility preference being given to an officer's recitation of facts; (c) define the categories of potential disposition; (d) define the timeframe in which adjudication should be completed.			X	X				X	
6A	Compile complaint information into a simple database, which can be accessed by the ICS system, and includes several fields (year, date of complaint, nature of the complaint, employee, investigating supervisor, disposition and date completed).		X			X			X	
7A	Develop brochures, in hard copy and for inclusion on UCPD's website, about the complaint process and complaint forms and make such materials available and include as a requirement in a new SOP governing civilian complaints.			X		X			X	
8A	Consider establishing a subgroup of the CAC to review the UCPD'S investigation of complaints made against employees.		X			X		X		

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
9A	Create a separate SOP detailing how disciplinary matters should be handled by UCPD. Such a procedure should include creating a form that summarizes details of an allegation of misconduct and creates a log listing the number of the issue starting at 001 of year and including the name of the employee, the dereliction charged, the name of the supervisor reporting and/or investigating the matter and the date adjudicated.		X		X				X	
10A	Establish an Inspectional Services or Audit unit, reporting directly to the Vice President for Public Safety and Reform.			X		X				X
11A	Enter into a voluntary independent monitorship which would provide regular status updates to the Board of Trustees and the public relative to the progression of reform within the Department		X				X	X		
Review of Community Engagement, Problem-Oriented Policing and Crime Prevention										
1A	Recognize the essential nature of the community affairs function within the UCPD and appropriate resources dedicated to it.			X		X		X		
1B	The Community Affairs organization should be elevated to a more prominent position in the organization and should be staffed appropriately.		X				X		X	
1C	Create a separate Community Affairs Office which reports directly to the Chief, thereby exercising greater authority across the organization.		X			X			X	
1D	Rescind the existing SOPs and write new policies and procedures to reflect the new structure and mission of the unit.		X		X				X	
1E	Consider whether the Victim Services Coordinator belongs in the Community Affairs Office or whether it might be more appropriately housed elsewhere within UCPD or the University.		X		X				X	
2A	The Community Affairs Office should be managed by a supervisor with formal operational authority to manage all of the various components of the Community Affairs mission.		X			X			X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
2B	The supervisor position could either be a civilian title, e.g., Director, or a uniformed title, e.g., Captain but should be of sufficient stature as to be able to coordinate resources across the organization, particularly those resources that are not specifically assigned to Community Affairs duties.		X		X				X	
2C	Staff the Community Affairs Office with a minimum of two officers whose sole responsibilities are community affairs duties.		X			X		X		
2D	Consider assigning officers as community liaisons to designated community groups.		X			X			X	
2E	Consider revising the provision of the Collective Bargaining Agreement that prescribes a four year rotation period for CAO's.		X		X				X	
2F	Design and implement a selection process for the Community Engagement Officers which evaluates candidates against the specific qualifications necessary for effective performance of the function, and includes the opportunity for community and student		X			X			X	
3A	Provide Community Affairs Office staff with specialized training on public speaking, crime prevention, labor relations, and social media	X				X				X
4A	Establish the supervisory position of Event Coordinator, with appropriate staff		X		X				X	
5A	Train personnel in a community policing problem solving model.		X			X			X	
5B	Consider adopting the CAPRA community policing problem solving model.	X			X					X
5C	Develop a problem solving approach to chronic crime and disorder problems.		X		X					X
5D	If UCPD continues to patrol off campus, then problem-solving groups should also involve community residents and CPD.		X		X					X
5E	Develop a policy that outlines the problem-solving program, and contain clear roles, responsibilities and expectations regarding the UCPD's problem-solving efforts.	X			X					X
6A	Increase the number of CCTV cameras deployed in both the on and off campus communities, and collaborate with the CPD to identify strategic locations to place the additional cameras.	X					X		X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
6B	Institute a 'Safe Haven' program whereby local businesses register with UCPD, agree to display a distinctive logo on their storefronts that identifies them as a Safe Haven, and pledge to assist University affiliates in distress.	X					X		X	
6C	Consider implementing Operation Blue Light, a program that authorizes UCPD personnel to mark property with an invisible ink discernible only under a special blue light.	X					X		X	
6D	Consider implementing Operation ID, a nationwide program that aims to deter theft by permanently identifying valuable property with an indelible, inconspicuous, specially assigned number.	X					X		X	
6E	Consider implementing PC PhoneHome/Mac PhoneHome, a program that allows authorities to locate a lost or stolen computer by identifying its location when the machine is connected to the Internet.	X					X		X	
6F	Consider employing Stop Theft Tags, which possess a unique ID number that is entered into the STOPTHEFT worldwide database, and allow lost or stolen property to be reunited with its owner.	X				X			X	
6G	Look into Bicycle Registration, where a permanent decal is affixed to the bicycle, thus giving it a unique ID number that is registered with the UCPD.	X				X			X	
Review of Encounters with Individuals with Mental Health Concerns										
1A	Establish clearly written policies and procedures based upon existing best practices used by campus police departments.			X	X				X	
1B	Include in the new policy a list of generalized signs and symptoms of behavior that may suggest mental illness.		X		X				X	
1C	Include in the new policy should a list of indicators that will help an officer determine whether an apparently mentally ill person represents an immediate or potential danger.		X		X				X	
1D	The new policy should include guidelines for officers to follow when dealing with persons they suspect are mentally ill.		X		X				X	
1E	Review applicable reports from other jurisdictions, including the USC and LA Mental Health Advisory Board, and incorporate suggestions from those reports in policies, procedures and training.	X			X				X	



RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
2A	Implement a Student Concerns Committee that consists of first responders and those potentially in a position to take notice of irrational student behavior.		X			X				X
2B	The Student Concerns Committee should meet on a weekly basis to discuss issues that took place during the previous week and are potentially related to mental health, and collaboratively create a plan of action.		X			X				X
3A	Ensure that additional officers trained in crisis intervention are deployed during potential peak periods of stress for students.		X			X			X	
4A	Provide all sworn officers with CIT, and with documented refresher training on a bi-annual basis.		X			X			X	
4B	Utilize UCMC experts to educate officers on issues specific to student populations, particularly those within the University community, including sensitivity training highlighting the position of students who are away from home for the first time.		X			X			X	
4C	Consider establishing proactive response teams pairing an on-call UCMC clinician with a law enforcement officer to provide emergency field response to situations involving mentally ill, violent or high risk individuals.	X			X				X	
5A	After every encounter with an individual suffering from a mental illness, UCPD should mandate detailed reporting for inclusion in the ARMS system.		X		X			X		
5B	In order to improve performance, annually audit the handling of mental health-related calls and incidents for that year.		X		X			X		
<b>Review of Equipment</b>										
1A	Re-deploy CEDs.		X				X	X		
1B	Review policies and procedures related to the use of CEDs to include when the use of the devices is authorized and the allowable number of discharges of the device.			X	X				X	
1C	Develop intensive training on the use of CEDs and the relevant policies, including scenarios in which the utilization of CEDs is appropriate and those instances where it is not.			X		X				X

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
1D	Designate a CED training officer, who should receive training as a trainer and whose responsibilities should include remaining current on all relevant literature and data on the use of CEDs.			X	X			X		
2A	Work with CPD and appropriate neighborhood organizations to provide significantly greater deployment of video surveillance in the off-campus patrol areas.		X				X		X	
3A	Conduct a review of all existing video surveillance equipment in conjunction with the exploration of an off-campus video system.		X				X		X	
4A	Develop or adopt appropriate training for the use of the batons, and ensure that every member of UCPD receive such training.		X			X				X
5A	Evaluate and choose an automated commercial off-the-shelf product for tracking of all equipment.		X				X		X	
6A	Evaluate the need and potential utilization of the bomb robot.	X			X				X	
6B	If there is justification to retain the robot, appropriate initial and refresher training and qualification of a select group of sworn officers on the utilization of the robot and related skill sets including bomb disposal should be developed and deployed.	X				X				X
7A	Evaluate the need and potential utilization of the sniper rifle.	X			X				X	
7B	If there is justification to retain the rifle, appropriate initial and refresher training and qualification of a select group of sworn officers on the utilization of the rifle should be developed and	X				X			X	
8A	Consider installing in-car video as an adjunct to the current deployment of body cams, providing for potential additional views of and redundancy in any critical incident.	X					X		X	
9A	Work with the Director of Emergency Management to build out a dedicated Emergency Operations Center, designed to facilitate planning and response to both planned and unplanned campus events in coordination with other federal, state and local agencies.		X				X			X
Review of Technology										
1A	Require that each officer create a test recording before they deploy to the field each day to ensure the body camera is functional.	X			X				X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
1B	Re-write Body cam policy to address how to specifically handle video in use of force (i.e., who takes custody of the camera, who reviews the video, when should an officer review video, etc.).		X		X			X		
1C	Those developing the body camera policy should continue to refine and improve the policy as lessons are learned, and collaborate with other agencies that have deployed cameras to learn from those experiences.		X		X			X		
1D	Consider including the body camera policy as a topic of discussion in community forums, student body meetings, etc.		X		X			X		
2A	Consult a subject matter expert to assist in negotiating an agreement for cameras and storage so that it includes discounted pricing; a "termination for convenience" clause; the appropriate level of on site training and support from Taser; etc..	X					X			X
2B	UCPD should identify any video in storage that must be retained into the future, and work with Taser to migrate that video to Evidence.com for long-term storage.	X				X			X	
2C	Consider engaging a provider for additional system training, to ensure the Department is making full use of its video management system	X					X		X	
3A	Modify the practice of tagging video with only a suspect's name. Instead, it should consider utilizing additional identifiers, such as the CAD incident number and/or an RMS record number.	X			X			X		
3B	Consider contracting with a vendor that allows for CA integration with its video management system.	X				X			X	
4A	Ensure that all business/functional requirements for ARMS are clearly documented and that testing of the upgraded ARMS is conducted against those requirements before the system is accepted.		X			X			X	
5A	Consider implementing an ARMS Mobile Product on MDCs and/or tablets to enable officers to complete reports from the field.		X			X			X	
6A	Add a radio console to the third position so it can be in a position to handle multiple calls/traffic at one time.	X				X			X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
7A	Implement a 9-1-1 system that provides the actual geo location of the call, as is standard in dispatch centers across the country.		X				X		X	
8A	Explore ways to expand adoption of Live Safe on campus and potentially off-campus as well.	X			X			X		
9A	Identify funding for a replacement card access system.	X					X		X	
9B	PSTS should document the requirements for a replacement system, which should include a plan for how to integrate the card access system with an existing key management system that was developed in-house.	X					X			X
10A	Consider adding one IT Project Manager to PSTS staff to ensure large IT projects are implemented according to IT management best practices.	X				X			X	
10B	PSTS should engage in a study to determine the appropriate IT staffing levels. It appears that additional Technicians are likely required to support the IT needs of the Department.	X					X			X
Review of Data Collection Systems, Data Usage, Automation, and Records Management										
1A	Integrate all data collection systems into one large database that tracks all of UCPD's information.		X			X				X
2A	Ensure that access to stored CAD data is easily obtainable and meets UCPD's mandated reporting functions to the state and federal governments		X			X			X	
2B	Research whether the new CAD system from TriTech can be integrated into ARMS, and integrate if possible.		X		X				X	
2C	If integration is not possible, continue to use the CPD CAD.	X			X			X		
3A	Evaluate the ARMS module for Field Contacts, and ensure that all required data fields can be reported through the module.		X			X			X	
3B	If the data fields can not be included or the ARMS' module for Field Contacts utilization is otherwise undesirable, maintain the MAD and ensure that all data is transferred into the ICS Dashboard.	X				X			X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
4A	Work with ICS and UCPD IT experts to identify standardized reporting from ARMS data in a variety of formats, such as bar graphs, pie charts and line graphs, that will assist UCPD in analyzing crime, operational, staffing and performance data on various indicators.		X			X			X	
5A	Integrate the DPLF and PPF MADs into the ARMS system. If integration is not possible, continue to collect this data and ensure that the data can be exported into the ICS Dashboard.	X			X				X	
6A	Work with ICS to further develop the functionality of the	X				X			X	
6B	Capture data relative to race, gender, age and ethnicity, so as to better foster transparency and legitimacy.		X			X			X	
7A	Add the following fields to its MAD: whether the stop was a traffic or pedestrian stop, whether there was a frisk or search of the person or property, and whether force was used during the stop.		X		X			X		
7B	Monitor stop data regularly as part of an early warning system, surfacing potentially at-risk behavior of policy violation or biased policing.		X		X				X	
8A	Continue to utilize the Guardian Tracking electronic database for documenting and tracking positive and negative aspects of employee performance.	X			X			X		
8B	Conduct a thorough review of the capabilities of the Guardian Tracking system and its potential interface with the ICS Dashboard, so as to allow for inclusion of Guardian Tracking data in ICS dashboards and more fulsome early warning system.		X			X				X
9A	Establish an electronic database to track and maintain data related to internal affairs complaints, and can readily communicate with other UCPD databases (ARMS).		X			X				X
10A	Establish an electronic database to track and maintain data related to uses of force, and investigations thereof, and can readily communicate with other UCPD databases (ARMS).		X			X				X
11A	Integrate the data and analysis available from the ICS tool into bi-weekly meetings and consider adding additional UCPD command staff to the meeting.	X				X			X	

RECOMMENDATION MATRIX		RELATIVE CRITICALITY			RELATIVE COST			RELATIVE DIFFICULTY		
		LOW	MED	HIGH	LOW	MED	HIGH	LOW	MED	HIGH
11B	Institute a regular Compstat-like process which goes beyond just examination of crime data, analyzing other relevant information including Uses of Force, Complaints, and other performance-related issues		X			X			X	
12A	UCPD should leverage the technology available in the ICS Dashboard to build a proactive risk management database, which will track and analyze risk related information, and data related to a series of performance indicators.		X			X				X
12B	Analysis should include the crime and performance data currently available in the Dashboard in order to obtain a more holistic picture of an officer's performance.		X		X				X	
12C	Work with ICS to establish appropriate performance thresholds triggers, including Department-Level Thresholds (e.g., 3 internal affairs complaints in 12 months); Peer Officer Averages (compares performance with similarly situated officers); and Performance Indicator Ratios (e.g., ratio of UOF incidents to # of arrests).		X		X				X	
12D	Establish a protocol for the resolution of EWS notifications of potentially at risk officers.		X		X				X	
13A	Consider including the following data on its website: (1) yearly totals for Part 1 and significant Part 2 crimes; (2) an incident map; (3) the Daily Crime Log; (4) pedestrian and traffic stop totals broken down by demographic data; (5) use of force data broken down by type of force used and whether the force was in or out of policy (no officer names should be provided); and (6) sustained internal affairs complaints with the disciplinary action taken (no officer names should be provided).	X			X			X		

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# Appendix E





Cleveland  
Police  
Monitoring  
Team

# Second Semiannual Report

January 2017







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*Second Semiannual Report*

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## EXECUTIVE SUMMARY

Under the terms of the Consent Decree between the United States and the City of Cleveland (the “City”) (collectively, the “Parties”) involving the Cleveland Division of Police (“CPD,” “CDP,” the “Division of Police,” or the “Division”), the Cleveland Police Monitoring Team must “assess and report whether the requirements” of the Consent Decree “have been implemented, and whether this implementation is resulting in constitutional and effective policing, professional treatment of individuals, and increased community trust . . . .”<sup>1</sup> This is the Monitoring Team’s second summary of the City’s progress to date in complying with the Consent Decree.<sup>2</sup>

To date, the City of Cleveland has reached several critical milestones in the Consent Decree process. Over the past several months, the reform process focused significantly on guidelines and “rules of the road” for police officers with respect to use of force and interacting with individuals experiencing a behavioral crisis. The recently approved, new use of force policies for CPD and the imminent crisis intervention policies will help to ensure, once officers are trained and the policies become effective, that it can be a new day in Cleveland with respect to force and the response of law enforcement and social providers to individuals experiencing behavioral health crises. Significant

*The City of Cleveland has reached several critical milestones in the Consent Decree process – including new use of force policies, forthcoming crisis intervention policies, and new manuals for complaint investigation and review.*

<sup>1</sup> Dkt. 7-1 ¶ 350.

<sup>2</sup> *Id.* ¶ 375 (requiring semiannual reports). The Updated First-Year Monitoring Plan, approved by the Court and the Parties, adjusted the date of filing this report, as well as the City’s next semiannual status report, from December 2016 to January 2017. Dkt. 80-1 at 22. The Monitoring Team used one day of a deadline extension, *id.* at 3, with the consent of the Parties so that the public discussion period could commence on January 11, 2016.

strides have also been made in the form of new operational manuals for the Office of Professional Standards (“OPS”) and Police Review Board (“PRB”) aimed at ensuring that investigations and review of resident complaints about the police are fair, thorough, objective, and timely.

At the same time, the City will need to meet significant challenges in the coming months on a host of other areas. Although it will likely benefit now, for the first time, from codified, express operational rules, OPS continues to suffer from a staggering backlog of uncompleted investigations. PRB, in turn, will need to fairly and systematically review those cases when they are complete even as they adjust to vastly different processes and procedures. The City will need to craft a strategic, comprehensive Equipment and Resource Plan that provides the men and women of CPD with the basic equipment and technology necessary for them to do their jobs and outlines a path to ensuring that the Division never again lacks for resources.

### Notable Areas of Progress to Date

#### 1. Use of Force Policies

At a status conference on January 6, 2017, the Court indicated that it would approve new use of force policies for CPD. The completion and recent approval policies on when officers may and may not use force on the streets of Cleveland represent a critical milestone in the Division’s progress under the Consent Decree and are a major step forward.

Those policies were the result and culmination of a comprehensive and inclusive engagement process – one in which the community was invited to be involved in the policy revision process both early on, to help set the agenda and frame issues that needed to be addressed in new policies, and later in the process, when CPD and the Consent Decree Parties believed that the revised policies were substantially far enough along to make community feedback valuable and necessary. This included engagement by the Community Police Commission (“CPC”) of Cleveland residents and by the CPD of rank-and-file officers and the police officer unions and organizations.

In making the proposed force policies public well before they were completed, formally reviewed by the Monitor, or circulated to the Court for approval, the Cleveland community had an opportunity to be more involved in the substantive drafting of use of force policies than – at least to this Monitoring Team’s knowledge – any other community has, to date, in other Consent Decree contexts. After a number of important changes were made to respond to community feedback on the final proposed policies, the new-approved policies were finalized and submitted to the Court in November 2016.



The primary, “General” use of force policy outlines, in greater clarity than CPD’s prior policies, that officers may use force only when it is (1) necessary, (2) proportional, and (3) objectively reasonable, and that officers (4) use strategic de-escalation tactics and strategies when it is safe and feasible to do so. Although no law, court, or policy can prescribe specific rules that can apply to every conceivable circumstance involving all possible police encounters under any possible permutation of circumstances, the policy contains a specific list of actions in which, “[c]onsistent with the principles of necessity, proportionality, objective reasonableness, and de-escalation, Officers shall not” engage.<sup>3</sup> Those include, for instance, using force against subjects “who only verbally confront officers,” applying force to those “who are handcuffed or otherwise restrained” except in very limited circumstances, using “neck holds,” and using “head strikes with hard objects. Under the new policy, officers now have a duty to intervene and “tak[e] all reasonable actions to stop any use of force” not authorized under CPD policy and a duty to render medical aid.<sup>4</sup> A separate policy provides instructions to officers on using intermediate weapons, sometimes called less-lethal tools, such as the Taser and OC Spray to gain control of a subject posing a threat without needed to use more significant or deadly force.

Importantly, in addition to de-escalation being a core use of force principle, CPD now has a separate, standalone De-escalation policy. The Division’s stated intent is to clarify that officers understand that “the guidelines relative to de-escalating situations in order to gain voluntary compliance and reduce the need to use force” apply to all encounters, regardless of whether force is ultimately required to resolve the situation or not.<sup>5</sup>

The approved, new use of force policies for CPD will only become effective once the men and women of the Division receive significant, substantive training on the policy’s provisions. The Division’s upcoming, 16-hour training for all officers on the new use of force policies will, it is hoped, serve as a strong foundation for officers to learn about new obligations under the policy and practice skills related to responding to subjects and potential threats in dynamic, scenario-based environments. It is currently contemplated that use of force training may be able to begin sometime in February 2016. Even if several weeks more are required beyond that date to finalize training, train CPD’s instructional staff to give the training to officers on a round-the-clock basis, or commence the training of officers, the Monitoring Team is satisfied that the Division is committed to completing a high-quality training that incorporates the good practices of peer departments and uses adult educational principles.

<sup>3</sup> Dkt. 83 at 17.

<sup>4</sup> *Id.* at 20.

<sup>5</sup> *Id.* at 24; see also Dkt. 7-1 ¶ 36.

## 2. Crisis Intervention Policies

The City of Cleveland will likely reach another critical milestone in the coming days when new crisis intervention policies are submitted to the Court for review and approval. The development of these new policies, processes, and approaches for officers interacting with individuals experiencing behavioral health crises (including mental health, substance abuse, or other long-term behavioral health challenges) has been the product of superior work and collaboration by the police, social service providers, mental health and substance abuse professionals, advocates, and individuals in recovery who have met and had candid discussions on improving services for those in crisis as part of Cleveland’s Mental Health Advisory Board (“MHRAC” or the “Board”).

In creating new crisis intervention policies, MHRAC members reviewed over 23 separate Crisis Intervention Policies from CIT programs throughout the country. Members highlighted features of each policy and then worked with CPD to select the best elements and modify, where appropriate, these policy elements to best suit the unique challenges and features of the Cleveland community. As MHRAC and its policy subcommittee explored what approaches would work best for Cleveland, a dynamic and highly cooperative relationship emerged among advocates, healthcare professionals, and CPD.

Consequently, CPD’s proposed crisis intervention policies present a new, comprehensive strategy for responding to individuals in behavioral crisis. Among other key features, the policy ensures that the Division coordinates with community resources to assist those in need. It focuses on safety for both the officer and individual in crisis and on diverting individuals experiencing a crisis into treatment whenever possible. It emphasizes that all officers use de-escalation strategies with respect to individuals in crisis and, in that way, positively reinforces CPD’s use of force policy. It provides mechanisms to ensure that all CPD officers have basic information about behavioral crisis but that a cadre of specialized, highly-trained officers be available and dispatched to incidents in which an individual experiencing a crisis is involved.

In the coming months, an introductory, eight-hour training for all CPD officers on the new crisis intervention policy, as well as content on mental health signs and symptoms and communication and active listening, will commence. Upcoming years of training will focus on issues including engaging and resolving conflict, addressing a crisis involving a loss of reality, and assisting individuals at risk for suicide. This training is being developed in the context of the MHRAC by a joint task force of CPD training instructors and subject matter experts.

CPD has taken a leadership role and remained active in every phase of the MHRAC, and the ADAMHS Board of Cuyahoga

County has committed significant staff support. The MHRAC's professionals and advocates on the Board have devoted significant time to addressing a wide range of issues, serving without financial compensation. MHRAC members have brought a great deal of civic pride to an important effort for the Cleveland community. They are forming a true community partnership in order to meet the needs of individuals experiencing a behavior crisis and provide CPD officers with the training, tools, resources, and support that they need to respond effectively and safely to individuals experiencing behavioral crises.

### 3. OPS and PRB Manuals

Since the First Semiannual Report in June 2016, a great deal of work has focused on the development of new operational manuals governing the operations of the Office of Professional Standards ("OPS"), which investigates civilian complaints about the police, and the Police Review Board ("PRB"), which reviews those investigations and makes adjudication and discipline recommendations to the Chief about them. For reasons that are not entirely clear to the Monitoring Team, neither entity – despite their long history – had ever operated according to clear, express, and codified operational rules or expectations.

With respect to OPS, the Parties and Monitoring Team worked hard, prior to the Republican National Convention in Cleveland in July 2016, to develop and finalize a Provisional Manual. The goal, articulated in late May, was to establish a working set of guidelines and processes to guide the reception of civilian complaints in a systematic and thorough manner before the Convention was held. The Provisional Manual has been effective since July 15, 2016.

Subsequently, a more comprehensive, permanent Operations Manual was developed. This Manual, submitted to the Court in November 2016, reflects the organizational mission and values of OPS, clearly defines its organizational structure and detailed job functions, identifies and describes with clarity those matters in which the office has investigative authority, and provides a thorough, comprehensive, and rigorous step-by-step review of how complaints of misconduct are accepted, assessed, documented, tracked, investigated, periodically reviewed, concluded, and ultimately forwarded to the Police Review Board for review and adjudication. The OPS Manual covers a significant amount of ground, creating clear rules of the road for OPS personnel, community members, and CPD personnel alike to understand with respect to how matters are thoroughly and timely investigated.

The situation was much the same with the PRB. Even when PRB has addressed cases, it was not clear precisely how the Board or its members were making decisions – what standards it was applying, how it was considering and weighing evidence, and precisely what its various recommendations as to findings meant.

Cases were adjudicated as "sustained" and "unfounded" without specific reference to particular CPD policies. It was immediately apparent to the Monitoring Team that the Board had been carrying out their duties absent a set of established protocols to guide their decision making – even though the 1984 City Charter amendment creating the PRB provided that the Board "shall make rules providing for the procedure of the Board and for the review of complaints filed with it," to be approved by the Public Safety Director and made effective "fifteen days after their publication in the City Record."<sup>6</sup>

Accordingly, the Monitoring Team, in concert with the Parties, spent several months working with PRB on drafting an Operations Manual (the "PRB Manual") to guide its deliberative process. Designed for a broad-based constituency who may seek to better understand how the PRB conducts business, this Manual provides a step by step process that directs the movement of investigative files from OPS to PRB, how those cases are assigned for PRB member review, the structure and agenda for PRB meetings, the means by which investigations are reviewed and discussed in a public forum, the deliberative process which results in the board's decisions and recommendations pertaining to each case presented, and a public announcement of their findings and recommendation for further consideration and action by the Chief of Police and Director of Public Safety.

The Monitoring Team will provide ongoing technical assistance to both OPS and PRB as they endeavor to implement the host of new policies, processes, and provisions required by their new manuals.

### Notable Challenges to Date

#### 1. OPS and PRB

As of November 21, 2016, OPS had a backlog of 439 uncompleted investigations. More than four out of every five (81 percent) of investigations of complaints received in 2016 are unresolved. More than two out of three (68 percent) of investigations of complaints received in 2015 are likewise unfinished. Some cases still stretch from complaints made in 2014. At this point, the Monitoring Team struggles for language sufficiently strong to communicate how unacceptable and appalling the state of OPS as an entity is.

Currently, the City, Monitoring Team, and OPS are engaged in discussions regarding a plan to eliminate the backlog of uninvestigated, incomplete, or unresolved complaint investigations. The Monitoring Team has asked for such a plan since at least the Spring of 2016. It has been provided with a series of cursory and highly minimalistic documents, purported to be plans for eliminating the backlog, that did little more than summarize

<sup>6</sup> Charter of the City of Cleveland, § 115-3.

the nature of the problem or, in one instance, propose that OPS eliminate its backlog by summarily pushing a significant number of incomplete cases on to CPD's chain of command to resolve, likely without formal discipline. Accordingly, all efforts to date by OPS to outline mechanisms for addressing the backlog have been patently insufficient in all respects and, in form and content, not serious proposals.

The Monitoring Team declined to either approve or disapprove of the full OPS budget for 2017 – instead providing only short-term, provisional approval of the budget for the first quarter of the year.<sup>7</sup> The reason for this short-term and provisional approval is that the OPS budget relies substantially on “compensation for four temporary Investigators” who “are slated to provide support to permanent investigators in completing those investigations that remain open.”<sup>8</sup> However, it is almost certain to be the case that OPS will need to hire additional, full-time investigators to ensure that its personnel have reasonable and manageable caseloads – and that the officer can handle the typical level of civilian complaints that it receives.

Of course, for staffing issues to be definitively addressed, current investigators will need to adopt the extensive rules, practices, and procedures codified in the OPS Manual and to abide by those rules for an extended period before stakeholders can fully understand what an investigator's typical workload is. Even pending approval of the OPS Manual by the Court, the Monitoring Team will be working closely with OPS and its personnel – providing day-to-day technical assistance on how to transform the extensive Manual from paper into practice.

Similarly, the previous lack of clear processes and procedures has allowed PRB to also fall behind on the timely review and deliberation of cases – failing in its core duty and service to the City of Cleveland. Although there is, of course, no question that the backlog of uncompleted cases in OPS has a direct correlation to the Board's ability to promptly receive and adjudicated cases, as PRB cannot conduct a timely review if OPS has not provided them with a timely investigation, PRB will need to remedy significant deficiencies going forward to adhere to the Manual and comply with the Consent Decree. In the past, the process that PRB had used to deliberate on cases previously was improvisational at best, unfair at worst, and in need of substantial rigor and precision, regardless.

## 2. Equipment, Technology, and Resources

The Consent Decree and First-Year Monitoring Plan required that the City “develop an effective, comprehensive Equipment and Resource Plan that is consistent with its mission and that

<sup>7</sup> Dkt. 87 at 2–3.

<sup>8</sup> *Id.* at 2.

will allow it to satisfy the requirements of this Agreement.”<sup>9</sup> That Plan needed to outline specific strategies for ensuring adequate levels of specific, core technologies;<sup>10</sup> address how the Division will “satisfy the requirements of this Agreement,” including the Decree's many other substantive requirements;<sup>11</sup> and “ensure that CDP” both “properly maintains and seeks to continuously improve upon existing equipment and technology” and “is appropriately identifying equipment needs and seeking to utilize, as appropriate, emerging technologies.”<sup>12</sup>

The City submitted its final Equipment and Resource Plan, as required by the First-Year Monitoring Plan, on November 25, 2016.<sup>13</sup> After closely re-

viewing the submitted Plan, the Monitoring Team, in turn, filed a motion with the Court indicating that – because it did not specifically, strategically, and comprehensively provide CPD officers with the tools they need to do their jobs – the Monitor could not approve the Plan. The Monitor outlined a number of deficiencies in the proposed Plan. Some related to fundamental project management, strategic, and planning failures. Others related to the City's inability to adequately address specific technological and resource requirements of the Consent Decree.

At a status conference on January 6, 2017, the Court instructed the City to continue to work with the Department of Justice and Monitor on a more detailed and comprehensive Equipment and Resource Plan. For too long, the men and women of the Division have not received the equipment, resources, technology, and infrastructure support required to deliver the type and level of police services that the Cleveland community requires and values.<sup>14</sup> Lacking true computer-aided dispatch, field reporting, sufficient in-car computers, and an adequate number of well-functioning patrol cars, CPD is several decades behind where it should be.<sup>15</sup> The implementation of a detailed, comprehensive, and sophisticated Equipment and Resource Plan is a significant opportunity to permanently fix that – and to ensure that the men and women of the Division never again lack what they need to do their jobs.

## 3. Community Confidence & Trust

In late June 2016, the Monitoring Team filed the results of the first, Consent-Decree-required scientific community survey to gauge public perceptions of safety and policing with the Court.<sup>16</sup> Overall, the survey found that Cleveland residents are skeptical about police conduct and accountability.

<sup>9</sup> *Id.*

<sup>10</sup> Dkt. 7-1 ¶ 293.

<sup>11</sup> *Id.* ¶ 292.

<sup>12</sup> *Id.* ¶ 328.

<sup>13</sup> Dkt. 80-1 at 19.

<sup>14</sup> Dkt. 93 at 2.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> Dkt. 71.



Generally, “[j]ust over half of all residents surveyed (55%) believe the Cleveland Division of Police is doing a ‘good’ or ‘excellent’ job overall.”<sup>17</sup> Only 50 percent of residents believe police officers follow the law “all of the time” or “most of the time.”<sup>18</sup> “Just under half (48%) believe officers treat people with respect or use the appropriate amount of force (47%) in most situations.”<sup>19</sup> A majority of residents (55 percent) believe officers are held accountable “only some of the time” or “almost never” for misconduct when it occurs.<sup>20</sup> Just “one-third of residents think the police have taken the time to meet members of their community (33%) or have developed relationships with people like them (37%).”<sup>21</sup>

There are significant racial disparities with respect to approval of and views about CPD. While “[n]early three-fourths of white residents surveyed (72%) believe the Cleveland Police are doing a good or excellent job overall,” only “43% of black residents” believe the same.<sup>22</sup> Indeed, “Black and Latino residents . . . gave the Cleveland Police lower ratings across a number of specific measures” – with “more than two-thirds of black residents (69%) believ[ing] that . . . officers are held accountable ‘some of the time’ or ‘almost never’” for misconduct.<sup>23</sup> White residents are comparatively more likely than Latino and black residents to “ask the police for help” or “report a crime” to CPD,<sup>24</sup> which may have significant effects on crime within some Cleveland communities.

Whether policing in Cleveland is effective, safe, and consistent with the values of the community cannot be definitively established by a survey. The protections of the U.S. Constitution are not poll-driven concepts. Consequently, the results from the Monitor’s initial community survey do not definitively establish, one way or another, whether CPD is or is not engaged in constitutional policing and whether the Division has or has not complied with any relevant part of the Consent Decree.

However, the surveys demonstrate a disconnect between the Cleveland Division of Police and the communities that it serves, with a critical number of individuals believing that local law enforcement officials are not as responsive to their views, concerns, or experiences – and that, at times, the burdens of law enforcement are not equally shared.

A renewed trust among the community with respect to the

<sup>17</sup> Dkt. 71-1 at 3.

<sup>18</sup> *Id.* at 3.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *Id.* at 4.

<sup>22</sup> *Id.* at 3.

<sup>23</sup> *Id.* at 4.

<sup>24</sup> *Id.* at 5.

CPD – and a new, shared vision for policing in Cleveland – is also necessary from the perspective of ensuring greater safety on the streets of Cleveland. Community confidence and trust, by making residents more willing to participate and cooperate with police, tends to reduce both crime and the fear of crime.<sup>25</sup> Accordingly, the Consent Decree is far more than an administrative, bureaucratic, or accountability-focused document. It is squarely a crime-fighting document that will assist substantially in the ability of CPD officers to perform its core law enforcement functions.

Although there remains skepticism in some quarters of the City and CPD about the utility of resident involvement in the supposedly technical details of police policy and procedure, the Monitoring Team is optimistic that the opportunities for broad and sustained community involvement in the drafting of core policies relating to use of force and to crisis intervention can serve as a foundation for the Division’s, and the City’s, future efforts to increase transparency, access, and accountability. It is likewise optimistic that the remarkable dedication and superior work of Cleve-

land’s Community Police Commission will increasingly serve as a bridge between the Division and the diverse communities that it serves.

### Areas of Focus in the Next Six Months

In the coming months, the attention of Consent Decree stakeholders<sup>26</sup> will be turning toward new policies, manuals, and processes for the Division of Police’s internal investigations and administrative reviews – including use of force investigations and officer misconduct investigations. This will also begin to include focus on the discipline system. Meanwhile, Cleveland residents will have opportunities to shape the scope, focus, and content

<sup>25</sup> See generally Robert J. Sampson, et al, “Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy,” 277 *Science* 918 (1997) (detailing link between community policing and crime and fear of crime); Gary W. Cordner, “Community Policing: Elements and Effects,” 5 *Police Forum* 1 (1995) (same); Michael D. Reisig & Roger B. Parks, “Can Community Policing Help the Truly Disadvantaged?,” 50 *Crime & Delinquency* 139 (2004) (same); Dan Fleissner & Fred Heinzelmann, National Institute of Justice, “Crime Prevention Through Environmental Design and Community Policing” (Aug. 1996) (same); A. Steven Dietz, “Evaluating Community Policing: Quality Police Service and Fear of Crime,” 20 *Policing* 83 (1997) (same).

<sup>26</sup> The term “Consent Decree stakeholders” is sometimes used in this report to refer to a broad-based group of individuals and entities with an interest in reform under the Consent Decree, including but not limited to the Parties, CPD, the Community Police Commission, the police officer unions and organizations, rank-and-file Division personnel, community organizations and groups, and Cleveland residents.

of the Division’s Community and Problem-Oriented Policing Plan, bias-free policing policy, and search and seizure protocols. The Parties and Monitoring Team will be working on the Second-Year Monitoring Plan, which will address these issues and cover the period of February 2017 through January 2018, in the coming weeks.

### About the Remainder of the Report

As with the First Semiannual Report, the remainder of “this report addresses all substantive provisions of the Consent Decree and summarizes CPD’s progress to date in complying with them.”<sup>27</sup> “[T]he report is structured around the major sections and sub-sections of the Decree rather than inventorying progress in each and every provision,” paragraph, “and sub-requirement.”<sup>28</sup> It “describe[s] the progress made to date, challenges outstanding, and future expectations with respect to CPD and the City’s compliance with the Decree.”<sup>29</sup>

<sup>27</sup> First Semiannual Report at 9.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*



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## A NOTE FROM THE MONITOR



Although I spend a good deal of time in Cleveland, I reside in New York City. When the weather and schedule cooperates, running along the City's West Side Highway, which itself runs along the Hudson River, provides one of the area's better outdoor opportunities. From this vantage, one can often see the air traffic taking off and landing at New York's three major airports (LaGuardia, John F. Kennedy, and Newark), as well as a host of smaller, regional airports (Westchester County, Teeterboro, and others).

Those large airports are located within an approximately 35-mile radius. As of 2015, "[o]ver 3,000 commercial flights pass through New York City airports every single day."<sup>30</sup> Consequently, "[a]ir traffic operations in and around the New York metropolitan area are notoriously complex."<sup>31</sup> "Each [a]irport has varying arrival and departure rates which are usually determined by weather conditions."<sup>32</sup> Because the configurations of take-off and landing patterns obviously cannot conflict, the air traffic volume, weather, other airspace restrictions, and the "[c]lose proximity of numerous airports" make air traffic management a continually challenging enterprise.<sup>33</sup>

Consequently, there are rules, processes, systems, and approaches in place to ensure that everyone involved in aviation can operate within clear expectations and parameters – even in the face of unexpected or unpredictable events. When the weather changes, for

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<sup>30</sup> Graham Rapier, "This Is Why New York City Can Be a Nightmare for Air Travelers," *Business Insider* (Aug. 5, 2015).

<sup>31</sup> Paul U. Lee & Nancy M. Smith, "Reducing Departure Delays at LaGuardia Airport with Departure-Sensitive Arrival Spacing (DSAS) Operations," *Proceedings of the Eleventh USA/Europe Air Traffic Management Research and Development Seminar* (2015), available at [https://human-factors.arc.nasa.gov/publications/Lee\\_2015\\_ATM%20DSAS.pdf](https://human-factors.arc.nasa.gov/publications/Lee_2015_ATM%20DSAS.pdf).

<sup>32</sup> NBAA, "New York City Area Airspace Overview" (2011), available at <https://www.nbaa.org/events/amc/2011/news/presentations/1011-Tue/NBAA2011-NY-Airspace-Review.pdf>.

<sup>33</sup> *Id.*

instance, stakeholders know how traffic patterns are changed. Various individual actors – from pilots and air traffic controllers to airline operations management and airport operators – do not need to independently determine the process for addressing the situation. Although those actors still need to exercise discretion to know what processes or scenarios might apply and need to make informed judgment calls – with even the best systems and procedures subject to human error<sup>34</sup> – the systems in place for managing flight traffic are aimed at ensuring the safest and most efficient air travel possible without forcing individuals to continually make something up or reinvent the wheel.

Certainly, the work in which police officers are engaged on a day-to-day, shift-to-shift basis can require them to respond to “circumstances that are tense, uncertain, and rapidly evolving” – involving individuals, environments, and specific factors that they have never previously encountered.<sup>35</sup> No law, court, or policy can prescribe specific rules that would apply to every conceivable circumstance involving all possible subjects of police encounters under any possible permutation of circumstances.<sup>36</sup>

Given “the unpredictability and potential severity of the threats”<sup>37</sup> that officers may face, a host of police policies, procedures, and training must give officers pragmatic and clear guidelines that they can apply to a limitless set of situations and encounters on the streets of our communities. To date, the Consent Decree process has focused significantly on guidelines and “rules of the road” for police officers with respect to use of force and interacting with individuals experiencing a behavioral crisis.

Although a city and a police department cannot control what situations officers may face, it can control what tools and training officers receive to do their jobs, how well the careers of its police professionals are supervised and developed, how it evaluates and analyzes officer performance, and the types of service that it delivers to the community. Simply, where a department may have to deal with unpredictability at times on the street, it can at least establish uniform structures, processes, rules, and regulations that are predictable, fair, and aimed at ensuring policing consistent with its mission, community values, and the Constitution.

To this end, the Consent Decree process has addressed administrative and internal processes – including those of the Office of Professional Standards (“OPS”), Police Review Board (“PRB”). As the term of the First-Year Monitoring Plan winds down, the Monitoring Team, Department of Justice, City of Cleveland, Division of Police, Community Police Commission, and others are well underway in addressing others – including the uniform reporting, investigation, and review of use of force and the Division of Police’s Internal Affairs investigations.

The implementation of these new processes, procedures, policies, systems, and approaches necessarily entails some significant abandonment of the status quo. Although the Monitoring Team is aware of the uncertainty and discomfort that can go along with change, the Consent Decree requires that the City of Cleveland and Division of Police reset and renew the way that it does business, supports its officers, and serves the Cleveland community. The most important change may be the transformation of the Division from

<sup>34</sup> See Jim Hoffer, “Investigators: Alarming Increase in Runway Incursions at NY Area Airports,” ABC7.com (Feb. 24, 2015).

<sup>35</sup> *Graham v. Connor*, 490 U.S. 386, 397 (1989).

<sup>36</sup> Linda S. Miller, et al, *Community Policing: Partnerships for Problem Solving* 46 (11th ed. 2011) (“Police use discretion because no set of policies and procedures can prescribe what to do in every circumstance.”).

<sup>37</sup> Eugene A Paoline et al, “Police Culture, Individualism, and Community Policing: Evidence from Two Police Departments,” 17 *Justice Quarterly* 575, 581 n. 2 (2000).

an organization that too often operates by custom, unwritten understanding, and undefined policy to a transparent, accountable organization that clearly and fairly articulates expectations to all of its employees – and to the wider public.

Although a great deal of progress has been made – with critical milestones related to policies on use of force, crisis intervention, and civilian oversight reached – an enormous amount of work remains for the City of Cleveland to be considered in substantial and effective compliance with the Consent Decree.

Mindful of the scope of work that remains, the Monitoring Team has added, with the agreement of the Parties, further subject matter expertise since the First Semiannual Report in June 2016. Chief Hassan Aden (ret.) is the former Chief of Police of the Greenville Police Department in Greenville, North Carolina. Until late 2015, he was the Director of the Research and Programs Directorate of the International Association of Chiefs of Police (IACP), where he directly oversaw the day-to-day management of operational programs and research projects aimed at advancing professional police services. He worked for 26 years at the Alexandria Police Department in Alexandria, Virginia, rising to the rank of Deputy Chief. Chief Aden is leading, along with Chief Tim Longo (ret.), the Monitoring Team's efforts related to force investigations and internal affairs.

Richard Rosenthal was, until September 2016, the Chief Civilian Director of the Independent Investigations Office of British Columbia – an office that he was hired to establish in January 2012. He previously served as the Independent Police Monitor for the City and County of Denver, Colorado and as the Director of the Independent Police Review Division in Portland, Oregon. Mr. Rosenthal began his legal career as a Deputy District Attorney in the Los Angeles County District Attorney's Office, where he was credited with uncovering, pursuing, and initiating reform of the LAPD in the wake of the "Rampart Scandal." Mr. Rosenthal, who has published and spoken extensively on civilian oversight and police monitoring, has been spending significant amounts of time with OPS and PRB as it attempts to alleviate its large backlog of incomplete or unreviewed cases and implement its new, Consent-Decree-required operational manuals.

Finally, the Monitoring Team continues to benefit significantly from its relationship with the NYU School of Law Policing Project. In addition to Director Barry Friedman and Deputy Director Maria Ponomarenko's ongoing involvement and assistance, Fellow Nonny Onyekweli and Consultant Rosemary Nidiry have been working closely with the Monitoring Team in Cleveland. Ms. Onyekweli is a 2016 graduate from NYU Law, with experience at the law firms of McDermott Will & Emery and Skadden, Arps, Slate, Meagher & Flom. Ms. Nidiry, most recently a Director of Criminal Justice at the Laura and John Arnold Foundation, worked for many years as an Assistant U.S. Attorney in the Southern District of New York, where she investigated and prosecuted a wide range of federal and criminal matters.

The Team continues to spend significant amounts of time on the ground in Cleveland – meeting with Consent Decree stakeholders and engaging with Cleveland's diverse communities, including the men and women of the Division of Police. The Team has provided significant technical assistance, working side by side with CPD and the City to ensure that final policies, manuals, plans, and other deliverables are consistent with the Consent Decree.

In conducting that work, the Monitoring Team has continued to benefit from a good working relationship with CPD – including (but by no means limited to) Chief Calvin Williams, Deputy Chief Joellen O'Neill, Commander Brian Heffernan<sup>38</sup>, Captain Robert Simon, and

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<sup>38</sup> The Monitoring Team notes here that Commander Heffernan's last day, after a 31-year career of public service with CPD, is this Friday, July 13. Since the beginning of our monitoring,



Commander Daniel Fay, Mayor Frank Jackson, Judge Greg White (ret.), Director of Law Barbara Langhenry and her Chief Counsel Gary Singletary, and Blaine Griffin of the City continue to meaningfully partner with the Monitor and the Consent Decree process to achieve notable milestones. Local Department of Justice, under the leadership of Carole Rendon, and Washington, D.C.-based representatives continue to be involved in ensuring that Cleveland's officers and residents realize the benefits and promise of the Consent Decree. Steve Loomis, Brian Betley, Lynn Hampton, and Cesar Herrera have continued to engage with Consent Decree stakeholders and the reform process.

In particular, the Team appreciates the continued dedication of the volunteer commissioners serving on the Community Police Commission, the civilian staff of OPS, and the civilian members of the PRB – who all play critical and ongoing roles in ensuring that the Cleveland community and its police department have an active, mutually reinforcing partnership. In the Consent Decree, the City of Cleveland and United States agreed that “[o]ngoing community input into the development of reforms, the establishment of police priorities, and mechanisms to promote community confidence in CDP will strengthen CDP and the police-community relationship that is necessary to promote public safety.”<sup>39</sup> Although there remains skepticism in some quarters of the City and CPD about the utility of resident involvement in the supposedly technical details of police policy and procedure, the Monitoring Team remains committed to ensuring that, long after the Consent Decree, residents will have a direct and substantive say in how their police department conducts the business of keeping their communities safe.

We also thank the men and women of the Cleveland Division of Police. In our meetings, ride-alongs, and candid conversations with police officers of all ranks, we have been impressed by the level of commitment and passion that they exhibit on a daily basis. As numerous members of the Monitoring Team know first-hand from their decades of experience wearing the uniform, police officers are the ones who are called upon to address individuals and solve problems when the rest of the social service and community framework has broken down. As this report elsewhere makes clear, for too long, Cleveland's officers have not received the equipment, resources, technology, training, high-quality supervision, professional development, and basic administrative fairness to which they are – without qualification or deviation – entitled as professionals and public servants. It is the Monitoring Team's hope that CPD officers will soon begin to see and feel the effects of the Consent Decree's attention to the support of the Division's personnel.

As these and other issues are addressed during the implementation of Consent Decree reforms in subsequent periods, the Monitoring Team will stand at the ready to report to this Court, the Cleveland community, and CPD personnel on the status of the City's compliance with the Consent Decree.

Matthew Barge  
Monitor  
January 10, 2016

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Commander Heffernan has headed up a great deal of CPD's day-to-day compliance efforts. A large portion of the progress that the Division has made, to date, on the nuts and bolts of the Consent Decree can be attributed to his focus, commitment, and genuine willingness to embrace new approaches and ways of doing business for the Division. The Monitoring Team will greatly miss his involvement on this project and congratulate him on his retirement.

<sup>39</sup> Dkt. 7-1 ¶ 14.

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## THE ROLE OF THE MONITOR & THIS REPORT

### A. Overview of the Monitoring Team's Work Over the Past Six Months

The Monitor's First Semiannual Report introduced and summarized the role of the Monitor in the Consent Decree process:

The agreement between the United States and City of Cleveland (the "Parties") involving various reforms to the Cleveland Division of Police ("CPD," "CDP," "Division of Police," or the "Division") takes the form of a consent decree. The Consent Decree (also referred to as the "Decree") binds not only the Division of Police but the entire City of Cleveland including all City departments, the City Council, and the Mayor's Office. Although a vast majority of the specific requirements most directly implicate CPD, the City as a whole remains the entity that must ensure compliance with the Decree's requirements . . . .

The Monitor and Monitoring Team are "agent[s] of the Court" who are "subject to the supervision and orders of the Court." Accordingly, the Monitor is not an employee, contractor, or any other type of agent of the City of Cleveland. Likewise, the Monitor is not an employee, contractor, or any other type of agent of the Department of Justice. Instead, the Monitor is an independent actor, working on behalf of the Court, to oversee, monitor, and assess implementation of the Consent Decree. The Monitor works for the Court – not the City and not DOJ.

In short, the Monitoring Team serves as the eyes and ears of the Court, with "a legal duty to act solely in [the Court's] interests." Significantly, this arrangement – with a Court and a Monitor overseeing implementation of reforms until they are substantially and effectively implemented – is different from Cleveland's prior experiences with police reform.<sup>40</sup>

During the past six-month reporting period, the Monitoring Team has continued to "play[] many different roles."<sup>41</sup> First, the Monitoring Team has served as an arbiter, "assess[ing] and report[ing]" as to "whether the requirements of this Agreement have been implemented, and whether this implementation is resulting in constitutional and effective policing, professional treatment of individuals, and increased community trust of CDP."<sup>42</sup> During the past six months, the Monitoring Team has worked closely with Consent Decree stakeholders on a host of policies, manuals, and processes – including those related to officer use of force, crisis intervention, OPS, PRB, body-worn cameras, equipment and resources, and officer training.

"A second role" of the Monitoring Team "is that of technical advisor."<sup>43</sup> The Monitoring Team now includes 23 members who are committed to "provid[ing] information about best practices, discuss[ing] what has worked and not worked well in other cities to address similar issues, and mak[ing] expectations clear from the beginning."<sup>44</sup> As this report elsewhere makes clear, the Monitoring Team has provided sustained and significant technical assistance over past six months on the Division's use of force policies, crisis intervention policies and program, use of force training, resident complaint investigations, technology, equipment, resources, information technology governance, data collection, and supervision.

The Monitoring Team also continues to function as a "facilitator" – "ensur[ing] that all stakeholders, from within the Division and across the Cleveland community, are heard and can participate in the Consent Decree process."<sup>45</sup> Whether by continually updating timelines, deadlines, and expectations as to progress in its Monitoring Plans<sup>46</sup> or by facilitating community forums on the Division's proposed use of force policies, the Monitoring Team has continued over the past six months to provide a day-to-day framework in which collaboration and dialogue can be fostered and in which the community can be 'actively and substantively involved in the details of reform, from the ground up.'<sup>47</sup>

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<sup>40</sup> First Semiannual Report at 14.

<sup>41</sup> *Id.* at 15.

<sup>42</sup> Dkt. 7-1 ¶ 350.

<sup>43</sup> First Semiannual Report at 15.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> See Dkt. 80 (submitting Updated First-Year Monitoring Plan).

<sup>47</sup> First Semiannual Report at 15.

## B. The Updated First-Year Monitoring Plan, Nature of Progress, and Compliance Under the Consent Decree

The Monitoring Team has previously explained that “the Consent Decree operates more like a roadmap to reform than an ‘on/off’ switch.”<sup>48</sup> That has remained true during the most recent reporting period. As previous filings with the Court demonstrate and this report summarizes, critical milestones have been reached in several fundamental areas, including use of force, crisis intervention, and the investigation and adjudication of civilian complaints about the police. However, much more work remains “to ensure that reform exists not merely on paper or in theory but in day-to-day practice.”<sup>49</sup> Officers and personnel need to be trained on the new policies and approaches, and time will be necessary as these new ways of doing business become, over time, engrained in the fabric and DNA of the Division and City.

It is worth emphasizing here that, although the Monitoring Team and other Consent Decree stakeholders remained involved in the day-to-day details of achieving compliance and reform, the City and CPD itself – in dynamic partnership with the Cleveland community – ultimately must own the adoption of new policies, processes, and approaches:

Indeed, the Consent Decree contemplates that the process of implementing its reforms will potentially take several years – in part because it is the City, CPD, and the City of Cleveland that need to be the primary drivers and owners of real change . . . CPD and the City of Cleveland are responsible for meeting deadlines with high-quality deliverables consistent with the Consent Decree; neither the Court and Monitor nor Department of Justice and any other entity controls the delivery of progress. It is, and will remain, the CPD and the City, in all of its forms, that will dictate the pace, nature, and long-term success of substantially and effectively implementing the Decree’s many requirements.<sup>50</sup>

*The City and CPD itself, in dynamic partnership with the Cleveland community, ultimately must own the adoption of new policies, processes, and approaches.*

To ensure that all stakeholders continue to work according to “a clear, unified structure and framework for the day-to-day and week-to-week efforts that stakeholders from across the Cleveland community need to undertake to ensure that the Consent Decree is implemented,”<sup>51</sup> the Parties and Monitoring Team re-

vised the original, Court-approved Monitoring Plan<sup>52</sup> to reflect operational realities.

The Updated First-Year Monitoring Plan covers the period of November 1, 2016 through January 31, 2017, which is the end of the first monitoring year.<sup>53</sup> The updated plan continues to break down the Consent Decree’s major requirements and objectives “into a series of key results or milestones” and assigns responsibility “to an identified stakeholder for completion by express deadlines.”<sup>54</sup> The updated plan continues to “make clear to any interested resident or stakeholder precisely what changes can be expected when” during the reform process.<sup>55</sup>

The Monitor has previously noted that it might be necessary to modify monitoring plans during the Consent Decree process “to reflect changed circumstances or operational realities.”<sup>56</sup> The primary changes memorialized in the Updated First-Year Monitoring Plan involved changes to deadlines made necessary in light of the “significant City and CPD capacity” that “needed to be focused on planning and preparations for the Republican National Convention” held in Cleveland in mid-July 2016.<sup>57</sup> As the Monitoring Team has previously noted, “Cleveland has faced the unique challenge of needing to balance the early days of [Consent Decree] reform with preparation for a major national security event of the size and scope that the city does not hold in a typical period.”<sup>58</sup> Simply put, intensive focus on Consent Decree reforms could not be maintained between mid-May 2016 and mid-August 2016 –

which required Consent Decree stakeholders to revise the original Monitoring Plan to ensure that it continued to adequately “set aggressive but realistic goals, deadlines, and milestone for complying with the requirements” of the Consent Decree.<sup>59</sup>

## C. The Role of This Report

The First Semiannual Report outlined the purpose of the Monitor’s Consent-Decree-required semiannual reports:

The Monitoring Team is charged with assess-

<sup>52</sup> See Dkt. 43 (submitting First-Year Monitoring Plan); Dkt. 44 (approving First-Year Monitoring Plan).

<sup>53</sup> The Court appointed the Monitor and Cleveland Police Monitoring Team on October 1, 2015. See First Semiannual Report at 14. Pursuant to Paragraph 369 of the Consent Decree, the original First-Year Monitoring Plan was submitted to the Court on February 1, 2016. That Plan covered the period of February 1, 2016 through January 31, 2017. See First Semiannual Report at 16.

<sup>54</sup> First Semiannual Report at 16.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 5; see Dkt. 43 at 1; Dkt. 51.

<sup>57</sup> First Semiannual Report at 17.

<sup>58</sup> *Id.*

<sup>59</sup> Dkt. 43.

<sup>48</sup> *Id.* at 16.

<sup>49</sup> *Id.* at 66.

<sup>50</sup> *Id.* at 17.

<sup>51</sup> Dkt. 43 at 2.



## A Note on the Republican National Convention

In July 2016, Cleveland hosted the Republican National Convention. As the Monitoring Team previously observed in June 2016:

In any year, this would be a significant national security event. The state of the current political contest that will culminate in Cleveland has increased the attention on planning and preparations for the Convention.

Leading up to the RNC, the Division of Police and its personnel invested significant time, resources, and attention to planning for a successful event. This attention, as well as the Division and City's partnership with outside resources from other jurisdictions and the federal government, produced an event that saw the City and police department receiving substantial praise.<sup>1</sup>

Although "the Monitor cannot and does not, under the terms of the Decree, comment on pending investigations or independently evaluate claims of officer misconduct in real-time,"<sup>2</sup> the Monitoring Team does observe that police made relatively few arrests during the event, with violence or security events related to or occurring around the Convention kept relatively minimal, as well. To the extent that the eyes of the nation were on Cleveland, the men and women of CPD, under the visible leadership of Chief Calvin Williams, appeared to perform commendably and professionally under potentially challenging circumstances.

<sup>1</sup> See, e.g., Evan MacDonald, "Cleveland Police Perform Well Under Spotlight of Republican National Convention: Analysis," *Cleveland Plain Dealer* (July 22, 2016), [http://www.cleveland.com/rnc-2016/index.ssf/2016/07/cleveland\\_police\\_perform\\_well\\_under\\_spotlight\\_of\\_republican\\_national\\_convention\\_analysis.html](http://www.cleveland.com/rnc-2016/index.ssf/2016/07/cleveland_police_perform_well_under_spotlight_of_republican_national_convention_analysis.html); Ivan Livingston, "Despite Fears, Cleveland Security a Success," *CNBC.com* (July 22, 2016), <http://www.cnbc.com/2016/07/22/despite-fears-cleveland-convention-security-a-success.html>; Jonathan D. Woods, "How Police Succeeded at the Republican National Convention," *Time* (July 23, 2016), <http://time.com/4420014/republican-convention-protests-police-secret-service/>.

<sup>2</sup> First Semiannual Report at 18.

ing whether the Division is effectively implementing the overall, systemic changes to how it functions that are required by the Consent Decree. The Team is overseeing the long-term reforms required by the Consent Decree so that, in the future, policing in Cleveland is effective, safe, constitutional, and consistent with the values of the community. In doing so, the duty of the Monitor in this report is to

summarize to the Court and public precisely where CPD is – over time, across issue areas, and in light of all of the Consent Decree's obligations – on the road to reform.<sup>60</sup>

During this reporting period, the Monitor has formally approved or disapproved, per the Consent Decree and First-Year Monitoring Plan, a number of policies, manuals, plans, or other deliverables.<sup>61</sup> In so doing, it has detailed to the Court and to the public the reasons why various deliverables have or have not been consistent with the Consent Decree's requirements. The Monitoring Team has also provided the Court with reports on various of the Monitor's formal outcome measurement requirements.<sup>62</sup>

The Monitor must also "file with the Court, every six months, written, public reports."<sup>63</sup> Generally, the reports must "descri[be] . . . the work conducted by the Monitor during" the period covered by the report and outline "which [Consent Decree] requirements have been incorporated into policy, actual practice."<sup>64</sup> This is the Monitor's second such report.

The Monitoring Team has previously emphasized that "those looking for a report card, ratings, percentages, scales, or other similar over-simplifications will not find them here."<sup>65</sup> Instead, this report describes the specific progress that the City and CPD has made to date, the significant challenges that remain, and what the Monitor expects from Consent Decree stakeholders during the next six months.

<sup>60</sup> First Semiannual Report at 16.

<sup>61</sup> See, e.g., Dkt. 72 (recommending approval of new CPD mission statement); Dkt. 83 (recommending approval of new use of force policies); Dkt. 86 (recommending approval of new OPS and PRB operational manuals); Dkt. 87 (submitting budgets for OPS, PRB, and CPC).

<sup>62</sup> See, e.g., Dkt. 71 (submitting results of biennial community survey); Dkt. 73 (reporting results of initial baseline outcome measurements).

<sup>63</sup> Dkt. 7-1 ¶ 375.

<sup>64</sup> *Id.* ¶ 375(b).

<sup>65</sup> First Semiannual Report at 18.

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## COMMUNITY ENGAGEMENT & BUILDING TRUST

### A. Community Police Commission (“CPC”)

The committed group of volunteers comprising the Cleveland Community Police Commission (“CPC” or the “Commission”) has continued to produce high-quality work and important contributions to the Consent Decree process. Just more than one year into its existence, the Commission has built an impressive list of work products that have contributed significantly to new policies and procedures within the Division of Police.

Since the First Semiannual Report, which highlighted the importance of the Commission’s work and its commitment to community input, CPC has continued to produce a number of valuable work products. This work has included, among other things:

- Use of force policy recommendations;
- Recommendations on the OPS Manual;
- Recommendations on the PRB Manual;
- Recommendations on the City’s Equipment and Resource Plan;
- A draft of the Community Engagement Assessment Plan; and
- A draft of the Commission’s first Annual Report.

The CPC coordinates much of its work through its five established committees. These include the Budget Committee, IT and Infrastructure Committee, Community Outreach and Engagement Committee, the Communications Committee, and the Policy and Procedure Assessment (“PPA”) Committee. With the establishment of the PPA Committee, a committee of the whole that meets monthly, the Commission has transitioned

from convening two public meetings to holding one public meeting per month and using the PPA meetings to conduct the important internal and follow-up business among the commissioners themselves. The Monitoring Team commends the Commission for adopting new approaches to its work in order to find a balance between transparency, public input and accountability, and efficiency.

This PPA Committee is responsible for stewarding all CPC policy recommendations and steering the other established committees and work groups. While work groups function on an as-needed basis, currently existing work groups include Bias-Free Policing, Civilian Police Review Board and Office of Professional Standards, and Use of Force.<sup>66</sup> Work group meetings have been open to the public.

CPC has demonstrated its interest to engage all communities of Cleveland by hosting its meeting locations throughout the City of Cleveland – including in recreation centers, places of worship, and neighborhood resource centers. It continues to allocate a portion of all public meetings to community feedback generally in the form of public comments or breakout sessions. Regardless of how attendees provide feedback, the Commission has documented such input and has taken care to situate its policy recommendations in light of the comments received from the community during these processes.

CPC is also challenging itself to find ways of attracting a broad cross-section of the community to its meetings. The date, time, and location of each meeting are posted on the Commission’s website calendar well in advance of each meeting date. The formats of meetings have been restructured with the goal of fostering a less contentious environment where people of different backgrounds, experiences, and points of view can all feel safe, valued, and comfortable expressing their perspectives. Although average public attendance at CPC meetings has not yet significantly increased, these changes – along with the hiring of community outreach staff – gives some promise for improved community participation going forward.

Another opportunity for greater community participation in Commission activities is through the Commission’s relationship with the District Policing Committees, as the two groups develop deeper connections through shared strategies and aligned outreach efforts.

Over the past six months, in addition to facilitating commission events, members of the Commission have participated in a wide range of police reform assemblies, including but not limited to:

- Monthly meetings of the Parties of the Consent Decree;
- Community and Problem-Oriented Policing Forum held at Case Western Reserve Uni

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<sup>66</sup> A Mission Statement work group has been discontinued by the Commission until such time there is a need to re-evaluate the mission statement of the CDP and/or the CPC.

versity;

- Use of Force policy roundtables;
- Crisis Intervention training and policy roundtables;
- Mental Health Response Advisory Committee; and
- Cleveland's Community Relations Board.

The Monitoring Team has heard diverse viewpoints expressed by Commission members. Conversations have generally remained civil and respectful, even when points of view have been passionate and pointed. CPC is supposed to be a venue where members of the Cleveland community with diverse viewpoints can come together and discuss challenging issues. The Monitoring Team continues to believe that passion, debate, and difficult conversations are a sign of the Commission's health, vibrancy, and progress – and not a sign of failure, insignificance, or chaos. The diversity of viewpoints that the Commission hears, and the diversity of its volunteer commissioners, remains an important part of ensuring that CPC can be the type of conduit between Cleveland's diverse communities and the reform process.

Much has been accomplished by the Commission – at times, with great strain on individual commission members. Commissioners are currently doing more than what can reasonably be expected of a volunteer unit. Borrowed staff of the Cleveland Foundation and the City of Cleveland Community Relations Board has been invaluable to CPC, and the Monitoring Team thanks both entities for their strong support of community participation in police reform.

However, commissioners have, to date, consistently carried out a wide array of duties that should likely be performed by a staff. Therefore, it is necessary for the commission to make operational capacity building a primary focus in the coming months. In particular, the hiring of an Executive Director should be the Commission's top priority. Encouragingly, the Executive Director selection process is underway and the Commission is on pace to fill the position in early 2017. The Commission should endeavor for a transition of executive and administrative duties by empowering the Executive Director with true executive authority and the responsibility of hiring, and managing the onboarding of, additional staff.

## B. District Policing Committees

The District Policing Committees (formally known as the District Community Relations Committees), one for each of the five Police Districts, have operated as strong district-wide partnerships involving local stakeholder groups and individuals, the Community Relations Board and the Police Districts. These Committees devise locally-formed strategies to address issues and concerns specific to each Police District.

The Consent Decree calls for the expansion of the membership of the District Policing Committees and annual reporting of its strategies, concerns and recommendations to the Commission.<sup>67</sup> As active as the Commission and the District Policing Committees are, the bridging of strategies to strengthen communication and cooperation between CPD and communities of Cleveland has not yet been established. In the coming months the Monitoring Team will observe and support the Community Relations Board's efforts to begin to connect the overlapping interests and responsibilities of the District Policing Committees and the CPC.

## C. The Monitoring Team's Community Engagement & Outreach

The Consent Decree continues to “call[] for the robust, intensive, substantive[,] and sustained engagement of the community throughout the implementation process.”<sup>68</sup> During the past six months, the Monitoring Team has continued to gather and listen to the views of Cleveland residents and attempted to ensure that all interested individuals can participate in the reform process.

To this end, the Monitor's Community Engagement Team has conducted more than 40 community meetings and made 60 presentations before community groups of all kinds, i.e. religious congregations, social clubs, fraternities and sororities, political gatherings, ethnic coalitions, law enforcement members, youth groups, and others populations within the City of Cleveland.

As with the prior reporting period, the Monitoring Team has continued to meet with groups large and small, and even one-on-one with community leaders and individuals, to explain the Consent Decree process, update on current progress, share information, and answer questions. By this time in the Team's ongoing efforts, the list of individuals, groups, entities, and organizations with which the Monitoring Team has met or spoken would be prohibitively lengthy to recount here. Because the Team remains mindful that “[t]here are . . . those residents who do not have the time, ability, resources, or incentive to engage with the process,”<sup>69</sup> the Team continues to work hard to reach even further into Cleveland's diverse communities.

All of the Monitor's engagement is focused on ensuring resident involvement and participation in the substantive reform process. This report elsewhere recounts, in some level of detail, the extensive community engagement and outreach that took place in Cleveland around proposed new use of force policies for CPD. The level, scope, and extent of resident – including police officer – involvement in the development and finalization of those force

<sup>67</sup> Dkt. 7-1 ¶¶ 23–26.

<sup>68</sup> *Id.* at 21.

<sup>69</sup> *Id.* at 22.

policies goes far beyond the process used in other Consent Decrees and is a noteworthy testament to the commitment of the City and its residents to broad-based, community-facing reform.

The Engagement Team continues to provide educational information across the Cleveland Community to residents. The Monitoring Team’s website, [www.clevelandpolicemonitor.com](http://www.clevelandpolicemonitor.com), contains relevant information on the Consent Decree process and real-time postings of events, meetings, and updates to the Monitoring Plan – so that residents, community organizations, and other interested stakeholders can remain current on all phases of the implementation process. The Monitoring Team remains in a partnership with Cleveland’s local libraries, Cuyahoga Community College, and other organizations to provide access to information and real-time knowledge about what Consent Decree reforms are being considered.

