



Cleveland
Police
Monitoring
Team

Tenth Semiannual Report

October 2021

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A NOTE FROM THE MONITORING TEAM

As we appear to be coming out of a tumultuous period—a long, hard slog through COVID punctuated with an ongoing national crisis in public safety—the Monitoring Team is looking forward to our increasing on-ground presence and moving forward at a faster pace. While progress has been made by CDP during this reporting period, the momentum has predictably slowed as both CDP and the Monitoring Team adjusted to virtual interactions. That has changed as we assess the new normal and return to direct interactions.

In addition to renewed energy, we are entering a different stage of the Consent Decree. As we move into the fourth quarter of 2021 and into 2022, the substantive focus of the work is evolving from technical assistance to assessments. Over the past five years the Monitoring Team has collaborated with the parties on the development of policy, training, and systems of critical self-analysis including the Force Review Board and systemic data collection of important officer activities. Much of the work has been providing expertise during the development period, including editing, and in some cases drafting, the content of the policies and training.

As we move forward, the Division needs to rise or fall on its own efforts and merits in these areas, without the direct guidance of the Monitoring Team. We will also be looking for greater sophistication from the Division in their self-reporting and transparency.

In this same theme, we are modifying the rating structure for compliance by removing the “Evaluation Deferred” category. This category previously reflected those limited instances where work in a given area had been intentionally and affirmatively deferred in order to work on other, necessary prerequisites. In these areas, the City or Division could have made more progress in a given area but, for project-management reasons, appropriately focused attention on other areas. As this project is now in its sixth year, it is time to retire this category in order to focus attention on those areas where more progress needs to be made. Moving forward, Consent Decree requirements will either be categorized “Non-Compliance” or some level of compliance, depending on the specific status. This report reflects the updated categories assigned to gauge compliance.

*Cleveland Police Monitoring Team
October 8, 2021*

I. EXECUTIVE SUMMARY

A. Introduction

This review returns, after the focus on the demonstration events of the summer of 2020 in the Ninth Semiannual Report, to a more familiar general update on the progress of the City of Cleveland toward achieving compliance with the Consent Decree. However, this report continues the lean approach to reporting introduced in the Ninth Semiannual Report's update section (Section B). In past reports, the Monitoring Team has spilled a lot of ink on detailed reporting on each and every section of those compliance reports, which has been important to inform the public, the Court, and the parties, on the specific progress. As the Consent Decree progresses, there are fewer and fewer substantive updates required and more of a need to focus on compliance assessments and progress. This stage of the process requires smaller narratives as the basic questions narrow in on this central inquiry – is the Division of Police doing what it needs to do and are the mandates of the Consent Decree playing out in practice? Therefore, while this report is more streamlined than past reports, the Monitoring Team submits that it is a complete summary of the current state of the Consent Decree and properly sets expectations for what lies ahead. In this stage of our work, it is important to accurately assess where the City is, and to establish clear targets for achieving Substantial and Effective compliance. In recent criticism of past and ongoing Consent Decree monitoring efforts across the country, defendants have argued that the goalposts establishing Substantial and Effective compliance are not clear or are moved, making it hard to hit targets. Our priority is to make it abundantly clear as to what the goals are, and how the Monitoring Team and the parties will establish that they have been reached.

This review covers activities completed from January 1, 2021 to June 30, 2021. The report also mentions, at times, certain activities and accomplishments that have taken place since June 30, 2021 to recognize the continued progress that has been made in some areas. The Monitoring Team is aware that the City and CDP do not fully agree with the Monitoring Team's assessment for every paragraph as outlined below, believing that they have more advanced compliance on certain paragraphs than assigned in this report. However, the Monitoring Team reminds the City and CDP that it is their burden to demonstrate a higher degree of compliance for each paragraph for which they believe the compliance status should be changed. Upon receiving evidence from the City and CDP, the Monitoring Team can then reassess these discreet paragraphs to determine whether the compliance status should be altered in future reports.

The Monitoring Team is in the middle of comprehensive assessments of Use of Force (UOF) and the Office of Professional Standards (OPS). The Use of Force assessment is examining whether force used was objectively reasonable, necessary and proportional, and whether it was appropriately reported and reviewed, through the review of 94 cases based on a statistically valid sample of cases for each level of force: Type I, Type II, and Type III, with Type III being the most severe. Each Type II and III case is reviewed by two reviewers, and escalated to a third if there is material disagreement in reviewers' assessments; Type I cases are reviewed by a single reviewer. For the OPS review, the Monitoring Team is conducting a general performance review based on a review of all cases received by the OPS after June 1, 2019, with sustained findings made by the Police Review Board (PRB) and adjudicated by the Division prior to December 31, 2020, for a total of 25 cases. While this is a smaller sample than UOF, the assessment includes hundreds of detailed data points. These two assessments mark the first in the new phase of assessing the progress to date and testing CDP's compliance with the Consent Decree.

B. Purpose and Form of This Report

Since the Third Semiannual Report, the Monitoring Team has summarized the status of the City's compliance with each paragraph of the Consent Decree. Although providing "a paragraph-by-paragraph accounting of the general

state of the City’s compliance runs the risk of being an over-simplification,” these summary characterizations remain useful markers for understanding progress over time.¹

Thus, each major section of the Tenth Semiannual Report summarizes the Monitoring Team’s generalized conclusions about the status of compliance by describing the state of each area as one of the following:

Non-Compliance. The City or Division has not yet complied with the relevant provision of the Consent Decree. This includes instances in which the City or Division’s work or efforts have begun but cannot yet be certified by the Monitoring Team as compliant with a material component of the requirement.

Partial Compliance. The City or Division has made sufficient initial strides or sufficient partial progress toward compliance toward a material number of key components of the provision of the Consent Decree—but has not achieved operational compliance. This includes instances where policies, processes, protocols, trainings, systems, or the like exist on paper but do not exist or function in day-to-day practice. It may capture a wide range of compliance states or performance, from the City or Division having taken only very limited steps toward operational compliance to being nearly in operational compliance.

Operational Compliance. The City and/or Division has made notable progress to technically comply with the requirement and/or policy, process, procedure, protocol, training, system, or other mechanism of the Decree such that it is in existence or practice operationally—but has not yet demonstrated, or not yet been able to demonstrate, meaningful adherence to or effective implementation, including across time, cases, and/or incidents. This includes instances where a given reform is functioning but has not yet been shown, or an insufficient span of time or volume of incidents have transpired, to be effectively implemented in a systemic manner.

General Compliance. The City or Division has complied fully with the requirement and the requirement has been demonstrated to be meaningfully adhered to and/or effectively implemented across time, cases, and/or incidents. This includes instances where it can be shown that the City or Division has effectively complied with a requirement fully and systemically.

The same caveats that have previously applied to the use of these summary categories remain applicable and as such, are repeated here verbatim. Additionally, given the retirement of the “Evaluation Deferred” category, these caveats have renewed importance. First, “Non-Compliance” or “Partial Compliance” do not automatically mean that the City or CDP have not made good-faith efforts or commendable strides toward compliance. It might, instead, signify that initial work has either not yet begun or reached a sufficiently critical point where progress can be considered to have been made.

Second, “Partial Compliance” requires more than taking some limited, initial steps toward compliance with a requirement. It instead requires that the City or Division have made “sufficient, material progress toward compliance” that “has graduated from the stages of initial work to more well-developed and advanced refinement of various reforms.”²

¹ Third Semiannual Report at 9.

² Third Semiannual Report at 10.

Third, these summary terms do not appear in the Consent Decree. The Team employs them in order to synthesize and summarize the report's conclusions. Relatedly, compliance with individual paragraphs of the Decree is necessary for the larger, overall "Substantial and Effective Compliance" with the whole of the Consent Decree, but it is not the same thing. Ultimately, "Substantial and Effective Compliance" with the Consent Decree will be reached when "the City either has complied with *all* material requirements of this Agreement, or has achieved sustained and continuing improvement in constitutional policing, as demonstrated pursuant to this Agreement's outcome measures,"³ "by a preponderance of the evidence."⁴

Fourth, the charts that summarize progress in each area also condense the requirements of each paragraph rather than reprinting the entire Consent Decree in the context of this report. Any imprecision detected or confusion created by these condensed or summarized requirements is unintended and, in any event, can be cured with reference to the original Consent Decree language itself.⁵ The charts primarily cover paragraphs 14 through 340 of the Consent Decree, but other paragraphs also contain requirements that the City must meet.⁶

We also reiterate that these overall "compliance status" conclusions at the start of each chapter do not replace the more rigorous quantitative and qualitative assessments of how CDP is performing over time:

[T]he Monitoring Team bases its assessments on its current understandings, knowledge, and information gained through ongoing work and discussion with CDP, the Parties, and other stakeholders. The assessments are informal to the extent that not all of them are necessarily informed by the type of exhaustive compliance and outcome measurements that are a critical component of the Consent Decree—and the summary determinations do not take the place of these more structured, systemic analyses. The intent is to provide a bottom-line sense of where the Division is on the road to compliance. Ongoing, rigorous quantitative and qualitative assessments will provide a more comprehensive picture as work under the Consent Decree proceeds.⁷

The Team's characterizations of progress should ultimately be viewed as a synthesis or bottom-line accounting of the substantive discussions of each major Consent Decree area contained within this report.

Finally, the Monitoring Team notes that the City of Cleveland's implementation of the Consent Decree and the various subprojects comprising it, is a substantial task. Many areas of the Decree require significantly more time than one reporting period for the City to achieve—and for the Monitoring Team to report on major breakthroughs of progress. Accordingly, the Team's semiannual reports, including this current report, reprint content from prior semiannual reports in instances where there has not been enough material progress to warrant an update. In such cases, the Monitoring Team has elected to not cite to prior semiannual reports in the interest of readability.

³ Dkt. 7-1 ¶ 456 (emphasis added).

⁴ *Id.* at ¶ 397.

⁵ *See Id.*

⁶ *See* Third Semiannual Report at 10.

⁷ *Id.* at 11.

II. COMMUNITY ENGAGEMENT AND BUILDING TRUST

Paragraph	Status of Compliance
14. CDP creation of “formal and informal mechanisms that facilitate ongoing communication between CDP and the many Cleveland communities it serves.”	PARTIAL COMPLIANCE

A. Community Police Commission (“CPC”)

Paragraph	Status of Compliance
15. Creation of CPC to make recommendations, work with Cleveland communities to develop recommendations, and “report to the City and community as a whole and to provide transparency” on reforms	GENERAL COMPLIANCE
16. Establishment of CPC Selection Panel to select CPC Commissioners; composition of CPC; and periodic meetings with Chief of Police to “provide recommendations.”	GENERAL COMPLIANCE
17(a). “[H]old public meetings across the City, complete an assessment of CDP’s bias-free policing policies, practices, and training, and make recommendations.”	GENERAL COMPLIANCE
17(b). “[A]ssist as appropriate in . . . development of training related to bias-free policing and cultural competency.”	GENERAL COMPLIANCE
17(c). “[O]n an ongoing basis, assess CDP’s community activities” and “make recommendations” related to “community engagement” and “community confidence”	PARTIAL COMPLIANCE
17(d). “[O]n an ongoing basis, review CDP’s civilian oversight structure to determine if there are changes it recommends for improving CDP’s accountability and transparency”	PARTIAL COMPLIANCE
17(e). “[P]erform other function[s] as set out in this Agreement.”	PARTIAL COMPLIANCE
18(a). “[R]eview and comment on CDP’s policies and practices related to use of force, search and seizure, and data collection and retention.”	PARTIAL COMPLIANCE
18(b). [R]eview and comment on CDP’s implementation of initiative, programs, and activities that are intended to support reform.”	PARTIAL COMPLIANCE
18(c). “[H]old public meetings to discuss the Monitor’s reports and to receive community feedback concerning CDP’s compliance with this Agreement.”	OPERATIONAL COMPLIANCE
19. “The City will provide access to all information requested by the Commission related to its mandate, authority, and duties unless it is law enforcement sensitive, legally restricted, or would disclose a personnel action.”	PARTIAL COMPLIANCE
20. CPC “will issue [at least annual] reports,” which the “City will post . . . to the City’s website.”	OPERATIONAL COMPLIANCE

21. “The City will consider and timely respond in writing to the Commission’s recommendations for improvements,” which “will be posted to the City’s website.”	PARTIAL COMPLIANCE
22. CPC budget listed as “separate line item” to ensure “sufficient independence and resources.”	GENERAL COMPLIANCE

The Community Police Commission (“CPC” or the “Commission”) has remained active during the reporting period despite difficulties posed by the COVID-19 crisis. The Commission held virtual meetings and continued to use workgroups to drive its substantive work. It also launched its Leaders of Tomorrow intern program designed to create a two-way educational process with local young adults on issues of policing. The City financially supported the efforts with funding to compensate the interns. While the Monitoring Team is encouraged by the continued engagement of the CPC volunteer commissioners and staff, a significant foundational issue continues to hinder its efforts.

As detailed in prior Monitoring Team semiannual reports, the work of the CPC and the City’s ability to fulfill its obligations under the Consent Decree in this area have been plagued by “a lack of respectful, transparent and productive collaboration between the City and the CPC.”⁸ The establishment of the Commission was one of the first significant endeavors under the Consent Decree. The first set of volunteer commissioners was sworn-in in September 2015. However, at the time of this report the scope of the Commission’s authority and its access to information remain an open question. This is true despite numerous meetings, a retreat between the CPC and the City, and hours of technical assistance aimed at mediating outstanding concerns over the years. The parties have submitted briefings to the Court regarding their respective positions on the issues of scope and access. The Monitoring Team looks forward to a final resolution on this issue. A productive and professional relationship between the City and its CPC is essential to the City achieving and maintaining compliance in this area.

It is also important to report the ongoing need to improve the speed and efficiency with which vacancies are filled on the Commission. During this reporting period, there were commissioner vacancies on the CPC from April until August 2021. At the time of this report, those vacancies have been filled. It is the Monitoring Team’s understanding that in order to prevent additional lengthy delays with the appointment of new commissioners in the future, the Selection Panel identified potential alternates. This will be essential to ensuring that vacancies can be filled quickly as needed during the term of office. We look forward to the onboarding of the three new commissioners.

B. District Policing Committees

Paragraph	Status of Compliance
23. Facilitation of “regular communication and cooperation between CDP and community leaders at the local level,” with District Policing Committees meeting “at minimum, every quarter.”	PARTIAL COMPLIANCE
24. CPC, CDP, and Community Relations Board (“CRB”) will “develop a mechanism to recruit and expand” Committee membership.” CDP “will work with [Community Police] Commission to select officers for each District Policing Committee.”	NON-COMPLIANCE

⁸ Ninth Semiannual Report at 67.

