

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CITY OF CLEVELAND

Defendant.

) CASE NO.: 1:15-CV-01046

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JUDGE SOLOMON OLIVER, JR.

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NOTICE SUBMITTING THE
MONITORING TEAM'S ELEVENTH
SEMIANNUAL REPORT

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The Monitoring Team respectfully submits its Twelfth Semiannual Report pursuant to Paragraph 375 of the Consent Decree.

Respectfully submitted,

/s/ Ayesha Bell Hardaway _____

AYESHA BELL HARDAWAY

Interim Monitor

Email: ayesha.hardaway@case.edu

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2023, I served the foregoing document entitled Notice Submitting the Monitoring Team's Twelfth Semiannual Report via the court's ECF system to all counsel of record.

/s/ Ayesha Bell Hardaway _____
AYESHA Bell HARDAWAY



Cleveland
Police
Monitoring
Team

Twelfth Semiannual Report

March 2023

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I. LETTER FROM THE INTERIM MONITOR

The start of 2023 marked seven-and-a-half years since the City of Cleveland, the Department of Justice, and the Independent Monitoring Team began the work of implementing the police reforms mandated by the Consent Decree. Broadly, the reforms are designed to ensure that those who live, work, and play in the City receive police services that do not run afoul of the protections guaranteed by the U.S. Constitution.

Over that time, the City has made demonstrable progress in the implementation of the Consent Decree through the finalization of Division policies and improvement of the quality of training it provides to its officers. It is important to acknowledge that progress. It is also important that the City have a clear understanding, based on the independent observations and assessment of the Monitoring Team as well as input from the Department of Justice, what work lies ahead. The reports produced by the Monitoring Team every six months are designed to provide that clear understanding.

The Twelfth Semiannual Report was finalized through a multi-step process that began in December 2022. Members of the Monitoring Team responsible for each substantive area within the Consent Decree identified the City's efforts toward implementing each of the required reforms within each area. The Monitoring Team then spent the next month or so creating an initial draft of the report, which it shared with the parties, inviting feedback. Also in December, I solicited input from the City prior to drafting. The City was invited to provide evidence of efforts it made during the reporting period that demonstrated progress toward compliance under any area of the Consent Decree.

It was my hope that this collaborative approach would result in a shared understanding of where the City stands in the implementation process. The City articulated its belief that it had achieved progress in meeting certain objectives during the reporting period, but it failed to support its assertions with documentation or raw data. The Monitoring Team thus acknowledges that the City disagrees with the Monitoring Team's compliance assessment with respect to a relatively small number of Consent Decree paragraphs. The Monitoring Team is acutely aware that the City continues to make strides in certain areas, but its responsibility to the Court is to assess the City's progress with respect to each paragraph through verifiable evidence and/or objective assessments. Accordingly, the Monitoring Team strongly encourages the City to collect and provide as much evidence as is available to support the demonstration of its progress.

In addition to assessing and describing the City's efforts towards compliance during the reporting period, the report discusses additional progress and work since December 31, 2022 (after the reporting period). This forward-looking approach could be of great value to the City as it identifies priority compliance areas on which to focus its resources. I am encouraged that with the addition

of Dr. Leigh Anderson as the Executive Director of the City’s Police Accountability Team, and upon the recruitment and hiring of the rest of her full team, the City will have the dedicated staffing needed to meet its obligations to provide evidence of its progress toward compliance. The Consent Decree was designed with the expectation that the City would engage the skills of an Implementation Team, so it is important not to understate the significance of this step forward.

While we celebrate Dr. Anderson’s arrival and are eager to see her to fill out her team, I also acknowledge that this project has seen both notable and subtle shifts in those responsible and engaged in the day-to-day work. There have been changes in City leadership, both within the Division of Police and at City Hall. Likewise, the composition of Department of Justice representatives and members of the Independent Monitoring Team have changed over time. All the while, important work on the implementation of the Decree has continued.

This reporting period also represents a period of transition for the Monitoring Team. In November, the former lead Monitor transitioned out of his role, and I assumed that role to ensure that the important work of the Team did not languish while the parties began a search for a new permanent Monitor. This reporting period thus covers time during which two different lead Monitors were at the helm. The transition did not impact the pace or rigor of the work, as all of the other members of the Team remained engaged after the transition in leadership. As the current Monitoring Team looks ahead to the remaining work at hand, we also acknowledge that in the near future, a new permanent lead Monitor will be selected, and with that person the composition of this Team is likely to change to a degree not yet known. Therefore, this report aims to provide a clear picture to the Court, the community, and the incoming Monitor of areas in which this Team has identified progress by the City and CDP, as well as areas in which the opportunities remain for additional efforts to reach full compliance with the Consent Decree. We fully recognize that the impending transition is likely to impact the areas of focus for the next six-month reporting period as the incoming Monitor decides where to focus efforts. I look forward to working with the new Monitor on what I expect will be a smooth transition.

It has been my honor to serve the community that has always been home.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

II. EXECUTIVE SUMMARY

1. Introduction

The Twelfth Semiannual Report composed by the Independent Monitoring Team for the Consent Decree between the Department of Justice (DOJ) and the Cleveland Division of Police (CDP, Division) provides a detailed discussion on the City of Cleveland's (City) progress on the Decree's many requirements. The review period is from July 1, 2022 through December 31, 2022 and the report is meant to provide a sense of where CDP and the City stand regarding compliance with the Consent Decree. Similar to the last report, the Monitoring Team's efforts during this reporting period center around assessing and evaluating whether the City is complying with Consent Decree requirements. While policy and training efforts will remain ongoing for the duration of this Decree and beyond, it is the Monitoring Team's principal task, at this point in the Consent Decree process, to focus on how thoroughly those updated policies and trainings are being implemented across CDP. During this reporting period, the Monitoring Team engaged in significant work on assessments covering use of force generally, Force Investigation Team investigations, Force Review Board deliberations, discipline decisions by the current and former Chief of Police, and the development of the methodology for an upcoming assessment on CDP's search and seizure practices.

2. Purpose and Form of This Report

Since the Third Semiannual Report, the Monitoring Team has presented the summary status of the City's compliance with each paragraph of the Consent Decree in its semiannual reports. 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 representations remain useful indicators for viewing progress over time.¹

Therefore, each section of the Twelfth Semiannual Report summarizes the Monitoring Team's general conclusions about compliance status by describing the state of each paragraph listed as one of the following:

Non-Compliance. The City and/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 and/or Division has made sufficient initial strides or

¹ Third Semiannual Report at 9.

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 and/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 these summary categories remain applicable and are thus repeated here verbatim. First, “Non-Compliance” or “Partial Compliance” do not automatically mean that the City or CDP has 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

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

² Third Semiannual Report at 10.

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 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 Furthermore, 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 repeat here that the overall “compliance status” conclusions displayed in tables at the beginning of each section herein do not replace the more rigorous and comprehensive quantitative and qualitative assessments of how CDP performs 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 descriptions of progress contained below should be considered as a synthesis or bottom-line reporting of substantive discussions from each major Consent Decree area contained within this report.

Finally, as is evidenced by the extensive and broad-reaching Consent Decree itself, the City of Cleveland’s implementation of the Consent Decree and the many action items and projects it encompasses, is a substantial task. Many areas of the Decree require many reporting periods for the City to achieve—and for the Monitoring Team to confirm and consequently report on—these major milestones. Therefore, at times this semiannual report, as with previous semiannual reports, reprints content from prior semiannual reports in instances where there has not been enough

³ Dkt. 413-1 ¶ 456 (emphasis added).

⁴ *Id.* at ¶ 397.

⁵ *See Id.*

⁶ *See* Third Semiannual Report at 10.

⁷ *Id.* at 11.

material progress to warrant an update. In such cases, the Monitoring Team is not citing to prior semiannual reports in the interest of readability.

3. Substantive Areas of Note

The Monitoring Team is aware that foundational work continued to progress in several areas over this reporting period. For example, there was significant work and collaboration on many training curricula, to include the development of a robust supervisory training that the Team looks forward to being finalized and delivered. CDP also continued collecting data on Community and Problem-Oriented Policing, use of force and search and seizure. There was also work and continued collaboration on policies such as performance evaluations and discipline, which are still pending finalization. While the Team acknowledges these important efforts, it looks forward to being able to observe the results of this hard work. For instance, are these quality trainings impacting how officers are policing every day? Also, what does all of CDP's data on various policing practices signify in terms of CDP's ability to comply with its policies and the Constitution while serving the community?

Additionally, during this reporting period the City selected and swore to form its new Community Police Commission (CPC) as established by Section 115 of the City Charter. While the City did accomplish seating the new CPC, much of the work for which the CPC is responsible did not occur during this reporting period, thus impacting compliance assessments on related paragraphs. Another important transition which occurred during this reporting period was the change in leadership of the Mental Health Response Advisory Committee (MHRAC) to the Cleveland Department of Public Health. The Monitoring Team observed during this transition a quick plan implemented by the City to establish new leadership and continue the important work of the MHRAC, which has continued in earnest during this time of transition.

The Monitoring Team notes that other work appears to either remain static, or the City has not offered updates that allow the Team to state that the work is moving forward – such as the areas of staffing and promotions. Meanwhile, the City's handling of an officer-involved shooting calls into question the current efficacy of several Consent Decree accountability mechanisms as well as the City's willingness to learn and improve from identified failures. And finally, it is equally important to caution on the apparent backsliding with the Office of Professional Standards (OPS) and the Police Review Board (PRB), whose staffing vacancies negatively impacted processes over this reporting period and beyond in a way that hinders Consent Decree compliance.

The Monitoring Team is aware that the City and CDP are eager to accomplish full compliance and be removed from the oversight provided by this Decree. The Monitoring Team is also motivated to see the City and CDP succeed to such a degree that independent monitoring is no longer necessary. Yet, while progress in certain areas has been noted, the City and CDP must demonstrate to the Court that it has achieved compliance in every part of the Decree. As the following report details, there remains significant work to be done before such a showing can be met.

III. 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

1. 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. CPC members “will be appointed and vacancies will be filled in accordance with the City’s Charter”; and periodic meetings with Chief of Police to “provide recommendations.”	PARTIAL 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.”	NON-COMPLIANCE
17(b). “[A]ssist as appropriate in . . . development of training related to bias-free policing and cultural competency.”	NON-COMPLIANCE
17(c). “[O]n an ongoing basis, assess CDP’s community activities” and “make recommendations” related to “community engagement” and “community confidence”	NON-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”	NON-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.”	NON-COMPLIANCE
18(b). [R]eview and comment on CDP’s implementation of initiative, programs, and activities that are intended to support reform.”	NON-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.”	NON-COMPLIANCE
19. “The City will provide access to all information requested by the Commission related to its mandate, authority, and duties unless it is legally restricted.”	NON-COMPLIANCE

20. CPC “will issue [at least annual] reports,” which the “City will post . . . to the City’s website.”	NON-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.”	NON-COMPLIANCE
22. CPC budget listed as “separate line item” to ensure “sufficient independence and resources.”	GENERAL COMPLIANCE

a. Background

As reported in the Eleventh Semiannual Report, in 2022 there was a significant change regarding the Community Police Commission’s (“CPC” or the “Commission”) structure, function, and jurisdiction due to the adoption of the amendments to Section 115 of the City’s Charter. The amendments were the result of the November 2021 electoral process. The amendments incorporated the CPC into the City Charter and gave it broader authority and responsibilities than the Consent Decree-created CPC. As a result of the updated Charter, amendments were made to the Consent Decree in order to ensure accurate alignment between the Consent Decree’s mandates and the new requirements of the City Charter. The updated Consent Decree, containing all applicable edits, was filed with the Court on March 11, 2022.⁸ The new Community Police Commissioners were sworn in by Cleveland Law Director Mark Griffin during the last weeks of 2022.

b. Where the CPC Stands

During the transition to the new CPC structure, the CPC staff remained active by attending community meetings and engaging community members in conversation about the Consent Decree. Commission staff reported their continued research into discipline data provided by the Division over the last two years. However, the time it took to select and appoint new Commissioners resulted in nearly a year of inactivity as it relates to Commissioner-mandated responsibilities under the Consent Decree. Important Commission responsibilities required under the Consent Decree, such as the production of an annual report, could not be fulfilled. The overall absence of CPC-related activity resulted in a downgrade of nearly all compliance measures in this area.