As described elsewhere in this report, the Monitoring Team has built extremely strong working relationships with members of the Division at the command level as well as with rank-and-file officers. In the coming year, the Team will work to continue to solidify those relationships and build even stronger partnerships with officers on the street that daily interact with residents in the community.

The public has made it clear that accountability for officer’s actions on the streets is one of the main concerns they want to see the reform process address. The Engagement Team works to ensure that their voice is heard on this issue and encourages citizens who hold those concerns to participate in CPC meetings and work groups that deal with policy and accountability issues.

The Monitoring Team continues to maintain an office at Lutheran Metropolitan Ministries (“LMM”), which is provided to the Team without charge. The Monitor thanks LMM for its continued generosity, hospitality, and support.





tems to monitor officer outreach to the community; and

- “Analyze” the quality and nature of its, and officers’ community policing efforts, “broken out by District, in a publicly available community policing report.”<sup>70</sup>

### A. Community and Problem-Oriented Policing Plan

The Monitoring Team’s previous report also outlined the major features of a comprehensive and integrated community and problem-oriented policing model based on best practices. That Report noted that, while the Monitor will not dictate the specifics of community policing in Cleveland, we would expect to see a strategy grounded in what we know works or, otherwise, a well-reasoned justification for exploring untested practices.

Given the substantial work required under the Consent Decree, as well as the resources required to police the Republican National Convention, the CPD remains in the early stages of turning its attention to Community Policing. In December, the CDP, City, CPC, DOJ, and the Monitor agreed to embark on a streamlined and coordinated community engagement process around the Division’s “comprehensive and integrated community and problem-oriented policing model.”<sup>71</sup>

Substantive community input is the first step in the development of the community and problem-oriented policing plan and the Division’s plan must be a direct response to what the community wants. The goal of this stream-lined process is for the parties to work together when they reach out to the community. A coordinated process is especially important for community and problem-oriented policing because of the breadth and nature of the topic. Discussions around community policing have great potential to stray off into conceptual and philosophical conversation rather than concrete strategy.

Recognizing the need for a more educational, and more productive engagement process around this topic the parties intend to work to together in the effort to have broad and inclusive engagement with Cleveland residents. The stakeholders hope that a collaborative engagement process will minimize multiple and redundant community solicitations on the same topic and allow for meaningful input on this important plan.

The Monitoring Team understands that the CPD has already put some thought into how to re-shape its community policing and build on positive work being done in the community on a daily basis. It looks forward to working closely with the Department as it turns those thoughts into a detailed process and proceeds through the challenging steps needed to implement these important reforms. Nonetheless, some work has been done in this area over the past several months that is worth noting.

<sup>70</sup> Dkt. 7-1 ¶¶ 27-30.

<sup>71</sup> *Id.* ¶ 27.

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## COMMUNITY & PROBLEM-ORIENTED POLICING

The First Semiannual Report summarized the requirements of the Consent Decree related to Community & Problem Oriented Policing (“Community Policing”). To review, the Consent Decree requires that the CPD implement a number of fundamental reforms related to community policing, including:

- “[E]nsuring that its mission statement reflects its commitment to community oriented policing;”
- “[E]nsur[ing] that its officers are familiar with the geographic areas they serve . . . and engage in problem identification and solving activities with the community . . . .”
- “[P]rovid[ing] initial and annual in-service community and problem-oriented training,” to include problem solving with the community, as well as concepts such as leadership and communication; procedural justice; conflict resolution and verbal de-escalation; and cultural competency sensitivity training;”
- “[Maintain[ing] collaborative relationships with a broad spectrum of community groups;”
- “[C]ontinu[ing] to meet with members of the community in each District on a monthly basis” and “actively solicit[ing] participation from a broad cross-section of community members in each District.”
- “[D]eveloping and implementing sys-

## B. Mission Statement

The Consent Decree requires that the CPD ensure that its mission statement “reflects its commitment to community oriented policing.”<sup>72</sup> As the Monitor observed to the Court previously, “[i]n a police department, ‘successful institutionalization of community policing is likely only if it is included as a part of the adopting organization’s mission,’ especially if accompanied by a ‘set of core values.’”<sup>73</sup>

In response to that requirement, the CPD engaged in a thoughtful process, which directly involved CPD officers and the Cleveland community, to draft a new mission statement. Some 133 officers responded to an anonymous feedback form about their views on what should be included in a new mission statement for the Division. Representatives of the Cleveland Police Patrolman’s Association (“CPPA”), Fraternal Order of Police Cleveland Lodge Number 8 (“FOP”), and other officer organizations also met with CPD leadership to discuss the mission statement. Additionally, the CPC, in a labor-intensive effort, also developed a feedback mechanism for Cleveland residents – with 122 people participating and providing feedback to the CPD. Separately, the Commission conducted research and provided recommendations based on commissioner views and the views, experiences, and feedback provided to it during various public meetings and forums. Further, the Monitoring Team sought community feedback about a proposed mission statement that was made public for community input.<sup>74</sup>

The result of this internal and external engagement is a new CPD Mission Statement, collaboratively drafted and approved by this Court in July 2016,<sup>75</sup> that provides a new direction for the men and women of the Division and the Cleveland community.<sup>76</sup>

The mission of the Cleveland Division of Police is to serve as guardians of the Cleveland community. Guided by the Constitution, we shall enforce the law, maintain order, and protect the lives, property, and rights of all people. We shall carry out our duties with a reverence for human life and in partnership with members of the community through professionalism, respect, integrity, dedication, and excellence in policing.

Problematically, this new mission statement has not been offi-

<sup>72</sup> *Id.* ¶ 28.

<sup>73</sup> Dkt. 72 at 2 (quoting E.J. Williams, “Structuring in Community Policing: Institutionalizing Innovative Change,” 4 *Police Practice & Research* 119, 124 (2003)).

<sup>74</sup> See Dkt. 72 at 5–7 (describing Monitoring Team’s outreach process).

<sup>75</sup> Dkt. 74.

<sup>76</sup> See generally Dkt. 72.

cially rolled out within the Division. Visitors to CPD districts and headquarters may, for instance, see the Division’s prior statement still posted in the buildings. Even more fundamentally, it does not appear that CPD officers have been informed – whether through an email, a Divisional Notice, or oral content provided during pre-shift roll calls – that the Division has a new philosophy and overriding set of values that is embodied by a new mission statement. The lack of urgency with respect to meaningfully implementing the mission statement has been frustrating to the Monitoring Team and other Consent Decree stakeholders who participated in extensive conversations about that statement in the Spring of 2016.

Thus, although the Monitor and Court have approved a new mission statement, it does not appear that the Division has taken any meaningful steps toward ensuring that the mission statement is substantially and effectively implemented. The Division and Monitoring Team have discussed the possibility of the Division’s upcoming training on the new use of force policies as being a good vehicle for ensuring broad-based awareness of CPD’s new mission. The Team will be looking to see whether that training does provide specific background, context, and content on the new mission statement along with the significant other substance that the training must cover.

## C. Biennial Community Survey

The Monitoring Team contracted with an independent research firm to conduct a methodologically rigorous and scientific community survey, to gauge public perceptions of safety and policing.<sup>77</sup> The purpose of the survey was to assess the community’s trust and confidence in the CPD overall and with regard to specific areas, such as use of force and bias-free policing. The results of the survey, which were filed with the Court in June 2016,<sup>78</sup> will provide useful information to CPD and the community as a comprehensive community and problem-oriented policing plan is developed.<sup>79</sup>

Overall, the survey found that Cleveland residents are skeptical about police conduct and accountability. Generally, “[j]ust over half of all residents surveyed (55%) believe the Cleveland Division of Police is doing a ‘good’ or ‘excellent’ job overall.”<sup>80</sup> Only 50 percent of residents believe police officers follow the law “all of the time” or “most of the time.”<sup>81</sup> “Just under half (48%) believe officers treat people with respect or use the appropriate amount of force (47%) in most situations.”<sup>82</sup> A majority of residents (55 percent) believe officers are held accountable “only some of the

<sup>77</sup> Dkt. 7-1 ¶¶ 361–66.

<sup>78</sup> Dkt. 71.

<sup>79</sup> Dkt. 7-1 ¶¶ 27–34.

<sup>80</sup> Dkt. 71-1 at 3.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

time” or “almost never” for misconduct when it occurs.<sup>83</sup> Just “one-third of residents think the police have taken the time to meet members of their community (33%) or have developed relationships with people like them (37%).”<sup>84</sup>

There are significant racial disparities with respect to approval of and views about CPD. While “[n]early three-fourths of white residents surveyed (72%) believe the Cleveland Police are doing a good or excellent job overall,” only “43% of black residents” believe the same.<sup>85</sup> Indeed, “Black and Latino residents . . . gave the Cleveland Police lower ratings across a number of specific measures” – with “more than two-thirds of black residents (69%) believ[ing] that . . . officers are held accountable ‘some of the time’ or ‘almost never’” for misconduct.<sup>86</sup> White residents are comparatively more likely than Latino and black residents to “ask the police for help” or “report a crime” to CPD,<sup>87</sup> which could have significant effects on crime within some Cleveland communities.

Whether policing in Cleveland is effective, safe, and consistent with the values of the community cannot be definitively established by a survey. The protections of the U.S. Constitution are not poll-driven concepts. Indeed, it is axiomatic among scholars of varied ideological persuasions that, under the U.S. Constitution, “[i]t is of great importance . . . to guard one part of the society against the injustice of the other part”<sup>88</sup>:

[T]he real power lies in the majority of the Community, and the invasion of private rights is chiefly to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the constituents.<sup>89</sup>

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 4.

<sup>85</sup> *Id.* at 3.

<sup>86</sup> *Id.* at 4.

<sup>87</sup> *Id.* at 5.

<sup>88</sup> *The Federalist* No. 51 (James Madison) (Clinton Rossiter ed., 2003) at 320.

<sup>89</sup> Letter from James Madison to Thomas Jefferson (Oct. 17, 1788), in Jack N. Rakove, *Declaring Rights*, at 161–62 (1998); see, e.g., *West Virginia State Bd. Of Educ. V. Barnette*, 319 U.S. 624, 638 (1943) (“The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities . . . [F]undamental rights may not be submitted to vote; they depend on the outcome of no elections.”); Samuel Freeman, “Constitutional Democracy and the Legitimacy of Judicial Review,” 9 *Law & Philosophy* 327, 327 (1990) (“The conception of democracy that stems from the social

Consequently, the results from the Monitor’s initial community survey do not definitively establish, one way or another, whether CPD is or is not engaged in constitutional policing and whether the Division has or has not complied with any relevant part of the Consent Decree.

However, the surveys demonstrate a disconnect between the Cleveland Division of Police and the communities that it serves, with a critical number of individuals believing that local law enforcement officials are not as responsive to their views, concerns, or experiences – and that, at times, the burdens of law enforcement are not equally shared.

A renewed trust among the community with respect to the CPD – and a new, shared vision for policing in Cleveland – is also necessary from the perspective of ensuring greater safety on the streets of Cleveland. Community confidence and trust, by making residents more willing to participate and cooperate with police, tends to reduce both crime and the fear of crime.<sup>90</sup> Accordingly, the Consent Decree is far more than an administrative, bureaucratic, or accountability-focused document. It is squarely a crime-fighting document that will assist substantially in the ability of CPD officers to perform its core law enforcement functions.

#### D. CPD Community Engagement

Over the past six months, CPD has meaningfully sought community feedback related to critical reforms. In addition to the efforts made in relation to the mission statement discussed above, the CPD participated significantly in soliciting feedback to proposed changes to its use of force policies, engaging both its front-line police officers and Cleveland residents.

The Team recognizes that, for some CPD personnel, engaging

contract tradition of Locke, Rosseau, Kant and Rawls, is based in an ideal of the equality, independence, and original political jurisdiction of all citizens . . . [J]udicial review can be seen as a kind of shared precommitment by sovereign citizens to maintaining their equal status in the exercise of their political rights . . .”).

<sup>90</sup> See generally Robert J. Sampson, et al, “Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy,” 277 *Science* 918 (1997) (detailing link between community policing and crime and fear of crime); Gary W. Cordner, “Community Policing: Elements and Effects,” 5 *Police Forum* 1 (1995) (same); Michael D. Reisig & Roger B. Parks, “Can Community Policing Help the Truly Disadvantaged?,” 50 *Crime & Delinquency* 139 (2004) (same); Dan Fleissner & Fred Heinzmann, National Institute of Justice, “Crime Prevention Through Environmental Design and Community Policing” (Aug. 1996) (same); A. Steven Dietz, “Evaluating Community Policing: Quality Police Service and Fear of Crime,” 20 *Policing* 83 (1997) (same).



the public substantively on issues related to the Division’s policies, procedures, and operations is a new concept and experience. It is understandable that some, at least initially, might believe that such engagement must entail criticism, condescension, or attack. However, the dedication of other CPD personnel to participating in dialogue both with individuals who indicated that they are highly supportive of CPD and with others who indicated that they are highly critical of police conduct has been noteworthy.

The Monitoring Team has received questions and been made aware of the concerns of some community members about the participation of CPD personnel at community forums or on community panels focusing on police reform. The Team understands that the experiences of some community members may lead them to be highly averse or subjectively unable to feel like their experiences can be validated and their voices heard in the context when a member representing the police are present. However, paradigms related to restorative justice are grounded, in part, on “involving all stakeholders.”<sup>91</sup> Broad-based, cross-community conflict resolution approaches are likewise grounded in the “[i]nclusion of a full range of stakeholders.”<sup>92</sup> Studies of police complaint mediation programs indicate that the presence of law enforcement agents is critical in transforming the attitudes, views, and behaviors of both residents and police officers regarding specific police-community interactions.<sup>93</sup>

In short, a renewed relationship between the community and Division of Police, where each group views the other not as “them” but as “us,” requires the participation of Cleveland residents and officers alike. It may, from time to time, require a good-faith effort by officers to learn more about the day-to-day interactions that some community members believe passionately are systemically unfair or unjust – just as it may require a good-faith effort by Cleveland residents to hear about the day-to-day realities and rigors of line-level law enforcement. It may require members of the community and police department, over time and when appropriate, to engage with the possibility that the police-community relationship is not inevitably or permanently consigned to be what it may have been.



<sup>91</sup> About Restorative Justice, “Tutorial: Intro to Restorative Justice” (last visited Nov. 21, 2016), <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/>.

<sup>92</sup> Judith E. Innes, “Consensus Building: Clarifications for the Critics,” 3 *Planning Theory* 7 (2004).

<sup>93</sup> Samuel Walker & Carol Archbold, “Mediating Citizen Complaints Against the Police: An Exploratory Study,” 2000 *J. Disp. Resol.* 231 (2000); Ryan P. Hatch, “Coming Together to Resolve Police Misconduct: The Emergence of Mediation as a New Solution,” 21 *Ohio St. J. on Disp. Resolut.* 447 (2005).



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## BIAS-FREE POLICING

As part of the Consent Decree, the City of Cleveland and the Department of Justice have agreed to make certain that the Cleveland Division of Police “will deliver services with the goal of ensuring [those services] are equitable, respectful, and free of unlawful bias, in a manner that promotes broad community engagement and confidence in CDP.”<sup>94</sup>

To that end “CPD’s bias-free policing initiatives will need to be geared toward: (1) ensuring a zero-tolerance approach to express, outward, and intentional manifestations of bias by CPD personnel; (2) ensuring policies and processes for identifying instances in which police services may be delivered in a less than impartial manner; and (3) providing officers with education and training on areas such as “problem-oriented policing, procedural justice, . . . recognizing implicit bias,”<sup>95</sup> “cultural competency training regarding the histories and cultures of local immigrant and ethnic communities,”<sup>96</sup> and others.

While recognizing that “cultural and historical realities [may] render it impossible to entirely eliminate the possibility or effects of individual bias, CPD policy and training can provide officers with specific strategies and approaches – backed up by scientific literature and existing real-world training – for attempting to minimize the effects of such bias on officer decision-making.”<sup>97</sup> As detailed in the Updated First-Year Monitoring Plan, the development of that policy and training will need to incorporate,

where appropriate to do so, the concerns and issues gathered by the Cleveland Community Police Commission from Cleveland’s diverse communities.<sup>98</sup>

To date, the CPC has provided specific recommendations relating to bias-free policing. Those recommendations were the culmination of approximately seven community meetings devoted to gathering the experiences, viewpoints, and feedback of Cleveland’s communities of color, faith, LGBTQ, youth, and homeless related to bias-free policing. The initial CPC report summarizing this input and those recommendations included specific comments and concerns collected by the CPC Bias-Free Work Group from community members. The CPC’s report also provided numerous recommendations to the CPD related to its: interaction with citizens of varying backgrounds and demographics; organizational culture; recruitment; training; and, reporting.

As a result of CPC’s considerable efforts to gather the views and feedback from across Cleveland’s diverse communities, the Commission’s initial bias-free policing recommendations were detailed and thorough – and will no doubt prove useful as the Division drafts an initial bias-free policing policy that utilizes “strategies, such as problem-oriented policing, procedural justice, and recognizing implicit bias.”<sup>99</sup>

With that work completed, the focus is now on the development of the CDP’s policy and training. As detailed in the Updated First-Year Monitoring Plan, the Monitor and the Parties are currently reviewing CPD’s draft bias-free policing policy. Ultimately, the Monitor must approve or disapprove of the final Bias-Free Policing Policy by February 28, 2017.<sup>100</sup>

<sup>94</sup> Dkt. 7-1 ¶ 35.

<sup>95</sup> *Id.* ¶ 40(b).

<sup>96</sup> *Id.* ¶ 40(d).

<sup>97</sup> First Semiannual Report at 29.

<sup>98</sup> Dkt. 80-1 at 20.

<sup>99</sup> *Id.* at 30.

<sup>100</sup> *Id.* at 20.

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## USE OF FORCE

### A. Policy

The topic of use of force—how, when, and under what circumstance CPD officers are permitted to use force—is central to the consent decree.<sup>101</sup> The Decree mandates the CPD:

[R]evise, develop, and implement force policies, training, supervision, and accountability systems with the goal of ensuring that force is used in accordance with the Constitution and laws of the United States and the requirements of the Agreement and that any use of unreasonable force is promptly identified and responded to appropriately.<sup>102</sup>

#### 1. The Policy Drafting & Community Engagement Process

From the beginning of work on new use of force policies under the Consent Decree, the Parties and major stakeholders have been substantially involved in actively soliciting community involvement in the policy creation and refinement process. Each group's initiative has been vital to the success of creating a use of force policy that incorporates and reflects community values.

Most importantly, the community was invited to be involved in the policy revision process both early on, to help set the agenda and frame issues that needed to be addressed in new policies,

<sup>101</sup> See Dkt. 7-1 ¶¶ 45-130.

<sup>102</sup> *Id.* ¶ 45.

and later in the process, when CPD and the Consent Decree Parties believed that the revised policies were substantially far enough along to make community feedback valuable and necessary. In making the proposed force policies public well before they were completed, formally reviewed by the Monitor, or circulated to the Court for approval, the Cleveland community had an opportunity to be more involved in the substantive drafting of use of force policies than – at least to this Monitoring Team's knowledge – any other community has, to date, in other Consent Decree contexts.

Because this commitment to sustained community involvement and substantive public participation by the City, CPD, and the Department of Justice has been so significant, the following sections summarize, in some detail, the process that Consent Decree stakeholders used in creating the new rules of the road for officers with respect to using force that the Court approved at a status conference on January 6, 2017.

#### a. CPC's Engagement

The feedback process started in February 24, 2016 when the CPC held a full meeting on the topic of use of force. The Commission subsequently hosted a separate town hall and held special meetings with community groups and organizations – such as the Black Shield police officer organization, Cuyahoga Metropolitan Housing Authority (“CMHA”) residents, 100 Black Men, clergy, the LGBT Community Center, members of the Mental Health Advisory Committee, and others. CPC also “developed a Use of Force Questionnaire,” which allowed community members to directly provide input.

The Commission ultimately proposed a set of specific recommendations to Consent Decree stakeholders based on this feedback. Those recommendations focused on a broad range of topics including emphasizing “life preservation” in policy, providing “updated state-of-the-art training” and ensuring the policies are “aligned with community values and expectations.”<sup>103</sup>

#### b. The City of Cleveland's Engagement

Cleveland's Community Relations Board also conducted an informal survey on use of force issues. A total of 1,092 residents provided feedback in some capacity. Although the City's survey did not secure a random, statistically-significant sample, the City did a noteworthy job and the Monitoring Team commends their efforts.

Key findings from that engagement effort included:<sup>104</sup>

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<sup>103</sup> Cleveland Community Police Commission, “Use of Force: Summary Report & Initial Policy Recommendations” at 7-8 (Mar. 31, 2016).

<sup>104</sup> First Semiannual Report at 33.

- A relatively low number of Cleveland residents (about one-third) said that the City of Cleveland’s police are fair when using force.
- Fewer than half (44 percent) of respondents agreed that CPD approaches citizens in a respectful manner.
- Close to half (45 percent) of participants in the survey said that CPD uses excessive, or too much, force.
- A slightly higher percentage (54 percent) of respondents believed that CPD disproportionately uses force against certain groups of people.
- Most respondents (59 percent) believe that CPD is not appropriately trained on use of force issues.
- About two-thirds (65 percent) of respondents indicated that they do not believe that there is accountability and accuracy in how officers report use of force incidents.

*The Division of Police engaged in a process to secure the substantive input from CPD officers about its prior use of force policies and what they wanted to see in a new policy.*

### c. CPD’s Engagement

The Division also engaged in a process to secure the substantive input from CPD officers about the use of force policy. CPD partnered with the leadership of CPPA, FOP, and other police officer organizations and conducted several forms of officer outreach. These outreach efforts included a non-scientific online officer survey, focus group discussions, anonymous written submissions, and a series of meetings with union and officer organization leadership.<sup>105</sup>

As the Monitoring Team has previously summarized, key findings from the officer online survey included that:<sup>106</sup>

- Most officers who completed the feedback form did not believe that force types and categories in CPD’s current force policies are sufficiently clear.
- Officers appeared to want clearer definitions of key terms used in the force policy, with fewer than 40 percent of officers saying that current definitions make the current policy more understandable.
- Fewer than one-third (31 percent) of responding officers believe that the current CPD policy reflects a priority on using techniques other than force to effectuate law enforcement objectives.
- Of officers who had experience using the Taser, nearly two-thirds (65 percent) of respondents found the less-lethal very effective or effective.

### d. The Policy Revision Process

After receiving input from the CPC, the City, and the CPD, the Division set out to draft revised policies with respect to when

officers may and may not use force on the streets of Cleveland. Starting in March 2016, the Consent Decree stakeholders met regularly to discuss issues and exchange preliminary drafts of the policies. All stakeholders were, and are, mindful of the duty to structure the reform process in a manner that can make maximum use of the time that Cleveland residents provide to the process.

On September 8, the Parties and Monitoring Team agreed that the then-current drafts of four policies – a general policy, a definitions policy, a policy addressing intermediate weapons, and a policy addressing the duty to de-escalate – were sufficiently advanced that community input and feedback was warranted and necessary. Consequently, the Parties and Monitoring Team made proposed new policies available to the general community.

### e. The Stakeholder’s Collaborative Engagement

Starting on September 8, the Monitoring Team – working closely with the City of Cleveland, CPD, the Department of Justice, and the CPC – solicited public input on the CPD’s proposed Use of Force policies. Between September 8 and November 4, 2016, the Parties engaged in a comprehensive feedback process.

#### 1. Overview of The Public Comment Process

To ensure that the Consent Decree stakeholders received input from a cross-section of Cleveland residents, the Monitoring Team oversaw a comprehensive process of community involvement aimed at providing community organizations and residents, including CPD personnel, with numerous avenues to provide input on the force policies.

1. **The Monitoring Team’s Website.** The Monitoring Team made the draft policies available on the Monitoring Team website, the CPC’s website, and the City’s website, along with a brief summary of key policy changes. Organizations and interested individuals were invited to submit written comments.

The Team received three sets of detailed comments—from The Schubert Center for Child Studies at Case Western Reserve University (“Schubert Center”), Strategies for Youth, and the American Civil Liberties Union of Ohio.

2. **The Monitoring Team’s Feedback Form.** The Monitoring Team created an online feedback form to provide residents with an opportunity to weigh in on the policies without necessarily having to read the policies in full or attending a public event. The feedback form asked residents a series of questions designed to get their views on whether the new policies address

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

their concerns, would improve police-community relations, and would promote officer safety. Comments were received from a number of Cleveland residents.

- 3. Community Roundtables.** The Monitoring Team coordinated – in partnership with the City, CPC, CPD, and Department of Justice – two major community roundtables to provide an opportunity for direct engagement between the Consent Decree Parties and the community around the proposed policy. Those roundtables took place on September 15, 2016 at Jerry Sue Thornton Center, on Cleveland’s Eastside, and on September 20 at Urban Community School, on Cleveland’s Westside. The Chief of Police and United States Attorney for the Northern District of Ohio attended both roundtables.

Some 200 residents and community leaders attended the two roundtables, including police officers, several members of the clergy, residents and staff of the Cuyahoga Metropolitan Housing Authority, Cleveland city council members, and representatives from The Hispanic Alliance, The Council on American Islamic Relations, and the LGBT Center of Greater Cleveland.

In structure, the roundtable events included an overview of the use of force policies with a question-and-answer panel and an opportunity for small group discussions.

The community roundtable started with a 20-minute overview presentation by the Monitor. It sought to provide attendants with a brief overview of the policies – focusing on the major differences between CPD’s old policies and the proposed new policies and highlighting how the new policies satisfy the Consent Decree requirements and also keep CPD personnel and the Cleveland community safe.

A subsequent question-and-answer portion of the session began with community members discussing the new policy in small groups to which attendees were randomly assigned. Representatives from the City, the DOJ, the Monitoring Team, and the CPD served as facilitators and led the small group discussions.

Each group was instructed to come up with and agree on two questions. A panel of representatives – including from the DOJ, the City, and the Monitoring Team answered as many questions as possible in 20 minutes.

Some of the groups sought clarification on key policy terms, like “chokehold” and “proportionality.” Others asked about training and accountability—for example, inquiring whether “officers have scenario-based training.” Many attendees understandably emphasized the

importance of issues relating to training, reporting, accountability, and discipline – topics that the Consent Decree encompasses but on which the reform process will address in coming months.

After the question and answer panel, the same small groups engaged in a substantive discussion around the use of force policies. The Monitoring Team created an agenda to guide the conversations and give residents an opportunity to weigh in without reading the policy in full. Participants were first asked to reflect on Cleveland community values, and then to apply these values to specific policy questions – such as what factors officers should be required to consider before using force. Each group was provided with a large easel pad and instructed to choose a note taker to document the group’s thoughts and discussion.

After a 45-minute discussion, a reporter nominated by the group was asked to share the group’s two most significant or important suggestions or ideas with the audience and the Consent Decree stakeholders. The Monitoring Team recorded these summary suggestions on a projected screen so that community members could not only hear but see their own thoughts and the feedback of other small groups.

A number of community members – including some who had concerns about the impact on the policies on police officers or certain groups within Cleveland – expressed their appreciation for having an opportunity to participate in the policy-making process and found the small-group format to be a positive way to ensure that the voices of all attendees could be heard by other Cleveland residents and from a representative of a Consent Decree stakeholder directly involved in the day-to-day reform effort. Indeed, the Mental Health Response Advisory Committee has sought, and the Monitoring Team has gladly provided, technical assistance on planning that group’s community engagement process on proposed crisis intervention policies. The Monitor is pleased that other Consent Decree stakeholders are seeking to replicate the kind of intensive community feedback that occurred in conjunction with the use of force policies in other important areas of reform.

## *2. Summary of Comments Received*

Generally, as a local Cleveland newspaper summarized, resident discussions focused on small tweaks – and a general sense that the force policies were an important step in the right direction for Cleveland going forward.<sup>107</sup> Several community members

<sup>107</sup> See Eric Heisig, “Residents Offer Input On Proposed Cleveland Police Use-Of-Force Policy,” Cleveland.com (Oct. 16, 2016), <http://www.cleveland.com/court-justice/index.ssf/2016/09/>

and small groups praised the policies for providing greater clarity and for being “very straightforward.”

Both at the roundtables and in written comments, community members made a number of suggestions for how to improve the draft policy. Many emphasized the need for greater communication before using force and during de-escalation. Several tables suggested officers learn how to de-escalate themselves when they arrive on a scene.

Some community members who took the online survey found that the policies did not address their concerns and will negatively affect officer and community safety. From the comments received, it seemed as though many of the respondents did not support the Consent Decree and expressed concern that the policies would keep officers from “protecting themselves.” These comments reaffirmed to the Monitoring Team, including its five former law enforcement professionals, the importance of ensuring that the policies are as clear as possible and provide officers with the tools that they need to keep themselves safe while they keep Cleveland’s communities safe.

More specifically, the Monitoring Team noted a number of common themes or threads throughout the various community feedback mechanisms:

**1. When Officers May Use Force.** Community members suggested a number of factors in which they believed that officers should be trained to assess and consider when evaluating the threat that a subject poses. These included the number of other officers present, the amount of time provided for the suspect to reply to a command, information from witnesses, and potential trauma to bystanders. During the community roundtables, at least half the groups emphasized the importance of improved communication between officers and suspects. Groups stressed that officers should consider the subject’s ability to speak English and whether the subject understands the officer’s commands.

**2. De-Escalation Techniques.** At the community roundtable, participants also suggested additional techniques officers should consider. Several groups suggested officers should consider the tone and volume of their voice when de-escalating a situation. One group suggested that “officers should approach subjects with a low voice, to avoid subjects from yelling at officers.” Several groups felt as though officers should give subjects room to vent and to distinguish venting from violent mannerisms. Another group believed that officers should tailor their de-escalation strategies to specific neighborhoods.

Several of the small roundtable groups felt the de-escalation

[residents offer input into pro.html](#).

policy should more expressly emphasize the role of officers as “guardians” rather than “warriors.” This was articulated in several different ways. One group stressed that “officers should leave the situation better than how they found it,” while another noted that “the responsibility of the officers is not to escalate the situation and this should be more prominent in the policy.” Another group worried officers might not attempt to de-escalate for a reasonable enough time and asked for clarification on an appropriate “length of time the officer should attempt de-escalation tactics.”

A number of groups highlighted the information problem that officers often face and the challenges that officers confront when needing to make quick assessments of people and circumstances that may unfold quickly. Groups discussed how “de-escalation is only possible if officers are properly informed.” One group urged the department to work on clarifying communication from the caller to the dispatcher and then again from the dispatcher to the officer.

**3. Youth.** At the community roundtables, at least four groups suggested the policies need to better address communicating and de-escalating with children. One group suggested a youth-specific policy. The Schubert Center and Strategies for Youth provide additional, valuable, and specific comments to Consent Decree stakeholders on a variety of issues relating to children, youth, and juveniles.

**4. Mental Health.** Several community roundtable groups expressed concern that the proposed policies fail to emphasize how officers should interact with community residents with mental disabilities. One group suggested that “each police district have a specific number of CIT trained officers and CIT trained supervisors on duty during each shift.” Another group urged for CPD to keep a database of neighborhoods or streets where mentally disabled community members reside. These and other comments have been discussed even more specifically within the content of CPD’s specific policy on crisis intervention.

**5. Communication.** Over half of the groups at both roundtables suggested that, to enable verbal de-escalation strategies, officers be provided with more training on communicating with non-English speakers. One group suggested that each officer carry a mini “cheat sheet of common Spanish phrases.”

**6. Cleveland Community Values.** Several groups suggested the policies include statements expressly referencing CPD’s recognition of the values of “reverence for life” and “respect for all individuals.”



**7. Feedback About Topics Not in the Use of Force Policies.** Community members provided input on several topics not expressly covered by the proposed policies relating to when officers may and may not deploy force in the field. These important topics included training, reporting, accountability in the review of excessive use of force, and community policing.

**Training.** Over half of the groups offered suggestions on how training should be conducted and what additional topics should be covered. Several reiterated the importance of scenario-based training and role-playing. One said that the policies include “too much writing” and urged the CPD to use videos, examples, and illustrations instead of classic classroom instruction. Several groups and community members noted the influence of race and poverty on CPD’s policing practices. Two roundtable groups suggested training should address implicit biases and cultural competency,

Lastly, some residents provided input on what should happen after training. One group suggested, officers should be tested to make sure they know the policies, while another group recommended that the policies should be reviewed and revised in order to reflect the realities of Cleveland.

**Reporting.** A number of community comments focused on the reporting of use of force incidents and ways to provide transparency in the process. One small group suggested the creation of a CPD database where use of force data is tracked and open to the public. Another urged the police department to post a sample Use of Force Reporting form on their website. Another roundtable of residents expressed concern about officers reporting each other. That group urged the CPD to allow for anonymous reporting in order to protect officers from retaliation.

**Review Process and Accountability.** Many community members expressed concerns about the process by which force incidents are investigated and reviewed. Several groups indicated that the current review structure is inadequate. Two groups suggested review by independent third parties, rather than individuals connected to the police department. They recommended the department find ways to combat the “blue wall of silence” culture. Additionally, community members sug-

gested adding more emphasis on the responsibilities of officers who witness excessive use of force. Lastly, one group recommended immediate isolation for officers who have been involved in a use of deadly force.

**Community Policing.** At the community roundtables, several groups commended the Parties for including the community in this policy-making process. Many residents emphasized the need for more community engagement. One small group said they would like more opportunities and venues to learn how officers implement the use of force policies.

A few groups suggested officers become more familiar with the areas they patrol. One group noted that community policing principles are integral to these policies. This group stressed that officers should learn more about quality of life challenges in their patrolling communities as that often influences how residents respond. Another group suggested CPD create an officer database consisting of each officer’s name, picture, and some brief information about the officer, such as—the officer’s patrol area, education, and qualifications.

Many community residents discussed the influence of race and poverty in CPD’s policing practices. Several groups provided suggestions on additional training topics, such as cultural competency and implicit bias. Others expressed concern about officer’s perceptions of minority communities. They suggested that CPD adopt stronger community policing practices and more community engagement.

## *2.. The Final Use of Force Policies Approved by the Court*

As submitted to and approved by the Court, the policy revisions include critical changes to 5 new policies:

- (1) CPD’s General Police Order (“GPO”) regarding **Use of Force – General**, which outlines clear use of force principles and specific expectations about when CPD authorizes officers to use force;
- (2) a **Use of Force – Definitions** GPO, which defines commonly used terms in the various force policies;
- (3) a **Use of Force – De-escalation** GPO, which requires that officers

use affirmative strategies and tactics aimed toward ensuring officer and subject safety while reducing the need for or the severity of force to be used;

- (4) a **Use of Force – Intermediate Weapons** GPO, which provides specific guidance on the use of less-than-lethal force tools, such as the Taser, OC Spray, and baton; and
- (5) a **Use of Force – Reporting** GPO, which addresses the requirement that officers report force when used.

As the Monitor reported to the Court when it recommended approval of the policies,<sup>108</sup> the use of force policies are consistent with the Consent Decree because they promote officer and public safety, enhance effective and proactive law enforcement, and advance constitutional policing in a manner consistent with the values of Cleveland’s communities as articulated by those communities during extensive community outreach and engagement on the force policies.

#### a. Use of Force: General

At the outset, the new force policy emphasizes the Division’s “commitment to carry out its duties with a reverence for the sanctity of human life.”<sup>109</sup> This express commitment—which not only aligns the CPD’s new, Court-approved mission statement—is directly responsive to feedback from the Use of Force Community Roundtables and the CPC’s explicit recommendation.<sup>110</sup> After outlining the purpose of the policy, the General GPO articulates the policy’s four fundamental requirements: that force be used only when it is (1) necessary, (2) proportional, and (3) objectively reasonable, and that officers (4) use strategic de-escalation tactics and strategies when it is safe and feasible to do so.

### 1. Principles

The inclusion of necessity, proportionality, and de-escalation is a notable shift from CPD’s prior force policy.<sup>111</sup> The Division’s previous, fifteen-page policy – which a majority of CPD officers told the Division was unclear and gave them insufficient guidance on when precisely force can and cannot be used – prohibited “excessive force,” without defining precisely what would be excessive, and situated authorized force in terms of force “that is objectively reasonable to bring an incident under control.”<sup>112</sup> By requiring

<sup>108</sup> Dkt. 83.

<sup>109</sup> *Id.* at 16

<sup>110</sup> Dkt. 74;Dkt. 83 at 16.

<sup>111</sup> Dkt. 83 at 17 (or cite to the old policy).

<sup>112</sup> Cleveland Division of Police General Police Order 2.1.01 (last

all force to be necessary and proportional, the new policy matches community expectations and best practices.<sup>113</sup>

The fourth principle, de-escalation, is now required before officers resort to the use of force. Although the CPD has a separate de-escalation policy, the Division has included de-escalation as one of the major principles in the general policy.<sup>114</sup> This serves to reiterate and highlight the important expectation that officers employ de-escalation techniques.<sup>115</sup> Many Community Roundtable participants expressed concern that the proposed policies failed to address how officers should interact with community residents with mental disabilities. The Parties responded to this feedback by adding, in the list of “officer/subject factors and circumstances” that must be considered “when choosing a force response,” that officers should consider “[k]nown or reasonably apparent mental illness, developmental disability, or crisis incident” and “[k]nown or reasonably apparent physical disability or other medical or physical condition, including visual or hearing impairment,” when choosing a force response.<sup>116</sup>

### 2. When Officers Are Authorized to Use Force

The new policy provides specific guidance as to when deadly force may be authorized. It also provides a specific list of actions in which, “[c]onsistent with the principles of necessity, proportionality, objective reasonableness, and de-escalation, Officers shall not” engage. These

actions include using force against subjects “who only verbally confront officers,” applying force to those “who are handcuffed or otherwise restrained” except in very limited circumstances, using “neck holds,” and using “head strikes with hard objects.”<sup>117</sup> This prohibited activity list – consistent with the Consent Decree – also conforms to many of the CPC’s recommendations, including prohibiting the “use of force against those who are exercising their First Amendment rights.”<sup>118</sup> It also prohibits officers from “reaching into, or placing themselves in the path of a vehicle.”<sup>119</sup>

### 3. Rare and Exceptional Circumstances

revised August 14, 2014).

<sup>113</sup> See, e.g., Seattle Police Department, Manual Section 8.000 (“An officer shall use only the degree of force that is objectively reasonable, necessary under the circumstances, and proportional to the threat or resistance of a subject.”); PERF Guiding Principles No. 2 and No. 3 at 35-40.

<sup>114</sup> Dkt. 83 at 17.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* at 18.

<sup>118</sup> *Id.* at 19.

<sup>119</sup> Dkt. 83 at 19; Dkt. 7-1 ¶ 59.

No law, court, or policy can prescribe specific rules that can apply to every conceivable circumstance involving all possible police encounters under any possible permutation of circumstances.<sup>120</sup> Indeed, CPD was mindful that any force policy “must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving.”<sup>121</sup> Consequently, the policy provides that “[i]n rare and exceptional circumstances” where deadly force would be authorized, the subject’s actions “constitute an immediate danger and grave threat to the officer or others,” and “no other force options, techniques, tactics, or choices consistent with the Division’s policy are available, it may be necessary for an officer to take extraordinary or unanticipated actions in order to overcome the threat” that might resemble approaches that are prohibited in nearly every other circumstance by CPD’s policy.<sup>122</sup>

The expectation of the Parties and Monitor are that this “immediate danger and grave threat” policy provision would apply exclusively “[i]n rare and exceptional situations,” that CPD’s policy will be routinely and fairly applied “without regard to” an officer’s “underlying intent or motivation,” and that “[t]he officer’s actions” in such exceptional circumstances “shall be subject to strict review.”<sup>123</sup> Indeed, it is the hope and expectation of all stakeholders that no Cleveland officer or resident will find themselves in the type of dangerous encounter with a subject where an officer’s options are so severely limited that a safe resolution of the incident is only possible by using otherwise prohibited force techniques.

#### 4. Duty to Intervene and Duty to Provide Medical Attention

The duty to intervene provides that “[e]ach officer at the scene of a use of force incident has a duty to intervene by taking all reasonable actions to stop any use of force that is perceived to be unauthorized by this policy.”<sup>124</sup>

The duty to provide medical aid is an affirmative duty for officers themselves. CPD’s prior policy required only that officers “ensure medical care was provided.”<sup>125</sup>

#### 5. Addressing Community Concerns

Some community comments during the public feedback pro-

<sup>120</sup> Linda S. Miller, et al, *Community Policing: Partnerships for Problem Solving* 46 (11th ed. 2011) (“Police use discretion because no set of policies and procedures can prescribe what to do in every circumstance.”).

<sup>121</sup> *Graham v. Connor*, 490 U.S. 386, 397 (1989).

<sup>122</sup> Dkt. 83 at 20.

<sup>123</sup> *Id.*; *Graham v. Connor*, 490 U.S. 386, 397 (1989).

<sup>124</sup> Dkt. 83 at 20.

<sup>125</sup> *Id.*

cess focused on the need for officers to tailor their responses to young people in a manner consistent with their age, maturity, and relative development. The Monitor understands that CPD is working closely with the Schubert Center for Child Studies at Case Western Reserve to craft a standalone GPO about officer interactions with youth. To the extent that any Use of Force policy cannot exhaustively detail the particular knowledge that officers should have about young people, the Team applauds the Division’s forward-looking focus on the specific issues that relate to interacting with children and juveniles in various stages of physical and cognitive development. To the extent that this protocol on addressing young subjects is successful, other such protocols might be developed to address the disabled or those with language barriers.<sup>126</sup>

Other community comments focused on issues relating to holding officers accountable with complying with the requirements of the force policy or on actions not squarely within the realm of use of force. For instance, the CPC suggested that the force policy address issues related to “verbal abuse, intimidation, . . . sexual favors,” sexual violence, and retaliation.<sup>127</sup> The importance of each of these subjects demands a full treatment in a separate General Police Order, both to make clear that professional obligations and standards relating to such areas apply not just when force is used but across officer interactions with the public and to ensure that CPD’s revised General Use of Force policy maintains the focus and clarity that officers and community members routinely urged.

Similarly, a number of community recommendations focused on issues relating to use of force data, investigations, accountability, transparency, body cameras, and the role of the Office of Professional Standards (“OPS”) in reviewing force incidents.<sup>128</sup> The Monitoring Team concurs that these issues, which are all addressed in the Consent Decree, are squarely related to force and the long-term ability of the Division to implement the Use

of Force policy in practice. Because the General Use of Force policy focuses on when officers may and may not use force on the streets of Cleveland, these topics will be subsequently addressed in the Consent Decree process in other General Police Orders and Operation Manuals.

#### b. Use of Force: Definitions

<sup>126</sup> Cleveland Community Police Commission, “Summary Comparison Of Proposed General Police Orders With Cleveland Community Police Commission Recommendations” at 7–8 (Sept. 23, 2016), [*hereinafter* CPC Final Use of Force Summary Comparison] (recommending “specific protocols for dealing with those with physical . . . conditions, . . . differently abled, and language barriers”).

<sup>127</sup> CPC Final Use of Force Summary Comparison at 2, 7.

<sup>128</sup> CPC Final Use of Force Summary Comparison at 12–14.



Common definitions of frequently-used terms that apply throughout the force-related policies are located in the newly revised Definitions policy. These definitions provide a common framework for officers, and the public, aimed at fostering clarity, fairness, and accountability. The three-page Definitions policy defines thirteen terms, three levels of force, and three levels of subject resistance.<sup>129</sup>

The revised policy directly responds, as noted above, to feedback and comments from CPD officers. One of the key findings from the electronic survey that the Division conducted was that “officers appeared to want clearer definitions of key terms used” in a new force policy, “with fewer than 40 percent of officers saying that the Division’s old definitions made the policy clear.”<sup>130</sup> Consequently, CPD endeavored to make the new definitions both concise and precise – so that policy provisions using the defined terms are readily understandable. For instance, the new policy provides clear definitions for key terms integral to the general policy.<sup>131</sup>

The Definitions section also outlines the three Levels of force discussed.<sup>132</sup> It should be noted that, consistent with the Decree, low-level, Level 1 reportable force now includes “un-holstering a firearm and pointing it at a subject.”<sup>133</sup> This is consistent with the CPC recommendation that the policy “[i]ncorporate in GPO Definitions, explicit language regarding pulling out and pointing of firearms—even when not fired.”<sup>134</sup>

#### c. Use of Force: De-Escalation

De-escalation is the use of affirmative and strategic techniques to preserve a greater array of tactical options, thereby increasing the likelihood that a subject will voluntarily comply while minimizing the likelihood that force will need to be used during an incident and/or reducing the severity of force that is used. CPD’s revised policies now impose an affirmative duty on police officers to de-escalate situations unless it is not safe or not feasible for them to do so. The concept has been set forth both in a distinct policy section and as a requirement in the General Use of Force policy.<sup>135</sup>

CPD’s stated intent of having both a separate, standalone De-escalation policy and incorporating de-escalation expressly into

the General Use of Force policy is to clarify that officers understand that “the guidelines relative to de-escalating situations in order to gain voluntary compliance and reduce the need to use force” apply to all encounters, regardless of whether force is ultimately required to resolve the situation or not.<sup>136</sup> During the Use of Force Community Roundtables, many community members discussed the importance of incorporating specific protocols for de-escalating individuals with mental health conditions.<sup>137</sup> Consistent with this feedback, the de-escalation policy requires officers to consider whether a subject’s lack of compliance is a deliberate attempt to resist or an inability to comprehend and/or comply based on “[k]nown or reasonably apparent mental illness, developmental disability, or crisis incident or [k]nown or reasonably apparent physical disability or other medical or physical condition, including visual or hearing impairment.”<sup>138</sup>

#### d. Use of Force: Intermediate Weapons

Intermediate weapons, sometimes called less-lethal or less-than-lethal weapons, can be an important tool used by officers to gain control of a subject posing a threat without needing to use more deadly force. The appropriate use of less-lethal weapons has been associated with a lower rate of injuries to both officers and civilians.<sup>139</sup> CPD previously did not have a standalone, separate policy section or manual specifically dedicated to intermediate weapons.<sup>140</sup> Instead, different rules applied to different intermediate weapons, and all were contained in the Division’s single force policy. Indeed, the only guideline that applied to all intermediate weapons was that officers were not permitted to use an intermediate weapon against someone who was passively resisting.<sup>141</sup>

The revised Intermediate Weapons policy focuses on four authorized intermediate weapons: (1) ASP Baton/Riot Baton/Impact Weapons; (2) Oleoresin Capsicum (OC) Spray; (3) Conducted Electrical Weapon (“CEW” or “Tasers”); and (4) the beanbag shotgun. The new policy sets out clear provisions that apply to all intermediate weapons, regardless of type, including when officers are and are not authorized to use any intermediate weapon.<sup>142</sup> Under the revised policy, officers are required to carry at least two intermediate weapons, which ensures that officers will have multiple less-lethal options immediately available to them.<sup>143</sup>

<sup>129</sup> Dkt. 83 at 21–22.

<sup>130</sup> Dkt. 43-1 at 33.

<sup>131</sup> See Dkt. 83 at 22. (discussing the addition of definitions for integral words—such as “neck hold” and “necessary”—in the general policy).

<sup>132</sup> Dkt. 83 at 38.

<sup>133</sup> Dkt. 7-1 ¶ 56; Dkt. 83 at 38.

<sup>134</sup> CPC Final Use of Force Summary Comparison at 2.

<sup>135</sup> Dkt. 83 at 24. The General Use of Force Policy emphasizes the significant breadth of the duty and the primary importance of de-escalation in the Division’s approach to policing and using force going forward.

<sup>136</sup> *Id.*; see also Dkt. 7-1 ¶ 36.

<sup>137</sup> Dkt. 83 at 25.

<sup>138</sup> *Id.*

<sup>139</sup> See e.g., John M. MacDonald, et al, “The Effect of Less-Lethal Weapons on Injuries in Police Use-of-Force Events,” 99 *Am. J. Pub. Health* 2268 (2009) (concluding that “[i]ncidence of . . . injuries can be reduced dramatically when law enforcement agencies responsibly employ less-lethal weapons in lieu of physical force”).

<sup>140</sup> Dkt. 83 at 25.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.* at 26.

<sup>143</sup> Dkt. 83-4 at 1, Procedures (1)(A)(2).

The policy also provides force-instrument-specific guidelines – or particular policy provisions that apply to the specific nature of the instrument and the risks associated to officers and subjects.<sup>144</sup> Because OC Spray and CEW are more widely carried and used by CPD officers than other intermediate weapons, the guidelines for those instruments are discussed in detail.<sup>145</sup>

#### e. Officer Use of Force Reporting

Finally, the Division’s Officer Use of Force Reporting policy is consistent with the requirements of the Consent Decree and incorporates community feedback.<sup>146</sup> This policy outlines what officers must do to notify supervisors after force has been used, what they must be prepared to do in terms of describing and reporting what happened, and the administrative response from the Division that officers can expect to be followed immediately after a use of force incident.

The proposed policy captures the affirmative duty placed on all witness officers to report such force in writing. The Division has created a Witness-Officer Narrative Statement, which requires officers who are bystanders or witnesses to the use of force by a CPD officer to provide, among other things: (1) detailed account of the incident from the witness-officer’s perspective; (2) the reason for the initial police presence; (3) a specific description of the acts that led to the use of force; (4) the level of resistance encountered; and (5) a complete and accurate description of every type of force used or observed.

The comments of the CPC and other community organizations focused on how force reports would be evaluated, reviewed, and made public. Specifically, in a separate document reviewing the reporting policy, the CPC indicated that “Use of Force Reports need to be consistently evaluated for departmental values and integrity of reporting of the facts of the case,” and that “Use of Force . . . be reported out to the community . . . on a monthly or quarterly basis.”<sup>147</sup> The Monitoring Team agrees. However, the Officer Use of Force Reporting policy applies to officers. The response of supervisors to use of force incidents, the administrative inquiries and reviews of force, and the Department’s tracking of data about use of force will all be the subjects of subsequent GPOs that will be separately completed, made available for wider review, and submitted to this Court.

### B. Officer Use of Force Training

The approved, new use of force policies for CPD will only be

<sup>144</sup> *Id.* at 2–8, Procedures (II–V).

<sup>145</sup> Dkt. 83 at 27–28 (discussing specific details and protocols officers must follow when using CEWs or Tasers).

<sup>146</sup> *Id.* at 28; Dkt. 7-1 ¶¶ 87–99.

<sup>147</sup> Dkt. 83 at 29.

come effective once the men and women of the Division receive significant, substantive training on the policy’s provisions.

Monitoring Team’s last semiannual report summarized the importance of training to the Consent Decree effort:

A consensus continues to emerge that high-quality and robust training throughout an officer’s career is a linchpin to ensuring safe, effective, constitutional, and community-based policing. The Consent Decree requires that CPD officers receive no fewer than 40 hours of in-service training annually . . . .<sup>148</sup>

The Division’s upcoming, 16-hour training for all officers on the new use of force policies will, it is hoped, serve as a strong foundation for officers to learn about new obligations under the policy and practice skills related to responding to subjects and potential threats in dynamic, scenario-based environments.

CPD continues to partner closely with the Department of Justice, City, and Monitoring Team in development a comprehensive use of force training that clarifies for officers what is expected of them under the new force policies, provides opportunities for officers to apply the policies to real-world situations, and allows CPD personnel to practice the tactics and strategies that can ensure that they keep themselves safe while de-escalating situations when it is feasible to do so.

It is currently contemplated that use of force training may be able to begin sometime in February 2016. Even if several weeks more are required beyond that date to finalize training, train CPD’s instructional staff to give

the training to officers on a round-the-clock basis, or commence the training of officers, the Monitoring Team is satisfied that the Division is committed to completing a high-quality training that incorporates the good practices of peer departments and uses adult educational principles. That is, even if the start of training must be a some interval after February 2016, a shift in timelines would be reasonable so long as it is in service of enhancing the quality and effectiveness of the force training.

### C. Use of Force Investigations & Review

The Monitoring Team outlined the significant Consent Decree requirements relating to the internal investigation and review of force used by CPD officers in the First Semiannual Report.<sup>149</sup> Much of the public feedback regarding the policies on when officers may and may not use force understandably also began to address issues relating to how the Division of Police would respond to, investigate, and review force incidents – affirming that “[a]n important goal of the Consent Decree is to ensure that all uses of

<sup>148</sup> First Semiannual Report at 6.

<sup>149</sup> *Id.* at 36–37.

force administered by CPD officers are, after being promptly and uniformly reported, meaningfully examined and reviewed.”<sup>150</sup>

Currently, work is underway, per the Updated First-Year Monitoring Plan, on new policies relating to the investigation and review of force. This includes establishing policies on lower-level force inquiries and, for serious uses of force, policies and protocols for a dedicated Force Investigation Team (“FIT”) that must be specially trained to handle comprehensive and objective administrative reviews of force incidents. After policies are finalized, supervisors will need training on the many new requirements relating to investigating and reviewing force, and the membership of FIT will need to be determined and trained.

Additionally, policies and a procedural manual for the Division’s eventual Force Review Board (“FRB”), which will “serve as a quality control mechanism for uses of force and force investigations” by “apprais[ing] use of force incidents from a tactics, training, policy, and agency improvement perspective.”<sup>151</sup> FRB also “will assess the quality of the investigations it reviews, including whether investigations are objective and comprehensive and recommendations are supported by a preponderance of the evidence.”<sup>152</sup> It must also “examine . . . data related to use of force . . . to detect any patterns, trends, and training deficiencies . . .”<sup>153</sup> During the first significant span of time in which the Board is operating, the Monitoring Team will provide in-depth, active, and real-time technical assistance by participating in meetings of the Board and, where necessary, asking questions or probing unexplored issues if the Board is not otherwise considering material issues that it must under CPD policies and the Consent Decree.

The establishment of all of these mechanisms of internal review and critical self-analysis will require substantial effort, attention, and dedication by CPD and all Consent Decree stakeholders. Indeed, the success of the substantial parts of the Decree depend on the Division’s ability to meaningfully embrace the transition to becoming a continually self-analytical and, when necessary, self-critical organization – so that the risks of unconstitutional policing in the future can be addressed and prevented.



<sup>150</sup> *Id.* at 36.

<sup>151</sup> Dkt. 7-1 ¶ 124.

<sup>152</sup> *Id.* ¶ 128.

<sup>153</sup> *Id.* ¶ 129.

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## CRISIS INTERVENTION

The Department of Justice’s 2014 investigation concluded that “officers use excessive force against individuals who are in mental health crisis,” in large part because the Division’s “crisis intervention policies and practices are underdeveloped.”<sup>154</sup> Consequently, the Consent Decree includes a number of important requirements aimed at building and improving the Cleveland Police Division’s Crisis Intervention Program.<sup>155</sup> The Crisis Intervention Program will provide a forum for effective problem solving regarding the interaction between the criminal justice and the mental health care system as well as creating a context for sustainable change.<sup>156</sup>

The Consent Decree indicates that CPD should build and enhance its Crisis Intervention Program with the following goals:

- Assisting individuals in crisis
- Improving the safety of officer, consumers, family members, and others within the community
- Providing the foundation necessary to promote community and statewide solutions to assist individuals with mental illness; and
- Reducing the need for individuals with mental illness to have further involvement with the criminal justice system.<sup>157</sup>

To date and over the six-month period that this report address-

<sup>154</sup> 2014 Findings Letter at 4, 52.

<sup>155</sup> First Semiannual Report at 38.

<sup>156</sup> See generally Dkt. 7-1 ¶¶ 131-59.

<sup>157</sup> *Id.* ¶ 131.

es, the Cleveland community has met the challenge of providing a forum to address problems regarding the interaction between the criminal justice and the mental health care system. This forum, the Mental Health Response Advisory Board (“MHRAC” or the “Board”) holds great promise in creating ongoing and sustainable change. Police, social service providers, mental health and substance abuse professionals, advocates and individuals in recovery have met and had candid discussions on how to improve services for those in crisis.

These discussions have not only led to change in the CPD crisis response program but also to corresponding changes in the capacity of the Alcohol, Drug Addiction and Mental Health Service Board of Cuyahoga County (ADAMHS) to meet the needs of individuals experiencing a behavioral crisis. Those providing services are not waiting for formal agreements or policy revisions to make meaningful change. Rather, programs are being improved as issues are identified. This sort of cooperative process suggests that the change which is occurring is not just a response to a formal agreement but rather portends the development of a meaningful problem-solving relationship.

### A. Background Information

#### 1. Cleveland Division of Police Special Events

As this report summarizes elsewhere, shortly after the Monitor’s First Semiannual Report, CPD was faced with the challenges of a high-profile national event. In the weeks leading up to the Republic National Convention (“RNC”), the timetable for the Crisis Intervention work was adjusted to allow resources to be devoted to preparing for the RNC. Despite the demands of this major event, the changes in the timetable for progress in accomplishing the tasks related to the Crisis Intervention Program were minimal. The work in developing the policies and practices of the Crisis Intervention program remains on track.

#### 2. Developing a Mental Health Response Advisory Committee

As detailed in the Monitor’s First Semiannual Report,<sup>158</sup> the ADAMHS Board, under a memorandum of understanding with the City of Cleveland formed the Mental Health Response Advisory Committee with six standing subcommittees (Executive, Policy, Data, Training, Community Engagement and Diversion), along with an ad hoc Public Survey Task Force.

The MHRAC has conducted numerous meetings as well as a day-long retreat to develop a structure and working relationships. The relationships highlighted in the First Semiannual Report remain strong and have resulted in substantial progress. The Monitoring Team, the City of Cleveland and CPD, and the U.S. Department of Justice have worked closely with the Mental Health Response Advisory Committee and its various sub-committees. Importantly, CPD has taken a leadership role and remains active

<sup>158</sup> First Semiannual Report at 39-40.



in every phase of the MHRAC. The ADAMHS Board remains committed and has provided significant staff support. The volunteer professionals and advocates have devoted significant time to addressing a wide range of issues and have served without financial compensation.

This sort of community effort warrants special recognition – and provides clear evidence that the community, police officers, CPD, and the City all benefit when dedicated community members are directly involved in crafting the Division’s policies and procedures.

### 3. Crisis Intervention Needs Assessment and Work Plan

Per the First-Year Monitoring Plan<sup>159</sup>, the Mental Health Response Advisory Committee conducted a Crisis Intervention Needs Assessment. The MHRAC organized the assessment of the needs of the public, and CPD took on the task of assessing the needs of the officers. Community meetings were facilitated by MHRAC and CPD. Additionally, the MHRAC worked with the ADAMHS Board and NAMI Greater Cleveland to host focus group sessions. The results from both the Community-wide and CPD Officer Needs Assessment continue to influence the work of MHRAC’s subcommittees.

*The Mental Health Response Advisory Committee holds great promise in creating ongoing and sustainable change.*

The ADAMHS Board took on the task of developing its Work Plan in conjunction with all parties to the Settlement Agreement. That plan is extensive and has helped CPD and the MHRAC in working to comply with the Consent Decree’s crisis intervention requirements.

### 4. Appointing a CPD Crisis Intervention Coordinator

As indicated in the previous report, CPD quickly filled this position with Captain James Purcell.<sup>160</sup> Captain Purcell is a well-respected officer who worked in the mental health field early in his career. He has demonstrated that he is up to the challenges of being a CIT Coordinator and is developing partnerships with stakeholders, participating in the MHRAC, soliciting feedback from the community and potential specialized CIT officers and dispatchers, and coordinating the change implementation process. He was appointed co-chair of the MHRAC and has been active in the major MHRAC task for this semi-annual period, that of developing the revised crisis intervention policy. He is beginning to tackle the tasks of ensuring the selection of appropriate candidates as specialized CIT officers and is creating ways to honor and recognize specialized CIT officers and dispatchers.

The Ohio Criminal Justice Coordinating Center of Excellence

<sup>159</sup> Dkt. 43-1 at 32-33.

<sup>160</sup> First Semiannual Report at 41.

and the ADAMHS Board Mental Health Task Force recommended that a CIT Champion be found among the command staff. Deputy Chief Joellen O’Neill has taken on this role. Deputy Chief O’Neill continues to attend the MHRAC meetings at both the committee and subcommittee level and her leadership has set a positive tone for the Cleveland Division of Police.

## B. Current Implementation Status

The Consent Decree outlines five major steps with respect to crisis intervention. The first two steps –developing a Mental Health Response Advisory Committee and appointing a CPD Crisis Intervention Coordinator – have been accomplished, as outlined below. This constitutes significant and commendable progress.

All parties involved are working towards completing the next three steps. Progress towards delineation of the Crisis Intervention Policies and Procedures, and Completion of Crisis Intervention Training is reaching completion. The step of Selection of Specialized Crisis Intervention Trained Officers is on schedule. Given the necessary revisions to the schedule due to the CDP time commitment needed to support recent major national events in Cleveland, the steps are being accomplished in a timely manner.

### 1. Revising CPD Crisis Intervention Policies & Procedures

The work of the MHRAC Policy Subcommittee has been guided by four principles:

- Advancing respect, dignity and safety in all interactions between CDP and citizens.
- Safely diverting people with mental illness, the vulnerable and/or those citizens in crisis from the criminal justice system where possible to appropriate mental health and substance abuse treatment.
- Reducing unnecessary use of force and injury and advancing best practice tactics
- Managing the stigma associated with mental illness and addiction in police-citizen encounters.

The MHRAC Policy Subcommittee was presented with results from the community and officer needs assessment meetings to guide them in developing a new CPD Crisis Intervention policy. The members also reviewed over 23 separate Crisis Intervention Policies from CIT programs throughout the country. This impressive collection of CIT Policies has been posted on-line by the ADAMHS Board. Members highlighted features of each policy and then worked with CPD to select the best elements and modify, where appropriate, these policy elements to best suit the unique challenges and features of the Cleveland community.

The volunteer members of the subcommittee deserve the thanks

### Features of Proposed Crisis Intervention Policy<sup>1</sup>

- Establishes a community-based Advisory Committee with defined roles and responsibilities
- Coordinates with community resources to assist those in need
- Addresses:
  - individuals in crisis who might have with a wide range of special needs
  - the needs of both juveniles and adults
- Describes
  - a specialized role for volunteer officers to provide leadership in crisis events
  - curriculum for training all officers as well as officers identified as leaders
  - the role of Dispatch in assisting officers in responding to a behavior crisis
  - the role of CPD supervisors
- Emphasis on
  - de-escalation strategies for all officers
  - a strong, positive interface with new CPD use of force policy
- Focuses on
  - safety for both the officer and individuals in crisis
  - diverting individuals into treatment wherever possible
  - considering the needs of the individual in providing transportation
  - coordination of transportation with Emergency Medical Services (EMS)
- Clarifies the relationship between CPD and emergency crisis services
- Details crisis information to be monitored by CPD/ADAMHS to improve police services

<sup>1</sup> Ballard, Carole, Crisis Intervention Team Policy Comparison, ADAMHS Board, (Oct. 2016) at 1-2.

of the Cleveland community for their dedication to this important task<sup>161</sup>. The cooperative relationship established between advocates, healthcare professionals and the Cleveland Police Department worked well in developing a consensus policy to address the needs of the individual in crisis without compromising the safety of the officer or the Cleveland community.

Consequently, CPD's Proposed Crisis Intervention Policy presents a new, comprehensive strategy for responding to individuals in a behavioral crisis. The policy work is on schedule and has been made available to the Cleveland community for review and feedback. A newly-formed Community Outreach Task Force has worked to inform the community about the new Crisis Pol-

<sup>161</sup> Co-Chairs Judge Hollie Gallagher and advocate Gabriella Celeste, liaisons: CPD Deputy Chief Joellen O'Neill and Captain James Purcell, Department of Justice Heather Tonsing Volosin and Jack Morse, ADAMHS Board Carole Ballard.

icy and obtain feedback to bring to the Policy Subcommittee, holding multiple community forums where members of the public have been able to provide substantive feedback on the crisis intervention policies. The Monitoring Team will have more to say about this extensive and impressive process when it files the finalized policies with the Court.

### 2. Crisis Intervention Data

The Consent Decree requires that CPD track calls and incidents involving individuals in crisis and collected detailed data.<sup>162</sup> This data will be reported annually and used to identify training needs, trends, successful individual officer performance, necessary changes in strategies, and systemic issues related to crisis intervention response.<sup>163</sup>

Even before the Consent Decree, CPD personnel were supposed to log information about interactions with individuals experiencing a behavioral health crisis on the so-called CIT Data Sheet. That data instrument – which CPD personnel have needed to fill out by hand on a strictly paper-based form – collected some basic information about crisis intervention incidents. However, both CPD and the ADAMHS have become aware that the completion rate of these forms is extremely low – with officers appearing to properly complete the data sheets in between 10 and 20 percent of the interactions that they have with individuals experiencing crisis. This low completion rate seems to stem not from officers refusing to comply but from confusion both about the scope of incidents that require a CIT Data Sheet to be completed and the extent to which that form should be completed even when other aspects of the interaction require separate reporting (e.g., an arrest report or a use of force report).

Consequently, CPD and the ADAMHS Board have identified that the data collection will need to be improved. Major changes in the data collection process will require: a (i) a new crisis intervention policy in place that clarifies the nature of a crisis intervention incident and when crisis intervention-related data must be provided about that incident, and (ii) a non-manual, technology-based solution is in place to ensure that reporting requirements do not impede the ability of officers to efficiently and effectively provide law enforcement service.<sup>164</sup>

As in other areas of data collection, and consistent with the Consent Decree's requirement that police services be effective and ensure officer safety,<sup>165</sup> the Monitoring Team will insist that CPD provide the tools and technological platforms necessary to ensure that officers can log and track a broader set of incident and performance data efficiently and effectively – without impacting their ability to respond to calls or address other law enforcement objectives. In short, the ultimate collection of data

<sup>162</sup> Dkt. 7-1 ¶ 157.

<sup>163</sup> *Id.* ¶¶ 157-58

<sup>164</sup> First Semiannual Report at 42.

<sup>165</sup> Dkt. 7-1 at 1.

about crisis contacts must not remove officers from the field for an unduly lengthy period. It is unlikely, then, that a manual, pen-and-paper approach can fulfill this important objective. The Monitoring Team continues to have confidence that waiting to finalize a data gathering mechanism until a sound, technological platform can be established for officers to use will produce more effective, lasting, and efficient reform.<sup>166</sup>

### 3. Completing Crisis Intervention Training

The Consent Decree requires several types of training related to crisis intervention. First, all officers must receive eight (8) hours of annual training on crisis intervention issues. Second, new recruits must receive 16 hours of training in the Academy on crisis issues. Third, CPD dispatchers and call-takers must receive appropriate training on identifying signs of behavioral crisis. Fourth, CPD must provide forty (40) hours of enhanced training to designated, specialized Crisis Intervention Team (“CIT”) officers who will be specifically dispatched to the scene of incidents involving individuals experiencing a behavioral crisis. All officers will receive 8 hours of annual training on crisis intervention topics. New recruits will receive 16 hours of Academy training. Dispatchers and call-takers will also receive appropriate training on crisis topics.<sup>167</sup>

During the first six months of the work on the Settlement Agreement, the MHRAC Training Subcommittee worked with experts from the Ohio Criminal Justice Coordinating Center of Excellence (“CJCCOE”), the ADAMHS Board, and CPD staff to integrate the work of the Policy Subcommittee into the training curriculum for all CPD crisis training. As with other committees, members worked using a consensus-based strategy to develop a curriculum that is designed to meet the unique needs of the Cleveland community.