25. CDP “will work closely with District Policing Committees to identify strategies to address crime and safety issues in their District,” considering and addressing identified priorities.	PARTIAL COMPLIANCE
26. “At least annually, each District Policing Committee will present its identified strategies, concerns, and recommendations” to the CPC, with CDP officer who is Committee member presenting to CPC “CDP’s assessment of ways to address” the recommendations.”	NON-COMPLIANCE

As reported during the Ninth Semiannual Report, the City has made no meaningful progress toward creating District Policing Committees (“DPCs”) that expand beyond what existed prior to the Consent Decree. What exists now are a series of community groups that were formed before the Consent Decree and are not organized to meet the requirements of the Consent Decree. While a workgroup with members of the CPC and CDP has been created during this reporting period, the Monitoring Team is unaware of any significant progress from those efforts or that any strategic priorities have been identified by any of the DPCs, or of any effort by the City to ensure that its DPCs and its CPC work together collaboratively. The Monitoring Team acknowledges that the COVID-19 pandemic continues to pose challenges to efforts in this area, yet the Division did not address these challenges in ways that it did accommodate meetings in other subject areas.

As detailed in previous semiannual reports, the Decree calls for the creation of five District Policing Committees (DPCs), or one for each of the five policed districts within the City of Cleveland.⁹ Those DPCs must work to “identify strategies to address crime and safety issues in their District.”¹⁰ The Monitoring Team will be looking for specific strategies in the 2022 Monitoring Plan provided by the City that describe steps to be taken to achieve what is required in paragraphs 24 and 26 of the Consent Decree.

III. COMMUNITY & PROBLEM-ORIENTED POLICING

Paragraph	Status of Compliance
27. Implementation of “comprehensive and integrated community and problem-oriented policing model” and consultation with CPC regarding the model.	PARTIAL COMPLIANCE
28. Ensuring that “mission statement reflects [the Division’s] commitment to community-oriented policing” / “integrat[ing] community and problem-oriented policing principles into its management, policies and procedures, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.”	OPERATIONAL COMPLIANCE / PARTIAL COMPLIANCE
29. Ensuring “that officers are familiar with the geographic areas they serve,” “engage in problem identification,” and “work proactively . . . to address quality of life issues.”	PARTIAL COMPLIANCE
30. Initial and annual in-service community and problem-oriented policing training “adequate in quality, quantity, type, and scope” that addresses specifically identified areas.	PARTIAL COMPLIANCE

⁹ *Id.* at ¶¶ 23-24.

¹⁰ *Id.* at ¶ 25.

31. Maintenance of “collaborative partnerships with a broad spectrum of community groups,” including CDP meetings with community organizations and District Policing Committees.	PARTIAL COMPLIANCE
32. CDP “meet[ing] with members of the community in each District on a monthly basis and “solic[it]ation of] participation from a broad cross-section of community members in each District” to “identify problems and other areas of concern . . . and discuss responses and solutions.”	PARTIAL COMPLIANCE
33. Development and implementation of “systems to monitor officer outreach to the community” that CDP “will use . . . to analyze . . . whether officers are partnering with a broad cross-section of community members to develop and implement cooperative strategies that build mutual respect and identify and solve problems.”	PARTIAL COMPLIANCE
34. “At least annually, CDP will present the results” of paragraph 33 analysis “broken out by District in a publicly-available community policing report” that describes problems, solutions, and obstacles. Report provided to Commission and posted on CDP website.	NON-COMPLIANCE

CDP has made progress toward implementation of the mandates required for Community & Problem-Oriented Policing under the Consent Decree. Importantly, the Division made significant strides developing their Brazos system,¹¹ which provides the foundation for data gathering in the areas of Search and Seizures, Community Engagement, Community and Problem-Oriented Policing, and Crisis Intervention. Using case number as a unique identifier, CDP reports they will be able to track from stops and detentions through arrests, which will be important for assessing outcomes from contacts. However, the parties and the Monitoring Team have been working hard to finalize both the CPOP General Police Order (GPO) and the CPOP Data Collection training. At the time of this writing, the CPOP GPO and CPOP data collection training were near complete, and the Monitoring Team anticipates filing the suite of CPOP training and policy once the GPO is finalized. As previously reported, the COVID-19 pandemic impacted the ability of officers to fully implement the Community & Problem-Oriented Policing Plan (“the Plan”). With the implementation of the new policy and training, it will be incumbent on CDP and its supervisors to ensure that officers fulfill these requirements in practice. While gathering these data are an essential step in the process of assessing CDP’s compliance with its updated policies, this must be coupled with CDP’s ability to demonstrate a change in culture by embracing and enacting CPOP principles throughout the Division.

IV. BIAS-FREE POLICING

Paragraph	Status of Compliance
35. Delivery of “police services with the goal of ensuring that they are equitable, respectful, and free of unlawful bias,” among other things.	PARTIAL COMPLIANCE
36. “CDP will integrate bias-free policing principles into its management, policies and procedures, job descriptions, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.”	PARTIAL COMPLIANCE

¹¹ <https://www.tylertech.com/products/brazos>

37. CDP will ensure that it “administer[s] all activities without discrimination” on basis of various protected classes	PARTIAL COMPLIANCE
38. “CDP will develop a bias-free policing policy” incorporating CPC recommendations “that provides clear guidance to officers”	OPERATIONAL COMPLIANCE
39–40. Bias-free policing and procedural justice training “adequate in quality, quantity, scope, and type” covering specific areas	OPERATIONAL COMPLIANCE
41. Supervisor training on bias-free policing and procedural justice issues covering specific areas	NON-COMPLIANCE
42. Annual in-service training on bias-free policing “adequate in quality, quantity, type, and scope”	PARTIAL COMPLIANCE
43. Analysis of paragraph 265 data (“including use of force, arrests, motor vehicle and investigatory stops, and misconduct complaints alleging discrimination”)	NON-COMPLIANCE
44. Consideration of “bias-free policing and equal protection” principles in hiring, unit assignment, promotion, and performance assessments.	PARTIAL COMPLIANCE

The existing training needs within CDP continue to impact the City’s ability to make progress in key, substantive areas under the Decree, including Bias-Free Policing. In this reporting period, however, significant progress was made on this topic in the training realm. CDP addressed several identified concerns with the initial draft training curriculum of the Bias-Free training referred to in Consent Decree paragraph 42 and solidified a comprehensive training curriculum in Bias-Free Policing that includes elements of procedural justice. The training includes interactive content covering explicit versus implicit bias, how to recognize and guard against the negative impacts of implicit bias, how to implement procedural justice principles, and specific methods for communicating to bolster procedural justice. At the time this report, CDP has sent this training out to members through its learning management system.

V. USE OF FORCE

A. Officer Use of Force Principles & Policy

Paragraph	Status of Compliance
45. “CDP will revise, develop, and implement force policies, training, supervision, and accountability systems with the goal of ensuring that force” complies with the Constitution, federal law, and the Consent Decree “and that any use of unreasonable force is promptly identified and responded to appropriately.”	PARTIAL COMPLIANCE
46. “The City will implement the terms of this Agreement with the goal of ensuring that use of force by CDP officers . . . will comply” with at least twelve major, listed principles.	PARTIAL COMPLIANCE
47. Division “will ensure that the [use of force] incident is accurately and properly reported, documented, and investigated.”	PARTIAL COMPLIANCE
48. “CDP will track and analyze officers’ uses of force to hold officers accountable for unreasonable uses of force; to guide training and policy; and to identify poor tactics and emerging trends.”	PARTIAL COMPLIANCE

49. Development of use of force policies “that comply with applicable law[,] . . . are adequate to achieve the goals described in paragraph 45,” and “specify that unreasonable use of force will subject officers to the disciplinary process, possible criminal prosecution, and/or possible civil liability.”	OPERATIONAL COMPLIANCE
50. “CDP’s policies will address the use and deployment of its authorized force techniques, technologies, and weapons.”	OPERATIONAL COMPLIANCE
51. Weapon-specific policies “will include training and certification requirements that each officer must meet before being permitted to carry and use the authorized weapon.”	OPERATIONAL COMPLIANCE
52. “No officer will carry any weapon that is not authorized or approved by CDP.”	OPERATIONAL COMPLIANCE
53. “Prior to the use of any approved weapon, the officer, when possible and appropriate, will communicate to the subject and other officers that the use of weapon is imminent, and allow the subject an opportunity to comply.”	OPERATIONAL COMPLIANCE
54-83 “CDP will implement policies” for firearms, ECWs (Tasers), and OC (pepper) spray that comply with a host of specific, expressly listed provisions.	OPERATIONAL COMPLIANCE
84. CDP “will provide all current officers use of force training that is adequate in quality, quantity, scope, and type and that includes” a number of specific, expressly listed elements.	OPERATIONAL COMPLIANCE
85. CDP “will provide the use of force training described in paragraph 84 to all new officers.”	OPERATIONAL COMPLIANCE
86. “CDP will provide all officers with annual use of force in-service training that is adequate in quality, quantity, type, and scope.”	OPERATIONAL COMPLIANCE
87. “CDP will develop and implement a single, uniform reporting system pursuant to a Use of Force reporting policy” that complies with the force Level categorization set forth in the paragraph.	OPERATIONAL COMPLIANCE
88. Requiring “[a]ll officers using or observing force” to complete a Use of Force Report including a number of specific features and avoiding “conclusory statements, ‘boilerplate’, or ‘canned’ language.”	OPERATIONAL COMPLIANCE
89. “Officers will be subject to the disciplinary process for material omissions or misrepresentations in their Use of Force Reports.”	OPERATIONAL COMPLIANCE
90. “Officers who use or observe force and fail to report it will be subject to the disciplinary process, up to and including termination, regardless of whether the force was reasonable.”	OPERATIONAL COMPLIANCE
91. Requirement to “notify . . . supervisors . . . as soon as practical following any use of force” and if becoming aware of “an allegation of unreasonable or unreported force by another officer.”	OPERATIONAL COMPLIANCE
92. “Use of Force Reports will be maintained centrally.”	OPERATIONAL COMPLIANCE

The Monitoring Team is currently engaged in a comprehensive analysis of Use of Force cases to test whether when CDP officers use force, they are doing so in a manner that complies with the Division’s new policies and the terms of the Consent Decree. Use of force reports continue to be reviewed at a slow pace by the chain of command – a concern if there are problematic uses of force occurring. The assessors are generally finding that patrol supervisors on the street are actively engaged in the force review. The Monitoring Team will report the results of the Use of

Force Assessment in the 11th Semiannual Report.

For this semiannual report, the Monitoring Team is not reporting out on the quantitative data around use of force, preferring to address these statistics in the next semiannual report, when a complete year of additional data that has been fully reviewed by CDP is available. That being said, the Monitoring Team continues to monitor use of force case data monthly at CDP’s Compstat meetings and has no reason to believe the overall positive trends have changed.

B. Use of Force Investigation and Review

Paragraph	Status of Compliance
93. “A supervisor who was involved in a use of force, including by participating in or ordering the force under investigation, will not investigate the incident or review the Use of Force Reports for approval or disapproval.”	OPERATIONAL COMPLIANCE
94. Setting specific requirements relating to the investigation of low-level, Level 1 force.	OPERATIONAL COMPLIANCE
95–109. Setting specific requirements relating to the investigation by supervisors and/or CDP chain of command for investigation and review of Level 2 force.	OPERATIONAL COMPLIANCE
110. “CDP may refer criminal investigations of uses of force to an independent and highly competent agency outside CDP.”	OPERATIONAL COMPLIANCE
111. Creation and design of dedicated Force Investigation Team (FIT) that “will conduct administrative investigations . . . and criminal investigations” of serious force, “force involving potential criminal conduct,” in-custody deaths, and cases assigned to it by the Chief.	OPERATIONAL COMPLIANCE
112. Composition of FIT Team.	OPERATIONAL COMPLIANCE
113. “FIT members will receive FIT-specific training that is adequate in quality, quantity, scope, and type” on a host of specific, expressly-listed topics both initially and annually thereafter.	OPERATIONAL COMPLIANCE
114. “CDP will identify, assign, and train personnel for the FIT to fulfill the requirements of this Agreement.”	OPERATIONAL COMPLIANCE
115. Response of FIT to use of force scenes. FIT notification of prosecutor’s office. Notification of designated outside agency to conduct criminal investigation if City elects to use external agency for such investigations.	OPERATIONAL COMPLIANCE
116. “CDP will develop and implement policies to ensure that, where an outside agency conducts the criminal investigation, FIT conducts a concurrent and thorough administrative investigation.”	PARTIAL COMPLIANCE

117. Memorandum of understanding required between CDP and outside agency containing specific, expressly-listed provisions.	OPERATIONAL COMPLIANCE
118. Setting forth various, specific, and expressly-listed responsibilities of FIT during its investigations.	PARTIAL COMPLIANCE
120. Providing for delay of compelled interview if “case has the potential to proceed criminally” but otherwise requiring that “[n]o other part of the investigation . . . be held in abeyance” unless “specifically authorized by the Chief” in consultation with investigating agency and prosecutor’s office.	PARTIAL COMPLIANCE
121. Requiring completion of preliminary report presented to Chief or Chief’s designee “as soon as possible, but absent exigent circumstances, no later than 24 hours after learning of the use of force.”	PARTIAL COMPLIANCE
122. Completion of investigation within 60 days. Preparation of FIT investigation report. Review of FIT investigative report by head of Internal Affairs who “will approve or disapprove FIT’s recommendations, or request . . . additional investigation.”	PARTIAL COMPLIANCE
123. Revision of FIT manual to ensure “consisten[cy] with the force principles” and several specific, expressly-listed provisions.	OPERATIONAL COMPLIANCE
124–30. Establishment and operation of Force Review Board “to serve as a quality control mechanism for uses of force and force investigations, and to appraise use of force incidents from a tactics, training, policy, and agency improvement perspective.”	PARTIAL COMPLIANCE

Background

As prior semiannual reports have summarized, the Consent Decree establishes protocols for the Division to investigate uses of force based on the reported level of force.

On April 22, 2020, the Monitoring Team indicated to the Court its approval of four final documents from CDP relating to the investigation of use of force incidents: (1) a Use of Force Supervisory Reviews and Investigations Policy (“Supervisory Review Policy”); (2) a Force Investigation Team (“FIT”) Manual; (3) a FIT General Police Order (“GPO”); and (4) a Memorandum of Understanding Between the Cleveland Division of Police and the Cuyahoga County Sheriff’s Department to Conduct Independent Criminal Investigations of Uses of Force by Cleveland Police That Result in the Actual or Anticipated Death of a Person (“MOU”).

Additionally, on June 30, 2020, the Court conditionally approved the proposed Force Review Board (FRB) Policy for a period starting on the date the FRB holds its first meeting and extending for six months. The FRB serves as a quality control mechanism for uses of force and force investigations, and to appraise use of force incidents from a

tactics, training, policy, and agency improvement perspective.¹² During this time, the Monitoring Team was to assess FRB operations to determine if it can effectively carry out all of the duties that the Consent Decree prescribes.