As discussed in previous semiannual reports, the City struggled with providing the CPC access to information during the first six years of Consent Decree implementation. The City reports that this was due to their concerns around the scope and authority of the CPC created by the Consent Decree. With the expansion of the CPC’s authority and responsibility, the Monitoring Team expects that some of these difficulties will be alleviated. A productive and professional relationship between

⁸ Dkt. 413-1.

the City and its CPC remains an essential element to the City achieving and maintaining compliance with the Consent Decree. The Monitoring Team looks forward to working with the newly established CPC under the City Charter.

2. 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
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.”	PARTIAL COMPLIANCE

a. Where the DPCs Stands

As reported in the Eleventh Semiannual Report, the City is making progress toward fulfilling its requirements toward creating District Policing Committees (DPCs) under the Consent Decree. The Monitoring Team especially highlights that after six years under the Consent Decree, the CDP recently changed the name of the District Community Relations Committees to District Policing Committees (DPC). We also commend the CDP and the DPCs for conducting monthly meetings, which is above the required quarterly meetings. We see this as a positive step forward and encourage the CDP to continue developing and executing outreach strategies to increase participation in each DPC’s participation and reach.

Some examples of community engagement activities conducted by the District Policing Committees include:

1st District

- Coffee with the Commander
- National Night Out Against Crime

- Citizen's Academy
- Annual Awards Dinner

2nd District

- Dad, Books and Cops
- National Night Out Against Crime
- Safety Fair/Voices Against Violence
- Second District's Children's Christmas Party

3rd District

- Night Out Against Crime
- Safety Fair
- Police Citizen Award Program

4th District

- Night Out Against Crime
- Safety Fair
- Police Citizen Award Program
- Art Fest

5th District

- Night Out Against Crime
- Safety Fair
- Police Citizen Award Program
- Halloween Party

In order to increase compliance with the Consent Decree, the City must become more intentional in its recruitment efforts to grow and diversify the DPC memberships. It is also essential that the City work to foster greater collaboration between the CDP, CPC and the DPCs. And finally, as clearly outlined in the Consent Decree, the City must work systematically to engage the community within each district in the creation of strategies to address crime and safety.

IV. COMMUNITY & PROBLEM-ORIENTED POLICING

Paragraph	Status of Compliance
27. Implementation of “comprehensive and integrated community and problem-oriented policing model” by the City.	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
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[itiation 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

a. Where the Division Stands

With changes in police leadership, we see more conversation and activities around community and problem-oriented policing (CPOP) and community engagement. It remains unclear the degree to which CPOP is being integrated “into its management, policies, procedures, recruitment, training,

personnel evaluation, resource deployment, tactics and accountability systems” as required by ¶28.⁹ We are enthusiastic about the interactive dashboard developed by the Data Analysis and Collection Coordinator (DACC) and team demonstrated most recently at the November CDP Stat meeting.¹⁰ This holds promise for the use of this particular dashboard as a data source for management relative to a number of the items in ¶28.

Regarding Consent Decree paragraphs 29, 31, and 32, the MT continues to advise on the curriculum for the Division by district and zone to enhance officers’ understanding of the unique neighborhoods they serve. The Division has created asset maps which is an important and necessary step in the process; one that must be repeated and updated regularly, however. Familiarity with the assets as well as area characteristics, history (recent as well as decades old), formal and informal leaders deepens the connection officers feel to their assigned area and provides fluency for them increasing community trust in their commitment.

The MT has a list of partner organizations of the Division but does not have a sense of how they partner and maintain relationships. Knowledge of a community organization or leader is distinct from having a relationship. Similarly, we have a short list of activities in which members engage that does not describe the particular activities or goals of the engagement.

The City has not identified any collaborative partnerships with community groups beyond a list, most obvious in the asset map. The asset map provided detailed entities but that does not demonstrate collective partnerships or the activities.

Beginning March 1, 2022, the Division began collecting CPOP Forms electronically. Since that time, 545 forms describing CPOP activities have been submitted. The Data Team codes these forms in order to report quantitative data on the interactive dashboard. The data from the November CDP Stat reveal that there are a range of activities in which officers engage. Just over a third (37%) of the problems were identified by the commanders’ office, about 13% from community leaders, and about 15% from officers themselves. Nearly 29% of the problems addressed are described as traffic concerns. Due to the nature of the dashboard reporting on quantitative measures, we are unaware of the degree to which officers themselves “develop and implement cooperative strategies that build mutual respect and identify and solve problems.”¹¹

⁹ ¶28

¹⁰ The dashboard is available to identified City employees on the City SharePoint site. Unfortunately, due to access issues regulated by the City’s IT Department, the Monitoring Team views only static PowerPoint slides as the MT has no access to the City SharePoint.

¹¹ ¶33

The Monitoring Team continues to emphasize that while CPOP data collection is certainly important for fulfilling Consent Decree mandates, this must be coupled with CDP's ability to demonstrate a change in culture by embracing and enacting CPOP principles throughout the Division. It is our understanding that CDP plans to produce its first report on its CPOP data in 2023, and the Monitoring Team looks forward to reviewing and engaging with the City on the content of the report.

V. 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
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. Develop bias-free policing and procedural justice training “adequate in quality, quantity, scope, and type” covering specific areas within 18 months of the Effective Date.	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

a. Where the Division Stands

During the last reporting period, the Monitoring Team reviewed OPOTA training developed by the Division to cover the bias free training. CDP enhanced the training by incorporating additional content specific to CDP policy. Furthermore, as reported in the Eleventh Semiannual Report, an initial District Neighborhood Awareness Training was delivered in early 2022. While the curriculum was robust and many instructors and training attendees were engaged at the sessions observed by Monitoring Team members, after the training there was a noted pattern that certain

content (particularly content highlighting more recent excessive force and critical incidents that occurred in Cleveland) had been short-changed during the delivery of the curriculum. The Monitoring Team raised its concerns with the Division, and as a result the CDP drafted an additional training on the topic – a training to be delivered through the Learning Management System (LMS) entitled “District Neighborhood Awareness Refreshers” – to ensure that all members receive the full information that was missed by some during the in-person District Neighborhood Awareness Training delivery. During this reporting period, the Monitoring Team has collaborated with the CDP to ensure that the refresher training is as strong as can be, and at the time of this writing the training is near finalization. The Monitoring Team appreciates the Division’s promptness in addressing the previously raised deficiencies by developing a refresher training course for its members.

The Division contracted with a company named POLIS for assistance with develop an in-service supervisory leadership training. During this reporting period, the MT reviewed and provided feedback on four sections of the supervisor training curriculum. While still under development at the time of this writing, it appears to be thoughtful, comprehensive, and engaging. The strategy of the supervisor training, with a focus on Legal, Administrative, Tactical, Ethical, and Social responsibilities integrates important concepts of community responsibility and ensures attention to on-scene responsibilities. The Monitoring Team recognizes that bias-free principles comprise a component of a couple of the training modules being developed for this in-service supervisor training.

Paragraph 43 requires an annual report or reports that describe disparities across the listed indicia. The Monitoring Team asserts that such a report, with this type of data analysis, is necessary for CDP to produce in order to achieve compliance. The report should describe current data with an analysis of disparities, the Division’s goals on what will and how conditions will be addressed, and in subsequent years, a comparison to prior years with a report on progress. To fully comply with this requirement, it will require cooperation and inclusion of reports on OPS and IA investigations pertaining to discrimination allegations.

The Monitoring Team has not seen promotion materials from the City, nor information on how the City and the Division assess promotions, particularly to ensure “bias-free policing and equal protection” as described by the Consent Decree in ¶44.

Additionally, the Monitoring Team seeks evidence on how bias-free policing principles are integrated into management, job descriptions, recruitment, personnel evaluations, deployment, and accountability systems as required by ¶36 and ¶37 of the Consent Decree. Such evidence requires at the very least:

- language in job descriptions, recruitment materials, and deployment directives about bias free expectations,

- practices where the integration is evident in management (questions being asked, leverage of data etc.),
- accountability systems to analyze data and to seek evidence of disparities, reports that describe disparities and efforts/instruction to the members on how to avoid disparities.

The Monitoring Team continues to stress that bias-free policing is an essential aspect of changing CDP's culture and strengthening its relationship with the community, and therefore regular reinforcement of this principle through CDP-specific bias-free training is important. The Monitoring Team will continue to assess the Division's progress in this essential area of the Consent Decree.

VI. USE OF FORCE

1. 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 “The City 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.	GENERAL 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

a. Reviewing Use of Force

The Division and its personnel have made significant advancements in their on-scene use of force response and the chain of command review. There remain some questions about the completeness of the totality of the accountability systems, which must be operational, effective, and assessed before compliance in this section can be achieved. The MT has completed reviews of the use of force and the chain of command review of three quarters in 2022 for all Level 1 and 2 incidents. We hope to complete the fourth quarter in the next reporting period. Similarly, we are reviewing all Level 3 cases by assessing each Force Investigation Team (FIT) review and observed all recent Force Review Board (FRB) meetings. This section is primarily about use of force and not the associated accountability mechanisms. Those are discussed below in this report.

The comprehensive Monitoring Team assessment of use of force incidents and supervisory reviews include examination of IAPro and body-worn camera footage available of Level 1 and Level 2 cases using an agreed upon methodology and tool. In addition, all investigations completed by the FIT, which includes all Level 3 cases, are being assessed separately. The

Monitoring Team also participates in every meeting of the FRB and assesses the quality of the conversation and review. Feedback on the FRB is provided shortly after the hearing dates and a synopsis report should be delivered in the next reporting period.

Based on the ongoing Monitoring Team assessment of 2022 use of force cases and the chain of command (COC) reviews, officer behavior appears consistent with policy and the Consent Decree. We increasingly see the use of de-escalation and force used consistent with policy and law, and most issues of tactics and policy violations are identified by the COC. Supervisors are more engaged and on scene. Those experts involved in the most recent Monitoring Team review made anecdotal comments about the improvements in patrol's use of force and its members' adherence to policy and the engagement of supervisors. Conversely, observations suggest that specialty units still seem to use excessive profanity, including the supervisors. Forthcoming reports will dig into those reactions of the Monitoring Team reviewers specifically. Yet, in order to reach operational compliance, the MT needs more information from the Division and its oversight bodies about the subparagraph on pursuits (subparagraph 1 of ¶46) to fully assess this item.

Review of the full language ¶47 requires "as soon as practicable...ensure the incident is accurately and properly reported, documented, and investigated." We continue to have serious concern about the time it takes for the full adjudication of a use of force case. Revised policies and processes that were recently described by Division personnel at a recent CDP Stat meeting may help to move cases along the chain of command review more efficiently. While we understand that the few cases that require criminal investigation will always take longer, the average time from incident to resolution takes too long for the officer, the subject, and the Division. For officers, the open case associated with their employment, for the subject who may be aggrieved, and for the Division to continue to be exposed to the liability of a potential problematic officer on the street are serious concerns.

While the Monitoring Team is aware of referrals to training from the FRB, we are not aware of any other formal tracking mechanisms of information learned or officers trained as a result of UOF reviews as required in ¶48. Such a tracking mechanism that is reviewed with frequency and regularity is the foundation of a learning organization that manages its own reviews and change effectively. Similarly, we are unaware of formal systems that loop lessons learned from UOF reviews at all levels to the policy unit. Repeated issues could have implications for not only training but also for clarifying policy.

The Monitoring Team is impressed by the trove of data available to Division personnel through the City's SharePoint portal. The interactive nature of the PowerBI dashboards created by the Data Team is impressive. Using those data at District and Zone levels, interrogating the data and digging more deeply by Division leadership will increase understanding, effectiveness, and safety of the members.

In addition, the Monitoring Team learned some months ago of a use of force incident that resulted in a CDP officer being shot and injured by a fellow officer. Based on our current understanding, this incident was not properly documented, investigated, or disclosed to the Monitoring Team in a manner consistent with CDP policy or the requirements of the Consent Decree. The Monitoring Team has completed an in-depth review of this case to determine what occurred, how it was investigated and reported, and the impact on compliance. We also appreciate the work that Superintendent Viland did to review how prior Internal Affairs leadership failed to appropriately handle the incident. The Monitoring Team continues to eagerly await evidence of how the City plans to incorporate those findings and recommendations into the Division’s policies and training to avoid similar critical failures moving forward.

b. In-Service Training & Policy

During the reporting period CDP developed, and the Monitoring Team has collaborated with the parties to finalize, the 2023 Training Plan. This plan incorporates several modules to be delivered in 2023 that relate to the use of force. A few trainings included in the 2023 Training Plan, including the High-Stress Critical Thinking Firearm Scenario and the low-level light firearms scenario training, in fact were previously reviewed by the Monitoring Team but were delayed and are now set to be delivered in 2023. In addition, at the very end of this reporting period, CDP submitted for collaborative review a training covering crowd management situations, which is slated to be delivered to all CDP members in early 2023. This training is based off a collection of policies covering public demonstrations, crowd management, and civil disturbances that were drafted, collaborated on, and finalized during this reporting period. As a part of this policy development work, CDP also updated a few of its use of force policies to ensure that they incorporate specific guidance for public demonstrations, crowd management and civil disturbances. Those updated use of force policies and the new crowd management policies were filed with the Court in December 2022 and can be found on the Monitoring Team’s website (clevelandpolicemonitor.net).