**Training of All Officers.** The MHRAC Training subcommittee recommended utilizing the Ohio Attorney General’s “Interacting with and De-escalating the Special Needs Population” curriculum as a benchmark.<sup>168</sup> Trainers will be selected by CDP and ideally be the Specialized CIT officers. The CPD trainer would be paired with a mental health professional, chosen by the ADAMHS Board, to ensure practical and clinical expertise. The intent of this training is to teach officers, whether for the first time or as a refresher, to connect with an individual that is experiencing a mental health crisis and demonstrate ways that the officer can direct them to the most efficient method of resolving this conflict.

The Training sub-committee decided that a focus on the quality of instruction and the ability of the training to have a meaningful impact on the officer in training was more valuable than covering a large quantity of topics. Consequently, the first year of the training for all officers, 2017, will focus on the new CPD Crisis Intervention Policy, Mental Health Signs and Symptoms, Communication and Active Listening, and the Command and Control Paradox. The second year of training, 2018, will focus on models of crisis response that address specific issues such as engaging and resolving conflict, addressing a crisis involving a loss of reality and assisting individuals at risk for suicide. Additional, specialized topics will be covered as the training progresses in later years.

Currently, the eight-hour training curriculum is being revised by a joint task force of CPD training instructors and volunteer subject matter experts. The current strategy of including law enforcement, healthcare professionals, advocates, and individuals in recovery in the teaching process aims to set a positive example of a cooperative relationship in action for the CPD officers in the class.

**Recruit Training.** The Ohio Peace Officer Training Commission has a Crisis Intervention training curriculum for Ohio Peace Officers<sup>169</sup>. This curriculum is required as part of the Academy training for recruits. All parties agree that the new training is a reasonable substitute for the 16 Hours of Academy Training. This request will be submitted to the Court.

**Dispatch Training.** The new model of crisis intervention provides a significant role for CPD dispatchers, as the ability of the dispatchers to identify calls involving a potential behavioral crisis as well as their ability to implement key parts of the new policy is critical to the success of the updated crisis program.

The MHRAC Training Subcommittee met with CPD dispatchers as part of the curriculum development process. The Training Subcommittee decided that the intent of the training is to teach dispatchers essential job skills and to coordinate dispatcher training with the new General Police Orders.<sup>170</sup> The committee felt that “through intensive education and scenario based training, including critiquing actual dispatch calls, new dispatchers will learn that every mental health call is unique and should be treated with the utmost care.”<sup>171</sup> The committee recognized that “calls involving a mental health issue will require more time by the call-taker and will require more information be passed on to responding law enforcement personnel. Patience and poise in the face of challenges will be paramount to put law enforcement

<sup>166</sup> First Semiannual Report at 42 (“[T]he City, CPD, and Advisory Committee need to take time to get the rollout of new or improved reporting requirements to officers right.”).

<sup>167</sup> Requirements for the training of Specialized CIT officers are covered in Settlement Agreement Step D: Specialized Crisis Intervention Trained Officers.

<sup>168</sup> First Draft 8-Hour Mental Health Training for Cleveland Division of Police Responding to Individuals in Crisis, MHRAC Training Subcommittee, May, 2016.

<sup>169</sup> Peace Officer Basic Training Crisis Intervention. Ohio Peace Officer Training Commission: Education & Policy Section. 1-156 (Jan. 2016)

<sup>170</sup> Dispatch Curriculum Overview Recommendations, MHRAC Training Subcommittee (Sep. 2016).

<sup>171</sup> *Id.*

in the best position to respond appropriately.”<sup>172</sup> Importantly, the Training Subcommittee felt that “critiquing real-life situations by listening to audio recordings would provide an enlightening method of learning about these topics.”<sup>173</sup>

The proposed, upcoming dispatcher training will include coverage of the following topics:

- Crisis Intervention Team Model and the Role of the Dispatcher
- The new CPD Crisis Intervention Policy
- General Facts about Mental Health, Disabilities, and Addiction
- Adults, Children and Youth
- Mental Health and Healthcare Professionals’ Duty to Protect
- Community Resources
- The Rights of Individuals Needing Care
- Identifying Red Flags in Communication
- Common Scenarios and use of Clarification Questions

**Specialized CIT Officers Training.** As the Monitoring Team has previously discussed, the Consent Decree requires that CPD “eventually have a volunteer, dedicated cadre of officers within its ranks who are crisis intervention specialists and regularly dispatched to the scene of incidents involving individuals experiencing a crisis.”<sup>174</sup> These designated, specialized Crisis Intervention Team (“CIT”) officers must receive specialized and tailored training.

The MHRAC Training Subcommittee began its work to develop the Specialized CIT Officers Training by developing a set of recommendations to guide the training curriculum. These recommendations included ensuring a maximum class size, utilizing a faculty of providers/experts in the field and experienced CIT officers, and including families and individuals in recovery from serious mental illness as part of the training. The Subcommittee recommended that coursework include basic mental health signs and symptoms, with a focus on adults, adolescents, and children. It also indicated that lectures on autism, developmental disabilities, elder care, trauma-related care, and cultural competency should also be provided. Additional recommendations included providing expanded training on intensive de-escalation tactics; conducting in-person site visits to include St. Vincent Medical Center Emergency Services, homeless services, and Veterans’ Affairs; and providing sufficient time in the specialized training for question and answer sessions.<sup>175</sup>

The recommendations of the Subcommittee have led to a detailed curriculum outline. The MHRAC Training Subcommittee

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> First Semiannual Report at 43.

<sup>175</sup> *Id.* at 42-43.

intends to have police trainers and subject matter experts work together to provide the substantive lecture material needed to complete the 40 hours of Specialized CIT Officer Training. The goal is to begin the Specialized CIT Officer Training in early 2017.

#### 4. Selection of Specialized CIT Officers

The selection process requires that specialized CIT officers must volunteer for the role, have three years of CPD experience, undergo a CIT Fitness Assessment, complete a written application, obtain supervisory recommendations, undergo a review of the disciplinary file to include use of force related discipline, and undergo an in-person interview. CPD is taking the lead on developing a selection process for officers. The Monitoring Team looks forward to working with CPD, the City, the Department of Justice, and MHRAC to develop a comprehensive CIT Officer Selection process with appropriate mechanisms to determine if the officers chosen meet the relevant criteria.

### C. Conclusion

CPD and the Cleveland community are making meaningful progress towards developing a forum where law enforcement, service providers, advocates, and those individuals struggling with mental illness and substance abuse can meet and discuss change. CPD’s encouraging progress in fulfilling the requirements of the Consent Decree relating to crisis intervention is due not only to the Division’s own dedication and hard work but to the sustained focus and attention on these issues by the Alcohol, Drug Addiction and Mental Health Service Board of Cuyahoga County (the “ADAMHS Board”). Indeed, the ADAMHS Board has formed an important partnership with the Cleveland Police Department and has provided meaningful assistance to the formation and work of the Mental Health Response Advisory Committee.

Likewise, the community of volunteers who make up the Mental Health Response Advisory Committee deserve significant credit for their hard work. The members of the committee have engaged a wide range of Cleveland residents in order to assess the needs of the Cleveland community. They have studied the efforts of other cities in addressing crisis intervention issues. They have examined diversion and alternatives to arrest and analyzed the available data. They have worked to develop a model policy document and recommended important changes to crisis intervention training.

Through these and other efforts, MHRAC members have brought a great deal of civic pride to an important effort for the Cleveland community. They are forming a true community partnership in order to meet the needs of individuals experiencing a behavior crisis and provide CPD officers with the training, tools, resources, and support that they need to respond effectively and safely to individuals experiencing behavioral crises.



that pen-and-paper will not only be insufficient but could risk overburdening officers with yet more time-consuming, manual processes.

As this report details elsewhere, however, CPD is a long way off from having computers in all of its patrol vehicles. Indeed, it is a long way off from having enough patrol vehicles. Further, even when there are enough computers in enough cars, the City and CPD will need to manage to fully implement field-based reporting to the record management system and/or true, contemporary computer-aided dispatch – and provide exhaustive training to officers on how to enter, for themselves, information into the dynamic, continually-updated systems. Thus, in the area of stops, confusion or delays in technology upgrades will prevent a core, substantive obligation of the City under the Consent Decree.

The First Semiannual Report stated that “[i]n the context of the Court-approved, First-Year Monitoring Plan, the Parties and Monitor agreed to defer close consideration of policies, procedures, and practices related to stops of individuals until the second year of monitoring in 2017.”<sup>179</sup> As the focus of the Parties and other Consent Decree stakeholders turns to development of the Second-Year Monitoring Plan, the Monitor continues to look forward to “[r]eserving key portions of 2017 and 2018 to fundamentally addressing these issues through changes in policy and officer training,” which will “allow[] reform in this area to happen within a broader context of actively implementing community-based performance metrics and a comprehensive community policing model.”<sup>180</sup>

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## SEARCH & SEIZURE

The Consent Decree requires that CPD “revise, develop, and implement” policies on how its officers “conduct all investigatory stops, searches, and arrests with the goal” that such actions comply with the “Constitution, state and federal law.”<sup>176</sup> As the Monitor summarized in the First Semiannual Report, officers will be expressly prohibited from “using immutable characteristics – such as race, ethnicity, gender, and perceived sexual orientation – as a factor when evaluating whether or not” there are sufficient grounds for initiating a stop of an individual.<sup>177</sup>

Importantly, under the Consent-Decree-required policy, “[o]fficers will be required to use specific details in reports documenting the events that led to an investigatory stop, search, or arrest” – providing substantially more information and supervision of this type of officer performance than currently exists within CPD, which does not currently log all such stop activity.<sup>178</sup> To be able to track all investigatory stops in a manner that does not impose substantial inefficiencies, the tracking and database system for stops will need to be electronic. In conversations to date with the City and CPD, the current thinking is that stop information will be logged in the upgraded CAD system available on in-car computers in patrol vehicles or, otherwise, on mobile devices for officers assigned to non-motorized patrol duties. Alternatively, the information might be captured in the record management system via those same mobile computers. In any event, the one thing that the Parties and Monitoring Team agree on is

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<sup>176</sup> Dkt. 7-1 ¶ 160.

<sup>177</sup> *Id.* ¶ 161.

<sup>178</sup> First Semiannual Report at 44.



<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

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## ACCOUNTABILITY

In Cleveland, the entity that investigates potentially problematic officer performance depends on how the performance came to the City’s attention. If an individual outside the Division makes a complaint about officer conduct, the Office of Professional Standards (“OPS”) investigates the complaint. If a Division employee identifies, discovers, or makes a complaint about officer misconduct, the Division itself conducts the investigation. Although there has been confusion in the past about precisely what entity or entities within the Division would conduct the investigation, the Consent Decree clarifies that “Internal Affairs [IA] will conduct objective, comprehensive, and timely investigations of all internal allegations of officer misconduct,”<sup>181</sup> which is “any improper conduct by an officer, including an alleged violation of CDP policy, procedure, regulations, orders, or other standards required by City employees including the improper use of force.”<sup>182</sup>

In the Consent Decree, the City agreed that it “will ensure that all allegations of officer misconduct, whether internally discovered or alleged by a civilian, are fully, fairly, and efficiently investigated” – with a preponderance of the evidence standard uniformly applied and “documented in writing.”<sup>183</sup> Thus, the day-to-day operations of OPS must be as sound, rigorous, and

objective as those of IA.

The need for uniform quality within IA and OPS is made even clearer when considering the duties of the Chief of Police and Public Safety Director. Ultimately, the Chief, and in certain instances the Safety Director, must use the investigations of the underlying incident to make an ultimate finding and, where warranted, impose discipline or take some other corrective action. The Chief and Safety Director must be able to have absolute confidence in the fairness, thoroughness, objectivity, and timeliness of all investigations of officer misconduct, whether conducted by OPS or by IA. The accountability system in Cleveland simply will not work if one entity is substantially stronger than the other – or, certainly, if both entities suffer from foundational deficiencies.

### A. Internal Affairs

The Monitor’s First Semiannual Report summarized what a police department’s Internal Affairs (“IA”) does in a typical police department and what Cleveland’s Internal Affairs has done in the past:

Internal affairs is a generic term that refers to the function of investigating the police or to the police organizational unit responsible for that function . . . [I]nternal investigations of officer misconduct are, in agencies of CDP’s size, most typically reviewed and investigated by internal affairs units.

Currently, what CPD has historically called Internal Affairs is housed with[in] the Division’s Bureau of Integrity Control. That Bureau consists of two parts: an Inspections Unit and Internal Affairs. By policy, Internal Affairs has been responsible for conducting primarily criminal investigations of potential officer misconduct and investigating any incidents specifically directed to it by the Chief of Police.

The Inspections Unit is charged with conducting inspections designed to maximize the performance of police personnel by securing compliance with Division rules, regulations, policies, and procedures . . . . Although the full scope of its activities is not exhaustively inventoried in existing CPD policy, the Monitoring Team’s current understanding is that Inspections has historically addressed ‘low-level’ accountability issues, such as uniform violations, tardiness concerns, or vari-

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<sup>181</sup> Dkt. 7-1 ¶ 177.

<sup>182</sup> *Id.* ¶ 437. “Solely for purposes of this Agreement, misconduct does not include minor infractions, such as uniform violations, routine motor vehicle accidents, or violations unrelated to the terms of this Agreement.” *Id.*

<sup>183</sup> Dkt. 7-1 ¶ 176.

ous logbook audit requirements.<sup>184</sup>

That prior report noted that, going forward, the Division's Internal Affairs would be streamlined such that it conducts all non-minor, non-criminal administrative investigations of potential officer misconduct<sup>185</sup> – and that IA would play a significant role in the oversight and coordination of supervisory responses to lower-level performance inquiries, reviews, or interventions. Thus, it will soon be within the CPD that all CPD inquiries into potential misconduct, whether serious or trivial, interact with IA – with a defined set of the more significant or substantial misconduct cases being directly investigated by internal affairs investigators.

CPD provided the Parties and Monitoring Team with an initial draft of an IA policy manual, and related policies, on November 11, 2016. Pursuant to the Updated First-Year Monitoring Plan, the Parties and Monitoring Team are now “work[ing] together to ensure that the First Draft of the Internal Affairs Policy Manual adequately addresses the requirements and objectives of the Settlement Agreement.”<sup>186</sup> A final draft of the policy, along with related Division policies, is due no later than February 3, 2017, with the Monitor approving or disapproval of the final draft later in the month.<sup>187</sup> As Consent Decree stakeholders complete work on policies and manuals relating to IA, the Monitoring Team will be looking to ensure that past problems are addressed through the implementation of clear standards, precise rules, common understandings, and clear objectives for IA personnel.

In the meantime, and as this report elsewhere discusses, the Monitoring Team has been conducting a structured, methodologically rigorous qualitative review of Internal Affairs investigations. Reviews are ongoing, and the Monitoring Team will provide the Court with a comprehensive report on its findings.

## **B. Office of Professional Standards (“OPS”) and Police Review Board (“PRB”)**

Cleveland's OPS, pursuant to the City's Charter, investigates complaints made by civilians about CPD officers. After OPS has completed an investigation, Cleveland's PRB reviews and analyzes the investigation in order to make a recommendation to the Chief of Police as to the ultimate disposition of the case and, if warranted, the discipline that an involved officer should receive as a result of misconduct established in the investigation.

The Monitoring Team has observed to the Court previously that, at least “[o]n paper, it would appear that Cleveland's systems of accountability and civilian are adequate and appropri-

ate.”<sup>188</sup> However, “[i]n practice, the system for the investigation and adjudication of civilian complaints has been, at best, a paper tiger.”<sup>189</sup>

At worst, it has been an active impediment to the abilities of CPD command staff to manage the department, of officers to have confidence that the disciplinary system affords them due process, and of community members to know that all complaints are investigated thoroughly and adjudicated fairly. The experience of the Monitoring Team in its first year overseeing Consent Decree implementation leads it to conclude that DOJ's 2014 conclusion that Cleveland's ‘civilian complaint system, as a whole, is disorganized and ineffective’ was, in many ways, a diplomatic understatement.<sup>190</sup>

The following sections describe the significant efforts of Consent Decree stakeholders to provide a new foundation for both OPS and PRB – so that the poor practices and performance of the past can give way to a renewed sense of urgency and spirit of accomplishment within these two vital entities. Precisely because they are both currently under the ultimate authority of the Director of Public Safety, the Monitoring Team expects that change will be swift, supported, and substantial and that, if not, accountability will be clear and certain.

### **1. Office of Professional Standards (“OPS”)**

#### **a. Overview**

In the First Semiannual Report, the Monitoring Team expressed our disappointment and frustration with the dysfunction and failed legitimacy of the Office of Professional Standards (“OPS”).<sup>191</sup> The Team's dismay was exacerbated by a mindboggling backlog of cases that had been left dormant for a considerable time with little to no investigative activity. In addition to having missed the opportunity to promptly identify and, perhaps, correct misconduct, the backlog has threatened the confidence that both the citizens of Cleveland and members of the CPD can have in OPS's ability to effectively carry out its important public service.

During this past reporting period, members of the Monitoring Team set out to identify the causes of the deficiencies which have crippled OPS's efficiency and to inaugurate a path to addressing those deficiencies. The Team has provided the sustained and detailed technical assistance necessary to assist in the development and implementation of a new basic operating approach and day-to-day process aimed at restoring legitimacy to the overall cit-

<sup>184</sup> First Semiannual Report at 45–46.

<sup>185</sup> *Id.* at 46.

<sup>186</sup> Dkt. 80-1 at 15.

<sup>187</sup> *Id.*

<sup>188</sup> Dkt. 86 at 2.

<sup>189</sup> *Id.*

<sup>190</sup> Dkt. 86

<sup>191</sup> First Semiannual Report at 47–48.

izen review process – and drastically improving the manner in which OPS delivers services to the citizen of Cleveland.

Improvements to OPS will not happen overnight – and, indeed, cannot, given that OPS will be needing to address a staggering backlog of unfinished or uninvestigated cases while attempting to keep up with new complaints. As of November 21, 2016, the OPS backlog numbered 439 cases. More than four out of every five (81 percent) of investigations of complaints received in 2016 are unresolved. More than two out of three (68 percent) of investigations of complaints received in 2015 are likewise unfinished. Some cases still stretch from complaints made in 2014. At this point, the Monitoring Team struggles for language sufficiently strong to communicate how unacceptable and appalling the state of OPS as an entity is.

None of the Decree’s substantial requirements relating to OPS can be successfully accomplished without the rigorous overhaul to existing processes premised upon sound managerial practices and informed by the operations of other similarly-situated investigatory agencies.<sup>192</sup> The systems and processes must be in place to ensure that all investigations, and all reviews of those investigations, are fair, thorough, objective, complete, and timely

It should be noted that no process, however sound or well-intentioned, for day-to-day operations of OPS or PRB will succeed without the demonstration of impregnable leadership at the highest levels of management within the Division of Public Safety and OPS. Regardless of how the Monitoring Team and the Parties work to reform the citizen review process by ensuring compliance with the provisions of the Consent Decree, true reform in OPS, and the Police Review Board, cannot and will not be sustained without knowledgeable, committed, and bold leadership. Such leadership requires both the desire and tenacity to overcome the failed systems that have been allowed to fester and the mediocre approach to date in correcting a broken and failed system of accountability.

#### b. Work Over the Last Six Months<sup>193</sup>

The Monitoring Team’s work this period focused on: (1) conducting an organizational assessment of OPS and PRB; (2) assisting both in the development of clearly defined business processes pertaining to the receipt, evaluation, assignment, investigation, and conclusion, and adjudication of complaints; (3) the development of a performance appraisal for the OPS Administrator’s position in order to provide clear guidance and establish a more stringent system of accountability; and (4) the assignment of a dedicated Monitoring Team expert to provide

technical assistance to OPS and PRB as they advance forward.

In May 2016, the Monitoring Team launched an assessment of OPS’s past and current business practices. The work began with interviewing OPS staff in order to better understand how complaints were received, evaluated, documented, assigned, investigated, concluded, and ultimately resolved through the Police Review Board hearing process.

Without exception, investigators expressed concern over depleting investigative resources, the absence of clear and consistent guidelines that would establish a uniform framework for investigations, and the difficulty in obtaining timely access to relevant materials that are retained by the CPD or other entities, both private and public.<sup>194</sup> Their frustration regarding the backlog of cases was evident, as was their personal and professional commitment to work hard to resolve the accumulated issues. While our discussions with the OPS Administrator failed to yield any clear explanation for these glaring deficiencies, there was little disagreement that OPS had fallen into a state of dysfunction and ineffectiveness that warrants immediate corrective action.

By early July 2016, the Monitoring Team, with the assistance of the Department of Justice and pursuant to a series of working sessions with OPS and Consent Decree stakeholders, had assembled a Provisional Operations Manual for OPS, which outlined step-by-step guidelines for the intake, investigation, and resolution of constituent complaints. The goal, articulated in late May, was to establish a working set of guidelines and processes to guide the reception of civilian complaints in a systematic and thorough manner before the Republican National Convention was held in Cleveland.

Prior to the implementation of the intake form, if someone came to OPS and was subsequently referred to an outside entity because OPS lacked the jurisdictional authority to investigate the complaint, contact with that person was not likely to be captured in any electronic database or written log. This incomplete and complacent practice precluded OPS, the Parties, and the Monitoring Team from having the ability to conduct a reliable assessment as to how a particular constituent contact may have been handled at intake and ultimately resolved through the established process. Accordingly, in addition to the Provisional Operations Manual, the team developed a new, comprehensive intake form capturing not just those interactions with civilians that articulate a complaint that falls within the purview of OPS investigative authority but, instead, every contact that OPS has with a constituent regardless of whether that contact results in a full investigation.

<sup>192</sup> Dkt. 7-1 ¶¶ 193–239.

<sup>193</sup> Substantial elements of this discussion are reproduced or adapted from the Monitor’s filing to the Court found at Dkt. 86.

<sup>194</sup> These materials include such things as 9-1-1 calls, dispatch records, daily duty rosters and assignment logs, police reports, video footage, and a variety of other police records that may be relevant to the constituent’s complaint.



Again, during the development of both the Provisional Manual and the Intake Form, representatives from the Department of Justice and the City of Cleveland regularly participated in the creation and review of the documents, and had line- by-line input as to the final work product. The Provisional Manual has been effective since July 15, 2016.

In early August 2016, the Monitoring Team set out to formalize the Provisional Operations Manual into a more detailed, permanent, and sustainable document. This comprehensive, permanent Manual (the “OPS Manual”) reflects the organizational mission and values of OPS, clearly defines its organizational structure and detailed job functions, identifies and describes with clarity those matters in which the office has investigative authority, and provides a thorough, comprehensive, and rigorous step-by-step review of how complaints of misconduct are accepted, assessed, documented, tracked, investigated, periodically reviewed, concluded, and ultimately forwarded to the Police Review Board for review and adjudication.

The OPS Manual covers a significant amount of ground, creating clear rules of the road for OPS personnel, community members, and CPD personnel alike to understand with respect to how matters are thoroughly and timely investigated. Among other things, the OPS Manual addresses the following:

**Introductory Matters.** The OPS Manual outlines that the purpose of the Manual is to provide OPS, CPD, and “members of the Cleveland community with express standards, expectations, and processes for the receipt and investigation of public complaints about police performance or conduct regarding CDP employees.”<sup>195</sup> It also defines key terms.<sup>196</sup>

**Mission, Jurisdiction, Ethical & Employment Requirements.** Taken together, the various provisions of the OPS Manual Section entitled “Mission, Jurisdiction, Ethical & Employment Requirements,” adequately, and for the first time in a codified set of regulations and standards for the organization, “defines OPS[’s] . . . core values, mission, and authority.”<sup>197</sup> Consistent with feedback from CPC,<sup>198</sup> the Manual includes an enhanced mission and values statement.<sup>199</sup> This enhanced mission statement emphasizes that “OPS is not a part of the Cleveland Division of Police” but that OPS is a critical component of “increase[ing] accountability and improve[ing] public confidence in the police by receiving and fairly, thoroughly, and objectively

investigating complaints in a timely manner . . . .”<sup>200</sup>

The Manual specifically outlines the types of misconduct complaints over which OPS has jurisdiction from the City of Cleveland Charter.<sup>201</sup> The Manual then sets forth a number of ethical requirements, including the express incorporation of the NA-COLE Code of Ethics.<sup>202</sup> Most importantly, “[a]ll OPS employees, staff, contractors, or other agents have an affirmative duty to ensure that all OPS investigations are fair, thorough, unbiased, comprehensive, and timely.”<sup>203</sup>

To ensure OPS’s actual independence and the perception of independence among the Cleveland community and within CPD, the Manual provides that “[n]o OPS personnel may be current or former members of CDP.”<sup>204</sup> Further, the Manual includes provisions outlining CPD personnel’s existing duties to “cooperate with an OPS investigation” and to not retaliate against individuals for filing a complaint or participating in the complaint, investigative, or adjudicative process.<sup>205</sup>

**General Intake Process.** A significant portion of the Manual’s remainder sets forth, with significant specificity, the “investigative procedures” that OPS and its personnel must employ to ensure that its investigations are fair, thorough, objective, and timely.<sup>206</sup> Accordingly, the OPS

Manual begins by setting forth how OPS interacts with members of the public and takes complaints.

First, regardless of how a matter comes to the attention of OPS, the OPS Manual now requires that every constituent contact at the intake and assessment of a complaint, inquiry, or concern be thoroughly documented, assigned a unique tracking number, and reviewed regardless of whether a formal complaint investigation results.<sup>207</sup> The purpose for such detailed documentation and oversight is to ensure that thorough and accurate information is captured pertaining to all constituent contacts, the reason for those contacts, and the way in which OPS responds to or otherwise resolves a constituent’s complaint or inquiry – as well as to ensure that OPS is not discouraging or turning away individuals whose issues rise to the level of a complaint. New requirements that OPS provide monthly statistical reports regarding the intake process to the PRB and Public Safety Director aim

<sup>195</sup> Dkt. 86-1 at 3.

<sup>196</sup> *Id.*; accord Dkt. 7-1 ¶ 200(b).

<sup>197</sup> Dkt. 7-1 ¶ 200(a).

<sup>198</sup> Dkt. 86-1 at 6.

<sup>199</sup> *Id.* at 3-4.

<sup>200</sup> *Id.* at 3.

<sup>201</sup> *Id.* at 4.

<sup>202</sup> *Id.* at 4-6.

<sup>203</sup> *Id.* at 6.

<sup>204</sup> *Id.* at 7.

<sup>205</sup> *Id.*

<sup>206</sup> Dkt. 7-1 ¶ 200(c).

<sup>207</sup> Dkt. 86-1 at 8-10.

to ensure transparency in the complaint collection process.<sup>208</sup>

Currently, the voluntary agreement between the City and the CPPA provides that “[a]ll complaints filed by a citizen against [officers] shall be submitted by the complainant in his or her own handwriting.”<sup>209</sup> The Consent Decree requires that the City “work with the police unions . . . to allow civilian complaints to be submitted to OPS verbally or in writing; in person, by phone, or on[-]line; by a complainant, someone acting on his or her behalf, or anonymous; and with or without a signature . . . .”<sup>210</sup>

Accordingly, the OPS Manual expressly provides that “[a] signed complaint form is NOT required for any further action to be taken by OPS in an effort to resolve the constituent’s complaint . . . .”<sup>211</sup> OPS will take the complaint, complete a full investigation, and forward the investigation to the PRB for review – in the same manner as the CPPA Contract currently provides for complaints “filed more than six (6) months after the date of the alleged event.”<sup>212</sup> To ensure that individuals are aware of the implications of not providing a complaint signed and written out in their own handwriting, the Manual therefore provides that “complainants must be advised that, for reasons unrelated to OPS rules and regulations, officers may not be able to be disciplined for conduct that is alleged in unsigned and/or anonymous complaints, even if OPS and the PRB make a finding of misconduct.”<sup>213</sup>

A significant number of major departments take anonymous complaints without exception and permit such complaints to form the basis of disciplinary action, including, but not limited to: Mesa, Arizona; Bakersfield, California; Los Angeles, California; Long Beach, California; Aurora, Colorado; Miami-Dade, Florida; Jacksonville, Florida; Atlanta, Georgia; Honolulu, Hawaii; Baltimore County, Maryland; Montgomery County, Maryland; Raleigh, North Carolina; Las Vegas, Nevada; Albuquerque, New Mexico; Tulsa, Oklahoma; Pittsburgh, Pennsylvania; Memphis, Tennessee; Virginia Beach, Virginia; and Washington, D.C. An academic survey from nearly 30 years ago found that some 96 percent of the 101 departments surveyed “investigate anonymous complaints, if not as a matter of routine, then if there is any other supportive information.”<sup>214</sup>

<sup>208</sup> *Id.* at 10.

<sup>209</sup> Collective Bargaining Agreement Between the City of Cleveland and Cleveland Police Patrolmen’s Association (CPPA), Non-Civilian Personnel [hereinafter “CPPA Contract”], Article VIII (m) at 11.

<sup>210</sup> Dkt. 7-1 ¶ 202.

<sup>211</sup> Dkt. 86-1 at 9.

<sup>212</sup> CPPA Contract, Article VIII (m) at 11 (indicating that employee in such circumstances “may be ordered to respond to the complaint and to the investigation, but shall not be subject to disciplinary action for that complaint”).

<sup>213</sup> Dkt. 86-1 at 9.

<sup>214</sup> Paul West, “Investigation of Complaints Against the Police: Summary Report of a National Survey,” 7 *Am. J. Police* 101 (1988).

Furthermore, because individuals with physical disabilities and mobility impairment may be excluded from the ability to fill out and sign complaint forms, the Monitor has significant concerns that the current CPPA provision providing that complaints may only result in discipline if an individual physically is able to, and does, physically write out his or her complaint and sign his or her name constitutes an ongoing violation of the Americans with Disabilities Act, 104 Stat. 328, 42 U.S.C. § 12101 *et seq.*, and the equivalent Ohio state statute, O.R.C. § 4112.99. The ADA, and its Ohio analogue, applies to the City of Cleveland’s programs and activities, including its interactions with civilians through OPS, and requires the City to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.”<sup>215</sup>

Consequently, the Monitor will expect that the City and CPPA will work expeditiously to ensure that the provisions of the Consent Decree, generally-accepted practice, and compliance with the ADA and equivalent Ohio state law are harmonized with the CPPA Contract.

**Complaint Intake.** The OPS Manual outlines the variety of mechanisms through which civilians may make complaints.<sup>216</sup> It assigns specific duties to OPS upon receiving a complaint.<sup>217</sup> Among other things, received complaints must be assigned to a “standard” or “complex” track based on their overall complexity and a generalized complaint category “based solely on the content of the complaint,” such as “biased policing” or “harassment.”<sup>218</sup> OPS’s intake Coordinator subsequently gathers basic information relating to the content of the complaint, and the complaint is forwarded within three (3) business days to the OPS Administrator for review and assignment to an Investigator within 24 hours of receipt from the Intake Coordinator.<sup>219</sup> These and other specific, new timeline rules in the OPS Manual are intended to hold all OPS personnel strictly accountable for ensuring timely investigations. OPS must also provide notice both to the complainant that it has received a complaint and, in almost all circumstance, to implicated CPD personnel.<sup>220</sup>

As noted above, internally-discovered misconduct – or misconduct allegations made or identified by CPD personnel – will be investigated by CPD’s Internal Affairs, which will soon “be headed by a qualified civilian.”<sup>221</sup> Further, some classes of officer performance, such as use of force, will be subject to standardized, post-incident administrative inquiry.<sup>222</sup> Externally-reported

<sup>215</sup> 28 C.F.R. § 35.130(b)(7); *Title II Technical Assistance Manual* § II-3.6100, at 14.

<sup>216</sup> Dkt. 86-1 at 10–12.

<sup>217</sup> *Id.* at 12–13.

<sup>218</sup> *Id.* at 13.

<sup>219</sup> *Id.* at 14, 17.

<sup>220</sup> *Id.* at 17–18.

<sup>221</sup> Dkt. 7-1 ¶ 177.

<sup>222</sup> *Id.* ¶¶ 93–130.

misconduct – or misconduct allegations made or identified by non-CPD personnel – will be investigated by OPS. However, it is readily conceivable that some incidents will generate a civilian complaint to OPS and an internal investigation of some type, whether automatic or related to possible misconduct. Accordingly, the OPS Manual provides specific procedures and guidance to OPS about how its inquiries should proceed when a criminal or administrative investigation is already underway within CPD.<sup>223</sup>

The OPS Manual provides that “[i]n order to ensure a thorough investigation, OPS Investigators may need access to any and all relevant disciplinary information in the record of an officer who is the subject of a current investigation.”<sup>224</sup> Because the Director of Public Safety has authority over both OPS and CPD, the Monitoring Team will expect that the Director ensure that OPS has direct, automatic, and real-time access to information about completed internal investigations – and that, in turn, CPD have the same direct, automatic, and real-time access to information about completed OPS investigations. The Monitoring Team will be watching closely to ensure that no information or records are withheld either from OPS or from CPD on the grounds that it is not substantively relevant when it does meet the definitions provided by the OPS Manual. The Monitor will also be evaluating closely whether information about past officer performance is appropriately and non-prejudicially considered by OPS, and CPD.

**Complaint Investigation Process.** The OPS Manual provides, for the first time, granular instruction to OPS personnel on initiating, planning, conducting, and completing a fair and comprehensive investigation of complaints.<sup>225</sup> Specifically, it outlines procedures for OPS investigators to interview the complainant; identifying and securing evidence; creating a comprehensive investigatory plan; evaluating evidence uncovered during the investigation; conducting interviews; and preparing a comprehensive summary report of the investigation. This specific, standardized guidance on the day-to-day duties and step-by-step tasks of OPS Investigators sets forth, essentially for the first time, the express expectations of OPS personnel and the standards that their work must meet.

**Timeliness & Milestones.** To address the significant, ongoing concerns about the timeliness of OPS investigations, the OPS Manual memorializes the Consent Decree’s requirement that “Standard” complaint investigations be resolved within 45 days and “Complex” investigations be concluded within 75 days. The Parties and Monitoring Team are mindful, and the OPS Manual expressly contemplates, that “[a] number of factors influence how swiftly an investigation may be completed”; however, issues that impact timeliness, including OPS’s workload and the pace of resolution of complaints by PRB, “are the responsibility of the OPS to effectively manage and resolve to ensure that citizen

complaints are not impeded.”<sup>226</sup>

**OPS Administrator’s Review of the Investigative File & Finalizing Civilian Police Board Action.** The OPS Administrator must review all completed investigations, identify and address any deficiencies, and make a final recommended finding by applying the preponderance of the evidence standard. The OPS Administrator makes findings as to adjudication and “shall not make any recommendations as to potential discipline.”<sup>227</sup> OPS then notifies the complainant “that the investigation has been concluded and the date that the PRB will convene to review the matter.”<sup>228</sup> The case is forwarded “to the PRB in sufficient time for PRB to consider them no later than the second regularly scheduled PRB meeting following the completion of the investigation.”<sup>229</sup>

**Administrative Dismissals & Finalizing Police Review Board Action.** The Manual provides significant detail about when complaints may be “administratively dismissed.”<sup>230</sup> It seeks to ensure that the dismissal of a complaint without a full investigation is contemplated only in clear and “limited instances.”<sup>231</sup>

**Duties of OPS and OPS Personnel.** For the first time, the OPS Manual spells out specific duties, tasks, standards, and expectations for OPS personnel, including the OPS Administrator, OPS Investigators, OPS administrative personnel, and OPS’s Research Analyst. It specifically requires at least annual training on investigative skills and CPD rules and policies.<sup>232</sup> The Monitor will expect that the City, through the ongoing oversight of the Director of Public Safety, will ensure that all OPS personnel adhere to the Manual’s requirements.

### c. Approach to Progress Going Forward

Currently, the City, Monitoring Team, and OPS are engaged in discussions regarding a plan to eliminate the backlog of uninvestigated, incomplete, or unresolved complaint investigations. The Monitoring Team has asked for such a plan since at least the Spring of 2016. It has been provided with a series of cursory and highly minimalistic documents, purported to be plans for eliminating the backlog, that did little more than summarize the nature of the problem or, in one instance, propose that OPS eliminate its backlog by summarily pushing a significant number of incomplete cases on to CPD’s chain of command to resolve, likely without formal discipline. Accordingly, all efforts to date by OPS to outline mechanisms for addressing the backlog have been patently insufficient in all respects and, in form and con-

<sup>226</sup> *Id.* at 32.

<sup>227</sup> *Id.* at 34.

<sup>228</sup> *Id.*

<sup>229</sup> *Id.*

<sup>230</sup> *Id.* at 34–37.

<sup>231</sup> *Id.* at 33; accord Dkt. 7-1 ¶ 200(d).

<sup>232</sup> Dkt. 86-1 at 43.

<sup>223</sup> Dkt. 86-1 at 15–17.

<sup>224</sup> *Id.* at 30.

<sup>225</sup> *Id.* at 18–31.

tent, not serious proposals.

Pending approval of the PRB Manual by the Court, the Monitoring Team will be working closely with OPS and its personnel – providing day-to-day technical assistance on how to transform the extensive Manual from paper into practice.

The Monitoring Team has also recently communicated to the Court regarding the OPS budget for 2017.<sup>233</sup> The Monitoring Team declined to either approve or disapprove of the full OPS budget for 2017 – instead providing only short-term, provisional approval of the budget for the first quarter of the year.<sup>234</sup> The reason for this short-term and provisional approval is that the OPS budget relies substantially on “compensation for four temporary Investigators” who “are slated to provide support to permanent investigators in completing those investigations that remain open.”<sup>235</sup> However, “[a]lthough the professional investigatory skillset of these temporary investigators can hopefully provide some assistance toward alleviating a portion of the backlog, this temporary solution, budgeted for only the first four months of the year, is precisely that: temporary.”<sup>236</sup> “Because OPS will need to build its longer-term capacity, the Monitor therefore approves the proposed OPS budget for, and only for, the first quarter of 2017.”<sup>237</sup> The Monitoring Team approved the OPS budget for the first quarter of 2017 at a status conference on January 6, 2017.

It is almost certain to be the case that OPS will need to hire additional, full-time investigators to ensure that its personnel have reasonable and manageable caseloads – and that the officer can handle the typical level of civilian complaints that it receives. The Monitoring Team has discussed with the City that OPS lags far behind, in terms of the complaints to investigator ratio, peer civilian oversight agencies that conduct investigations. For instance, the D.C. Office of Police Complaints has an investigator to complaint ratio of 1:34. Chicago’s former IPRA entity had an investigator-complaint ratio of 1:24. San Francisco’s Office of Citizen Complaints has an investigator-complaint ratio of 1:23. Cleveland’s OPS, with its six technical investigator positions,<sup>238</sup> has an investigator ratio of 1:49. Thus, for Cleveland to get to Washington, D.C.’s investigator level, at least three new, full-time investigators would need to be recruited, hired, and trained.

For staffing issues to be definitively addressed, current investigators will need to adopt the extensive rules, practices, and pro-

cedures codified in the OPS Manual and to abide by those rules for an extended period before stakeholders can fully understand what an investigator’s typical workload is. In other words, although the City might be able to benchmark its staffing needs against other cities, the others referenced above have been operating for some time with codified, defined operational rules. Cleveland is just beginning down that road.

Constitutional policing, due process, transparency, and comprehensive officer performance investigations all require resources. That OPS has been under-resourced in the past does not excuse under-resourcing in the future – in the same way that OPS’ lack of day-to-day operational policies and procedures could not excuse the ongoing lack of codified standards and procedures going forward.

## 2. Police Review Board (“PRB”)

### a. Overview

During the Summer, the Monitoring Team began to more closely examine the manner in which the PRB goes about its important public duty. It was immediately apparent to the Monitoring

Team that the Board had been carrying out their duties absent a set of established protocols to guide their decision making – even though the 1984 City Charter amendment creating the PRB provided that the

Board “shall make rules providing for the procedure of the Board and for the review of complaints filed with it,” to be approved by the Public Safety Director and made effective “fifteen days after their publication in the City Record.”<sup>239</sup> It is unclear why, 32 years after voters approved the Board’s creation and 28 years after the Charter amendment became effective (following conclusion of litigation), no such procedures appear to exist – and, if they did, why the Board has not used any codified and procedures for some time.

The lack of clear processes and procedures has allowed PRB to also fall behind on the timely review and deliberation of cases – failing in their core duties and service to the City of Cleveland. This assessment is not geared toward individual Board members who, as volunteers, have been uniformly impressive in their heartfelt desire to do good work, thoughtfully consider cases, and provide good-faith recommendations to the Chief of Police.

There is, of course, no question that the backlog of uncompleted cases in OPS has a direct correlation to the Board’s ability to promptly receive and adjudicated cases. PRB cannot conduct a timely review if OPS has not provided them with a timely investigation. Correcting this entirely unacceptable condition will require that the OPS Administrator, with the clear, consistent, and unambiguous direction of the Director of Public Safety, develop and establish a comprehensive and effective plan to resolve the

*The lack of clear processes and procedures has allowed PRB to also fall behind on the timely review and deliberation of cases – failing in their core duties and service to the City of Cleveland.*

<sup>233</sup> Dkt. 87.

<sup>234</sup> *Id.* at 2–3.

<sup>235</sup> *Id.* at 2.

<sup>236</sup> *Id.*

<sup>237</sup> *Id.*

<sup>238</sup> These positions are referred to as “technical” because it includes two recently-hired investigators who have been given relatively little responsibility to date.

<sup>239</sup> Charter of the City of Cleveland, § 115-3.



backlog, more effectively manage cases and administer the office for which the Director has ultimate responsibility, and ensure that OPS is properly staffed and equipped to complete cases in a time frame that is consistent with the Consent Decree and the expectations of the greater Cleveland community.

Even when PRB addressed cases, it was not clear precisely how the Board or its members were making decisions – what standards it was applying, how it was considering and weighing evidence, and precisely what its various recommendations as to findings meant. Cases were adjudicated as “sustained” and “unfounded” without specific reference to particular CPD policies. Indeed, in the deliberations that the Monitoring Team observed, it appeared as though Board members were making a finding as to whether they believe that improper conduct occurred – not whether specific violations of CPD policy had taken place. In short, the process that PRB had used to deliberate on cases previously was improvisational at best, unfair at worst, and in need of substantial rigor and precision, regardless.

#### b. Work Over the Past Six Months<sup>240</sup>

Accordingly, the Monitoring Team, in concert with the Parties, spent several months working with PRB on drafting an Operations Manual (the “PRB Manual”) to guide its deliberative process. Designed for a broad based constituency who may seek to better understand how the PRB conducts business, this manual provides a step by step process that directs the movement of investigative files from OPS to PRB, how those cases are assigned for PRB member review, the structure and agenda for PRB meetings, the means by which investigations are reviewed and discussed in a public forum, the deliberative process which results in the board’s decisions and recommendations pertaining to each case presented, and a public announcement of their findings and recommendation for further consideration and action by the Chief of Police and Director of Public Safety.

Since voters approved the creation of a Police Review Board in 1984, and the approved changes to the City of Cleveland Charter became effective in 1988, the PRB had not functioned with clear rules for its day-to-day operations – despite the Charter’s express contemplation that, “[s]ubject to the approval of the executive head of the police force, the Police Review Board shall make rules providing for the procedure of the Board . . . .” Charter of the City of Cleveland § 115-3, Powers and Duties of Board.

The Manual submitted to the Court thus provides, for the first time, rules of the road for how Board members must acquit themselves of their duties. Significant features of the PRB Manual include the following.

<sup>240</sup> Substantial elements of this discussion are reproduced or adapted from the Monitor’s filing to the Court found at Dkt. 86.

**Purpose of the Board, Purpose of the PRB Manual, and Duties & Responsibilities of the Staff.** The PRB Manual’s initial sections provide that “[t]he purpose of these procedures is to facilitate the operation of the [Board], including the review of public complaints . . . as authorized by the City of Cleveland Charter.”<sup>241</sup> The Manual makes clear that the PRB has “the power to receive, cause investigation of, and recommend, and in some cases determine, the resolution of public complaints regarding” CPD misconduct.<sup>242</sup> It outlines specific “duties and responsibilities” of the Board, PRB members, and contemplated staff.<sup>243</sup>

**Organization & Meetings.** The Manual codifies the recent changes to the City Charter that Cleveland voters approved on November 8, 2016, with PRB’s membership expanded to “nine members who are representative of the diverse communities within Cleveland” – with “at least one member who resides” in each police District and at least one member “between the ages of 18 and 30” – appointed by either the Mayor or City Council.<sup>244</sup> Member terms are four years, with individuals limited to serving two consecutive four-year terms.<sup>245</sup> The Board will select a member to serve as Chair and another to serve as Vice-Chair.<sup>246</sup> Board members will receive training on constitutional and other relevant law, police practice and procedure, administrative investigations, and other pertinent topics.<sup>247</sup>

Importantly, the Manual sets clear expectations regarding the attendance and participation of Board members during PRB’s meetings.<sup>248</sup> The Monitoring Team will expect that Board members indeed “use best efforts to attend all regularly-scheduled Board meetings.”<sup>249</sup> The Manual indicates that Board members “shall receive compensation as may be established by the Council.”<sup>250</sup> To the extent that the scope of the commitment required by PRB will be more significant than it was previously, some degree of compensation may well be appropriate, fair, and necessary – and set forth as part of the Board’s “own budget separate from the budget of the Department of Public Safety” and of OPS.<sup>251</sup> That Budget must also include resources for the Board to “hire and/or appoint support personnel.”<sup>252</sup> All PRB “meetings shall be open to the public,” with the general “order of business” outlined in

<sup>241</sup> Dkt. 86-2 at 3.

<sup>242</sup> *Id.*

<sup>243</sup> *Id.* at 2-4.

<sup>244</sup> *Id.* at 5.

<sup>245</sup> *Id.* at 5-6.

<sup>246</sup> *Id.* at 7.

<sup>247</sup> *Id.* at 7-8.

<sup>248</sup> *Id.* at 5-6.

<sup>249</sup> *Id.* at 6.

<sup>250</sup> *Id.* at 7.

<sup>251</sup> *Id.*

<sup>252</sup> *Id.* at 10.

the Manual.<sup>253</sup> Quorum and voting requirements are expressly provided.<sup>254</sup>

**Authority, Jurisdiction, Duties, Responsibilities, and Review of Complaint.** Consistent with Cleveland’s Charter, the OPS Manual clarifies that:

The Board has the power to receive, cause investigation of, and recommend resolution of any and all complaints filed with it alleging misconduct by officers and non-sworn employees of the Cleveland Division of Police, regardless of their duty status, when such misconduct is directed toward any person who is not a CDP employee. On its own complaint, the Board may direct the OPS Administrator to conduct an investigation of any incident involving the use of deadly force by members of the police force and any incident resulting in the injury or death of persons in the custody of the police force.<sup>255</sup>

The Manual outlines the process by which PRB typically receives completed investigations from OPS and by which PRB might receive complaints or “cause an investigation of incidents involving the use of deadly force” or “incidents resulting in the injury or death of persons in custody of the police force.”<sup>256</sup>

The Manual contemplates that “Board members may make written inquiries of the OPS Administrator” when or after reviewing a given complaint investigation file “to obtain additional information, documents, or other evidence.”<sup>257</sup> The Board must “allow complainants or subject employees” present at PRB meetings “to speak after the case is called by the Board . . . .”<sup>258</sup> “Board members may” also “ask follow-up questions of any person who has addressed the Board.”<sup>259</sup> If the voluntary cooperation of individuals involved in complaint investigations are insufficiently forthcoming or willing to cooperate, “[u]pon majority vote” and notification of the Public Safety Director and Police Chief, “the Board has the power to subpoena and require the attendance of witnesses, the production of documents, and/or the production of other papers pertinent to its adjudications . . . .”<sup>260</sup>

The administrative rules that the Manual establishes outline procedures for consideration of certain categories of complaint investigations by a three-member panel (a “Panel”) rather than

by the “full Board.”<sup>261</sup> Specifically, complaints “classified as De-meanor, Rudeness, and Improper Tow, with no other type of alleged conduct, shall be assigned for review by a Panel” unless the Chair determines otherwise.<sup>262</sup> “[C]omplex investigations shall be assigned to the full Board for review.”<sup>263</sup> Other types of complaints “shall be assigned by the Chair for review by either a three-member panel or by the full Board.”<sup>264</sup> These rules work to ensure that all cases can be comprehensively considered but that the Board’s full meetings can focus on the most significant, difficult, or complex cases as appropriate.

**Hearing Procedures.** The Manual provides a host of specific procedures that the Board must follow when hearing and considering cases at its regular, public meetings. “The purpose of [a] hearing is to review the case . . . in order to reach a disposition and a recommendation on discipline for each allegation identified by OPS or by Board members during their review of the case.”<sup>265</sup> Complainants and subject employees must receive notice of when a case involving them will be considered by the Board.<sup>266</sup> PRB must use the categories of dispositions required by the Consent Decree.<sup>267</sup> Although “[t]he Board shall give weight to the OPS Administrator’s recommended disposition, and shall justify in writing any departure from it,” the PRB “is not bound by the OPS Administrator’s recommendation and shall reach its own conclusions regarding the appropriate disposition.”<sup>268</sup>

Where the PRB votes to recommend a “sustained” disposition, the Board also considers recommended discipline or “other remedial action.”<sup>269</sup> When doing so, it applies a standard of “just cause.”<sup>270</sup> The Manual also provides a process for making recommendations regarding revisions in CPD “policies, strategies, tactics, or training” and for “identify[ing] officer or employee performance that is commendable, superior, noteworthy, or otherwise deserving of special and positive recognition” and recommend to the Chief of Police or Public Safety Director that CPD personnel receive a commendation.<sup>271</sup> Ultimately, the PRB delivers a written “Final Summary prepared for each complaint adjudicated as ‘sustained’ to the Chief of Police and/or the Director of Public Safety, as appropriate, within fourteen calendar days” of the hearing.<sup>272</sup>

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> *Id.*

<sup>264</sup> *Id.* (emphasis in original).

<sup>265</sup> *Id.* at 15.

<sup>266</sup> *Id.* at 22.

<sup>267</sup> *Id.* at 18.

<sup>268</sup> *Id.* at 15.

<sup>269</sup> *Id.* at 16.

<sup>270</sup> *Id.*

<sup>271</sup> *Id.* at 20.

<sup>272</sup> *Id.* at 22.

<sup>253</sup> *Id.* at 9.

<sup>254</sup> *Id.* at 10.

<sup>255</sup> *Id.* at 11.

<sup>256</sup> *Id.*

<sup>257</sup> *Id.* at 13.

<sup>258</sup> *Id.*

<sup>259</sup> *Id.*

<sup>260</sup> *Id.* at 14.

**Action of the PRB Following Hearing by the Chief of Police.** The PRB Manual before the Court outlines, for the first time, a specific and codified process for the PRB to fulfill one of the central duties granted to it by Cleveland’s Charter: overriding the determination of the Chief of Police. The PRB was created by an amendment to the Cleveland City Charter that was approved by voters in 1984.<sup>273</sup> Then-Mayor George Voinovich and then-City Council President George Forbes drafted the amendment language as an emergency ordinance “for the immediate preservation of the public peace, property, health, and safety” in the wake of significant public unrest over the relationship between CDP and Cleveland residents.<sup>274</sup>

Pursuant to Charter Section 119, where a suspension is for less than ten (10) days, the Chief’s decision is final.<sup>275</sup> If the Chief determines that a suspension for more than ten (10) days is appropriate, Section 119 provides that the matter must be referred to the Safety Director, who will hold a hearing and render the final judgment in the matter. Thus, the Chief may suspend officers for only up to ten days, with the Safety Director suspending officers for more than ten days.

The Charter establishes exceptions to this disciplinary regime for matters in which a complaint has been filed with OPS and heard by the PRB. In effect, it places the PRB’s disciplinary authority on equal footing with the Chief of Police.<sup>276</sup> Section 115-4 indicates that, if the PRB determines that discipline should be imposed, it will forward its recommendation to the Chief of Police. The Chief must then notify the PRB whether or not s/he intends to impose discipline, and if so, what that discipline will be. Under Section 115-4, if the PRB disagrees with the Chief’s decision or with the length of his/her proposed discipline, “the Board, notwithstanding the provisions of Section 119 of this Charter to the contrary, may suspend the officer or employee.”<sup>277</sup> Essentially, while this provision creates a path through the Chief in PRB matters, by allowing the PRB to override the Chief, it grants the Board the power to impose discipline in cases before it.

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<sup>273</sup> The amendment did not become effective immediately, due to injunctions issued in connection with litigation that Cleveland’s police union filed. The case was ultimately decided against the Union, and the injunction was lifted in 1988.

<sup>274</sup> Charter of the City of Cleveland (1984).

<sup>275</sup> *Id.*

<sup>276</sup> Section 119 further underscores the Charter’s intent to afford the Chief and the PRB equal disciplinary power by mandating that:

Prior to suspending any officer or employee of the police force, the Chief of Police shall ascertain whether a complaint on file with the Police Review Board relates to the conduct of the officer or employee in question. If so, the Chief of Police shall not suspend the officer or employee unless the Police Review Board concurs with the Chief’s decision, in accordance with Section 115-4 of this Charter.

<sup>277</sup> Charter of the City of Cleveland (1984).

The Monitoring Team has previously outlined to the Court that, although the Monitor does not tend to credit the City’s argument suggesting that such certification is legally required by the terms of the Charter and/or past state-court precedent, it can approve the Manual-provided process that requires that the PRB’s override of the Chief of Police’s discipline to be sent to the Director of Public Safety for final hearing and resolution.<sup>278</sup>

### c. Approach to Progress Going Forward

In order to assist both OPS and the PRB, the Monitor has appointed Mr. Richard Rosenthal to provide leadership and technical assistance to both OPS and PRB as they endeavor to implement the host of new policies, processes, and provisions required by the new manuals. Mr. Rosenthal, whose background and qualifications are described elsewhere in this report, has led three civilian oversight agencies – making him uniquely situated to provide the in-depth technical assistance and monitoring that OPS and PRB require to become the high-quality, transparent, and professional entities that they must under the Consent Decree.

During the next monitoring period, Mr. Rosenthal, along with other members of the Monitoring Team, will work to ensure the implementation and strict adherence to the operations manuals and that the more frequent and productive meetings of the PRB are resulting in thoughtful and fair case deliberation.

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<sup>278</sup> See Dkt. 86 at 28-37.

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## TRANSPARENCY & OVERSIGHT

### A. Police Inspector General

The Consent Decree continues to “require[] the creation of a new, internal oversight function within the Division – a Police Inspector General.”<sup>279</sup> The Inspector General (“IG”) must be “an individual or individuals with significant experience in law enforcement practices and civil rights law . . . .”<sup>280</sup>

The IG’s substantial duties include, but are not limited to, review of CPD policies and practices, auditing, conducting investigations, analyzing data for aggregate and systemic trends, developing “specific recommendations for reform,” “analyz[ing] investigations conducted by OPS to determine” if they are adequate, and reviewing imposed discipline.<sup>281</sup> The IG’s reports and recommendations must be made public.<sup>282</sup>

The First Semiannual Report noted that “the Decree does not provide an express timetable for the City to initiate the hiring of an Inspector General or for a selected candidate to assume the position.”<sup>283</sup> It noted that, “in light of the competing concerns, . . . the First-Year Monitoring Plan d[id] not include a deadline for this position during 2016.”<sup>284</sup>

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<sup>279</sup> First Semiannual Report at 49.

<sup>280</sup> Dkt. 7-1 ¶ 250.

<sup>281</sup> *Id.* ¶ 253.

<sup>282</sup> *Id.*

<sup>283</sup> First Semiannual Report at 49.

<sup>284</sup> *Id.*

Although no IG has been hired to date, Consent Decree stakeholders have engaged in conversations about funding levels for the position when it is created. The First Semiannual report noted that “a single budgeted position will not be sufficient to meet the terms of the Agreement” and that the Monitoring Team was “highly skeptical, based on experiences of other cities in creating similar oversight mechanisms, that an Inspector General could be successful solely by utilizing auditors already working in existing City functions.”<sup>285</sup> Ultimately, one person will not be able to do all that the Decree requires. The IG will need a high-quality staff and administrative support. The IG will also need independence and the ability to present sometimes challenging recommendations, problematic trends, or stark recommendations – giving voice to and shedding light on uncomfortable facts, when necessary, about the Division of Police or City of Cleveland.

As work begins in earnest in the second year of monitoring to hire an individual for the IG position, the Monitoring Team believes that Cleveland’s search will yield substantially higher-quality candidates if the individuals applying to the job know that the position will be well-resourced and provided with sufficient independence. The Monitoring Team looks forward to discussions about the best mechanisms for doing so in the upcoming months with the City, Department of Justice, Community Police Commission, police officer organizations, and others.

### B. Data Collection and Analysis

As the Monitor recently noted to the Court, the City has “recent[ly] hire[d] . . . an outside consultant to serve as a Data Analysis Coordinator across CPD and City functions for purposes of the Consent Decree.”<sup>286</sup> This hiring complies with the Consent Decree’s requirement that CPD “designate an individual or individuals” to “ensure the collection and tracking of all documents related to uses of force and allegations of misconduct and related materials.”<sup>287</sup>

“One of the Coordinator’s first tasks will be to develop a Data Analysis Protocol to guide the analysis of data in various areas, including stops, searches, arrests, uses of force, vehicle stops, investigatory stops, and complaints of discrimination or bias.”<sup>288</sup> Although the completion of such a protocol has been delayed in order to ensure the on-boarding of a well-qualified individual into the Data Analysis and Collection Coordinator position, the Monitoring Team continues to look forward to working closely with CPD and the Coordinator as the Division develops such a protocol aimed at growing and operationalizing the extent to which management and supervisors of all levels use real-time data to make management and supervisory decisions.

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<sup>285</sup> *Id.* at 50.

<sup>286</sup> Dkt. 93 at 17.

<sup>287</sup> Dkt. 7-1 ¶¶ 257–58.

<sup>288</sup> First Semiannual Report at 50.



### C. Public Availability of CPD-Related Information

As another means of the “increase[d] transparency” that the City has pledged with respect to Division operations going forward, the Consent Decree continues to require that data and information about the Division – including its “policies and procedures, training plans, community policing initiatives, community meeting schedules, budgets, and internal audit reports – be posted on CPD’s website.<sup>289</sup> Additionally, “[t]o ensure transparency in the implementation of” the Decree, “all CDP audits, reports, and outcome analyses related to the implementation of this Agreement will be made publicly available, including at the City and CDP websites.”<sup>290</sup>

The First Semiannual Report noted that, “[a]s of April 20, 2016, little to none of the required information that should have been available” on CPD’s website “in a finalized form had been posted.”<sup>291</sup> Encouragingly, extensive new material has been made available on the Division’s website, with the public now able to view policies, reports, and materials related to the Consent Decree. The Monitoring Team commends CPD for ensuring that the Cleveland community, via its own outlets, has access to information about the Division’s functions and processes for doing business.

The Monitoring Team will have more to say, in future discussions with the Parties about a more comprehensive Division policy about the public availability and release of CPD information and in future reports, about the significant steps that the Division and City must make to transform itself from a department too often fearful of providing information and data to the public to one that quickly, fairly, and transparently provides the community with updates on its activities and performance – whether good, bad, or otherwise.



<sup>289</sup> Dkt. 7-1 at 1; *id.* ¶ 268.

<sup>290</sup> *Id.* ¶ 267.

<sup>291</sup> First Semiannual Report at 51.

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## OFFICER ASSISTANCE & SUPPORT

### A. Training

#### 1. In-Service Training

The Division of Police has submitted to the Monitoring Team its 2017 In-Service Training Plan, which was to have outlined the full scope of training programs that its existing officers would receive in the way of ongoing professional training. The Monitoring Team has provided feedback on this plan and will be working with CPD and the Parties to further define and refine the areas of focus for training in this calendar year to ensure that they are consistent with the Consent Decree’s goals and the ultimate Second-Year Monitoring Plan, which will cover the period of February 2017 through January 2018.

The Monitoring Team will have more to say on the subject of in-service training when it is able to present a complete curriculum on the upcoming use of force training to the Court and public.

#### 2. Academy Training

The “Consent Decree . . . contains certain obligations relating to the training of new officers at the academy.”<sup>292</sup> For the current and previous class Academy classes, “the City and CPD elected to send recruits to the Ohio State Patrol’s academy in Columbus, Ohio before having the class return for additional, CPD-specific training.”<sup>293</sup> The Monitoring Team will soon be providing to the Parties a proposal for its assessment of the overall quality of the

<sup>292</sup> First Semiannual Report at 55.

<sup>293</sup> *Id.*

current approach to training new CPD officers.

### B. Equipment & Resources<sup>294</sup>

#### 1. Background

The Department of Justice’s 2014 investigation concluded that:

CDP’s failure to appropriately allocate resources – including staffing and equipment – contributes to the pattern or practice of unconstitutional force. In addition, Cleveland police officers are not given the basic equipment, the physical structures, and the technology required to perform their jobs safely and effectively.<sup>295</sup>

It noted that the lack of “adequate technology” and “a sufficiently professional workspace” ultimately “is dangerous to the officer, undermines public safety and is unfair.”<sup>296</sup> “As much as any building, stadium, or other public works project, a well-run, professional and constitutional police presence is the foundation of a healthy city in our democracy.”<sup>297</sup>

The Monitor’s First Semiannual Report affirmed that “Cleveland does not yet benefit from many of the basic technological innovations associated with contemporary, urban policing.”<sup>298</sup> The Division did not have enough decent-quality patrol cars, modern technology in those cars, and modern systems for those technology platforms.<sup>299</sup> The report noted that “many of the areas that the Division must address . . . are basic technology platforms that Cleveland was overdue to address regardless of whether there had been a Consent Decree” and “are necessary to protect the public, keep officers safe, and allow the Division of Police to effectively and efficiently conduct law enforcement.”<sup>300</sup> It inventoried the “technological, business practice, and project management problems” across projects and functions that were made manifest in the problematic rollout of CPD’s new record management system.<sup>301</sup>

The Consent Decree required that CPD “complete a comprehensive equipment and resource study to assess its current needs and priorities to perform the functions necessary for CDP to fulfill its mission and satisfy the requirements” of the

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<sup>294</sup> Substantial elements of this discussion are reproduced or adapted from the Monitor’s filing to the Court found at Dkt. 93.

<sup>295</sup> 2014 Findings Letter at 54.

<sup>296</sup> *Id.* at 54–55.

<sup>297</sup> *Id.* at 55.

<sup>298</sup> First Semiannual Report at 55.

<sup>299</sup> *Id.* at 59.

<sup>300</sup> *Id.* at 56.

<sup>301</sup> *Id.* at 57–58.

Decree.<sup>302</sup> After completing that study, the City needed to “develop an effective, comprehensive Equipment and Resource Plan that is consistent with its mission and that will allow it to satisfy the requirements of this Agreement.”<sup>303</sup>

The Plan needed to address a number of different requirements. First, the Plan “will provide for necessary equipment including, at least . . . an adequate number of computers; an adequate number of operable and safe zone cars; zone cars with reliable, functioning computers that provide officers with up-to-date technology, including” mobile computer-aided dispatch, access to the Division’s records management system, and access to law enforcement databases; and “zone cars equipped with first-aid kits . . . .”<sup>304</sup> These requirements stemmed, to at least some relevant extent, from the Department of Justice’s observation that it found “not enough computers at the district stations” and a patrol car fleet that was “old and in poor repair.”<sup>305</sup>

Second, the Plan must address how the Division will “satisfy the requirements of this Agreement,” including the Decree’s many other substantive requirements.<sup>306</sup>

For instance, CPD will need to collect information and data about investigatory stops,<sup>307</sup> and “calls and incidents involving individuals in crisis.”<sup>308</sup> The Division is required to “develop and implement a single, uniform, reporting system” to effectuate the Decree’s use of force reporting requirements.<sup>309</sup> “[A]ll relevant information from [a] completed [Internal Affairs] investigation” must be “provided electronically to the [involved] officers’ supervisors, the Training Review Committee, the Force Review Board, the Officer Intervention Program, and the Data Collection and Analysis Coordinator . . . .”<sup>310</sup> “CDP supervisors” must “regularly use . . . data to evaluate the performance of CDP officers across all ranks, units, and shifts.”<sup>311</sup> To adequately “modify its Officer Intervention Program,” CPD must utilize “a computerized relational database that will be used to collect, maintain, integrate, and retrieve data department-wide and for each officer regarding” a host of specific performance data.<sup>312</sup> These and numerous, similar Consent Decree provisions require that CPD embrace a host of new or upgraded technologies, resources, and equipment.

Third, the Plan must “ensure that CDP” both “properly maintains and seeks to continuously improve upon existing equipment and technology” and “is appropriately identifying equipment needs and seeking to utilize, as appropriate, emerging technologies.”<sup>313</sup> This relates to DOJ’s determination that the City’s “failure to thoughtfully assess the Division’s needs and prioritize effectively affects officers’ and supervisors’ ability to do their jobs . . . .”<sup>314</sup>

## 2. Challenges to Date

The City submitted its final Equipment and Resource Plan, as required by the First-Year Monitoring Plan, on November 25, 2016.<sup>315</sup> After closely reviewing the submitted Plan, the Monitoring Team, in turn, filed a motion with the Court indicating that – because it did not specifically, strategically, and comprehensively provide CPD officers with the tools they need to do their jobs – the Monitor could not approve the Plan.

The Monitoring Team’s analysis of the Plan was significantly informed by the Monitoring Team’s experience with substantial technology and equipment initiatives in other major American police departments. It is also informed by familiarity with generally-accepted approaches in the fields of information technology, project management, and strategic planning.

Successful compliance with the Consent Decree will require that the City and CPD successfully execute the implementation of numerous distinct but interrelated equipment, resource, and technology projects. For purposes of the instant filing, “project” refers to “a temporary endeavor undertaken to produce a unique product, service, or result.”<sup>316</sup> Similarly, “project management” is “a system of avoiding missed deadlines, vague expectations and budget overspending.”<sup>317</sup>

“In the process of planning” to manage and successfully execute such a project, “projects should be properly defined and divided into logical, progressive steps.”<sup>318</sup> Any successful project plan needs to provide overall objectives in clear terms that can be measured:

Objectives are quantifiable criteria used to measure project success. They describe the ‘what’ you’re trying to do, accomplish, or

<sup>302</sup> Dkt. 7-1 ¶ 292.

<sup>303</sup> *Id.*

<sup>304</sup> *Id.* ¶ 293.

<sup>305</sup> 2014 Findings Letter at 56–57.

<sup>306</sup> Dkt. 7-1 ¶ 292.

<sup>307</sup> *Id.* ¶¶ 160–75.

<sup>308</sup> *Id.* ¶ 157.

<sup>309</sup> *Id.* ¶ 87.

<sup>310</sup> *Id.* ¶ 188.

<sup>311</sup> *Id.* ¶ 327.

<sup>312</sup> *Id.* ¶ 328.

<sup>313</sup> *Id.*

<sup>314</sup> 2014 Findings Letter at 57.

<sup>315</sup> Dkt. 80-1 at 19.

<sup>316</sup> James P. Lewis, *Fundamentals of Project Management 2* (3d ed. 2007).

<sup>317</sup> William Fox and Gerrit van der Waldt, *A Guide to Project Management 8* (2008).

<sup>318</sup> *Id.* at 44.

produce. Quantifiable criteria should at least include schedule, cost, and quality measures . . .