The first meeting of the FRB occurred on February 8, 2021, followed by a board on April 26, 2021. The third-quarter board took place on August 20, 2021. For the first two FRB meetings, members of the Monitoring Team were only able to virtually attend. Difficulty seeing body-worn camera video, hearing the discussions in full, and identifying who was speaking during discussions did not lend itself to a thorough assessment of the board in practice. To be clear, what the Monitoring Team could hear and understand appeared very good. The board did not shy away from complicated issues, engaged in sophisticated and robust debate, and followed the checklist and protocols as established by the Consent Decree. Additionally, CDP has provided the Monitoring Team with the written documents stemming from the board, including their analysis and conclusions. The Monitoring Team attended the August 20, 2021 FRB in-person to ensure that the board is functioning as well as it appears from afar. Members of the Monitoring Team were generally impressed with the way the FRB approached the cases and the quality of discussions the board members engaged in. The Monitoring Team noted some concerns with how the FRB approached Consent Decree paragraphs 127(d) and 128. Those concerns were provided verbally and in writing to the CDP and will be revisited when members of the Monitoring Team attend the FRB meeting on September 28, 2021. While the six-month conditional period expired on August 8, 2021, the Monitoring Team will report to the Court shortly after the September FRB meeting, once it has had the opportunity to observe two in-person boards.

Force Investigation Training

During the assessment period, CDP, working collaboratively with the DOJ and Monitoring Team, developed a Force Investigation Team (FIT) training, which was filed with and approved by the Court.¹³ This training:

provides a refresher on the different types of force and levels of subject resistance, sets forth the purpose, scope and structure of FIT, the qualifications for selection, the roles and responsibilities of investigators assigned to FIT. Importantly, the curriculum explains the number of FIT personnel assigned to a call-out, how a call-out is initiated, and how on-scene management occurs. Finally, the training details methods of objective investigation, the processes to ensure investigative integrity, strategies to reduce the impact of bias, and how to manage bifurcated criminal and administrative investigations. In sum, the training covers a wide expanse – from the form and content of FIT to the details on how to conduct an unbiased, thorough, and procedurally fair investigation at a granular level.¹⁴

Members of the Monitoring Team were able to attend the training in-person and the delivery of the training was in keeping with the curriculum, with the Deputy Chief personally ensuring that all aspects of the training were covered.¹⁵ During the training, some officers challenged concepts of “necessary” and “proportional,” referring to them as “new concepts” and unhelpful in policy. While it was concerning that some students considered these concepts governing use of force “new” as they have been in effect for almost five years, the trainers reinforced the requirement to review use of force under the reasonable, necessary and proportional standard. In the end, there was

¹² Dkt. 7-1 at ¶ 124.

¹³ Dkt. No 362.

¹⁴ Dkt. No. 361 at 2.

¹⁵ This direct supervision of the training was warranted due to two key factors: 1) the importance of the training to comprehensive force reviews of the most serious uses of force and 2) the resignation of the Internal Affairs Superintendent, who was scheduled to be a major player in the delivery of the training itself.

a good classroom discussion on this topic that provided much-needed clarity. The Monitoring Team looks forward to assessing FIT in practice in 2022.

VI. CRISIS INTERVENTION

Paragraph	Status of Compliance
131. “CDP will build upon and improve its Crisis Intervention Program” in furtherance of four specific, expressly-listed goals, which “will provide a forum for effective problem solving regarding the interaction between the criminal justice and mental health system and create a context for sustainable change.”	OPERATIONAL COMPLIANCE
132. Establishment of Mental Health Response Advisory Committee (the “Advisory Committee”) “to foster relationships and build support between the police, community, and mental health providers and to help identify problems and develop solutions designed to improve outcomes for individuals in crisis.”	GENERAL COMPLIANCE
133. Composition of Advisory Committee.	GENERAL COMPLIANCE
134. “The Advisory Committee will meet regularly and provide guidance to assist CDP in improving, expanding, and sustaining its Crisis Intervention Program.”	GENERAL COMPLIANCE
135. Advisory Committee will conduct an annual “analysis of crisis intervention incidents to determine whether CDP has enough specialized CIT officers, whether it is deploying those officers effectively, and whether specialized CIT officers” and communications “are appropriately responding to people in crisis,” and will also “recommend appropriate changes.”	PARTIAL COMPLIANCE
136. “The Advisory Committee’s reports and recommendations will be provided” to CPC, “be publicly available, and will be posted on the City’s website.”	GENERAL COMPLIANCE
137. CDP will designate a Crisis Intervention Coordinator for specific, expressly-identified purposes.	GENERAL COMPLIANCE
138. “Coordinator will develop and maintain partnerships with program stakeholders and serve as point of contact” and “resource” for other stakeholders.	GENERAL COMPLIANCE
139. “Coordinator will participate in the Advisory Committee and on a regular basis solicit feedback from the mental health community and specialized CIT officers, call-takers, and dispatchers regarding the efficacy of CDP’s Crisis Intervention Program.”	GENERAL COMPLIANCE
140. “Coordinator will be responsible for coordinating implementation of the changes and recommendations made by the Advisory Committee, as appropriate.”	OPERATIONAL COMPLIANCE
141. “Coordinator will be responsible for ensuring the selection of appropriate candidates for designation as specialized CIT officers” and “to ensure that officers, call-takers, and dispatchers are appropriately responding to CIT-related calls.”	PARTIAL COMPLIANCE
142. “Coordinator will create ways to recognize and honor specialized CIT officers, call-takers, and dispatchers.”	PARTIAL COMPLIANCE
143. Initial and annual crisis intervention training to all officers and recruits that is “adequate in quality, quantity, type, and scope.”	OPERATIONAL COMPLIANCE
144. Initial and annual crisis intervention training for dispatchers and call-takers.	OPERATIONAL COMPLIANCE

145. “CDP will provide enhanced specialized training in responding to individuals in crisis to certain officers (‘specialized CIT officers’),” who will be “called upon to respond to incidents or calls involving individuals in crisis.”	PARTIAL COMPLIANCE
146–47. Outlining various requirements for the “enhanced training” for specialized CIT officers of “at least 40 hours.”	OPERATIONAL COMPLIANCE
148. Designation of specialized CIT officers, per specific, expressly-listed requirements.	OPERATIONAL COMPLIANCE
149. “Supervisors will identify and encourage qualified officers across all shifts and all Districts to serve as specialized officers.”	PARTIAL COMPLIANCE
150. “All Field Training Officers” (“FTO”)s “will receive the enhanced specialized crisis intervention training described in paragraph 146,” though FTOs will “not be designated as a specialized CIT officer” unless they volunteer and have been selected to do so.	PARTIAL COMPLIANCE
151. “Specialized CIT officers who are dispatched to an incident involving an individual in crisis will have primary responsibility for the scene,” with supervisors “seek[ing] the input of a specialized CIT officer . . . where it is reasonable for them to do so.”	PARTIAL COMPLIANCE
152. “[T]he Coordinator will develop an effective specialized crisis intervention plan . . . to ensure that a specialized CIT officer is available to respond to all calls and incidents that appear to involve an individual in crisis” that includes various, specific, expressly-identified requirements. The City “will use its best efforts to ensure that a specialized CIT officer responds to all calls and incidents that appear to involve an individual in crisis.”	PARTIAL COMPLIANCE
153. City “will consider” crisis intervention program assessment by Ohio Criminal Justice Coordinating Center of Excellence.	GENERAL COMPLIANCE
154. CDP “will revise its policies to make clear that a crisis intervention response may be necessary even in situations where there has been an apparent law violation.”	OPERATIONAL COMPLIANCE
155. CDP “will revise its current crisis intervention policy to ensure that specialized CIT officers have appropriate discretion to direct individuals . . . to the health care system, rather than the judicial system . . . where it is appropriate to do so.”	OPERATIONAL COMPLIANCE
156. CDP policies and procedures will ensure that “specialized CIT officers . . . must be dispatched to all calls or incidents that appear to involve an individual in crisis.” CDP must “track incidents in which a specialized officer was not dispatched to such calls” and “identify any barriers” to ensuring dispatch of specialized CIT officer to such calls.	PARTIAL COMPLIANCE
157. “CDP will track calls and incidents involving individuals in crisis by gathering, at a minimum,” specific, expressly-identified data.	OPERATIONAL COMPLIANCE
158. Public reporting of paragraph 157 data and provision to Advisory Committee.	OPERATIONAL COMPLIANCE
159. “CDP will utilize” paragraph 157 data “to identify training needs and develop case studies and teaching scenarios” for training and other expressly-identified systemic purposes.	PARTIAL COMPLIANCE

Background

The Consent Decree requires the Division to build and enhance its Crisis Intervention Program with the goals of:

- Assisting individuals in crisis;
- Improving the safety of officers, 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.¹⁶

Where the Division Stands

As stated in the Ninth Semiannual Report, the City and CDP have continued to demonstrate progress with the Mental Health Response Advisory Committee (“MHRAC”)—the community problem-solving forum including representatives from the Division, social service providers, mental health and substance abuse professionals, the judiciary, advocates, and individuals in recovery with lived experience—in order to develop ways to improve services for those in need of care. This work continues to require a significant commitment on the part of the Division, the Alcohol and Drug and Mental Health Services Board (“ADAMHS”) and the volunteers from the community. CDP and ADAMHS have been supportive of MHRAC and deserve credit for their role in the progress made so far.

Many of the tasks set forth in this section of the Consent Decree have reached operational or general compliance. The Division has completed four annual in-service trainings for all officers and is making progress towards completing the call-takers, dispatchers, and supervisor training. Finally, the Division is working hard to add to the number of specialized CIT Officers. These accomplishments have allowed the Division to focus on making use of improved data collection capacity to evaluate progress, identify areas where change is needed and begin the process of making even further improvements in their ability to respond to behavioral crisis events.

MHRAC and MHRAC Subcommittees: Training, Community Engagement, Diversion and Quality Improvement

MHRAC held a retreat designed to review the committee’s past accomplishments, examine the tasks ahead and prepare for and maintain a partnership with CDP as the objectives of the Consent Decree are accomplished.¹⁷ Scott Osiecki, ADAMHS Board CEO, discussed the organization’s history and discussed the transition facing MHRAC. Captain James McPike, CDP CIT Coordinator, reiterated the CDP’s commitment to MHRAC and noted because of MHRAC’s work, CDP is better positioned to respond to current needs and challenges. Additionally, Captain McPike encouraged MHRAC to consider models of non-police response. Clare Rosser, ADAMHS Board Chief Public Affairs Officer, focused on the importance of establishing key priorities for MHRAC moving forward. This led to a committee discussion of priorities including improving MHRAC meeting structure, recruitment and core membership and the role of subcommittees. Specific suggestions included more focused meetings and a broader “holistic” approach to diversion. While both the Monitoring Team and the Department of Justice provided some initial suggestions for the agenda, both emphasized the importance of MHRAC’s unique role as the Consent Decree moves towards the outcome phase and eventual completion of the agreement. This meeting underscored the importance of maintaining the community partnerships between CDP and the members of MHRAC past the end of the Consent Decree.

¹⁶ Dkt. 7-1 at ¶ 131.

¹⁷ Mental Health Response Advisory Committee Annual Planning Retreat Meeting Summary (2021)
<https://www.adamhsc.org/home/showpublisheddocument/3605/637550494867430000>

MHRAC's Training Subcommittee under the leadership of chair Shannon Jerse of St. Vincent Hospital and Captain James McPike, with technical assistance provided by Carole Ballard of the ADAMHS Board, continued to take on significant responsibilities in developing the CDP Crisis Intervention training. The Division completed the Fourth-Year Crisis Intervention In-Service curriculum on Autism, is working on the current year in-service training on both improving data collection and issues involving homelessness and most importantly, working to complete the Specialized CIT Officer 40 Hour Training. This is a very time intensive committee and the demands on this committee and CDP continued to be impacted by the COVID-19 pandemic this reporting period. Despite the challenges of a hybrid-style training, the feedback from both the Fourth Year In-service Training and the Specialized CIT Officer Training was excellent.

MHRAC's Community Engagement Subcommittee is chaired by Beth Zietlow-DeJesus, ADAMHS Board Director of External Affairs. The subcommittee's work focuses on community engagement activities such as a virtual "Coffee with a Cop," the CDP Officer resource cards which provide a concise district-by-district guide to Cleveland-area programs, and a CIT Program Brochure. This year, the Community Engagement Subcommittee is working with CDP on content for the new city CIT webpage, finalizing an annual survey of officers regarding the use of the officer resource cards, and re-targeting "Coffee with a Cop" to specialized audiences.

MHRAC's Diversion Subcommittee has previously focused on a range of diversion programs for Cuyahoga County. These diversion programs included the Crisis Stabilization Unit ("CSU"), the new Co-Responder program and the County Diversion Center. The committee also worked with Frontline and CDP to encourage voluntary referrals to the CSU. As a follow-up to suggestions made during the MHRAC Retreat, the committee is developing a new goal to examine community-based crisis responses to individuals in crisis.

MHRAC's Quality Improvement Subcommittee took advantage of the improved CDP data collection capacity. Recent improvements in electronic data systems made use of CDP's and MHRAC's early work in developing a Behavioral Health Form. The Subcommittee had impressive technical assistance from Rodney Thomas, a senior research associate with Case Western University, and Dr. Rania Issa, a CDP Data Collection and Analysis Coordinator. The available data is becoming more representative of CDP crisis intervention events. CDP has now developed a LMS automated training module to reach a comprehensive level of completion. This training module was filed with and approved by the Court. The initial data sample is encouraging. As reported previously, some key aspects of the new policy are already showing results.¹⁸ Officers are making greater use of EMS when needed, which was one of the goals of the new CDP Crisis Intervention Policy. The injury rate to officers and individuals who are experiencing a behavioral crisis event has remained very low. The same is true for the arrest rate during these same events. The incidents of violence or the presence of weapons is also low, which helps to change the stereotypes that lead to stigma associated with behavioral health issues. While confidence in these results will increase as collection rates improve, the preliminary results are very positive. Such data has led to discussions with relevant social service agencies, CDP, the ADAMHS Board and MHRAC in order to problem-solve and offer solutions to difficult situations. Additionally, the specificity of the data is allowing the subcommittee to target specific issues and to search for opportunities for improvement through expanded training and alternative diversion strategies. This level of detail presents the potential for better services and hope for those struggling with behavioral crisis events.

¹⁸Ninth Semiannual Report at 81.

Progress and Tasks that Remain

Continued Selection and Training of Specialized CIT Officers

The selection and training of additional Specialized CIT Officers is underway. The Division understandably still faces new challenges in this recruitment and selection process. Despite these challenges, CDP appears to have turned the corner in encouraging officers to volunteer for this important assignment. Additional officers have volunteered to participate, and classes are scheduled for October and December 2021. There are a number of future selection and training cycles planned. CDP has a good strategy for reaching the goals of their original plan. The Division has worked hard to make these goals a reality. For the Division's Crisis Response Program, the pandemic could not have come at a worse time. Having just lost charismatic leader Captain James Purcell to cancer, the delay in the Specialized CIT Training for volunteer CIT Officers was difficult. However, the Division persisted, successful new leadership was assigned (Captain Jim McPike and Sgt. Brigitte Dorr-Guiser) and with MHRAC's support, the program is on track.