2. 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. “The City will develop and implement a 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.”	OPERATIONAL COMPLIANCE
125. Requiring “training on legal updates, updates on CDP’s policies, and CDP training curriculum related to the use of force” for each member.	PARTIAL COMPLIANCE
126. Mandating “comprehensive and reliable reviews of investigations within 90 days of submission to the FRB,” and encompassing officer’s decision-making at the moment force was used as well asl “the circumstances leading up to the use of force, tactical decisions, information sharing and communication, adequacy of supervision, equipment, training, CDP’s medical response, when applicable, and any commendable actions” and actions and inactions of all involved members.	PARTIAL COMPLIANCE
127. Description of reviews, which will: ensure objective and complete investigations and findings supported by preponderance of the evidence; be presented by the investigator or District representative (for supervisors); review written records and discuss the case with the presenter; order additional investigation when needed; determine whether the case raises concerns about policing, training, equipment, supervision, medical response, communication, or tactics and referral to appropriate unit; recommending non-disciplinary action; and documenting FRB findings and recommendations within 15 days of each presentation.	PARTIAL COMPLIANCE
128. “The FRB will assess the quality of the investigations,” including whether they are “objective and comprehensive and recommendations are supported by a preponderance of evidence. The FRB will identify and document any deficiencies that indicate a need for corrective action”	NON-COMPLIANCE
129. “Annually, the FRB will examine the data related to use of force” provided by the DACC per ¶261 (and in conjunction with ¶266) “to detect any patterns, trends, and training deficiencies and make recommendations for correction as appropriate” and will provide the analysis to the Monitor.	NON-COMPLIANCE

130. The FRB will work with the DACC to “develop a tracking system to ensure that each of its recommendations has been forwarded to the appropriate personnel. The Chief or his or her designee will ensure that the FRB’s recommendations, including non-disciplinary corrective action, are implemented as appropriate.”

**PARTIAL
COMPLIANCE**

a. Background

All parts of the section that previously reached operational compliance remain unchanged. For the paragraphs, those that are assessed as partial compliance require completion of processes, consistency of adherence to process, or readiness for a full and complete formal assessment.

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 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 The Division is in the stage now of polishing operations in this sphere and as such its adherence to the collection of policies.

During the current reporting period, there have been substantial changes in personnel in the Internal Affairs Unit. A new civilian superintendent was hired in June 2022 after a vacancy and acting superintendent of several months. With that hire, there has been a wholesale review of the composition of the unit with a cadre of new investigators.

Since the calming of the COVID-19 pandemic, Monitoring Team members have been attending the FRB in person. In person attendance is far superior to the virtual observation based on the limited technology available in the meeting room. It is meeting quarterly and cases for that quarterly meeting are pulled by the Data Team based on both the completion of the IAPro and IA investigation. Refinements have been made to the process after the Division determined at the end

¹² Dkt. 413-1 at ¶ 124.

of 2022 that a number of cases which should have been heard by the FRB were missed. This required the Division to add a series of unanticipated meetings in addition to the regular fourth quarter meeting.

For each FRB meeting where the Monitoring Team is present, team members uses a qualitative instrument to document the FRB process, and compliance with CDP policy and the requirements of the Consent Decree. As described in detail below, this process revealed that most cases are being done in a manner consistent with policy and the Consent Decree; however, concerns that must be addressed have also been raised throughout the process. A key responsibility of the FRB is to assess the quality of investigations completed and presented to the Board. The Monitoring Team has yet to observe the Board engage in any discussion or analysis of investigations and related presentations.

The Monitoring Team remains concerned with the timeliness of reviews of use of force incidents, as the delays in chain of command reviews negatively impact the ability of CDP to fully adjudicate use of force cases promptly. As we currently engage in assessments of use of force events, FIT investigations, FRB processes, and discipline imposed by the Chief of Police, identifying sources of, and contributing factors to delays remains a top priority. The Monitoring Team is focused on ensuring that issues relevant to use of force that may be addressed through training, counseling, policy, and/or discipline are resolved quickly and effectively. The Monitoring Team at the most recent FRB observed FIT cases that occurred just about a year ago. The degree to which the presenter of the investigation and the Board membership dodge deep inquiry of the actions, language, tone, and decisions made by officers before using force is disappointing. The MT sees the FRB as a safe space for leaders to discuss what could have gone differently and too often those conversations seem surface in nature with a greater emphasis on the moment force is used instead.

3. Force Review Board

For this semiannual report, the Monitoring Team is not reporting out on the specific quantitative findings from the ongoing FRB assessment, preferring to address these statistics and their implications in a standalone memorandum. Instead, we will briefly mention high level observations from the past three meetings.

Reviewers found most, but not all the presentations, provided an accurate, objective summary of the facts, and were inclusive of information material to evaluating the circumstances of each case, decision making, and the legal basis for searches, detentions, arrests, and other actions. Reviewers did note some language from the presenter that veers toward advocacy rather than purely factual. Additionally, the Board continues to focus its attention only on the portion of an incident that involved the use of force and does not utilize a decision-point analysis of the entire chain of events. As such, there seems a reluctance to review, with a critical eye, observations that could be alarming but may not be directly related to the use of force.

While the Monitoring Team’s high-level findings and observations indicate that the Division is operationally in compliance, the Monitoring Team finds that holding meetings quarterly precludes a timely review (most cases are reviewed 4-6 months after the use of force). Increasing the frequency of FRB meetings from the current quarterly cadence could address the need for the Division to handle matters expeditiously.

4. Force Investigation Team Assessment

Using the approved methodology and review instrument, the Monitoring Team is currently assessing all Force Investigation Team (“FIT”) investigations to ensure compliance with CDP policy and the requirements of the Consent Decree. As discussed with the parties, we endeavor to have a draft report of the process by April 1.

5. CDP Data Collection

The Monitoring Team anticipated receiving the Division’s 2022 Use of Force Report in mid-February per the Monitoring Plan. The Department of Justice and the Monitoring Team were grateful to receive the opportunity to comment on the 2021 report even though there was no requirement for the City to share the draft. Both the DOJ and the Monitoring Team raised concerns with how the data were presented and interpreted in tables and figures, and we expect future publications to include analyses that contextualize and explain the data more fully.

The Data Team shares updates on use of force data at every CDP Stat meeting, which occur about monthly. Based on data provided during CDP Stat presentations by the Division, most recently in January, use of force numbers are up slightly, year to date, relative to 2021 but significantly down from 2018 and 2019 and down again from 2020. In particular, events involving firearm points are up measurably, year to date, over 2021 though 2021 appears to be an historical outlier on that measure. The 2022 number of firearm points is close to the 2020 number. We will continue to track these trends during our regular communications with CDP, and look forward to the Division’s own assessments of the patterns in these data, and analysis of possible drivers and responses.

VII. 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.”	OPERATIONAL 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. “The City 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. “The City 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

a. 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.¹³

b. Where the Division Stands

The Division continues to make progress in moving towards compliance in the area of Crisis Intervention and responses related to behavioral health. The Tenth and Eleventh Semiannual Report noted many of the tasks set forth in the Consent Decree have reached operational or general compliance and those assessments remain unchanged. The Monitoring Team reviewed the basic recruit training on Crisis Intervention that was developed by the State of Ohio Peace Officer Training Commission (“OPOTC”). Additionally, the Division has completed five annual in-service trainings for all officers and has completed this year’s in-service training focusing on issues related to homelessness. The Division provided initial behavioral health training for call-takers,

¹³ Dkt. 413-1 at ¶ 131.

dispatchers, and supervisors and has continued to train new dispatchers in the court-approved behavioral curriculum. As in the past, the Division is working with the Alcohol, Drug and Mental Health Services Board (“ADAMHS Board”) to increase the number of specialized Crisis Intervention Team Officers (“CIT Officers”) by completing three CIT Officer 40 Hour Trainings per year. The Division completed a revised suite of Behavioral Crisis Intervention policies that built on the original policy approved by the court. Finally, the Division is working to take advantage of new information systems processes that have provided improved data collection and are allowing for a detailed look at issues that have an important impact on behavioral crisis events.

i. The Mental Health Response Advisory Committee and the MHRAC Subcommittees: Training, Community Engagement, Diversion and Quality Improvement

As discussed in the last semiannual report, the Monitoring Team views the work of the Mental Health Response Advisory Committee (MHRAC) as a key factor in the Division’s efforts to meet the tasks set forth in the Consent Decree. Indeed, there are specific requirements in the Consent Decree to “help identify problems and develop solutions designed to improve outcomes for individuals in crisis.”¹⁴ Since the start of the Consent Decree the ADAMHS Board has provided important leadership and support for MHRAC and recently stepped down from the administrative leadership while intending to remain active in the committee. The City quickly developed a plan and named its Director of Public Health, Dr. David Margolius, to lead the administrative leadership and structure for MHRAC and the Cleveland Division of Police. Already he is reviewing the membership, ensuring participation by community members with personal or professional lived experience, and ensuring that the professional members represent those required by the Consent Decree. The City’s role in this space bodes well for the continued engagement of city personnel and leadership in this important area of work.

MHRAC’s leadership has been clear that additional work is needed to transition MHRAC to a group that will maintain its contribution to the Division and City of Cleveland beyond the life of the Consent Decree. The expanded involvement of the Department of Public Health will provide a unique opportunity to address the broad range of issues that impact on behavioral health related crisis events.

MHRAC’s Training Subcommittee was instrumental in a number of training initiatives including the new in-service curriculum on homelessness, the OPOTC Basic Recruit curriculum, and the revised curriculum for call-takers, dispatchers, and supervisors. It is notable, and the Division made a special effort to recognize, that the community-based instructors from both the last in-service training on Autism and the current in-service training on homelessness are volunteers. The

¹⁴ Consent Decree ¶132

CIT Officer Training work involves both the MHRAC Training Subcommittee and the ADAMHS Board Training Division. Monitors have observed CIT Officers on the street during interactions with community members and have seen the de-escalation training work have an impact. The low rate of arrest during behavioral crisis events supports that observation.

MHRAC's Community Engagement Subcommittee has worked to promote the CIT accomplishments and the role of MHRAC with the local media and important institutions including the City Club of Cleveland. The forum at the City Club entitled "Answering the Call for Crisis Care Change," was rebroadcast on public radio several times.¹⁵

MHRAC's Quality Improvement Subcommittee (QI) is taking on a critical role for the Consent Decree including tracking calls and incidents involving individuals in crisis to identify training needs and develop case studies and teaching scenarios. The CDP data reports have made use of CDP's and MHRAC's early work in developing a comprehensive CIT Data Collection Form. The data presented in MHRAC's annual reports (the latest received after this reporting period) continue to show that some key aspects of the new policy are showing results.¹⁶ The arrest rate has remained very low (<2%), and the low rate of both active resistance and individuals having a weapon is worthy of note. These continue to strongly suggest that the stigma about individuals with behavioral health issues being violent is an inaccurate stereotype. There remains evidence garnered from reviews of the CDP body-worn camera in use of force reviews, handcuffing reviews, and Force Review Board observations that CIT-trained members are not called in all cases where appropriate. Discussions emanating from the QI Committee inspired communication with relevant social service agencies such as the YWCA Normal Herr Women's Shelter, CDP, the ADAMHS Board, and MHRAC in order to problem-solve. CDP's and MHRAC's role in providing a problem-solving forum is important.

CDP's enhanced data collection has allowed the QI Subcommittee to achieve a level of data specificity that enables them to identify and examine specific issues and patterns of potentially problematic performance indicators at an early stage. The QI Team questioned the disparity in an identified subset of 2021 crisis intervention cases in which Black juvenile females were handcuffed. CDP representatives at the meeting noted the potential importance of this data and indicated that an examination of the cases could present an opportunity to improve the Division's crisis intervention work. At the request of the QI committee, the MT conducted a preliminary review of some of these CIT related data. The MT recommends that MHRAC conduct a comprehensive and detailed follow-up analyses in accordance with its role as described in ¶135-136 of the Consent Decree and provide that, and any additional reports, to the CPC as required by the Decree.