..<sup>319</sup>

Generally, project management literature contends that objectives should be specific, measurable, accurate (e.g., precise), realistic, and time-bound or time-limited (e.g., have a time frame with an end date assigned to them).<sup>320</sup>

Further, a project plan needs to be specific about how the various broader components of the plan will be successfully implemented over time. Specifically, the plan needs to identify specific deliverables that “translate [the] project mission . . . into actionable realities.”<sup>321</sup> For “every deliverable that will be produced, the date [by which] it will be produced” also needs to be identified in concrete terms.<sup>322</sup>

With specific respect to planning for the strategic implementation of a number of IT-related projects, organizations “that excel in project delivery . . . clearly define what needs to be done in a project, by whom, when, and how” – “carefully select[ing] tools, align[ing] them with project and business goals, link[ing] them to metrics, and provid[ing] them to project managers to deliver positive results.”<sup>323</sup> “The most common reason for [IT] project failure [i]s poor planning,” including a “weak” project plan.<sup>324</sup>

Thus, although the City has some disagreement about the applicability of such concepts to its Consent Decree efforts,<sup>325</sup> the Monitor believes that it is fair, reasonable, and appropriate to demand that the City’s plan for implementing a host of new technology platforms and initiatives be structured and planned in a manner according to well-accepted standards and practices in the field of project management.

The Monitoring Team’s motion to the Court indicating that it could not approve the City’s submitted Equipment and Resource

<sup>319</sup> Kim Heldman et al, *PMP Project Management Professional Exam Study Guide* 107 (7th ed. 2007).

<sup>320</sup> See, e.g., Jason Westland, *The Project Management Life Cycle* 32 (2007); James P. Lewis, *Fundamentals of Project Management* 51 (2007); Mark Resch, *Strategic Project Management Transformation: Delivering Maximum ROI & Sustainable Business* 111 (2011); Richard Jones, *Project Management Survival: A Practical Guide to Leading, Managing and Delivering Challenging Projects* 59–61 (2007).

<sup>321</sup> Jack Ferraro, *Project Management for Non-Project Managers* 172 (2012).

<sup>322</sup> Paula Martin & Karen Tate, *Getting Started in Project Management* 128 (2002).

<sup>323</sup> Kathy Schwalbe, *Information Technology Project Management* 16–17 (2015).

<sup>324</sup> Brenda Whittaker, “What Went Wrong? Unsuccessful Information Technology Projects,” *7 Information Management & Computer Security* 21, 24–25 (1999).

<sup>325</sup> Dkt. 95 at 5.

Plan outlined a number of the deficiencies with the City’s proposed Plan. Some of those deficiencies related to fundamental project management, strategic, and planning failures:

**A Lack of Specific, Well-Supported Deadlines.** The Plan uniformly situates “project milestone completion dates” not in terms of actual dates but as references to general, quarter-year time periods. These overly broad, 90-day “deadlines” combine the worst of overly rigid project management with the worst of insufficiently detailed management approaches. On the one hand, because the deadlines are fixed time units, rather than relational to other internal milestones, small delays or unexpected events may substantially complicate project execution.<sup>326</sup> At the same time, the broad time periods ensure that there is no specific date certain by which particular projects can be expected to have been finished or major milestones reached – just a span of twelve to thirteen weeks over which the progress might be made. Ultimately, the three-month-long deadline windows make the determination of the sufficiency of the Plan, the City implementation of the Plan, and all stakeholders holding the City accountable for adhering to the Plan unacceptably problematic. Given the accepted “importance of deadlines and time urgency for focusing attention on nonroutine behavior” of organizations, some specific time parameters must be established and enforced.<sup>327</sup>

Further, the deadlines offered were not adequately supported, defended, or explained. Especially because social science and organizational behavior literature establishes that “[p]eople underestimate their own . . . [task] completion times,” the deadlines that are included need to be situated in terms of the underlying work, resources, and effort necessary to complete a given deliverable or reach a particular milestone.<sup>328</sup>

**A Failure to Identify Specific Actors Responsible for Various Deliverables.** “A successful project requires that the project team participate (at some level) in the planning process . . . and be responsible for completion of assignments . . . . Project team members need to be accountable for the effective performance of their assignments.”<sup>329</sup> Although some primary actors, business owners, or stakeholders are identified as responsible

<sup>326</sup> See, e.g., Stephen Leybourne and Eugene Sadler-Smith, “The Role of Intuition and Improvisation in Project Management,” *24 Int’l J. Project Mgmt.* 483 (2006) (describing need for project managers to be flexible and objective-oriented).

<sup>327</sup> Nancy Satudenmayer et al, “Time to Change: Temporal Shifts as Enablers of Organizational Change,” *13 Organization Science* 583, 584 (2002); accord Dkt. 93-3 at 3 (noting that “[e]ach component of the Equipment & Resource Plan . . . should have an accompanying management control [and] accountability”).

<sup>328</sup> Roger Buehler et al, “Exploring the ‘Planning Fallacy’: Why People Underestimate Their Task Completion Times,” *67 J. Personality & Social Psyc.* 366, 371 (1994).

<sup>329</sup> California Office of the State Chief Information Officer Archives, *Project Management Overview: Roles and Responsibilities* at 1 (Jan. 1997).



for some of the major project milestones, most deliverables are not attached to any specific entity, person, or City representative. For example, the Plan outlines the City's efforts to secure and implement a Learning Management System, which will provide an electronic environment for training and professional development activities. Although a Business Owner is specifically identified, the Plan does not describe precisely who has been reviewing proposals from vendors, has been viewing vendor demonstrations, will be selecting the system, and will be coordinating the in-field implementation and training (of some undefined set) of officers.

**The Summary Rejection of the Need for Outside Experts.** The Monitor's First Semiannual Report outlined the five-year odyssey involved to "upgrade" CPD's record management system software, which "is the main storage system that the police department depends on for data storage and retrieval of critical information."<sup>330</sup> The Monitoring Team identified significant basic IT governance and project management problems as a critical cause of the problems with the system's implementation. "These technological, business practice, and project management problems are not simply technical or bureaucratic – they have real-world ramifications for Cleveland's officers and the Cleveland community," with incident reports becoming backlogged for entry into the struggling new system, called LERMS.<sup>331</sup> Indeed, the City concedes that "[t]he LERMS project failed due to a lack of project management structure, governance, documentation, executive sponsorship and oversight."<sup>332</sup>

Accordingly, the Monitoring Team has repeatedly recommended to the City and CPD that it engage with outside consultants to assist it in revamping its overall IT governance structure, implementing major new platforms, and dramatically enhance the capacity of the City and CPD to "properly maintain[] and . . . continuously improve upon existing equipment and technology," "identify[] equipment needs," and "utilize, as appropriate, emerging technologies."<sup>333</sup> The City declines. Instead, the Plan vaguely observes that the Project management Office "currently utilizes outside consultants in the implementations of various citywide IT projects."<sup>334</sup>

Assuming the City's assertions are true, and without knowing what consultants may be available for what types of projects encompassed by the Plan, the possibility for the City to secure outside help and experts is undoubtedly positive. However, even if consultants are already on retainer to help the Project Man-

agement Office with particular IT projects, those consultants are, by the City's own admission, not assisting the City or CPD in overhauling the approach used to equipment, resource, and technology problems; strategically planning for immediate and long-term needs; and thoughtfully implementing changes in systems and processes that are ripe with interdependencies. The City's Plan appears to argue that the five years of problems with LERMS was an isolated or exceptional circumstance. It says that individuals "involved with the original LERMS project" will not be a part of at least the field-based reporting initiative.<sup>335</sup> Additionally, "when the initial LERMS project was started," there "was no Chief Information Officer of the City of Cleveland" and "[n]o project management approach . . . in place."<sup>336</sup>

Although the City's current candor about the LERMS implementation is admirable, it simply is not clear that new systems, processes, and habits are, in fact, in place to manage major, future projects in a new, better, and more resource-efficient way. Further, if the City's current law enforcement IT approach

apparently cannot manage to get 105 computers deployed to the field so that officers can use them in a timely manner, the Monitoring Team is highly skeptical of the approach's ability to massively overhaul CPD's reporting, dispatch, and other core systems.

To this end, the Monitoring Team requests that the Court address the possibility of the City hiring an outside consultant, with responsibility for overseeing the construction and execution of the Equipment and Resource Plan and restructuring IT governance with respect to the Division of Police, to serve as a kind of "IT Czar." The City's encouraging, recent hire of an outside consultant to serve as a Data Analysis Coordinator across CPD and City functions for purposes of the Consent Decree might serve as a template for engaging the kind of outside assistance that can build long-term capacity within CPD and the City with respect to IT. Although the City appears to have misunderstood this suggestion as amounting to a "suggested takeover of the City's Executive administrative functions,"<sup>337</sup> the Monitoring Team simply believes that CPD and the City would benefit from having a single, high-skilled individual coordinate the successful planning for and management of the host of complicated projects that will be implicated by the Equipment and Resource Plan – which would obviously not do anything approaching an impingement on the City's "local self-governing authority."<sup>338</sup>

The Monitor does dispute, however, the claim that "there is no ongoing City IT crisis that warrants the added expense and interruptions associated with appointing" an outside consultant

<sup>330</sup> Dkt. 83 at 56.

<sup>331</sup> *Id.* at 57.

<sup>332</sup> Dkt. 93-1 at 13.

<sup>333</sup> Dkt. 7-1 ¶ 293(e)-(f).

<sup>334</sup> Dkt. 93-1 at 13.

<sup>335</sup> *Id.*

<sup>336</sup> *Id.*

<sup>337</sup> Dkt. 95 at 9.

<sup>338</sup> *Id.* at 10.

to assist the City.<sup>339</sup> That the Division of Police is decades behind its peers and where it should be with respect to core law enforcement systems does constitute a crisis that can only be addressed with a serious, strategic, and comprehensive plan, which the City has been unable, to date, to produce.

**The Failure to Address the Decree’s Requirements Related to Identifying Equipment Needs, Maintaining and Improving Upon Existing Technology, and Utilizing Emerging Technologies.** The Consent Decree requires that the Plan “ensure that CDP” “properly maintains and seeks to continuously improve upon existing equipment and technology” and “is appropriately identifying equipment needs and seeking to utilize, as appropriate, emerging technologies.”<sup>340</sup> Especially because the City declines to consider utilizing an outside consultant to assist it in improving its law enforcement IT governance and project management, the Plan does not comply with these maintenance and improvement requirements of the Consent Decree.

For the Monitoring Team to be in a position to approve an Equipment and Resource Plan from the City, it needs to have confidence that the processes and habits that have given Cleveland a five-year implementation of a software program, an approaching one-year-long process for deploying desktop computers to District stations, and a generally under-resourced police department have been addressed – such that CPD never again finds itself with its police officers lacking the tools and support that they need to do their jobs..

*It is unclear why it has taken nearly one year to deploy computers purchased with a state grant to the officers that need them. Instead, they apparently continue to sit in storage.*

**Failure to Meaningfully Account for Project Interdependencies.** A number of the City’s timelines with respect to specific projects fail to adequately account for the interdependencies across other projects. Indeed, the overall structure of the Plan – with a litany of specific projects listed in isolation and without cross-reference to the timelines or initiatives in other, related projects – suggests that the City has not adequately identified how the rate of progress on some initiatives may impact the rate of progress in others.

Other issues relate to the City’s inability to adequately address specific technological and resource requirements of the Consent Decree:

**Inadequacy of the Plan’s Treatment of Precinct-Based Computers.** According to CPD’s own Equipment and Resource Study, one-third (or 36 percent) of CPD’s total “working computers” are housed in the Division’s five patrol Districts.<sup>341</sup> One out of ten (11 percent) of working PD computers are available to CPD patrol personnel, rather than to supervisors, com-

mand staff, or administrative personnel.<sup>342</sup>

The City’s Plan does not provide any sense of what “an adequate number of computers” under the Consent Decree is.<sup>343</sup> Although it contends that the current ratio of computers to personnel are 1: 2.24 and that the addition of 105 computers secured by an Ohio state grant would bring the ratio to 1: 1.92, without describing the numbers on which such ratios are based, the Plan likewise does not outline a mechanism, method, or process for identifying what an adequate number of computers in fact would be – or specifically how CPD and the City will ensure that the number is “properly maintain[ed].”<sup>344</sup>

The Plan observes that computers purchased through an Ohio state grant will be deployed in 2017. Not only does the Plan fail to note that the computers have been sitting in City storage since at least early 2016, it does not provide for any process of identifying whether more than the previously-purchased 105 computers are necessary for current staffing, current and anticipated use needs, or current and anticipated use volume. To the extent that the City and CPD might “identify the number of Computers to be deployed at each District” as more than 105, no process or timeline is provided for identifying the number, purchasing the computers, and deploying them to the field.<sup>345</sup>

Additionally, the Monitor notes that the Plan suggests that the 105 “new” computers are intended “for Field Based Reporting.”<sup>346</sup> Generally, the phrase “in the field” means “[a]way from the laboratory, office, or studio . . . .”<sup>347</sup> In law enforcement, “field reporting” generally refers to front-line officers providing data and information from the neighborhoods where they work on a mobile platform.<sup>348</sup>

A police station is not the field, and “In-Station Reporting” is not field reporting – leaving the Monitoring Team substantially confused about how the 105 computers have anything to do with true “field reporting.”<sup>349</sup> The Monitoring Team has outlined these concerns to the City, most recently in its November 3, 2016 memorandum. The Community Police Commission has also emphasized the need for officers to have dynamic, real-time access to databases that might contain information about a sub-

<sup>339</sup> *Id.* at 10.

<sup>340</sup> Dkt. 7-1 ¶ 293(e)-(f).

<sup>341</sup> Dkt. 93-2 at 5.

<sup>342</sup> *Id.* at 5-6.

<sup>343</sup> Dkt. 7-1 ¶ 293(a).

<sup>344</sup> Dkt. 7-1 ¶ 293(e).

<sup>345</sup> Dkt. 93-1 at 5.

<sup>346</sup> *Id.*

<sup>347</sup> “in the field” Oxford Living Dictionary, [https://en.oxforddictionaries.com/definition/in\\_the\\_field](https://en.oxforddictionaries.com/definition/in_the_field) (last visited Dec. 17, 2016).

<sup>348</sup> See Larry T. Hoover, “From Police Administration to a Police Science: The Development of a Police Academic Establishment in the United States,” 8 *Police Quarterly* 44 (2005).

<sup>349</sup> Dkt. 93-1 at 8.

ject, such as if the individual is known to face mental health challenges.<sup>350</sup>

**The Plan’s Treatment of the Necessary Computer-Aided Dispatch Upgrade Is Inadequate.** Computer-aided dispatch (“CAD”) systems “allow public safety operations and communications to be augmented, assisted, or partially controlled by an automated system.”<sup>351</sup> “CDP dispatch” currently uses one such CAD system “for call handling, assignments and field notifications,” and the implementation of a CAD system to CPD officers “will provide an accurate and consistent picture of an incident in progress for personnel in the field.”<sup>352</sup>

Cleveland implemented the current CAD platform in 2005.<sup>353</sup> The City “upgraded the CAD system to include Silent Dispatching[,] which allows for the dispatcher to dispatch calls for service via the Mobile Data Terminal instead of over the . . . radio . . . .”<sup>354</sup> Cleveland’s EMS and Fire elected to use Silent Dispatching.<sup>355</sup> The Division of Police declined to do so. As such, CPD’s radio is among the busiest and loudest that this Monitoring Team has observed – and officers must track, for themselves, information provided by communications and dispatch on their own notepads or on their personal cell phones rather than having the information displayed on an in-car computer.<sup>356</sup>

*CPD has too few patrol cars. The patrol cars that it does have are in poor repair and old, with more than one-third currently having over 90,000 miles.*

The City indicates that “[f]unding is currently in place to order and install the recommended number of Mobile Data Terminals need[ed] to outfit the Patrol Vehicle fleet.”<sup>357</sup> Assumedly to ensure that new computers are not placed in old cars that will soon need to be decommissioned, the Plan indicates that a Police Vehicle Replacement Plan would be “developed to identify when vehicles will be scrapped out due to age and/or mileage.”<sup>358</sup> Given that the Equipment and Resource Plan being reviewed was submitted to the Monitoring Team on November 25, 2016, it is unclear why the instant Plan does not include more detailed information about the implications of vehicle fleet modernization on MDT installation and CAD implementation.

**The Plan Fails to Substantively and Specifically Address CPD’s Inadequate Number of Patrol Cars.** CPD currently has an insufficient number of patrol cars overall. CPD reports to have 358 marked zone cars, spread throughout the Districts, Downtown Services Unit, Bureau of Traffic, CLE Hopkins International Airport, and other locations. CPD reports that “[a] source of frustration by all personnel is the lack of vehicles,” especially due to slow “turnaround time” while “waiting to be serviced or repaired at Motor Vehicle Maintenance.”<sup>359</sup> CPD reports that its current benchmark for marked vehicles is 394 – leaving CPD at a deficit of nearly 10 percent (9.2 percent), even before considering those staffing changes that will be necessary to effectuate the Decree’s other requirements.

Further, the condition of the insufficient number of patrol cars that CPD does have in service is poor. More than one-third (38 percent) of CPD patrol cars have over 90,000 miles. Nearly one out of ten (8 percent) of total CPD vehicles were out for maintenance in July 2016 – a process that takes too long, is inefficient, and may be too expensive. Indeed, Monitoring Team personnel have been surprised by the incredibly poor condition of many individual cars in CPD’s fleet. Despite these problems with CPD vehicles, CPD and the City have not, to date, had a plan for vehicle inventory replacement. CPD itself correctly notes that “[a]s it stands today, 38% of the fleet could be replaced around the same time,” which “will be costly to the City of Cleveland if the fleet is not managed and maintained.”<sup>360</sup> Thus, the City of Cleveland does not have enough patrol cars for its officers, and the ones that it has are in poor condition and will soon need to be replaced – but the City has not, to date, had any plan to remedy the problem.

The Consent Decree requires that “CDP’s Equipment and Resource Plan . . . provide for necessary equipment including . . . an adequate number of operable and safe zone cars . . . with reliable, functioning computers that provide officers with up-to-date technology.”<sup>361</sup> The Plan that the City submits fails to provide for an adequate number of operable and safe cars. It engages in no effort to estimate, benchmark, or otherwise determine how many cars are necessary. It outlines only a short-term, one-shot process for coming up with a Patrol Vehicle Modernization Plan – not a process for ensuring that the fleet remains modern nor, even more fundamentally, a process for actually procuring the vehicles.

CPD has contended that the Plan does not contain specifics about the number of cars that will be procured or the timeline for such procurement because other City stakeholders, including City Council and Motor Vehicle Maintenance, need to take independent action. Although the Monitoring Team under-

<sup>350</sup> Dkt. 93-3 at 2–3.

<sup>351</sup> Bureau of Justice Assistance, U.S. Department of Justice, *Standard Functional Specifications for Law Enforcement Computer Aided Dispatch (CAD) Systems* at viii.

<sup>352</sup> Dkt. 93-1 at 15.

<sup>353</sup> *Id.*

<sup>354</sup> *Id.*

<sup>355</sup> *Id.*

<sup>356</sup> See Dkt. 93-3 at 3 (raising the issue of whether “new equipment and technology capacity [will] result in the decommissioning of use of private cell phones and other technologies by police officers in the carrying out of their official duties”).

<sup>357</sup> Dkt. 93-1 at 16.

<sup>358</sup> *Id.*

<sup>359</sup> Dkt. 93-2 at 19.

<sup>360</sup> *Id.*

<sup>361</sup> Dkt. 7-1 ¶ 293.

stands those realities, it assumes that all City stakeholders and Cleveland residents would benefit from a realistic and specific appraisal of how many cars are necessary to procure to ensure that officers have enough high-quality vehicles in which to patrol Cleveland's neighborhoods and respond to calls for service. Although the Monitor could approve an ultimate Equipment and Resource Plan that included a specific process for benchmarking the number of patrol cars needed given the Division's current staffing and deployment, a specific deadline for determining the number of cars necessary, and a specific deadline for those cars to be procured, the Monitor cannot approve an Equipment and Resource Plan that lacks specifics or in which "the budget," which "is to be determined," is the exclusive driver of how well-supported CPD's personnel may be.<sup>362</sup>

### 3. Approach Going Forward

At a status conference on January 6, 2017, the Court instructed the City to continue to work with the Department of Justice and Monitor on a more detailed and comprehensive Equipment and Resource Plan. The Monitoring Team looks forward to continuing to discuss these important issues.

### C. Recruitment & Hiring

The Monitor has previously reported on the City's initial attempts to "develop a recruitment policy and a strategic recruitment plan that includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross-section of the community, . . . establish[ing] and clearly identify[ing] the goals of CDP's recruitment efforts."<sup>363</sup>

Specifically, the First Semiannual Report noted that the City's initial, draft plan "suggested to the Monitoring Team both a lack of dynamic, outside-the-box thinking about how to attract diverse and qualified officers and a significant lack of clear project management structure."<sup>364</sup> It noted that, although a subsequent draft provided on April 11, 2016 was "somewhat more specific," a substantial "amount of work [was] still necessary to craft a sufficient, actionable plan for complying with paragraph 304 of the Consent Decree."<sup>365</sup>

The Updated First-Year Monitoring Plan did not cover a sufficient time period, or available resources, to allow for Consent Decree stakeholders to re-focus on the Recruitment and Hiring Plan process.<sup>366</sup> In the meantime, the City has implemented some discrete projects related to recruitment and hiring, including the implementation of an on-line application process and securing the services of outside vendors to assist in the testing of prospective recruits.

<sup>362</sup> Dkt. 93-1 at 60.

<sup>363</sup> Dkt. 7-1 ¶ 302.

<sup>364</sup> First Semiannual Report at 59–60.

<sup>365</sup> *Id.* at 60.

<sup>366</sup> See Dkt. 80.

The Monitoring Team must be clear that the Consent Decree requires that the City submit, and the Court approve, a Recruitment and Hiring Plan – and that such a Plan subsequently be substantially and effectively implemented in practice. A discrete assortment of process or platform changes, such as providing for on-line applications, is a solid component of a broader strategy and plan but is not a sufficient substitute for such a strategy and plan. Thus, even if the City indicates that it is making reforms to the recruiting and hiring process, those reforms are happening outside of the Consent Decree process currently – and they must be brought into it for the City to be considered in compliance with paragraphs 300 through 311 of the Consent Decree.

Put simply, the Consent Decree mandates that "[t]he City will implement the recruitment plan within 60 days of it being approved by the Monitor."<sup>367</sup> The Monitor has not approved this plan and will not unless it "includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross-section of the community."<sup>368</sup>

To this end, the Monitoring Team rejects any notion that operationalizing the goal of the plan – e.g., expressly indicating that the goal of the Plan is to increase the diversity of recruit candidates by a certain percentage – would somehow amount to an impermissible racial quota and violate state employment law. Care must be afforded to noting that targeted outreach to a host of Cleveland's diverse communities in order to encourage them to voluntarily apply for employment and proceed through the hiring process does not constitute any impermissible or discriminatory practice.<sup>369</sup>

### D. Performance Evaluations and Promotions

"The First-Year Monitoring Plan d[id] not directly address . . . issues" relating to ensuring regular and comprehensive performance evaluations of CPD personnel and that "high-performing officers have access to promotional opportunities."<sup>370</sup> The Monitor suspects that work on this will commence in late 2017

<sup>367</sup> Dkt. 7-1 ¶ 303.

<sup>368</sup> *Id.* ¶ 302.

<sup>369</sup> See, e.g., David Pitts, "Diversity Management, Job Satisfaction, and Performance: Evidence from U.S. Federal Agencies," *Public Administration Review* 69.2 (2009) 329–30 ("[R]ecruitment and outreach[] considers whether an organization is extending itself to all potential sources of employees . . . [I]t involves seeking out employees from the labor market who may not be 'found' through the typical venues. Increasing organizational diversity has the potential to increase performance [citing sources]."); Steven A. Ramirez, "Diversity and the Boardroom," 6 *Stan. J. L. Bus. & Fin.* 85, 105 (2000) ("Recognizing the benefits of diversity empowers a company to approach hiring in a more eclectic fashion, including recognizing that a firm has too many individuals of a homogenous background and not enough individuals of different backgrounds.").

<sup>370</sup> First Semiannual Report at 60.



or early 2018, as a number of “policies, procedures, systems, and training” that will inform changes in evaluations and promotions must still be “fully implemented.”<sup>371</sup> Thus, it largely remains “too early in the Consent Decree process to devise an evaluation” and promotion “system” that comprehensively addresses the Decree’s requirements in these areas.<sup>372</sup>

## E. Staffing

CPD submitted to the Monitoring Team a Resource Study and Deployment Proposal on June 17, 2016. The document contained elements both of the Consent-Decree-required “staffing study to assess the appropriate number of sworn and civilian personnel” and the Consent-Decree-required Staffing Plan focused on how deployment should work going forward within the Division.<sup>373</sup> Of particular utility to the Monitoring Team and other Consent Decree stakeholders was CPD and the City’s accounting of its current personnel, span of control (e.g. how many officers are assigned to how many supervisors), and deployment patterns.

However, the requirement of the Consent Decree is for CPD’s staffing study “to assess the appropriate number of sworn and civilian personnel to perform functions necessary for CDP to fulfill its mission, and satisfy the requirements of this Agreement.”<sup>374</sup> Indeed, the eventual Staffing Plan must permit the Division to deliver services “consistent with its mission, including community and problem-oriented policing,” and must “allow CDP to meet the requirements of this Agreement.”<sup>375</sup>

As this report makes clear, much work remains – involving numerous stakeholders and, indeed, as many of Cleveland’s residents who can devote the time to become involved – on creating the required community and problem-oriented policing plan. Likewise, the remainder of this report also makes clear how much substantive work remains on core areas of the Consent Decree – including use of force, search and seizure, supervision, crisis intervention, and the like – that will almost certainly impact the day-to-day structure, operations, and deployment of CPD personnel.

Thus, the Division cannot know at this time – and neither can the Monitoring Team – precisely how many officers CPD requires, or how those officers should be deployed across the Division, to satisfy everything that the Consent Decree requires. Consent Decree stakeholders will know more once there is clarity on how community and problem-oriented policing will look in Cleveland pursuant to the upcoming community policing plan. By that time, policies related to use of force response and investigation by supervisors will also be more defined, with

<sup>371</sup> *Id.*

<sup>372</sup> *Id.*

<sup>373</sup> Dkt. 7-1 ¶¶ 319–20.

<sup>374</sup> *Id.* ¶ 319 (emphasis added).

<sup>375</sup> *Id.* ¶ 320.

resource implications for personnel devoted to the Force Investigation Team and Force Review Board more well-known. At around the same time, it is hoped that new policies related to the consolidated and expanded Internal Affairs function will make similar deployment implications clear.

In short, the CPD’s initial Resource Study and Deployment Proposal was an incredibly useful guide for understanding, at a high level, the Division’s current personnel and the manner in which they are deployed. However, it must be clear that the Study and Proposal was not the ultimate Staffing Plan. Accordingly, this process must, at the appropriate juncture, ensure the development of a Staffing Plan that conforms to paragraphs 319 through 321 of the Consent Decree – and that the City and CPD subsequently will “employ best efforts to implement” over “the period of time set forth in the” future “approved plan.”<sup>376</sup>



<sup>376</sup> Dkt. 7-1 ¶ 321.

ing Team and Division have discussed.<sup>380</sup> Because “sergeants have historically received relatively little training other than on CPD policies and other bureaucratic considerations,” such training will be the first time that some within the Division may receive formalized instruction “on effective management skills, leadership development, supervisory techniques and approaches, evaluating performance, understanding community and work styles, and other areas.”<sup>381</sup>

The Monitoring Team intends to spend even more time, as new substantive policies are rolled out to the Division’s officers and supervisors, within CPD’s districts – both understanding the day-to-day realities of first-line supervisors and the officers under the command, as well as providing real-time technical assistance to the men and women on whom the Division relies to carry out its mission on a daily basis.

## B. Officer Intervention Program

A critical part of supervisor responsibility involves responding proactively to officer performance, identifying potential challenges, and actively assisting officers in a non-disciplinary context to change habits or behaviors before they become problematic. The Monitoring Team has previously described how so-called early intervention systems can serve as one critical, automated means of promoting such supervision:

An early intervention system builds on the basic principles of personnel management and human resource development that have developed in the private sector. The purpose of the system is to translate officer performance indicators into a formal management tool for identifying officers with potential behavioral problems or issues that would benefit from some form of proactive intervention. Such a system relies on a database that logs information about various elements of an officer’s performance . . . . Supervisors will be required to regularly review this performance data. When an officer reaches a certain, defined threshold in some area of performance, a supervisor will be required to assess an officer’s performance . . . .<sup>382</sup>

If the supervisor determines that some intervention is necessary for an officer, that intervention will take the form of “non-disciplinary corrective action.”<sup>383</sup>

While the CPD currently maintains a process that is referred to as the Officer Intervention Program (“OIP”), the Consent De-

<sup>380</sup> *Id.*

<sup>381</sup> *Id.*

<sup>382</sup> *Id.* at 63 (internal citations omitted).

<sup>383</sup> Dkt. 7-1 ¶ 327.

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# SUPERVISION

## A. First-Line Supervisors

As the Monitoring Team outlined in its previous report, “[i]t is an established principle in policing that first-line supervisors – sergeants – play a critical role in directing and controlling the behavior of officers in police-citizen encounters.”<sup>377</sup> Consequently, the Consent Decree outlines a number of critical duties for sergeants.<sup>378</sup>

With training for all officers, regardless of rank, on new use of force policies imminent, supervisors will begin to receive some critical, new elements of “the practical toolkit that they need to promote high-quality performance from those under their command.”<sup>379</sup> Specifically, first-line supervisors will need to respond to and manage the scene of most use of force incidents and, with respect to lower-level force, will need to conduct the Division’s administrative inquiry into the force. This constitutes a significant charge, and sergeants will need the training and support from their own supervisors necessary to effectuate these duties.

It is also likely that part of 2017’s training initiatives will include the type of “in-service management training” that the Monitor-

<sup>377</sup> First Semiannual Report at 62 (quoting Samuel Walker, National Institute of Justice, “Police Accountability: Current Issues and Research Needs” (2007) at 12, available at <http://www.ncjrs.gov/pdffiles1/nij/grants/218583.pdf>).

<sup>378</sup> *Id.*

<sup>379</sup> *Id.*

creed will require substantial modification of the OIP that will increase its effectiveness and transform it into a broader early intervention system.<sup>384</sup> This modification of the OIP will provide a broader, systemic approach to early intervention.

Because the First-Year Monitoring Plan elected not to focus on progress in this area during the first year of Consent Decree implementation, CPD has yet to meaningfully engage on several issues relating to the OIP. It is likely that work will begin in earnest on the OIP during the upcoming, second year of monitoring.

One primary issue that CPD will have to address relates to its information technology infrastructure. CPD continues to implement IAPro as the hub of officer performance data, and it is this information that will inform the early intervention process. One of the challenges of the backlog of BlueTeam entries uncompleted by supervisors and not reviewed by the CPD chain of command is that these incidents could not be considered for purposes of officer performance assessments and the possible non-disciplinary behavioral intervention of the OIP. In short, if the basic requirements of the OIP involve supervisors routinely viewing and considering data and information on officer performance, that data and information needs to be accurate, comprehensive, and up-to-date. As this report outlines elsewhere, CPD has some distance to travel to provide this type of data platform for the OIP and department management more generally.

At present, OIP is considered a program of the Medical Unit, with that Unit primarily responsible for tracking officer information and reporting to supervisors. The Monitoring Team has previously described CPD's current OIP:

CPD's existing officer intervention program constitutes a good starting point to the extent that it identifies personnel subject to administrative charges, sick time abuse, civilian complaints, use of force incidents, and internal investigations. Supervisors, or other employees, can refer officers who may benefit from 'guidance and assistance' are referred to the program by the Occupational Medical Director of CPD's Medical Unit.<sup>385</sup>

Although this process is well-intentioned, IAPro and the use of information in IAPro as part of the EIS process do not constitute medical issues. They are core operational and management issues. Consequently:

[R]ather than something related to an internal medical division about which officers and supervisors have understandable concerns about privacy implications, the program will need to be considered by the Division as a pri-

mary officer performance management tool – and something that is a primary vehicle for self-managing the risks of unconstitutional policing.<sup>386</sup>

Rather than the Medical Director managing the information, the supervisors need ongoing access to system data to help improve the performance of officers under their command and enhance its effectiveness as a proactive management tool that helps promote constitutional policing. Given that first line supervisors play a critical role in the direction and controlling of officers under their command, it is important that they have tools to help them direct and control their interactions with citizens. An OIP that is modified to create an effective early intervention program will be in compliance with Consent Decree requirements and will help CPD ensure stronger supervisor, enhanced accountability, and better professional development for the Division's officers.

### C. Body-Worn Cameras<sup>387</sup>

As the Monitor has previously indicated, the CPD has recently joined numerous other police departments in using body cameras in some capacity.<sup>388</sup> Pursuant to the Consent Decree, "[i]f CDP chooses to use body worn cameras, CDP will provide clear guidance and training on their use, and will implement protocols for testing equipment and preservation of recordings to foster transparency, increase accountability, and build trust, while protecting the privacy rights of individuals."<sup>389</sup>

The Court-approved First-Year Monitoring Plan provided that the Monitor would "review and assess CPD's current body-worn camera policies and practices," which would "include the collection of input from" a host of community stakeholders "about CPD's current body-worn camera policies and practices."<sup>390</sup> In March and April 2016, the Monitoring Team met with police officers, received input from community organizations such as the American Civil Liberties Union (ACLU), and talked with residents who were knowledgeable about the Division's prior process for developing the body-worn camera policy. On April 11, 2016, the Monitoring Team circulated a memorandum to CPD and the City regarding the Division's Body-Worn Camera (Wearable Camera System) Policy, General Police Order Number 3.2.20.

<sup>386</sup> *Id.* at 64.

<sup>387</sup> Portions of this section are reproduced or adapted from the Monitor's motion to the Court regarding the proposed body-worn camera policy found at Dkt. 92.

<sup>388</sup> Dkt. 65 at 64 ("All CPD patrol officers are equipped with body cameras, with specialty units (such as personnel working at the Cleveland Hopkins International Airport) slated to be equipped with units in the near future.")

<sup>389</sup> Dkt. 7-1 ¶ 337.

<sup>390</sup> Dkt. 44-1 at 53.

<sup>384</sup> *Id.* ¶¶ 326–36.

<sup>385</sup> First Semiannual Report at 63 (internal citations omitted).

Stakeholder focus subsequently shifted to work on new policies related to force, new policies and protocols for crisis intervention, operational manuals for the Office of Professional Standards and Police Review Board, and on the City's preparation for the Republican National Convention in July 2016. Pursuant to revised deadlines in the Updated First-Year Monitoring Plan,<sup>391</sup> CPD and the Parties continued work on revising the body-worn camera policy in October 2016. The deadline for the Monitor to "recommend[] approval or disapproval of the Final Draft Body Worn Cameras Policy to the Court, either in whole or in part" was, with the Parties and Monitor having agreed that a seven-day extension of the deadline was "warranted and acceptable," December 19, 2016.<sup>392</sup>

In its December 19, 2016 motion to the Court, the Monitoring Team indicated that the Proposed Policy "establish[es] guidelines for the use, management, storage, retrieval, and supervision regarding the [WCS]."<sup>393</sup> It sets forth that the policy of the Department is that "WCS shall be deployed to ensure transparency and foster trust in our community."<sup>394</sup> It then sets forth clear and straightforward guidance regarding when the WCS must be activated – that is, placed into "event mode" from "buffering mode," in which ongoing footage is captured but "recorded over" in a security-camera-style recording loop of approximately thirty seconds or so.<sup>395</sup> The Proposed Policy provides that, if placing the camera in "event mode" is "not feasible due to an immediate risk to the safety" to the officer or others, the officer shall activate it "as soon as the immediate threat has been addressed."<sup>396</sup> The Proposed Policy then gives a non-exhaustive list of examples for when the camera must be deployed<sup>397</sup> and sets forth those circumstances in which the camera can be returned to buffering mode, primarily to protect citizens' privacy or in situations where consent is needed to record and is not given.<sup>398</sup> This is a substantial improvement on earlier versions of the Proposed Policy which contained convoluted and unnecessarily confusing language governing when to place the WCS unit into event mode.

The Proposed Policy prohibits officers from editing, deleting, or altering the recordings,<sup>399</sup> has a number of other provisions regarding officers' responsibilities for handling their cameras,<sup>400</sup> and also requires comprehensive and continuous training.<sup>401</sup> Although the Monitoring Team still believes that the exceptions

to the "default rule" regarding when cameras must be activated could be further streamlined and structured, it finds that, overall, the Proposed Policy succeeds in "provid[ing] clear guidance and training on their use," as required by the Consent Decree.<sup>402</sup>

The Proposed Policy further sets forth that officers "shall be subject to the disciplinary process for intentional, repeated or otherwise unjustified failure to activate their WCS in violation" of the policy<sup>403</sup> consistent with the Consent Decree's requirement that "[o]fficers will be subject to the disciplinary process for intentional or otherwise unjustified failure to activate body worn cameras in violation of CDP policy."<sup>404</sup> It properly requires documentation of the reason that the camera "has been returned to buffering mode" from event mode.<sup>405</sup> It also delineates the responsibilities of supervisors, satisfying the Consent Decree's requirements that supervisors "review recordings" in various situations,<sup>406</sup> and "conduct adequate random and directed audits" of recordings.<sup>407</sup> Finally, the Proposed Policy sets forth various rules regarding the retention and storage of the recordings.<sup>408</sup>

After reviewing the body-worn camera policy, the Monitoring Team concluded that – with three exceptions – the provisions and requirements of the Proposed Policy represent substantial progress toward meeting the Consent Decree's requirement that, having chosen to use body-worn cameras, CPD "will provide clear guidance and training on their use, and will implement protocols for testing equipment and preservation of recordings to foster transparency, increase accountability, and build trust, while protecting the privacy rights of individuals."<sup>409</sup>

At the January 6, 2017 status conference, the Court provided the City with 30 days to provide more details about the potential cost implications of requiring that CPD officers use body cameras during secondary employment that is reasonably related to a law enforcement function. The Monitoring Team looks forward to receiving this additional, detailed, and fact-based report from the City and will update the Court and the public about the implications of the report.

<sup>391</sup> Dkt. 80-1 at 19.

<sup>392</sup> *Id.* at 3, 19.

<sup>393</sup> Dkt. 92-1 at 2.

<sup>394</sup> *Id.*

<sup>395</sup> *Id.* ¶ I-A.

<sup>396</sup> *Id.* ¶ I-B.

<sup>397</sup> *Id.* ¶ II-B-1-a.

<sup>398</sup> *Id.* ¶ II-C.

<sup>399</sup> *Id.* ¶ I-C.

<sup>400</sup> *Id.* ¶¶ I-C, I-E, I-F.

<sup>401</sup> *Id.* ¶ IX.

<sup>402</sup> Dkt. 7-1 ¶ 337.

<sup>403</sup> Dkt. 92-1 ¶ I.I.

<sup>404</sup> Dkt. 7-1 ¶ 340.

<sup>405</sup> Dkt. 92-1 ¶ II-B-h.

<sup>406</sup> Dkt. 7-1 ¶ 338; Dkt. 92-1 ¶ III-A-5.

<sup>407</sup> Dkt. 7-1 ¶ 339; Dkt. 92-1 ¶ IV.

<sup>408</sup> Dkt. 92-1 ¶ VIII.

<sup>409</sup> Dkt. 7-1 ¶ 337.



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## COMPLIANCE & OUTCOME ASSESSMENTS

The Monitoring Team has previously outlined the types of formal assessments that it makes of CPD's progress toward implementing the Consent Decree:

A good portion of the Monitoring Team's efforts . . . [are] 'compliance assessments.' This class of work involves the Monitoring Team evaluating whether CPD and the City are, in fact, doing what is required under the Consent Decree; doing it with a sufficient level of quality; and ensuring that the approved policies, procedures, and training are being actively implemented in the field by officers. In simplest terms, the Monitor's 'compliance reviews' evaluate if CPD and the City are doing what they are supposed to be doing under the Decree . . .

However, the Consent Decree reforms will only be worthwhile to the extent that they drive real change in the real world – and in the ongoing, daily experiences of residents from across Cleveland's diverse communities . . .

To this end, the Decree requires the Monitor to also conduct 'outcome assessments,' or qualitative and quantitative assessments to measure whether implementing this Agreement has resulted in constitutional policing' in Cleveland . . . [T]hese 'outcome measurements' explore whether implemented changes are having the actual effects across the Cleveland community that they are intended to have.<sup>410</sup>

The following sections summarize the Monitoring Team's effort during the most recent reporting period to both quantitatively and qualitatively assess the nature of CPD's compliance

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<sup>410</sup> First Semiannual Report at 66 (internal quotations and citations omitted).

with specific Consent Decree requirements and measure the real-world outcomes expected by successful implementation of such reforms.

### A. Consent Decree Survey Requirements

#### 1. General Community Survey

Since the First Semiannual Report in early June 2016, the Monitoring Team completed the Consent Decree-required, biennial community survey process<sup>411</sup> and submitted a report highlighting the results of the survey to the Court.<sup>412</sup> Approximately 1,400 Cleveland residents responded to a telephone survey designed to learn more about the trust and confidence residents feel and experience toward the police, residents' sense of safety, and their relative support for the police department and its employees. The results of this survey are outlined elsewhere in this report.

#### 2. Police Officer Survey

The Monitoring Team also must facilitate focus groups of the community and officers to better understand police-community relations.<sup>413</sup> Accordingly, the Monitoring Team has prepared a call for survey firms that has been publicized widely as well as circulated to eligible and recommended capable firms. Potential responding firms for whom the targeted outreach was agreed to be useful were identified by the City's Legal Department and the Mayor's Technical Expert Consultant on Surveys. The drafting of the call for firms was conducted by the Monitoring Team with feedback from the City's expert consultant as well as the Department of Justice, the City, and CPD.

The call for firms was released on October 26, 2016, with responses submitted by November 22, 2016. Scoring and selection was conducted by a Monitoring Team subcommittee, including the City's designated expert consultant on survey research. The Team selected the Cleveland-based Marketing Solutions in early December 2016. Over the coming months, the Monitoring Team will work closely to ensure that the firm both recruits participants and moderates with fidelity to the Consent Decree and group expectations.

#### 3. Detained Arrestees

Another area of study required by the consent decree is of detained arrestees.<sup>414</sup> This will be a valuable source of information about community-police relations and yet, a complex project to execute. The Monitoring Team has explored a number of strategies and identified challenges for this step and are postponing it to the next period. There are a number of requirements and

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<sup>411</sup> Dkt. 7-1 ¶ 361.

<sup>412</sup> Dkt. 71.

<sup>413</sup> Dkt. 7-1 ¶ 363.

<sup>414</sup> *Id.* ¶ 363(b).

stakeholders that must be considered, including strategies for sampling – representative or convenience samples – safety and security considerations for interviewees and interviewers, as well as consent, privacy and other human subject requirements before a final design is deemed satisfactory. The Monitoring Team has been in contact with a few university-based scholars for assistance who have done similar work in the past, and it looks forward to conducting this work in early 2017.

## B. Baseline Outcome Measures

### 1. Overview

In late June 2016, a report was submitted to the Court that included 2015 baseline measures outlined in the consent decree.<sup>415</sup> Those measures will serve as a baseline reference point for assessing the progress, over time, of the reform efforts instituted by the City and CPD during the Consent Decree.

The Monitor’s Baseline Assessment Report inventoried the significant challenges encountered with the collection and compilation of data, as well as with the quality of the data that could be collected. In the months since the report was filed, the Monitoring Team has instigated routine conversations with CPD staff from the various units from which the baseline measures were collected to help improve data collection and retrieval capacity in future years.

### 2. Capacity-Building Efforts

At the suggestion of the City’s Compliance Team, the Outcomes Measurement Team spoke with community experts about the encumbrances to data collection within the Division and agreed to work collaboratively with a vendor chosen by the City at some future date who will serve as the Data Collection and Analysis Coordinator required by Paragraph 257 of the Consent Decree. The Team has been told the City issued a request for proposals to secure the necessary capacity, and it looks forward to working in partnership with the named individual or team to minimize redundancy and to maximize support and technical assistance provided to CPD as it works to track, store, and use data in a more comprehensive and integrated manner.

Members of the Monitor’s Outcomes Measurement Team have continued to work across a host of substantive reform areas to ensure that compliance can be rigorously assessed and outcomes comprehensively measured. For instance, in reviews of job descriptions, intake and disposition forms, as well as policy manuals for the Office of Professional Standards, recommendations and adjustments were made by the Outcomes Measurement Team to include data called for in Paragraphs 257 and 367. Similarly, there have been and will continue to be conversations with the Training Academy staff to ensure that student evaluations of training are useful and comprehensive and that consent decree required training is captured and counted. The many policies,

<sup>415</sup> Dkt. 73.

documents, and lesson plans developed around the new Use of Force Policy were similarly reviewed and commented upon by the Outcome Measurement Team to certify compliance with the required data collection by Paragraph 367.

## C. Qualitative Review of Outcome Measures Collected

As described by the First Semiannual Report and required by the Updated First-Year Monitoring Plan,<sup>416</sup> outcomes are to be measured not only quantitatively, but also qualitatively to ensure that the quality of the data collected and the processes used to collect the data will result in meeting the stipulations of the Consent Decree. In order to determine if the reforms have the desired impact on the way work is being completed by the CPD staff, it is necessary to ensure not only that the formal or technical requirements have been minimally met but, instead, whether CPD personnel are adhering to standards and quality expectations with the requisite fidelity.

During the past six months, the Outcome Measures Team has begun the process of performing qualitative reviews of the systems and processes used in four key units: (1) OPS; (2) the Inspections Unit (“IU”); (3) Chain of Command Reviews and (4) Internal Affairs Unit (“IAU”):

**OPS.** OPS investigates non-criminal misconduct complaints filed by civilians. As the Baseline Assessment Report clarified with the Court, the Monitoring Team is deferring qualitative analysis of OPS investigations after learning that there is a significant backlog of investigations in both 2015 and 2016 and that the office was operating with irregularity and inconsistency of policy. Substantial efforts to remedy this situation are reported elsewhere in this document.

**Inspections Unit (IU).** Some administrative or internal investigations are conducted by CPD’s Inspections Unit. These cases are small in number and therefore did not warrant a qualitative review. These are non-criminal in nature and often come into the Department through a telephone call to the Chief’s Office. A review of these cases, for baseline purposes, will be forthcoming in early 2017.

**Chain of Command Reviews.** There is a chain of command review of non-criminal misconduct detected through supervision or an internal complaint and for some use of force some complaints. These reviews are forwarded to the Case Preparation Office located in the Office of the Chief of Police for review and adjudication. The Monitoring Team is deferring review of these cases pending the completion of its review of Internal Affairs cases.

**Internal Affairs Unit (IAU).** All allegations that are

<sup>416</sup> Dkt. 80.

or could be criminal are investigated by the CDP's Integrity Division's Internal Affairs Unit (IAU). During this reporting period, the Team has conducted a focused review of a statistically significant, randomly selected set of the 79 total cases investigated by IAU in 2015.

Beginning in September 2016, the Outcomes Measures Team collected and reviewed quality assessment tools used to review investigations from a variety of external and internal sources. These tools were then modified to suit the language used in the CPD's investigations and the consent decree expectations. Modification was conducted in conjunction with members of the IAU who ensured that the Outcomes Measures team had a complete and thorough working knowledge of process, rules, and policies currently used for IAU investigation.

The Monitoring Team's previous data collection of the 2015 IAU cases identified 79 total cases for all categories of criminal allegation that resulted in either criminal prosecution or administrative reviews. Of these 79 cases, 20 included the use of deadly force, with the remaining 59 cases including use of force and other criminal misconduct.

The Team conducted a power analysis to determine a statistically significant number of IAU cases (out of the 79 total cases) that would need to be reviewed at a 95 percent confidence interval. This power analysis suggested that 40 cases should be assessed. Accordingly, 40 cases were randomly selected from the list of 79 cases.

Because use of deadly force is one of the key areas of focus in the consent decree and given these cases are often complex and serious with regard to nature of those offenses, use of deadly force cases have been "oversampled" in the selection of cases. This means that the total group of 40 cases includes enough deadly force cases to allow sufficient confidence that conclusions made about this sub-group of deadly force cases would hold for all deadly force cases, even if we looked at all 20 of those cases. The overall results of the 40 cases will be weighted to the actual proportion of the 79 cases so that deadly force cases are not overly represented.<sup>417</sup> Thus, of the 40 cases, five are use of deadly force cases.

After the successful piloting of the qualitative evaluation instrument using five additional IAU cases, the Team has begun to review the 40 randomly selected IAU cases for the qualitative review.

It is hoped that the quality assessment of the sample of IA cases will be completed by the end of 2016. In turn, once the IAU qualitative review is conducted, the same process will be used to perform a qualitative review of OPS investigations conducted in 2016. The Monitoring Team expects the OPS qualitative review to be completed by June 2017.



<sup>417</sup> For more on the process of "oversampling," see Pew Research Center, Methods, U.S. Survey Research, Sampling (last visited Dec. 12, 2016), <http://www.pewresearch.org/methodology/u-s-survey-research/sampling/>.





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# Appendix F





SEATTLE  
POLICE  
MONITOR

# **Ninth Systemic Assessment: Use of Force**

April 2017

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## Introduction & Executive Summary

The Department of Justice’s (“DOJ”) 2011 investigation of the Seattle Police Department (“SPD”) identified a pattern or practice of unconstitutional use of force by SPD, including “[d]eficiencies in SPD’s training, policies, and oversight with regard to the use of force,” which “contribute to . . . constitutional violations.”<sup>1</sup> Thereafter, the City of Seattle (the “City”) and DOJ (collectively, the “Parties”) entered into an agreement to reform the SPD, which, when ordered by United States District Judge James Robart, became what is commonly referred to as the Consent Decree.

The Court has twice approved revisions to the use of force policies and certified them as consistent with the Consent Decree.<sup>2</sup> The Court has likewise approved many force-related training programs that have addressed those policies and provided SPD officers with instruction on strategies and tactics consistent with those policies.<sup>3</sup> In terms of creating policy and training, the Monitoring Team has previously praised the Department’s efforts and compliance with requirements to create new policies and training. SPD’s use of force policies are clear, simple, balanced, and well-reasoned – perhaps, with their emphasis on de-escalation, among the best in the country. The Monitor has previously cited the training provided to officers on use of force as similarly excellent and exemplary.

The purpose of this report is to evaluate whether the SPD has achieved initial compliance with the provisions of the Consent Decree between the United States and City of Seattle that address officer use of force. It focuses on whether the performance and conduct of officers in the field – over time and across incidents – can establish that SPD, after having “trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement[s]” on force and creating force policies, is “carrying out [that training and policy] in practice.”<sup>4</sup>

This report would not have been possible even just a few years ago. When the reform process began, “force often went unreported – leaving it subject to no departmental scrutiny.”<sup>5</sup> When force was reported, it was documented “on paper stuffed, unreviewed, in file cabinets.”<sup>6</sup> If reported force was investigated, those inquiries were typically incomplete or inadequate.

Now that SPD is reporting, tracking, investigating, and reviewing its use of force as never before,<sup>7</sup> this analysis of the Department’s use of force can entail both quantitative and qualitative

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<sup>1</sup> Dkt. 1-1, Investigation of the Seattle Police Department,” United States Department of Justice - Civil Rights Division, United States Attorney’s Office – Western District of Washington” (Dec. 16, 2011) [hereinafter “2011 Findings Letter”] at 3.

<sup>2</sup> Dkt. 115; Dkt. 225. Another revision of the force policies is pending.

<sup>3</sup> Dkt. 144; 151; 152; 153; 165; 168; 199; 254; 277.

<sup>4</sup> Dkt. 3-1 ¶ 184.

<sup>5</sup> Dkt. 231, First Systemic Assessment at 1 n. 5.

<sup>6</sup> Fourth Semiannual Report at 1.

<sup>7</sup> See generally Dkt. 231 (First Systemic Assessment).

components, as envisioned by the Consent Decree.<sup>8</sup> There is, however, no magic number or single type of evaluation that by itself can determine whether SPD is in compliance with the Consent Decree. Rather, the Monitoring Team and the Parties have analyzed and balanced important and sometimes competing factors in assessing whether SPD now is where it needs to be with respect to how, under its new policies and training, its officers are using force.

For this report, the Monitoring Team reviewed both data relating to SPD use of force and at random, statistically significant samples of force cases across nearly two-and-a-half years (28 months). To be able to analyze trends and make comparisons, we divided this 28-month span into two time periods. The first, earlier time period – from July 2014 to August 2015 – covered a period soon after full implementation of the Consent-Decree-required use of force policies and related training. The second, later period – from September 2015 through October 2016 – covered more recent incidents that occurred well after officers were fully familiar with the expectations under the new force policies.

The Monitor finds that **overall use of force by the SPD is down** – both across time under the Consent Decree and compared to the time period studied by the original DOJ investigation. Overall, use of force has gone down **even as officer injuries have not gone up and crime, by most measures, has not increased**. At the same time, **the force that SPD officers do use is, by and large, reasonable, necessary, proportional, and consistent with the Department’s use of force policy**.

**Because officers are using less force overall, without negatively impacting officer safety or public safety, and are using force consistent with law and SPD policy in those increasingly infrequent instances when force is deployed, the Monitor finds that SPD is in initial compliance with Paragraphs 69 to 90 of the Consent Decree.**

The significance and importance of this finding cannot be understated, as this report makes clear. It represents a singular and foundational milestone on SPD’s road to full and effective compliance – and represents Seattle crystallizing into a model of policing for the 21st century.

#### **A. SPD Officers Use Less, and Less Significant, Force**

Much of the quantitative data is promising and suggests trends consistent with SPD officers interacting with subjects and using force differently than they did just a few years ago. Of the many insights that the reporting and tracking of force allow, six facts are particularly notable.

- **Overall Use of Force Rates Are Down – Both Over the Past 28 Months And Compared to the DOJ Investigation Period. Use of force rates trended down over**

<sup>8</sup> Dkt. 3-1 ¶ 184.

**this report’s July 2014 through October 2016 study period. Indeed, use of force decreased by 10 percent from the first half of the study period to the latter half.** Thus, as the new use of force policies have been become more and more enmeshed in the fabric of the Department, force has appeared to go down.

This downward trend is particularly notable when compared to determinations of the DOJ’s 2011 investigation, it appears that **there has been a net decrease of 743 incidents – a 60 percent reduction – in the number of moderate- to higher-level uses of force** (so-called Type II force, Type III force, and officer-involved shootings) in the 2014-2016 period analyzed.<sup>9</sup> Of the 2,385 force incidents, **only 39 – or 1.6 percent – involved Type III use of force, the most significant and serious type of force, including fifteen officer-involved shootings.**

- **Less-Lethal Instruments Are Used Infrequently – With Baton Use Dramatically Declining.** SPD’s use of less-lethal weapons (which constitute a kind of Type II force) is relatively infrequent. **With respect to one such less-lethal tool, the baton, the decline in use has been dramatic.** In 2011, the DOJ investigation concluded that “SPD officers too quickly resort to the use of impact weapons, such as batons,”<sup>10</sup> which included finding that a single officer had used his baton 12 times in a 14-month period. For the 28-month period studied for this report, all of Seattle’s officers combined used their batons just 23 times. This is a noteworthy finding.

**The frequency of Taser use also declined – from approximately 14 incidents per month from January 2001 through December 2010<sup>11</sup> to an average of 7 incidents per month between July 2014 and August 2015.** There is a correlation between the use of the Taser and the presence of either (a) individuals experiencing a behavioral crisis (as defined by policy) or (b) exhibiting signs of drug or alcohol impairment, though not in crisis. Specifically, in nearly all of the incidents in which a Taser was deployed (67 of 73, including Type I incidents), the subject was assessed either to be experiencing a behavioral crisis event (42 incidents) or impaired by alcohol or drugs (25 incidents). As explored in the Monitor’s assessment about crisis intervention, use of force in true crisis events is rare (less than 1-2 percent), but it is worth noting that SPD officers seem to be using the Taser almost entirely when a subject has been affected by a behavioral crisis or substance abuse issue.

<sup>9</sup> Because SPD’s force reporting policies and systems were markedly different and substantially less rigorous in during the 2009 to 2011, the true number of pre-Consent Decree force incidents is likely higher, which would increase the magnitude of the decrease.

<sup>10</sup> 2011 Findings Letter at 4, 11-12.

<sup>11</sup> “Taser Use Update,” Seattle Police Department, May 2011.

These declines in the use of less lethal weapons together directly alleviate one of the key patterns of unconstitutional behavior that the DOJ found in its 2011 investigation, and thus are supportive of initial compliance.

- **Low-Level, Type I Force Incidents Spiked Initially and Continue to Make Up a Large Portion of All Force Used.** The number of low-level, Type I force incidents has, on the other hand, generally increased over time. The Monitoring Team found **an average monthly increase of 4 percent per month in Type I force incidents from August 2014 to August 2015.** The Team hypothesizes that this increase is at least partially due to changes and improvements in reporting this type of force, which was not reported or logged prior to the Consent Decree. For instance, more than half (55 percent) of Type I cases included the use of restraints (handcuffing), and 44 percent included no force other than handcuffing. **A large proportion of Type I cases appear to encompass instances where a subject reported that the handcuffing caused pain.** This initially-increasing number of Type I force incidents could reflect that officers are increasingly able to apply de-escalation and tactical skills to reduce the number of incidents that might otherwise have involved a higher level of force incident – using more Type I force because they are using less higher-level force.

Comparing the first part of the study period (July 2014 through August 2015) with the latter part (September 2015 through October 2016), the number of Type I incidents went down – though Type I incidents account for a greater percentage of incidents overall. What is clear from the Type I trends – both the early spike and the subsequent increase in proportion – is that, **when force occurs, it happens increasingly at the lower end of the force spectrum.**

- **The Typical SPD Officer Uses Force Very Infrequently.** The Monitoring Team also analyzed how frequently individual officers used force. SPD officers reported using force of some level in a total of 2,385 incidents between July 1, 2014 and October 31, 2016 or an average of about three (2.8) incidents per day. Most (80 percent) involved no higher than low-level, Type I force. Viewed in the context of the 759,383 unique incidents that officers reported, at least as logged in the Department’s Computer Aided Dispatch (“CAD”) database, very few of SPD “contacts” involved any degree of force at any time.<sup>12</sup> **Even with expanded or increased reporting, the use of force is an unusual event.**

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<sup>12</sup> Although this is a notable statistic, the number of incidents in CAD is an imprecise number that is known to be potentially inflated in some respects – because it includes a host of incidents in which it would be unlikely that officers would encounter force – and yet under-counting the overall contacts that SPD officers made during the time period because they do not include voluntary or consensual encounters with the public.

Across the 4,272 individual applications of force by officers – a number that is higher than the overall number of force incidents because multiple officers applied force in the same incident – an average SPD officer used reportable force, of some level, in approximately 3.3 incidents over the course of the 28-month evaluation period. This average (3.3 incidents per officer) may actually be higher than the typical officer because the average that was computed considered all, rather than just patrol, officers. Nonetheless, of officers who did use force, about one-third were involved in just one incident and a vast majority of the remaining officers were involved in just one to three incidents. **This suggests that the “typical” SPD officer uses force very infrequently.**

- **A Small Group of Officers Use Force More Than Their Peers, But This Group Who Used Force More Do Not Use Different, or More Serious Force, Than SPD Officers Who Used Force Less.** A relatively small number of SPD officers – 109 officers, or about 8 percent of all SPD officers and 13 percent of all SPD officers who used force at least once – were involved in eleven or more use of force incidents each. This included the officer who reported being involved in some 49 use of force incidents. In all, these 109 officers accounted for 40 percent of all force reported by SPD during the 28-month period.<sup>13</sup> However, looking at the type of force used by officers, these 109 officers who use force more often are not distinguishable from those who use force less frequently. That is, **in the aggregate, the relatively small group of SPD officers who used force the most did not use different, or more serious, force than SPD officers who used force less.**
- **The Monitoring Team Found Some Racial Disparity in the Population of Force-Incident Subjects But Found No Statistically Significant Disparities With Respect to the Type or Severity of Force Used.** The Monitoring Team identified some divergence between the racial makeup of the population and the racial makeup of force subjects. This potential disparity – analyzed in crude, Census population terms rather than more sophisticated analyses for the sake of simplicity – is notable if found to be true using more sophisticated statistical techniques and would need to be meaningfully unpacked, evaluated, and scrutinized going forward. However, **the Monitoring Team concludes that, although there may be some disparate impact established by aggregate data with respect to use of force, there are no statistically significant disparities with respect to the *type* or *severity* of force used.** Put differently, in terms of the overall Type (Type I/Type II/Type III) or severity of force used, there were no statistically significant differences noted in terms of what *type* of force was applied across subjects of different races.<sup>14</sup> Thus, **although non-white subjects may be overrepresented vis-à-vis the population, a subject’s race does not appear to predispose him or her to more or less serious force.** It must be noted, however, that within the levels of force, it appears that

<sup>13</sup> Note that some unique incidents or events may be counted more than once, depending on the number of officers using force during the incident.

<sup>14</sup> Chi-square = 19.9, df=15, p=.18

SPD officers are more likely to point firearms at historically-underrepresented than White subjects but are more likely to go hands-on with White subjects. Because nothing immediately obvious about the circumstances of the interactions reviewed in the Monitoring Team’s qualitative assessment suggested reasons why pointing a firearm at Black, Latino, and Asian subjects was more reasonable or necessary than for White subjects, the Monitor encourages more study by SPD, the Community Police Commission (“CPC”), and the anticipated Inspector General

In sum, the overall statistical decrease in the frequency and type of force SPD officers use is suggestive of officers using force more strategically or being more likely to de-escalate force to the point of mitigating the need for force to be used in the first place. The Monitor’s previous assessment of SPD’s crisis intervention capacity and performance suggested as much, as well.<sup>15</sup> Together, these aggregate data trends strongly suggest that the Department that the DOJ’s 2011 investigation found – where officers would escalate even minor offenses, particularly with persons in crisis – has changed in fundamental ways.<sup>16</sup>

There is no definitive way of identifying the total number of times overall where it was plausible for justified force to be used, but where officers de-escalated the situation to the point in which no reportable force in fact was employed. Nonetheless, there is also some highly encouraging quantitative and reliable anecdotal evidence of increased use of de-escalation, which this report also details.

### **B. Force Has Gone Down Without Officer Injuries Going Up**

**Officer injuries are flat to slightly down over the study period**, although the decrease is not statistically significant, based on SPD injury and hospitalization data. Accordingly, **officer force has gone down without any increases in officer injury**. It appears to the Monitoring Team, then, that the decreased use of force has not placed officers at any higher risk or made officers less able or willing to use force to defend themselves from threats or harm.

### **C. Force Has Gone Down Without Crime Going Up**

The Consent Decree seeks to ensure that constitutional policing occurs in a context where both officers and the public are kept safe. Consequently, we evaluated crime data – and the relationship between that data and use of force – to consider whether a decreasing incidence of force might be negatively affecting the ability of the Department to keep the Seattle community safe.

<sup>15</sup> Fifth Systemic Assessment, Dkt. 272, at 17 (finding that “SPD is almost always handling crises with a high level of skill and avoiding the unnecessary use of force in difficult situations”).

<sup>16</sup> Dkt. 1-1 (2011 Findings Letter) at 11-13.



By most measures and accounting for seasonal trends, **crime in Seattle appears relatively flat overall** across the study period, with property crimes flat to slightly down and personal crimes showing a mild uptick. However, across all of overall crime and the separated personal and property crime categories, **there is no obvious correlation between the use of force and crime incidence.** In fact, **not only does it not appear that decreased use of force has been associated with increased crime, but it is actually the opposite: officers have used the most force when crime has been the highest in Seattle.**

Therefore, an analysis of SPD crime data and use of force data lead to the conclusion that the decreases in force that have occurred over time have not been associated with increases in crime. Although the concept of public safety can be measured in many different ways, the failure of the data to establish a relationship of force going down while crime goes up – and, indeed, establishing the opposite relationship of more force occurring whenever more crime happens to be occurring in the City, all in a context where overall crime is stable – gives the Monitoring Team confidence that the reforms of the Consent Decree are not compromising community welfare and public safety.

#### **D. Officer Force Is Typically and Sufficiently Consistent with Law and SPD Policy**

The aggregate trends and statistical analyses of data on force, officer injury, and crime are critical factors for considering whether SPD is in compliance with the Consent Decree. However, the Consent Decree does not require that the number of use of force incidents or a particular type of force necessarily go down. In part, this is because it is at least possible that officers might use force across relatively fewer incidents but use such force in a manner contrary to the Department’s policies or the constitution when they do. The Consent Decree accordingly required that SPD implement force policies that take hold in practice – across Seattle’s communities, across incidents, and across time. Thus, the overall numbers do not, by themselves, establish whether the Decree’s force requirements have become effective in practice.

Therefore, a qualitative review of a statistically significant sample of individual force events themselves is needed. To this end, the Monitoring Team conducted an in-depth, structured qualitative review of force investigation files for force incidents that occurred in the July 2014 through October 2016 study period.<sup>17</sup> The Monitoring Team’s experts used a structured assessment instrument to guide their reviews of the sampled force cases.

It must be emphasized that the Monitoring Team’s qualitative evaluations of force were not exercises in second-guessing or “Monday morning quarterbacking.” This Monitor, and this Monitoring Team, have unwavering respect for the men and women of the SPD who often face tense and dangerous situations and who are routinely called upon to interact with individuals who

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<sup>17</sup> For both parts of the time period, the Department of Justice and City of Seattle elected to conduct a collaborative review of cases that the Monitoring Team randomly selected to review.



have been let down, left behind, or forgotten by the social service, mental health, educational, and criminal justice systems. When confronted with a threatening, silent, or resisting subject, police officers do not have the option that others in different spheres of public life might to shuffle subjects along, look the other way, or pass the buck. The Monitoring Team's reviews of force incidents, as with its other inquiries and activities, actively sought to account for this reality. As the same time, the Team did not hesitate from identifying instances where SPD officers performed counter to SPD's Consent-Decree-required and Court-approved use of force policies.

**Across the more recent half of the study period**, the Monitoring Team found that **officers used force that was consistent with SPD policy more than 99 percent** (99.27 percent) **of the time**. This included using only force that was necessary under the circumstances more than 99 percent of the time (up from 85 percent in the earlier half of the study period). Force was likewise proportional and reasonable in the same more than 99 percent of force incidents (up from 88 percent in the earlier time period). And officers also complied with the duty to de-escalate in 99 percent of cases where that duty was applicable (up from 81 percent in the earlier time period).<sup>18</sup>

**Focusing only on intermediate-level Type II and serious Type III force from the more-recent 14-month period**, which is analogous to the moderate and serious uses of force identified and analyzed for numerical purposes in the 2011 DOJ investigation, **nearly 96 percent** (95.7 percent) **of force incidents were consistent with SPD policy**.<sup>19</sup>

The Monitoring Team concludes that many of the issues identified in the DOJ's investigation with respect to the application of force have been eliminated or, otherwise, substantially eliminated. **The Monitoring Team did not identify any force incidents that implicated the prohibitions against using force on individuals who had solely verbally confronted officers**. In contrast, the DOJ found using force in violation of a person's First Amendment Rights was one of the key patterns that formed the basis of their conclusion SPD had violated 42 U.S.C. 14141.<sup>20</sup>

Likewise, DOJ found that SPD officers routinely used excessive force against individuals who were already under physical control, restrained or rendered helpless.<sup>21</sup> **The Monitoring Team now finds that SPD officers are, appropriately and consistently with the new policy, generally not applying force to handcuffed or restrained subjects**, though the Monitoring Team

<sup>18</sup> When analyzing force under policy, reasonableness, necessity, and proportionality are not separate inquiries; they are inextricably intertwined and dependent on each other. They are, in most instances, facets of the overall analysis: force that is not proportional is also, by definition, probably not reasonable or necessary; force that is not necessary is thus probably not reasonable or proportional; force that is not reasonable is probably not proportional or necessary. They are called out, and defined, separately in policy to ensure that each aspect of the inquiry is considered in the overall determination as to whether the force is within policy – but they are not necessarily independent inquiries.