The Role of the Quality Improvement Subcommittee

The opening paragraph of this section of the Consent Decree ends with "The Crisis Intervention Program will provide a forum for effective problem solving regarding the interaction between criminal justice and mental health care system and create a context for sustainable change."¹⁹ The partnership of CDP and MHRAC is clearly moving towards accomplishing this goal. The expanded CDP information system provides a data-driven method for just such a method of effective problem solving. Given the recent national focus on diverting those in need of mental health attention to appropriate services, such data analytics are timely and will allow for meaningful change where needed. Given the partnership between the community, local law enforcement such as CDP, educational institutions such as Case Western University, and the local behavioral health authority such as the ADAMHS Board, MHRAC is positioned to make on-going improvements in responding to behavioral crisis events. More importantly, MHRAC is positioned to create a community where mental health and substance abuse are truly seen as public health issues. Delivering on this promise is the challenge ahead for the MHRAC Quality Insurance Committee.

¹⁹Dkt. 7-1 at ¶131

VII. SEARCH AND SEIZURE

Paragraph	Status of Compliance
160. “CDP will revise, develop, and implement search and seizure policies that comply with applicable law, . . . include the requirements below,” and conform to expressly-identified principles.	PARTIAL COMPLIANCE
161–65. Policy requirements for officers for stops, searches, and detentions.	PARTIAL COMPLIANCE
166. “Officers will immediately notify a supervisor when effectuating a custodial arrest for obstructing official business, resisting arrest, or assault on an officer and no other substantive violation is alleged,” and “the supervisor will respond to the scene.”	PARTIAL COMPLIANCE
167. “Officers will not use ‘canned’ or conclusory language without supporting detail in documents or reports documenting investigatory stops, searches, or arrests.”	PARTIAL COMPLIANCE
168. “Officers will articulate the justification for an investigatory stop, search, or arrest in a specific and clear manner in their reports.” CDP “will train officers” on documenting stops. “Supervisors will review all documentation of investigatory stops, searches, and arrests.”	PARTIAL COMPLIANCE
169. Supervisor will review of “each arrest report by officers under their command,” with supervisors reviewing reports for specific, expressly-identified deficiencies.	PARTIAL COMPLIANCE
170–72. Supervisory review of investigatory stops, searches, and arrests.	PARTIAL COMPLIANCE
173. Provision of “initial training that is adequate in quality, quantity, scope, and type on investigatory stops, searches, and arrests, including the requirements” of the Consent Decree that “will address the requirements of Fourth Amendment and related law, CDP policies,” and specific, expressly-identified topics.	OPERATIONAL COMPLIANCE
174–75. Provision of “annual search and seizure in-service training that is adequate in quality, quantity, type, and scope” incorporating specific, expressly-identified topics.	PARTIAL COMPLIANCE

Background

The Consent Decree requires that CDP “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.”²⁰ In addition to ensuring that officers adhere to these legal requirements, the policies also must prohibit officers from relying on a subject’s “race, ethnicity, gender, and perceived sexual orientation” as a reason to stop, search, or arrest an individual.²¹

CDP completed the development of five related policies: (1) Search & Seizure; (2) Investigatory Stops; (3) Probable Cause/Warrantless Arrests; (4) Strip and Body Cavity Searches; and (5) Miranda Warning and Waiver, and

²⁰ Dkt. 7-1 ¶ 160.

²¹ Dkt. 7-1 ¶ 161; Dkt. 97 at 42.

appropriately updated those policies based on thoughtful considerations.²² Similarly, CDP initially trained officers on the new search and seizure policies.

During this reporting period, the CDP worked diligently to create the 2021 Search and Seizure in-service training, with significant input and technical assistance from the Monitoring Team and Department of Justice. The Monitoring Team recently filed the resulting training curriculum with the Court. CDP commenced the training on August 2, 2021. This process mirrored the curriculum development challenges of past trainings in which significant technical assistance by the Monitoring Team and intervention by the DOJ was required to create adequate training. As such, the Monitoring Team reiterates the need to properly staff and resource the Training Section.

The Division also created its Stop Form Policy and associated Stops Data Collection Training, which guide officers on how to use the Brazos database system to record “data on all vehicle stops, investigatory stops, and searches.”²³ The system gathers all:

necessary data points for that tracking, including officer name and badge number; date, time, location, and duration of the stop; the subject’s actual or perceived race, ethnicity, age, and gender; during a traffic stop, the presence of passengers and whether and why any person was ordered from the vehicle; the reason for the stop, including reasonable suspicion; whether any pat-down, frisk, consensual, or non-consensual search occurred and the reasons for doing so; a description of any contraband or evidence seized; and the disposition of the stop.²⁴

Now that the Stops Data Policy and training have been delivered, after a material period of time during which the policies are in effect, the Monitoring Team will: (1) evaluate the numbers and trends with respect to who is being stopped, under what circumstances, and what the outcomes of those stops are; and (2) audit a host of stops themselves to determine if officers both articulated and had, in fact, sufficient legal grounds for any stop, detention, search, or arrest. This will include evaluation of whether supervisors are adhering to their requirements under the Division’s Court-approved policies and the Decree.

VIII. ACCOUNTABILITY

Paragraph	Status of Compliance
176. “The City and CDP will ensure that all allegations of officer misconduct, whether internally discovered or alleged by a civilian, are fully, fairly, and efficiently investigated; that all investigative findings are supported by a preponderance of the evidence and documented in writing; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair, consistent, and provides due process.”	PARTIAL COMPLIANCE

The Monitoring Team is in the process of conducting a series of evaluations to determine to what extent the CDP is in compliance with paragraph 176. Thus far, the Monitoring Team has evaluated discipline imposed by the

²² Eighth Semiannual Report at 39.

²³ Dkt. No. 7, ¶260.

²⁴ Dkt. No. 359 at 2.

previous Director of Public Safety and a small sample of police internal investigations. The Monitoring Team has also provided both public reports and technical assistance with the intent of assisting the City in coming into compliance with required police accountability provisions. While the Division has a long way to go to reach compliance, recent decision-making by the new Director of Public Safety has dramatically improved accountability with respect to the imposition of discipline in serious cases. Unfortunately, the Monitoring Team identified continuing problems with Internal Affairs and critical incident investigations that will require significant action on the part of the Division in order to come into a more advanced stage of compliance.

The Monitoring Team is in the process of conducting a formal assessment of investigations into community complaints received after June 1, 2019, where at least one sustained finding was made by the Police Review Board and where the case was adjudicated by the CDP before December 31, 2020. Upon the conclusion of that assessment, the Monitoring Team expects to be able to report back on Office of Professional Standards (OPS) compliance in general.

Additional assessments will be conducted regarding the imposition of discipline by the Chief of Police, the quality of Internal Affairs investigations, and the quality of OPS investigations and PRB adjudications of non-sustained allegations. The Monitoring Team also intends to reevaluate compliance in relation to the imposition of discipline by the Director of Public Safety after a sufficient period of time has passed since the Monitoring Team’s last review.

A. Internally Discovered Misconduct

Paragraph	Status of Compliance
177. “Internal Affairs will conduct objective, comprehensive, and timely investigations of all internal allegations,” with “findings . . . based on the preponderance of the evidence standard” that must “be clearly delineated in policies, training, and procedures and accompanied by detailed examples to ensure proper application by investigators.”	NON-COMPLIANCE²⁵
178. “Internal Affairs will be headed by a qualified civilian” who “will report directly to the Chief of Police.	NON-COMPLIANCE²⁶
179. Qualifications for IA investigators. ²⁷	PARTIAL COMPLIANCE

²⁵ With the recent resignation of the civilian Superintendent of Internal Affairs, as described later in this section, the Monitoring Team will confer with the parties to determine an appropriate timeline for a comprehensive evaluation of the quality and timeliness of CDP Internal Affairs investigations. The Monitoring Team believes that any such assessment will need to wait until a new Internal Affairs Superintendent has been appointed and given an opportunity to make any necessary reforms and changes to Internal Affairs practices and investigations.

²⁶ Due to the recent resignation of the Internal Affairs Superintendent, the Monitoring Team has reclassified paragraph 178 compliance from “Operational Compliance” to “Non-Compliance.”

²⁷ Over the course of the reporting period, the City requested that the Monitoring Team assess CDP compliance with this paragraph in order to provide a compliance classification with respect to staffing of IA investigators. Overall, while it appears that the CDP is on the road to compliance with respect to paragraph 179, the Monitoring Team is not yet in a position to provide a conclusive finding on compliance in this regard.

180. Initial training for IA investigators “that is adequate in quality, quantity, scope, and type on conducting misconduct investigations” that addresses specific, expressly-identified topics.	GENERAL COMPLIANCE
181. “[A]nnual training” for IA investigators “that is adequate in quality, quantity, type and scope”	PARTIAL COMPLIANCE
182. “In each investigation, Internal Affairs will collect and consider” all evidence. “[N]o automatic preference for an officer’s statement over a non-officer’s statement.” No disregard of a “witnesses’ statement solely because of” connection to the complainant or criminal history. IA investigators must “make all reasonable efforts to resolve material inconsistencies between witness statements.”	PARTIAL COMPLIANCE²⁸
183. IA “will evaluate all relevant police activity and any evidence of potential misconduct uncovered during the course of the investigation.”	PARTIAL COMPLIANCE
184. IA will not consider guilty plea or verdict as “determinative of whether a CDP officer engaged in misconduct” or justification for “discontinuing the investigation.”	PARTIAL COMPLIANCE
185. IA “will complete its administrative investigations within 30 days from the date it learns of the alleged misconduct.”	NON-COMPLIANCE
186–87. IA investigative report requirements.	PARTIAL COMPLIANCE
188. Forwarding of completed IA investigations “to the officers’ supervisors, the Training Review Committee, the Force Review Board, the Officer Intervention Program, and the Data Collection and Analysis Coordinator.”	NON-COMPLIANCE
189. “CDP will require any CDP employee who observes or becomes aware of any” potential misconduct to “report the incident to a supervisor or directly to” IA.	OPERATIONAL COMPLIANCE
190. “CDP will develop a system that allows officers to confidentially and anonymously report potential misconduct by other officers.”	OPERATIONAL COMPLIANCE
191. “CDP will expressly prohibit all forms of retaliation, discouragement, intimidation, coercion, or adverse action, against any person, civilian or officer, who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.”	OPERATIONAL COMPLIANCE
192. “Officers who retaliate . . . will be subject to the disciplinary process.”	PARTIAL COMPLIANCE²⁹

²⁸ The Monitoring Team will be unable to conduct an assessment of compliance with paragraphs 182 through 188 until a comprehensive evaluation of IA case investigations can be conducted.

²⁹ Due to recent allegations that Internal Affairs failed to appropriately investigate allegations of retaliation, which are currently the subject of an independent investigation, the Monitoring Team has changed this classification from “Operational Compliance” to “Partial Compliance.”

Background

To comply with the terms of the Consent Decree, the CDP's Internal Affairs ("IA") unit must "conduct objective, comprehensive, and timely investigations of internal allegations of officer misconduct." Ultimately, Internal Affairs must be the primary engine for the Division's administrative (non-criminal) investigations of officer misconduct and, more generally, the main oversight mechanism for ensuring that the Division's performance standards are being met.

Where Internal Affairs Stands Now

Quality of Internal Affairs Investigations

As previously reported, the Monitoring Team has completed a preliminary assessment of a sample of IA case investigations, chosen by the former IA Superintendent, using a qualitative methodology. The Monitoring Team provided feedback to Internal Affairs, identifying concerns relating to the use of leading questions, the need to follow-up on objective evidence to assist in determining the veracity of officers and the quality of findings. Overall, the Monitoring Team identified substantive issues of concern in three out of eight of the reviewed cases.

Quality of Fatal Use of Force Investigations

In addition, the Monitoring Team recently completed its review of two fatal uses of force investigations conducted by the Force Investigations Team (FIT), which falls under the jurisdiction of Internal Affairs. Overall, the Monitoring Team classified the two FIT administrative investigations as "poor" and not in compliance with the Consent Decree. Specifically, the Monitoring Team found that, in both cases, problematic investigative techniques were used and documentation in support of the investigations appeared to be biased in favor of the subject officers. The Monitoring Team noted that the review was based on a sample of two early FIT cases and are hoping that FIT investigator training, which took place in July 2021, will help alleviate some of the identified issues. However, it must also be noted that more effective supervision, particularly through more careful review and internal critique of these investigations by IA Command staff, will also be required to ensure full compliance.

Investigations of Probationary Officers

Over the course of monitoring activities, the Monitoring Team has identified concerns with respect to CDP's processes involving the investigation of probationary officers for misconduct. Specifically, the Monitoring Team has identified that the CDP's imposition of discipline on police recruits for off-duty misconduct and probationary officers for on-duty and off-duty misconduct does not seem to appropriately take into account the probationary status of these involved officers.

The Monitoring Team believes that an officer's probationary status should generally be considered an aggravating factor and that serious or intentional and deliberate misconduct on the part of a police recruit or probationary officer should presumptively result in the termination of that officer's employment. While there may need to be exceptions, current processes do not appear to allow the Division to take appropriate action with respect to probationary officers on a systemic basis.

As such, the Monitoring Team has recommended that the CDP consider ways to identify and track probationary officer misconduct and expedite their disciplinary procedures. In addition, the Monitoring Team is recommending

that the Division consider amending its disciplinary matrix to specifically identify an officer’s probationary status as a factor in aggravation. The CDP has taken these recommendations under advisement and understands that the Monitoring Team’s suggestions are in the spirit of technical assistance and aimed at improving the CDP’s performance and legitimacy by addressing officers displaying serious misconduct at an early stage in their career, rather than later, when full employment protections apply.

Internal Affairs Superintendent

At the end of this reporting period, the first person hired as a civilian Internal Affairs Superintendent resigned his position. With the Superintendent position now vacant, the CDP will need to come back into compliance with paragraph 178 of the Consent Decree which requires that CDP “Internal Affairs [to] be headed by a qualified civilian” who “will report directly to the Chief of Police.”³⁰ A new Superintendent will need to work diligently to move Internal Affairs into compliance with Section IX of the Consent Decree as it relates to Internally Discovered Misconduct, Reporting Misconduct and Preventing Retaliation.³¹ Unfortunately, it is impossible to predict when an appropriate hire will be made or how much time the new Superintendent will need to achieve compliance. CDP reported that the recruitment period for this position closed on August 6, 2021, and that a broad range of applications were received.

B. Office of Professional Standards (“OPS”)

Paragraph	Status of Compliance
193. OPS “investigate[s] all civilian complaints it receives, other than those that allege criminal conduct,” which are referred to IA. Excessive force complaints generally retained by OPS. IA investigations referred back to OPS if “determination is made that no criminal conduct occurred.”	OPERATIONAL COMPLIANCE
194. “The City will ensure that OPS is led by an administrator with the skills, expertise, and experience to effectively manage the intake, tracking, timely, and objective investigation of complaints”; implement PRB training; “assess OPS’s equipment and staffing needs”; and “develop and implement performance standards for OPS.”	GENERAL COMPLIANCE
195–96. Initial training for OPS investigators “adequate in quality, quantity, scope, and type,” including specific, expressly-listed topics.	OPERATIONAL COMPLIANCE
197. “OPS Investigators will not be current members of the CDP, and no CDP personnel will have any active role in OPS’s operations.”	GENERAL COMPLIANCE
198. “The City will ensure that the lawyer representing OPS does not have any actual or apparent conflicts of interest.”	OPERATIONAL COMPLIANCE
199. “OPS will have its own budget, separate from . . . the Department of Public Safety” that “affords sufficient independence and resources, including sufficient staff and training to meet the terms of this Agreement.”	OPERATIONAL COMPLIANCE

³⁰ Dkt. 7-1 ¶178.