¹⁵ MHRAC 2022 Annual Report

¹⁶ *Id.*

c. Progress and Tasks that Remain

i. Continued Selection and Training of Specialized CIT Officers

A Specialized CIT Officer must demonstrate an advanced commitment to leadership during a crisis event and seek training. They take on this additional responsibility typically without extra financial compensation. Despite these challenges, CDP appears to have developed a solid stream of qualified applicants. Specialized CIT Officers represent the capstone of the Division's efforts to set in place a successful crisis intervention program. The number of trained Specialized CIT Officers is now exceeding 100 officers, so the Division is approaching a point where a critical mass of such officers will have the opportunity to make a meaningful difference in the Division's crisis intervention strategy.

CDP is nearing the implementation of Specialized CIT Officers as envisioned in the Crisis Response Policy. This is a critical junction for compliance in the Consent Decree which will hopefully continue to improve the CDP response to behavioral crisis events. The Monitoring Team has proposed an assessment of CIT and the Division's compliance with the Consent Decree. We remain in discussion with the City on its priorities for assessments in 2023. The MT stands at the ready should the City determine and resources permit a CIT assessment in 2023.

ii. The Future of the Mental Health Response Advisory Committee

As mentioned in the last two semiannual reports, the opening paragraph of the Crisis Intervention 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."¹⁷ However, many of the behavioral health issues facing CDP involve complex solutions that cross over a range of issues such as poverty, housing, access to healthcare, and available resources - particularly for families and adolescents. Given the complexity of behavioral health issues, the question of how to make change sustainable remains a challenging one.

The initial data in areas such as the officer's response to de-escalation training, the diversion of individuals in a behavioral crisis from arrest to healthcare and the appropriate use of emergency health services is encouraging. Officers are demonstrating de-escalation, the arrest rates of those in a behavioral crisis are extremely low and the use of EMS on those calls has increased. At the same time, there is an unmistakable need for the mental health system in Cleveland to provide and advocate for a greater range of options so that the mental health needs of individuals, including youth, are appropriately met.

¹⁷ Dkt. 413-1 at ¶ 131

The Monitoring Team recognizes the Division’s current commitment to the continued use of de-escalation, decreased arrest rates, and the sustained use of EMS. Sustainable change is more likely to come from decreasing the reliance on a police response and increasing the use of community resources. The City has shown an interest in changing how behavioral health calls can be addressed including re-examining the relationship between 911 and the new behavioral health call line known as 988 and expanding the role of EMS in responding to behavioral health emergencies. With the expanded role of the Cleveland Department of Public Health in MHRAC, the opportunity to treat a behavioral crisis as a public health issue seems logical. The focus could become not only improving the police response to behavioral crisis events but also leveraging the MHRAC partners to rely on early intervention and prevention efforts to decrease reliance on the police.

The expanded CDP information system provides a data-driven method for such effective problem solving. When merged with the ability to examine if individuals are receiving support once the crisis is resolved and what services are missing for those in crisis, the community may find that systems improvements result in addressing issues much earlier in the crisis cycle. As discussed in the Tenth Monitoring Team Semiannual Report,¹⁸ given the partnership between the community, local law enforcement, educational institutions, and the local behavioral health authority, MHRAC positioned to suggest ongoing improvements in responding to behavioral crisis events and improving outcomes for stakeholders.

¹⁸ Tenth Semiannual Report at 18.

VIII. 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

a. 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.”¹⁹ 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.²⁰

b. Where the Division Stands

As noted in the two preceding semiannual reports, CDP has revised and implemented Search and Seizure policies and training and in March 2021 incorporated the use of electronic “Stop Forms” to collect data on all non-consensual stops initiated by officers or calls for service. CDP conducted an initial analysis of six-months of Stop Form data collected between July and December of 2021, which was noted in the Eleventh Semiannual Report. The Monitoring Team provided CDP with substantive written feedback on the analysis, which the Parties met to discuss in September 2022. CDP was responsive, incorporating some of the suggested changes into the 2021 report, while other fundamental recommendations were meant to inform subsequent reports. Of particular note were the recommendations to include more comprehensive use of demographic benchmarking data to provide greater context and make the findings more meaningful not only to the Division but also to the community. Analysis that further examines any observed disparities is critically important to understanding officer and supervisory behavior on the streets of the City.

Since the last reporting period, the Division collected approximately 16,461 Stop Forms covering the 12-month period from January 1 to December 31, 2022. A preliminary analysis of the Search & Seizure data was recently presented by the CDP Data Analysis Team at the CDP Stat meeting held on January 18, 2023. A summary of the data included a six-month comparative analysis of Stop Forms collected between the months of July through December of 2021 and 2022. A slight shift in the types of stops was observed year-to-year, with 93.05% of all stops being traffic stops in 2022 in comparison to 89.9% in 2021 and a corresponding 6.95% were investigatory stops in 2022 and 10.1% in 2021. Overall, 93.95% of the 2022 Stop Forms were for traffic stops and 6.05% were for investigatory stops.

The Monitoring Team awaits a more in-depth analysis of the 2022 Stop Forms data that includes a discussion of hit rates and disparities across all events. Further, we look forward to the establishment of a Search and Seizure Working Group as noted in the 2021 Search & Seizures Report,²¹ to assist the CDP Data Team in identifying “significant compliance trends...and effective and efficient practices for increasing public safety and community confidence,” and ideally address the remaining recommendations in the 2021 report.

¹⁹ Dkt. 413-1

²⁰ Dkt. 413-1 ¶ 161; Dkt. 97 at 42.

²¹ 2021 Search & Seizure Report, pg. 5, Cleveland Division of Police.

In addition, it was anticipated that the Monitoring Team’s pilot Search & Seizure Assessment (which it will use to assess CDP’s adherence to as well as the impact of the revised Search and Seizure policies and procedures) would be conducted during this reporting period and included in this semiannual report. However, the Parties’ review of the methodology is still ongoing. Once agreed upon, the Monitoring Team will begin the Search & Seizure Assessment, which will be reported on in the next semiannual report.

The methods used in the assessment will include an audit of a representative sample of stops to determine whether officers articulated and, in fact, had sufficient legal grounds for any non-consensual stop, detention, search, or arrest. And if a search was conducted, the assessment will determine whether officers requested and received consent for the search and also informed subjects of their right to refuse or rescind consent at any time. In addition, the audit will assess whether supervisors were immediately notified of all custodial arrests made solely for obstructing official business, resisting arrests, or assault on an officer, and if the supervisor reported to the scene.

As for the status of compliance relative to this semiannual report, while the Division is making important progress as reflected in the revision and implementation of Search and Seizure policies, training, procedures, and the preliminary analysis of the 2021 and 2022 Stop Forms data, the table associated with paragraphs 160 – 175 of the Consent Decree remains unchanged from the Eleventh Semiannual Report, indicating “Partial Compliance” in all except paragraph 173, which had met “Operational Compliance.” This entire section of the Consent Decree will be the focus of the forthcoming assessment. We acknowledge the policies are in place and our assessment will look at all aspects of implementation of and adherence to the policies.

The 2023-2025 Training Plan includes the annual search and seizure in-service training in accordance with ¶174 and ¶175 of the Consent Decree.

IX. 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 continues to assess the City’s overall compliance with Paragraph 176. In this reporting period, the Monitoring Team completed an assessment of disciplinary decisions made by the Chief of Police and found the Division generally compliant in that area. The Monitoring Team is also currently working on an assessment of investigations conducted by the Force Investigation Team, which should provide some insight into the Division’s ability to effectively investigate and review serious uses of force by officers in its employ. Prior assessments conducted by the Monitoring Team of FIT investigations have identified substantive issues and concerns that need to be addressed by the Division prior to the Monitoring Team being able to find the City in compliance with Paragraph 176, as well as other Consent Decree paragraphs relating to police uses of deadly force.²²

In addition, the Monitoring Team continues to closely monitor the City’s current ability to come into full compliance with other portions of the Consent Decree that require the Division to investigate and review allegations of misconduct (including police-involved critical incidents). Complying with the “Accountability” sections of the Consent Decree is integral to the Division’s long-term success in providing the community with constitutional and effective policing. To that end, the Monitoring Team has continued to monitor and offer technical assistance to the City in this area. Specifically, during the last reporting period, the Monitoring Team brought to the City’s attention the following accountability-related issues:

The Office of Professional Standards (OPS) and Police Review Board (PRB):

- 1) The deficient process relating to the search and hiring of a new OPS Administrator;
- 2) The on-going issue of untimely OPS investigations. As of the beginning of January 2023, the OPS continues to be unable to timely investigate its cases with a full 23.5% of its investigative caseload (n=40) reaching their one-year anniversary prior to

²² See Eleventh Semiannual Report, p. 19, for a fuller explanation of the Monitoring Team’s concerns in this regard. FIT investigations also implicate additional paragraphs of the Consent Decree, to include paragraphs 45 through 48, 116 118 and 122. All these paragraphs remain at “Partial Compliance” based on the aforementioned concerns regarding FIT investigations.

- completion of the investigation and submission to the PRB for adjudication;²³
- 3) OPS continued struggle with how to handle community complaints regarding CDP critical incidents; their investigations are untimely and the OPS and CDP have been unable to coordinate their efforts;
 - 4) The Police Review Board, as of the beginning of December 2022, had an extraordinary backlog of 70 cases, negatively impacting on the ability of the CDP to impose discipline in a timely manner;²⁴
 - 5) Our recent assessment of discipline imposed by the Chief of Police showed the Chief departing from PRB recommendations in almost 58% of the cases (n=11); these disagreements have resulted in the less-than-timely final adjudication of cases and signals a disconnect between the PRB and the Chief of Police;
 - 6) The City has failed to timely implement policy and practice changes for the OPS and PRB, consistent with the expectations of Charter Amendment Section 115;

The Cleveland Division of Police:

- 7) Despite repeated inquiries by the Monitoring Team, the City has failed to appropriately handle at least three internal complaints making prima facie allegations of bias, harassment and/or retaliation; two complaints have been allowed to languish in the Human Resources Division for well over two years and one complaint appears to have been ignored by CPD command staff;
- 8) The Division's deficient investigation and review of an officer-involved shooting incident where an acting Field Training Officer was mistakenly shot by her trainee. The Division conducted a high-quality internal review that made several recommendations to improve the quality of CDP accountability mechanisms. The Monitoring Team has also requested the City provide evidence of how its policy, practices, and trainings move the City toward compliance in this area;
- 9) The City failed to explain why it decided to not appeal an arbitration that increased the City's burden of proof to terminate an officer for untruthfulness. It went on to reinstate the previously terminated officer and assigned him back to patrol, without explanation;
- 10) The Division has never created or implemented a policy regarding the assignments of officers who have been found to have committed integrity-related actions that could impact their credibility in court;
- 11) The Internal Affairs Unit and the Case Preparation Unit, both essential to ensuring CDP accountability, remain understaffed;
- 12) Although the City laudably decided to move the Inspector General position from being

²³ This conclusion is based on data provided by the OPS in a bi-weekly report, dated January 4, 2023. Readily apparent deficiencies from a simple comparison between earlier bi-weekly reports and the current ones strongly calls into question the reliability of this number, which may be greater than reported.

²⁴ This information was provided to the Monitoring Team by the OPS in a bi-weekly report, dated December 7, 2022. OPS reports for December 21, 2022 and January 4, 2023 did not include any updated information in this regard.

under the supervision of the Chief of Police to that of the Director of Public Safety, the City has failed to make any progress on the hiring of an Inspector General for more than two years.

1. 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-COMPLIANCE
178. “Internal Affairs will be headed by a qualified civilian” who “will report directly to the Chief of Police.	OPERATIONAL COMPLIANCE
179. Qualifications for IA investigators. ²⁵	PARTIAL COMPLIANCE
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.	PARTIAL COMPLIANCE
181. “[A]nnual training” for IA investigators “that is adequate in quality, quantity, type and scope”	PARTIAL COMPLIANCE²⁶
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 COMPLIANCE²⁷
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

²⁵ As of the end of the reporting period, the Monitoring Team was awaiting data from the City to determine whether current Internal Affairs staffing is compliant with the Consent Decree.

²⁶ As of the end of the reporting period, Internal Affairs training was scheduled for the first quarter of 2023. After receiving technical assistance from the DOJ and the Monitoring Team, the City has agreed that the training in question will not fulfill any requirements under the Consent Decree.

²⁷ The Monitoring Team will be unable to assess compliance with paragraphs 182 through 188 until a comprehensive evaluation of IA case investigations can be conducted.