<sup>19</sup> The 95 percent confidence interval around this estimate is 0.3 percent to 8.2 percent.

<sup>20</sup> 2011 Findings Letter at 16-17.

<sup>21</sup> *Id.* at 15-16.

identified a handful, but not statistically significant number, of instances that gave it concern, and those will be discussed below.

Although a vast majority of cases involved force consistent with SPD policy, the Monitor nonetheless did find some instances where officer performance was not consistent with SPD policy. In other cases, Monitoring Team reviewers identified certain tactical issues that, even while not establishing the force as contrary to policy, were inappropriate or problematic. For instance, in some cases – which, encouragingly, tended to be clustered in the first half of the study period – SPD officers placed themselves at substantially higher risk by closing the space between, or by affirmatively initiating contact or pursuit of a subject on their own – without the benefit of backup, resources, or strategic cover and concealment, sometimes affirmatively escalating the situation. Although the Monitor appreciates that, in some circumstances, officers will need to take immediate action to intervene where a subject is presenting an immediate threat of harm to himself or others, this finding is consistent with the Team’s analysis of SPD aggregate data, which indicate that more serious uses of force (Type II and Type III) were more likely to be initiated through officer observations than by being specifically dispatched to an incident. Throughout Part V of this report, the Monitor and his Team highlight various issues like this, make recommendations, and provide technical assistance to further reduce the incidence of problematic or out-of-policy force.

Although some incidents that the Monitor reviewed still involved force contrary to policy or the Consent Decree’s requirements, the compliance rates are high and, as noted, have been steadily increasing over time. Further, incidents involving problematic use of moderate to serious force are, in the larger context of SPD encounters, substantially infrequent. Again, of the 759,383 unique incidents to which officers responded or on-viewed during this review period, **less than 0.00003% involved a greater than moderate (Type II) level of force.** By extension, an exceedingly small fraction of SPD interactions involved force that was deemed inconsistent with policy.

Even if a human organization could somehow attain perfection, the Consent Decree does not require a perfect police department. Instead, it requires a police department that, among other things, has rigorous policies governing the use of force; provides high-quality training and supervision to officers on those policies; uniformly reports, investigates, reviews, and critically analyzes all use of force incidents in a thorough, fair, and unbiased manner; and has robust, overlapping mechanisms for critical self-analysis that inspire constant innovation and internal improvement.

**The Monitoring Team is reassured that, in every case in which it determined officers had not complied with SPD’s use of force policy during the later half of the study period, the Force Review Board identified the force as out of policy.** It therefore appears that when an officer performs in manner contrary to SPD’s use of force policy, the Department is able to catch and correct the error. **Although this does not mitigate the exposure of a subject to unconstitutional or out-of-policy force, it goes a significant length toward ensuring that poor performance and human error can be addressed meaningfully** such that the

performance is isolated to one incident – rather than existing as a part of a wider pattern or practice of deficient performance that is allowed to fester through inattention or indifference.

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The City of Seattle reaching initial compliance with the core provisions of the Consent Decree relating to use of force is a testament to the hard work, dedication, commitment, and performance of many over an extended period of time. Chief Kathleen O’Toole, and her command staff, have worked tirelessly since she became chief in June 2014 to implement comprehensively the force-related provisions of the Consent Decree. Her constant promotion of the new use of force policies as good for the men and women of the police department and the Seattle community has done much to cultivate buy-in and ongoing application by the rank and file. In the same vein, Mayor Ed Murray has been an unstinting champion of new approaches and robust training for officers on force – emphasizing the importance of de-escalation, the professional development of police officers, and the ongoing strengthening of ties between SPD and the diverse communities that the Department serves.

However, the credit for this major milestone goes first and foremost to the men and women of the Seattle Police Department. This assessment is fundamentally an analysis of their performance over time. Their ability to meaningfully and effectively implement the use of force policies and apply the related use of force training on the streets of Seattle – while facing the unpredictable challenges that are part and parcel of law enforcement – is worthy of substantial praise. The Monitoring Team’s respect for the many committed professionals who serve, protect, and partner with the community to solve problems and make Seattle a place for all to live, work, and play is unwavering – but burnished all the more by the demonstration of strong trends and good performance. As this report elsewhere makes clear, police officers in Seattle are frequently tasked with addressing individuals and situations that the rest of the social service fabric has failed, left out, or left behind. Their ability to innovate, change approaches, and change the course of the Department while addressing these fundamental duties is commended.

Although this report finds compliance on a core area of the Consent Decree, the Monitoring Team continues its work on its other major pillar: discriminatory policing. The Monitor’s assessment of SPD stop activity, involving substantial quantitative and qualitative analysis, is forthcoming.

Meanwhile, the scope of this report is both fundamental and expansive. As such, there are limits to how much of the Monitor’s inquiry can be adequately summarized in this introductory summary. Consequently, the remainder of the report presents the Monitoring Team’s quantitative and qualitative findings relating to SPD’s use of force in detail.

Part I provides important background on the development of the standards governing this review. Part II summarizes the results of the Monitoring Team’s quantitative analyses of aggregate data on SPD use of force. Part III analyzes data on officer injury and hospitalization. Part IV examines crime

trends. Finally, Part V discusses the findings of the Monitoring Team’s qualitative review of use of force incidents.

# Part I.

## Overview of Use of Force & Purposes of the Assessment

### I. Background on Use of Force

A primary issue addressed by the Consent Decree between the United States and City of Seattle addressing the Seattle Police Department is the use of force. In December 2011, the United States Department of Justice found “that SPD engages in a pattern or practice of using unnecessary or excessive force, in violation of the Fourth Amendment to the United States Constitution.”<sup>22</sup> Among other things, the investigation found that SPD officers:

- Used force “in an unconstitutional manner” at an unacceptable rate;
- “[T]oo quickly resort to the use of impact weapons,” with the use of batons frequently unnecessary or excessive;
- Too frequently “escalate situations and use unnecessary or excessive force when arresting individuals for minor offenses,” especially individuals experiencing a behavioral crisis (including those experiencing the effects of mental illness or drug and alcohol intoxication);
- More often than not used excessive force against a single subject in conjunction with other SPD officers; and
- Too frequently used excessive force against individuals who “talk-back” but otherwise pose no physical danger.<sup>23</sup>

Among the systemic or structural “deficiencies [that] have led to the above-described pattern or practice of excessive use of force” were inadequate policies and training relating to the use of force, most especially with respect to “specific force weapons, such as the use of OC [pepper] spray, batons, or the ECW [Taser].”<sup>24</sup> Likewise, the investigation found “deficiencies in training relating to verbal de-escalation techniques” such that officers were “trained how to win conflict, but not how to avoid it.”<sup>25</sup>

Although the City of Seattle did not agree with the findings of the 2011 investigation, the City entered into an agreement with the United States referred to as the Consent Decree (the “Decree”

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<sup>22</sup> 2011 Findings Letter at 3.

<sup>23</sup> *Id.* at 4, 9-15.

<sup>24</sup> *Id.* at 16-17.

<sup>25</sup> *Id.* at 23-24.

or “Settlement Agreement”). The Decree outlined several “principles” that SPD needed to reflect in revised “use of force policies, procedures, and/or training,”<sup>26</sup> including the following:

- “Officers should use de-escalation techniques, when appropriate and feasible, in order to reduce the need for force”;
- “. . . [O]fficers should de-escalate the use of force as resistance decreases, while staying in control and as safety permits”;
- “The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used”;
- “Officers should be trained that a hard strike to the head with any impact weapon, including a baton, could result in death” and such strikes “should be consistent with policy and training”;
- “Officers normally should not use reportable force against handcuffed or otherwise restrained subjects unless necessary or reasonable under the circumstances to stop an assault, escape, or as necessary to fulfill other legitimate law enforcement objectives”; and
- “Officers should not use force against individuals who only verbally confront them and do not impede a legitimate law enforcement function.”<sup>27</sup>

In addition to revised general policies on force, the Decree required that SPD revise its “weapons-specific policies, procedures, and training” to “provide guidance for each [specific] weapon’s use” in a manner consistent with the Decree’s general force principles.<sup>28</sup> Further, the Decree required that all officers and supervisors receive substantial and ongoing training on use of force policy, procedures, strategies, tactics, and expectations.

#### **A. Reforms to SPD’s Use of Force Policy**

Upon the Court’s approval of the Decree and the appointment of the Monitor, work began in earnest on revising SPD’s force policies to comply with the Consent Decree. The process of revising the Department’s force policies required “many months of extended drafts, redrafts, consideration of recommendations from community members and organizations, and significant negotiation.”<sup>29</sup> This process “involved the Department of Justice, City of Seattle, SPD command staff and patrol officers, the two police unions, the Community Police Commission, and the public themselves during a period of public comment.”<sup>30</sup> In ultimately evaluating the sufficiency of those policies, the Monitor “consulted police trainers . . . , law enforcement leaders, SPOG [the Seattle Police Officers’ Guild] in Seattle, and law enforcement rank-and-file . . . to make sure that the policies recommended by the

<sup>26</sup> Dkt. 3-1 ¶¶ 70-71.

<sup>27</sup> *Id.* ¶ 70.

<sup>28</sup> *Id.* ¶¶ 74-75.

<sup>29</sup> Third Semiannual Report at 9.

<sup>30</sup> See Dkt. 107 at 1-2.

[P]arties did not compromise the safety of Seattle police officers and the public they serve.”<sup>31</sup> The Court approved the new force-related policies on December 17, 2013.<sup>32</sup>

SPD’s core officer use of force policy “is the embodiment of the Consent Decree . . . [,] provid[ing] officers with clear guidance and expectations consistent with constitutional imperatives.”<sup>33</sup> “The basic policy that governs what officers should and should not do in the field with respect to force . . . runs roughly 4 pages in length.”<sup>34</sup> Other force-related policies “deal with many important but distinct areas” primarily relating to how force is reported, reviewed, and investigated, as well as special considerations for using various force instruments.<sup>35</sup>

Any policy “must balance concision with clarity and broad applicability – guiding officers across innumerable unforeseen circumstances yet being specific enough to allow the Department to effectively hold officers accountable for poor decision-making or substandard performance.”<sup>36</sup> As the Monitor has previously summarized, four major concerns guide SPD’s use of force policy:<sup>37</sup>

- **Reasonableness.** Consistent with the Constitution and Supreme Court guidance,<sup>38</sup> force employed by SPD officers must be objectively reasonable – in other words, appropriate and consistent with what a reasonable officer would do in light of all of the circumstances that the officer who used force encountered.
- **Necessity.** SPD officers are authorized to use force only in the absence of “reasonably effective alternative[s].”<sup>39</sup>
- **Proportionality.** SPD officers may only use the force that roughly corresponds to, or reflects the totality of circumstances surrounding, the situation, including the presence of imminent danger to officers or others. Accordingly, the more immediate a threat or the more likely that a threat posed by a subject may result in death or serious physical injury, the greater the level of force that may be objectively reasonable and necessary. Officers “should assess and modulate the use-of-force as resistance decreases.”<sup>40</sup>

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<sup>31</sup> *Id.* at 5.

<sup>32</sup> Dkt. 115.

<sup>33</sup> Fourth Semiannual Report at 17.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Fifth Semiannual Report at 13.

<sup>37</sup> This discussion is adapted from the Monitor’s Fourth Semiannual Report at 17–19.

<sup>38</sup> *Graham v. Connor*, 490 U.S. 386 (1989); *Scott v. Harris*, 550 U.S. 372 (2007); see also *Tennessee v. Garner*, 471 U.S. 1 (1985).

<sup>39</sup> Seattle Police Manual 8.100(1), Dkt. No. 107-1 at 7; see also *id.* 8.100(4.1) (requiring officers to use only the force necessary to effectuate the lawful purpose of their actions).

<sup>40</sup> Seattle Police Manual 8.100(3), Dkt. 107-1 at 8.

- **De-escalation.** SPD’s force mandates that, “when safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options, and resources are available for incident resolution.”<sup>41</sup> The policy provides a non-exhaustive list of approaches and tactics that officers can strategically employ to de-escalate situations, including “decreasing the exposure to [a] potential threat by using distance, cover, [or] concealment” and “using verbal techniques” to gain compliance.”<sup>42</sup> As the Monitor noted in the Fourth Semiannual Report, the requirement that SPD officers de-escalate situations when safe and feasible to do so “represents a significant evolution – and one that was asked for by members of the Seattle community for years.”<sup>43</sup>

During the 28-month period addressed in this report, SPD’s force policy included de-escalation as “one requirement” of many in the core officer force policy.<sup>44</sup> Updates to the force policy approved by the Court in July 2015 created a “standalone de-escalation policy” in the sequence of policies in the SPD Manual that relate to force<sup>45</sup> in addition to continuing to reflect SPD’s ongoing, basic commitment to de-escalation in the primary policy addressing when officers may and may not use force in the field.<sup>46</sup> Thus, regardless of whether the specific provisions governing de-escalation are part of SPD’s basic officer use of force policy, SPD Manual 8.200 (“Use of Force – Using Force”) or are a standalone policy, SPD Manual 8.100 (“Use of Force – De-Escalation”), the failure to de-escalate when safe and feasible to do so constitutes a violation of SPD policy.

In some particular instances, some force types or techniques are expressly prohibited – including force used “as a means of retaliation, against individuals who only verbally confront officers, and (except in certain exigent circumstances) against handcuffed or restrained subjects.”<sup>47</sup> Other policy provisions “address the use of deadly force (to be used ‘where threat of death or serious physical injury to the officer or others is imminent’), use of force to prevent escape of a fleeing suspect (which reinforces the necessity requirement . . . ), and the provision of medical aid . . . .”<sup>48</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 8-9.

<sup>43</sup> Fourth Semiannual Report at 18.

<sup>44</sup> Third Semiannual Report at 13.

<sup>45</sup> *Id.*

<sup>46</sup> Seattle Police Manual 8.000(2), Dkt. 107-1 at 2 and <http://www.seattle.gov/police-manual/title-8---use-of-force/8000---use-of-force-core-principles> (last visited Aug. 14, 2016) (“When safe under the totality of the circumstances and time and circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.”); see also Dkt. 115 (order approving consensus use of force policies).

<sup>47</sup> Fourth Semiannual Report at 18 (citing Seattle Police Manual 8.100(2), Dkt. No. 107-1 at 7).

<sup>48</sup> *Id.* (citing Seattle Police Manual 8.100(5)-(8), Dkt. No. 107-1 at 8-9).



SPD policies, “consistent with the Decree, set forth ‘different levels of departmental reporting and review that become more rigorous depending on the type of force used,’”<sup>49</sup> which are known within the Department as Type I, Type II, and Type III force. Those “categories account for the nature of the force used, the outcome of the actual force used, and – regardless of the actual outcome – the risks that can reasonably be expected to be associated with” a given type or application of force<sup>50</sup>:

- **Type I** force is relatively minor, minimal, or “low-level physical force.”<sup>51</sup>
- **Type II** force is intermediate-level force that is “reasonably expected to cause physical injury” more significant than minimal or fleeting pain but less significant than something that might reasonably run the risk of causing “great or substantial bodily harm.”<sup>52</sup>
- **Type III** force is the most serious or severe force that actually causes, or is of a type that could be reasonably expected to cause, great or substantial bodily harm, the loss of consciousness, or death.<sup>53</sup>

The Monitor has previously described how the type of force used dictates the reporting, investigative, and review requirements associated with a given incident – which are the primary ways in which the category or type of force used is important. This assessment at times refers to force types when analyzing data, in order to capture aggregate trends among various applications of force of similar seriousness or severity, and in discussing some specific force incidents, in order to situate a real-world incident in terms of the overall level of seriousness or severity that SPD policy attributes to the incident.

Although the Department’s force “reporting requirements . . . are not merely bureaucratic,”<sup>54</sup> nothing in SPD’s policies relating to the reporting, investigation, or review of force “guide or

<sup>49</sup> First Systemic Assessment at 10 (quoting Dkt. 3-1 ¶ 93).

<sup>50</sup> *Id.*

<sup>51</sup> Type I: “Force that causes transitory pain, the complaint of transitory pain, disorientation, or intentionally pointing a firearm or bean bag shotgun at a person.” Complaints of pain associated with handcuffs, regardless of whether due to the application itself or the discomfort of handcuffs even when properly applied, is an example of a recurrent Type I force incident.

<sup>52</sup> Type II: “Force that causes or is reasonably expected to cause physical injury greater than transitory pain but less than great or substantial bodily harm, and/or the use of any of the following weapons or instruments: CEW<sup>52</sup>, OC spray, impact weapon, bean bag shotgun, deployment of K-9 with injury or complaint of injury causing less than Type III injury, vehicle, hobble restraint.” (The acronym CEW stands for Conducted Electrical Weapon, for instance a Taser, the most common brand of this device.)

<sup>53</sup> Type III: “Force that causes or is reasonably expected to cause, great bodily harm, substantial bodily harm, loss of consciousness, or death, and/or the use of neck and carotid holds, stop sticks for motorcycles, impact weapon strikes to the head.” (Although discharges of a firearm at a person are currently included in this category, they are tracked separately by the IA Pro database and in this report as officer-involved shootings.) SPD policy also places into this category any use of force that involves serious misconduct or criminal conduct by officers.

constrain an officer’s determination as to whether to use force in the field.”<sup>55</sup> Whether an officer uses his or her firearm (high-level force) or points it at a person (low-level force), an officer’s use of force must be reasonable, necessary, proportional, consistent with the duty to de-escalate, and otherwise conform to SPD policy. Thus, even as this assessment provides information about trends among the different types of force, officers are applying a single policy and the same rules regardless of the nature or severity of the force.

The use of force policies began to be implemented on January 1, 2014, with officers beginning to face discipline for failing to adhere to new requirements upon completion of an interim training held in March and April 2014. However, the Consent Decree calls for periodic review and reappraisal of the force policies, which provides an opportunity for the force policy to be adjusted in light of actual performance trends and real-world lessons learned.<sup>56</sup>

The first update of the force policy was approved by the Parties, the Monitor, and the Court in July 2015.<sup>57</sup> As with the original use of force policies, stakeholders from across the Seattle community – including members of the CPC and SPD – provided feedback and input in the process. Noteworthy updates included:

- Setting forth de-escalation as a standalone policy requirement and section – regardless of whether force does, in fact, end up being used in a given situation (as noted above);
- Clarification of requirements relating to the application of force to a handcuffed, non-compliant subject in the back of a police car when “reasonable attempts to gain voluntary compliance have failed” and removal of a subject from the car has received supervisor approval;
- Clarification of some prohibitions on the use of less-lethal instruments; and
- Revision of SPD’s Manual preface to provide more specific guidance and clearer expectations on what reasonableness entails for an SPD officer policing within the Seattle community.<sup>58</sup>

SPD is currently engaging in this year’s review of Consent Decree policies, including the officer use of force policy.<sup>59</sup> The Monitor and DOJ recently have received from the City proposed revisions,

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<sup>54</sup> Fourth Semiannual Report at 28

<sup>55</sup> Fifth Semiannual Report at 13.

<sup>56</sup> Dkt. 3-1 ¶ 180 (“SPD will review each policy, procedure, training curricula and training manual required by the Settlement Agreement 180 days after it is implemented, and annually thereafter . . . to ensure that the policy or procedure continues to provide effective direction to SPD personnel and remains consistent with the purpose and requirements of the Settlement Agreement and current law.”).

<sup>57</sup> Dkt. 225.

<sup>58</sup> Adapted from a discussion in the Fifth Semiannual Report at 13-14.

<sup>59</sup> See Dkt. 294.

which include input from the CPC. The Monitor and DOJ hope that those proposals are reviewed and perhaps re-submitted in light of the findings herein.

### **B. Changes to SPD Use of Force Training**

The Consent Decree recognizes that any police department's policies can only be beneficial if officers have a clear, pragmatic understanding of how to apply those rules on a day-to-day and shift-to-shift basis. The Decree required that SPD provide "use of force training for all patrol and other relevant officers" that addresses, among other topics:

- SPD's use of force policy . . . ;
- [P]roper use of force decision-making;
- [T]he Fourth Amendment and related law;
- [R]ole-playing scenarios and interactive exercises that illustrate proper use of force decision-making; and
- [T]he appropriate use of de-escalation techniques.<sup>60</sup>

As the Monitoring Team has elsewhere discussed, officers also have needed to receive ongoing training on the closely-related issue of interacting with individuals experiencing behavioral crisis.<sup>61</sup>

After the core policy addressing when officers are authorized to use force, and other force-related policies, were approved by the Court in December 2013, the primary attention of the Consent Decree necessarily shifted to the creation and provision of "high-quality, interactive training" initiatives for officers on the revised force policy that "translate the clear expectations of the use of force policy into everyday officer performance."<sup>62</sup>

Seattle Mayor Ed Murray correctly observed in February 2014 that 2014 was "the year of training" necessarily focused on "getting training right" by "[d]eveloping training manuals and programs to translate the policies" created in the Consent Decree into practice across Seattle's communities.<sup>63</sup>

Indeed, immediately after approval of the revised force policy, SPD, "with significant input from the Monitor and DOJ," created an interim use of force training program.<sup>64</sup> This program consisted of several components:

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<sup>60</sup> Dkt. 3-1 ¶ 128.

<sup>61</sup> See generally Fifth Systemic Assessment.

<sup>62</sup> Fourth Semiannual Report at 19.

<sup>63</sup> Liz Jones, "Seattle Police Reforms Shift to Officer Training," KUOW.org (Feb. 5, 2014), <http://kuow.org/post/seattle-police-reforms-shift-officer-training>.

<sup>64</sup> Third Semiannual Report at 19.

- (i) A message from the then-Chief of Police introducing the updated force policy;
- (ii) Five electronic learning modules addressing the basic use of force policy; and
- (iii) A one-day, live classroom training covering the new force policy and related reporting requirements.<sup>65</sup>

In March and April 2014, nearly all sworn and other relevant officers completed the interim training.<sup>66</sup>

Subsequently, the Consent Decree process worked to develop a multi-year, multi-part training initiative to build on the basic, interim training. This comprehensive use of force training consisted of a number of discrete modules:

- **Use of Force Core Principles.** A two-hour module covering SPD's revised policies, with particular emphasis on de-escalation and other approaches to force reduction that do not compromise officer or public safety.
- **Less-Lethal Tools.** A four-hour course combining legal and policy principles with hands-on skills training to allow officers to comply with the force policy's requirement that all officers carry at least one less-lethal tool.
- **De-Escalation and Contact/Cover Techniques.** A four-hour course on using de-escalation techniques to defuse volatile situations and prevent situations from getting to the point where force would need to be contemplated.
- **Threat Assessment and Subject Control.** A four-hour course addressing how officers may safely and effectively respond to potential risks posed by subjects in particular positions.
- **Firearm Skills.** A four-hour skills course reinforcing basic firearms skills, including one- and two-handed shooting techniques, flashlight/firearm techniques, and positioning a firearm safely out of the holster.
- **First Aid.** A two-hour skills course providing officers instruction on basic trauma response, consistent with the policy's requirements to provide medical aid at the scene of force incidents.

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

- **Team Tactics.** A four-hour training course addressing rapid intervention techniques, team searches for suspects in buildings, and team response to an “officer down” call. Students needed to demonstrate proficiency in role-playing exercises that included “shoot/don’t shoot” scenarios.<sup>67</sup>

The Consent Decree requires that SPD continue to incorporate these principles in its yearly training.<sup>68</sup> Consequently, SPD officers have continued, since the completion of the initial “comprehensive” use of force training initiative in 2014, to receive significant, integrated, scenario-based use of force training seeking to reinforce and strengthen the basic force training.

In 2015 and 2016,<sup>69</sup> officers received training related to the use of force that included, but is not necessarily limited to:

- **Tactical De-Escalation.** A four-hour integrated, scenario-based course addressing various proactive de-escalation skills and strategies.<sup>70</sup>
- **Individual Firearms Skills.** A four-hour integrated, scenario-based program addressing safe and effective firearms practices, including de-escalation.
- **Individual Defensive Tactics Skills.** A four-hour course emphasizing individual defensive strategies and tactics, including de-escalation.
- **Integrated Team Tactics.** A four-hour course emphasizing team defensive strategies and tactics, including de-escalation.<sup>71</sup>
- **Rapid Intervention Tactics.** An eight-hour scenario-based program focused on addressing rapidly evolving, active shooter situations and other similar threats.
- **Taser X2.** An eight-hour scenario-based program, training the new ECW device.

Officers have also received ongoing training in the area of crisis intervention, which featured significant instruction on interacting with and de-escalating, where necessary, situations involving individuals experiencing a behavioral crisis.<sup>72</sup>

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<sup>67</sup> Fourth Semiannual Report at 20-22.

<sup>68</sup> Dkt. 3-1 ¶ 127.

<sup>69</sup> See Dkt. 191 (2015 Training Plan), 277 (2016 Training Plan).

<sup>70</sup> See Dkt. 198.

<sup>71</sup> See Dkt. 254-1.

<sup>72</sup> See Dkt. 145-1-4, 254-5-8.

Finally, SPD's supervisors have received significant training, which includes principles and methods on overseeing officer use of force.<sup>73</sup>

## II. Purpose of the Assessment

### A. The Role of the Monitor's Assessments Generally

One of the enumerated duties of the Monitor under the Consent Decree is, through compliance reviews, to “verify that all of the substantive reform measures in the . . . Agreement are implemented.”<sup>74</sup> For the City and SPD to be considered as having “full[y] and effective[ly]” complied with a given provision of the Consent Decree, they must be certified to have:

- (a) incorporated the requirement into policy;
- (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement; and
- (c) ensured that the requirement is being carried out in practice.<sup>75</sup>

Since September 2015, the Monitor has been engaged in a focused program of formalized assessments of SPD's performance across all areas of the Consent Decree.<sup>76</sup> The First Systemic Assessment outlined the purpose of the Monitor's series of formalized assessments:

For the Parties, Monitor, and Seattle community to have confidence that the requirements of the Consent Decree are being carried out in practice – not merely on paper, the performance of the Department and its officers must be assessed across a material span of time and a number of incidents. The assessments will more formally gauge whether SPD is where it needs to be in complying with the Decree.<sup>77</sup>

To date, the Monitoring Team has updated the Court and public on the Department's progress in the areas of:

- Force reporting;
- Force investigation;
- Chain of command reviews and analysis of force incidents;
- The Force Review Board (“FRB”), which analyzes many force incidents;
- Community confidence in, and partnership with, SPD, including through a scientific survey;

<sup>73</sup> See, e.g., Dkt. 254-2.

<sup>74</sup> Dkt 3-1 ¶ 173(a).

<sup>75</sup> *Id.* ¶ 184.

<sup>76</sup> Dkt. 317 at 7-9 (identifying all paragraphs of the Consent Decree subject to assessments or not).

<sup>77</sup> First Systemic Assessment at 5.

- Investigation of Officer Misconduct by the Office of Professional Accountability (“OPA”);
- Crisis Intervention;
- Supervision;
- Type II Force Investigations; and
- Early intervention (EIS).<sup>78</sup>

The formalized assessments are “systemic” because they focus on “whether the Department has the systems, policies, structures, and culture in place” that the Consent Decree contemplates across time and incidents.<sup>79</sup> Accordingly, the assessments do not demand that “SPD is uniformly perfect at all times,” as the Consent Decree recognizes that “[n]oncompliance with mere technicalities, or temporary or isolated failure[s] to comply during a period of otherwise sustained compliance, will not constitute [a] failure to maintain full and effective compliance” with a given area of the Decree.<sup>80</sup> However, the Consent Decree also requires, and the Monitor will accordingly continue to require, that “there is clear evidence that the various requirements of the Consent Decree are in fact being carried out in practice and are sufficiently manifest throughout the Department.”<sup>81</sup> Thus, the Monitoring Team’s “examination of individual cases or data will be done with an eye toward determining what those individual instances say, in the aggregate and overall, about the performance of SPD and its officers.”<sup>82</sup>

The present assessment, like previous assessments, presents a host of numbers and statistics. No single number, whether purely quantitative or an aggregate summary of qualitative determinations made by the Monitoring Team’s experts, is singularly dispositive, or capable of telling the whole story about SPD’s progress to date. As the Monitor has previously indicated:

All readers must be cautioned to note that the general numbers themselves may not tell the entire story. There is no single threshold number that SPD must reach across each and every area that represents initial compliance. For example, an assessment might judge 70 percent of a given type of [incident as consistent with SPD policy] – because the quality of the remaining 30 percent of cases leaving room for improvement but being relatively close to where it should be. On the other hand, even if 90 percent of [incidents were consistent with SPD policy], there still might not be initial compliance with the relevant provision[s] of the Consent Decree because the remaining 10 percent of [incidents] were wholly inadequate . . . .<sup>83</sup>

<sup>78</sup> See Seattle Police Monitor, <http://www.seattlepolicemonitor.com> (last visited Apr. 1, 2017).

<sup>79</sup> Fifth Semiannual Report at 9.

<sup>80</sup> Dkt. 3-1 ¶ 184.

<sup>81</sup> Fifth Systemic Assessment at 5.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 6.

For this reason, the Monitoring Team and the Parties have analyzed and balanced important and sometimes competing factors in determining whether SPD now is where it needs to be in how, under its new policies, its officers are using force.

## **B. The Purpose of the Use of Force Assessment**

This report explores the extent to which SPD's policies, procedures, and training on officer use of force can or cannot be considered to be effective not merely on paper but in practice. That is, the assessment considers – over time and across numerous incidents – whether SPD officers are adhering to the requirements of the Consent Decree, SPD policy, and their training.

The Monitor's First Systemic Assessment, filed with the Court in September 2015, focused on the reporting, investigation, and administrative review of force incidents – and whether the Department had meaningfully implemented updated policies on its internal response to those instances where its officers deploy force. Because it focused on post-incident administrative investigation and review, that assessment necessarily did not evaluate the performance of SPD's officers across force incidents to consider whether SPD's officers are, in fact, affirmatively complying with the requirements of SPD policy, the Consent Decree, and the laws of the United States and State of Washington.

Undoubtedly, ensuring that SPD has systems and processes in place that rigorously review force incidents and hold officers accountable for deviations from policy and training is an important aim of the Consent Decree. Indeed, the Monitoring Team was heartened to see that the investigations of force, from Type I to Type III, continue to be well done. Although it was not the focus of this assessment, the Monitoring Team found that the investigations were sufficiently well done to permit the Team to evaluate (a) all uses of force, (b) compliance with the duty to de-escalate, (c) all tactical decision-making, and (d) the legal bases for all seizures.

The Department, however, must be able to demonstrate, not only that it has systems for identifying and dealing with problematic performance after the fact, but also that the performance of officers across Seattle consistently conforms to the Department's policies and requirements. Indeed, the Monitoring Team has previously noted that “[f]or the policy changes addressing the use of force to become ingrained like muscle memory, they must be fully implemented in practice by officers – in the field and on a day-to-day basis.”<sup>84</sup>

Consequently, in the context of this assessment, the Monitoring Team is looking to see whether there is yet sufficient evidence that SPD has not only revised its force policies to conform to the Consent Decree or changed its system of internal review and analysis of force incidents but that, most fundamentally, its officers are affirmatively complying with the rules of the road articulated in SPD's force policy.

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<sup>84</sup> Fourth Semiannual Report at 19.



Likewise, for the Consent Decree’s required training to be considered effective “in practice,” the content of that training must be evidenced in real-world police interactions. To that end, the Monitor’s Fourth Semiannual Report provided four types of evaluation across which the Department’s training initiatives would need to be considered. The Monitoring Team and DOJ have previously evaluated all SPD training curricula since late 2013, with final curricula submitted to the Court for approval. Further, members of the Monitoring Team and DOJ have observed attended in-class training and provided real-time feedback and comments about SPD’s implementation of various training programs. Through these modes of oversight, assistance, and monitoring, the Monitoring Team has previously identified that “there has demonstrably been a sea change in the depth, rigor, and sophistication of SPD’s approach to training officers” – with curriculum more comprehensive and educational techniques substantially more sophisticated.<sup>85</sup>

Although improvements in SPD’s capacity to develop and provide training according to curriculum that are consistent with best practice were necessary, they are not, by themselves, sufficient. The ultimate test of SPD’s training on use of force is whether it assists officers in complying with SPD’s force policy. Indeed, the Monitoring Team previously noted that one of the central modes of evaluation of adult education programs involves assessment in terms of “behavioral criteria,” or “measures of actual on-the-job performance” that “can be used to identify the effects of training on actual work performance.”<sup>86</sup> Put differently, training can be considered effective only to the extent that officers adhere to it and base their performance on it in the real world – across time and across incidents.

This report weaves together what the Parties and Monitoring Team originally conceived as three independent, standalone assessments:

- **Officer Activity.** An evaluation of the overall workloads and aggregate types of endeavors in which SPD officers engage in the field over time.
- **Use of Force Data.** A quantitative evaluation of SPD’s aggregate data on the use of force by SPD and its officers.
- **Use of Force Incidents.** A qualitative assessment of incidents in which SPD officers have used force.<sup>87</sup>

As the Monitoring Team worked on assessing each of these significant areas, the Monitor and Parties agreed that the interrelated nature of each of these areas – what officers are doing overall on

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<sup>85</sup> Fifth Semiannual Report at 16.

<sup>86</sup> Winfred Arthur, et al, “Effectiveness of Training in Organizations: A Meta-Analysis of Design and Evaluation Features,” 88 *Journal of Applied Psychology* 234, 235 (2003).

<sup>87</sup> Dkt. 221-1 at 15-18, 35-36.

the streets of Seattle, aggregate trends with respect to when force is used during officer activity, and in-depth analysis of those incidents in which officers in fact deploy force – make reporting on all three subjects concurrently more comprehensive. Consequently, this report considers the nature and circumstances in which SPD officers use force overall, with discussions of use of force data, and the Monitor’s qualitative evaluations of use of force incidents woven together.

## Part 2. Quantitative Assessment of SPD Use of Force Data

### I. Methodology

#### A. Sources of Data Analyzed in this Report

This report relies on the direct access to three sources of data provided to the Monitoring Team by SPD. The three sources correspond to three core law enforcement database systems that SPD uses: (1) IAPro; (2) CAD; and (3) RMS.

IAPro is the department's database used to track information about officer use of force, citizen complaints and Office of Professional Accountability ("OPA") investigations, and other risk-related incidents. The information contained in the IAPro is useful for understanding which officers used force, in what circumstances, which types of force were applied, and the effectiveness of the use of force. For instance, IAPro contains information on the conditions of the encounter, including whether the subject was impaired. IAPro also contains demographic information about both officers and subjects, as well as administrative information about the process and progress of the investigation.

Tables from the IAPro database were downloaded on February 1, 2017, to include records for the time period from July 1, 2014 to October 31, 2016. Individual tables were downloaded and collated using appropriate joining fields, as described in the document "IA Pro Database Diagram" provided to the Monitoring Team by SPD.

The beginning of this period was chosen to capture the beginning of SPD's application of policies and training implemented in accordance with the Consent Decree. It is worth emphasizing that the time period covered by this report begins with a relatively early period in the Consent Decree process. The use of force policies governing much of the behavior described in this report became effective January 1, 2014. Training to those policies began in the spring of that year on the new reporting obligations.<sup>88</sup> In-person training on the substance of the force policy began later that year and continued into 2015.<sup>89</sup>

The end of this period was chosen in order to increase the likelihood that investigations and reviews of use of force incidents had been completed by the date the tables were downloaded. The central table of the IAPro database is INCIDENTS, and within this table is a field INCIDENT\_CODE. Use

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<sup>88</sup> See Dkt. 194 at 23.

<sup>89</sup> *Id.* at 24; Dkt. 212 at 17.

of force entries are flagged in the field INCIDENT\_CODE, and only records flagged “UOF” were analyzed for this report.

IAPro data are collected in multiple levels. At the highest level is the individual incident, designated by a GO Number or CASENUM (the two are interchangeable). There are 2,385 unique incidents that involved one or more uses of force by one or more officers in the time period under study.<sup>90</sup> Within this level are records for individual officers on each incident, in which officers report their uses of force separately. There are 4,272 separate officer reports nested within the 2,385 incident reports. Finally, each officer reports each type of force separately (i.e., handcuffs, Taser). Applications of different types are reported in 6,171 separate records, nested within officer-level reports. In this report these nested records are aggregated to reflect activity at both the officer and the incident level.

CAD is the Department’s database for recording communications, including the date, time, and location of each incident, how the case was received (9-1-1, on-view (or an officer viewing some activity, action, or behavior and initiating a contact with an individual), etc.), the initial case type (i.e., traffic stop, assault), the final case type (i.e., DUI, domestic violence), and the disposition (i.e., arrest, report written). The information contained in the CAD database is useful for understanding department activity, including calls for service, how many calls were dispatched, how many contacts were made, the type of calls, and to some degree, the disposition. During the time period selected, there were 424,735 unique 9-1-1 calls to which officers were dispatched and 334,648 incidents that were called in as on-views by officers in the field.<sup>91</sup> It should be noted that these include all calls and incidents and cannot reasonably be considered as the number of times that an officer encountered a situation in which force might have been used.

The CAD database is not a reliable source of information about the case disposition, however, as it only allows for one clearance code per incident. Therefore, there is only one record per incident in the CAD database. These can be matched with the IAPro database using an ID number assigned to each record that is also used as the GO\_NUMBER.

RMS is the Department’s database that contains detailed information about individual offenses from arrests and reports, as well as information about subjects who are booked into King County Jail. The information contained in the RMS database is useful for understanding the offenses to which officers respond, in each case, as well as whether the case included an arrest and booking in the King

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<sup>90</sup> Reported uses of force that were determined to be “*de minimis*” have been removed from the analysis. There were 6 cases and 16 individual officer reports that were categorized as *de minimis*.

<sup>91</sup> This number excludes calls handled by Parking Enforcement Officers only, 11,460 incidents to which a detox van was the only unit called to respond, and on-view events created only to document the location of officers on secondary employment in the field.

County Jail. Where a person is booked, the Department uses NIBRS codes<sup>92</sup> to record the offense type. For the period July 1, 2014 through October 31, 2016, there are 303,899 records. Seven percent (20,843) were entered into the database through COPLOG, the reporting system for citizen online reporting and Store Security Officers in the Retail Theft Program, and are omitted from the analysis. Another 108,763 cases contained non-NIBRS codes (i.e., missing persons, collisions, natural death), and are also omitted from the analysis.<sup>93</sup> The remaining 174,341 records were analyzed. A case may have multiple records if there are multiple offenses, and according to NIBRS protocol, the first-listed offense in a particular case is the most serious. Restricting the database to those NIBRS-coded records listed as most serious creates an analysis of 155,202 individual records to match with the IPro database. Following a similar winnowing process with the King County Jail records, the Monitoring Team found 23,423 individual arrests during the same period.

As will be discussed later in this report, it is important to note upfront a known limitation of the current RMS. It was designed as a NIBRS reporting tool, not a records management tool. For NIBRS, an event is only counted as an arrest if charges are sent to a prosecutor. Therefore, the “arrest” count in the RMS currently excludes custodial arrests that do not lead to filed charges. This leads to an undercounting of arrests and, when force is compared to arrests, an overstatement of the frequency of force.

Most of this analysis relies on the IPro database, with CAD and RMS information providing important context, and in some instances additional information, to use of force information logged in the IPro database. The report identifies the specific statistical techniques or analytical approaches used when summarizing the various types of inquiries conducted with the data.

## **B. A Note on the Data’s Limitations**

The Monitoring Team’s goal is to provide an aggregated snapshot of the Department’s uses of force by combining these data into a single analytical dataset. The complexities of the data, the methods in which the data are stored, and the absence of critical information, however, make it difficult to achieve this goal.

For example, SPD has a practice of attaching to the IPro database a PDF document listing the findings of each use of force review, but the information contained in the PDF document is not extracted or summarized and included as data in the IPro database. That information is therefore

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<sup>92</sup> NIBRS codes refer to standardized codes used by the FBI’s Uniform Crime Reporting program. See Federal Bureau of Investigation, Criminal Justice Information Services Division, “National Incident-Based Reporting System (NIBRS) User Manual” (Jan. 2013), available at <https://www.fbi.gov/about-us/cjis/ucr/nibrs/nibrs-user-manual>.

<sup>93</sup> The reason for the omission is that the FBI codes refer to actions or activity that might be considered as squarely related to the law enforcement of actual or potential criminal misconduct. It is in these contexts that use of force might be reasonably expected occur. It is dramatically less likely that a use of force would occur in the context, for example, of a missing person incident or a traffic collision response.

unavailable and cannot be extracted for data analysis. Similarly, while the Monitoring Team is able to calculate how many times an individual officer reports using force, it cannot analyze the propensity of an individual officer to use force because the databases do not track individual officer activity. The ARREST table of RMS contains the badge number of the booking officer but not the badge number of the arresting officer. The GO\_REPORT contains the badge number of the officer who wrote the report, but not the badge number of the officer who made the arrest. While this information is contained in the narrative reports of the PDFs, it is absent from the data in the databases making it difficult, if not impossible, to analyze in a timely or thorough fashion. These issues and associated recommendations are detailed further in the report.

### **C. A Note on the Availability of SPD Data**

With respect to data on use of force, SPD routinely posts data about its activities and performance to the City's open data site – data.seattle.gov – including 9-1-1 response times, crime statistics and maps, in-car video logs, CAD events, and the like. On its website, SPD posts public-facing “dashboards” by which members of the public and researchers across the country can extract and explore SPD data across multiple dimensions.

In January 2017, SPD posted its use of force data. The Monitor understands that SPD will shortly be publishing its data on stops, as well. Thus, the data that the Monitoring Team summarizes here is available to anyone with an interest in accessing it. This represents another highly commendable step in SPD's evolution from a Department that did not systematically collect and analyze information about officer performance to one that collects and publicly disseminates such data as a standard way of doing business.

## **II. Overview of Force Data & Trends**

The overall incidence of force is in no way, by itself, singularly dispositive of whether SPD is complying with the Consent Decree. For one thing, not all force is the same. A control hold – a lower-level force technique not normally associated with actual or possible subject injury when applied in a manner consistent with training – is not the same as an officer-involved shooting, of which there were just fifteen during the period that this report studied.

Second, the fact that SPD officers used force in a given number of incidents does not reveal anything about whether that force was reasonable, necessary, and proportional under the circumstances. Nor does it show whether officers engaged in affirmative techniques and tactics to de-escalate the situation and resolve the situation with less significant, or no, force. Part III of this report considers the Monitoring Team's discussion of just these issues.

Nevertheless, decreasing numbers of use of force over time is a positive indicator that SPD officers are deploying force at least less frequently – which might correlate positively with officers using sounder tactics and enhanced de-escalation skills to resolve incidents without needing to use force.

With these important limitations in mind, the bottom line: **Between July 1, 2014 and October 31, 2016, officers reported using force of some level in a total of 2,385 incidents, or an average of about three incidents per day.<sup>94</sup> The number of use of force incidents decreased by nearly 11 percent in the more recent (September 2015 through October 2016) study period.** Again, for the purposes of this report, the term “incident” refers to one event or case, regardless of the number of officers using force.

Viewed in the context of overall officer and SPD activity, this number indicates that of the 759,383 unique incidents reported in the CAD database and to which officers were either dispatched or which they on-viewed in the field during the time period selected, less than half of one percent (0.3 percent) involved any degree of force of any type.

There are some important caveats with respect to this statistic. Specifically, it must be observed – as outlined above – that the number of unique incidents (759,383) necessarily includes a host of incidents in which it would be unlikely that officers would encounter force (e.g., missing person response, etc.). To that end, the number of unique incidents may be overly inflated as far as establishing an appropriate context for considering how much force officers are using per total number of encounters in which force may have been used. On the other hand, the 759,383-incident number could be under-counting the number of overall contacts that SPD officers made during the time period because it does not include voluntary and consensual encounters with residents and members of the public.

In short, although it is useful to note that, by one measure, SPD officers used force in 0.3 percent of overall incidents, **potential imprecision with respect to calculating the overall number of incidents in which SPD officers engaged in potential force might have been used means that this statistic alone cannot be dispositive in any particular direction.**

Likewise, even if this measure were more precise, the Consent Decree does not require or expect that the number of use of force incidents decrease. Indeed, the risks of unconstitutional policing are not necessarily ensured by reducing policing<sup>95</sup> or the use of force. Over time, it is at least possible that officers might use force across fewer incidents but use such force in a manner contrary to the Department’s policies when they do. Part III of this report explores whether the force that officers do use is employed in a manner consistent with SPD policy.

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<sup>94</sup> A more detailed breakdown of the character and type of arrests resulting in force, as well as the overall prevalence of force given officer activity, is included later in this report.

<sup>95</sup> Fourth Semiannual Report at 11.

## A. Use of Force by Incident Type, Severity of Force, and Across Time

Table 1. Use of Force Incidents by Type

Use-of-Force Incidents July 1, 2014 - October 31, 2016			
UOF Type	July 2014 to August 2015	September 2015 to October 2016	Total
Type I	989 78%	909 81%	<b>1,898</b> 80%
Type II	249 20%	199 18%	<b>448</b> 19%
Type III	14 1%	10 1%	<b>24</b> 1%
OIS	8 1%	7 1%	<b>15</b> 1%
<b>Total N</b>	<b>1260</b>	<b>1125</b>	<b>2,385</b>

The vast majority (approximately 80 percent) of force incidents involved only low-level, Type I force. As Table 3 sets forth, of these Type I incidents, more than one-half (58 percent) involved handcuffing, while another more than one-quarter (30 percent) involved the pointing of a firearm. This means that a majority of force is low-level force – and a majority of that low-level force is related to handcuffing.

There were nearly 11 percent more reported use of force incidents in the first half of the study period (July 1, 2014 to August 31, 2015) than in the second half (September 1, 2015 to October 31, 2016). While the overall difference is due in large part to an 8 percent decline in Type I cases, there was also a 20 percent decline in the number of Type II cases across these periods.

By considering the varying force levels of types, we can – for the first time since the Department of Justice’s investigation in 2011 – begin to see whether and to what extent, in the aggregate, officers have begun to use less force than before the implementation of the Consent Decree. As the DOJ stated in its 2011 findings letter, SPD previously reported the use of physical force only if such force “causes an injury, could reasonably be expected to cause an injury, or results in complaint of injury.”<sup>96</sup> This definition approximates the current standard for Type II force, which also turns, in part, on the presence of injury; *i.e.*, Type II force is force causing harm greater than transitory pain (the marker for Type I) but less than great or substantial injury (the marker for Type III force).

DOJ received 1,230 use of force reports covering the period between January 1, 2009 and April 4, 2011, a period of 28 months.<sup>97</sup> As Figure 1 above shows, there were 487 Type II, Type III and OIS uses of force during the 28-month period of study since the policy became effective and training

<sup>96</sup> 2011 Findings Letter at 15 (citing SPD’s prior Department Policy & Procedures Manual 6.240.I.D).

<sup>97</sup> 2011 Findings Letter at 4.



began in earnest. **This represents a decrease of 743 force incidents, or a 60 percent reduction in the use of moderate- to higher-level force, between the 2014–2016 period studied here and the time period addressed by DOJ’s investigation.**

This is a notable statistic. It must, of course, be observed that force reporting policies and practices between 2009 and 2011 were markedly different and less rigorous than SPD’s current systems – giving no reliable way to say with any degree of certainty whether the 1,230 reports from 2009 through 2011 actually and appropriately reflected all uses of force. The true number of force incidents for the pre-Consent Decree period could well have been higher, as SPD did not have rigorous policies, processes, and systems in place for ensuring the uniform reporting of all force – which would increase the comparative drop.

**Of the 2,385 incidents in which force was reported, only 1.6 percent (or 39 incidents) involved Type III use of force** – the most significant use of force incidents – a number that includes the fifteen officer-involved shootings. In the context of overall police activity, albeit with the caveats previously discussed as to the CAD data, this means that of the 759,383 unique incidents to which officers responded or on-viewed during this review period, less than 0.00003% involved a greater than moderate (Type II) level of force.

Figure 1. Use of Force Trends

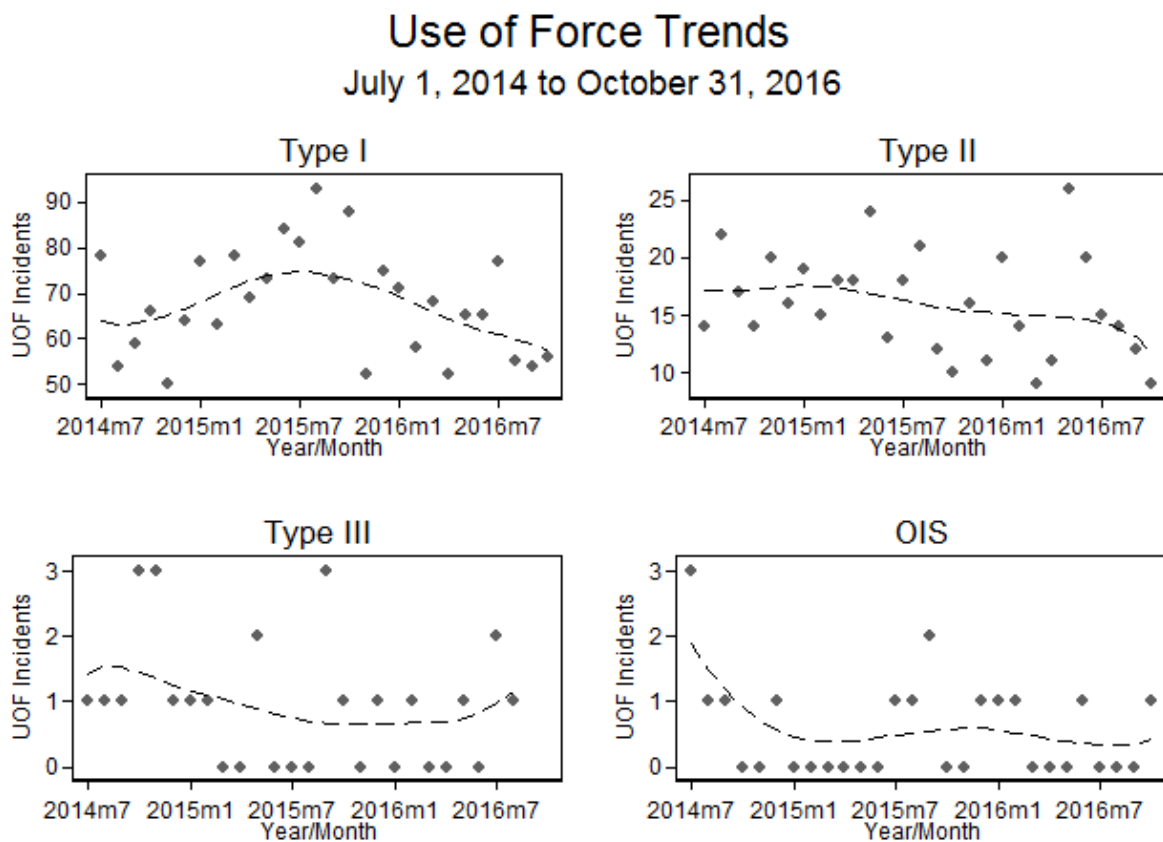


Figure 1 displays information about the trends in force incidents by month and type – making clear that **use of force across types, from the most serious to the comparatively least serious, have generally been decreasing over time.**

The Monitoring Team observes that **the number of reported Type I incidents has varied systematically over time, rising from July 2014 to September 2015, and declining thereafter.** Type I cases did rise and fall during the period under study, peaking in August 2015 (93 cases). From July 2014 through August 2015, Type I cases increased at a rate of approximately 3 percent per month. Over the subsequent 14 months, Type I cases decreased at a statistically significant rate of approximately 4 percent per month, ending the study period with consecutive months of 55, 54, and 56 cases.<sup>98</sup>

The Monitoring Team hypothesizes that this early rise and subsequent fall in Type I incidents is at least partially due to changes in reporting this type of force, which was generally not reportable prior to the Consent Decree. In order to understand how the variation in different types of force affect the overall variation in Type I force reports, we analyzed the three most common types: handcuffs, pointing a firearm, and personal force. Handcuff-related uses of force increased by approximately 4 percent per month during the period from July 2014 through August 2015, and decreased by approximately 5 percent per month thereafter. In addition, reports of officers pointing firearms at individuals did not increase over time in the first period, but did decrease significantly from September 2015 through October 2016.<sup>99</sup> The use of personal force did not vary over time in any systematic fashion. All three of these are highly correlated with the overall use of Type I force, and the frequency of handcuff-related uses of force, firearm pointing uses of force, and personal uses of force explains nearly all of the fluctuation in Type I incidents during the study period.<sup>100</sup> To understand how policies and training influence the frequency of Type I force it would be wise to start by studying how it affected the application of these three types.

Meanwhile, intermediate, Type II cases declined slightly over the entire period, at an average rate of about 1% per month; the decline is not statistically significant.<sup>101</sup> **Type III incidents tapered off over time, with no Type III incidents reported at all in four of the last twelve months of the study period.** Training to the new force and force-related policies, including the new Crisis Intervention policies, accelerated during 2014 into 2015. However, with correlation insufficient to

<sup>98</sup> These were calculated using a linear regression model with an interaction ( $R^2 = .37$ ). The estimates are significant at  $p < .01$ .

<sup>99</sup> A linear regression with an interaction demonstrated that Pointing a Firearm uses of force vary significantly with time in the latter half of the period ( $R^2 = .31$ ,  $p < .05$ ).

<sup>100</sup> A linear regression leads us to conclude that changes in the frequency of Handcuff-related uses of force, Firearm Pointing uses of force, and Personal uses of force explain the changes of Type I uses of force during the study period ( $R^2 = .90$ ). Once these are accounted for, seasonal fluctuations are not significant predictors of Type I cases.

<sup>101</sup> This was calculated using a linear regression model ( $R^2 = .13$ ). The p-value of the estimate is .06.

establish causation, the extent to which the provision of training effectuated the decrease cannot be determined definitively.

## B. Use of Force by Location/Precinct

As the Monitoring Team has previously observed – and as common sense would suggest – use of force incidents are not spread equally across Seattle’s precincts. Areas and neighborhoods with the greatest number of arrests, reported crime, or the highest numbers of residents living or otherwise spending time there tend to correlate to those areas where officers use force with greater frequency. **The number of use of force incidents reported over the study period ranged from a low of 155 incidents in Southwest Precinct to a high of 619 incidents in West Precinct (Table 2).**<sup>102</sup>

Table 2. Use of Force by Precinct and Type

Use-of-Force Incidents by Precinct and Type July 1, 2014 - October 31, 2016					
Precinct	Type I	Type II	Type III	OIS	Total
<b>West</b>	447	160	9	3	<b>619</b>
<b>North</b>	439	80	5	7	<b>531</b>
<b>East</b>	390	93	6	1	<b>490</b>
<b>South</b>	406	61	1	4	<b>472</b>
<b>Southwest</b>	132	22	1	0	<b>155</b>
<b>Other</b>	84	32	2	0	<b>118</b>

As discussed elsewhere in this report, **the number of force incidents occurring within each precinct appeared roughly proportional to the number of arrests made in that area.** The Monitoring Team notes, however, that the **West and North precincts were more likely to report more serious uses of force (Type II or Type III) than the other precincts.** Type II and III use of force incidents made up 28 and 20 percent, respectively, of incidents for West and North precincts and between 14 and 17 percent of incidents for other precincts. It bears noting at this point that West and North Precincts include Seattle’s active nightlife areas, are the locations of centralized social service providers, and have the highest numbers of calls for service. **North and South Precincts had the highest number of OIS incidents,** however, with three incidents in each precinct.<sup>103</sup>

<sup>102</sup> An additional 118 incidents involving SPD officers were classified in IA Pro as non-precinct specific: Outside of the City (53), Special Ops/SWAT (47), Investigations (10), Demonstration (5), and Traffic/PEO (3).

<sup>103</sup> One of the incidents attributed to North Precinct, given the significance of North Precinct officers to the events that unfolded, was a multi-officer incident that originated in West Precinct, leaving open the question of whether the incident is most properly attributed to either West or North.

### III. Force Instruments & Techniques Used by SPD Officers

Table 3 contains the rates at which various force instruments, techniques, or options were used during use of force incidents. This data aggregates separate uses or applications of specific force techniques across all incidents, including the separate application of different force instruments or techniques in the same incident. Thus, the total number of individual applications of force summarized in Table 3 exceeds the total number of force incidents reflected in Tables 1 and 2 because, in some force cases, officers used multiple techniques or force instruments during the same incident.

According to SPD's data, and perhaps unsurprisingly, **the most common type of force used was that of restraints, particularly handcuffing.** (Although handcuffing is not considered reportable force on its own, the use of handcuffing may be reported alongside other types of force or, for Level I cases, where the use of the handcuffs is reported by the subject to cause transitory pain.)

More than half (55 percent) of Type I cases included the use of restraints (handcuffing, as use of the hobble qualifies as a Type II restraint), and 44 percent included no force other than handcuffing. Although it was not immediately clear from the data whether such restraints resulted in complaints of pain, the Monitoring Team observed in its qualitative review, discussed in Part III, that **a large proportion of Type I cases appear to encompass instances where a subject reported that the handcuffing caused pain.**

Table 3. Applications of Force Instruments/Options.

Applications of Force Instruments/Options by Type of Force July 1, 2014 - October 31, 2016										
	All		Type I		Type II		Type III		OIS	
<b>Handcuff/Hobble</b>	1322	55%	1101	58%	208	46%	12	50%	1	7%
<b>Control Hold</b>	826	35%	462	24%	343	77%	19	79%	2	13%
<b>Firearm - Point</b>	628	26%	562	30%	53	12%	2	8%	11	73%
<b>Personal Weapons</b>	316	13%	114	6%	188	42%	14	58%	0	0%
<b>Verbal</b>	309	13%	163	9%	134	30%	10	42%	2	13%
<b>Other</b>	72	3%	27	1%	39	9%	2	8%	4	27%
<b>Taser</b>	73	3%	5	0%	63	14%	2	8%	3	20%
<b>Chemical Agent</b>	34	1%	0	0%	31	7%	1	4%	2	13%
<b>Baton/OC/Balls</b>	23	1%	1	0%	21	5%	1	4%	0	0%
<b>Firearm - Fire</b>	17	1%	1	0%	1	0%	0	0%	15	100%

After handcuffing, the next most common type of force, accounting for more than one-third (35 percent) of force applications, was the use of a control hold, which includes both

**“soft” and “hard” takedowns.** These uses of force were particularly prevalent in Type II and III incidents (used in more than three-quarters of those incidents).

Next, **about one-third (30 percent) of Type I incidents involved the pointing of a firearm at a person.** One-quarter (25 percent) of Type I cases included no force beyond the pointing of a firearm. When a firearm was in fact fired, the pointing of a firearm by another officer present at the scene was reported in a vast majority (about four-fifths) of instances.

**Those use of force techniques or instruments generally considered to be more significant, severe, or injurious,<sup>104</sup> such as the use of personal force (hard strikes, kicks, and the like) or less-lethal weapons such as the Taser, were used less often, making up a small proportion of overall uses of force.**

The Monitoring Team found that **the use of less-lethal weapons was relatively rare. With respect to one such tool, the baton, the decline in use has been dramatic.** The Department of Justice’s 2011 investigation concluded that “SPD officers too quickly resort to the use of impact weapons, such as batons and flashlights.”<sup>105</sup> The DOJ investigation could not provide specific numbers that could serve as a reliable baseline for how frequently officers were using the baton because it found that SPD did not reliably report force incidents. However, the investigation did conclude that a single officer had used his baton 12 times in a 14-month period. The Monitoring Team has found that, **for the 28-month period studied for this report, all of Seattle’s officers combined used their batons just 23 times. This is a noteworthy finding.**

The other major less-lethal instrument available to officers is the Taser. As with the apparent sharp drop in SPD’s use of the baton, **the numbers for Tasers point to a significant decrease from the pre-Consent-Decree period.** “From January 2001 through December 2010,” the DOJ observed, “Tasers have been used in 1,707 incidents, averaging 14 incidents per month. During 2010, Taser use averaged 7 incidents per month, well below the overall average.”<sup>106</sup> In the 28 months between July 2014 and October 2016, Tasers were used by 80 officers<sup>107</sup> during 73 Type II and Type III incidents – an average of 2.9 deployments of the Taser during force incidents per month.<sup>108</sup>

There is a correlation between the use of the Taser and the presence of individuals either (a) experiencing a behavioral crisis (as defined by policy) or (b) exhibiting signs of drug or alcohol

<sup>104</sup> Indeed, it is on the grounds that some techniques are usually more significant, are more severe, or carry more inherent risk of injury or death even when applied consistent with training and best practice that SPD’s three-level classification scheme (Type I, Type II, and Type III force) for reporting, investigating, and reviewing force is based.

<sup>105</sup> 2011 Findings Letter at 4.

<sup>106</sup> “Taser Use Update,” Seattle Police Department (May 2011).

<sup>107</sup> Individual officers may have used the Taser in multiple incidents; each incident is counted separately.

<sup>108</sup> Five Taser incidents were classified as Type I force because, although the officer pointed the Taser, the officer did not activate or deploy it.

impairment, though not in crisis. Specifically, in nearly all of the incidents in which a Taser was deployed (67 of 73, including Type I incidents), the subject was assessed either to be experiencing a behavioral crisis event (42 incidents) or impaired by alcohol or drugs (25 incidents). As explored in the Monitor's assessment on crisis, use of force in true crisis events is rare (less than 1-2 percent). However, it is worth noting that SPD officers seem to be using the Taser almost entirely when a subject either was affected by a behavioral crisis, under the definition of that term under SPD policy and training, or – even if not experiencing a crisis – identified to be under the influence of drugs or alcohol.

About four-fifths of Taser applications occurred during encounters initiated through a 9-1-1 call, with the others occurring during encounters initiated due to officer observation (11 percent), booking (7 percent) or another type of call (3 percent). In about 79 percent of instances where the Taser was used, the force encounter resulted in the arrest of the subject. Using records from SPD's separate RMS database, the Monitoring Team determined that for the incidents involving Taser applications in which the encounter ultimately resulted in the subject's arrest, the majority resulted in arrests for assault (57 percent), and that the percentage of assault arrests was the same (56 percent) among those who were classified as CIT/Behavioral Crisis Event.

#### **IV. Use of Force by Officer**

Just as force is not applied uniformly across Seattle, the frequency with which individual SPD officers use force varies. Some officers use a great deal of force on many occasions; others little or none at all. The DOJ investigation previously concluded that “a minority of officers account for a disproportionate number of use-of-force incidents,” and that during a calendar year, “just 20 officers accounted for 18 percent of all force incidents.”<sup>109</sup>

According to SPD data, there were a total of 4,272 applications of force during the study period by 826 unique officers.<sup>110</sup> The Monitoring Team found that some officers used force much more often than others.

**Across the 4,272 individual uses of force by officers, this means that an average officer used reportable force, of some level, in approximately 3.3 incidents over the course of the 28-month evaluation period.**

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<sup>109</sup> 2011 Findings Letter at 4.

<sup>110</sup> Calculated by badge number, with each officer counted once per incident. Three officer entries were not properly entered and were excluded from the calculation.

Table 4. Frequency of Officer Force.

Use of Force Incidents per Officer July 1, 2014 to October 31, 2016			
# Incidents	# Officers	Percent	Cumulative
1	198	24%	24%
2	127	15%	39%
3	95	12%	51%
4	71	9%	59%
5 - 6	106	13%	72%
7 - 10	120	15%	87%
11 - 20	96	12%	98%
20 - 30	11	1%	99%
34	1	>0%	99%
49	1	>0%	100%
<b>Total</b>	<b>826</b>		

Of the 826 officers who did use force during the 28-month period studied, the median number of times force was used was 3. About one-quarter (24 percent) of officers were involved in just one incident (Table 4). Another quarter (27 percent) of the officers were involved in two or three incidents. Overall, 87 percent of those who used force were involved in ten or fewer incidents over the 28 months of this study. The remaining 13 percent are spread across a range from 11 to 49 incidents, with most of them clustered in the 11-20 category. Two officers are outliers, with 34 and 49 incidents respectively. Officer use of force is not very consistent over time. The number of times an officer used force in the first 14 months of this study was not a good predictor of the number of times an officer used force in the second 14 months.<sup>111</sup>

One obvious question is why the number of force incidents per officer averaged 3.3 incidents when half of all SPD officers used reportable force in 3 or fewer incidents. The answer is two-fold. First, although the sworn membership of the Department hovered around 1,300 during the time period selected, a much smaller number of those employees held positions where they might more foreseeably be involved in circumstances that involved a use of force. For example, during this time period, fewer than 500 officers were assigned to patrol positions at any one time, which would foreseeably be involved in the vast majority of force incidents. Moreover, even within patrol operations, some officers, by virtue of their particular assignments, encounter a greater number of situations in which some level of force may be necessary. Both of these realities are reflected in the data, which show that that **a relatively small number of SPD officers – 109 officers, or about 8 percent of all SPD officers and 13 percent of all SPD officers who used force at least once –**

<sup>111</sup> This is based on a bivariate linear regression model ( $R^2 = .01$ ,  $b = .10$ ,  $p < .01$ ,  $N = 825$ ).



were involved in eleven or more use of force incidents each. This included the officer who reported being involved in some 49 use of force incidents. In all, these **109 officers accounted for 40 percent of all force reported by SPD during the 28-month period.**<sup>112</sup>

Table 5. Frequency of Officer Force by Type.

Use of Force Incidents per Officer by Type of Force July 1, 2014 to October 31, 2016					
# Incidents	Level 1	Level 2	Level 3	OIS	N
1	146	50	1	0	197
2	177	70	2	3	252
3	212	68	2	2	284
4	200	79	3	2	284
5-6	414	145	5	4	568
7-10	715	256	9	10	990
11-20	986	333	17	7	1,343
20-30	198	57	2	1	258
34	21	13	0	0	34
49	41	7	0	1	49
<b>Total</b>	3,110 73%	1,078 25%	41 1%	30 1%	4,259 100%

Looking at the type of force used by officers, these 109 officers who used force more often are not distinguishable from those who used force less frequently. That is, **in the aggregate, the relatively small group of SPD officers who used force the most did not use different, or more serious, force than SPD officers who used force less.** Three-quarters (73 percent) of all officer use of force is categorized as Type I, and 25 percent is categorized as Type II (Table 5).<sup>113</sup> There are minor differences between those who use force more frequently and those who use it less, but these differences are not statistically significant.<sup>114</sup>

**Just three officers were involved in more than one Type III incident in the 28-month period.** Of the six incidents involving these three officers, four occurred in 2014, one in 2015, and one in 2016. Three of the incidents involved control holds, two involved personal weapons, and one involved handcuffing. **No officers were involved in more than one officer-involved shooting in the 28-month period.**

<sup>112</sup> Note that some unique incidents or events may be counted more than once, depending on the number of officers using force during the incident.

<sup>113</sup> These numbers are based upon the maximum use of force reported by each officer in each incident, as opposed to the maximum use of force reported by all officers in each incident.