³¹ Dkt. 7-1 ¶176-192.

200. Development and implementation of OPS operations manual “made available to the public” that covers specific, expressly-listed topics.	OPERATIONAL COMPLIANCE
201. Development and implementation of “a program to promote awareness through the Cleveland community about the process for filing complaints with OPS.”	NON-COMPLIANCE
202. “CDP and the City will 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 anonymously; and with or without a signature from the complainant,” with all “complaints documented in writing.”	OPERATIONAL COMPLIANCE
203. CDP will post and maintain by the intake window at CDP headquarters and all District headquarters a permanent placard describing the civilian complaint process” and containing specific, expressly-listed information.	OPERATIONAL COMPLIANCE
204. “CDP will provide training that is adequate in quality, quantity, scope, and type to all police personnel, including dispatchers, to properly handle complaint intake, including” with respect to specific, expressly-listed topics.	PARTIAL COMPLIANCE
205. CDP officers “carry complaint forms in their CDP vehicles,” which officers must provide “upon request.” Supervisors will be dispatched to scene when an individual wants to make a complaint, with the supervisor providing a copy of completed complaint form “or a blank form to be completed later by the individual.”	OPERATIONAL COMPLIANCE
206. “The City and OPS will make complaint forms and other materials outlining the complaint process and OPS’s contact information available at locations” including a number of specific, expressly-listed locations.	OPERATIONAL COMPLIANCE
207. “OPS’s complaint form will not contain any language that could reasonably be construed as discouraging the filing of a complaint, including warnings about the potential criminal consequences for filing false complaints.”	GENERAL COMPLIANCE
208. Availability of complaint forms in English and Spanish. “OPS will make every effort to ensure that complainants who speak other languages . . . can file complaints in their preferred language.”	OPERATIONAL COMPLIANCE
209. “City will ensure that civilian complaints submitted through other existing systems, including the Mayor’s Action Center and the Department Action Center, are immediately forwarded to OPS for investigation.”	OPERATIONAL COMPLIANCE
210. “OPS will establish a centralized electronic numbering and tracking system for all complaints,” which “will maintain accurate and reliable data regarding the number, nature, and status of all complaints . . . including investigation timeliness and notification of the interim status and final disposition of the complaint.” It “will be used to monitor and maintain appropriate caseloads for OPS investigators.”	PARTIAL COMPLIANCE
211. Biased policing tracked as a separate category of complaint that “are captured and tracked appropriately, even if the complainant does not so label the allegation.”	OPERATIONAL COMPLIANCE

	COMPLIANCE³²
212. “[A]llegations of unlawful investigatory stops, searches, or arrests” tracked as a separate category of complaints.	OPERATIONAL COMPLIANCE
213. “[A]llegations of excessive use of force” tracked as separate category of complaints.	OPERATIONAL COMPLIANCE
214. “OPS will conduct regular assessments of the types of complaints being received to identify and assess potential problematic patterns and trends.”	PARTIAL COMPLIANCE
215. “OPS will produce, at least annually, a public report summarizing complaint trends, including” with respect several specific, expressly-identified areas.	GENERAL COMPLIANCE
216. Assignment of complaints to Standard and Complex investigatory tracks.	OPERATIONAL COMPLIANCE
217. Dismissal and/or administrative dismissal of complaint investigations.	OPERATIONAL COMPLIANCE
218. “OPS will ensure that investigations of complaints are as thorough as necessary to reach reliable and complete findings that are supported by the preponderance of the evidence.”	PARTIAL COMPLIANCE
219. “CDP will ensure that OPS has timely access to all reports related to the incident . . .” and authority of OPS “to conduct additional investigation” of civilian complaint when CDP investigation has already taken place relating to the incident.	PARTIAL COMPLIANCE
220. “OPS investigators will attempt to interview each complainant in person” and record the interview.	OPERATIONAL COMPLIANCE
221. “The Chief will order officers who witnessed or participate in an incident that is the subject of an OPS complaint to cooperate with the OPS investigation,” including by responding to written questions or sitting for an in-person interview.	OPERATIONAL COMPLIANCE
222. “OPS investigators will have access to any relevant disciplinary information in the record of an officer who is the subject of a current investigation.”	PARTIAL COMPLIANCE
223. “OPS will consider all relevant evidence,” with no preferences for particular witness’s statements, including of officer over a non-officer, or because of connection to complainant or criminal history. “OPS will make all reasonable efforts to resolve material inconsistencies between witness statements.”	PARTIAL COMPLIANCE
224. OPS findings categories.	OPERATIONAL COMPLIANCE

³² The Monitoring Team has changed the status of compliance for OPS with respect to paragraphs 211, 212 and 213, from “Evaluation Deferred” to “Operational Compliance” based on representations from the OPS Administrator and a review of OPS Annual Reports which indicate that the OPS has been capturing and tracking allegations as required by the Consent Decree.

225. “OPS will document in writing the investigation of each complaint, including all investigatory steps taken, and OPS’s findings and conclusions,” which must “be supported by a preponderance of the evidence.	GENERAL COMPLIANCE
226. Items for consideration for OPS findings.	PARTIAL COMPLIANCE
227. “OPS will forward all investigations and its written conclusions to PRB in sufficient time for PRB to consider them no later than the second regularly scheduled PRB meeting following completion of the investigation.”	OPERATIONAL COMPLIANCE
228. “OPS will send periodic written updates” to the complainant at specific, expressly-identified junctures.	OPERATIONAL COMPLIANCE
229. “[A] complainant may contact OPS at any time to determine the status of his/her complaint.”	OPERATIONAL COMPLIANCE

Background

The Office of Professional Standards (“OPS”) is the civilian-staffed office charged with investigating the complaints of civilians about Division of Police personnel. Cleveland’s City Charter requires OPS to conduct “a full and complete investigation” of all citizen complaints of employee misconduct.³³

As the Monitoring Team has regularly summarized, the Consent Decree includes a number of requirements—such as hiring a qualified and experienced OPS Administrator, ensuring high-quality training for investigators, establishing a separate budget for OPS, and promoting awareness throughout Cleveland about the availability of civilian complaint forms—all designed to ensure that OPS can conduct thorough and competent investigations of civilian complaints and reach findings that are supported by the preponderance of evidence.³⁴

Where OPS Stands Now

When monitoring first began, the OPS was suffering from an enormous backlog of civilian complaints, which had been a continuing barrier to bringing the OPS into compliance with the Consent Decree. As noted in the Eighth Semiannual Report, the City hired an outside contractor to address the backlog and successfully eliminated it.

As of the end of the last reporting period, the Monitoring Team noted that the OPS’s open caseload had increased from 88 cases (December 2019) to 162 cases by the end of November 2020. The Monitoring Team also commented that, “the OPS backlog of cases over a year old has doubled from seven cases at the beginning of 2020 to 16 cases as of the end of November.” As of the end of this reporting period, the number of open cases has further increased to 208. In addition, the number of cases that are over one-year old has doubled to 32.

³³ Charter of the City of Cleveland, § 115-4.

³⁴ Dkt. 7-1 at ¶¶ 193-229.

In addition, the Monitoring Team is concerned that the average number of open investigations (workload) per OPS investigator has continued to increase, with OPS staff now averaging 23 investigations each, which does not appear to us to be a sustainable workload.³⁵

Month	# of Assigned Active Investigations	Average per Investigator
December 2019	87	9.6
November 2020	155	17.2
June 2021	207	23.0

Staffing

As noted in the Monitoring Team’s prior reports, the Consent Decree requires that the City provide the OPS with adequate funding and staffing to achieve compliance. As indicated above, the OPS caseload continues to increase, which makes it increasingly difficult for the OPS to complete certain Consent Decree obligations. The Monitoring Team will continue to monitor and evaluate potential staffing deficiencies to the extent they appear to affect OPS Consent Decree compliance.

Progress and Tasks that Remain

OPS Staff Performance Reviews

As described in the Monitoring Team’s last three semiannual reports, the OPS Administrator must institute a robust employee performance review process at OPS to ensure employee adherence to OPS Court-approved policies and best practices in investigations. Thus far, the Administrator has reported that due to staffing issues, written performance reviews will continue to be deferred. As such, the Monitoring Team will continue to monitor OPS’s efforts in this area of compliance.

Community Awareness

The Consent Decree requires that “the City and CDP, in consultation with the [CPC] and the OPS, will develop and implement a program to promote awareness throughout the Cleveland community about the process for filing complaints with OPS.”³⁶

The Fourth Year Monitoring Plan, anticipating the hiring of the new Community Engagement Coordinator, imposed a deadline on the completion of the draft Community Awareness Plan, required by the Consent Decree for November 30, 2019. The Monitoring Team continues to be informed that the Community Awareness Plan cannot yet be completed due to continuing staffing challenges. Nevertheless, the Monitoring Team is aware that the OPS Administrator, and members of the OPS staff, have been engaged in community outreach in an effort to raise awareness around the OPS and its work.

³⁵ The recent hiring of a new OPS investigator should result in a reduction of the average number of investigations per investigator being reduced to 20.8; which is still an extremely difficult number of investigations to manage on a per capita basis.

³⁶ Dkt. 7-1 at ¶ 201.

Timeliness of OPS Case Adjudications

The Monitoring Team has previously expressed concerns regarding the timeliness of final adjudication of sustained findings recommended by the Police Review Board (“PRB”) on OPS investigations. By the end of 2020, however, the Monitoring Team noted what appear to be significant improvements in the timeliness of OPS pre-disciplinary hearings being conducted by the Chief’s Office.³⁷

C. Police Review Board (“PRB”)

Paragraph	Status of Compliance
230. “Mayor will work with the City Council to develop an ordinance to place a Charter Amendment on the ballot” addressing PRB composition and appointment process.	GENERAL COMPLIANCE
231. “PRB members will not be current or former members of the CDP.”	GENERAL COMPLIANCE
232. “PRB will have its own budget,” overseen by OPS Administrator and separate from Department of Public Safety, that “affords sufficient independence and resources.”	OPERATIONAL COMPLIANCE
233–34. Initial training for PRB members “that is adequate in quality, quantity, scope, and type” and that covers specific, expressly-identified topics.	GENERAL COMPLIANCE
235. PRB meetings open to the public and posted in advance, with “case presentations and PRB votes” occurring during “open session.”	OPERATIONAL COMPLIANCE
236. “OPS investigators will attend PRB meetings at which their investigations are being considered and present their findings” PRB may “ask the investigator to conduct further investigation” as necessary.	GENERAL COMPLIANCE
237. “PRB recommended dispositions will be based on a preponderance of the evidence. For each case, PRB shall set forth its conclusion and an explanation of its reasons and supporting evidence in writing, including, when applicable, the justification for departing from OPS’s recommended disposition.”	PARTIAL COMPLIANCE
238. “In cases where PRB is recommending a sustained disposition, in whole or in part, PRB will include a recommendation as to disciplinary or non-disciplinary corrective action.”	OPERATIONAL COMPLIANCE
239. [Timely] forwarding of PRB recommendations to Chief of Police and Director of Public Safety.	OPERATIONAL COMPLIANCE

Background

Cleveland’s civilian Police Review Board (“PRB” or “the Board”) reviews and analyzes completed OPS investigations. It makes a formal recommendation to the Chief of Police on the ultimate disposition of the case and,

³⁷ The Consent Decree makes multiple references to the need for timely investigations of allegations of misconduct. See, Dkt. 7-1 at ¶ 117, 119, 177, 194, 219, 253 & 320.

if warranted, the discipline that an involved officer should receive. A well-functioning PRB remains critical to ensuring that OPS investigations are sound and that the Chief of Police receives a well-informed recommendation on the disposition of OPS cases.

Where the PRB Stands

As previously reported, since the adoption of the PRB Operations Manual in 2017, the PRB has convened regularly to address cases that it receives from OPS. During this time, the performance of the PRB has largely been out of the Board’s hands. The timeliness of the PRB’s review of cases, and precisely what the PRB is reviewing, depends on how well OPS has effectuated its duties in the investigatory stage.

As noted above, the Monitoring Team is in the process of conducting a qualitative and quantitative assessment of PRB cases involving a least one “sustained” findings made since January 1, 2019 on cases initiated by the OPS on or after that date. It is anticipated that an assessment report will be completed during the next reporting period.

D. Discipline and Disciplinary Hearings

Paragraph	Status of Compliance
240. “The Chief of CDP will issue a General Police Order that requires officers to (a) cooperate with the Internal Affairs and OPS investigators; and (b) submit all relevant evidence to the investigators such that it is available for consideration by Internal Affairs or PRB.”	GENERAL COMPLIANCE
241. Disciplinary hearing requirement, with officer given “opportunity to testify” and suspension of hearing if “officer provides new or additional evidence at hearing,” with matter “returned to IA or PRB for consideration.”	PARTIAL COMPLIANCE
242. Written justification by Chief or Director of decision to “not uphold the charges” or “does not impose the recommended discipline or non-disciplinary corrective action” where PRB previously “recommends the initiation of the disciplinary process and recommends a disciplinary level.”	OPERATIONAL COMPLIANCE³⁸
243. “CDP will track the number of instances in which the Chief or the Director of Public Safety rejects, in whole or in part, PRB’s recommended disposition.”	OPERATIONAL COMPLIANCE
245. “CDP will ensure that discipline for sustained allegations of misconduct comports with due process, and is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented.”	PARTIAL COMPLIANCE
246. “CDP will review its current matrix and will seek to amend it” “to ensure consistency” and inclusion of a number of specific, expressly-identified features.	OPERATIONAL COMPLIANCE

³⁸ Status of compliance changed from “Partial Compliance” to “Operational Compliance” based on the Monitoring Team’s review of departure letters written by the Chief and the Director over the course of the monitoring period.

247. “All disciplinary decisions will be documented in writing.”	OPERATIONAL COMPLIANCE³⁹
248. “CDP will provide its disciplinary matrix to the Commission, the Police Inspector General, and the police unions for comment.”	OPERATIONAL COMPLIANCE
249. “CDP will work with the unions to allow for sustained disciplinary findings to stay in an officer’s record for ten years.”	PARTIAL COMPLIANCE

Background

The Consent Decree requires that CDP “ensure that discipline for sustained allegations of misconduct comports with due process, and is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented.”⁴⁰

Where the Division Stands

Timeliness in the investigation and adjudication of internal and external complaint investigations continues to be a significant issue requiring ongoing attention from the CDP. As previously reported, it has taken far too long for cases to be adjudicated, and delays have been observed in the scheduling of pre-disciplinary hearings and in the imposition of discipline upon the conclusion of those hearings.

On a positive note, and as previously reported, the Division has buttressed up the staffing of its Case Preparation Unit, which has had a positive impact on some of the Monitoring Team’s continuing concerns.