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-COMPLIANCE²⁸
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

a. Background

To comply with the terms of the Consent Decree, CDP’s Internal Affairs (IA) unit must “conduct objective, comprehensive, and timely investigations of internal allegations of officer misconduct.” Ultimately, IA is the primary engine for the Division’s criminal and 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.

²⁸ During this reporting period, the Division reported that due to “technical discrepancies in the data extraction tool for the FRB,” a number of Level 3 and Level 2 uses of force, including one officer-involved shooting case, were not assigned for review by the Force Review Board. Hearings on those cases are anticipated to be completed during the next reporting period, although the investigations were completed in May and June 2022.

²⁹ As noted in our prior report, allegations have been made that Internal Affairs failed to appropriately investigate a specific allegation of retaliation. The Monitoring Team has requested that the City initiate an independent investigation into these allegations, which has still not been done. Until an independent investigation is conducted and findings adjudicated, the City will not be able to establish full compliance as it relates to this paragraph of the Consent Decree. Further, the City has taken no action to investigate the retaliation allegations nor explained why no such investigation will be conducted.

b. Where Internal Affairs Stands Now

i. Staffing

In order to be effective and in order to ensure timely investigations, the Internal Affairs unit must be adequately staffed. The Internal Affairs Superintendent has reported, however, that over the course of 2022, due to transfers and promotions, the Internal Affairs contingent of investigators has been reduced from nine to seven (a 22% decrease in available staff). At the same time, the total number of IA cases has increased from 126 to 166; a 31% increase in caseload. It has also been reported that 80% of the staff of the Unit were newly appointed in 2022.

The Internal Affairs Superintendent indicated that IA Unit staffing remains a priority for his Unit and that he would continue his efforts to increase the number of investigators dependent upon resources and availability. This awareness is critical since the importance of the Internal Affairs Unit to Division accountability and Consent Decree compliance cannot be overstated. Until the Unit is fully staffed with capable and experienced investigators, it will be difficult for the Monitoring Team to assess sustainable compliance with the Consent Decree in this important area.³⁰

ii. Quality of Internal Affairs Investigations

As previously reported, the Monitoring Team completed a preliminary assessment of a sample of IA case investigations using a qualitative methodology. This sample was chosen by the former IA Superintendent. Overall, the Monitoring Team identified substantive issues of concern in three out of eight of the reviewed cases. We provided feedback to IA that detailed the nature of those substantive concerns including 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. The Monitoring Team is currently waiting for the new IA Superintendent to advise that IA is ready for a more comprehensive assessment of its case investigations.

iii. Quality of Fatal Use of Force Investigations

As previously reported in 2021, the Monitoring Team conducted a review of two fatal use of force investigations conducted by the Force Investigations Team (FIT), of incidents which took place in 2019 and 2020. The Monitoring Team classified both FIT administrative investigations as “poor”

³⁰ As a further example of the importance of ensuring a fully staffed Internal Affairs Unit, the City recently lost an arbitration wherein an officer was terminated by the Director of Public Safety, in part, for being untruthful in his Internal Affairs interview. After finding that an untimely investigation likely negatively impacted the officer’s ability to recollect (the IA interview did not take place until two years after the incident), the arbitrator specifically noted that “[n]o witness for either party had any excuse or justification for the timeline in this matter.”

and not in compliance with the Consent Decree. The Monitoring Team is in the process of conducting a thorough review of all FIT incidents involving CDP officers that occurred between July 2020 and June 2022. We anticipate being able to publish an assessment report by the end of the next reporting period.

In addition, as previously reported in our Eleventh Semiannual Report,³¹ the Monitoring Team reviewed a use of force incident that resulted in a CDP officer being shot and injured by a fellow officer. This incident was not properly documented, investigated, or disclosed to the Monitoring Team in a manner consistent with CDP policy or the requirements of the Consent Decree. To its credit, the City assigned its new Internal Affairs Superintendent to review the investigation and administrative review of that incident and the IA Superintendent subsequently identified case-specific and systemic failures in the process that led to the shooting being erroneously found by the FRB to be “in policy” following a similar recommendation by IA leadership. The Monitoring Team reviewed the IA Superintendent’s report and thoughtful recommendations and will monitor the Division’s anticipated implementation of those recommendations. The Monitoring Team also identified additional areas where further inquiry or improvement was required. As of the end of the reporting period, however, the City did not provide any evidence to the Monitoring Team that it adopted either set of recommendations.

iv. Internal Harassment and Bias Complaints

In our Eleventh Semiannual Report, we noted that the Monitoring Team had been tracking two internal cases alleging harassment and bias which were referred by the Division to the City’s Human Resources Department in 2021.³² Even though the Monitoring Team has repeatedly inquired as to the status of these cases, as of the end of the reporting period, neither of these cases had been acted upon by the HR Department and, inexplicably, the City does not appear to have taken any substantive action to resolve these cases.

2. Office of Professional Standards (“OPS”)

Paragraph	Status of Compliance
193. OPS investigates “all complaints of misconduct it receives” and will confer with IA “to develop policies and procedures for handling matters over which they both have investigative jurisdiction.”	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	NON-

³¹ Eleventh Semiannual Report, at p. 19.

³² Eleventh Semiannual Report, pp. 37-38.

OPS’s equipment and staffing needs”; and “develop and implement performance standards for OPS.”	COMPLIANCE³³
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
200. Development and implementation of OPS operations manual “made available to the public” that covers specific, expressly-listed topics.	PARTIAL COMPLIANCE³⁴
201. Development and implementation of “a program to promote awareness through the Cleveland community about the process for filing complaints with OPS.”	NON-COMPLIANCE³⁵
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

³³ In our Eleventh Semiannual Report we reclassified paragraph 194 compliance from “Operational Compliance” to “Non-Compliance.” This was due to the resignation of the OPS Administrator in November 2021, and the City’s failure to identify a qualified candidate to permanently replace him by the end of the reporting period. Although the City has now identified a new OPS Administrator, the process that was used to hire that person was deficient and the new Administrator is not anticipated to take office until May, 2023. As such, the City remains non-compliant during this reporting period.

³⁴ As of the end of the reporting period, the City had not yet amended the OPS and PRB manuals to ensure compliance with Section 115, which was passed in November 2021. As such, the Monitoring Team has changed the compliance level from “Operational Compliance” to “Partial Compliance.”

³⁵ In May 2022, the OPS provided the Monitoring Team with a draft of an OPS “Outreach and Awareness Plan.” The Monitoring Team provided feedback to the OPS as the draft plan was not consistent with the expectations of the Consent Decree. As of the end of this reporting period, the OPS has failed to submit an updated version of the plan.

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.”	NON COMPLIANCE³⁶
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
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 COMPLIANCE³⁷

³⁶ In our last report, we noted that the OPS had stopped providing the Monitoring Team and the DOJ with Bi-weekly reports that provide data regarding timeliness and handling of OPS cases. Challenges in this regard have continued and reporting has deteriorated further during this reporting period.

³⁷ Although OPS has improved in this area and now includes PRB policy recommendations in its Bi-Weekly reports to the Monitoring Team and the DOJ, OPS needs to follow up on those recommendations and report on the Division’s response to those recommendations to move up to “Operational Compliance” in this area.

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. “The City 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 COMPLIANCE³⁸
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 any complaint of police misconduct when CDP investigation has already taken place relating to the incident.	PARTIAL COMPLIANCE³⁹
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 COMPLIANCE⁴⁰
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 COMPLIANCE⁴¹
224. OPS findings categories.	OPERATIONAL COMPLIANCE
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

³⁸ On February 24, 2022, the Monitoring Team published an assessment of the quality and timeliness of OPS investigations. Although we identified “dramatic improvements in the quality of the work of the OPS,” we identified multiple areas where investigations needed to improve in order to achieve full compliance with the Consent Decree.

³⁹ See, paragraph 218 comment.

⁴⁰ Compliance with this paragraph will be assessed at the time of a future assessment of OPS case investigations.

⁴¹ See, paragraph 218 comment.

226. “In addition to determining whether an officer committed the conduct alleged in the complaint and whether it violated policy, OPS may consider whether: (a) the police action was in compliance with training and legal standards; (b) the incident indicates a need for additional training, counseling, or other corrective measures; and (c) the incident suggests that CDP should revise its policies, strategies, tactics, or training. OPS may include recommendations on these topics in its investigation.”	PARTIAL COMPLIANCE⁴²
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.”	PARTIAL COMPLIANCE⁴³
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

a. 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 community complaints of employee misconduct.⁴⁴

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.⁴⁵

The structure of police oversight in Cleveland has changed significantly since the Consent Decree became effective more than seven years ago. In November 2021, the voters passed an Initiative which empowered the OPS, PRB and the Community Police Commission to assert significantly more authority over police discipline, among other things. In order to implement those changes, amendments need to be made to the OPS and PRB manuals. Although the City has submitted

⁴² See, paragraph 218 comment.

⁴³ Over the course of the last reporting period, the backlog of OPS cases, pending a hearing before the PRB has increased substantially. In the OPS biweekly report, dated September 14, 2022, there were 44 completed OPS investigations pending PRB hearings. By December 7, 2022, that number increased to 70. As such, the PRB is no longer hearing a critical mass of OPS cases by the second regularly scheduled PRB meeting following the completion of OPS investigations, as required by OPS-PRB manuals. We have, therefore, changed the compliance level of this paragraph from “Operational Compliance” to “Partial Compliance.”

⁴⁴ Charter of the City of Cleveland, § 115-4.

⁴⁵ Dkt. 413-1 at ¶¶ 193-229.

proposed changes in the OPS and PRB manuals to the Monitoring Team and the DOJ, final updates based on feedback from the Monitoring Team and the DOJ are outstanding.

In one particular case, the Monitoring Team noted that even though an incident took place in December 2021 which involved conduct where the new Charter provisions appear, on their face, to call for presumptive termination, the City believes that the Charter provisions will not be enforceable until the updated OPS and PRB policies are actually adopted by the court. Given this position on the part of the City, it would appear that the policy manual changes that are pending should be given the highest possible priority.

b. Where OPS Stands Now

The OPS has operated over the past year without a permanent Administrator or a permanent Senior Investigator.⁴⁶ In addition, the third member of the OPS executive staff, the position of General Manager, has remained vacant for over two years. Although the City has put in place three separate Interim Administrators since the November 2021 resignation of the last permanent Administrator, the choice of the new Administrator has been fraught with difficulties.

As stated in our most recent assessment of the OPS, dated February 24, 2022, “[t]o achieve compliance with the Consent Decree, OPS investigations must be both competent (e.g., thorough and fair) and timely. Unless and until the OPS is able to achieve both of these objectives, full and effective compliance with the Consent Decree will not be reached.” Unfortunately, the OPS continues to struggle with the timeliness of its complaints, and the Monitoring Team has identified a number of continuing issues and concerns in our ongoing monitoring of OPS case handling.

With respect to timeliness, 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. By July 2020, we reported that the City had successfully eliminated the backlog after hiring an independent contractor to complete the investigations relating to the oldest OPS cases. Unfortunately, since that time, a significant backlog of cases has, once again, developed and is persisting. Although the number of open cases peaked at 237 as of October 2021, as of the end of this reporting period, the OPS reported 170 open cases and 40 case investigations that had been open for more than one year. As we have repeatedly informed the parties, unless and until the OPS can ensure the timely investigation of its cases, the City will not be able to come into compliance with paragraph 176 of the Consent Decree.