<sup>114</sup> We tested statistical significance using a 2x4 table (2= Officers with 10 or fewer incidents/more than 10 incidents, 4 = the 4 UOF Type categories). N= 4259, Chi-square = 3.32, df=3, p=.35.



Overall, of the 495 individual officers responsible for the 1,149 officer uses of Type II or Type III force (in about 487 unique incidents), 35 officers – about 7 percent of the officers who used Type II or greater force at least once during the 28-month period – used this type of force more than 5 times each. All told, these 35 officers accounted for approximately 23 percent of all Type II-or-greater uses of force. This finding might appear, at a superficial glance, to identify a population of officers who have a preference for serious force. Breaking the data into two 14-month periods tells a different story, however. Twelve officers used Type II or greater force at least 5 times during the period from July 1, 2014 to August 31, 2015, and 6 officers did so in the period from September 1, 2015 to October 31, 2016. These two groups do not overlap. Indeed, 6 of the 12 officers from the first period reported 0 or 1 incidents of Type II or III force in the second period, and 3 of the 6 from the second period reported 0 incidents in the first period.

In short, then, we can conclude that **a small group of officers is responsible for a substantial portion of SPD's force – but that there is no one group of officers that appears systematically and systemically more inclined to use more serious force.** What this aggregate analysis cannot determine, however, is whether there are *individual officers* who do use force more regularly than their peers and/or who use more significant force during their more frequent force applications.

On the one hand, it may be expected that some officers would be more regularly involved in force incidents by nature of their assignment. That is, it might well be the case that some SPD officers are more likely to find themselves in situations in which they must lawfully and reasonably use force – because their assignment or beat is especially demanding or high-volume or because the officers themselves are particularly active and are more likely to handle more significant or demanding incidents than their peers. Indeed, that would appear to be the case with the officer who reported being involved in 49 force incidents in 28 months (a rate of 1.75 per month) and is assigned to a particularly active watch and beat.

On the other hand, it may well be the case that an officer who uses force 10 times in a year might be using more force than necessary or failing to appropriately de-escalate situations in a manner consistent with SPD policy and, crucially, the officer's SPD peers.

Accordingly, **the numbers presented here cannot, in isolation, establish whether any of the officers with higher levels of force than their peers have or have not been engaged in force contrary to SPD policy – and care should be taken not to derive any such conclusion.** The Monitoring Team has previously emphasized this point:

[C]onsider an officer who uses force much more often than his peers. The officer may be following the letter of the law and Department policy but may nonetheless be placing himself in unnecessary risk by failing to adhere to basic tactics or by unnecessarily escalating confrontations. Alternatively, closer scrutiny may show that the officer has been making tactical, sound decisions – but could nonetheless

benefit from some additional support from fellow officers and his or her supervisor. Likewise, the scrutiny may merely identify an officer who is exceptionally productive and proactive.<sup>115</sup>

Consequently, **it is crucial that the SPD continue its efforts to determine which officers are using force disproportionately and whether their performance presents a need for additional training or other intervention.** Indeed, DOJ previously used this data “to highlight . . . the kind of enhanced supervision and oversight that SPD needs to provide officers . . . .”<sup>116</sup> DOJ did not argue “that the pattern or practice of the use of excessive force is attributed only to those officers who use force more than one time in a year.”<sup>117</sup> Instead, DOJ was troubled by the fact that “[o]f all officers who used force 10 or more times, only one officer received administrative review of any kind” and that, among the 1,230 use of force reports DOJ received, only five use of force packets were referred at any level for further review.”<sup>118</sup>

For these reasons, it is relevant that written policies have improved,<sup>119</sup> the reporting, investigation and oversight of force largely met the Consent Decree’s standards,<sup>120</sup> and that SPD’s Early Intervention System is geared toward “track[ing] various aspects of an officer’s performance,” including an officer’s use of force, “and provides a mechanism for notifying supervisors that an officer’s performance may require greater scrutiny – and, if necessary, correction and support.”<sup>121</sup>

The Monitoring Team is aware of internal, peer-to-peer analyses that have identified “outlier” officers. The upcoming rollout of the Data Analytics Platform will permit the SPD to even more easily, and in real time, determine which officers are responsible for a higher number of force than others in light of activity levels, and be able to take steps to address that disparity, for the safety of both the public and officer. Although it may produce some uncomfortable conclusions from time to time, SPD will need to meaningfully embrace this type of analysis to conduct active risk management.

## V. Use of Force by Officer Characteristics

The characteristics of individuals who are the subjects of force can be both delicate and important. Indeed, in Seattle, there continue to be concerns that police officers may treat individuals of certain

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<sup>115</sup> Third Semiannual Report at 79.

<sup>116</sup> 2011 Findings Letter at 20.

<sup>117</sup> *Id.* at 21.

<sup>118</sup> *Id.* at 19, 21.

<sup>119</sup> See Dkt. 115.

<sup>120</sup> See First Systemic Assessment; Second Systemic Assessment.

<sup>121</sup> Third Semiannual Report at 79.

racess, ethnicities, or backgrounds and experiences differently.<sup>122</sup> This section explores the characteristics of individuals who are the subjects of use of force incidents.

### A. Use of Force by Perceived Subject Sex

The majority of uses of force, over 75 percent, involved subjects who were male, with female subjects comprising a much smaller proportion of those against who force was used.<sup>123</sup>

Table 6. Use of Force Subjects by Gender.

Use of Force Subjects by Gender July 1, 2014 to October 31, 2016										
Gender	Total		Type I		Type II		Type III		OIS	
Not Entered	120	5%	93	5%	20	4%	1	4%	6	40%
Female	475	20%	430	23%	44	10%	1	4%	0	0%
Male	1783	75%	1372	72%	380	85%	22	92%	9	60%
Other	5	0%	3	0%	2	0%	0	0%	0	0%
Unknown	2	0%	0	0%	2	0%	0	0%	0	0%
<b>Total</b>	<b>2385</b>	<b>100%</b>	<b>1898</b>	<b>100%</b>	<b>448</b>	<b>100%</b>	<b>24</b>	<b>100%</b>	<b>15</b>	<b>100%</b>

**Female subjects were much more likely to be involved in a Type I use of force than in a Type II-or-greater use of force.** While they made up nearly a quarter of subjects in a Type I use of force, they comprised just ten percent of subjects in the more serious types of force.

### B. Use of Force by Race/Ethnicity

**Overall, about 42 percent of force subjects were people of historically underrepresented racial or ethnic groups, including Hispanics, Latinos, African-Americans, Asians, and Native Americans (Table 7).<sup>124</sup> Thus, historically-represented racial or ethnic groups are**

<sup>122</sup> Dkt. 235 at 9–10 [*hereinafter* "2015 Community Survey"] (finding that 54 percent of Seattleites believe that Seattle police treat people differently because of their race, with more than two-thirds (69 percent) of African-American residents saying that SPD engages in excessive physical force).

<sup>123</sup> This excludes 120 cases where no sex or gender was entered. It should be noted that this information is based on the police officer's documentation of a subject's sex for purposes of force reporting – which itself would be based either on external observations, by some official documentation (such as on a subject's identification), or information within a law enforcement database. It is possible that the biological sex of some individuals might have been different from the gender identity expressed or observed by an officer.

<sup>124</sup> The demographics of the use-of-force subjects were derived from what officers reported in IAPro. The Monitoring Team has so far focused its analysis on the incident-level, which could pose problems for assigning sex or race to an incident that has more than one subject, or if officers reporting the use of force in a single incident enter conflicting information. In other words, there might be confusion or mis-assignment of sex or race at the incident level. One solution, if the proportion of incidents with mixed sex or race was large, would be to report sex and race as "mixed" in those incidents in which there may be ambiguity due to multiple subjects. Another solution is to randomly select one of the subjects as

**represented in the population of force subjects at a rate disproportionate to that of the overall Seattle population.** Approximately 41 percent of all use-of-force incidents where a race was entered on a use of force reporting form involved a subject who was White, followed by 33 percent of incidents that involved a Black subject. Approximately 16 percent of subject races were unknown, including 12 (or 31 percent of) subjects involved in Type III incidents.<sup>125</sup>

**Table 7. Use of Force by Type and Subject Race/Ethnicity.**

Use of Force by Type and Subject Race/Ethnicity July 1, 2014 to October 31, 2016											
Race/Ethnicity	Pop.	Use of Force Type									
		Total		Type I		Type II		Type III		OIS	
<b>Am Indian</b>	1%	42	2%	34	2%	7	2%	1	4%	0	2%
<b>API</b>	14%	89	4%	70	4%	18	4%	1	4%	0	4%
<b>Black</b>	8%	794	33%	638	34%	149	33%	4	17%	3	33%
<b>Hispanic</b>	7%	109	5%	92	5%	16	4%	1	4%	0	5%
<b>Unknown</b>		371	16%	299	16%	60	13%	5	21%	7	16%
<b>White</b>	70%	980	41%	765	40%	198	44%	12	50%	5	41%
<b>Total</b>	100%	2385	100%	1898	100%	448	100%	24	100%	15	100%

This potential disparity – analyzed in crude, Census population terms rather than more sophisticated analyses for the sake of simplicity – is notable if found to be true using more sophisticated statistical techniques and would need to be meaningfully unpacked, evaluated, and scrutinized going forward. However, **the Monitoring Team concludes that, although there may be some disparate impact established by aggregate data with respect to use of force, there are no statistically significant disparities with respect to the *type* or severity of force used.** Put differently, in terms of the overall Type (Type I/Type II/Type III) or severity of force used, there were no statistically significant differences noted among subjects of different races in terms of what *Type* of force was applied.<sup>126</sup> Thus, **although non-white subjects may be overrepresented vis-à-vis the population, a subject’s race does not appear to predispose him or her to more or less serious force.**

representative of the incident, if the proportion of incidents with mixed sex or race is small. The Monitoring Team chose the second option, as there is ambiguity in only a small percentage of cases. The subjects were reported as solely male in 71 percent of the incidents, and as solely female or unknown in 23 percent. Similarly, subjects were reported as solely White in 39 percent of incidents, and solely persons of color (Black, Native American, Hispanic, Asian, etc.) in 57 percent of incidents.

<sup>125</sup> The Monitoring Team finds the omission of this basic information in relatively higher-level uses of force to be problematic and recommends that SPD devote resources to ensuring that such basic data is uniformly collected going forward.

<sup>126</sup> Chi-square = 19.9, df=15, p=.18

Table 8. Use of Force Techniques/Instruments Used by Subject Race/Ethnicity

Use of Force Techniques/Instruments Used by Subject Race/Ethnicity July 1, 2014 to October 31, 2016							
Type of Force	Total	Race/Ethnicity of Subject					
		Native American	Asian/PI	Black	Hispanic	Unknown	White
Verbal	13%	12%	16%	14%	7%	12%	13%
Handcuff	55%	52%	49%	53%	47%	55%	58%
Firearm - Point	26%	24%	34%	32%	39%	28%	19%
Personal Weapons	13%	12%	17%	14%	11%	11%	13%
Baton/Balls	1%	0%	0%	1%	0%	2%	1%
Chemical Agent	1%	0%	1%	1%	2%	2%	1%
Control Hold	35%	31%	33%	35%	23%	31%	37%
Taser	3%	2%	3%	3%	5%	3%	3%
Firearm - Fire	1%	0%	0%	1%	0%	2%	1%
Other	3%	0%	4%	2%	5%	6%	3%
Hobble	0%	0%	0%	1%	0%	1%	0%
N	2,385	42	89	794	109	371	980

Nevertheless, within types of force or levels of severity, the Monitoring Team does note that it found that **SPD officers are more likely to point firearms at historically-underrepresented than White subjects but are more likely to go hands-on with White subjects. Specifically, Black, Hispanic/Latino, and Asian/Pacific Islander subjects were significantly more likely to have firearms pointed at them than were White subjects of a use of force** (Table 8).<sup>127</sup> The differences are stark (19 percent for White subjects versus 34, 32, and 39 percent for Asian/PI, Black, and Hispanic subjects, respectively). In contrast, **White subjects were more often the subject of control holds than were Hispanic subjects**<sup>128</sup> but were not significantly different from subjects in other race or ethnic categories.

Neither this data nor the Monitoring Team's qualitative use of force assessment, summarized in Part IV, reveal any systematic trends about the actions, activities, or behavior of Black, Latino, and Asian subjects that would explain this disparity. That is, nothing about the circumstances of the interactions suggested that pointing a firearm at Black, Latino, and Asian subjects was more reasonable or necessary than for White subjects. This phenomenon deserves more study by SPD, CPC, and the anticipated Inspector General.

<sup>127</sup> Chi-square = 49.3, df=3, p<.001

<sup>128</sup> Chi-square= 8.9, df=1, p<.01

### C. Subject Impairment

The Monitoring Team has previously cited research that “suggest[s] that as many of 7-10% of U.S. police contacts involve persons with mental illnesses.”<sup>129</sup> At the time of the DOJ’s 2011 investigation that led to the Consent Decree, SPD “estimate[d] that 70% of use of force encounters involve . . . populations” of “persons with mental illnesses or those under the influence of alcohol or drugs.”<sup>130</sup> For this reason, the Consent Decree’s requirements regarding crisis intervention were geared expressly toward the provision of information, training, and services to individuals experiencing mental or behavioral health challenges.<sup>131</sup> The Monitor’s Fifth Semiannual Report found SPD in “initial compliance” with the Decree’s crisis intervention requirements.

The Monitoring Team notes that the data discussed in this section come from officer-provided information about a subject’s observed behavior on the use of force report. As the Fifth Semiannual Report summarized, SPD has other mechanisms for logging and tracking information about individuals experiencing behavioral crisis. This discussion should not be confused to be perfectly equating behavioral crisis with short-term drug or alcohol impairment. Many individuals can be impaired by drugs or alcohol in a given situation but not be experiencing a crisis event; likewise, many individuals who have mental health or behavioral health issues may be in crisis but not under the influence of drugs or alcohol. Nevertheless, these observations about subject characteristics are related to the extent that both are recognitions by an involved officer that subjects may respond in a distinctive manner when compared to individuals not in crisis and not impaired.

During the 28-month period evaluated for the present assessment, **more than half (57 percent) of the 2385 force incidents involved a subject determined by at least one SPD officer to be exhibiting some sign of impairment, whether due to apparent “behavioral crisis” (often associated with mental health issues) (n=450) and/or intoxication by alcohol or another substance (n=920) (Table 9).**<sup>132</sup>

**This factor was particularly pronounced during Type II and Type III force, for which a substantial proportion of subjects – 63 and 72 percent, respectively – were determined to be either impaired by drugs or alcohol or, alternatively, experiencing a behavioral crisis.** Of the fifteen OIS incidents, six incidents involved a subject who appeared to be experiencing a behavioral crisis.

<sup>129</sup> Fourth Semiannual Report at 76 (quoting Stephanie Franz & Randy Borum, “Crisis Intervention Teams May Prevent Arrests of People with Mental Illnesses,” 2010 *Police Practice & Research* 1, 1 (2010)).

<sup>130</sup> *Id.* (quoting 2011 Findings Letter at 4).

<sup>131</sup> Dkt. 3-1 ¶¶ 130-37.

<sup>132</sup> For the purposes of this chart, subjects exhibiting signs of both behavioral crisis and intoxication were placed into the “behavioral crisis” category. Impairment is calculated on a per-incident basis, meaning that at least one subject involved in the incident was determined to be impaired.

When SPD officers interact with an individual who appears to be experiencing a behavioral crisis, they enter information about that interaction and individual into what is referred to as a “crisis template.” The Monitoring Team attempted to link this crisis template data with information logged in the Department’s IAPro force database. After doing so and analyzing the data, it appears as though **a relatively small portion of SPD interactions with individuals experiencing mental illness, substance abuse, or other behavioral health challenges involve a reportable use of force.** Specifically, of the 9,271 crisis templates entered during the first twelve months of reporting, only 149 – or 1.6 percent – involved a reportable use of force. **Of these 149 crisis intervention incidents in which force was reported, the vast majority (113, or 76 percent) involved low-level, Type I force.** Thirty-two (22.8 percent) involved a Type II use of force, and only 2 (1.3 percent) involved Type III force.

Table 9. CIT/Behavioral Crisis or Impaired Subjects in Use of Force Cases by Type

Crisis-Eligible or Impaired Subjects by Type of Force July 1, 2014 to October 31, 2016					
	All	Type of Force			
		Type I	Type II	Type III	OIS
<b>CIT/Behavioral Crisis</b>	19%	17%	27%	25%	40%
<b>Impaired by Alcohol or Drugs</b>	39%	39%	37%	54%	20%
<b>Unimpaired</b>	39%	41%	34%	17%	33%
<b>Unknown</b>	3%	4%	2%	4%	7%
<b>N</b>	2,385	1,898	448	24	15

**The use of force data show statistically significant differences in perceived behavioral crisis or impairment between White subjects and other large groups.**<sup>133</sup> At least according to force reports reviewed for this report, 67 percent of White subjects were reported to be impaired, either due to a behavioral crisis or alcohol/substance intoxication (Table 10). In contrast, 49 percent and 51 percent of Black and Latino subjects, respectively, were reported to have been impaired. Ultimately, the data show that **White subjects were 1.4 times as likely to be determined by SPD officers to be experiencing behavioral crisis than were Black subjects, and that Black subjects were 1.6 times as likely to be unimpaired than White subjects.**<sup>134</sup>

**The use of force data show statistically significant differences in perceived behavioral crisis or impairment between White subjects and other large groups.**<sup>135</sup> At least according to force reports reviewed for this report, 67 percent of White subjects were reported to be impaired,

<sup>133</sup> Chi-square  $p < .001$  for comparisons between White subjects and all other subjects, as well as between White subjects and Black subjects.

<sup>134</sup> Chi-square = 62.8,  $df=1$ ,  $p < .001$

<sup>135</sup> Chi-square  $p < .001$  for comparisons between White subjects and all other subjects, as well as between White subjects and Black subjects.



either due to a behavioral crisis or alcohol/substance intoxication (Table 10). In contrast, 49 percent and 51 percent of Black and Latino subjects, respectively, were reported to have been impaired. Ultimately, the data show that **White subjects were 1.4 times as likely to be determined by SPD officers to be experiencing behavioral crisis than were Black subjects, and that Black subjects were 1.6 times as likely to be unimpaired than White subjects.**<sup>136</sup>

Table 10. Crisis-Eligible or Impaired Use of Force Subjects by Race.

Crisis Eligibility/Impairment by Subject Race July 1, 2014 to October 31, 2016							
	Total	Race/Ethnicity of Subject					
		Native American	Asian/Pacific	Black	Hispanic	Unknown	White
<b>CIT/Behavioral Crisis</b>	19%	7%	20%	14%	9%	22%	23%
<b>Impaired by Alcohol or Drugs</b>	39%	60%	27%	35%	42%	31%	44%
<b>Unimpaired</b>	39%	26%	47%	49%	48%	38%	30%
<b>Unknown</b>	3%	7%	6%	2%	1%	9%	2%
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%
<b>N</b>	2385	42	89	794	109	371	980

**The use of force data show statistically significant differences in perceived behavioral crisis or impairment between White subjects and other large groups.**<sup>137</sup> At least according to force reports reviewed for this report, 67 percent of White subjects were reported to be impaired, either due to a behavioral crisis or alcohol/substance intoxication (Table 10). In contrast, 49 percent and 51 percent of Black and Latino subjects, respectively, were reported to have been impaired. Ultimately, the data show that **White subjects were 1.4 times as likely to be determined by SPD officers to be experiencing behavioral crisis than were Black subjects, and that Black subjects were 1.6 times as likely to be unimpaired than White subjects.**<sup>138</sup>

It must be noted here that the assessment of whether a subject is experiencing a behavioral crisis or is otherwise under the influence of alcohol or drugs is an assessment that SPD officers are *themselves* making and recording on their use of force report. Without the ability to link the assessments of non-SPD officers of the same subjects, the Monitoring Team cannot definitively determine if, in fact, a far higher proportion of Black subjects of use of force incidents are not experiencing a behavioral crisis or are unimpaired than White subjects or if, instead, SPD officers are more likely to classify

<sup>136</sup> Chi-square = 62.8, df=1, p<.001

<sup>137</sup> Chi-square p < .001 for comparisons between White subjects and all other subjects, as well as between White subjects and Black subjects.

<sup>138</sup> Chi-square = 62.8, df=1, p<.001



White subjects as experiencing a crisis or impaired than they are Black subjects. Either may be plausible explanations.<sup>139</sup>

**For those force incidents that involved the use of a less-lethal device against subjects experiencing a behavioral crisis or some type of impairment, the Monitoring Team found that the Taser was used almost exclusively.** Of the 73 force cases where a Taser was used, about 58 percent involved subjects were reported to be in behavioral crisis, with another 34 percent of subjects impaired due to alcohol or drug intoxication. In all, just 8 percent – six uses of the Taser – involved a subject who was reported to be unimpaired or not experiencing a crisis.

#### D. Subject Injury

**Most subjects in force incidents emerged uninjured as a result of the force,** with approximately one-quarter of all reported use-of-force incidents resulting in some kind of injury (Table 11). However, and perhaps predictably, **more serious uses of force were more likely to result in injury.** Indeed, 69 percent of all Type II uses of force resulted in some sort of injury, while 79 percent of Type III force and 80 percent of officer-involved shootings resulted in subject injuries.

Table 11. Subject Injury and Hospitalization Rates by Type of Force

Subject Injury and Hospitalization Rates by Type of Force July 1, 2014 to October 31, 2016					
	Type of Force				
	All	Type I	Type II	Type III	OIS
<b>% Injured</b>	24%	12%	69%	79%	80%
<b>% Hospitalized</b>	17%	14%	26%	71%	67%
<b>N</b>	2,385	1,898	448	24	15

Even though injuries resulted from about one-quarter of force incidents, **17 percent of force cases overall resulted in the subject being hospitalized due to injury or CIT status.**

<sup>139</sup> As of 2014, the prevalence of serious mental illness among U.S. adults is higher among Whites (4.4%) than Blacks (3.1%). See National Institute of Mental Health, "Serious Mental Illness (SMI) Among U.S. Adults," <http://www.nimh.nih.gov/health/statistics/prevalence/serious-mental-illness-smi-among-us-adults.shtml> (last visited June 20, 2016). As of 2013, the rate of illicit drug use was slightly higher among Blacks (10.5%) than Whites (9.5%). See U.S. Department of Health & Human Services, Substance Abuse & Mental Health Services Administration, Center for Behavioral Health Statistics and Quality, "Results from the 2013 National Survey on Drug Use and Health: Summary of National Findings" at 26 (Sep. 2014), [http://www.samhsa.gov/data/sites/default/files/NSDUHresultsPDFWHTML2013/Web/NSDUHresults2\\_013.pdf](http://www.samhsa.gov/data/sites/default/files/NSDUHresultsPDFWHTML2013/Web/NSDUHresults2_013.pdf). At the same time, Whites are "more likely than other racial/ethnic groups to report current use of alcohol," with 57.7 percent of whites reporting such use and 43.6 percent of Blacks reporting use. *Id.* at 38.

## V. Incident Characteristics

This section reports on the circumstances, beyond the characteristics of the subject, in which SPD officers use force. To take a deeper look at the specific incident characteristics that are associated with uses of force, the Monitoring Team collected additional data about the SPD's activities from outside IPro, the Department's main use of force database. Specifically, the Team considered information from the Department's Computer Aided Dispatch (CAD), arrest, and Crisis Intervention Team (CIT) databases. Using common identifiers – generally the General Offense or “GO number” – information from these various sources was joined to provide additional context and detail about the incidents during which force occurs.<sup>140</sup> For the purposes of this report, the Monitoring Team was able to obtain contextual CAD and RMS data from July 1, 2014 through October 31, 2016. Not all GO numbers were present across databases and so they could not be perfectly matched for comparison, thus the total numbers in the tables below may differ from those above.

### A. How Force Incidents Were Initiated

Overall, 57 percent of force encounters were associated with a call for service, with 30 percent initiated through officer observation or “on-view activity.” When broken down by force type, it appears that **Type II uses of force were more likely to be initiated by the officer (on-view) than were Type I or Type III cases. In aggregate, officers tended to use more significant force when they affirmatively elected to initiate the contact than when they were dispatched to an incident.** This finding is consistent across both the first and second halves of the study period.

Table 12. Use of Force by Source Activity & Force Type

Use of Force by Source Activity & Force Type July 1, 2014 to October 31, 2016					
How Initiated	Type of Force				Total
	Type I	Type II	Type III	OIS	
<b>911</b>	59%	48%	58%	60%	57%
<b>Alarm Call</b>	0%	0%	0%	0%	0%
<b>History Call</b>	0%	0%	0%	0%	0%
<b>On-View</b>	27%	43%	29%	33%	30%
<b>Telephone, Not 911</b>	14%	9%	13%	7%	13%
<b>Total</b>	100%	100%	100%	100%	100%
<b>N</b>	1,888	445	24	15	2,372

<sup>140</sup> As shown in the charts, not all of the data could be matched, leaving some cases without additional detail.

The CAD database contains 1,064,073 records for the 28-month period of this study. About one-third of these (361,510) are initially classified as types of calls that are unlikely to put the officer in a situation in which force might be necessary (118 UOF incidents in 361,510 of these calls, or a rate of 0.03 percent). This leaves 702,563 records in which there is an a priori probability that force will be required. The overall rate of force incidents in this group is 0.42 percent, or one use of force in every 240 calls. However, seven types of calls have a higher probability, and they account for about two-thirds of all uses of force (N=1484): Crisis, Domestic Violence, Narcotics, Assault, Robbery, Warrant Services, and Weapons (Table 13).

**Table 13. Percentage of Initial Call Types in Which Force is Used**

Percentage of Initial Call Types in Which Force Was Used July 1, 2014 to October 31, 2016		
Initial Call Type	Number of Calls	Percentage UOF
<b>Crisis</b>	22,841	0.63%
<b>Domestic Violence</b>	24,584	1.14%
<b>Narcotics</b>	12,896	1.30%
<b>Assault</b>	21,972	2.14%
<b>Robbery</b>	4,432	2.28%
<b>Warrant Service</b>	10,366	2.36%
<b>Weapons</b>	1,884	3.93%

As noted above, while a large percentage of reported uses of force occur when the subject is in behavioral crisis or under the influence, previous studies by SPD and the Monitoring Team have found that a very small percentage of cases involving individuals in crisis end up in a reportable use of force. These data further confirm those findings. Crisis calls result in a use of force in less than one percent of incidents. By comparison, calls in which a weapon is reported are six times more likely to result in a use of force (3.93 percent).

## **B. Ultimate Incident Type**

The original classifications of an incident often change as events unfold or more information is gained. Accordingly, the CAD system provides information on the “disposition” code for each incident, regardless of how it was initially coded.

According to these data, **about one-third of all incidents and 38 percent of Type II-or-greater incidents were coded as either domestic violence or another type of assault.** Cases involving a warrant also made up a significant category. However, perhaps because SPD does not have a “warrant squad,” it appears that some of these “warrant” encounters were initiated, in at least some instances, for other reasons. Another notable category was that of Crisis, which made up six percent of all cases and seven percent of Type II-or-greater cases.

Table 14. Use of Force by Ultimate Incident Type and Force Type

Use of Force by Ultimate Incident Type and Force Type July 1, 2014 to October 31, 2016					
Ultimate Incident Type	Type of Force				Total
	Type I	Type II	Type III	OIS	
<b>Assault</b>	17%	30%	50%	20%	20%
<b>Domestic</b>	13%	8%	8%	7%	12%
<b>Warrant</b>	11%	9%	17%	0%	10%
<b>Traffic</b>	8%	4%	0%	0%	8%
<b>Narcotics</b>	7%	8%	0%	0%	7%
<b>Crisis</b>	6%	7%	8%	0%	6%
<b>Autos</b>	6%	2%	0%	7%	5%
<b>Other</b>	5%	3%	8%	33%	5%
<b>Theft</b>	5%	4%	0%	0%	5%
<b>Robbery</b>	4%	4%	0%	7%	4%
<b>Burglary</b>	5%	3%	4%	7%	4%
<b>Prowler</b>	3%	4%	0%	0%	3%
<b>Weapons</b>	3%	3%	0%	20%	3%
<b>Disturbance</b>	2%	5%	4%	0%	3%
<b>Property</b>	2%	3%	0%	0%	2%
<b>Suspicious Circumstances</b>	2%	1%	0%	0%	2%
<b>Assigned</b>	0%	1%	0%	0%	0%
<b>Intoxication</b>	0%	0%	0%	0%	0%
<b>Arson</b>	0%	0%	0%	0%	0%
<b>Vice</b>	0%	0%	0%	0%	0%
<b>Alarm</b>	0%	0%	0%	0%	0%
<b>Demonstration</b>	0%	0%	0%	0%	0%
Total	100%	100%	100%	100%	100%
N	1,888	445	24	15	2,372

Other categories of minor offenses included traffic offenses, narcotics, property damage, and incidents involving “suspicious circumstances.” These incidents were more likely to result in Type I force than other types of force; specifically, while they made up approximately 18 percent of all incidents involving force, they made up just 15 percent of Type-II-or-greater force incidents.

### C. Incident Disposition

“Incident disposition” refers to the ultimate action that SPD officers took in the incident – including arrest, a police report written but no arrest effectuated, and the like. As might be expected, **about three-fourths of use-of-force cases were associated with incidents resulting in a physical**

arrest of a person, while about 20 percent were associated with incidents where only a report was written (Table 15).<sup>141</sup>

Table 15. Incident Disposition by UOF Type

Incident Disposition by UOF Type July 1, 2014 to October 31, 2016					
Disposition	Type of Force				Total
	Type I	Type II	Type III	OIS	
<b>Physical Arrest</b>	76%	82%	79%	40%	77%
<b>Report Written (no arrest)</b>	21%	15%	17%	53%	20%
<b>Assistance Rendered</b>	1%	2%	4%	0%	1%
<b>Other</b>	2%	1%	0%	7%	2%
<b>Total</b>	100%	100%	100%	100%	100%
<b>N</b>	1,888	445	24	15	2,372

Depending on the situation, such reports were likely related to a psychiatric hold, a crime report where no subject was identified or arrested, or – for OIS incidents – a fatal use of force. About 29 percent of cases where only a report was written included the pointing of a firearm, likely indicating – in at least some cases – the investigation of a potential crime (including 911 calls or on-view contacts) that did not result in an arrest.<sup>142</sup> Approximately 39 percent of incidents not associated with an arrest involved the use of restraints, possibly indicating a psychiatric hold or the temporary detention of a subject.<sup>143</sup> With the exception of the use of a firearm, which may have been associated with the death of a subject or a subject who was not apprehended, all other use-of-force types were more likely to be associated with incidents resulting in a physical arrest. There were no significant differences in arrest rates between the types of force used.

## VII. Data Limitations & Recommendations<sup>144</sup>

In the process of working with SPD's data for this assessment, the Monitoring Team encountered three difficulties that hampered our ability to analyze and contextualize the use of force in Seattle. The first was the difficulty of matching across various databases. The second was the lack of reliable

<sup>141</sup> Approximately 15 percent of cases could not be matched with incident data using the identifiers provided.

<sup>142</sup> The data indicate that a firearm was more likely to be pointed during an incident where no arrest occurred than in incidents resulting in arrest.

<sup>143</sup> As noted in earlier sections, the documenting of handcuffing does not appear to be consistent, as it is documented in only 60 percent of cases where an arrest was made.

<sup>144</sup> These and all other recommendations contained in this report, do not create new obligations under the Consent Decree, or otherwise modify existing obligations that must be complied with to reach initial or full and effective compliance. These recommendations are given in the spirit of the technical assistance: ways in which the Monitoring Team believes that SPD can improve its oversight through data analysis.

arrest data – again, as a function of the RMS being built as a NIBRS reporting tool. The third was the absence of data necessary to situate uses of force in the context of officer activity.

### **A. The Difficulty of Matching Databases**

In the most general terms, there are two classes of issues that can be encountered when analyzing data: substantive issues (questions of measurement and interpretation) and logistical issues (accessing information or combining data from different sources to create a single analytical dataset or to analyze a single issue).

The first difficulty that the Monitoring Team encountered relates to this second class of logistical issues. Specifically, SPD's IAPro database contains information on uses of force. However, to use that information in context, it is necessary to place it within the larger universe of police department activity. This currently requires combining databases that were not designed to be combined. At the simplest and most concrete level, matching multiple databases requires uniformity in the fields to be matched. In this report, IAPro was matched with the RMS and CAD databases using the GO Number field. However, this field has different names and different formats in each database. It is known as the GO Number only in the RMS database. In IAPro it is called CASENUM, and in CAD it is the EVENT\_ID number. The number is formatted differently in the various databases. In RMS the GO Number is a field of varying lengths, from 5 to 10 characters, a four-digit year followed by a serial number unique to each incident (i.e., 20143646). In IAPro CASENUM is a 10-digit number with a hyphen separating the year from the serial number, with leading zeroes filling in serial numbers smaller than 6-digits (2014-003646). And, in CAD, the EVENT\_ID number is an 8-digit number, with a two-digit year separated by a hyphen from the serial number (i.e., 14-003646).

Standardizing these fields is the first step toward making it possible to understand uses of force in context, and should be integrated into the data collection protocols so that analysts within and without the SPD can spend their time on the substantive interpretation of information rather than the substantial amount of effort required to link the RMS, CAD, and IAPro systems together.

The Monitoring Team hopes that SPD's ongoing work on its Data Analytics Platform ("DAP") and its interest in replacing its outdated RMS will provide a long-term solution to these, and other, data challenges.

### **B. The Lack of Reliable Arrest Data**

An arrest is a significant event. It requires physical contact between a police officer and a suspect in a high-stress situation – and constitutes a core law enforcement and public safety activity. It is troubling, then, that Seattle lacks adequate technology for tracking and analyzing "arrests" as a custodial detention, aside from the more limited universe of bookings.

The Monitoring Team sought to understand simply how often uses of force occur in relation to arrests. Unfortunately, none of the sources of data on arrests was comprehensive enough to allow us to investigate this question as deeply as necessary. Specifically, the CAD database contains one record per incident and allows only one entry into the Final Disposition field. Thus, if the incident resulted in two dispositions (i.e., an arrest and assistance rendered), then one of these two dispositions will not be represented in the data.

The RMS database is even less comprehensive. It contains information on bookings into King County Jail, but not all people who are arrested by the SPD ultimately end up in King County Jail.

### **C. The Absence of Police Activity Data**

The Monitoring Team had hoped to establish the propensity of a given officer to use reportable force in a particular situation. To do this the Monitoring Team would need to know how many calls each officer responded to, how many so-called “on-views” the officer initiated, and the circumstances surrounding each. This would require a database that identified the officers responding to each call, their role in the call, whether they had contact with the subject, who the arresting officer was, and various facts related to the incident (time of day, location, offense, race and sex of subject, foot pursuit, etc.).

There were two purposes to gathering such data. First, the Monitoring Team could estimate both under- and over-reporting of the use of force by identifying situations in which force was likely to take place, and examining officers’ behavior. This type of analysis would be a useful training tool, and also a mechanism for understanding how reportable uses of force might be reduced through changes in deployment. Second, these data would allow the department to identify officers who use force disproportionate to their overall activity level or assignment. It would reduce the current reliance on the number of reportable uses of force in favor of the proportion of activity which results in a reportable use of force.

The Monitoring Team notes again the Department’s interest in replacing its RMS with a more advanced system that would allow the Department to more systematically capture and query data in forms that are more readily comprehensible and able to be aggregated.

## Part III.

# Officer Safety

Part II established that, overall, SPD uses force less often. This includes both a 60 percent reduction in the use of moderate- to higher-level force between the 2014–2016 period studied here and the time period addressed by the DOJ’s investigation and a 10 percent decrease in force from the first part of the July 2014 through October 2016 study period to the latter part.

An important concern raised about the changes to policies and procedures mandated by the Consent Decree is that alterations to how force is used by the Department would put officers at greater risk of injury. Increased injuries could occur, for example, if officers are discouraged from using effective force or if the public is emboldened to resist arrest by the knowledge that officers have moderated their practices.

This section briefly explores whether, in the period where use of force against subjects was down, officers were at greater risk of being harmed. Overall, we find that officer injuries in the context of use of force incidents were flat to slightly down over the study period, although the decrease was not statistically significant. Consequently, **officer force has gone down**, as reported in Part II, **without any increases in officer injury**.

### I. Methodology

Officer injuries and hospital visits related to uses of force are entered by the reporting officer into the centralized IAPro database. As with the time-series use of force analysis in Part II, we aggregated or collapsed the data by month for analysis – so that each month’s worth of data includes the number of officers who reported an injury or a hospital visit. If an officer was injured or hospitalized in more than one use of force incident in a month, each incident was counted as a separate event and contributed to the month’s total. Injuries of any severity were included in the month’s tally. Accordingly, a month’s worth of data could include anything from an officer’s self-report of injury to a long-term hospitalization.<sup>145</sup> Incredibly fortunately, no SPD officers were killed in the line of duty during a force incident in the July 2014 through October 2016 time period.

### II. Findings

There were 597 reported officer injuries in the 28-month period of this study, with a median of 20.5 per month. The most and fewest injuries were reported in the first and last months of the study, respectively. Thirty-nine were reported in July 2014, and five were reported in October 2016. The

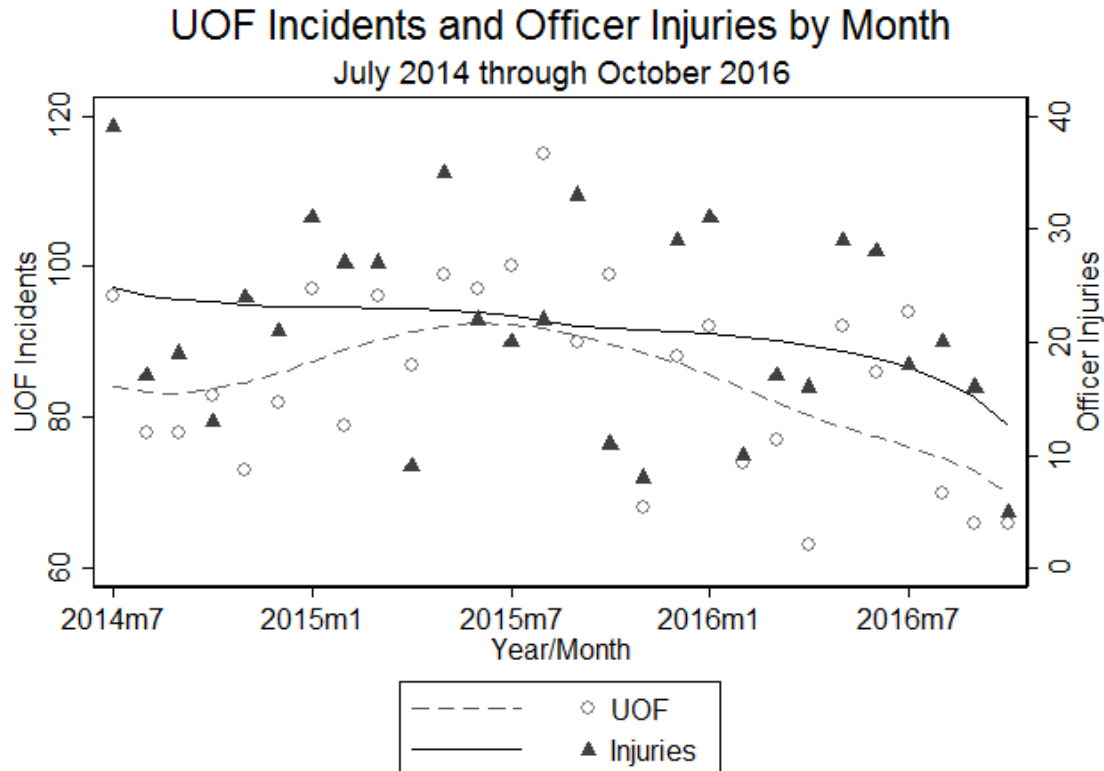
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<sup>145</sup> Information was not readily available about the seriousness of the injury, the complexity of medical treatment, or the length of a hospital stay.



bookending of these values suggests that injuries might have declined steadily over time, but that is not the case (Figure 2.). **The number of injuries is flat over time during the July 2014 through October 2016 study period**, with a slight downward slope that is not statistically significant.<sup>146</sup>

**Figure 2. UOF Incidents and Officer Injuries by Month**



Importantly, the most significant predictor, in the aggregate, of the number of injuries is the number of uses of force. A statistical analysis indicates that one officer was injured for every three use of force incidents during the study period.<sup>147</sup> This would run contrary, although admittedly not outright refute, the hypothesis that officer safety depends on using force more regularly. This also refutes the possibility that officers being more likely to be injured now in force incidents than they once were is a viable explanation for the phenomenon of flat officer injury and decreased officer force in the aggregate. Put most simply, **officers are more likely to be injured when it is more**

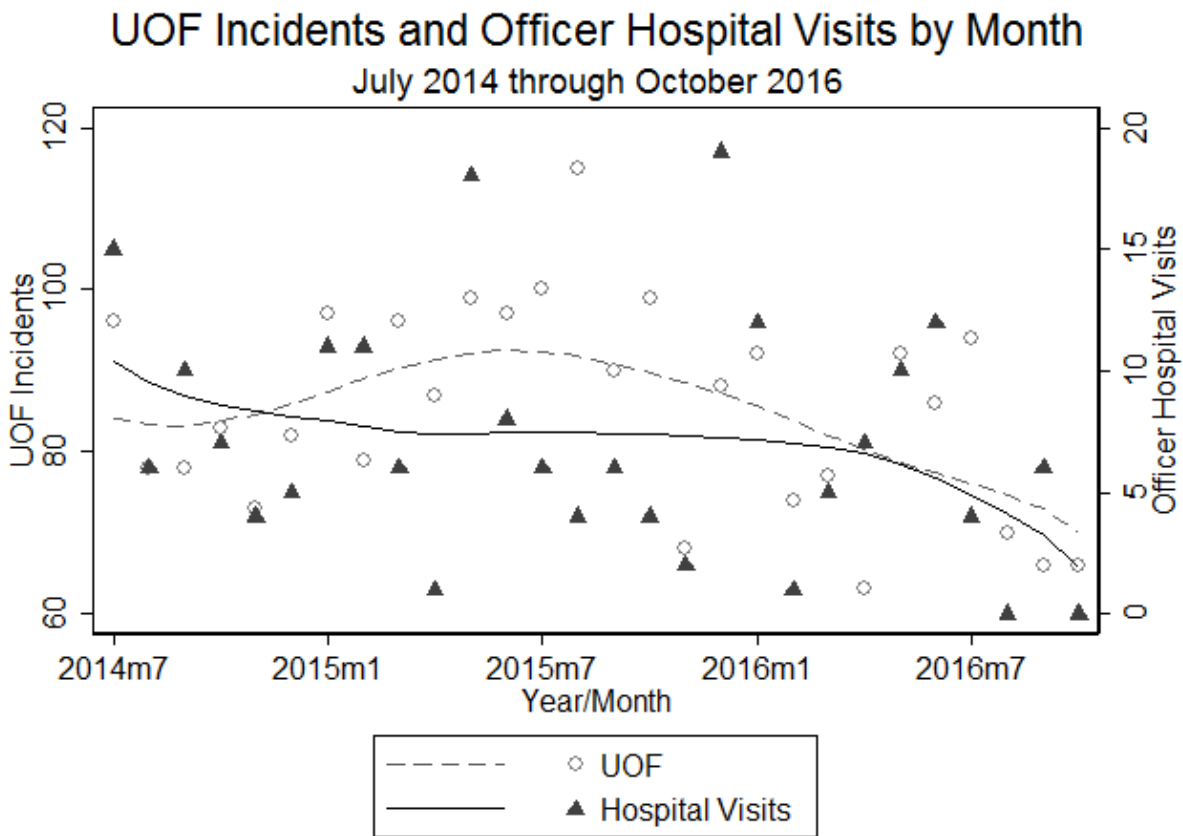
<sup>146</sup> The results of a bivariate linear regression suggests that there is no relationship between the passage of time and the number of injuries ( $R^2 = .08$ ,  $b = -0.29$ ,  $p = .15$ ).

<sup>147</sup> A bivariate linear regression produces estimates that every use of force incident results in 0.34 officer injuries ( $R^2 = .25$ ,  $b = 0.34$ ,  $p < .01$ ).

**likely that they need to use force – and the number of force incidents has trended down significantly.**

Because the number of incidents in which officers are injured goes up and down in a cyclical manner, in the same seasonal manner as crime and other incident rates, and the percentage of incidents in which officers are injured has remained relatively constant across the study period, it does not appear to be the case that anything in the SPD’s force policy is leading to officers being injured as a result of adhering to that policy. Instead, it appears that simply being involved in the type of incident that requires officers to use force puts officers at some, relatively predictable from the statistical sense, risk of injury. Here, too, there is no support for any assertion that the new force policy is leading to officer injury.

Figure 3. UOF Incidents and Officer Hospital Visits by Month.



There were 200 reported hospital visits related to use of force during the 28-month study period, with a median of 6 per month. The findings are similar with regard to hospital visits by officers related to use of force incidents. The highest number (19) occurred in December 2015, and the

lowest number (0) occurred twice, in August and October 2016. **As with officer injuries, the incidence of hospital visits appears to have declined slightly over time, but this slope is not statistically significant** (Figure 3).<sup>148</sup> Also similar to officer injuries, the best predictor of officer hospitalizations is the number of use of force incidents, although the relationship is not as strong. A statistical analysis indicates that there was one hospital visit for every six uses of force incidents during the study period.<sup>149</sup>

These findings further shed doubt on the contention that officer safety depends on greater or more regular use of force. Force incidents and officer injuries are positively and significantly related. The more force is used, the more officers will be injured. In some ways, this is unsurprising, given the dynamic and physical nature of many force incidents. It also consistent with the idea that methods designed to avoid the use of force (de-escalation, calling for backup) are contributing beneficially to officer safety overall.

We note here that this officer safety analysis is limited by a few factors. First, because force was not routinely and regularly reported in the area *before* the Consent Decree, reliable SPD data on officer injury resulting from force was not readily available in the pre-Consent-Decree era. Accordingly, we cannot easily compare the pre-Consent Decree reality to more recent, post-Consent Decree trends. Second, we cannot at this time explore the size or extent of potentially colluding variables. For instance, the data do not allow us at this time to explore whether Seattle subjects might be more likely to resist arrest than previously and whether that might put Seattle officers at greater risk of personal injury.

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<sup>148</sup> The results of a bivariate linear regression suggests that there is no relationship between the passage of time and the number of hospital visits ( $R^2 = .07$ ,  $b=-0.16$ ,  $p=.17$ ).

<sup>149</sup> A bivariate linear regression produces estimates that every use of force incident results in 0.14 hospital visits ( $R^2 = .13$ ,  $b=0.14$ ,  $p=.06$ ).

## Part IV. Public Safety

The Consent Decree seeks to ensure that constitutional policing occurs in a context where both officers and the public are safe. The previous sections of this report have concluded that the overall incidence of use of force by SPD officers has gone down over time. This has occurred without an increase in officer injuries – strongly suggesting that the failure to use force is not occurring at the expense of officer safety or well-being.

With respect to public safety, nothing about the Consent Decree or adherence to principles of constitutional policing detracts from, or need be at odds with, effective law enforcement. Through the Consent Decree itself, both the City and United States have rejected the notion that constitutional policing and effective policing are somehow mutually exclusive concepts.

Nevertheless, some critics of the Consent Decree raised concerns early on that it would lead to an increase of crime in Seattle. For one thing, they argue that preventing officers from using necessary force would discourage them from being proactive (the “de-policing” explanation). For another, they say that it encourages criminals by changing their risk-reward calculus in favor of more criminal activity (the “rational criminal” explanation).

We tested whether evidence of either of these explanations can be found in patterns of crime reported during the 28 months of the present assessment. We started by estimating crime in Seattle using the Department’s RMS database of reported offenses, limiting our study to reports in which the most serious offense was a NIBRS (National Incident-Based Reporting System) Group A crime.<sup>150</sup>

The data were aggregated into three tables of monthly incidents: all Group A crimes, crimes against persons, and crimes against property. The monthly incident rates were then compared with the monthly UOF rates to test for evidence of de-policing or rational criminals.

The month with the lowest number of all reported Group A crimes was February 2015 (5,498), and the month with the highest was May 2016 (6,900). The month in which reported property crime was the lowest was February 2015 (3,052) and the highest month was July 2014 (3,870). Similar incident rates for personal crimes were December 2014 (750) and July 2016 (1,003). It should be

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<sup>150</sup> NIBRS, a system coordinated by the Federal Bureau of Investigations (FBI), provides a uniform method of categorizing crimes across jurisdictions with different laws and municipal codes. NIBRS Group A Crimes are predominantly crimes against persons or property. Group B crimes are predominantly crimes against society. See <https://ucr.fbi.gov/nibrs/2012/resources/crimes-against-persons-property-and-society>.

observed that there is some evidence of seasonality in these data consistent with observations in other cities and social science literature – with the colder months of shorter days seeing the lowest crime rates and the warmer months with more daylight hours seeing the highest crime rates.<sup>151</sup> Thus, the comparison of crime rates in a cold winter month (February) with those in a hot summer month (July) is generally problematic from an analytical perspective.

Although the trend lines point to the number of Group A crimes having gone up slightly in numerical terms over the study period after a drop from July to December 2014, Group A crimes at the end of our study period, in October 2016, were nearly identical to the crime levels at the same time two years prior, in October 2014. Thus, simply looking at the aggregate monthly totals, **crime in Seattle appears relatively flat when comparing mid-Fall in 2016 to mid-Fall in 2014.**

Further, **there is no obvious correlation between the number of Group A crimes reported and changes in the use of force in Seattle** (Figure 4). As noted above, crime dropped from July to December 2014 and then began a very shallow climb to its present level. Uses of force rose from July 2014 to September 2015 and steadily declined thereafter.

**There is, in fact, a significant statistical correlation between the two, but contrary to predictions, it is positive: as crime goes up, so does use of force.**<sup>152</sup> If we take into account the seasonal variation noted above, analyzing the months from May through September separately, we find that the correlation between use of force incidents is much stronger, but it is still positive.<sup>153</sup> Consequently, **not only does it not appear that decreased use of force has been associated with increased crime, but it is actually the opposite: crime is highest when officers have used the most force.** Therefore, we conclude that there is no evidence to support either the de-policing or the rational criminal explanations, which would predict a negative correlation (as uses of force decreases, crime increases).<sup>154</sup>

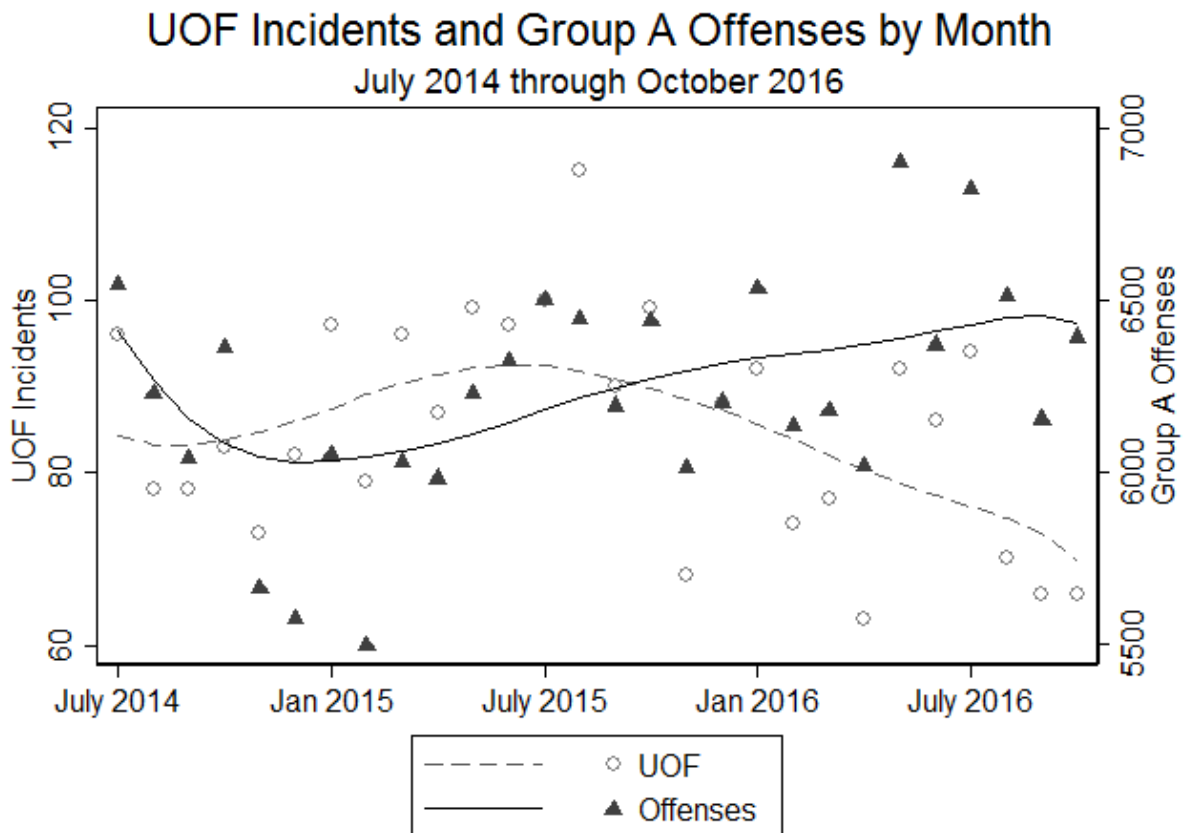
<sup>151</sup> See, e.g., Janet L. Lauritsen & Nicole White, Office of Justice Programs, Bureau of Justice Statistics, United States Department of Justice, "Seasonal Patterns in Criminal Victimization Trends" (June 2014), <https://www.bjs.gov/content/pub/pdf/spcvt.pdf> (noting that "[s]easonal patterns are a long-standing topic in both popular and scholarly literature on crime and show how environmental factors, such as temperature changes and daylight hours, might be associated with crime throughout the year"); Jacqueline Cohen, et al, United States Department of Justice, National Institute of Justice, "Estimation of Crime Seasonality: A Cross-Sectional Extension to Time Series Classical Decomposition" (2003) (outlining academic findings on connection between seasonality and crime victimization rates), available at [http://www.mv.helsinki.fi/home/amoaning/movies/EBENoriginal/forecasting%20crime/retrievePDF\\_id=2003-18.pdf](http://www.mv.helsinki.fi/home/amoaning/movies/EBENoriginal/forecasting%20crime/retrievePDF_id=2003-18.pdf).

<sup>152</sup> A bivariate regression of Group A crime and UOF Incidents is significant and positive, but not strong ( $R^2=.15$ ,  $b=9.7$ ,  $p<.05$ ). The prediction is that the ratio of force to crime is 9.7 crimes to every use of force, but the uncertainty around that estimate is very large, with the lower bound near zero (0.26).

<sup>153</sup> A multivariate regression predicting Group A crime using UOF Incidents and a binary variable representing the months May to September is significant and positive ( $R^2=.43$ ,  $b_{UOF}=9.7$ ,  $p<.01$ ).

<sup>154</sup> Similar analyses were conducted for each precinct, and our conclusions from these tests are the same. There is no evidence to support either theory that decreasing the use of force increases the rate of crime.

Figure 4. Use of Force Incidents and Group A Offenses by Month



It could be argued that the overall, aggregate crime rate – including both personal and property crime – is, to some relevant extent, masking the effects of the Consent Decree if the incidence of force were not to affect all types of crime equally. That is, one might argue that the incidence of personal crimes is more affected by the de-policing or rational criminal phenomena, as personal crimes are more likely to involve subjects that have engaged in personal, physical violence. One might also argue that at least property crimes would be more affected by the rational criminal phenomena, with criminals incentivized to engage in property crimes if or when they know that officer response will be more minimal.

To test the association of the overall crime numbers and SPD's use of force numbers, we divided the Group A crimes into two groups: personal crime and property crime.<sup>155</sup> We re-ran the same analysis as above but, this time, used the monthly number of personal and property crimes.

In terms of aggregate numbers, **property crimes were flat to slightly down** between time periods from identical seasonal spans – July 2016 and July 2014, as well as October 2016 and October

<sup>155</sup> These are the NIBRS categories. The remainder category is social crime.

2014. **Personal crimes**, comparing the same July 2016 and 2014 and October 2016 and 2014 data points, **show somewhat of an uptick**.

However, and as with the overall Group A crime numbers, **there is no obvious correlation between the use of force and crime incidence** (Figure 5). The overall crime rate in both domains does not systematically increase as the use of force decreases. Specifically, **a statistical analysis of both property and personal crime indicates that neither is a significant correlate of the use of force.**<sup>156</sup>

Further, when the regression analyses include a seasonal variable, **only personal crime correlates with the use of force**<sup>157</sup> – **and the correlation is positive**. That means that **SPD officers are using *more* force when personal crime is *higher***. This runs contrary to the predictions of both the de-policing and rational crime explanations, which would predict that crime would be higher where use of force levels were lower.

The estimated ratio of uses of force and personal crime is 1:2, such that every use of force is accompanied by a two-incident increase in crimes against persons. It seems unlikely that the causal arrow points in that direction, however, and it is more likely that when personal crime increases, so does the use of force. Put in those terms, this is a more intuitive and natural relationship: increases in criminal activity involving physical violence and personal crime might be requiring that SPD officers interact with a higher number of individuals who might use force somewhere during those interactions.

Ultimately, an analysis of SPD crime data and use of force data lead to the conclusion that the decreases in force that have occurred over time have not been associated with increases in crime. Although the concept of public safety can be measured in many different ways, the failure of the data to establish a relationship of force going down while crime goes up – and, indeed, establishing the opposite relationship of more force occurring when more crime happens to be occurring in the City, all in a context where overall crime is stable – gives the Monitoring Team confidence that the reforms of the Consent Decree are not compromising community welfare and public safety.

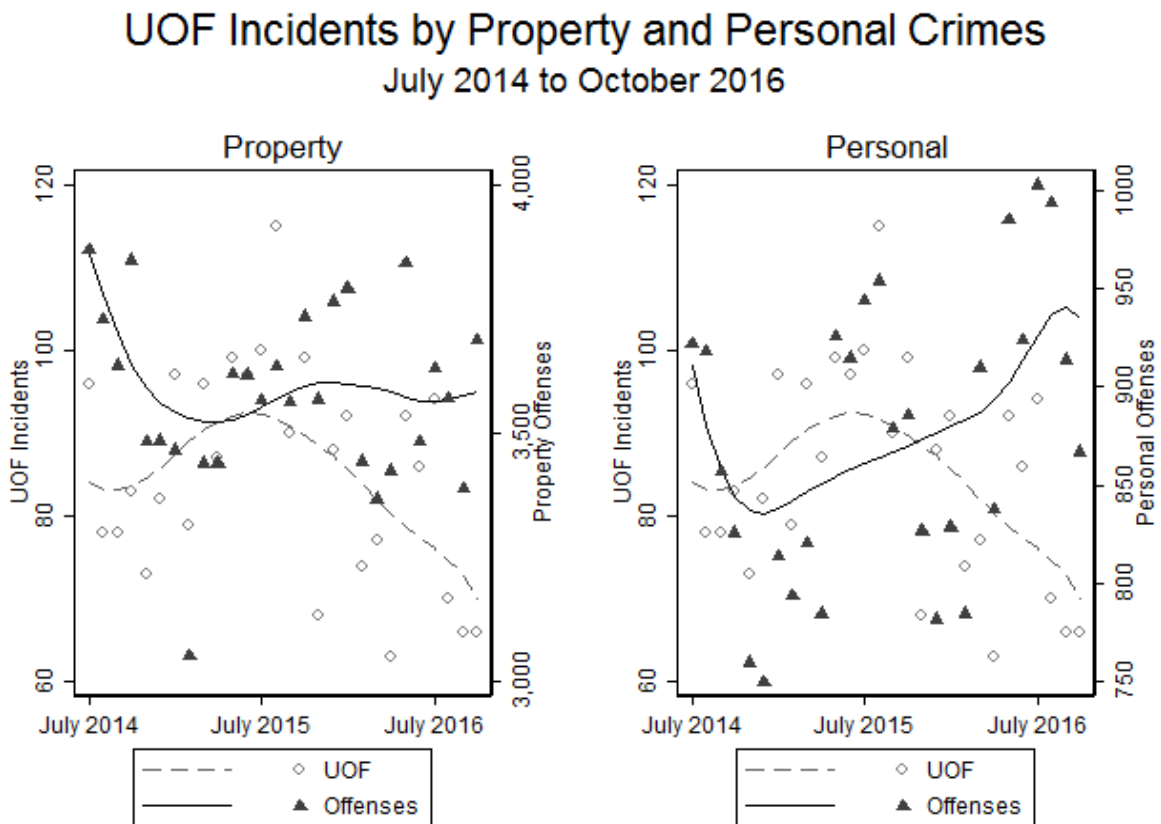
Indeed, as the next section of this report illustrates, **the Monitoring Team suspects – though cannot definitively prove at this time with the available data – that the decreasing numbers of use of force over time have been driven by a reduction in inappropriate, unnecessary, or unconstitutional force rather than a reduction in lawful and necessary force vital for crime-fighting**. The reason, as this report turns to now, is that the Monitoring

<sup>156</sup> Linear regression estimates,  $R^2=.10$ ,  $p=.09$  (property crime) and  $R^2=.08$ ,  $p=.14$  (personal crime).

<sup>157</sup> A multivariate regression of Personal Crime per month on the number of uses of force and a seasonal variable is consistent with the finding above that crime and UOF incidents are positively correlated ( $R^2=.50$ ,  $b_{PERSONAL}=2.1$ ,  $p<.05$ )

Team has also seen, by reviewing force cases across two distinct time periods – an earlier period soon after implementation of and training on the force policies and a later period running to close to the end of 2016 – that **officers, when they use force, are more likely now than they have been since the DOJ investigation to use force only when it is reasonable, necessary, proportional, and de-escalation techniques that would be safe and feasible under the circumstances have been deployed.** The Monitor finds that at least a reasonable explanation for fewer force incidents occurring and more force incidents that do occur being appropriate is that SPD officers are refraining from using force where it would be unlawful, unreasonable, and inappropriate in the first place.

Figure 5. Use of Force Incidents by Property and Personal Crimes





## Part V. Qualitative Assessment of SPD Use of Force

Part II of this report evaluated overall, aggregate data on SPD's use of force between July 1, 2014 and October 31, 2016. It found that overall officer force is down across that time, with moderate to serious force also down substantially when compared to the Department of Justice's 2011 findings. Part III found that this decrease of force has occurred even as there have been no increases in officer injury. Part IV likewise found that this reduced use of force has occurred without any corresponding increases in crime.

Taken together, these data and factors are encouraging signs that SPD and its officers are using force more appropriately than they did in the past. However, as this section discusses in some detail, a reduced overall incidence of force does not, by itself, establish that SPD has eliminated the pattern and practice of unconstitutional force that DOJ's 2011 investigation found reasonable cause to believe had existed within the Department.

The following section of this report summarizes the findings of the Monitoring Team's in-depth qualitative assessment of all Type III force incidents and a random, statistically significant sample of all Type II and Type I force incidents involving SPD officers that occurred between July 1, 2014 and October 31, 2016.

### I. Methodology

The methodology that the Monitoring Team used to analyze and evaluate uses of force by SPD officers conforms closely to analytical approaches used in the Monitoring Team's previous assessments and to approaches used to analyze force investigations and reports elsewhere.<sup>158</sup> This section describes what force incidents were evaluated and how the Monitoring Team's experts reviewed the cases.

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<sup>158</sup> First Systemic Assessment at 20-24; Second Systemic Assessment at 7-8; Fourth Systemic Assessment at 18-20; see generally Denise Rodriguez King, et al, Community Oriented Policing Services (COPS) Office, U.S. Department of Justice, *Collaborative Reform Model: A Review of Use of Force Policies, Processes, and Practices in the Spokane Police Department* (2014) at 9, 12 (describing random sampling of use of force reports for analysis "using a 95 percent confidence level and a confidence interval of 5 percent"); George Fachner & Steven Carter, *Collaborative Reform Initiative: An Assessment of Deadly Force in the Philadelphia Police Department*, Community Oriented Policing Services (COPS) Office, U.S. Department of Justice (2015) at 16 (describing "investigative quality evaluation" of officer-involved shootings of "randomly selected . . . case files" using a survey instrument "of 'yes/no' and Likert scale (1-5 items)" evaluated by "expert, experienced investigators"); U.S. Department of Justice, Letter to Mayor Richard J. Berry re: Albuquerque Police Department (Apr. 10, 2014) at 3 ("review[ing] a random sample of the department's use of force reports completed by officers and supervisors").

## A. What Force Incidents Were Reviewed

The population of force cases reviewed included all use of force incidents – also referred to within SPD as “force cases” – that occurred between July 1, 2014 and October 31, 2016 (the “study period”). The study period was divided into two parts. An earlier period included cases that occurred between July 14, 2014 and August 31, 2015 and for which any required force investigation had been completed as of December 15, 2015.<sup>159</sup> The later time period included cases that occurred between September 1, 2015 and October 31, 2016 and for which any required force investigation had been completed as of November 7, 2016. The bifurcation of the larger study period into halves allowed for a meaningful gauge of progress over time – especially in the context of active use of force training and policy implementation still occurring during the earlier period.

The Monitoring Team has previously described the extent to which one force “case” or “incident” might involve multiple uses of force:

“[C]ases” and “incidents” refer to investigations of applied force in a given encounter or instance. It does not refer to individual applications of force within those instances. Accordingly, one force “case” or “incident” may involve multiple types or applications of force. For example, a single traffic stop that involved three discrete applications of force by Officer A and two separate applications of force by Officer B would be . . . a single “case” or “incident.”<sup>160</sup>

When discussing force cases or aggregate force trends, the Department and this report sometimes refer to a force incident or case as a “Type III,” “Type II,” or “Type I” force incident. SPD policy dictates that, “if a case involved more than one level of use of force, it is ‘assigned’ the highest level of force used by an officer for purpose[s] of the investigation.”<sup>161</sup> Accordingly, a case in which one officer applied a Taser, and the Taser did not cause injury (Type II force) and another officer applied a “soft” takedown (Type I force) would be classified as a Type II case or incident. Thus, when this report associates a force type with an overall incident or encounter, the type simply refers to the most significant or severe level of force that was used in that incident.

A “completed” case reflects that “the chain of command has certified the investigation as complete, and the case has been accepted for review by the Force Review Unit,” which oversees the Force Review Board (“FRB”).<sup>162</sup> Thus, the investigation for a case that occurred between July 1, 2014 and August 31, 2015 needed to have been completed as of December 15, 2015 to be included in the population of reviewed cases and the investigation for a case that occurred between September 1, 2015 and October 31, 2016 needed to have been completed as of November 7, 2016 to be included in

<sup>159</sup> See First Systemic Assessment at 21 (outlining similar methodology and terms).

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

the population of reviewed cases. Although this process necessarily excluded a small number of cases that occurred during the time period but did not have completed investigations as of the designated cut-off date, the Monitoring Team has no reason to believe that the characteristics of those technically-excluded cases introduced any systemic bias to the population or sample.