With respect to the conduct of the Division’s pre-disciplinary hearings, the Monitoring Team has noted that the Chief’s Office consistently provides officers with the opportunity to testify on their own behalf, as required by paragraph 241.

In April 2021, the Monitoring Team began receiving monthly status reports from the Division identifying the status of all pending pre-disciplinary hearings. As shown below, over a span of two months, the number of cases awaiting hearing dates dramatically increased, and the number of cases where pre-disciplinary hearings had been conducted, but no discipline decision had been made while increasing only slightly, still involved a significant number of cases. Ultimately, compliance with the Consent Decree will require a timely adjudication of complaint investigations.

³⁹ Status of compliance changed from “Partial Compliance” to “Operational Compliance” based on the Monitoring Team’s review of disciplinary letters written by the Chief and the Director over the course of the monitoring period.

⁴⁰ Dkt. 277.

Cases Pending Pre-Disciplinary Hearings & Imposition of Discipline⁴¹

Date	# of cases awaiting hearing dates	# of cases pending decision
April 26, 2021	2 (COP) ⁴² + 7 (DPS) ⁴³ = 9	16 (COP) + 9 (DPS) = 25
July 5, 2021	9 (COP) + 13 (DPS) = 22	24 (COP) + 3 (DPS) = 27

IX. TRANSPARENCY & OVERSIGHT

A. Police Inspector General

Paragraph	Status of Compliance
250. “The City will hire an individual or individuals with significant experience in law enforcement practices and civil rights law to serve as a Police Inspector General” (“IG”). City must seek CPC’s “input in developing minimum qualifications and experience” for IG.	NON-COMPLIANCE⁴⁴
251. IG work in Office of Mayor but report to Chief of Police.	POSITION CURRENTLY VACANT
252. IG “will not be a current or former employee of CDP.”	POSITION CURRENTLY VACANT
253–54. Duties and authority of IG.	POSITION CURRENTLY VACANT
255. Budget of IG must be “a separate line item” in City budget and “afford <input type="checkbox"/> sufficient independence and resources” to comply with Consent Decree.	POSITION CURRENTLY VACANT
256. IG “will have access to all documents and data necessary to perform the above functions, including any raw data.”	POSITION CURRENTLY VACANT

Background

The Consent Decree created a new, internal oversight function within the Division—a Police Inspector General (the “IG”). The IG is required to have the authority to review CDP policies and practices, conduct audits and

⁴¹ The cases in this chart include an amalgam of CDP internal cases & OPS cases. Some cases involve officers who have been charged in multiple cases.

⁴² (COP) Chief of Police.

⁴³ (DPS) Director of Public Safety

⁴⁴ The City currently has no IG as the prior IG, who met these requirements and brought the City into Operational Compliance, resigned and has not been replaced. As such, this categorization is an excellent example of a circumstance where the City is non-compliant, despite good faith efforts.

investigations, analyze data for aggregate and systemic trends, develop recommendations for reform, and analyze investigations conducted, and review imposed discipline.

Where the Division Stands

As of the beginning of 2021, the CDP’s first Inspector General resigned his position upon being appointed as the Sheriff of Cuyahoga County. The City has recently reported that they evaluated a pool of applicants received as the result of a nationwide recruitment, but that the process had to be re-posted as there were no suitable candidates that remained on that list. The Monitoring Team looks forward to a timely selection and appointment from the new process in order to ensure compliance with paragraphs 250 through 256 of the Consent Decree.

B. Data Collection and Analysis

Paragraph	Status of Compliance
257. “CDP will collect and maintain all data and records necessary to accurately evaluate its use of force practices and search and seizure practices and facilitate transparency and, as permitted by law, broad access to information related to CDP’s decision making and activities. To achieve this outcome, CDP will designate an individual or individuals as the ‘Data Collection and Analysis Coordinator.’”	PARTIAL COMPLIANCE
258. Coordinator “will ensure the collection and tracking of all documents related to uses of force and allegations of misconduct and related materials,” including specific, expressly-listed materials and information.	PARTIAL COMPLIANCE
259. Coordinator “will ensure the creation and maintenance of a reliable and accurate electronic system to track all data derived from force-related documents,” including specific, expressly-identified data.	PARTIAL COMPLIANCE
260. Coordinator “will ensure the creation and maintenance of a reliable and accurate electronic system to track data on all vehicle stops, investigatory stops, and searches, whether or not they result in an arrest or issuance of a summons or citation.” The system must conform to a number of specific, expressly-identified requirements.	PARTIAL COMPLIANCE
261. Coordinator must “routine[ly] report[] . . . relevant data to the Chief of Police, FRB, Training Review Committee, OPS, the [Community Police] Commission, and the Police Inspector General.”	PARTIAL COMPLIANCE
262. Coordinator “responsible for the annual assessment of forms and data collection systems to improve the accuracy and reliability of data collection.”	PARTIAL COMPLIANCE
263. Coordinator “will develop a protocol to accurately analyze the data collected and allow for” various outcome measurements, “subject to the review and approval of the Monitor and DOJ.”	OPERATIONAL COMPLIANCE
264. Annually, “CDP will conduct an assessment and issue a report summarizing its investigatory stop, search, and arrest data” that addresses various specific, expressly-identified topics.	NON-COMPLIANCE

265. Annually, “CDP will conduct an assessment and issue a report of all activities, including use of force, arrests, motor vehicles and investigatory stops, and misconduct complaints alleging discrimination, to determine whether CDP’s activities are applied or administered in a way that discriminates against individuals on the basis of race” or other listed prohibited classes or characteristics, and that addresses various specific, expressly-identified topics.	NON-COMPLIANCE
266. Annual analysis of “prior year’s force” data with FRB.	PARTIAL COMPLIANCE

Background

The Consent Decree requires that the Division collect, use, and report data on its activities and performance in a modern and comprehensive fashion. To effectuate this, the Decree required CDP to hire a Data Collection and Analysis Coordinator (the “Data Coordinator” or “Coordinator”) to help ensure that CDP maintains the required information in a manner that “facilitate[s] transparency and . . . broad public access to information related to CDP’s decision making and activities.”⁴⁵ The Coordinator is specifically tasked with ensuring the collection and tracking of all information related to uses of force, search and seizure practices, and allegations of misconduct. The Coordinator must create and maintain “a reliable and accurate electronic system to track” use of force-related data and search and seizure information.⁴⁶

The Coordinator also is “responsible for the routine reporting of relevant data” to various entities within the Division⁴⁷; conducting annual assessments of both use of force and investigatory stop data⁴⁸; and analyzing Division practices for potential disproportionate or disparate impacts with respect to “race, ethnicity, gender, disability, sexual orientation, or gender identity.”⁴⁹ These reports must “be made publicly available.”⁵⁰

Where the Division Stands

Members of the Monitoring Team continue to attend the monthly administrative Compstat meeting, which has expanded and includes more details about use of force as well as several other topics and is now regularly attended by CDP Captains. The Monitoring Team continues to suggest ways the data can be used outside the room for managerial, supervisory, and deployment purposes, though it is unclear what if anything is done with the suggestions.

The assessment for paragraph 259 is partial compliance, however the recent approval of Search and Seizure data collection policies and training, and the near completion of CPOP data collection policy and training, means that the Division will be recording valuable data moving forward. Those developments could move paragraph 259 to operational compliance in the next report period.

⁴⁵ Dkt. 7-1 at ¶ 257.

⁴⁶ Id. at ¶¶ 259-60.

⁴⁷ Id. at ¶ 261.

⁴⁸ Id. at ¶¶ 263, 264, 266.

⁴⁹ Id. at ¶ 265.

⁵⁰ Id. at ¶ 267.

Progress and Tasks That Remain

The production of data that is informative and as such useful in the reform work appears to be very labor intensive for the Coordinator. The Monitoring Team recognizes efforts underway to improve data collection systems, but at this time they continue to be siloed or independent of one another requiring extensive work by the Coordinator to turn data into information. The Monitoring Team is unaware of efforts to move toward greater automation, even though minimizing the work required to share data will increase its value and usefulness. As the data improve in quality and other milestones are achieved, such as the Force Review Board and the implementation of the stop, search, and arrest policies, there will be increasing opportunities for public release of data – a level of transparency that the community desires and the Consent Decree expects.

C. Public Availability of CDP-Related Information

Paragraph	Status of Compliance
267. “[A]ll CDP audits, reports, and outcome analyses related to the implementation” of the Consent Decree will be public.	PARTIAL COMPLIANCE
268. “CDP will post its policies and procedures, training plans, community policing initiatives, community meeting schedules, budgets, and internal audit reports on its website.”	PARTIAL COMPLIANCE

Background

The Consent Decree requires that CDP’s “policies and procedures, training plans, community policing initiatives, community meeting schedules, budgets, and internal audit reports” be posted on CDP’s website.⁵¹ Likewise, “[t]o ensure transparency in the implementation of” the Decree, “all CDP audits, reports, and outcome analyses related to the implementation of this [the Consent Decree] will be made publicly available, including at the City and CDP websites.”⁵²

Where the Division Stands

As previously reported, access by the public, including the Monitoring Team members, via the website to the CDP’s policies has been a persistent problem. However, the Division made good strides during this reporting period to overhaul its previously inaccessible presentation of policies and other required information on its website. While the Monitoring Team understands there are plans to improve the website overall at the City level, CDP made significant changes to their website recently.

First, the policies are now online in separate PDF files, rather than in a single omnibus file.⁵³ The policies are supported by both an Index and Table of Contents, which greatly increases accessibility. The online structure is slightly confusing, with recent policies contained in “New Revisions – General Police Order,” rather than in the

⁵¹ Dkt. 7-1 at 1; id. ¶ 268.

⁵² Dkt. 7-1 ¶ 267.

⁵³<https://www.clevelandohio.gov/CityofCleveland/Home/Government/CityAgencies/PublicSafety/Police/PolicyProcedures>

main policy section, which sometimes includes rescinded policies. The Monitoring Team believes that CDP is in the process of fixing this confusion and will report back. Overall, though, the accessibility to CDP policies is vastly improved.

Second, the Police Publications and Information page contains links to the Office of Professional Standards, the Force Review Board, Settlement Agreement Documents, the Crisis Intervention and Mental Health Response Advisory Committee, the Community Police Commissions, and Budgets and Internal Audits.⁵⁴ While the Division still needs to fully populate the information, the structure is sound.

Third, there is a separate tab for the Office of the Inspector General which provides information about the Office, but does not include any of the previous reports. There is a *coming soon* indicator for OIG publications, so the Monitoring Team expects CDP to add in the reports shortly.

Progress and Tasks That Remain

The Monitoring Team continues to maintain that the Division and the community it serves will benefit from a Division that is open to the public and sets clear expectations of how information related to critical incidents will be shared. CDP should establish this system so that the process is in place when such incidents occur. As such, we will continue to encourage as much transparency as possible about officer activities, especially as the Division increases its overall collection of data. The more the public knows about the Division, the more trust it will have in the overall systems.

X. OFFICER ASSISTANCE & SUPPORT

A. Training

Paragraph	Status of Compliance
269. “CDP will ensure that officers receive adequate training to understand: (a) how to police effectively and safely in accordance with CDP policy; [and] (b) the requirements of this Agreement, Ohio law, and the Constitution and laws of the United States,” including in the areas of “procedural justice, bias-free policing, and community policing.”	PARTIAL COMPLIANCE
270. “CDP will expand the scope and membership of the Training Review Committee.”	PARTIAL COMPLIANCE
271–72. “[T]he Training Review Committee will develop a written training plan for CDP’s recruit academy, probationary field training, and in-service training” that addresses a host of specific, expressly-identified issues.	NON-COMPLIANCE
273. “The Training Plan and schedule will be implemented once any objections have been resolved” on a yearly basis.	PARTIAL COMPLIANCE

⁵⁴<https://www.clevelandohio.gov/CityofCleveland/Home/Government/CityAgencies/PublicSafety/Police/PublicationsInformation>

<p>274. “The Training Review Committee will annually review and updated CDP’s training plan” by “conduct[ing] a needs assessment” that addresses a number of specific, expressly-identified data and information on real-world trends, needs, policy, and law.</p>	<p>NON-COMPLIANCE</p>
<p>275. “CDP’s Commander responsible for training” will be in charge of “all CDP training.</p>	<p>NON-COMPLIANCE</p>
<p>276. “CDP will designate a single training coordinator in each District. The Commander responsible for training will establish and maintain communications with each District training coordinator to ensure that all officers complete training as required and that documentation of training is provided to the” training Commander.</p>	<p>PARTIAL COMPLIANCE</p>
<p>277. “CDP will develop recruit academy and in-service curricula that comport with” the Training Plan and Consent Decree requirements.</p>	<p>PARTIAL COMPLIANCE</p>
<p>279. “For all other substantive updates or revisions to policy or procedure, CDP will ensure and document that all relevant CDP personnel have received and read the policy or procedure. Notification of each revision or update will include the rationale for policy changes and the difference between the old and updated policy.”</p>	<p>PARTIAL COMPLIANCE</p>
<p>280. Training Commander reviews all training materials; ensures that they use “a variety of adult learning techniques, scenario-based training, and problem-solving practices”; and “ensure that all curricula, lesson plans, instructor’s qualifications, and testing materials are reviewed by the Training Review Committee.”</p>	<p>PARTIAL COMPLIANCE</p>
<p>281. “CDP will ensure that instructors are qualified and use only curricula and lesson plans that have been approved by the” Training Commander.</p>	<p>PARTIAL COMPLIANCE</p>
<p>282. “CDP will revise, as necessary, its field training program for graduates of the police academy to comport with” the Training Plan and Consent Decree.</p>	<p>NON-COMPLIANCE</p>
<p>283. “The field training program will incorporate community and problem-oriented policing principles, and problem-based learning methods.”</p>	<p>NON-COMPLIANCE</p>
<p>284. Review and revision of Field Training Officer (“FTO”) “participation policy to establish and implement a program that effectively attracts the best FTO candidates” and “revise eligibility criteria” for FTOs.</p>	<p>NON-COMPLIANCE</p>
<p>285. New FTOs and Field Training Sergeants must “receive initial and in-service training that is adequate in quality, quantity, scope, and type, and that addresses” a number of specific, expressly-listed topics and conforms to a number of additional features or requirements.</p>	<p>NON-COMPLIANCE</p>
<p>286. “CDP will create a mechanism for recruits to provide confidential feedback regarding the quality of their field training,” and the Division “will document its response, including the rationale behind any responsive action taken or decision to take no action.”</p>	<p>NON-COMPLIANCE</p>

287. “Training Review Committee will, on an annual basis, analyze all aspects of CDP’s FTO program,” “consider emerging national policing practices in this area,” and “recommend, and CDP will institute, appropriate changes to policies, procedures, and training related to its FTO program.”	NON-COMPLIANCE
288. “CDP will document all training provided to or received by CDP officers,” with officers “sign[ing] an acknowledgement of attendance or digitally acknowledge[ing] completion of each training course,” which “will be maintained in a format that allows for analysis by training type, training date, training source, and by individual officer name.”	PARTIAL COMPLIANCE
289. “CDP will develop and implement a system that will allow the Training Section to electronically track, maintain, and produce complete and accurate records of current curricula, lesson plans, training delivered, and other training materials in a centralized electronic file system.”	OPERATIONAL COMPLIANCE
290. “CDP will develop and implement accountability measures . . . to ensure that all officers successfully complete all required training programs in a timely manner.”	PARTIAL COMPLIANCE

Background

Training CDP personnel on the new requirements and expectations of Decree-required policies and initiatives is critical to ensuring these changes are infused into the operations of the Division.