Further, the OPS recently submitted a case for adjudication by the PRB which involved an officer-involved shooting that occurred on April 9, 2020. It is critical to note that the Division completed

⁴⁶ By the end of the reporting period, the city reported having hired a new OPS Administrator who will not be available, however, to take office until May 2023. As such, the OPS will continue to operate with an interim Administrator and an interim Supervising Investigator for, at least, another five months.

its review of the case with a Force Review Board meeting on August 20, 2021. OPS did not complete its investigation until more than two-and-a-half years after the fatal shooting on October 26, 2022. The Police Review Board subsequently made its recommended findings on December 13, 2022. This case has been part of a pattern of the OPS/PRB being unable to timely adjudicate community complaints relating to critical incidents that the Monitoring Team has observed for the past several reporting periods. OPS's inability to timely investigate these significant cases remains a hurdle in the City's path towards compliance.

c. Progress and Tasks that Remain

i. OPS Staff Performance Reviews

As described in the Monitoring Team's last four semiannual reports, the OPS must still institute a robust employee performance review process to ensure employee adherence to Court-approved OPS policies and best practices in investigations. The City submitted a revised draft performance evaluation form to the Monitoring Team and the Department of Justice for review and comment just after the reporting period. It is the expectation of the Monitoring Team that OPS will begin to conduct formal performance evaluations within the next two reporting periods.

ii. Community Awareness

Paragraph 201 of the Consent Decree required that "within 365 days of the Effective Date [of the Consent Decree] "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."⁴⁷

The Consent Decree anticipated this plan to be in place within a one-year after the June 12, 2015 filing of the decree with Court. However, OPS has never been able to complete this fundamental and basic task. As previously reported, the OPS eventually submitted a draft plan to the Monitoring Team and the Department of Justice for comment in May 2022. Although we provided comments back to the OPS in June 2022, we have not seen any updated drafts and have received no further information on the status of this project since that time.

iii. Hiring of OPS Administrator

As previously noted, the former OPS Administrator resigned his position to take a police oversight position out-of-state in December 2021. In our Eleventh Semiannual Report, we reported that, the City was still in the process of collecting applications for that position. We noted that there

⁴⁷ Dkt. 413-1 at ¶ 201.

appeared to be little to no effort on the part of the City to post the recruitment nationally, and expressed our concern as to the lack of any apparent recruitment strategy for the position. We further reported that “[w]ithout the presence of a qualified OPS Administrator, the OPS will not be able to come into compliance with respect to those Consent Decree provisions that are still outstanding.”⁴⁸

Since that time, we observed that the process used by the Police Review Board (PRB) to choose the new Administrator lacked planning, preparation, and execution of a decision-making process that demonstrated sound Board practices. After having declined to include any public-facing component in the selection process,⁴⁹ the PRB (which was empowered to choose the OPS Administrator by the new City Charter), chose to confidentially interview four finalists over a period of two different weekend days. Although the Board requested that the interviews be recorded so that members who were unable to attend any specific interviews could review all four interviews prior to selecting a candidate, that recording feature did not work. As a result, only four out of nine PRB members actually saw all four interviews. Only 6 out of 9 members of the PRB attended the Executive Session to choose the successful applicant and only 5 of those 6 members voted, as one member did not attend any of the interviews. The successful applicant was ultimately chosen by only 3 out of 9 PRB members, with only two PRB members who voted in favor of the final choice having actually seen the interview of the finalist.

Given these circumstances, the Monitoring Team has concluded that the City remains out-of-compliance with paragraph 194 which requires that “[t]he 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.”⁵⁰ (emphasis added)

iv. OPS Challenges Moving Forward

In our Eleventh Semiannual Report, we noted the significant challenges facing the OPS due to vacancies in all three executive staff positions, as well as recent retirements and resignations of several experienced investigators.

⁴⁸ Eleventh Semiannual Report at p. 43.

⁴⁹ The City’s Director of Public Safety was in charge of the selection of the last permanent OPS Administrator and accepted Monitoring Team technical assistance that encouraged a robust selection process, that included the three finalists appearing in a public session of the Community Police Commission and the Public Safety Director obtaining feedback on his ultimate selection from a wide diversity of community and police stakeholders.

⁵⁰ The Monitoring Team is not making any finding, at this time, relating to the actual qualifications of the chosen candidate for the OPS Administrator position. Instead, our “out of compliance” finding is based on the City’s failure to create or use a process that would ensure a qualified person would be chosen to lead the OPS.

The road ahead for OPS will be challenging. As previously noted, the new Administrator – who was hired in November 2022 but is not scheduled to start until May of 2023 – will need to learn best practices in community oversight while simultaneously re-establishing the program. The Monitoring Team remains ready to provide technical assistance as necessary, but the road ahead for the OPS appears challenging.

3. 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.	PARTIAL COMPLIANCE⁵¹
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 COMPLIANCE⁵²

⁵¹ This provision of Consent Decree compliance has been reduced from “General Compliance” to “Partial Compliance” based on the fact that there has been no PRB training since Administrator Smith left the OPS in December 2021.

⁵² The Monitoring Team remains concerned that our recent assessment of discipline imposed by the Chief of Police shows that the Chief agreed with all PRB findings and recommendations in only 42.1% (n=8) of the cases reviewed. In the majority of the cases 57.9% (n=11), the Chief disagreed with the PRB’s findings and recommendations with respect to one or more allegations. The PRB only appealed three departures from the Chief with two of their appeals being upheld by the Director of Public Safety. While it is certainly possible that reasonable minds could differ, the percentage of cases where OPS/PRB recommended discipline is imposed is low and leads to questions as to the reasonableness of PRB findings overall.

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

a. Background

Cleveland’s Civilian Police Review 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, 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.

b. 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, has depended on how well OPS has effectuated its duties in the investigatory stage.

Also, as previously reported, in our assessment of a subset of OPS cases sustained by the PRB, we noted “striking improvements in the PRB adjudication process for handling community-initiated complaints” and “excellent follow-up by the CPRB in those cases where the Chief has departed from their recommendations.” We also noted, however, that the OPS and PRB “must do more to adequately identify and systemically address training and policy issues (and areas where police services can be improved) outside of the traditional disciplinary process.”

Since that time, however, we have noted significant discrepancies between the recommendations made by the PRB and the decisions made by the Chief of Police when acting on those recommendations. In a recent assessment of discipline imposed by the Chief of Police, we noted that the Chief departed from PRB recommendations in almost 58% of the cases (n=11). These disagreements not only negatively impacted on the timeliness of the final adjudication of cases, due to the need for the PRB to re-review each case and determine whether an appeal to the Public Safety Director is warranted, but also impact on the credibility of PRB recommendations as a whole. In fact, of the eleven cases reviewed where the Chief departed from a PRB recommendation, the Chief’s departure stood in 81.8% of the cases (n=11).

Further, the Monitoring Team has noted that PRB member explanations of the rationale for their votes are not always robust. In a number of cases, motions have been made and votes have been taken and the extent to which a vote is evidence-based remains unexplained.

It appears to the Monitoring Team that the PRB is in need of support to assist them in ensuring reasonable decision-making that is in accord with law and policy. This will become particularly important when the PRB becomes the final decision-maker, as per the new City Charter, with the CPC serving as the appellate body for PRB decisions on discipline.

c. PRB Findings Letters

In 2017, the Monitoring Team reported that the OPS appeared to lack the ability to forward cases sustained by the Police Review Board to the CDP for adjudication. This is an essential part of the community complaint handling process; where the PRB believes an officer has committed misconduct, no action can be taken by the Division until the OPS provides the Chief with notice of that conclusion and untimely findings letters directly result in the untimely imposition of discipline.

As a result of Monitoring Team concerns in this area, the City and the OPS Administration agreed that all findings letters would be forwarded to the Chief’s Office “within fourteen (14) calendar days of the PRB issuing a finding.”⁵³ As of the end of 2022, however, the OPS reported seven cases, decided by the PRB at its October meeting where findings letters had not yet been prepared. For one additional case heard by the PRB in October, it took more than ten weeks for the OPS to send the Findings letter to the Division. Unless and until the OPS is able to timely refer cases with “sustained” recommendations by the PRB to the Division, it will be impossible for the OPS to come into full compliance with the Consent Decree.

4. 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

⁵³ Dkt. 150, filed 8/30/17.

	COMPLIANCE⁵⁴
242. Disciplinary recommendations by PRB to proceed through the City’s disciplinary process. Written justification by Chief or Director of their disagreement with PRB’s recommendations.	OPERATIONAL COMPLIANCE
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. “The City 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. “[T]he City 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
247. “All disciplinary decisions will be documented in writing.”	GENERAL COMPLIANCE
248. “[T]he City will provide its disciplinary matrix to the PRB, 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

a. 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.”⁵⁵

b. Where the Division Stands

In our most recent discipline assessment, we found that for cases where the Chief of Police imposed discipline, the Division appeared to be generally in compliance with the Consent Decree, even though we continue to note unreasonable delays in the imposition of discipline, in particular

⁵⁴ During this reporting period, the Division submitted a case for review which purported to establish compliance with paragraph 241 of the Consent Decree. The Monitoring Team reviewed the case and informed the Division that they will need to update policies to reflect Consent Decree expectations prior to being found in Operational Compliance with this paragraph.

⁵⁵ Dkt. 277.

with respect to OPS cases. We will continue to work with the Division to create realistic timeliness goals for the handling of investigations, the adjudication of cases and the imposition of discipline.

On a positive note, over the course of the reporting period, the Division made great strides in updating its Discipline Matrix to make it more robust overall and to bring the Division into compliance with the new provisions of the City Charter, as required by the passage of Issue 24. The Monitoring Team anticipates that final work will be completed on this project by early 2023 and it should be able to be submitted for court approval shortly thereafter.

The Monitoring Team has completed an assessment of the discipline imposed by the Chief of Police from March 2021 through March 2022. Although the Monitoring Team found the Chief's decision-making to be generally "reasonable and consistent with the intent of the Division's most recently updated Disciplinary Matrix," we have expressed concerns with respect to a number of cases that were not appropriately handled. In addition, we have identified a number of cases where the Director of Public Safety declined to terminate officers who engaged in integrity-related misconduct that will require further review. As such, Paragraph 245 remains classified as "Partially Compliant."

i. The Case Preparation Unit

In our last report we noted reductions in staffing at the Case Preparation Unit which is used by the Chief of Police to manage and monitor all cases requiring adjudication, to include appeals and union grievances. We noted that "[a]ny cuts to the staffing of this unit are particularly problematic, given increased demands that will be made when the Division has to update its processes to comply with new provisions of Charter Section 115. Section 115 promises significant changes in how police discipline is adjudicated in the City of Cleveland and appropriate resourcing will be required to ensure those changes can be implemented in a manner that will support Constitutional policing in Cleveland." As of the end of this reporting period, the Case Preparation Unit remained understaffed, ever since its Sergeant was reassigned to City Hall. Once again, we emphasize the importance of ensuring that this important unit be fully staffed in order for the CDP to move forward and ensure the timely adjudication of investigations.

ii. Arbitration Decision of Concern

On July 14, 2022, the Monitoring Team formally advised the City of our concerns regarding an arbitration decision that overturned the Safety Director's decision to fire a police officer who was terminated, in part, based on a finding of dishonesty. The current disciplinary matrix, approved by the Court, calls for presumptive termination if an officer is sustained for making a "false statement, untruthfulness or dishonesty." Referring to this new presumptive termination category, the arbitrator found (in a June 21, 2022 published opinion), that the Division's decision to

presumptively terminate an officer for dishonesty required the Division to prove any such violation beyond a reasonable doubt. The Monitoring Team is unaware of any other arbitration decision that applies this high standard of proof that is generally only used in criminal law.

The Monitoring Team recommended that the City appeal the arbitration decision to the reviewing court, as it appeared to be clearly contrary to public policy and best practices in police discipline.

In our July 14, 2022 memorandum, we made the following representations to the City: “We believe that the City must appeal this decision to the courts if the City ever hopes to comply with the Consent Decree's requirements that the City engage in Constitutional policing by ensuring accountability on the part of its officers. Unless the City is willing to appeal incorrect application of law or fact on the part of an arbitrator, the City cannot come into compliance. A disciplinary case is not ultimately over even if the Director of Public Safety makes a decision that would otherwise support compliance; specifically if that decision is overturned without any objection on the part of the City.”

On August 1, 2022, the City subsequently filed a motion in court, asserting that the Monitor was “overstepping his authority” and “attempting to exercise control over the Director of Law’s legal authority and delegated responsibilities.” The City represented that “the City does not agree with the Arbitrator’s ruling, but, at this time, does not believe there is a legal basis for reversal.”⁵⁶

However, the City did promise to further review the matter and consider whether the arbitrator’s interpretation of the Collective Bargaining Agreement violated public policy and was therefore unenforceable.

Since the time of the City’s filing of its response to the Monitoring Team’s memo, the City provided no further information to the Monitoring Team. Instead, the Monitoring Team became aware that the involved officer had been reinstated by the Division via a Divisional Memo. Further, the officer was assigned back out to patrol, regardless of the fact that the Public Safety Director found him to be dishonest.

It is incomprehensible to the Monitoring Team that the City was unwilling to pursue a case against an arbitration decision that was clearly against public policy and best practices in policing. It was even more disconcerting to see the City not only reinstate the officer but assign him back to patrol.

iii. Continuing Concerns Regarding Officers Sustained for Integrity-Related Violations.

⁵⁶ Dkt. 432. City of Cleveland’s Response to the “Notice Submitting Monitor’s Memorandum Regarding Arbitration Decision.