For the qualitative review discussed in this report, the Monitoring Team's experts reviewed all Type III incidents, including all officer-involved shootings. For Type II and Type I incidents, the Monitoring Team considered a significant, random sample of reports. Consistent with the approach used to evaluate the quality of the Department's internal investigations and reviews of force incidents in the First Systemic Assessment:

[W]e reviewed a randomly selected subset of Type II and Type I cases that included a number of cases large enough to ensure, within generally accepted levels of confidence within social science, that the subset was unbiased and representative of the whole set of cases. This random-sampling approach is the best way to ensure that the selected sample represents the population of all use of force [incidents] . . . that occurred during the studied period and that the findings in the sample of reviewed cases can be generalized to the population of all of the force cases . . . .<sup>163</sup>

Ultimately, the Team reviewed 75 intermediate-level, Type II cases (46 from the first half of the study period and 29 from the second half). It reviewed 67 low-level, Type I cases (34 from the first half of the study period and 33 from the second half).<sup>164</sup> Again, the Team reviewed all 40 completed

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<sup>163</sup> *Id.* (internal citations omitted).

<sup>164</sup> The necessary sample sizes were determined using a process consistent with the approach summarized in the Monitor's First Systemic Assessment, First Systemic Assessment at 21-22 & n. 143, in which the desired confidence level for the first half of the assessment was 95% with 10% confidence interval for the Type I and Type II incidents only. As all Type III and officer-involved shooting incidents were examined, the Monitoring Team reviewed all of these most serious incidents, so there was no need to sample.

For the latter half of the study period, Type I and Type II cases were sampled using a finite population correction ("fpc"), which was necessary because the population sizes of those incidents are, in the statistical sense, not large. As in the earlier period, Type III cases were not sampled such that all Type III incidents meeting the population definition occurred. The samples were stratified, meaning that incidents within each Type of force were sampled separately. The Type I and Type II samples were designed to achieve a 90% confidence with an interval of 14%. This design is based on a common assumption that the measured outcomes would be in the range of 50% (i.e., a coin flip). However, the further the outcomes are from the 50-50 range, the smaller the confidence interval becomes. When the outcomes are in the tails of the distribution the confidence intervals are much smaller. The tails of the distribution are where the probabilities are less than 10% or more than 90%, similar to the probability of flipping four coins and getting four heads. In this study the outcomes are in the tails, and the reported confidence intervals reflect that and thus diverge from the 14% in the original design. All of these design characteristics (finite population correction, stratification, and weights) were used to create the analytical framework to analyze the data in the statistical software Stata.

Finally, it should be noted that, because a sample size was pulled independently per type of force, instead of all force events for the entire universe of force events, the Type I and II cases were sampled at a

Type III incidents, including officer-involved shootings (25 from the first half of the study period and 15 from the second half).

It should be noted here that this qualitative review did by definition, then, focus on analyzing those instances in which some force was, in fact, applied. **Instances in which force perhaps could have been used but in which force was not in reality employed are difficult to regularly or systematically capture and challenging to identify in a rigorous or reliable way.**

The Monitoring Team is, however, aware of reports, public commendations, and incident summaries in which officers appeared to have used sound tactical de-escalation skills in incidents where no force ultimately needed to be used. Although this necessarily represents anecdotal evidence, here are a few examples of instances where officers were affirmatively commended by persons who wrote to the SPD for their de-escalation skills:

**De-Escalation Example 1.** A community member wrote the following: “I work with outstanding officers from all precincts dealing with difficult cleanups throughout the City. We had a particularly challenging cleanup . . . with RV’s and tent campers that had settled in for months on [a Seattle] Street, which [another agency] had attempted to clear two months earlier which didn’t go well. We rescheduled this cleanup utilizing several departments and resources prepared for what we expected could again be quite contentious.

SPD had a large presence and was prepared to do whatever was necessary to clear the area. Officer 1 made several visits days before preparing occupants for what was coming and a few campers moved on. The several campers that remained I was certain would have to be arrested in order to move them. Officer 1 took the lead and clearly stated this area was going to be cleared that day one way or another. The campers were very vocal about their rights and continued to argue, but Officer 1 persisted that they had to move that day. And as long as they kept gathering their things he allowed them time to pack up. As expected there still were numerous heated conversations, but Officer 1 stayed calm keeping his voice down and continued to press them. Several people pushed back to what might have resulted in an arrest if not for [the officer’s] continually reasoning with them. Working with homeless encampments is challenging on many levels . . . . I felt it important to bring the good work . . . to your attention.”

**De-Escalation Example 2.** A community member called to make sure to thank the officers who had responded when she was in crisis and wanted to kill herself. She stated that the officers had come to her location twice. She said that she would not be alive today if it had

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rate not directly proportional to their overall incidence, particularly as compared to DOJ’s 2011 investigation. The Parties agreed in advance on these methodological approaches.

not been for those officers and now having been released from the hospital, she is now non-harming.

The woman went on to say that she was very impressed with how the officers interacted with her and ensured that she would be taken care of. In her words, “they didn’t have to care about me the way they did but they treated me like a very deserving person and with respect. I remember one of the officers telling me that I deserved to live and to have a good life, and I could tell he wasn’t faking it but that he meant what he said. The officers were like old friends who knew what to say to me and they did a job from the heart.”

**De-Escalation Example 3.** Community members wrote to express their appreciation for the exemplary work of the Seattle Police Department in de-escalating a potentially life-threatening situation for one of our patients. A confused patient had used an oxygen tank to break through an 18th floor window at which point he stepped out onto the window ledge. This patient requested the presence of the Seattle Police. Five officers quickly responded and were able to reassure the patient and convince him to step safely back into the building where much-needed treatment could occur. The members commended five East Precinct Officers who provided appropriate, professional and timely assistance.

## B. How the Force Incidents Were Evaluated

Four members of the Monitoring Team reviewed Type III cases. Every Type III case was reviewed by two team members. As with the Team’s previous qualitative reviews, “[t]his two-tiered re[viewing] structure sought to ensure that any unduly outlying determinations would be identified or ‘checked’ by another equally comprehensive review.”<sup>165</sup> Six members of the Monitoring Team reviewed Type II and Type I cases. Because the numbers of both Type II and Type I cases were substantially higher than the number of Type III cases and six independent reviewers participated in the review of these intermediate- and low-level force cases, the two-tiered review structure was less necessary. Each Monitoring Team reviewer independently examined the incidents.

The Monitoring Team’s experts considered the full investigative file of the force review incidents, which is often referred to as the “packet.” These files were again supplied to the Monitoring Team by the SPD and “included written material, such as officer reports, investigator logs, and supervisor evaluations; video material, including in-car video and private video footage; other images, including incident photographs or pictures of subject or officer injuries; and audio material, such as audiotapes of recorded officer interviews.”<sup>166</sup>

<sup>165</sup> First Systemic Assessment at 22.

<sup>166</sup> *Id.*

For each incident, reviewers used an electronic qualitative review instrument in which they logged basic information about the incident and nature of force applied and made determinations about the extent to which each individual officer's performance, and application of force, was consistent or inconsistent with various aspects of SPD's force policy. Most broadly, reviewers were prompted to make a determination, with respect to each individual application of force applied by each individual officer, about whether the force was objectively reasonable, necessary, proportional, consistent with the de-escalation policy, and otherwise consistent with all force-specific policies. Where reviewers indicated that force was inconsistent with some element of SPD policy, the basis for that determination needed to be thoroughly explained. The specific nature of any policy issues noted needed to be specified, as well as any training, tactical, or equipment concerns noted, regardless of whether the concerns rose to the level of a clear policy violation or not. If the nature of the evidence contained within the force packet did not allow the reviewer to make a definitive determination in one direction or another, reviewers were required to explain what investigative deficiency rendered them unable to determine whether officer use of force was or was not consistent with SPD policy.

Again, one objection that might be raised to the Monitoring Team's approach in the present report is that it focuses on evaluating those instances where SPD officers did indeed use force – and not the potential universe of cases in which SPD officers successfully de-escalated or resolved situations without needing to use any force. However, the Consent Decree requires that SPD's force policy be effectively implemented across time and types of incidents – and most principally those instances where force is used. Even if SPD officers are performing in a manner consistent with SPD policy in a number of instances in which force is never used, a fundamental inquiry remains whether, when officers use force, that force is or is not consistent with the force principles and requirements set forth in the Consent Decree and codified in SPD policy.

Another objection may be that the Monitoring Team's experts simply want officers to avoid using any force whatsoever and not engage in smart and proactive policing. The Monitoring Team has previously, and repeatedly, emphasized that the Consent Decree, and the specific reforms to which the United States and City of Seattle agreed, is concerned with simultaneously ensuring effective, accountable, and constitutional policing. For instance, when the Monitor described how SPD will look and function when it has fully and effectively complied with all of the Consent Decree's provisions, it noted that "SPD's provision of services and internal accountability mechanisms [must] effectively promote public safety and public confidence":

The SPD's core law enforcement and policing activities [must] promote public safety and officer safety. SPD must reflect[] a commitment to proactive, safe policing consistent with constitutional demands – and an aversion to suggestions that unconstitutional policing should be reduced by reducing policing.<sup>167</sup>

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<sup>167</sup> Fourth Semiannual Report at 11.

Even police use of force that is definitively consistent with constitutional and state laws and sound departmental policy can have fact patterns or video associated with it that are hard to read or watch. In some instances, “[p]olice work is not pretty and when you see situations where officers have to use force, it is not a pleasant video to look at – but it is the reality that police officers do sometimes have to use force.”<sup>168</sup> The Use of Force policy itself acknowledges that “[s]ometimes the use-of-force is unavoidable.”<sup>169</sup>

The Monitoring Team’s six reviewers of force incidents have reviewed, during the course of their extensive careers, thousands of force incidents and investigations. All have substantial background in policing, and two experts have significant experience working as sworn law enforcement professionals.

Likewise, the Team’s reviewers understand that the relevant analysis is not what the officer should have done based on the benefit of the “20/20 vision of hindsight.”<sup>170</sup> Analyzing police performance, whether to apply constitutional standards or SPD policy, must allow for an appreciation of the fast-moving and high-risk situations in which police may find themselves. As the Supreme Court has outlined:

Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers, violates the Fourth Amendment. [The analysis of force] must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.<sup>171</sup>

Consequently, the Monitoring Team considered all determinations about whether a given application of force by a given officer was reasonable, necessary, proportional, and adequately applied strategic de-escalation tactics as safe and feasible from the perspective of what a reasonable officer, under all of the circumstances that the involved officer encountered.

The standard, then, was not whether the Team’s force experts believe that they would have done the same thing or whether they personally believed that force was appropriate based on all of the facts available after a full investigation had been completed. Instead, the Monitoring Team considered officer performance and decision-making in light of what a reasonable officer – under the totality of the circumstances that the involved officer confronted or were known to the officer at the time – would have done.

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<sup>168</sup> “D.C. Police Chief Defends Violent Arrest Caught on Video,” NBCWashington.com (Oct. 27, 2015) (quoting Washington, D.C. Chief of Police Cathy Lanier).

<sup>169</sup> Dkt. 107-1 at 2.

<sup>170</sup> *Graham v. Connor*, 490 U.S. 386, 396 (1989).

<sup>171</sup> *Id.* at 397.



This approach has a few important implications. The first is that it forces reviewers to evaluate the incident not in light of perfection but based on the realistic and reasonable options that an officer would have under the circumstances.

This does not mean, however, that the Monitoring Team's analysis reduced the whole of SPD's policy down to "reasonableness." It did not. Instead, the decisions that SPD officers made in the cases that the Team reviewed were analyzed not according to what officers should have done in light of all of the facts that became apparent after the incident or what the Team's individual reviewers believe that they would, or the involved officers should, have done – but, instead, considered what a reasonable officer would have done under the circumstances presented to the officers involved in each case.

The approach likewise does not mean that a reviewer, who was not involved in the incident and thereby not experiencing the moment-by-moment and typically fast-moving situations as the officer did as they unfolded, cannot make definitive determinations as to whether officer performance was or was not reasonable, necessary, proportional, or sufficient with respect to de-escalation. They can. In the Fourth Amendment context, the Supreme Court has repeatedly advanced a mode of analysis in which reviewers consider the nature of the circumstances suggested by the evidence and consider what a reasonable officer would have done in such circumstances.<sup>172</sup> The fact that a reasonableness standard in the context of police use of force may not be "capable of precise definition or mechanical application" does not mean that police performance cannot be considered unreasonable or inappropriate in a given case – instead, a reviewer must give "careful attention to the facts and circumstances in each particular case."<sup>173</sup>

The second major implication of this approach is that it allows, in the same way that the Supreme Court has instructed with respect to the Fourth Amendment analysis, the Monitoring Team to analyze officer performance in force cases "without regard to" an officer's "underlying intent or motivation."<sup>174</sup> Just as an officer's malicious intentions do not transform policy consistent with SPD policy into a violation of law or policy, an officer's "good intentions" do not justify or excuse force that violated law or policy.<sup>175</sup>

Finally, application of the standard allows the Monitoring Team to examine the tactics, strategies, decision-making, and performance of officers not merely at the narrow moment at which force is deployed (e.g., a Taser fired, a baton swung, a control hold applied, or the trigger of a firearm pulled) but, rather, "from the time the involved officer(s) begins to engage in police activity relating to the

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<sup>172</sup> See, e.g., *Scott v. Harris*, 127 S.Ct. 1769, 1775, 1779 (2007) (finding that, because a "videotape" of a car chase "tells quite a different story" than other evidence in the factual record, no reasonable jury could conclude that an officer's actions were unreasonable); *Graham v. Connor*, 490 U.S. 386 (1989).

<sup>173</sup> *Graham v. Connor*, 490 U.S. 386, 396 (1989).

<sup>174</sup> *Id.* at 397.

<sup>175</sup> See *id.*



incident . . . until the completion of the enforcement activity.”<sup>176</sup> Indeed, this is consistent with the force policy’s guidance<sup>177</sup> and is the same mode of analysis in which the Monitor has previously indicated that the Department’s FRB has become increasingly skilled.<sup>178</sup>

Monitoring Team reviewers made separate judgments as to discrete applications of force by the same officer during an incident, as well as to discrete applications of force made by different officers during an incident. Each application of force – whether separate applications of force by the same officer or separate uses of force by multiple officers – must separately and independently conform to constitutional, legal, and SPD policy standards.

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The Monitoring Team’s qualitative evaluations of force incidents to determine if officers acted in accordance with SPD policy are not an exercise in second-guessing or “Monday morning quarterbacking.” This Monitor, and this Monitoring Team, have unwavering respect for the men and women of this police force who often face tense and dangerous situations – and who are routinely called upon to interact with individuals who have been let down, left behind, or forgotten by the social service, mental health, educational, and criminal justice systems. When confronted with a threatening or resisting subject, police officers do not have the option that others in different spheres of public life might to shuffle subjects along, look the other way, or pass the buck. Especially given the high numbers of force incident subjects who were identified as experiencing some behavioral crisis (including mental health, substance abuse, or other behavioral issues) in the time period studied, it cannot be reasonably disputed that SPD officers often bear the burden of encountering the human costs and effects of the tears in the social service fabric elsewhere.

At the same time, laws, courts, and SPD policy entrust officers with substantial and necessary discretion.<sup>179</sup>

Most police activity occurs in private, away from the public’s view. This creates a situation that allows police officers discretion in the way they think about what they see and how they handle those with whom they come in contact.<sup>180</sup>

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<sup>176</sup> Fourth Semiannual Report at 44.

<sup>177</sup> Dkt 107-1 at 3 (e.g., “Officers should take reasonable care that their actions do not precipitate an unnecessary, unreasonable, or disproportionate use of force, by placing themselves or others in jeopardy, or by not following policy or training.”)

<sup>178</sup> Second Systemic Assessment at 3 (“[FRB] must consider the tactics of all involved officers from the time that they were dispatched or initiated activity through the use of force and securing of the scene, until the time when the involved officers completed their statements,” to determine what elements of officer performance were in or out of SPD policy.”).

<sup>179</sup> Calvin J. Larson & Gerald R. Garrett, *Crime, Justice, and Society* 274 (2d ed., 1996)

No law, court, or policy can prescribe specific rules that would apply to every conceivable circumstance involving all possible subjects of police encounters under any possible permutation of facts.<sup>181</sup> Indeed, as former Chief Justice Warren Burger is reported to have observed, “[t]he officer working the beat makes more decisions and exercises broader discretion affecting the daily lives of people everyday and to a greater extent than a judge will exercise in a week.”<sup>182</sup> Communities and police departments call on their law enforcement officers to regularly exercise the discretion to:

[M]ak[e] choices in light of policy norms, [which] involve[] routine but adaptive choices. In the act of discretion, although the decision maker accepts a framework of values and goals, some aspects of the decision process are unspecified or contingent on circumstances and thus up to the judgment of the individual.<sup>183</sup>

Because “the effective limits on a” police officer’s “power leave him or her free to make a choice among a number of possible courses of action” in any given situation,<sup>184</sup> it is the job of any community and police agency – and, with respect to the Court and this Consent Decree process, the Monitor – to ensure that officers are exercising their discretion in a manner consistent with the guidelines and norms of a department’s policy.

With the Consent Decree’s focus on SPD’s use of force policy and training, the Monitoring Team turns its attention to examining whether officers are performing in a manner consistent with the Decree’s requirements and the provisions of the Department’s policies.

### C. How the Findings Are Summarized

After reviewing all cases in the manner described above – again, all Type III and officer-involved shooting incidents and random samples for both the earlier and latter parts of the 28-month study period – aggregate statistics were determined.

Importantly, **the statistics presented in this section of the report are “weighted” to reflect the actual incidence of various types of force incidents.** Because the Monitoring Team reviewed all serious force incidents but instead used representative, random *samples* of intermediate-

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<sup>180</sup> Geoffrey P. Alpert, et al, National Institute of Justice, “Police Officers’ Decision Making and Discretion: Forming Suspicion and Making a Stop” (Oct. 2004), <https://www.ncjrs.gov/pdffiles1/nij/grants/213004.pdf>.

<sup>181</sup> Linda S. Miller, et al, *Community Policing: Partnerships for Problem Solving* 46 (11th ed. 2011) (“Police use discretion because no set of policies and procedures can prescribe what to do in every circumstance.”).

<sup>182</sup> Karen M. Hess, *Police Operations: Theory and Practice* 523 (5th ed. 2006).

<sup>183</sup> Michael K. Brown, *Working the Street: Police Discretion and the Dilemmas of Reform* 25 (1988).

<sup>184</sup> Larry K. Gaines & Victor E. Kappeler, *Policing in America* 161 (8th ed., 2015) (“Discretion is at the heart and soul of policing . . . Discretion is when the effective limits on a public official’s power leave him or her free to make a choice among a number of possible courses of action.”).

and low-level force, summarizing results in terms of what the Monitor reviewed (e.g., “X percent of cases reviewed had a given feature”) would “over-represent” the Type III and officer-involved shooting cases and “under-represent” the lower-level force incidents given how comparatively less common serious force was within the study period.

To account for this intentional “over-representation” of more-serious incidents in the group of cases evaluated in a manner that allows for valid extrapolation to all SPD activity throughout the study period, the Monitoring Team’s aggregate results across all reviews were statistically weighted to reflect the actual incidence of each force type within the SPD for the study period. By using this approach, the results can be presented in terms of a percentage of all SPD cases across the time period.

## II. Findings

The Monitor concludes that **officers, in an overwhelming majority of instances, are affirmatively and actively implementing the requirements of, and principles embodied in, the Consent Decree and SPD’s revised force policy.** Indeed, **officer force appeared necessary, proportional, and objectively reasonable under the circumstances – with a number of incidents featuring superior examples of officers strategically de-escalating situations** in order to minimize the nature of the threat while potentially mitigating the severity of force that needed to be used.

Specifically, in the latter, 14-month half of the 28-month study period, **more than 99 percent (99.27 percent) of force used was consistent with SPD policy.** The 95 percent confidence interval around this estimate is 0.1 percent to 1.4 percent<sup>185</sup> – meaning that the Monitoring Team can say that, if it evaluated *every single* force case during the period rather than all Type III force and a statistically-significant sample of Type II and Type I force, there would be a 95 percent chance that the percentage of force consistent with policy would fall roughly within 98.6 and 100 percent.

This overall number is weighted to reflect the phenomenon outlined in Part II of this report: namely, that a vast majority of SPD force is low-level, Type I force. **Focusing only on intermediate-level Type II and serious Type III force from the more-recent 14-month period,** which is analogous to the moderate and serious uses of force identified and analyzed for numerical purposes in the 2011 DOJ investigation, **nearly 96 percent (95.7 percent) were consistent with SPD policy.**<sup>186</sup>

<sup>185</sup> Again, although the samples for Type I and Type II force were designed to achieve a 90% confidence with an interval of 14%, the further that the actual outcomes are from the 50-50 range (i.e. a case having an equal propensity to be out of policy as in policy), then the confidence interval becomes smaller. Indeed, when the outcomes, as here, are at the tails of the distribution, the confidence interval is significantly smaller. In this study, the reported confidence intervals here reflect the fact that the outcomes are in the tails of the distribution. See n. 159, *supra*.

<sup>186</sup> The 95 percent confidence interval around this estimate is 0.3 percent to 8.2 percent.

Further, where officer force was contrary to policy, SPD's internal mechanisms for critical self-analysis and review are regularly identifying them as such. Indeed, **in every case that it determined officers to have not complied with SPD's use of force policy during the later half of the study period, the Force Review Board identified the force as out of policy.**

Officer compliance with SPD's use of force policies can be exemplified by the following:

- **Case 1 (Type II).** Officer 1 responded to a call of a naked man running in the street. The call was modified to a man entering a group home and assaulting a resident. Officers 2, 3, and 4 responded as backup.

Upon reaching the scene, Officer 1 identified a civilian victim bleeding from the ear and appearing to have a neck abrasion. Officers 1 and 2 encountered the subject in a living room – seated, still nude, and shouting erratically. The two officers backed up and proceeded to talk with the subject. At some point, the subject advanced on Officer 2 with closed fists. Officer 1 applied his Taser and ran a single, five-second cycle. The subject was arrested without further incident.

Monitoring Team reviewers tended to find the application of force here reasonable, proportionate, necessary – and thereby consistent with SPD policy.

- **Case 2 (Type I).** Officers approached a suspect in a parked, stolen vehicle. They attempted to block the car and pointed their weapons, believing it to be a high-risk stop. The suspect drove the car at the officers. The officers removed themselves from the car's path and did not fire their weapons. A pursuit followed but is terminated, per SPD policy, quickly. The subject is eventually arrested after being detained pursuant to a 9-1-1 call, with the male subject reported as cooperative while being taken into custody.

The Type I pointing of the firearm was consistent with SPD policy and training regarding high-risk felony stops. The Monitoring Team was particularly impressed by the involved officers refusing – in a manner consistent with SPD policy – to shoot at the moving vehicle and, indeed, affirmatively moving out of the path of the vehicle as it proceeded toward them.

- **Case 3 (Type I).** The involved officer conducted a traffic stop of the mother of a suspect who had an outstanding felony warrant for unlawful possession of a firearm. The officer called for backup and went to the house of the subject's mother, who had indicated that the subject was inside. The subject's mother gave officers permission to enter. The officers proceeded upstairs to arrest the subject, holding their firearms at low ready. When the subject opened the bedroom door, the involve officer could not see the subject's hands. Consequently, she raised her weapon and pointed it at the subject. The subject complied with officer commands and was arrested without incident.

This Type I use of force was consistent with SPD's force policy and with training. The Monitoring Team notes that, early on, some raised concerns that the requirement to report pointing a firearm at a subject might discourage officers from un-holstering their firearm when necessary and as dictated by best practices in law enforcement training. This was one of many incidents that affirmed that officers are not being precluded from performing according to their training – but are, instead, routinely documenting any point of a firearm at a subject.

Importantly, the proportion of cases in which all officers complied fully with SPD policy increased – and, from a statistically perspective, at the least remained the same – from the first half of the study period to the later half. As noted elsewhere in this report, force used during the more recent half of the study period is somewhat more probative and reflective of where SPD currently stands with respect to compliance.

However, there remain some instances in which the Monitoring Team noted concerns that the performance of at least one officer in a given incident acted inconsistently with SPD's use of force policy. The following sections summarize the assessment's findings with respect to compliance with the core elements of SPD's use of force policy.

#### A. Necessity

SPD policy requires that officers use force only when it is necessary – that is, “only when no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.”<sup>187</sup>

In the more recent time period, the Monitoring Team found, or could find no documented reason to dispute that, all **officers use only the force necessary to perform their duties in more than 99 percent of force cases**. This was an increase on the 85 percent of cases where all involved SPD officers complied with SPD policy to use necessary force in the earlier time period.

For instance:

- **Case 4 (Type III)**. One early afternoon, officers were investigating an attempted auto theft. Officers were searching the area when Officer 1 spotted a possible suspect. Before Officer 1 was able to address the subject, the subject turned and advanced on the officer, producing two knives. The subject continued to advance as Officer 1 retreated. The subject, arriving at the driver's-side door of the officer's patrol car, dropped his center of gravity slightly, leading officers to believe that he was about to charge him. At the same time, the subject reached for the car door handle and began to open the door. Officer 1 fired his pistol, causing the subject

<sup>187</sup> SPD Manual Section 8.100(1) (2014), Dkt. 107-1 at 7.

to fall down. However, the subject then got back up (still in possession of at least one knife) and entered the patrol vehicle.

Meanwhile, additional officers responded. The officers gave multiple commands for the subject to exit the vehicle. Officer 2 twice discharged a Taser at him. During this time, the subject attempted to manipulate the patrol car's patrol rifle mount, and (based on presence of blood recovered after the incident), touched the rifle. Officers approached the subject, pulled him from the car, and took him into custody.

Officer 1 in this instance appropriately tried to preserve distance between himself and a subject in possession of two edged weapons. In addition to backing away from the threat, he used verbal commands in an attempt to get compliance. Based on the evidence available, and given the subject's physical movements, proximity to the patrol vehicle, and ultimate proximity to the patrol officer (approximately 15 to 20 feet), it would not be erroneous to conclude that a reasonable officer would deem deadly force to be necessary at the time that Officer 1 employed it. Officers at the scene communicated well during their repeated, post-shooting attempts to get the subject to exit the vehicle.

- **Case 5 (Type III).** Officers responded to a park around midnight pursuant to a 9-1-1 call reporting a prolonged fight. Officers arrived and observed a victim unconscious on the ground and the subject appearing to forcibly remove the victim's purse. The subject fled on foot. Officers gave chase and caught up to him as he was climbing a fence to escape. Officers pulled him down from the fence. The subject subsequently struck both officers in the face. The involved officers both then punched the subject in the face. The use of force on the subject was within a reasonable officer's discretion if it was necessary and proportional.
- **Case 6 (Type I).** Officers contacted the subject after a domestic violence report. The subject threatened to jump from an elevated position. Officers persuaded him to climb over a fence and surrender. When officers went to arrest the subject, he pulled away and back toward the fence. Officers used control holds, a soft take-down, and body weight to effect his arrest. The subject was uninjured.

Under the circumstances, it was not unreasonable to conclude that officers used the degree of force necessary to get the subject into custody. Indeed, such force was only used when the subject attempted to go back toward the fence – and the associated danger of self-harm from a more elevated position came into play. When deployed, the force was used only for the period of time necessary to effectuate control of the subject and take him into custody.

- **Case 7 (Type II).** Officers 1 and 2 responded to a report that a male subject had threatened to murder someone at a store and said he would be back with something. When he quickly returned, there was concern that the man had armed himself. The officers contacted the subject and asked him to take his hands out of his coat pocket. He refused. Officer 1 grabbed

the subject's wrist. The subject did not comply and attempted to flee the store. A struggle ensued, which ended when Officer 1 handcuffed the subject after a hard takedown. The incident, classified by SPD as a Type II force incident, was captured on the store's surveillance video. Audio of the incident was captured on Officer 2's in-car video. The subject sustained a minor facial abrasion and complained of left shoulder pain. When a third officer arrived, the subject complained of handcuff pain. Officer 3 readjusted the cuffs. Assuming that a hard takedown was not avoidable, one could reasonably determine that the force used was necessary in light of the nature of the call and the subject's refusal to remove his hand from his coat pocket.

In a very small number of instances across the 28-month period, officers used force that a reasonable officer under the circumstances would not have determined to be necessary.

- **Case 8 (Type II).** Officers responded to a disturbance call at a hospital where a subject was disruptive and had box cutters and a skateboard as potential weapons. Officers talked the subject into voluntarily relinquishing both.

Later, while the subject was being seen by hospital personnel, Officer 1 contacted the Department of Corrections, which requested a detainer. Officer 2, a Taser trainer and Field Training Officer, told the subject that he was under arrest. The subject asked why. Officer 2 ignored the subject and threatened to put 50,000 volts into the subject if he did not comply. The subject, reclining on a gurney, placed one hand in a pocket and purportedly may have balled the other hand into a fist. Officer 2 fired a Taser probe, with one 5-second cycle registering on the device.

SPD's Force Review Board noted that Officer 2 unnecessarily escalated the incident and did not need to deploy his Taser, as the officers were dealing with a subject reclining on a hospital gurney with his hand in his pocket and no access to a firearm. The subject's actions simply did not present a threat to officers, others, or the subject that warranted the use of intermediate-level force. Rather than explaining to the individual why he was being arrested, the officers made it into a confrontation. This affirmative escalation was unnecessary, disproportionate, and unreasonable. The FRB aptly saw this as an unnecessary Taser deployment precipitated by the inappropriate actions of an officer who should have known better. However, the Board failed to make findings that supervisors in the chain of command missed the issue.

- **Case 9 (Type III).** The subject, reportedly using "spice" (synthetic marijuana), kicked a Seattle Fire Department employee. Multiple SPD officers responded to a call to assist the firefighter. A protracted use of force then occurred that ultimately involved seven officers applying reportable force to the subject.



An officer punched the subject in the face and delivered multiple knee strikes to the subject's abdomen. This force was classified as Type II force. The necessity of the knee strikes was not established by available evidence. Further, the decision by the officer to continue delivering knee strikes after they proved ineffective in achieving the purported goal of causing the subject to release his arms did not appear necessary. It should be noted that, although the officer claimed that he continued to strike the subject because he feared the subject might be accessing a weapon with his hands, video of the incident did not capture the officer communicating to other officers on the scene as to this belief.

## B. Proportionality

SPD policy requires that an SPD officer's force be proportional to the "totality of circumstances surrounding the immediate situation, including the presence of an imminent danger to officers or others."<sup>188</sup> That is, "[t]he more immediate the threat and the more likely the threat will result in death or serious injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it."<sup>189</sup> Put differently, the quality and severity of the threat posed by the subject dictates the quality and severity of the force response that an officer may deploy. A force response or application that is substantially more significant or severe than a more minimal threat posed by a subject may not be proportional under the circumstances.

Looking at cases from the later 14-month portion of the 28-month study period, **all officers were determined to have used force that was proportional to the threat and/or resistance posed by the subject in 99 percent of cases.** This showed continued improvement over the earlier time period, where the Monitoring Team found that all SPD officers complied with SPD policy not to use disproportionate force in 88 percent of cases.

For example:

- **Case 10 (Type II).** Officers responded to a domestic violence call, where a female subject had injured a male victim. Officers approached the subject, who was initially sitting in the middle of the street. The subject attempted to flee on foot as a team of officers began to surround her. Officers initially attempted to gain voluntary compliance.

The subject then assaulted an officer by punching him. Officers then effectuated a hard take-down, with an officer who apparently bore the brunt of the landing sustaining a broken rib. Following a brief struggle on the ground, the subject was handcuffed. The subject sustained minor cuts to her arm. One could conclude the responding officers acted as a team and seemed well-coordinated and professional in their handling of the incident.

<sup>188</sup> SPD Manual Section 8.100(1) (2014), Dkt. 107-1 at 7.

<sup>189</sup> *Id.*



- **Case 11 (Type II).** Officers observed an unattended stolen car. The subject attempted to enter the car but fled when officers approached. The officers gave chase on foot, encountering the subject a short time later in a backyard. Officer 1 pointed his gun at the subject because he could not see the subject's hands. At this point, the subject ran *toward* officers, elbowing them as he tried to break through between them. As he proceeded to do so, he grabbed Officer 1's equipment belt –heightening the risk that the subject could seize control of Officer 1's firearm. Officer 1 responded by punching the subject in the face, with Officer 2 striking the subject in the ribs. The subject continued to struggle and remain actively aggressive. Officer 2 fired his Taser twice, which incapacitated the subject and allowed officers to take the subject into custody.

The Monitoring Team cites this case here as an illustration of officers managing to resolve a situation with an actively aggressive subject, who reached for Officer 1's equipment belt, through the use of intermediate-level, Type II force – effectively using less and less serious force than they otherwise might have. The use of a less-lethal instrument and personal weapons was proportional to the assaultive and potentially life-threatening actions of the subject. Having seen many fact patterns in which a subject's movement for the equipment belt set the occasion for an officer-involved shooting, the Monitoring Team was duly impressed by the officers' decision-making in this case.

In a few instances across the 28-month overall study period, the Monitoring Team did conclude that SPD officers used a type or level of force that was disproportionate to the nature of the threat posed by the subject under the circumstances because they involved head strikes to the head or neck:

- **Case 12 (Type III).** Officers were dispatched to a call involving a man vandalizing cars as he walked down the sidewalk and streets. Multiple patrol cars converged upon the subject. Officer 1, a Field Training Officer, approached and contacted the subject. The subject attempted to assault an officer. The officer counterstruck and attempted a takedown. Officer 1 reported that the subject wrapped his arms around him and tried to take his sidearm. Witness officer reports refer to the attempted gun grab. In-car video captured a struggle and a statement about “my gun” shortly after Officer 1 called the subject an “asshole.” The officer responded with four head strikes with his wooden baton. In-car video from another officer shows two strikes that appear to be full, top-down strikes.

This is clearly a dangerous situation. Subjects attempting to dispossess an officer of his weapon are real occurrences and can lead to justified use of deadly force. However, by his own account, Officer 1 did not believe that he was in imminent peril and said that he was *not* in fear for his life or that of others yet used deadly force (head strikes) four times on an

unarmed subject who was, by then, surrounded by several officers.<sup>190</sup> Because Officer 1 used head strikes despite not believing that such deadly force was warranted, the force may have been contrary to SPD policy because it was not proportional to the nature of the threat.

- **Case 13 (Type III).** Two bike officers contacted two subjects sitting on a sidewalk. A Seattle ordinance prohibits sitting on sidewalks, and the officers informed the subjects of this. Subject 1 was asked for identification and provided a fake name and date of birth. After investigating, the officers identified the suspect and attempted to arrest him for a felony escape warrant.

The subject attempted to escape, fighting and struggling with the officers. The officers and one of seven civilian witnesses claimed that the subject was assaultive. Five agreed that the suspect was hard to control. Indeed, the officers claimed that the subject came after them multiple times. After being brought under control and handcuffed, the subject complained of neck and shoulder pain. Medical care was summoned, with the subject placed in a cervical collar. An examination showed no skeletal or spinal injuries.

Part of the incident was captured on two smartphone cameras and a bank surveillance camera. The video, in aggregate, shows both officers intentionally kneeling the subject in the face multiple times. Available video evidence and witness statements tended to establish that the subject's efforts were aimed at flight rather than assault of officers.

It should be noted that there is a moment on one of the phone videos where the subject appeared to potentially make some kind of contact with an officer's belt or holster. Although there was no attempt to take any of the officers' guns, reviewers understood that officers might have believed that, during the incident, an increase in the level or severity of force was necessary in light of the subject potentially going after the officers' guns.

The involved officers displayed poor tactics in attempting to restrain a subject who they outweighed by nearly 200 pounds. Initially, officers were working at cross-purposes, trying to physically pull the subject in opposing directions – indicating that officer planning and/or communication could have been improved.

Even if the officers did believe that the subject was potentially in possession of a knife, the knee strikes delivered to the subject's face are arguably contrary to policy because the force was not reasonable, proportional, or necessary under the totality of the circumstances. The FRB's finding to the contrary lacks persuasive evidence.

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<sup>190</sup> See Dkt. 3-1 ¶ 70(e) (noting that "a hard strike to the head with any impact weapon, including a baton, could result in death, and any strikes to the head should be consistent with policy and training").

Although the incidence of head strikes was low, and therefore does not pose an impediment to a finding of initial compliance, the Monitoring Team urges that the Department provide ongoing training to officers – whether in in-class, in-service training or via more informal roll-call or electronic platforms – that emphasizes that any strikes to the head are only justifiable if deadly force is justified under the circumstances.

### C. Reasonableness

SPD policy requires that an officer “use only the force reasonable . . . to effectively bring an incident or person under control.”<sup>191</sup> As outlined in Part I of this report, “[t]he reasonableness of... force is based on the totality of circumstances known by the officer at the time of the use of force” – and focuses on evaluating an officer’s force “from the perspective of a reasonable officer on the scene” and under the circumstances.<sup>192</sup> The policy provides factors that are part of the reasonableness inquiry:

- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to officers or a danger to the community;
- The potential for injury to citizens, officers or subjects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
- The time available to an officer to make a decision;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects; and
- The environmental and/or other exigent circumstances.<sup>193</sup>

Across the more recent time period, the Monitoring Team found, or found no reason to dispute that, **all involved SPD officers complied with SPD policy to use reasonable force 99 percent of the time in the most recent time period, up from 88 percent in the earlier time period.**

Examples of reasonable force, in addition to some of the incidents cited above, included:

<sup>191</sup> SPD Manual Section 8.100(1) (2014), Dkt. 107-1 at 6.

<sup>192</sup> SPD Manual Section 8.100(1) (2014), Dkt. 107-1 at 7.

<sup>193</sup> SPD Manual Section 8.100(1) (2014), Dkt. 107-1 at 7.

- **Case 14 (Type I).** Two officers stopped a car after reports that the occupants had been exchanging gunfire with another car. The officers pointed their guns at the suspects while executing the felony stop. This was reasonable and consistent with SPD policy given the evidence that the occupants were armed.
- **Case 15 (Type II).** Officers responded to a male subject in the street who was threatening others and apparently suffering from a mental health crisis and alcohol intoxication. The subject had a bleeding injury from another individual having struck him in response to the subject's threats. Officers decided to detain the subject for an involuntary mental health hold. The subject did not submit to the detention, and his increasingly erratic behavior concerned the officers. To restrain the subject in handcuffs for the safety of the subject, officers, and others, officers used a soft takedown.

Given the subject's aggressive and erratic behavior, and the associated potential for an aggressive or violent response, it seems clear that officers were reasonable to use a soft takedown to secure the subject.

- **Case 16 (Type II).** Officers arrested a subject for harassment after he reportedly threatened a victim. The subject struggled against the officers' attempts to place him in handcuffs, and the officers took the subject to the ground. A protracted struggle ensued involving the use of body weight and grips to control the subject.

Based upon security footage and in-car video, it appears that officers attempted to seek voluntary compliance throughout their interaction with the subject – and only used force when the subject began to physically resist. The body weight and grips were reasonable to overcome the subject's vigorous resistance.

Because the concepts of necessity, proportionality, and reasonableness are all related, in some incidents discussed above in which the Team's experts found that force was not proportional or was unnecessary under the circumstances, they also concluded that a reasonable officer, under the same circumstances, would not have used force. In addition to those cases, the Monitoring Team had concerns about the reasonableness of force in some other incidents, as well, including the following:

- **Case 17 (Type III).** Officers placed a subject under arrest for an outstanding warrant. The subject struggled against officers' attempts to handcuff him. After being handcuffed, the subject was moved to a police vehicle. At the vehicle, the subject was verbally protesting. Officers lifted the subject's handcuffed arms high above his waist and back, which presents a high risk of injury and pain. When officers got the subject to the station, station lockup video depicts similarly problematic treatment of subject's arms. When the subject resisted efforts to remove his eyeglasses, more pressure was applied to the subject's raised arms. An officer removing the glasses threw them with substantial force to the ground.

Later, after the subject kicked the interior of a holding cell door, Officers 1 and 2 entered the cell, presumably to remove the subject's sneakers. In the process, Officer 1 performed a hard takedown. Officer 2 pinned the subject to the ground. The door closed behind the two officers, temporarily locking them in the cell with the resistive subject.

After the officers left, the subject repeatedly kicked the door and, somehow, it opened. The subject exited the cell. A soft takedown and restraint by multiple officers was required to get the subject back into a cell.

Raising the handcuffed subject's arms was unreasonable, as the subject was under control. It appears likely to have been done to inflict discomfort or pain on a verbally resistant subject. The force subsequently used in the cell by officers was unreasonable and punitive, as it lacked a legitimate purpose, was entirely avoidable, and inadvertently placed the officers in substantial danger when the cell door closed behind them.

Here, SPD's Force Review Board identified the potential misconduct issues and was willing to find the force as *prima facie* violations of SPD's Use of Force and De-Escalation policies. The fact that the Department appropriately identified and addressed policy violations increases confidence that SPD has in place the mechanisms of critical self-analysis that allow for it to systematically identify and meaningfully address officer misconduct, including improper use of force.

- **Case 18 (Type III).** A subject acted in a bizarre manner while armed with handguns, prompting multiple calls to police. The armed subject then engaged in two car-jackings and drove dangerously. SPD officers initiated a pursuit, during which the subject discharged multiple rounds from a handgun. Multiple units ineffectively "rammed" the subject's vehicle as the pursuit progressed.

The pursuit terminated when a plain unit rammed the subject's vehicle, causing it to also collide with other vehicles. As the subject again began to drive/maneuver his vehicle, multiple officers opened fire, collectively discharging in excess of 100 rounds. Of these rounds, one caused a penetrating gunshot wound and another caused a graze wound. SWAT responded and approached the vehicle in order to move the deployed airbags concealing the subject. During this process, a SWAT Officer fired five rounds at the subject, striking and killing him.

The Monitoring Team had substantial concerns about the risk to public safety potentially created by the police response to the incident. In some ways, it was only a matter of luck that the involved officers did not strike a member of the public or a fellow officer with one of their more than 100 rounds. The Monitor had questions about the nature and volume of the force in this incident.

- **Case 19 (Type III).** Officers responded to multiple calls of a person shouting at park patrons, smoking marijuana, and masturbating. They arrived sometime after the calls and observed the subject sitting on the ground near discarded cigarettes that he was taking apart to roll into a cigarette. Officers informed the subject that he could not smoke in the park and offered to give him a cigarette. He appeared cooperative but at some point became, according to the officers, non-responsive, with a distant stare and clenched fists.

Officer 1 decided to preempt any aggressive behavior by handcuffing him but was unable to do so because his handcuffs were double-locked. He then reached over and around the front of the subject and brought him to the ground. The officers struggled with the subject for some period of time until he gave up his arms, which were under him, and they handcuffed him.

During the initial investigation, three witnesses reported that Officer 1 had placed the subject in a choke hold. Two stated that the subject appeared to have difficulty breathing. The involved officer, in his interview, indicated that his arm likely did go across the subject's neck inadvertently. There was inadequate FIT inquiry into this point. His partner said that he could not see what was happening. There was little FIT inquiry into this point. The Force Review Board would appropriately render administrative disapproval of the investigation on the basis that it was not thorough.

It appears that the force used did not relate to anything that the subject did or any set of external circumstances but, rather, because the officer did not have his handcuffs ready to use. In proceeding down this path, officers affirmatively escalated the situation and used force disproportionate to the threat. Likewise, it was not clear that the initial handcuffing or takedown was warranted based on articulable facts – especially given that no commands or directions were given by the officers to the subject that would have allowed the subject to comply. Further, while the issue as to whether the officer in fact used a neckhold to control the subject remains under OPA investigation, if the officer used a neck hold, that would constitute deadly force and would not be objectively reasonable in the face of the subject's resistance, threat posed, or the severity of any of the subject's underlying offenses.

## **D. De-Escalation**

### **1. General Findings**

SPD policy provides that “when safe under the totality of circumstances and time and circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.”<sup>194</sup> Even when force must be applied, officers must “assess and modulate the use-of-force as resistance decreases.”<sup>195</sup>

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<sup>194</sup> SPD Manual Section 8.100(3) (2014), Dkt. 107-1 at 8 (converted to sentence case).

The policy outlines a number of strategies and tactics that an officer may consider, including the use of distance, cover, and concealment; calling extra resources or officers to assist; moving from a position that exposes officers to threats; containing a threat or combative subject; communication from a safe position to gain the subject's compliance; and others.<sup>196</sup>

In the earlier time period, shortly after implementation of the force policies, at least one officer in a given incident failed to reasonably employ de-escalation tactics when it was safe and feasible to do so in about 19 percent of all incidents that resulted in force – and about 26 percent of those force incidents where the facts or circumstances of the case made the duty to de-escalate applicable.<sup>197</sup> Examples of incidents in which the Monitoring Team found a problematic failure to de-escalate included:

- **Case 20 (Type III).** Officers 1 and 2 were patrolling on an “emphasis patrol.” They spotted a group of five males with open containers of alcohol. They approach and told the males to dispense with the beer. Subject 1 was initially non-compliant and escorted to a police car. Subject 2 approached officers and physically intervened, slapping Officer 1's arms away. A melee ensued.

Monitoring Team reviewers concluded that, even if the force was reasonable, necessary, and proportional, Officers 1 and 2 had failed to appropriately use de-escalation skills and techniques. Indeed, they may have escalated the situation. The Team agrees with the Force Review Board that the incident was very likely avoidable had the officers followed sound tactics and not engaged a boisterous group of five intoxicated males without additional resources. Officer 1, who was a crisis intervention specialist officer, should have been more focused on de-escalation efforts. Given the nature of the situation, conflict was predictable – and the involved officers failed to adequately plan for addressing it. Because SPD's use of force policy requires de-escalation, the failure to de-escalate appears contrary to SPD policy. The point here is that the officer put himself at unnecessary risk in the situation, increasing the potential that force would need to be used to resolve the situation.

Although limited, the Monitoring Team did observe a few instances where officer actions appeared to have affirmatively escalated the incident. For instance:

- **Case 21 (Type II).** Officers 1 and 2 responded separately to a felony violation of a domestic violence no-contact order. While en route, dispatch put out that the suspect had used meth and had a history of carrying weapons. After arriving and making unsuccessful attempts to

<sup>195</sup> SPD Manual Section 8.100(4) (2014), Dkt. 107-1 at 9.

<sup>196</sup> SPD Manual Section 8.100(3) (2014), Dkt. 107-1 at 8-9.

<sup>197</sup> For instance, a subject's complaint of pain as a result of handcuffing is a Type I use of force. The duty to de-escalate is not directly implicated by the typical factual circumstances surrounding such force application.



persuade the suspect to submit to cuffing, Officers 1 and 2 began to grapple with him as he resisted. In-car video showed the subject resisting and reaching his right arm into the open window of Officer 1's radio car as both officers grappled with him. Officer 2 stepped back, drew her baton, and struck the subject once on the lower leg. The subject braced and resisted the officers but was not actively aggressive with officers. Officer 2 slid her baton under the subject's right arm and tried to pry him away from the radio car. The subject was handcuffed and taken into custody.

Officer 1's force (grappling), was found by the FRB to be within policy. On the other hand, FRB found Officer 2's baton use contrary to policy and training and her general tactical approach was a failure to de-escalate.

- **Case 22 (Type III).** Officer 1 and a sergeant contacted the subject, who had been kicking and throwing no-parking signs into the street. The subject did not comply with initial commands to stop. The sergeant cut him off, using his police vehicle. The subject continued not to respond to verbal commands. The officer and sergeant used control holds in an attempt to apply handcuffs. The subject struggled against their attempts. Officer 2 arrived on the scene and, as he approached on foot from his vehicle, Officer 1 and the sergeant took the subject to the ground. The take-down appeared to be an uncontrolled, collective fall on the part of the subject, Officer 1, and the sergeant, who went down to the ground with the subject at the bottom of the pile. The fall resulted in the subject striking his head on the roadway. Officers 1 and 2 and the sergeant struggled on the ground with the subject, who was unwilling to relinquish his hands for cuffing. Eventually, handcuffs were successfully applied.

Officers 1 and 2 both applied a Type I wrist lock, Type II strike/takedown, and (classified out of caution) Type III force because the takedown resulted in apparent unconsciousness. The fall to the ground, which did result in a forceful landing for the subject, appeared to have been a consequence of all involved falling to the ground in an uncontrolled manner rather than a deliberate effort to achieve this effect. Under these circumstances, the force appeared consistent with SPD policy. Officer 3 pointed a firearm at the subject and applied a control hold to assist in handcuffing. These Type I force applications were also consistent with policy.

The Monitoring Team did, however, have some concerns about the extent to which the involved sergeant's verbal techniques during the initial commands to the subject to stop may have affirmatively escalated the situation. Despite eight hours of CIT training and his stated belief that the suspect was in crisis, the in-car video of the incident captures an exchange in which the sergeant demanded that the subject "put your hands on your head," the subject asked "why," and the officer in an aggressive tone said "because I told you to do so." Although the subject still may not have complied with officer commands to stop, "because I told you to" seemed to invite a more confrontational exchange than a communication



strategy rooted more in SPD's procedural justice and problem-solving communication training initiatives would counsel.

However, SPD's performance improved notably in the latter half of the 28-month study period that this report considers. **Among the more recent cases that the Monitoring Team reviewed, officers complied with the duty to de-escalate in approximately 99 percent of those cases where that duty was applicable** (i.e. in fact patterns where a reasonable officer would have believed that it was safe and feasible under the circumstances to employ de-escalation strategies or tactics) – **up from 81 percent of cases in the earlier time period**. The following exemplify those instances in which SPD officers did admirably fulfill their duties to apply strategic and tactical de-escalation skills when safe and feasible to do so – and, indeed, in situations where the efforts to de-escalate did not ultimately mitigate the officer's need to use force consistent with SPD policy:

- **Case 23 (Type II)**. Officers responded to reports of an attempted assault and that the subject was following the victims. Officers arrived at the scene and positioned themselves between the subjects and the victims. The officers told the subject to relax. They asked his name. They offered their names. One officer used calming hand gestures and reassuring body language. Ultimately, the subject charged toward the victims. Officers performed a takedown. In taking the subject into custody, officers placed weight on the subject and attempted a cross-face pain compliance hold. The incident was captured on in-car video.

Despite not ultimately being successful in terms of bringing the subject into compliance, Monitoring Team reviewers were nevertheless strongly impressed by the responding officers' verbal communication and de-escalation skills.

- **Case 24 (Type III)**. An initially-responding officer to a call involving a subject walking down a street with two butcher knives in his hands soundly, reasonably, and pragmatically waited for backup rather than affirmatively confronting the subject by himself.
- **Case 25 (Type II)**. Officers responded to a fight in progress and located the subject outside of the building where the incident occurred. Officers developed probable cause to arrest the subject for property damage. Officers waited for additional officers to arrive before attempting to arrest the subject. SPD personnel ultimately needed to use intermediate-level, type II force (a takedown, body weight, and control holds) in response to the subject's active resistance while being taken into custody.

Although officers nonetheless needed to use force while bringing the subject into custody, the initially-responding officers' decision to wait for additional resources to arrive at the scene before initiating an arrest constituted prudent de-escalation tactics under the circumstances (e.g., a subject outside of a venue where a fight was known to have just occurred).

- **Case 26 (Type II).** Officers detained and subsequently arrested a subject for an assault in which the victim was knocked unconscious in an apparently random attack. As officers sought to handcuff the subject, he tensed and pulled his arms away. Officers effectuated a soft takedown of the subject to the ground, where he was successfully handcuffed. No injuries to the subject were identified at the scene. A minor abrasion or bruise was identified later.

This Type II use of force was straightforward, reasonable, necessary, and proportional. Officers communicated calmly with the subject throughout the encounter and used a low degree of force to overcome his resistance – and, indeed, did not use any more force than was necessary to effectuate the arrest. The Monitoring Team found reason to believe that the strategic communication tactics employed may well have prevented the situation from escalating further.

## 2. The Issue of Solo, Affirmative Action

It has been well-established that solo pursuits by officers of subjects can elevate the risk of injury to the officer and the likelihood that the officer will need to use force. Thus, even in those instances where force used by officers is reasonable, necessary, and proportional, solo foot pursuits can constitute dangerous and unsound tactics under a number of circumstances.

Especially in its review of cases in the earlier time period covered by this assessment, the Monitoring Team identified more instances than it would like to see of SPD officers pursuing fleeing subjects on their own rather than containing the situation and waiting for backup to arrive. Not all of these instances necessarily involved the application of force that was unreasonable or counter to SPD policy at the time it was applied. Instead, some cases involved tactics during the course of an unfolding incident, and before force was used, that the Monitoring Team found to be inappropriate or unsound.

- **Case 27 (Type III).** Officers responded to a burglary-in-progress call at a reportedly empty residence. Upon arrival, officers ascertained three subjects were still onsite. The officers split up. Officer 1 went to the rear yard alone. He encountered a subject, who was on top of a garage. Telling the subject to come down or he would “beat [the subject’s] ass,” Officer 1 pursued the subject alone as the subject unsuccessfully attempted to jump over a gate. The two collided. The subject claimed that the officer just ran into him. Officer 1 alleged that he was attacked. Regardless, a struggle between the two ensued. Officers 2 and 3 reached Officer 1 to assist, although they were delayed in reaching him due to darkness and obstacles that separated Officer 1 from the others. The subject was eventually brought under control and into custody.

Officer 1’s pursuit of a subject, on foot and alone and for however long it lasted, was dangerous, tactically unsound, and inconsistent with SPD policy. Not only did Officer 1’s

splitting from the other officers put him in the position of confronting the subject alone, but Officer 1 actively pursued the subject from there without the benefit of multiple other officers on-site. Under the circumstances, it was unsafe and unreasonable for the officer to attempt to apprehend the suspect alone.

- **Case 28 (Type III).** Officers 1 and 2 responded to a report of a subject in a victim's vehicle. On arrival, Officer 1 encountered the suspect in the bushes and told him to come out and show his hands. The subject emerged holding a knife. Officer 1 backed off. As the subject walked away, the officers began to track the subject. Officer 2 discharged a Taser at the subject, but this was ineffective. A foot pursuit ensued during which officers became separate, with Officer 2 falling behind.

Officer 1 turned a corner and confronted the subject at a distance of approximately 10 feet. The subject shined a flashlight at Officer 1, interfering with the officer's ability to clearly see his surroundings. Believing that he would be stabbed by the non-compliant, armed subject, Officer 1 fired four rounds at the subject, striking and injuring him. A knife was recovered at the scene.

Although it can be argued that at the time that force was applied, it was reasonable, necessary, and proportional under the circumstances, the tactical issue of concern in this case was the manner in which the officers pursued the subject. Officers 1 and 2 became separate, which resulted in Officer 1 being alone at the time of the officer-involved shooting – greatly increasing the risk that the subject posed to the officer. The question of whether or how Officer 1 maintained awareness of his partner's position, or whether he could or should have taken steps to coordinate with him, was not explored by the FIT investigation. The partners split raised significant concerns that the officer's actions elevated the risks involved to the officer and made it more likely that force would need to be used.

- **Case 29 (Type II).** A witness saw the subject breaking into a car and called the police. The responding officer, while knowing it was a property crime, chased the subject through a neighborhood, found her on a porch, and immediately went "hands-on" with the subject, using a Type II strike/takedown. The officer did not wait for backup, nor did she attempt use any strategic communication skills in an effort to gain compliance without force. Given the officer's affirmative decision to pursue a subject without waiting for backup and failure to deploy de-escalation techniques, a finding that force was contrary to SPD policy would have been reasonable.

SPD's chain of command and the Force Review Board both identified the tactical issues associated with the officer searching for the subject alone and immediately going hands-on upon locating the subject. Per these findings, the case was referred to OPA.

- **Case 30 (Type II).** Officer 1 responded to a report of a burglary in progress that involved a subject who was nude and shouting Bible verses. The subject fled on foot. Officer 1 initiated a foot pursuit. As additional SPD units converged on the subject, Officer 1 pushed the subject, causing him to fall to the ground. Once on the ground, Officer 1 was assisted by Officer 2 and Officer 3, who each applied control holds, as the subject was handcuffed. It would have been safer overall if Officer 1 had not engaged the subject until Officers 2 and 3 arrived.

In some other instances not involving foot pursuits, **SPD officers affirmatively closed the distance between themselves and potentially dangerous subjects when doing so was unnecessary and placed themselves in substantially higher danger.** For example:

- **Case 31 (Type III).** A homeless man had illegally lit a fire in a makeshift fire pit area. A park security guard reported that the subject had attempted to attack him. Two officers responded and called for CIT backup. Those officers tried to persuade the subject to leave the park, but he refused and threatened them. The officers then called and waited for a supervisor to arrive.

While waiting for the supervisor, the officers prepared a contact and cover plan. A Sergeant arrived, briefly spoke with the officers, and then started to contact the subject himself. The subject held up a gas can to the fire, broke a bottle, and threatened the now-five officers who had responded to the scene. Officer 1 and Officer 2 deployed their Tasers unsuccessfully. The subject advanced toward Officer 2 with the broken bottle and gas in hand. Officer 2 slipped and fell. The subject advanced toward him. Officer 1 transitioned from Taser to firearm, opening fire. Another officer on the scene, Officer 3, also opened fire. The subject died.

In this instance, the use of the firearm (Type III force) was consistent with SPD's use of force policy. With a subject with a sharp object and gasoline advancing toward a temporarily incapacitated officer, it was reasonable, necessary, and proportional under the circumstances for Officers 1 and 3 to use deadly force.

The deployment of the Taser by Officer 1 and 2 to a subject carrying gasoline is inconsistent with SPD's Taser policy which mandates that Tasers "not be used in any environment where an officer knows that a potentially flammable, volatile, or explosive material is present."<sup>198</sup> The deployment of the Taser under such circumstances increased the likelihood of injury or death and, thereby, the severity of the force. At the moment that the Tasers were applied, it was clear that the subject may pose a danger but, before and until the subject affirmatively

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<sup>198</sup> Seattle Police Manual 8.200-POL-3(8) (2014), Dkt. 107-2 at 8; see Dkt. 3-1 ¶ 79(d).

advanced toward officers, it does not appear that the nature of the threat posed by the subject would justify the use of deadly force.

However, the most significant issue in this instance was the poor tactics of the sergeant in this case. The initially-responding officers acted appropriately when initially responding to the scene – calling for CIT backup, using verbal techniques with the subject, calling for a supervisor, not approaching or initiating contact with the subject, and forming a contact and cover plan. Ironically, this superior performance decisively ended when the sergeant arrived, spoke only briefly with the officers, and closed the distance with the subject – initiating contact and escalating the situation. The sergeant’s actions set in motion the events that put all the SPD personnel at risk and culminated in an officer-involved shooting. Rather than closing the distance, the officers had plenty of time to keep their distance from a subject who did not have a firearm and to try to use verbal de-escalation techniques as well as consider the deployment of a beanbag or less-lethal projectile option if others were unsuccessful. The sergeant’s comprehensive violation of SPD’s policy in this instance was troubling, as the FRB found. The FRB did not refer findings to OPA because the sergeant had retired.

- **Case 32 (Type III).** A Field Training Officer (“FTO”) and student were patrolling when they observed the subject riding a bicycle on an I-5 ramp. The FTO recognized the subject and knew him to be the subject of a felony warrant. After verifying that the subject had an outstanding warrant for burglary, the officers decided to stop the subject and requested backup. The subject appeared to flee from officers on his bike and eventually crashed his bike.

The student officer approached the subject by herself and a struggle ensued. The subject was later found to have a dislocated left shoulder. The subject also experienced abrasions to his face. It could not be definitively established whether officers or the subject’s bicycle crash caused the injuries.

The Force Review Board properly determined that the FTO should have affirmatively come to the assistance of the student officer rather than passively observing the struggle.

- **Case 33 (Type III).** Two officers responded to a burglary call alleging that two male suspects were stealing bicycles from an apartment complex. They arrived, investigated, and ultimately contacted the two subjects. One subject fled on foot and fell to the ground either (a) when Officer 1 shoved him to the ground from behind, or (b) Officer 2 bumped into the subject with his shoulders. According to both officers, the subject fell onto bark dust and struck his head only when he rolled off a curb. This movement, the officers reported, caused him to strike his head on the ground and sustain a hematoma to his thigh. The subject, a hemophiliac, required four days of hospitalization due to internal bleeding. The second subject escaped.

The involved officers should have called for backup before conducting a building search for multiple subjects. Moreover, the officers parked directly in front of the building where the burglary was occurring and did not request backup despite clearly needing to check a building and parking structure area for two suspects.

- **Case 34 (Type III).** Officers 1 and 2 responded to a report of a violent female with a mental illness at a hospital. Although the officers arrived together, Officer 1 immediately approached and contacted the subject. The subject swung a bag at Officer 1, prompting the officer to pull the subject's arm in an effort to control her. This caused the subject to fall. The subject injured her chin as a result. She was subsequently admitted to a hospital for treatment of injuries apparently unrelated to the use of force. The admission to the hospital nonetheless triggered classification of this force incident as a Type III use of force.

The officer's failure to coordinate with his partner and make affirmative, unilateral contact with the subject foreclosed the ability for the officers to apply affirmative or strategic de-escalation tactics and appeared to contribute to the need to use force. The officer gave up the advantages of time, distance, and cover by immediately approaching a subject who he knew to be suffering mental illness and exhibiting violent behavior. Because the officer escalated the situation and put himself at far greater risk than necessary under the circumstances, the use of force was arguably inconsistent with SPD's force policy and its requirement to de-escalate situations when safe and feasible to do so.

- **Case 35 (Type III).** Two officers responded to a call of a possible domestic disturbance in a car. The car was parked with the engine running. A female driver and male front passenger gave suspicious answers as to their residence and purpose for being there. The car, with out-of-state plates, came back as stolen. A third officer arrived as backup. Officer 2 stuck his hand in the passenger window of the vehicle and placed a cuff on the subject's wrist. The female driver then tried to roll up her window and put the car in gear. Officer 1 pulled the car door open and pulled the female driver to the ground, where the officer began handcuffing her. Meanwhile, the male passenger exited the car with one hand cuffed and attempted to run past Officers 2 and 3, who ultimately tackled the subject to the ground, where he struck his head on the pavement.

The incident was partially captured by two in-car videos which show residents in an adjacent building holding out their cell phones. The investigatory file did not suggest a rigorous effort to obtain such civilian video during the investigation.

Officer 1, who was clearly the officer in charge of the stop, made several errors. First, he did not ask the driver of the car to remove her car keys – which he should have done at the outset, preventing the vehicle from being either a means of flight or a deadly weapon. Second, when the car came back as stolen, he should have summoned additional officers and moved back to carry out a regular felony stop. As it turned out, the driver had a firearm in



her purse, which meant that the failure to call for back-up and treat the encounter as a serious and dangerous one might have put all officers involved in grave danger. Third, the officer should have summoned additional officers before signaling Officer 2 to initiate the arrest of the passenger.

Officer 2's takedown of the male passenger appears to be justified. Nonetheless, Officer 2 appears not to have taken the usual tactical precautions once the car came back as stolen, including requesting that the driver turn off the vehicle, attempting to handcuff the male subject while he was still seated in the vehicle, and not separating the parties involved in the reported domestic violence. Officer 2 exacerbated the situation by ratcheting his handcuffs loudly in the presence of the passenger and then reaching into the vehicle to cuff one wrist before the subject was secured. Later, after both parties were cuffed and seated, Officer 1 grabbed the male passenger by the rear of the neck in a C-clamp hold.

The use of the C-clamp push down on the neck was unwarranted, unjustifiable, and punitive. Both SPD's Force Review Board and the Training Section agreed on the inappropriateness of applying this maneuver on a handcuffed subject under the officers' control. OPA sustained the findings of a policy violation as to Officer 1, which was upheld by the Department.

In the same case, an involved officer appeared to kick the subject in the abdomen while he was on the ground and as other SPD officers were in the process of restraining the subject. This force appears unreasonable under the circumstances, as the subject was on the ground and being brought under control by several SPD officers. Likewise, it seemed unnecessary and disproportionate to the nature of the threat.

Importantly, **the incidents recounted above notably contrast to some more recent cases where it appeared that officers appropriately used Departmental resources to effectuate the necessary law enforcement objectives:**

- **Case 36 (Type II).** Gang officers spotted a subject with open warrants for robbery and burglary. Prior to initiating with the subject, who was situated in a parking lot, officers place units in the area and then attempted verbal contact via detectives. The subject fled on foot. Given the outstanding felony warrants, three officers gave chase. Officer 1 grabbed the subject around the waist and pulled him down into an area of bushes. (The incident was conservatively classified as a Type II because of scratches to the subject's arm from the bushes). Officers 2 and 3 used minor force – appropriately classified as *de minimis* – to keep the subject on the ground, restrain his arms and legs, and allow for handcuffing.

In the Monitoring Team's view, this is a good example of officers using advantages in terms of superior numbers and resources to take a fleeing felony suspect into custody. Pre-positioning resources in the vicinity entailed sound decision-making that increased the

likelihood that the officers would have the tactical advantage. Such a coordinated team approach left no officer disproportionately exposed to risk and likely mitigated the severity of the force used.

- **Case 37 (Type I).** Officer 1, in plainclothes, was patrolling a back alley when the subject stepped in front of the unmarked police unit and pointed a handgun at the officer. Officer 1 backed out of the alley and called for backup officers. Responding officers located the subject nearby, pointing their firearms at the subject (which constitutes Type I force) to get him to comply and be taken into custody. He was arrested without further incident.

The Monitoring Team found Officer 1's actions to be quick, decisive, and prudent under challenging circumstances. By increasing distance between himself and the subject, calling for additional resources, and waiting to engage with the dangerous subject until that backup arrived, Officer 1 ensured both the officer's personal safety and public safety.

The Monitoring Team understands that officers in some instances must affirmatively confront subjects in order to effectuate their law enforcement duties. However, mindful that reducing space between a subject and officer reduces the scope of the de-escalation tools available to officers in the event that a subject becomes threatening or becomes more of a threat during an interaction, the Monitoring Team's experts would like to ensure that all officers continue to systematically assess all available strategic options in all encounters – including remaining at a distance from an officer while a threat is assessed more closely or as additional resources are dispatched.

Although highly encouraged that it saw far fewer problematic instances of solo foot pursuits or problematic solo action in the more recent time period studied for this assessment, the Monitor recommends that SPD continue its comprehensive training initiative – featuring electronic, roll call, and in-class elements – that further focuses on pursuits and appropriate single-officer tactics to ensure that these positive trends continue and endure.

#### **E. Specific Force Prohibitions**

The application of physical force in some circumstances is prohibited in situations where force is presumed to be necessarily unreasonable, unnecessary, disproportionate, and contrary to using strategic or tactical de-escalation skills to mitigate the likelihood that force will be used. SPD Policy Section 8.100(2) outlines five specific instances in which an officer is not authorized to use force. These nearly categorical prohibitions stem from the DOJ's 2011 findings letter. This section considers force incidents reviewed by the Monitoring Team to determine if these prohibitions are effective in practice.



## 1. Force Used to Punish or Retaliate

Officers are prohibited from using force in a manner that is retaliatory or punitive.<sup>199</sup> **The Monitoring Team identified only isolated instances in which force seemed sufficiently unnecessary and disproportionate to the threat so as to appear potentially punitive in nature:**

- **Case 38 (Type III).** This case was described in detail, above. The use of the C-clamp to push down on the neck of the handicapped subject appeared to be unwarranted, unjustifiable, and punitive. The force was referred to OPA.
- **Case 39 (Type I).** The involved officer was working undercover in a sting operation in the early morning hours. One female suspect fled the scene. The involved officer broke cover and assisted a uniformed officer in a foot pursuit of the subject. After some distance, the subject stopped fleeing and collapsed to the ground. She kept her hand on what appeared to be a gun in the waistband of her pants. The involved officer, who had not previously identified himself as a police officer, told the subject to let go of the gun and present her hands. The subject did not respond.