As stated in prior reports, “the Division must build the internal capacity and leadership such that training can be developed, delivered, audited, and iteratively improved, in close consultation with a Training Review Committee (“TRC”) that increases the set of eyes assessing CDP training.” These efforts remain work-in-progress.

Where the Division Stands

During the current reporting period, and as detailed elsewhere in this report, the Division submitted for review a number of important training initiatives including the Community and Problem Oriented Policing (CPOP), Data Collection Training for CPOP, District Awareness Training, Search and Seizure, an updated Use of Force curriculum, Force Investigator Training (FIT), Bias Free Policing including a segment on procedural justice, Stop Data Collection Training, Force Review Board (FRB) curriculum, and a Crisis Intervention Training (CIT) policy refresher. The Division also added training on Active Bystandership for Law Enforcement, (ABLE) for all its members during this reporting period. ABLE is a nationally recognized peer intervention model that is geared toward promoting a culture that enables and encourages officers to intervene in order to prevent their colleagues from causing harm and making mistakes. This is an incredible step forward toward changing police culture.⁵⁵

The Division continues to struggle to develop adequate training curricula to support the initiatives required under the Consent Decree. In recent weeks, with the institution of bi-weekly meetings among the parties and the appointment of a new commander in the Bureau of Support Services, there seems to be an increase in quality of the

⁵⁵ <https://www.law.georgetown.edu/innovative-policing-program/active-bystandership-for-law-enforcement/>

work as well as improved integration of training plans. The 2021 training plan submitted in March was wholly inadequate, however, the new commander has refocused efforts to create a workable plan moving forward into 2022, which we look forward to reviewing. Work remains to be done to ensure that CDP fully develops its training capacity. Lately the Monitoring Team has seen signs that the Division appreciates the need for a longer view training plan and as such is making it more comprehensive. It may be another year before there is a robust multiyear plan, let alone a rigorous and comprehensive annual plan.

The Division, with support of the City, remains in the process of securing the full-time expertise of non-sworn personnel to serve as curriculum development professionals within the Training Section. The Monitoring Team sees the addition of this specialist as advantageous to the quality of work and with that, the pace with which new curricula can be reviewed and returned.

Progress and Tasks that Remain

The Monitoring Team has previously recounted the steps that CDP must make with respect to officer training to reach compliance with the Consent Decree. These steps are largely unchanged from its prior semiannual report to the Court, though the new commander and the engagement demonstrated to date is promising.

The Division still needs to reengage the Training Review Committee and encourage it to engage as envisioned by the Consent Decree. Moreover, CDP’s Training Section must be properly staffed in order to meet the substantial scope of training mandated by the Consent Decree. The training levels established during the Consent Decree process are not anomalies—they are the new normal nationally and the City and CDP need to ensure that the Training Section is equipped to develop and deliver high-quality trainings into the future.

B. Equipment & Resources

Paragraph	Status of Compliance
291. “The City will implement” paragraphs regarding equipment and resources in order to allow implementation of the Consent Decree “and to allow officers to perform their jobs safely, effectively, and efficiently.”	PARTIAL COMPLIANCE
292. “CDP will complete a comprehensive equipment and resource study to assess its current needs and priorities,” and it “will 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.”	OPERATIONAL COMPLIANCE

293. “CDP’s Equipment and Resource Plan will provide for necessary equipment including, at least” “an adequate number of computers”; “an adequate number of operable and safe zone cars”; “zone cards with reliable, functioning computers that provide officers with up-to-date technology” including computer-aided dispatch, the records management system, and various core law enforcement systems; and “zone cards equipped with first-aid kits.” “This plan also will 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.”	OPERATIONAL COMPLIANCE
294. “CDP will actively seek input and feedback from the Commission, patrol officers, and supervisors regarding resource allocation, equipment needs, and technological improvements.”	NON-COMPLIANCE
295. “City and CDP” must “us[e] best efforts to implement the Equipment and Resource Plan as required.”	OPERATIONAL COMPLIANCE
296. “CDP will . . . implement an effective, centralized records management system.”	OPERATIONAL COMPLIANCE
297. “CDP will utilize a department-wide e-mail system to improve communication and information sharing.”	OPERATIONAL COMPLIANCE
298. “CDP will employ information technology professionals who are trained to conduct crime and intelligence analysis, who are capable of troubleshooting and maintaining information technology systems and who can identify and suggest appropriate technological advancements.”	OPERATIONAL COMPLIANCE
299. “CDP will implement an effective employee assistance program that provides officers ready access to the mental health and support resources necessary to facilitate effective and constitutional policing.”	PARTIAL COMPLIANCE

Background

The Consent Decree requires the City of Cleveland 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.”⁵⁶ The Plan must “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 (“CAD”), access to the Division’s records management system (“RMS”), and access to law enforcement databases; and “zone cars equipped with first-aid kits . . . ”⁵⁷ It must address how the Division will satisfy the other substantive requirements of the Decree. It likewise must “ensure that CDP” both “properly maintains and seeks to continuously improve

⁵⁶ Dkt. 7-1 ¶ 292.

⁵⁷ Id. ¶ 293.

upon existing equipment and technology” and “is appropriately identifying equipment needs and seeking to utilize, as appropriate, emerging technologies.”⁵⁸

Where the Division Stands

The City’s Office of Information Technology (OIT) provides an annual report with status updates on the equipment plan. The update and conversations with the leader at the Division of OIT instills confidence that the equipment and resource plan is being followed and consequential funding allocations and expenses are occurring as needed. The durable goods, such as Mobile Data Computers, computers, fleet cars, Tasers, and body worn cameras are being refreshed and older items cycled out in accordance with the plan. As new vehicles come on line, they are being outfitted with the automated vehicle locator systems and other required hardware. Officers in specialty units received smartphones in the last year and as of July 2021, 295 smartphones are on order for patrol vehicles. The smartphones will be docked in the vehicles and, among other things, will enable officers to scan identification cards that will upload to reports, reducing the need for manual entries. Plans for E-citations are ongoing. Current plans call for a pilot in the Traffic Division likely commencing in early 2022.

In 2020, the OIT invested in improvements in the WebEx video conferencing in the Academy and the Chief’s Conference Room, which not only facilitates intra-division video conferencing but also permitted far superior communications among the Consent Decree parties during the pandemic when travel ceased. Undoubtedly, the conditions of the pandemic forced an increase in use and comfort with the technology. The OIT upgrades included offices of district commanders, roll call rooms, and other conference rooms as well.

The OIT, working with the Division, completed the implementation of the Brazos Data Collection forms. These will collect data for stops, community engagement, crisis intervention, and community and problem-oriented policing. All four forms are active in the system and official implementation will occur once upcoming training on policies and use of the forms are completed.

The OIT is planning for continued growth due to the support demanded by constituencies in the Division of Police. There are ongoing reviews of the needs of the OIT and its ability to service the CDP.

The OIT invested heavily in the public video surveillance system in key locations throughout the City. They are in Phase 2 of that project that leverages private sector partners to expand the reach and share data. These partners include the National Football League, the Transit Authority, and some residential apartment complexes.

Progress and Tasks that Remain

The Monitoring Team is planning to audit the Division’s progress in enhancing its equipment, IT infrastructure, and resources in the coming months. This will include review of internal procedures to roll out updated equipment, as well as on-site observation of less-lethal options and other equipment that officers have at their immediate disposal.

⁵⁸ Id. ¶ 293.

C. Recruitment & Hiring

Paragraph	Status of Compliance
300. “CDP will review and revise . . . its recruitment and hiring program to ensure that CDP successfully attracts and hires a diverse group of qualified individuals.”	PARTIAL COMPLIANCE
301. “The Mayor will work with the City Council to develop an ordinance to place a Charter Amendment on the ballot that would give the appointing authority greater flexibility in the selection of candidates from the certified eligibility list for the CDP.”	GENERAL COMPLIANCE
302. “CDP will 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” and meets certain specific, expressly-listed requirements.	OPERATIONAL COMPLIANCE
303. “The City will implement the recruitment plan within 60 days of it being approved by the Monitor.”	OPERATIONAL COMPLIANCE
304. “CDP’s recruitment plan will include specific strategies for attracting a diverse group of applicants,” including officers with various, specific, expressly-listed skills and backgrounds.	PARTIAL COMPLIANCE
305. “In developing and implementing its recruitment plan, CDP will consult with the [Community Police] Commission and other community stakeholders on strategies to attract a diverse pool of applicants.”	PARTIAL COMPLIANCE
306. “[O]bjective system for hiring and selecting recruits” that “employs reliable and valid selection criteria.”	PARTIAL COMPLIANCE
307. “CDP will report annually to the public its recruiting activities and outcomes,” which will include information on various, expressly-listed areas.	OPERATIONAL COMPLIANCE
308. “[A]ll candidates for sworn personnel positions” will have “psychological and medical examination” and be subject to “drug testing.” Existing officers receive “random drug testing.”	GENERAL COMPLIANCE
309. “CDP will conduct thorough, objective, and timely background investigations of candidates for sworn positions” that cover various, expressly-listed topics.	PARTIAL COMPLIANCE
310. “CDP will request to review personnel files from candidates’ previous employment and, where possible, will speak with the candidate’s supervisor(s)” and maintain any “salient information . . . in candidate’s file.”	OPERATIONAL COMPLIANCE
311. “If a candidate has previous law enforcement experience, CDP will complete a thorough, objective, and timely pre-employment investigation” addressing various expressly-identified things.	PARTIAL COMPLIANCE

Background

The Consent Decree requires the City to “integrate community and problem-oriented policing principles” into its recruitment practices, and 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 . . . [and] establish[es] and clearly identif[ies] the goals of CDP’s recruitment efforts.”⁵⁹

Where the Division Stands Now

Previously, the Division completed its Recruitment and Hiring Plan, which incorporates feedback from the Department of Justice, Monitoring Team, and the expressed concerns of the Cleveland public. The Plan was approved by the Court on February 20, 2019.⁶⁰ The Division continues to work from this Plan and provides regular updates on its achievements and activities. As with departments across the nation, recruiting is increasingly difficult and even more so in the midst of the pandemic. The pace of the recruitment and completion rates from the academy are not keeping up with the number of Division members who separate from service.

With now five full years of data, the Department of Public Safety, which houses the Recruitment Team, should be in a position to present analysis of the data about the recruitment process and rates of success and failures, as well as the lessons learned from the variety of novel recruitment efforts. Salary, particularly during the academy, continues to be a barrier for the Division’s ability to recruit competitively from the region.

Recently, the Division announced that it is recruiting for a lateral class. The Monitoring Team held a telephone call with the Director of Public Safety, who oversees the recruitment office, and Commander Fay, who is leading the lateral class effort, to emphasize the specific requirements in the Consent Decree that govern the review of candidates for a lateral class. Moreover, the posted criteria advertising for lateral hires appear limiting and consequently unlikely to bring large numbers of talented candidates to the Division. For example, eligible candidates are restricted to those with OPOTA certification which forestalls applications from high quality candidates who are not current officers in the State of Ohio.

Progress and Tasks that Remain

Following the Court’s approval of the Recruitment and Hiring Plan, CDP must “report annually to the public its recruiting activities and outcomes,” including disaggregated data on applicants, interviewees, and selectees, as well as the successes and challenges to recruiting qualified and high-quality applicants.⁶¹ The Monitoring Team will continue to gauge progress by analyzing the numbers and trends with respect to applicants and hired recruits, as well as by working with the City to provide ongoing technical assistance on the Plan’s implementation.

⁵⁹ Dkt. 7-1 ¶ 302.

⁶⁰ Dkt. 239.

⁶¹ Dkt. 7-1 at ¶ 307.

D. Performance Evaluations and Promotions

Paragraph	Status of Compliance
312. “CDP will ensure that officers who police professionally and effectively are recognized through the performance evaluation process” and “are identified and receive appropriate consideration for performance.” Likewise, “poor performance” must be “reflected in officer evaluations.”	NON-COMPLIANCE
313. “CDP will develop and implement fair and consistent practices to accurately evaluate officer performance in areas related to integrity, community policing, and critical police functions, on both an ongoing and annual basis.”	NON-COMPLIANCE
314–15. CDP will use “a formalized system documenting the annual performance evaluations of each officer by the officer’s direct supervisor,” including an assessment of several expressly-listed areas. “Supervisors will meet with the employee whose performance is being evaluated to discuss the evaluation.”	NON-COMPLIANCE
316. “CDP will hold supervisors of all ranks accountable for conducting timely, accurate, and complete performance evaluations of their subordinates.”	NON-COMPLIANCE
317. “CDP will develop and implement fair and consistent promotion practices that comport with the requirements of this Agreement and result in the promotion of officers who are effective and professional.”	NON-COMPLIANCE
318. In considering promotion, “appointing authority will consider” specific, expressly-listed “factors.”	NON-COMPLIANCE

Background

CDP must address how it evaluates officer performance and must ensure that high-performing officers have access to promotional opportunities. Under the Consent Decree, CDP must “develop and implement fair and consistent practices to accurately evaluate officers” across a number of dimensions, including “integrity, community policing, and critical police functions.”⁶²

Where the Division Stands

In the current reporting period, CDP submitted a draft policy on performance evaluations. The Division also prepared and submitted a Performance Management Manual and General Police Order for review. Nevertheless, the Monitoring Team is awaiting the receipt of a draft matrix that is an essential accompaniment to the manual and GPO. The Monitoring Team and Department of Justice will work with CDP in the coming reporting period to finalize a policy that satisfies the requirements of the Consent Decree. It is noteworthy that the current policy on Performance Evaluations dates from 2002. As the Monitoring Team does not have any evidence about how the

⁶² Dkt. 7-1 at ¶ 313.

department or its supervisors are applying the outdated policy in practice, the ratings above have been changed from Evaluation Deferred to Non-Compliance.

Progress and Tasks that Remain

Under the 2021 Monitoring Plan, CDP will continue to incorporate community and problem-oriented policing into its promotions and evaluations. This work, which must align with the new expectations that have been set by Court-approved policies and plans, will greatly enhance professional development opportunities within the Division and provide an important, non-punitive mechanism for employee management. As described above, work on this initiative, through a Division policy on performance evaluations, is underway.