In a report, dated June 15, 2020, after identifying multiple instances in which the then-Safety Director allowed officers who committed integrity-related violations to keep their jobs, the Monitoring Team recommended that: “ In order to come into compliance, the CDP must identify those officers who have been sustained, but not been terminated, for integrity-related violations; confer with the appropriate prosecutorial agencies; and develop and implement a plan to mitigate future potential harm to prosecutions of criminal cases, the administration of justice, and to protect public safety.” We further noted that: “In order to comply with these aspirations [to provide Constitutional and effective policing services], the CDP must design and implement a plan to appropriately assign officers whose disciplinary background could negatively impact the Division’s ability to support criminal prosecutions—and have a direct impact on the fairness and integrity of the criminal justice system and safety of the public.”

At this point in time, the Monitoring Team has not seen any evidence on the part of the City or the CDP to create a process to ensure that officers with sustained integrity-related violations are not in a position to offer evidence in court. Creation of such a process is essential to the integrity of CDP’s accountability systems and the protection of the constitutional rights of system involved individuals.

X. TRANSPARENCY & OVERSIGHT

1. 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-COMPLIANCE
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[] 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

a. Background

The Consent Decree created a new, internal oversight function within the Division—a Police Inspector General (IG). The IG is required to have the authority to review CDP policies and practices, conduct audits and investigations, analyze data for aggregate and systemic trends, develop recommendations for reform, analyze investigations conducted, and review imposed discipline.

b. Where the Division Stands

On November 1, 2022, the Monitoring Team requested that the City develop a hiring plan detailing the process by which it will engage in a meaningful search and interview process for a suitable

Inspector General. The proposed hiring plan was shared with the Monitoring Team on January 31, 2023 and is being reviewed.

As of the beginning of 2021, CDP’s first Inspector General resigned his position upon being appointed as the Sheriff of Cuyahoga County. The City has reported that a subsequent job posting received 117 applications, with 98 of the applicants being qualified for the position. However, after reviewing the qualified applicants, the CDP did not identify any candidate it deemed suitable for the Inspector General role.

Following the transition of the new City Administration, the City agreed to place the Inspector General position under the Director of Public Safety, independent of the Chief of Police. It was not until October, 2022, however, that the City finalized the job description for the new Public Safety Inspector General (PSIG) role and posted it to governmentjobs.com. After receiving only a small number of applications, the City reposted the position on governmentjobs.com on November 29, 2022. At the urging of the Monitoring Team, in mid-December, the City also posted the position with the National Association for Civilian Oversight of Law Enforcement and the Association of Inspectors General.

The City reports that it hopes to identify a qualified candidate to start in this role before May 1, 2023. This would be an important achievement given an almost two and one-half- year vacancy with respect to this important position.

2. 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.	OPERATIONAL 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.	OPERATIONAL 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

a. Where the Division Stands

Several requirements of these paragraphs were met in prior years, and we have seen sustained effort in these areas. For example, the electronic collection of use of force data in the City’s IAPro/Blue Team system has been operational for over five years. The Data Collection and Analysis Coordinator (DACC) was hired in September 2017 and additional staff joined that team in 2021. The CDP’s data team continues to be supplemented with a cadre of researchers from the Begun Center at Case Western Reserve University. Paragraphs 257-260 are deemed partially and operationally compliant. The Monitoring Team has questions about the transparency of the data as described in ¶257 as there is very little information on the City’s public facing website addressing the language “broad access to information related to CDP’s decision making and activities” in that paragraph.

The Monitoring Team is familiar with the engagement of the Data Team in the tracking and collection of quantitative information relative across a number of systems in use as data repositories for use of force related information such as IPro/BlueTeam, evidence.com, OPS, and IA to name a few. It would be helpful to understand what methods the City is relying on, under the domain of the DACC as aligned with ¶258 which includes tracking of misconduct.

In July of 2022, the City began to collect stop and search data electronically as required by ¶260. The Monitoring Team has seen evidence of those data in a draft report of descriptive data on stops and searches bringing this paragraph to operational compliance. The Monitoring Team would like to see the data collected on use of force and stops and searches fully analyzed and shared in transparent ways in accordance with ¶257 and also with the parties listed in ¶261. We are aware of the monthly CPD Stat and regularly participate. The DACC deftly presents the data available to members of the Division though ¶261 has expectations beyond the internal audience. To our knowledge, there are no routine reports to those entities.

The DACC demonstrated over time a sincere commitment to data accuracy in reporting and reviews. The Monitoring Team requests to see the annual assessment as required by ¶262 to become more formal. As the City works to be a self-managing system without external oversight the sharing of those assessments and reviews with the Monitor and ultimately to the Division leadership increases accountability, accuracy, and currency across the Division.

Due to the delay in the development and roll out of policy and training for the stops, searches, and arrests, ¶264 in each prior year was deemed non-compliant. That rating remains as the City has not provided a comprehensive report on the analysis of the stops, searches, and arrests that is required by ¶264. The Monitoring Team acknowledges it reviewed a draft report described as containing descriptive data. Paragraph 264 requires more detailed analysis specially tracking “trends in compliance with the Fourth Amendment of the Constitution and an assessment of practices that increase public safety and confidence in CDP, and the steps taken to correct problems and build on success.”⁵⁷ To accomplish these requirements, a more detailed and thorough analysis that reviews reasonable suspicion and probable cause is necessary. Analysis of these activities, along with detailed examination of the demographics of the subjects of these activities, in addition to use of force subjects and complainants in misconduct cases is necessary to achieve compliance in ¶265.

In both ¶129 and ¶266 there is a requirement for detailed analysis of FRB data to “determine trends; identify and correct deficiencies revealed by this analysis; and document its findings in a public report.” (page 62, ¶266) Further, ¶129 requires this analysis “be provided to the Monitor.”

⁵⁷ Page 60 ¶264

3. 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

a. 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.⁵⁸ 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.”⁵⁹

b. Where the Division Stands

We understand that the City aspires to upgrade and enhance its current website. Paragraphs 267 and 268 remain partially compliant as efforts were made to increase the accessibility of information on the website and yet overall the goal of using it to keep the public informed and to reach a level of transparency is not achieved. The site remains difficult to search and is not routinely updated. The names and photos of district commanders is not up to date and the page for the Office of Inspector General continues to list Mr. Chris Viland as the IG despite his departure from that position about two years ago.

c. Progress and Tasks That Remain

The City’s website should operate as a source of information about all aspects of the Division and Public Safety agencies including the Community Policing Commission, the Office of Professional Standards, and the new Police Accountability Team as outlined in ¶267 and ¶268. It would benefit the City to use the website as a means of sharing important information beyond what the Consent Decree requires. The new Police Accountability Team and its new Executive Director are worth celebrating and sharing with the community. Seeing a job announcement on the Office of Inspector General page rather than the outdated information about Chris Viland would be helpful.

⁵⁸ Dkt. 413-1 at 1; id. ¶ 268.

⁵⁹ Dkt. 413-1 ¶ 267.

The Monitoring Team understands the Data Team is enthusiastic about sharing some data dashboards more broadly. The current deficits on the website are not the fault of the Data Team but rather some technological limitations and a lack of attention to maintenance and providing both real time and operational information to the public.

XI. OFFICER ASSISTANCE & SUPPORT

1. Training

Paragraph	Status of Compliance
269. “The City 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.	PARTIAL COMPLIANCE
273. “The Training Plan and schedule will be implemented once any objections have been resolved” on a yearly basis.	OPERATIONAL COMPLIANCE
274. “The City, including the Training Review Committee, will annually review and update 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.	OPERATIONAL COMPLIANCE
275. “CDP’s Commander responsible for training” will be in charge of “all CDP training.”	PARTIAL COMPLIANCE
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.	PARTIAL COMPLIANCE
277. “CDP will develop recruit academy and in-service curricula that comport with” the Training Plan and Consent Decree requirements.	PARTIAL COMPLIANCE
279. “For all other substantive updates or revisions to policy or procedure, the City 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.”	PARTIAL COMPLIANCE
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	PARTIAL COMPLIANCE

qualifications, and testing materials are reviewed by the Training Review Committee.”	
281. “CDP will ensure that instructors are qualified and use only curricula and lesson plans that have been approved by the” Training Commander.	PARTIAL COMPLIANCE
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.	NON-COMPLIANCE⁶⁰
283. “The field training program will incorporate community and problem-oriented policing principles, and problem-based learning methods.”	NON-COMPLIANCE
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.	NON-COMPLIANCE
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.	NON-COMPLIANCE
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.”	NON-COMPLIANCE
287. “The City and the 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. “The City will develop and implement accountability measures . . . to ensure that all officers successfully complete all required training programs in	PARTIAL COMPLIANCE

⁶⁰ The Monitoring Team notes during this reporting period, we received a memorandum containing recommendations for updating the Field Training Officer program that if implemented as recommended, would lead to an upgrade in the compliance status of this and possibly other related Consent Decree paragraphs. The MT is not aware that these changes have occurred as of yet.

a timely manner.”	
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a. Background

Training CDP personnel on the new requirements and expectations of Decree-required policies and initiatives continues to be critical to ensuring these changes are infused into the operations of the Division. The Monitoring Team continues to see significant improvements in the efforts by the Training Section to provide effective and engaging training to its personnel under the leadership of its current Commander. Nevertheless, certain work remains in progress as the Division works toward achieving full compliance with the Consent Decree’s training requirements. The Monitoring Team is particularly concerned that some units in the Division are not coordinating with the Training Unit and the Training Unit is not overseeing the training of those units. We understand this is a culture shift, yet it is important to ensure standards of training across the Division.

b. Where the Division Stands

During the current reporting period, significant collaboration occurred among the Division, the DOJ and the Monitoring Team on the following important training materials:

- 2023 Needs Assessment
- 2023 Training Plan (with projections for 2024 and 2025)
- District Neighborhood Awareness Training Refresher
- ABLE: Refresher
- QPR: Question, Persuade, Refer
- Subject Control
- Impact Weapons/OC Spray
- Integrated Active Threat Response
- Supervisor Training
- Crowd Management Training
- Internal Affairs Investigator Training

In addition, a memorandum detailing suggestions for improving the Field Training program was submitted for review.

While the status of compliance for ¶271 and ¶272 changed to Partial Compliance in the Eleventh Semiannual Report, the Monitoring Team still has not received materials from the recruit academy and some specialty unit training for review. This is an example of the Training Section’s inability

to review and coordinate all training due to some historic behavior or resistance. The Training Section has included sections in its Training Plan about OPOTA requirements and additional CDP topics for recruits.

The Training Section, led by Commander Mark Maguth, continues to deserve recognition for its substantial improvements throughout the commander's time at its helm. The Monitoring Team continues to be impressed with the condition of initial drafts of training curriculum for which CDP was the main architect of the materials drafted. The Training Section is showing a solid understanding of how to integrate more adult-learning techniques, scenarios and learner engagement in its lesson plans. Furthermore, during this reporting period, the CDP continued working directly with an outside vendor, Polis Solutions, to create a robust supervisor training that has been a positive example of how CDP can work with a well-prepared outside vendor to ensure that the training being developed by outsiders incorporates policy and procedural requirements that are specific to CDP. Despite this positive work product with Polis Solutions, CDP has not showed the same ability to influence the Internal Affairs investigator training that is under development by a different outside vendor. Though a similar substantial collaboration was needed with the IA Training vendor to ensure that the training fulfilled the requirements as set forth by the Consent Decree, the product that was presented, even after some collaboration with the parties, did not incorporate the rigor of quality, CDP-specific content, nor the types of adult-learning techniques that we have seen developed by CDP's own Training Section. As such, we continue to remind CDP that it be incredibly mindful that if they pursue outside training vendors, that they make the expectations clear to that vendor about the degree of quality required, the need for the curriculum to be focused on CDP-related content, and the expectations for robust collaboration with the Parties and the Training Section.

Consistent bi-weekly meetings among the Parties continued throughout this reporting period, with valuable collaborative work accomplished, as was reported in the Eleventh Semiannual Report. The Monitoring Team appreciates the availability of this forum as an opportunity for CDP, DOJ and the Monitoring Team to engage in meaningful work together.

However, CDP continues to struggle to ensure that ALL training conducted throughout the Division is approved by the Training Section Commander. This is also true with outside or contracted training, which is often boilerplate curriculum, and various units within CDP routinely ignore the Training Unit when providing specialty training. This concern has been repeatedly expressed by the Monitoring Team and will impede Consent Decree compliance until resolved.

c. Progress and Tasks that Remain

The Monitoring Team continues to push that in order for CDP to reach compliance with the Consent Decree’s training requirements, the Training Commander must review and approve ALL training prior to the initiation of any sessions. The Monitoring Team will continue to monitor this essential requirement to measure progress. This may require intervention from levels higher than the Training Unit Commander and a change in historic or perceived autonomy from some units.