The involved officer subsequently drew his gun and placed the barrel of his gun against the subject's head, telling her that he would shoot her if she did not comply. The other, uniformed officer was then able to grab the gun from the subject. The involved officer holstered his weapon.

The Monitoring Team had concerns about the officer placing the gun squarely against the subject's head and threatening to kill her. If something had gone wrong, an officer-involved shooting may have constituted excessive force. Indeed, the tactic seemed punitive and hence inconsistent with policy, whether or not a shooting took place.

## 2. Force Against Individuals Only Verbally Confronting Officers

**The Monitoring Team did not identify any force incidents, across either the early or later study periods, that implicated the prohibitions against using force on individuals who had solely verbally confronted officers.** This constitutes noteworthy and commendable compliance on the part of the Department and its officers with respect to ensuring that force used is necessary and proportional under the circumstances.

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<sup>199</sup> PD Manual Section 8.100(2) (2014), Dkt. 107-1 at 7.

Other sections of this report detail a few instances in which verbal confrontation, in the context of other circumstances, seemed to set the occasion for the use of force even when options to de-escalate were available, feasible, and safe.

### 3. Force on Handcuffed or Otherwise Restrained Subjects

SPD officers may not use force against subjects who are handcuffed or otherwise restrained. The exception is only in “exceptional circumstances when the subject’s actions must be immediately stopped to prevent injury, . . . escape, [or] destruction of property.”<sup>200</sup> **The Monitoring Team found only isolated instances where the application of force to a handcuffed or otherwise restrained subject was an issue**, which were primarily restricted to the earlier time period evaluated.

- **Case 40 (Type III).** In this case, also described in another example, *supra*, a handcuffed subject, in SPD custody in a holding cell, was being taken out of the cell to place a spit-sock on him after he spat on a sergeant. In doing so, the subject lost his balance, resulting in the still-handcuffed subject taking an essentially unbroken fall and landing on his face. The subject sustained a bleeding injury, and the force was classified as a Type III use of force. The incident was captured on video. There is also evidence to suggest that the sergeant was angry and upset – allegedly snapping at a witness officer who offered assistance, “I’m here and I will handle this.”

The use of force seemed, at minimum, unnecessary. The sergeant more appropriately should have closed the cell door rather than entering and putting his hands on the subject. The Force Review Board, without documented explanation, found that the de-escalation policy was adhered to, but the Board cited the sergeant’s performance as inconsistent with training and the force used as unnecessary. Because the sergeant retired prior to the Board considering the incident, the matter was not referred to OPA.

- **Case 41 (Type III).** (The facts in this case are discussed *supra*.) An officer used a C-clamp on a handcuffed subject. The incident was partially captured by two in-car videos which show residents in an adjacent building holding out their cell phones. The investigatory file did not suggest a rigorous effort to obtain such civilian video during the investigation.

FIT, the Force Review Board, and the Training Section agreed on the inappropriateness of applying this maneuver to a handcuffed subject under the officers’ control. OPA sustained the policy violation on the use of force, which was upheld by the Department.

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<sup>200</sup> SPD Manual Section 8.100(2) (2014), Dkt. 107-1 at 7.

4. Force to Prevent Subject from Swallowing a Substance or to Extract a Substance or Item from Inside the Body of a Suspect without a Warrant.

**The Monitoring Team did not identify force incidents that implicated the prohibitions against using force to prevent a subject from swallowing a substance or to extract an item from an individual's body.**

#### **F. Use of Deadly Force: Neck Maneuvers**

This report elsewhere outlined some instances where officers applied a maneuver to the head or neck that a reasonable person would conclude to be inconsistent with SPD's policy that such a maneuver constitutes deadly force. Specifically, deadly force is "[t]he application force through the use of firearms or any other means reasonably likely to cause death, Great Bodily Harm, or serious physical injury," which include "[a] hard strike to a person's head, neck, or throat"; "[s]triking a person's head into a hard fixed object"; and "[n]eck and carotid restraints."<sup>201</sup>

Blunt trauma to an individual's head and the restriction of blood and oxygen to the brain caused by impacts or pressure to the neck; strikes to the head, neck, or throat; or maneuvers that would restrain the neck can only be used when the nature of a subject's threat and the totality of the circumstances would justify the use of deadly force. Further, in SPD's policies regarding intermediate weapons, the Department requires that even "[u]nintentional or mistaken blows to these areas [head, neck, and throat, among others] must be reported to ensure that all reasonable care was taken to avoid them."<sup>202</sup>

Incidents that involved unreasonable and impermissible neck restraints dropped precipitously in the latter half of the 28-month period considered here, which was noteworthy. Nevertheless, SPD should reinforce the significance and gravity of neck restraints, as well as head strikes, in ongoing and future use of force training such that instances of the following are addressed:

- **Case 42 (Type III).** A sergeant was working a plainclothes "buy/bust" detail when he heard a broadcast of a pursuit of a robbery subject. The sergeant broke cover and pursued the subject, bringing him to the ground. Another SPD officer assisted in the arrest. That officer reported that he placed his shin on the subject's "lower neck and left shoulder blade." SPD did not categorize this force as a Type III; however, the application of pressure to the neck constitutes significant, Type III force, and the incident should have been categorized as such even if it was consistent with SPD policy and training.

<sup>201</sup> SPD Manual Section 8.050 (2014), Dkt. 107-1 at 4; accord SPD Manual Section 8.200-POL-10(1) ("Officers May Only Use Neck and Carotid Restraints When Deadly Force is Justified.").

<sup>202</sup> SPD Manual Section 8.200-POL-5-(4) (2014), Dkt. 107-2 at 11.

- **Case 43 (Type II).** In a struggle with a subject, one officer reported putting a knee on a subject's neck. However, the Monitoring Team's reviewers were unable to determine whether that force application was consistent or inconsistent with SPD policy because it was not adequately explored by the chain of command investigation. It is true, however, that the subject did not appear to have been injured by that application of force.

### G. Force Instrument-Specific Guidelines

Under the Court-approved use of force policy, “uniformed officers are required to carry at least one less-lethal tool,” such as a Taser, OC (pepper spray), or baton.<sup>203</sup> As that policy observes, “[l]ess-lethal devices are used to interrupt a subject’s threatening behavior so that officers may take physical control of the subject with less risk of injury to the subject or officer than posed by great force applications.”<sup>204</sup> Because the nature of each less-lethal force instrument entails certain elements and sometimes unique considerations that officers must keep in mind, SPD’s Use of Force Policy Manual on Force Tool-Specific Policies sets forth a number of requirements relating to the use of each force instrument.<sup>205</sup> These guidelines do not supplant or replace the general requirements. Instead, they provide specific guidance for officers to ensure that their use of less-lethal force instruments adheres to the general force policy.

**Reviewers identified a number of instances in which less-lethal instruments were employed effectively and in a manner consistent with policy,** including in many of the following cases, as well as those involving application of the Taser and OC spray outlined in examples above:

- **Case 44 (Type II).** Officers responded to a radio call of a man screaming in his room in a hostel. Officers encountered the subject intoxicated and in apparent mental health crisis. The subject was armed with knives, was self-inflicting injuries, and stated his desire to be shot by police.

Protracted negotiations were conducted in an attempt to persuade the subject to surrender. These efforts were unsuccessful. Specialized resources, including SWAT, were also requested. After approximately 30 minutes of negotiations, a single TASER discharge was used. The subject was taken into custody to be placed on an involuntary hold.

The use of one Taser discharge to resolve a dangerous situation, involving a subject armed with knives, constituted appropriate, necessary, and proportional force under the

<sup>203</sup> SPD Manual Section 8.200(2) (2014), Dkt. 107-1 at 11 (converted to sentence case).

<sup>204</sup> SPD Manual Section 8.200(2) (2014), Dkt. 107-1 at 10.

<sup>205</sup> SPD Manual Section 8.200-POL-1-10 (2014), Dkt. 107-2 at 2-11.

circumstances – and allowed for resolution of the situation without more significant or severe force needing to be employed and without subject or officer injury.

- **Case 45 (Type II).** Patrol officers responded to a domestic violence incident in which a subject was alleged to have stabbed his father in the face with a fork. The subject was non-compliant with officers and retreated into the house. Believed to be armed with a knife and refusing to exit, the subject was considered “barricaded.” SWAT and HNT responded. Various attempts were made to engage the subject in negotiation. None were effective, with the subject remaining non-responsive. Ultimately, the decision was made to use OC canisters to cause the subject to exit. Multiple OC canisters were deployed. The subject exited following the introduction of OC spray and was taken into custody without further incident.

The use of less-lethal instruments here was reasonable, necessary, proportional – and effective in bringing a non-compliant subject into custody without requiring officers to more affirmatively close the distance between themselves and the subject.

- **Case 36 (Type II).** A mentally ill individual was heavily drunk on Everclear and slashing himself with a knife while asking officers to shoot and kill him. After substantial but ultimately unsuccessful verbal de-escalation efforts, officers tased the subject. The subject was subsequently taken into custody without incident.

In some other incidents, problems were identified in the deployment of less-lethal instruments. It must be noted that **a good majority of these problematic less-lethal applications were identified in the earlier review timeframe rather than the more recent timeframe – suggesting that officer decision-making and performance has improved with respect to the use of less-lethal weapons.** Nevertheless, the Monitor would be remiss not to describe briefly some of the incidents that concerned the Team:

- **Case 37 (Type III).** Officers responded to a complaint that a subject was behaving erratically and had threatened to kill his roommate with a knife. Officer 1 was the primary officer on a six-officer contact team that went to the subject’s apartment door. The subject, who officers had established was alone in the apartment, answered the door but refused to show his right hand. Officer 1 pointed the Taser at the subject, who eventually held the door with his previously-hidden hand. The subject then went back into the apartment. Aware of two warrants of the subject’s arrest, Officer 1, with sufficient grounds under Washington state law to enter the premises, proceeded into the apartment to make an arrest. Upon entering, the subject was in possession of a lock-blade knife and was trying to open it. Officer 1 applied the Taser for an 11-second cycle. The subject was disarmed, handcuffed, and taken into custody. Officers 2 and 3 had their guns pointed at the subject and then assisted during cuffing. The subject sustained a laceration to a finger, likely during either his effort to open the knife or while being Tased.

The application of a Taser to a knife-wielding subject was, in this instance, likely proportional, necessary, and reasonable under the circumstances at the time that it was applied. However, Officer 1 applied the Taser for eleven seconds. SPD policy allows only a five-second cycle:

When a CEW [Taser] is used against a subject, either in probe or drive stun mode, it shall be for one standard discharge cycle of five seconds and the officer using the CEW must reassess the situation. Only the minimum number of five second cycles necessary to place the subject in custody shall be used.<sup>206</sup>

The officer's flippant responses to various questions during an interview with FIT also suggested a troubling lack of professionalism.

In short, although Officer 1's application of the Taser may have been reasonable. Yet the application of the Taser for more than twice as long as sanctioned by SPD policy constitute violations of SPD policy. The FRB's decision to find the 11-second application of the Taser as justified was ill-advised and ran contrary to SPD policy.

- **Case 38 (Type II).** An officer was in a supermarket getting food for himself. A store employee approached and told him that a customer had assaulted a store manager and was refusing to leave. The officer approached the subject, who was talking on his cell phone, and asked him to leave. When the subject refused to acknowledge the officer, the officer picked up the subject's bag, which was sitting on the floor, and attempted to escort the subject out of the store. The subject became agitated, slapped the officer's hand and arm, and tried to grab the officer's hands to stop him from escorting the subject out of the store.

The officer and subject made their way, while in the middle of a "hand fight," outside the store. The officer reported that the subject pulled up his pants and crouched in a fighting stance. Believing that the subject was about to assault him, the officer pulled out his OC (pepper) spray, put his arm up behind him to create some distance between him and the subject, and applied the OC spray to the subject. The officer stated in his report that he did not believe that he had time to issue a warning that he was going to deploy the OC spray because he thought the subject was about to assault him. Upon application of the OC spray, the subject stopped resisting. Arriving backup officers handcuffed the subject.

Like the chain of command that reviewed this Type II force and the Force Review Board, Monitoring Team reviewers found that the officer had failed to follow SPD's policy on OC

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<sup>206</sup> Seattle Police Manual 8.200-POL-3(4) (2014), Dkt. 107-2 at 8; Dkt. 3-1 ¶ 79(c).

spray by failing to warn of its use. Although the officer contended that it was not feasible to provide such a warning, SPD's own review of the incident concluded that a reasonable officer would have been able to yell "pepper spray" before applying it. Likewise, the involved officer failed to address why he made no efforts to try to decontaminate the subject after using the OC spray as required by policy.

A failure to render medical aid by the police at the earliest feasible opportunity should be subject to substantial discipline. The consequences of failure to decontaminate the subject here led to unnecessary and avoidable pain for which non-trivial discipline was appropriate.

### **A Note on "Blast Balls"**

Some community attention has focused on SPD's use of "blast balls," which the Department sometimes uses as a crowd control tool. The devices, which give off a loud sound when used, are intended to distract and direct large crowds.

The Monitoring Team's sample of cases happened to include a large "use of force" that, in actuality, was a combined or collapsed array of uses of force related to a crowd-control incident. The incident, then, included numerous applications of various types of intermediate- and low-level force, including applications of the "blast ball."

Although the use of blast balls is not overly widespread – and has been primarily limited to occasional, large protests under certain circumstances – the Monitor urges SPD to ensure that appropriate protocols for the use of the instrument are included in its policies. The current Monitoring Plan calls for updated force policies to be submitted to the Monitor and the Court for approval again, and the Monitor will look forward to reviewing new standards and protocols regarding blast balls.



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Executive Assistants



# Appendix G

2008-  
2015

The Philadelphia Police Department  
Moving into the 21st Century



Nola M. Joyce, Deputy Commissioner  
Philadelphia Police Department  
2008-2015

# In Dedication To

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The men and women of the Philadelphia Police Department whose work, whether as a sworn officer or a professional civilian staff member, have made these past eight years a success. Every member of this department has reason to be proud of their service to the City of Philadelphia. You serve with honor and integrity and make a difference every day.

# In Honor Of

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The men and women who gave the supreme sacrifice. They will never be forgotten.



Sgt. Stephen Liczbinski, 2008



PO Isabel Nazario, 2008



Sgt. Patrick McDonald, 2008



Sgt. Timothy Simpson, 2008



PO John Pawlowski, 2009



PO Brian Lorenzo, 2012



PO Moses Walker, Jr., 2012



Sgt. Robert Wilson, 2015

## Philadelphia Police Department's Major Accomplishments (2008-2015)



Reduced homicides by 28% from 2007 to 2015. 2015 is the third year in a row that homicides were below 300. The last time this happened was in 1967, 1968, 1969



There were 354 fewer (22%) shooting victims in Philadelphia in 2015 than in 2007.



There were 17,548 fewer serious crimes in Philadelphia in 2015 than in 2007; the lowest level since 1971.



10 people were injured and 2 people were killed by a police firearm discharge in 2015; compared to high of 32 injured in 2010 and 2012 and 16 killed in 2012.



Reorganized the police department and established Police Service areas.



Neighborhood-based community policing became the basis for delivering police services.



Department achieved recognition for being data driven and practicing evidence-based policing.



Increased outreach by using our website, Facebook, YouTube channel, Twitter, and Instagram.



Achieved accreditation from the Pennsylvania Law Enforcement Accreditation Commission; one of the largest police departments in the country to be accredited.



Upgraded and implemented new technology systems and opened four new police facilities.



Major strides were made to increase public accountability through open data, posting information about officer involved shootings and providing access to department policies.



Revamping recruit, in-service and specialized training to meet the demands of policing in the 21<sup>st</sup> century.



Implementing recommendations from the COPS' Use of Force Review. Ninety percent of the 91 recommendations are either complete, partially complete or in progress.

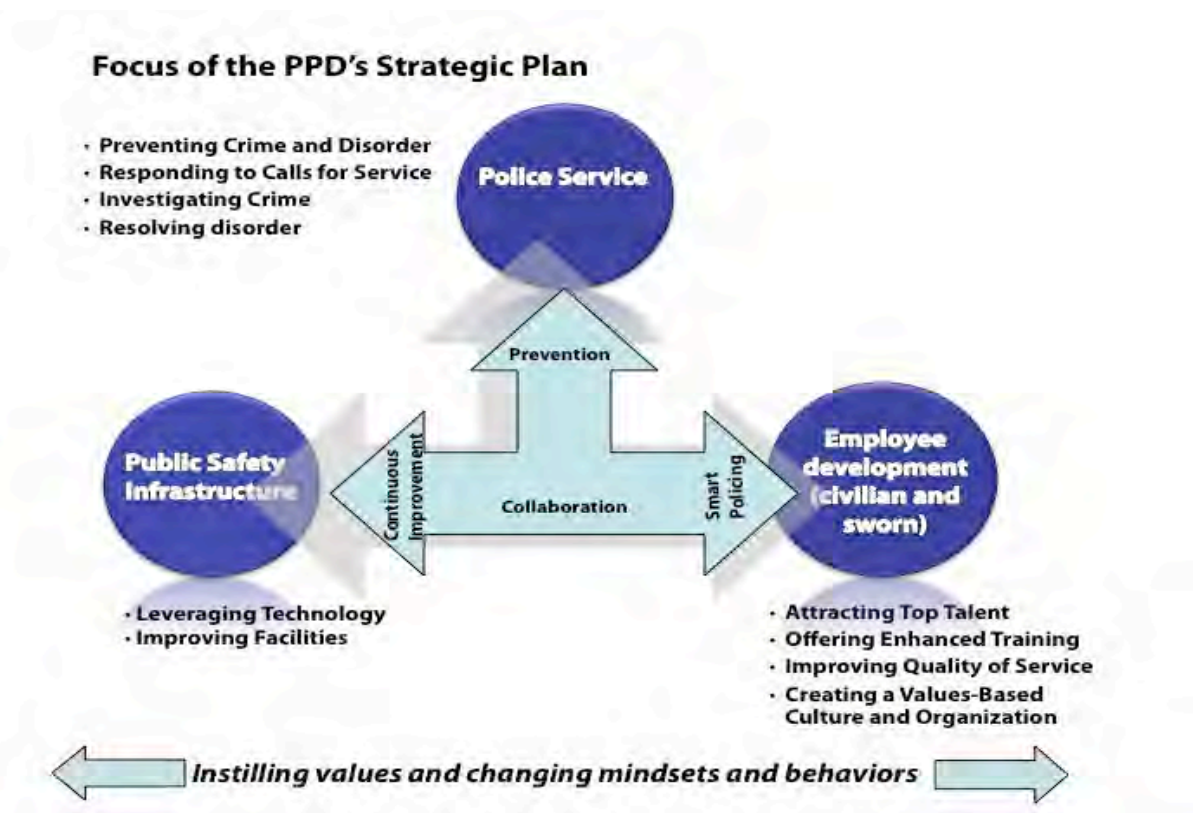


**We are becoming a model for policing in the 21<sup>st</sup> Century.**

# Moving the Philadelphia Police Department into the 21<sup>st</sup> Century: *Reviewing the Progress from 2008 to 2016*

Michael A. Nutter was sworn in as Mayor of Philadelphia on January 7, 2008. On that same date Mayor Nutter swore Charles H. Ramsey in as Police Commissioner and signed an Executive Order declaring a Crime Emergency and directed Commissioner Ramsey to submit a plan to address crime in Philadelphia. That plan, ***Crime Fighting Strategy***, was submitted to Mayor Nutter on January 30, 2008. The plan was developed with input from the Philadelphia Police Department’s command staff, rank and file and community members. The Commissioner, in his first thirty days in office, held town hall meetings in each of the six police divisions followed by department-wide meetings to discuss the strategy. This strategy, and its update on August 31, 2011, set the vision, mission, goals, objectives, and action steps that guided the Philadelphia Police Department through the last eight years.

The Strategy recognized that effective crime fighting must not only rely on meeting the core mission of policing but also on employee development and safe and functional infrastructure. This work was guided by four principles: Prevention, Collaboration, Smart Policing, and Continuous Improvement. The graphic below summarizes the key elements of the Strategy.



Commissioner Charles H. Ramsey set the vision and mission for the PPD. The vision of being a model of excellence in policing is a simple statement that holds great expectation, an expectation that women and men of this department pursue by working to achieve our mission. Much progress has been made and much more is left to do. The intent of this report is to celebrate our successes.

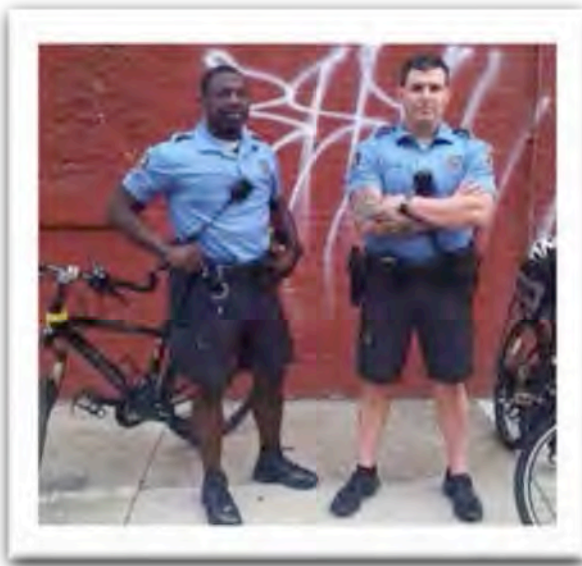
This short report documents some of the significant accomplishments achieved during the last eight years. It falls short of telling the story of how officers, supervisors, command staff, community, and businesses have worked together to make Philadelphia a much safer city and the PPD a much better police department. These stories are told in the neighborhoods, in locker rooms, and in conference rooms; stories that seldom reach public media.

*The mission of the Philadelphia Police Department is to demonstrate excellence in policing by working in partnership with the community and others to:*

- *Fight and prevent crime, the fear of crime, and terrorism;*
- *Enforce laws while safeguarding the constitutional rights of all people;*
- *Provide quality service to all of our residents and visitors; and*
- *Create a work environment in which we recruit, train and develop an exceptional team of employees.*

## Who Are We?

The Philadelphia Police Department is lead by Police Commissioner Charles H. Ramsey and consists of



6,400 sworn and 800 civilian personnel. We work to provide service with integrity and honor to more than 1.5 million people. Forty-five percent of PPD's 7,200 members are minority and 27 percent are female. We work out of 55 different facilities. Patrol is the largest and most visible organizational component of the department. There are 3,663 sworn and civilian members working in 21 police districts divided into six divisions. Patrol Operations, led by Deputy Commissioner Kevin Bethel, and Investigations and Homeland Security are under the command of First Deputy Richard Ross, who leads Field Operations. Organizational Services, Strategy and Innovation is directed by Deputy Commissioner

Nola Joyce with Deputy Commissioner Christine Coulter in charge of Organizational Services. The Office of Professional Responsibility commanded by Deputy Commissioner Denise Turpin, and the Forensic Laboratory, managed by Director Michael Garvey, report directly to the Police Commissioner. This fairly streamline organizational structure allows for direct accountability and improved coordination. The Fiscal Year 2016 Operating Budget is \$643 Million and does not include major costs such as fleet, facilities, and technology. Ninety-seven percent of this budget is dedicated to employee compensation.

## Major Accomplishments

### Enhanced Police Services

Crime in Philadelphia dropped to levels not seen in decades. 2015 was the third year in a row that homicides were below 300; the first time since 1967, 1968, 1969. There were 17,548 fewer serious violent and property crimes in Philadelphia in 2015 than in 2007. This represents 24 percent fewer violent crimes and a 20 percent reduction in property crimes. These dramatic reductions were accomplished by delivering police services - preventing crime and disorder, responding to calls for service, investigating crime and resolving disorder - in ways that are fair and impartial and protect constitutional rights. The people who deliver these services must be a combination of warrior and guardian. A few of the significant achievements in enhancing police services are listed below.

### Community and Neighborhood-Based Policing

The city of Philadelphia is geographically divided into 21 police districts, each led by a police captain. In 2009, the Department created two to four smaller geographical subdivisions in each police district called Police Services Areas (PSAs), for a total of 65 throughout the city. Each PSA is headed by a police lieutenant, who along with an average of three sergeants and thirty-nine officers, are now responsible for patrolling the same area, day in and day out, bringing greater community contact, familiarity and involvement. The Police Service Area is the foundation on which our neighborhood policing strategy is based.

*"The plan envisions a police department more lateral in organization, structured on a corporate business model, embracing old-fashioned policing on a highly localized level – 65 micro-districts dubbed Police Service Areas – while using the latest computer analysis and academic research." Karen Heller, Philadelphia Inquirer, 9/31/2011*

**PSA Integrity** – Officers stay in their PSA responding to calls for service, getting to know the people who live, work, play and commit crime in the PSA, and working on crime and disorder problems in the PSA.

**PSA Problem Solving** – PSA team members are trained on problem solving and are expected to use this method to develop the PSA Plans and work with partners to solve crime and disorder problems.

**PSA Community Meetings** – PSA Lieutenants host monthly PSA meetings involving the community and other stakeholders.

**PSA Plan** – The PSA team creates and implements the PSA Plans in conjunction with partners based on chronic crime and disorder problems.

**Coordinated City Services through PhillyRising** – The PSA team is able to access and participate in the developing and delivering coordinated city services to address chronic crime and disorder problems.



The PSA team spends more time getting to know the area and the people who live and work there, its chronic crime and disorder issues, and problem solving with the community members. Foot and bike patrols have expanded and contributed to crime reductions and building community trust. Geographic accountability and continuity of assignment for the officers within each PSA are at the core of this neighborhood policing model. The PSA structure aides the police department in becoming more strategic about preventing crime. It drives how the department delivers and organizes police response and is dynamic and flexible enough to respond to short-term demands while institutionalizing long-term strategies that promote sustainability. A good deal of effort was focused on identifying evidenced-based policing programs, matching program elements to neighborhoods, implementing program elements , assessing and adjusting the program. The model recognizes that not one single strategy can be effective in all neighborhoods. This is the approach that brought success. See the Appendix for a further description of the strategy and a program implementation timeline.

## Becoming a Data and Research Driven Police Department

### 2008

3 officers counting crime

3 GIS professionals mapping crime

1 research partnership – 2 studies

Centralized “analysis”

Traditional Compstat

### 2016

35 officers trained in analysis; 7 civilian analysts

5 GIS professionals

5 research partnerships – 11 studies

**Data Driven and Evidenced-Based Policing.** PPD’s analytical capability has dramatically increased over the past eight years. It went from simply counting crimes and plotting dots on crime maps to having one of the most robust public safety geographic information systems in the country and training nearly forty people in crime analysis. Every police district has an assigned analyst coordinator and detective divisions are moving to this model. The Real Time Crime Center and the Delaware Valley Intelligence Center house people and technology that promote rapid analysis and regional data sharing.

PPD used data and analysis to assign police officers to high crime areas during high crime times. This data-driven resource allocation contributed significantly to the reduction in crime not in only high crime locations, but also during the high crime times and days. Other programs that focused on high-risk offenders (like GunStat, Focused Deterrence, Youth Violence Reduction Partnership, and Cure the Violence) also contributed to crime reductions. These programs created partnerships that concentrated services on high risk offenders in high-risk areas.

The police department has numerous research partnerships with local colleges and universities and was one of the first police departments in the country to become part of the Bureau of Justice Assistance’s SMART Policing Initiative in 2009.



**Police and Community Relationships and Trust** PPD has worked to improve the relationship with our communities and increase the level of trust between the police and the community. PPD approached this effort through several different avenues. One approach was to examine arrest policies and make adjustments to reduce the negative impact on individuals and communities. The new marijuana ordinance passed by City Council has significantly reduced the number of individuals arrested for the possession of small amounts of marijuana. Another important change is how PPD officers are handling incidents in the schools. PPD, in collaboration with the Philadelphia School District, the Department of Human Services, Philadelphia District Attorney's Office, Philadelphia Family Court, and other stakeholders implemented a Police School Diversion Program. Stakeholders agree that it is in the best interest of students and community members that certain summary and misdemeanor delinquent acts be handled by the school system, in conjunction with supportive services, without the filing of a delinquency complaint with the Court. Police are able to make a positive impact on a youth's life by connecting them and their families with community-based services.

A second way in which the PPD works to improve communications and build trust is by increasing the opportunities that community residents have to work with their district police officers. Some examples of this approach include district-based civilian police academies, community workshops in the police district, and running youth educational programs out of the police districts and expanding the Police Explorer program to every district. These police district level opportunities will allow district police officers to work with youth and community members in their district. Positive interactions will not only increase knowledge about each other but also respect and trust.

PPD recognizes that community members want their voice heard and their concerns acknowledged. PPD already has District Advisory Councils in every police District. PPD supports and works with the new Community Oversight Board for the Implementation of the Presidential Task Force and Department of Justice Recommendations. PPD is committed to listening and adjusting, where possible, policies and procedures based on community input.



**Public Accountability.** Public accountability is another way to increase public trust. PPD has created an accountability page on [Phillypolice.com](http://Phillypolice.com) that contains data and information about officer involved shootings, reform efforts associated with the COPS' Collaborative Reform initiative and the 21<sup>st</sup> Century Policing Task Force Recommendations, and access to the department's policies and procedures. In addition, PPD has released Part I and Part II crime data from 2008 to present under the City's Open Data site.



The Executive Director of the Police Advisory Commission is receiving notification of officer involved shootings, is briefed at the scene, receives a complete investigatory package, and participates as a voting member on the Use of Force Review Board.

Major strides were also made in the Detective Bureau. A new policy was implemented that governs the witness and suspect interviews and interrogations; technology is being installed in interview rooms that will video record interrogations; the double-blind, sequential witness identification procedure was implemented. PPD also participate in a national beta test of Sentinel Reviews

process to identify and improve procedures that lead to the arrest and prosecution of offenders. The primary intent of these efforts is to ensure that the guilty person is brought to justice.

## Employee Development

The quality of police services is a function of good people who are given the best training and provided effective policies and procedures to do their job. A police department is only as good as its members and this requires a support system that provides members with the knowledge and skills necessary to accomplish the mission of the department.

**Training** Improving training for our members is a priority. Penn State, since 2009, has continually delivered two courses to our members – the Police Supervisory In-Service Training (POSIT) and Police Executive Development (POLEX). These courses are focused at the supervisory and managerial ranks. In addition, Northwestern University has delivered their Police Staff and Command class to our members. These classes have touched the majority of our Inspectors, Captains, Lieutenants, and Sergeants. More than 2,600 officers were given Crisis Intervention Training and all sworn received problem solving training. New recruits are learning what the phrase “constitutional policing” means by attending a special program developed in conjunction with the National Constitutional Center and PPD. The Training Bureau continually reviews its recruit and in-service class offerings and is re-engineering their firearms and tactical defense courses and adding scenario and reality-based training, and training on fair and impartial policing. Finally, we established and funded a tuition reimbursement program.

*“Accreditation is the certification by an independent reviewing authority that an entity has met specific requirements and adheres to professionally created standards.”*

**Updating Policies and Procedures** Seventy-one percent of the department directives have either been updated or created over the past eight years. This was a major effort to modernize the department’s operating procedures. These updates contributed to the Department achieving PLEAC Accreditation. The PPD is one of the largest police departments in the country to receive accreditation which acknowledges that the department is operating based on sound policies and best practices.

Current directives also reflect the policy recommendations made by the COPS Office Review Use of Deadly Force.

**Improving Quality of Service** The Office of Standards and Accountabilities conducts routine audits to help ensure that Terry Stops are done legally, crimes are classified properly, and procedures are followed. These audits help to identify and address issues before they become major problems and allow the department to continually improve its operations.



**Infrastructure** Our men and women must be supported as they deliver quality service and work with others to prevent crime. This support comes from good supervision and thoughtful management. It also comes from providing habitable work places, safe and effective equipment, and modern technology.

**Technology** A good deal of progress has been made during the past eight years in technology.

In 2008, department members were still using pagers. By 2015, the department invested in smart phones, automated systems like Leads-Online, automated Terry Stop data, license plate readers, expanded CCTV, established a digital evidence system, implemented a gunshot detection system, and tested body cameras. Some of the older systems have been upgraded such as PIIN, Mugshots, Livescan and IAPro. The Real Time Crime Center and the Delaware Valley Intelligence Center is one place where many of these new data systems are fused by analysts to provide strategy, actionable intelligence, and regional data sharing. This progress can only be maintained and supported by upgrading basic IT infrastructure such as fiber and wireless connections to facilities, replacement of equipment, and upgrading or replacing major record management systems. See the Appendix for the timeline showing the implementation of technology.

**Facilities** The Police Department with the support of the Department of Public Property opened several new police facilities during this time period. These include the Special Victims Unit, the Special Operations to include SWAT, Bomb, and Canine, the Delaware Valley Intelligence Center and a new Training Academy. A new police headquarters is underway and the department is working with the Department of Public Property, City Council and other agencies to create a master facilities plan that will hopefully address the issue of police district facilities.

**Officer Safety and Wellness** We have made progress in areas enhancing behavioral health services, increasing number and type of lethal and less-than lethal weapons, replacing vehicles, and getting on a reasonable replacement schedule for ballistic vests, tasers, vehicles, and soon body-worn cameras. We added several new commendations that recognize the good work our people do and reflect the changes in our policing strategy. The new awards include, the Medal of Excellence, Medal of Tactical De-escalation, Medal of Life saving, and the Problem Solving Award.

## Conclusion

It is easy to lose site of the work and progress when current issues press for attention. This short review is intended to remind the hard working members of the Philadelphia Police Department and the people they serve what was done over the past eight years. Their efforts have transformed the department and policing in the city of Philadelphia. This type of work is never finished. These past eight years set a foundation from which the Department will continue to move forward and make Philadelphia a safer city for everyone. The Philadelphia Police Department is becoming a model of 21st century policing.

# A Job Well Done

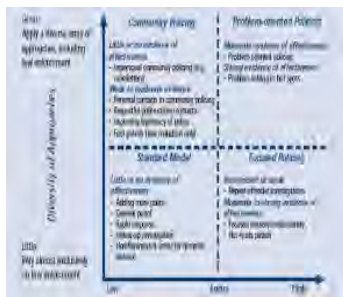
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2008-  
2015

# Appendix



Strategy



Timelines



Data

# Strategy

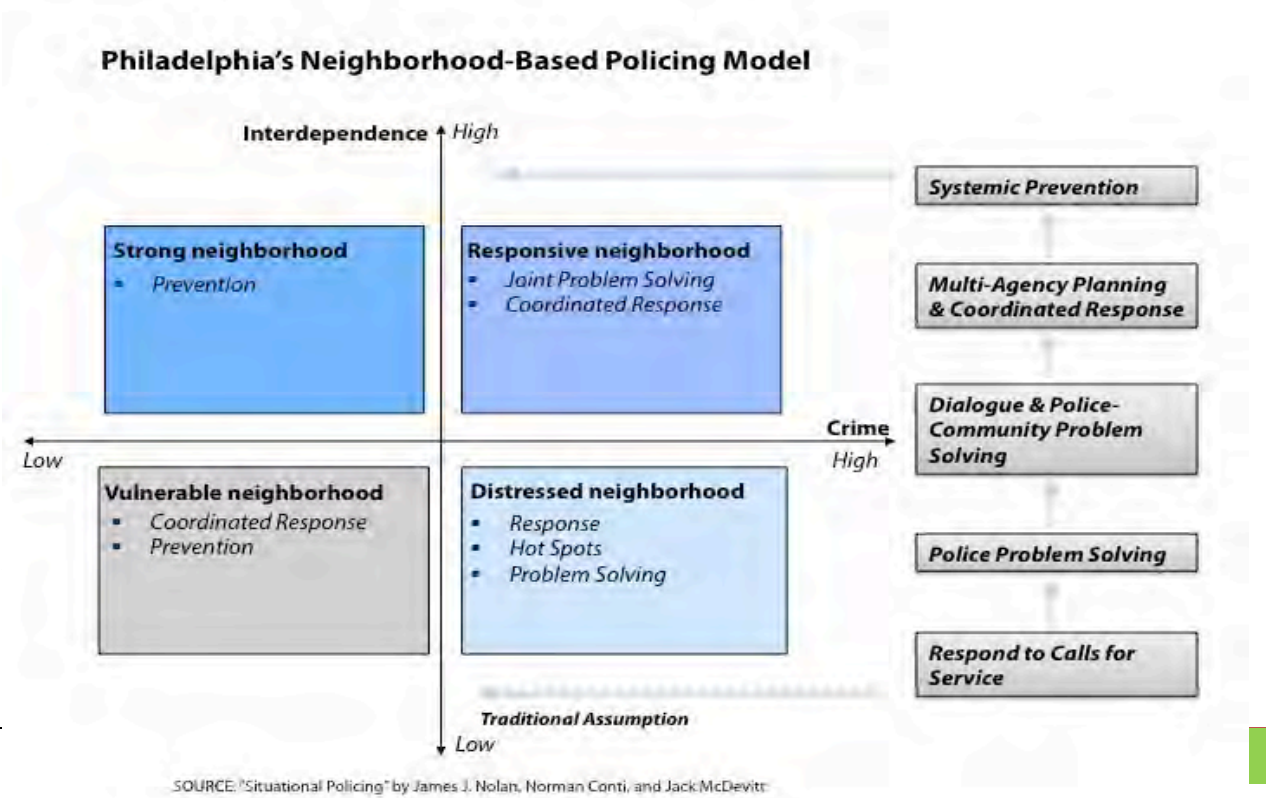
The following pages provide the conceptual framework for the approach taken by the Philadelphia Police Department in preventing crime and working with neighborhoods to improve public safety across the City of Philadelphia.

## PHILADELPHIA’S NEIGHBORHOOD-BASED POLICING MODEL

Our neighborhood-based policing model acknowledges that there are many evidenced-based approaches that are legitimate and can be effective, depending on the needs of the community. This model also places multi-agency city and community collaborations, such as PhillyRising, at the center of sustainable neighborhood transformation. This model is dynamic, flexible, involves multiple stakeholders, and allows for different police strategies and tactics to be matched to the presenting issues of neighborhood crime and disorder. Evidence-based tactics, such as problem solving, foot patrols, and offender-focused intelligence initiatives are used to prevent crime. There is no ‘one size fits all’ approach.

“Effective Policing involves not only reducing crime and disorder but also facilitating neighborhood development.”  
 Nolan, J.J. et al., 2005.

Philadelphia’s neighborhood policing approach is based on the work done in other cities and partly by the theoretical work of Nolan, Conti and McDevitt (2005)<sup>1</sup> on situational policing.



For example, a neighborhood that has high crime and low organization for interdependence may require a combination of focused enforcement and community building and organizing. Another high crime neighborhood that is better organized may be situated to embrace joint community and police problem solving. Low crime neighborhoods may be less motivated to work proactively with the police on a regular basis, partially because they are not experiencing a need to do so. The goal is to move all Philadelphian neighborhoods to the ‘strong neighborhood’ quadrant.

Under this model, the Police Department can address crime and disorder based on the specific needs of the community. Nolan, et al., suggests that “*effective policing involves not only reducing crime and disorder but facilitating neighborhood development.*” The overall goal for the Philadelphia Police Department is to partner with community members to help them transform their neighborhood into stronger, safer environments.

### Philadelphia’s Neighborhood-Based Policing Model

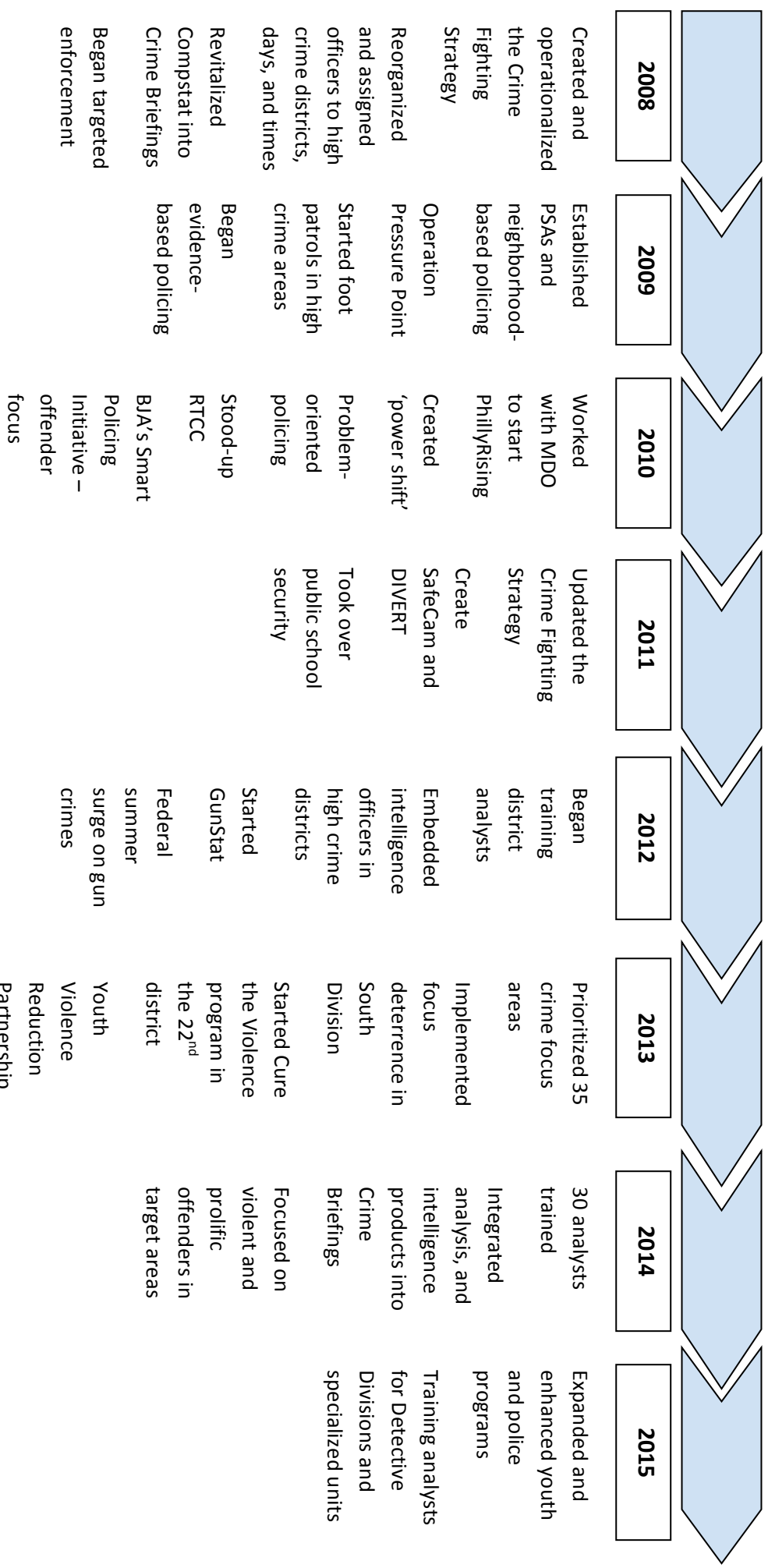


SOURCE: "Situational Policing" by James J. Nolan, Norman Conti, and Jack McDevitt

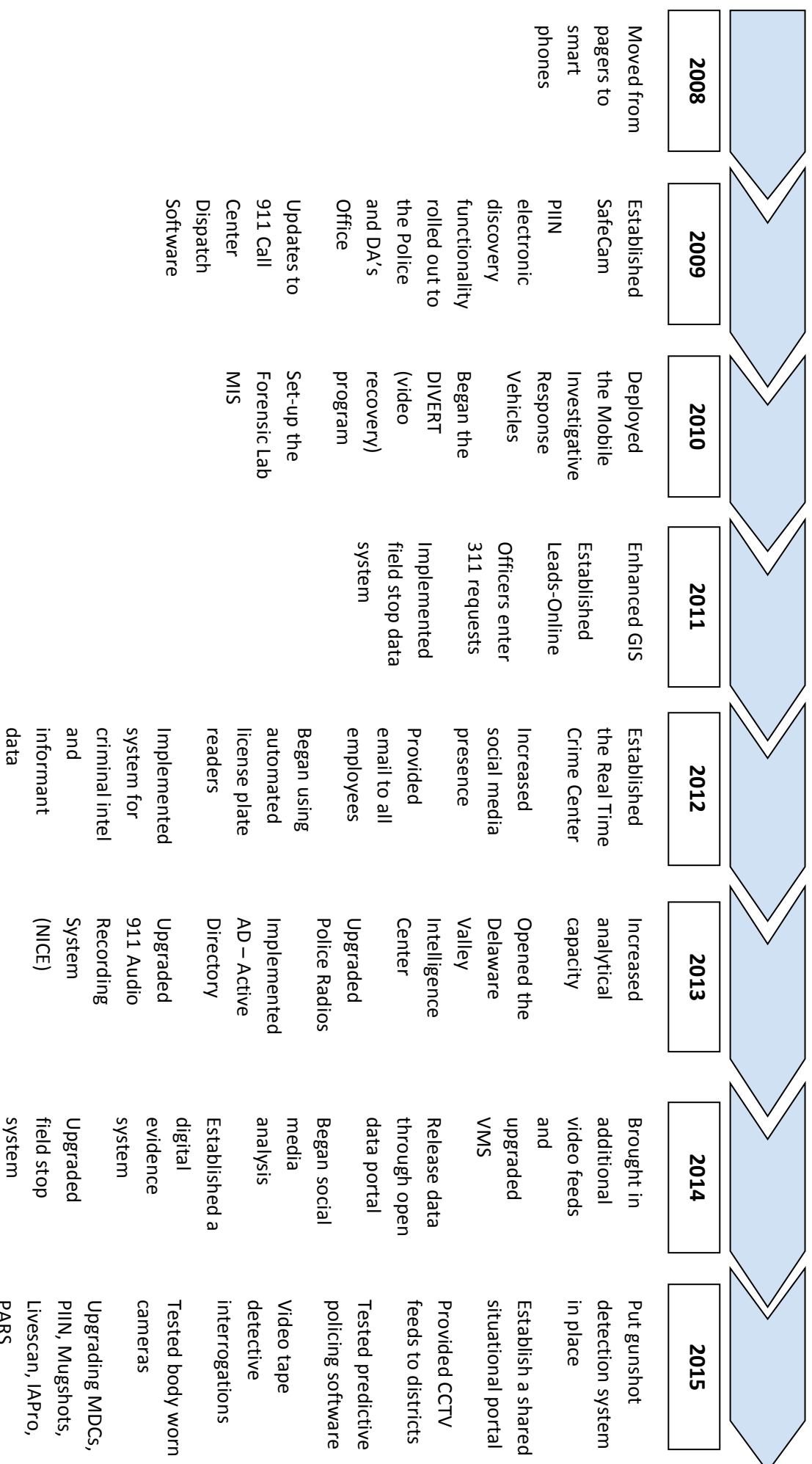


# Timelines

## Timeline of Philadelphia Police Department's Violent Crime Strategy



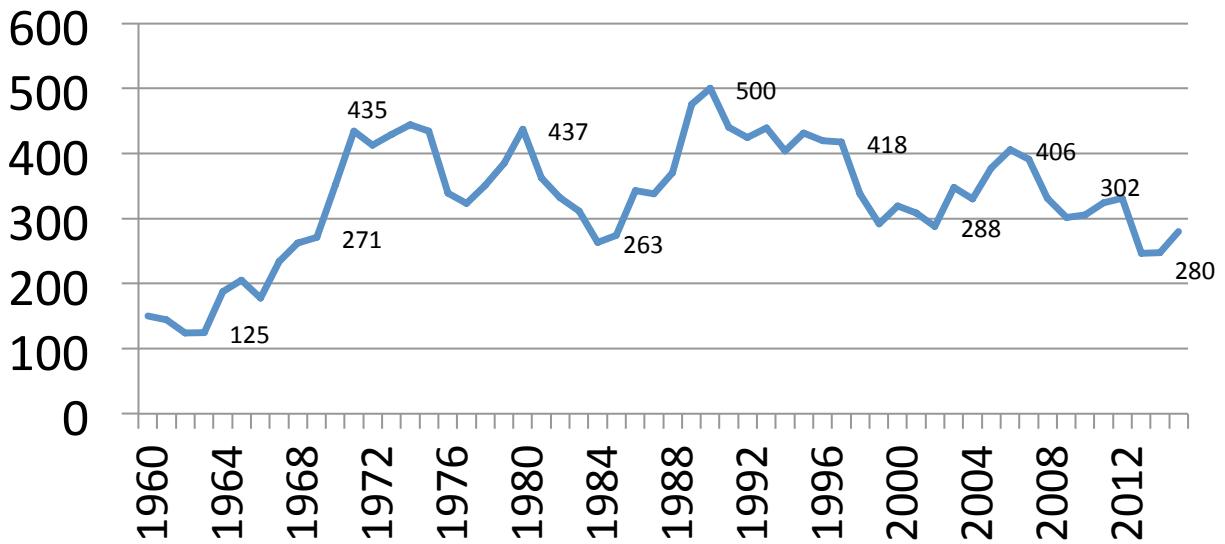
## Timeline of Philadelphia Police Department's Deployment of Technology



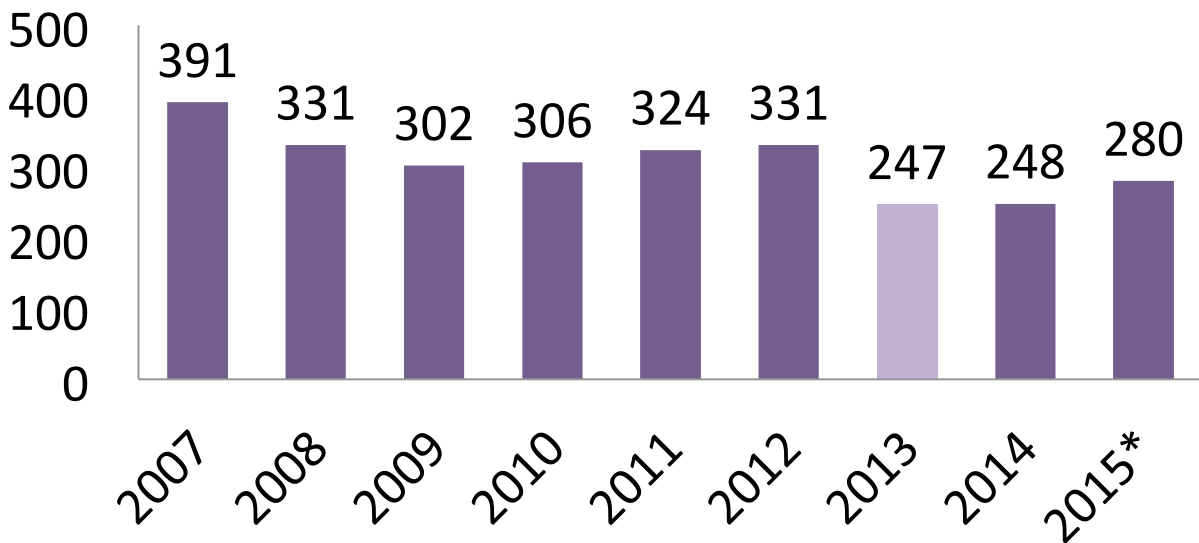
# Data

Homicides continue to drop from their high in the 1990s; over the past 8 years homicides declined by 28 percent.

**Total Homicides in Philadelphia: 1960 to 2015**

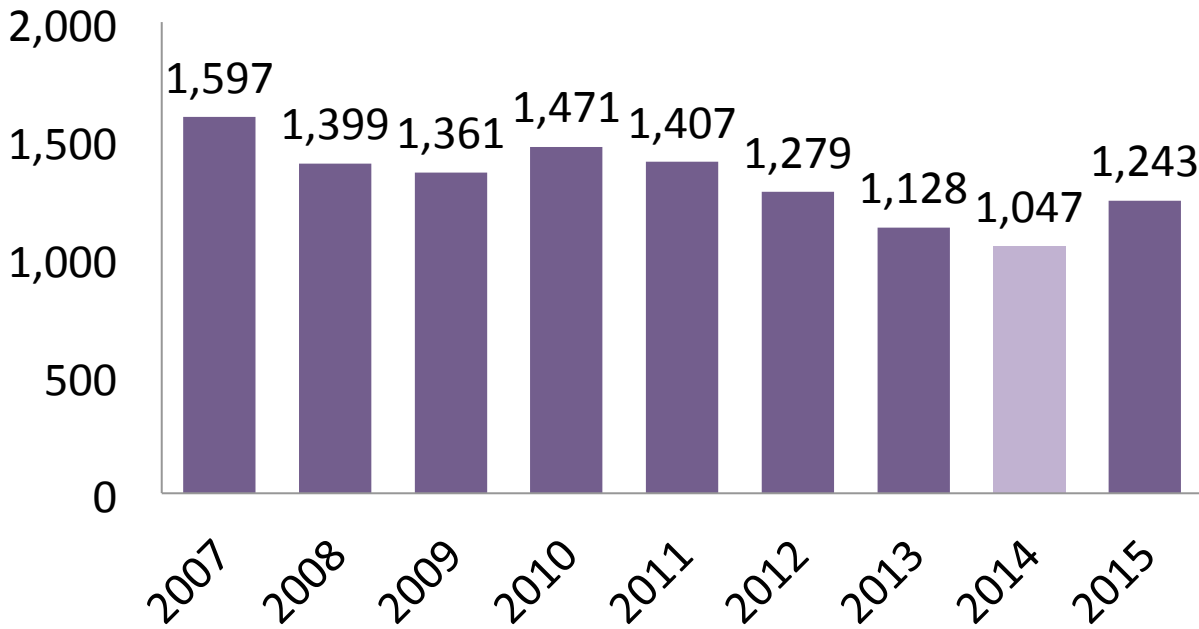


**Total Homicides in Philadelphia: 2007-2015**



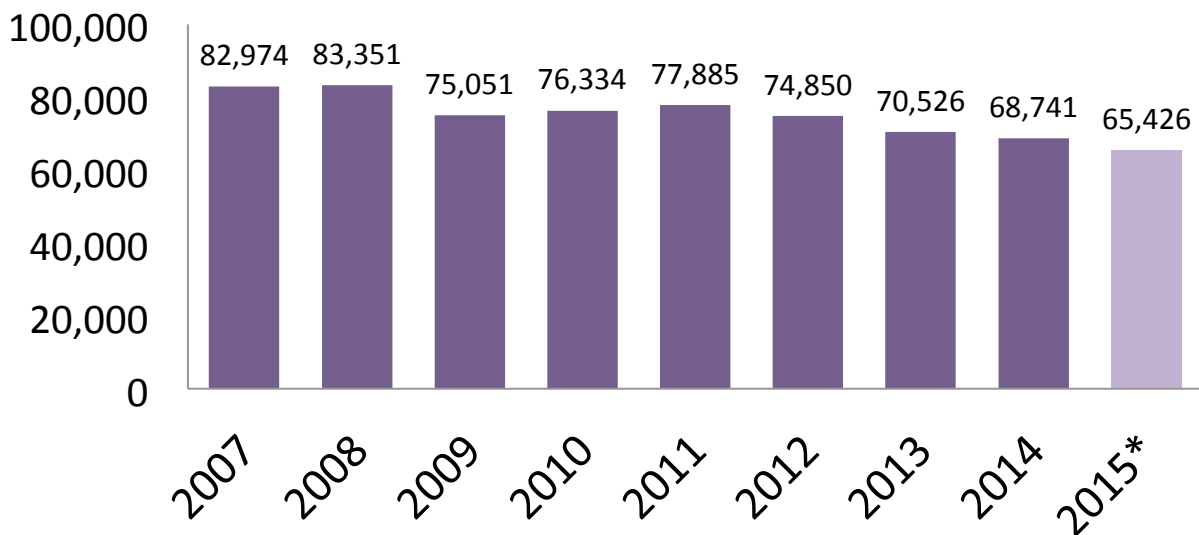
Although shooting victims have increased in 2015, the total number is still down by 22% over 2007.

### Shooting Victims: 2007 to 2015



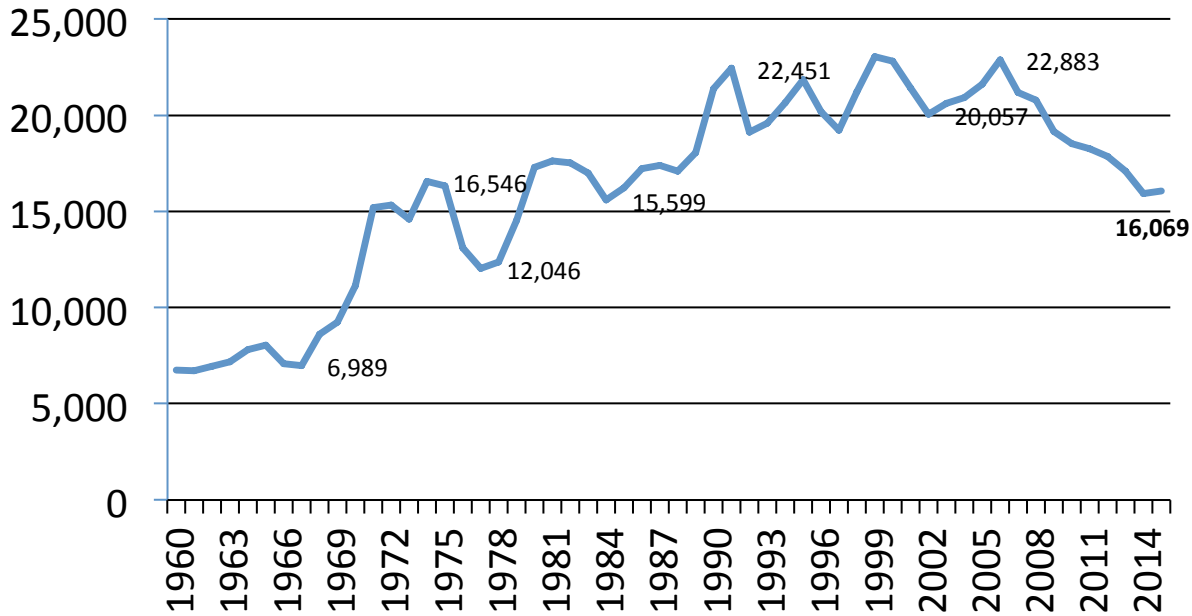
There were 17,548 fewer Part I Crimes in Philadelphia in 2015 than in 2007.

### Part I Crimes: 2007 to 2015

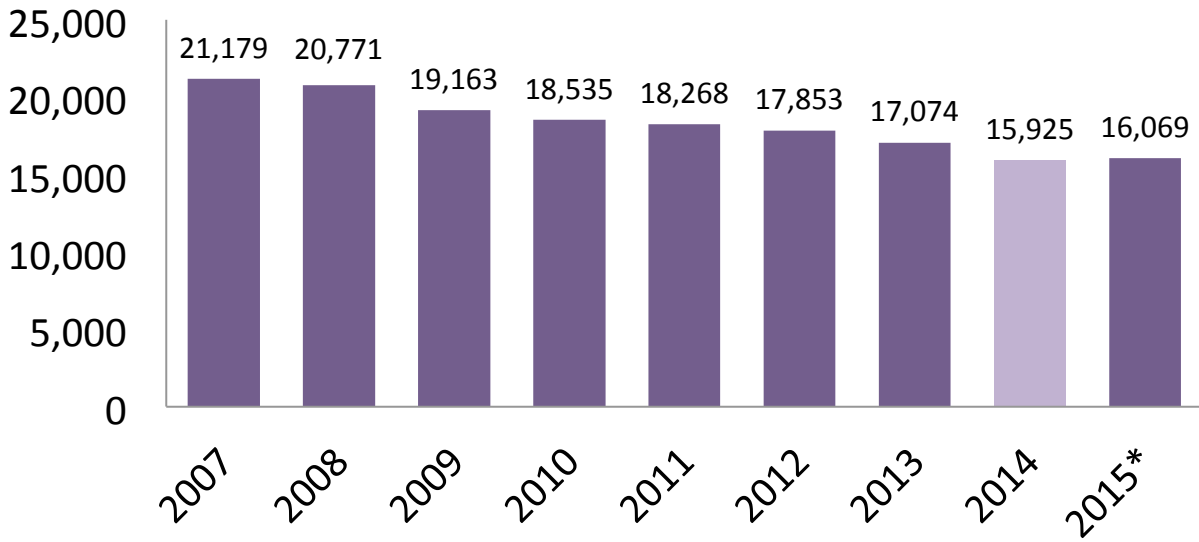


Total violent crime consists of homicides, rapes, robbery and aggravated assaults. Violent crimes are down to mid-1980 levels despite the fact the way rapes are counted changed in 2013 resulting in higher numbers.

**Total Violent Crime in Philadelphia: 1960 to 2015**

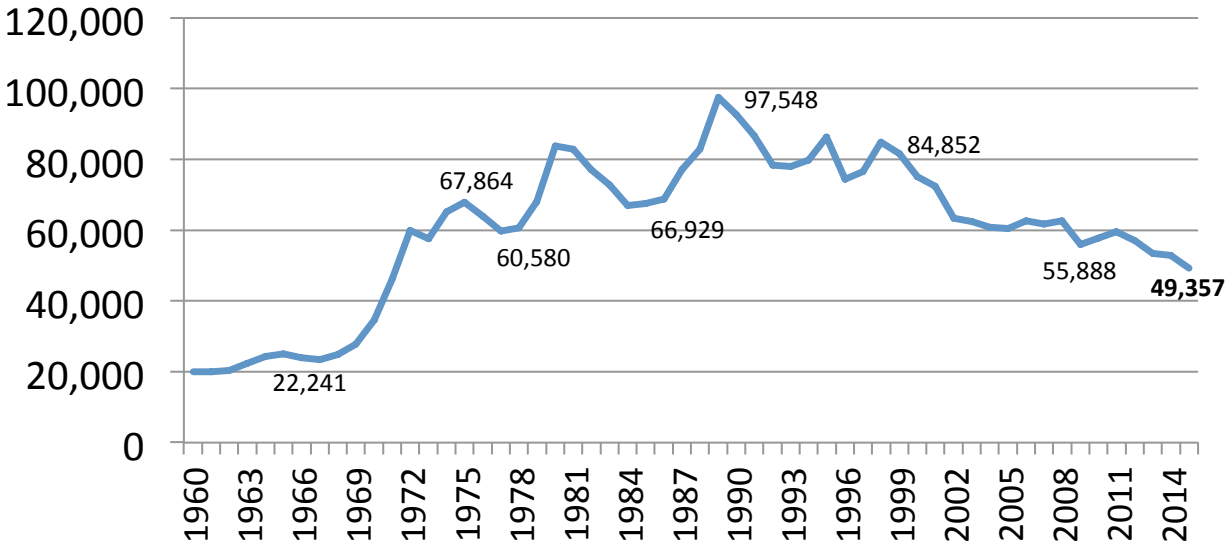


**Total Violent Crime In Philadelphia 2007 to 2015**

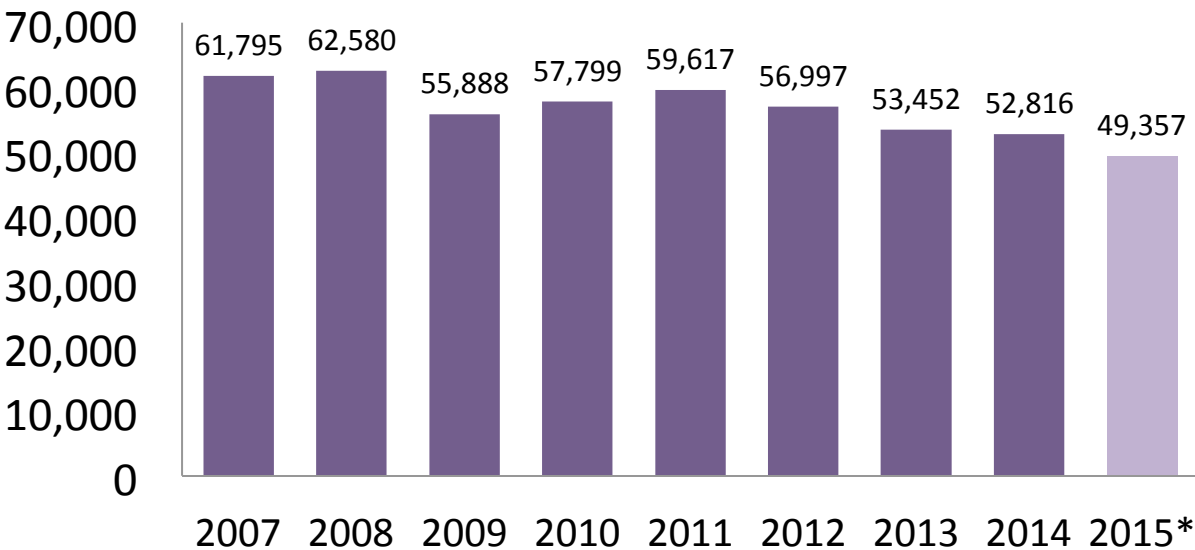


There has been a significant reduction in property crime over the past 25 years. These crimes have dropped by more than 12,400 or 7% in the last 8 years.

### Total Property Crime In Philadelphia 1960 to 2015



### Total Property Crime In Philadelphia 2007 to 2015



# Additional Public Resources

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<http://phillypolice.com>

<http://phillyheroes.org>

<https://www.opendataphilly.org/group/public-safety-group>

<http://twitter.com/phillypolice>

<https://www.facebook.com/Phillypolice>

<https://www.youtube.com/PhiladelphiaPolice>

<https://instagram.com/phillypolice/>

# Appendix H



# Independent Monitor Review of the Baltimore Police Department

## Estimate of Professional Hours and Fees

Blended Rate - \$225

Task	Year 1	Year 2	Year 3	Year 4	Year 5	Total Hours	Total Cost
Compliance Reviews	1,050	1,200	1,000	1,600	1,600	6,450	1,451,250
Outcome Assessments	900	1,000	800	500	500	3,700	832,500
Development of a Monitoring Plan	700	300	300	300	300	1,900	427,500
Recommendations and Technical Assistance	500	500	500	700	700	2,900	652,500
Comprehensive Re-Assessment	-	300	1,000	-	-	1,300	292,500
Monitor Reports	700	700	600	600	600	3,200	720,000
Meetings with the Parties, BPD & the Public	700	500	500	500	500	2,700	607,500
Project Management	850	700	700	700	700	3,650	821,250
General Administration	550	500	500	500	500	2,550	573,750
<b>Grand Total Personnel and Consultants (Hours)</b>	<b>5,950</b>	<b>5,700</b>	<b>5,900</b>	<b>5,400</b>	<b>5,400</b>	<b>28,350</b>	
<b>Grand Total Personnel and Consultants (Cost)</b>	<b>\$1,338,750</b>	<b>\$1,282,500</b>	<b>\$1,327,500</b>	<b>\$1,215,000</b>	<b>\$1,215,000</b>	<b>\$6,378,750</b>	<b>\$6,378,750</b>
Fringe Benefits	-	-	-	-	-	-	-
Equipment	-	-	-	-	-	-	-
Material and Supplies	-	-	-	-	-	-	-
Travel	\$133,875	\$128,250	\$132,750	\$121,500	\$121,500	\$637,875	\$637,875
Facilities and Administrative	-	-	-	-	-	-	-
<b>GRAND TOTAL</b>	<b>\$1,472,625</b>	<b>\$1,410,750</b>	<b>\$1,460,250</b>	<b>\$1,336,500</b>	<b>\$1,336,500</b>	<b>\$7,016,625</b>	<b>\$7,016,625</b>