E. Staffing

Paragraph	Status of Compliance
319. “CDP will complete a comprehensive staffing study to assess the appropriate number of sworn and civilian personnel to perform the functions necessary for CDP to fulfill its mission, and satisfy the requirements of the” Consent Decree. / “CDP will develop an effective, comprehensive Staffing Plan that is consistent with its mission, including community and problem-oriented policing, and that will allow CDP to meet the requirements of” the Consent Decree.	OPERATIONAL COMPLIANCE
320. Requirements of CDP Staffing Plan.	PARTIAL COMPLIANCE
321. “The City and CDP will employ best efforts to implement the Staffing Plan over the period of time set forth in the approved plan.”	PARTIAL COMPLIANCE

Background

The Consent Decree contemplates changes to CDP’s approach to staffing, assigning, and deploying its personnel within the City of Cleveland. Under the requirements of the Decree, for example, CDP must:

- Implement a “comprehensive and integrated model;”⁶³
- Ensure rigorous investigations and reviews of force incidents;⁶⁴
- Ensure that specialized crisis intervention officers “are dispatched to an incident involving an individual in crisis” and are able to “have primary responsibility for the scene;”⁶⁵
- Provide supervisors with the ability to “review all documentation of investigatory stops, searches, and arrests;”⁶⁶
- Ensure that officers can receive the training required by the Decree;⁶⁷

⁶³ Dkt. 7-1 at ¶ 27.

⁶⁴ Id. at ¶¶ 93-130.

⁶⁵ Id. at ¶ 151.

⁶⁶ Id. at ¶ 168.

⁶⁷ Id. at ¶ 271.

- Provide necessary opportunity for “first line supervisors [to] provide close and effective supervision of officers;”⁶⁸
- Implement the Early Intervention System;⁶⁹ and
- Provide supervisors with the ability to “conduct adequate random and directed audits of body worn camera recordings.”⁷⁰

These provisions require changes in the way that CDP will deploy its existing personnel and in the overall number of sworn and civilian personnel. To that end, the Consent Decree specifically envisions a Staffing Plan by which the CDP must “address and provide for each of the following”:

- “[P]ersonnel deployment to ensure effective community and problem-oriented policing;
- “[A] sufficient number of well-trained staff and resources to conduct timely misconduct investigations;
- “[T]o the extent feasible, Unity of Command; and
- “[A] sufficient number of supervisors.”⁷¹

Where the Division Stands Now

Similar to the prior reporting period, the Division completed the Decree-mandated Staffing Plan in 2017, after working with the Department of Justice and Monitoring Team. Since then, the Monitoring Team has not actively assessed CDP’s progress on implementing the Staffing Plan.

Progress and Tasks that Remain

The Monitoring Team has previously observed that major requirements of the Decree, such as the implementation of CDP’s new community and problem-oriented policing paradigm, are directly linked to the Division’s ability to make the operational changes contemplated in the approved Staffing Plan. Doing so may require changes to long-held practices and a degree of creativity due to the low staffing numbers. Working with the community as well as the Monitoring Team and the Department of Justice, the Division could reimagine its deployment plans to increase focus on priorities of the community and abandon services that do not impact community satisfaction or public safety goals. The Division’s efforts on this front will need to continue in order for Decree-required policies, procedures, and plans to be fully and effectively implemented.

⁶⁸ Id. at ¶ 322.

⁶⁹ Id. at ¶ 326-36.

⁷⁰ Id. at ¶ 339.

⁷¹ Id. at ¶ 320.

XI. SUPERVISION

A. First-Line Supervisors

Paragraph	Status of Compliance
322. “CDP will ensure that first line supervisors provide close and effective supervision of officers” in a number of express, specifically-identified ways.	PARTIAL COMPLIANCE
323. “CDP will develop and implement supervisory training for all new and current supervisors” that is “adequate in quality, quantity, type, and scope, and will include” a number of specific, expressly-listed topics.	PARTIAL COMPLIANCE
324. “Thereafter all sworn supervisors will receive adequate in-service management training.”	PARTIAL COMPLIANCE
325. “CDP will hold supervisors directly accountable for the quality and effectiveness of their supervision, including whether supervisors identify and effectively respond to misconduct and ensure that officers effectively engage with the community.”	PARTIAL COMPLIANCE

Background

The Consent Decree requires that CDP ensure “close and effective supervision of officers.”⁷² Supervisors must be held “directly accountable for the quality and effectiveness of their supervision” of officers in their command.⁷³ To do so, the Decree requires that the Division establish new policies and procedures addressing supervision. It also requires training for supervisors on a host of specific topics.⁷⁴

Where the Division Stands

The Division completed training on supervisor review of force and the Monitoring Team looks forward to reviewing how that training is applied in practice.

Progress and Tasks that Remain

Throughout 2022, the Monitoring Team will be conducting several assessments that will allow it to further assess paragraphs 322-325. Furthermore, the Monitoring Team will review and audit training curriculum and training sessions which address supervisors’ roles and responsibilities in order to further assess compliance with these paragraphs. The Monitoring Team is also planning a supervisor forum in 2022, as well as officer focus groups.

⁷² Dkt. 7-1 ¶ 322.

⁷³ Id. ¶ 325.

⁷⁴ Dkt. 7-1 ¶ 323.

Continuing Professional Development

The Division has previously signaled an interest in developing a formal leadership development process. Part of this involves enhancing processes relating to performance evaluations and the promotional process. The Monitoring Team continues to look forward to working with the Division on these important areas, which will help the Division identify the most promising personnel for leadership opportunities and help them succeed upon receiving new responsibilities.

Data

As the Monitoring Team has previously noted, the Consent Decree requires that CDP rigorously track instances in which supervisors identify problematic performance and log supervisors’ responses when such problems are identified. The Division still needs to implement a process for systematically tracking this information so that it can evaluate, in aggregate, the performance of its supervisors.

Compliance and Outcome Measures

The Monitoring Team’s evaluations of use of force and Internal Affairs incidents will touch on supervisor performance in those areas. However, the Monitoring Team will also need to analyze the type of performance data and indicators that the Division is still progressing toward collecting.

B. Officer Intervention Program

Paragraph	Status of Compliance
326. CDP “will create a plan to modify its Officer Intervention Program (‘OIP’) to enhance its effectiveness as a management tool to promote supervisory awareness and proactive identification of potentially problematic behavior among officers.	NON-COMPLIANCE
327. “CDP supervisors will regularly use OIP data to evaluate the performance of CDP officers across all ranks, units, and shifts.”	NON-COMPLIANCE
328. “The OIP will include a computerized relational database that will be used to collect, maintain, integrate, and retrieve data department-wide” in a number of specific, expressly-identified areas.	NON-COMPLIANCE
329. “CDP will set threshold levels for each OIP indicator that will trigger a formal review, and the thresholds will allow for peer-group comparisons between officers with similar assignments and duties.”	NON-COMPLIANCE
330–36. Additional express requirements of OIP.	NON-COMPLIANCE

Background

The Consent Decree requires that CDP's Officer Intervention Program (OIP) be transformed into an effective "early intervention system," or "EIS." An EIS is a non-disciplinary system for identifying and addressing potentially problematic officer performance before it becomes a problem.

Specifically, the Consent Decree requires that the Division's OIP become a broader management tool that will "proactive[ly] identif[y]...potentially problematic behavior among officers" and provide non-punitive supervisory intervention in order to "modify officers' behavior and improve performance" before the performance gradually becomes deep-seated and difficult to resolve.⁷⁵ The Decree requires the implementation and use of "a computerized relational database that will be used to collect, maintain, integrate, and retrieve data department-wide" on officer performance and that forms the basis of an EIS.⁷⁶

Where the Division Stands

The Division continued to develop an OIP Policy during this reporting period, and the Parties and CDP have begun discussing the proposed revisions to the OIP program. It is currently anticipated that the policy will be finalized within the upcoming reporting period.

Progress and Tasks that Remain

Creation of EIS Plan

CDP needs to finalize its policies, manuals, and implementation materials related to the OIP/EIS to complete the establishment of an upgraded early intervention system. Much work was done in this reporting period and we are optimistic that the OIP policy will be completed by end of year.

Training & Involvement of Supervisors

Under the Decree-required EIS, CDP supervisors will need to review performance data of the officers under their command at ongoing intervals. In some instances, when an officer's performance data reaches a particular level or involves specific types of performance, a supervisor will be required to assess that officer's performance to determine whether some type of intervention may be beneficial. This type of review, assessment, and potential intervention will all require that the Division's supervisors be well-trained and well-versed in the goals and mechanics of the EIS.

Training & Communication with Officers

Although substantial responsibilities will fall on supervisors with respect to the enhanced EIS, officers will also need to understand what the EIS is. Specifically, officers will need to become comfortable with the notion that the EIS is, indeed, non-disciplinary and non-punitive. Instead, it is designed to assist in professional development and allow the Division to provide resources, training, and other investments to officers to ensure that officers succeed. High-quality, in-depth instruction will be necessary to surmount the understandable skepticism that officers may have that the new EIS is simply another way of disciplining officers.

⁷⁵ Dkt. 7-1 at ¶¶326-27.

⁷⁶ *Id.* at ¶328.

Compliance with EIS Plan & Policies

After policies and training are completed, the EIS will have to be up and running for a material span of time in order for the Court and Monitoring Team to meaningfully evaluate whether the EIS complies with the Consent Decree’s requirements.

C. Body-Worn Cameras

Paragraph	Status of Compliance
337. “If 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.”	OPERATIONAL COMPLIANCE
338. “Supervisors will review recordings related to any incident involving at least a Level 2 or 3 use of force; injuries to officers; and in conjunction with any other supervisory investigation.”	PARTIAL COMPLIANCE
339. “Supervisors will conduct adequate random and directed audits of body worn camera recordings” and “incorporate the knowledge gained from this review into their ongoing evaluation and supervision of officers.”	PARTIAL COMPLIANCE
340. “Officers will be subject to the disciplinary process for intentional or otherwise unjustified failure to activate body worn cameras in violation of CDP policy.”	OPERATIONAL COMPLIANCE

Background

Prior semiannual reports have summarized the history of the Division’s use of body-worn camera technology. Because CDP elected to deploy the cameras, various Consent Decree requirements relating to policies and procedures are activated.

Where the Division Stands

Currently, all CDP patrol officers are equipped with and trained on Axon’s Body 2 camera system and are expected, under policy, to use them when working a City shift. In the current reporting period, the Parties and Monitoring Team did not significantly address specific issues relating to body-worn cameras. The Division and its officers continue to use them to capture incidents and interactions.

Progress and Tasks that Remain

Compliance with Policy

The Monitoring Team will still need to ensure that the Division is holding officers accountable for complying with the various provisions of the body-worn camera policy. It is anticipated that upcoming Monitoring Team audits of use of force cases and misconduct investigations will shed meaningful light on these issues.

Additionally, the Monitoring Team continues to be concerned about use of deadly force incidents by CDP personnel working secondary employment. These officers are in full CDP uniform, however, are not equipped with their body-worn camera. This compromises the quality of investigations by CDP, as well as rendering it difficult for the Monitoring Team to conduct effective oversight.

General Policy for the Release of CDP Information

When the Monitoring Team previously approved the Division's body-worn cameras policies, it conditioned that approval on the City and CDP establishing a general policy for the release of records, data, and information—including but not limited to body-worn camera footage—to the public. The Monitoring Team continues to look forward to the Division establishing these overall protocols for ensuring meaningful transparency and accountability.

XII. OUTCOME ASSESSMENTS

In 2019, the Division first took responsibility for the assembly of these data directly where prior effort was led by members of the Monitoring Team. It is a testament to the maturation of the in-house data team, led by Dr. Rania Issa, that once again the Division assembled and conducted its own analysis of these data. It is clear that the Division, with the key personnel in place, is capable of collecting these data. We remain curious about the Division's ability or willingness to use these data as management levers and to use them to tell their own story of change. There continues to be a monthly administrative Compstat meeting where select data are reviewed and discussed. There has been a positive change to the tenor of the meetings in the last reporting period due not only to the involvement of members of the patrol division (captains and commanders) but also to the preparatory work that is done by the Command Staff and Dr. Issa.

Among the measures on which the Monitoring Team, and likely the community, focus intensely are Use of Force incidents. Use of Force continues to decrease, with a 23% decrease in force overall from 2019-2020. Perhaps related, there is a significant increase in the use of de-escalation from 2019. In 2019 there were 89 instances of reported de-escalation whereas in 2020 that number increased by 93% to 172. Firearm pointing, a level one use of force, also decreased, a reduction of 34%. This decrease is noted throughout the year during the Compstat meetings. As offered in a recent Compstat meeting, Division personnel attribute this to increased thinking around use of the firearm due in part to improved de-escalation training and use of the technique.

Also notable in the data are the number and percent changes year to year in injuries to the public and to officers in use of force incidents. Injuries to the public/subject increased very slightly, by three cases or 4%. Injuries to officers, however, across all categories of injuries and the seriousness of those injuries, changed dramatically just from 2019. Injuries reported by individual officers decreased by 57% overall. More serious injuries to officers, those requiring hospitalization, decreased by 37% and those requiring treatment but not a hospital stay decreased by 27%.

While the above numbers show quite a bit of promise in that CDP is trending downward in several key areas pertaining to the use of force, we have been informed that the use of force incidents that occurred during the protests that took place on May 30 and May 31, 2020 are not included by the Division in their annual use of force numbers (those discussed above). Rather, the Division reported them separately in the Annual Use of Force Report. There was significant protest activity in the City those days that included multiple demonstrations around the Justice Center. The Ninth Semiannual report speaks more fully to those events and use of force. There were six use of force incidents that occurred during those days that included 35 officer entries. These entries involved 30 individual Cleveland Division of Police personnel (one officer had four entries) and there were two entries

involving outside agency personnel, totaling 35 officer entries. Those entries include two Level-1 entries, 31 Level-2 entries, and two Level-3 entries.

Based on the outcome measures collected for various use of force indicators, even including the numbers of uses of force related to the May 2020 protest events, force is down, the severity of injuries to officers is down, and de-escalation attempts increased.

The Monitoring Team is working on qualitative assessments in several key areas. These reviews help in understanding if the policies and trainings are being lived in practice – in a way that numbers or outcome measures alone do not reveal. The Monitoring Team has a team of six reviewers who are using a tool, agreed upon by the Parties, to assess the Division’s compliance with the use of force policies, including supervision and chain of command review. The methodology, also reviewed and agreed to by the parties, pulls a randomly selected sample of Level One and Level Two use of force cases and all Level Three cases that occurred in 2018 or 2019 and completed the chain of command review by September 2020. This review is about two-thirds complete. In May 2021 the Monitoring Team convened a meeting of all Parties to provide a preliminary review of the findings. In short, the sample review, to date, reveals general adherence to the policies and effective intervention and review by supervisors overall. The timing of the chain of command review takes far too long and cases that were concerning were appropriately referred to Internal Affairs for investigation. In a handful of cases, officers could have chosen a different course of action that would have either obviated the need for force or required less force. We hope the Division takes on board suggestions offered on using these reviews to influence future training for officers and supervisors.

The Monitoring Team is also leading a review of cases from the Office of Professional Standards (OPS), following the cases through the Police Review Board (PRB) to the Director of Public Safety. This review is being conducted on all community complaints received by the OPS after June 1, 2019 where at least one sustained finding was made by the PRB and where the case was adjudicated by CDP before December 31, 2020. That assessment is currently underway and reporting on that will be in a subsequent standalone and/or semiannual report.



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