The Monitoring Team notes again that it has not been able to review recruit class training materials, with the exception of a CIT Training reviewed in the spring of 2022, in order to ensure its compliance with requirements. Similarly, while Field Training recommendations by the Training Section have been impressive, the Monitoring Team will need to be able to review the improved curriculum which incorporates those recommendations to assess Consent Decree compliance.

In the last few Semiannual Reports, we indicated that CDP should re-engage with and reinvigorate the Training Review Committee (TRC). The TRC currently is convened at least annually to review and update the Division’s Needs Assessment and Training Plan. However, the TRC also exists to review internal training, which involves providing feedback and recommendations on a regular basis. This information is currently forwarded via email and file sharing platforms to members of the TRC and either verbal or written feedback is solicited to be incorporated into the curriculum or training. The formal approval process through the TRC has not been fully implemented, as it is still being looked at for improvements by the Training Commander. We realize that the last few years of life in a pandemic changed the willingness for some in person meetings, as we move to an endemic and a more normal life, regular meetings with CPC representation will be essential.

2. 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

a. 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.”⁶¹ 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 . . .”⁶² It must address how the Division will satisfy the other substantive requirements of the

⁶¹ Dkt. 413-1 ¶ 292.

⁶² Id. ¶ 293.

Decree. It likewise must “ensure that CDP” both “properly maintains and seeks to continuously improve upon existing equipment and technology” and “is appropriately identifying equipment needs and seeking to utilize, as appropriate, emerging technologies.”⁶³

b. Where the Division Stands

Over the last few years, the integration and collaboration between the Division and the City IT has strengthened. City IT established a process of strategic planning and working with the public safety divisions directly on their needs, capital purchases, and a sound replacement schedule for technology. The Division prepares the capital request which is reviewed by City IT to ensure that the funding source as well as the purchase is appropriate and consistent with the plan. The review process includes the Chief, the Mobile Support Unit, and the Safety Director along with IT. To inform the purchase strategy and satisfy needs of the Division, City IT personnel have joined the Chief at the annual International Association of Chiefs of Police meeting. This conference has an enormous array and display of technology on display. This helps all parties understand and appreciate both what is possible and desired.

The last strategic plan for safety IT was created in 2018 and all items have been accomplished. The IT Department is planning the process to create a new and updated plan, again in cooperation with the Division.

After significant upgrades in 2017 and 2018 to the CAD and RMS, City IT identified a need for more modern and sophisticated systems in the Division of Police that interact with one another, reduce manual entry, and provide more efficient operations for the patrol units. They are in the process of requesting funds (ARPA and other reserve funds) to complete an enterprise upgrade of both RMS and CAD. Additionally, there are standalone systems, such as Brazos reporting, IAPro, and Inventory Management that more contemporary systems can manage. This planned integration will enhance officer performance, productivity, and morale. City IT recently began the process of reviewing vendors and sees this as a process that will take place over the next few years.

In the coming year, there is a plan to refresh the Wearable Camera Systems for officers. This City is currently in the beginning of year three of the plan, which calls for an upgrade of half of the cameras this year and the remaining half next year.

In the last year, a new Assistant Safety Director was hired who will focus on vehicles and facilities. This directed attention may help staff abandon the habit of hoarding equipment that is outdated and beyond its reasonable use. Notwithstanding the capitol purchase of 225 cars over the last six years, with 45 new marked cars purchased each year, members of the CDP seem reluctant to give

⁶³ Id. ¶ 293.

up their 10-year-old cars. Besides being 10 years old, many of these cars remain in use and are outfitted with outdated technology. The IT Department plans to purchase 250 Panasonic Toughbooks to replace those old MDCs in the old cars and update the modems to ensure that the technology is up to date and efficient for the officers. These will replace as many as 200 old and outdated MDCs in the fleet. IT recognizes that if old cars are being maintained, they need new modems and Toughbooks.

In the early years of the Consent Decree the City was purchasing 150 PCs annually. Having brought the districts to a base standard, they are now on a refresh cycle and those desktops are being replaced every 5 years (50 on average per year).

In concert with the Division, IT is reviewing vendors for a grant funded drone program. Division personnel reviewed neighboring jurisdictions to see their programs and believe that a drone program can assess calls, scenes, and inform deployment strategies for both fire and police. The City is currently reviewing vendor proposals with a plan to purchase three or four devices. The use of such technology across the country has raised constitutional privacy concerns. It will be essential for the City to ensure Division policies detail the use of the technology while also adhering to constitutional requirements.

The IT Department is in the process of rolling out and training Division personnel on a new cloud-based tool that coordinates their many systems creating a real time crime data system. The roll out will be through the Academy and Training Section to all base patrol in the coming months. IT has implemented the system and is in the process of training detective and specialty units in its use as its first stage of the rollout. Fusus, the company that hosts the cloud based real time crime center, provides optimization of all CAD information and available cameras from public and private surveillance cameras (those systems that opt in), automatic license readers, Shotspotter, and direct messaging at the officer level. The camera feeds will record up to three days of video feeds. Several housing areas, parks, and schools have already opted-in to the shared system and their feeds are reportedly live. There is an upcoming demonstration to the Downtown Cleveland Alliance which recently asked for a presentation as they may be interested in sharing camera feeds. Again, such considerable efforts by the City and Division to utilize this technology cannot be done in isolation without addressing the related legal and privacy concerns in policy and training.

Personnel currently assigned to every zone car can check out a mobile phone for on-shift business use to ensure officers are using a city-issued cell phone for business purposes. There is a grant application pending to purchase license plate readers for the Division.

This year's budget includes a request for five crime analysts augmenting the unit that has survived as one these last several years. The City IT Department is the main provider of services described in ¶298, "professionals...who are capable of troubleshooting and maintaining information

technology systems and who can identify and suggest appropriate technological advancements” through its Data Warehouse Team.

As a way to get input from officers, the Division started an IT Board. Requests for suggestions for technology are made, routed through the IT Board and the Chief’s office. This is not sufficient for compliance with ¶294 which states in part, the Division must secure “feedback from the Commission, patrol officers, and supervisors regarding resource allocation, equipment needs, and technological improvements.”

City IT released an RFP for car dash cameras, identified a choice provider, and the process is moving through the Consultant Review Committee (CRC) and Board of Control, requirements of the procurement process for authorization for the department director to engage in a contract for purchase. This is a required process for procurements over \$50,000. The plan is to outfit 300 vehicles (zone, traffic, community service) with dashcam. The City of Cleveland is likely to have a contract in place by March. Notably the new Taser 7 will automatically trip the both the WCS and dashcam system.

Since the Consent Decree was implemented, the City’s IT team increased its staffing to about 18 people dedicated to supporting public safety.

Finally, City IT is in the final stages of releasing a RFP for a wellness app using funds from the state. They will be assessing companies that permit all Divisional and family members to access resources tailored to the City’s partners. A written inventory of the current assessment of equipment and technology along with plans for upgrades and replacements would be helpful for further assessment.

3. Recruitment & Hiring

Paragraph	Status of Compliance
300. “The City will review and revise . . . its recruitment and hiring program to ensure that CDP successfully attracts and hires a diverse group of qualified individuals.”	OPERATIONAL 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

a. 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.”⁶⁴ Additionally, the Consent Decree requires a thorough background check for all hires including lateral hires.

b. Where the Division Stands Now

Division personnel assigned to the Department of Public Safety along with some key civilian personnel spend considerable time doing community-based outreach and promoting the work of the City’s safety agencies. Recruitment has been lagging in Cleveland as much as it generally has been across the country in law enforcement. The pandemic as well as high profile incidents of police misconduct nationally and the resulting conversation about the role of law enforcement in our society have made recruitment far more challenging. Local entry wages are also a barrier to recruitment. There were significantly fewer in-person recruitment opportunities in 2020 and 2021 and the number of those events increased dramatically in 2022. The recruitment team is applauded for its creative strategies to show the City and the Division of Police as desirable places to work in spite of barriers far beyond their control. As an indicator of some success, data show that a greater percentage of recruits are graduating from academies, suggesting that the selection may be of superior quality. The pace of the recruitment and completion rates from the Academy continue to lag behind the number of Division members who separate from service, which continues to be a concern for staffing.

The newly constituted Community Policing Commission should be consulted along with other community groups in a more formal way in accordance with ¶305. Such an alliance may help spread the word, enlist allies in the recruitment, and generate further options for outreach.

The Monitoring Team did a formal assessment of the background check process for both a lateral class, officers moving from current law enforcement jobs and a new recruit class, during this reporting period. These two processes were designed to assess Paragraphs 308-311 for compliance. The method of review and review instrument were discussed with and approved by the parties before the assessment commenced.⁶⁵ The Monitoring Team did not find the City compliant with those paragraphs and offered technical assistance to help strengthen the practices. The Deputy Chief of Administrative Operations along with the Commander of the Bureau of Support Services assembled key personnel and also joined a discussion with Monitoring Team members and subject matter experts on steps they could take to improve not only the condition of the files reviewed but also the documentation of the investigations. A subsequent technical assistance session that included a cursory file review occurred in January of 2023 with a similar group of personnel. Significant improvements were noted in the condition of the files and a future formal assessment will follow.

⁶⁴ Dkt. 413-1 ¶ 302.

⁶⁵ Dkt. 401 and Dkt. 429.

With now six plus years of data, the Department of Public Safety, which houses the Recruitment Team, should be able to analyze and present data about the recruitment process and rates of success and failures, as well as the lessons learned from the variety of creative recruitment efforts it has implemented. The individual officers and staff who have a role in recruitment and hiring each play their part, yet the lack of coordination and focus from a higher level is a disadvantage for the overall success. Further, we find that the various entities in the City who have a role in recruitment and hiring and have data that could inform practices lack coordination and direction. Neither the Civil Service Department nor the Division's own human resources department are sharing information that could inform practices. Engagement from the Director of Public Safety has been severely lacking over the last two reporting periods. It is essential for the City to leverage the various parts of government and create a stronger system.

c. 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.⁶⁶ A comprehensive report is prepared and filed by the recruitment team which covers all they have available to them. With support from the Director and engagement from Civil Service and the Division's Human Resources, the report could be more informative. Large numbers of people continue to separate voluntarily from service and recruitment remains a challenge. Agencies across the country are competing for the same small number of interested applicants. Cleveland needs to learn from the exit interviews, adopt strategies that have been met with success in other locations (including those with Consent Decrees), and commit to doing things differently. The Monitoring Team supports an emerging idea to coordinate and partner with Historically Black Colleges and Universities (HBCUs) for applicants. The Director might look also at a recent pilot program with interns run by the national Police Executive Research Forum (PERF).

⁶⁶ Dkt. 413-1 at ¶ 307.

4. 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. “The City 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. “The City 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

a. Background

The City must address how it evaluates officer performance and must ensure that high-performing officers have access to promotional opportunities. Under the Consent Decree, the City 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.’⁶⁷

b. Where the Division Stands

The Monitoring Team received an updated General Police Order, Performance Management Manual as well as applicable draft matrices on July 20, 2022. During this reporting period, there

⁶⁷ Dkt. 413-1 at ¶ 313.

were collaborative efforts achieved between the parties to advance these materials toward the condition required by the Consent Decree. The parties met in October 2022 to discuss the remaining edits needed for these materials and the culture shift that would likely ensue upon the integration of these improved performance evaluation materials. The Monitoring Team has not received updated versions of the performance evaluation and management materials since this meeting in October.

As the Monitoring Team does not have evidence that the Division or its supervisors are implementing performance evaluations in compliance with Consent Decree requirements, the ratings remain in Non-Compliance.

The Monitoring Team detailed its attempts to receive promotions materials from the City during the Eleventh Semiannual Report, as well as its efforts to collaborate with the City on its promotions process. Since that time, the Monitoring Team has not received any materials regarding the promotions process from the City, and thus has no indication that progress has been made on achieving compliance with the promotions requirements contained in paragraphs 317 and 318 of the Consent Decree.

c. Progress and Tasks that Remain

The Monitoring Team continues to encourage CDP to ensure that all of the Consent Decree requirements – specifically, those listed in Paragraph 314 – are clearly integrated into the performance evaluation form in order to ensure these evaluations track the compliance requirements. The Monitoring Team looks forward to receiving updated versions of the General Police Order, Manual and matrices in order to finalize these documents. Prior to implementing these updated procedures, though, CDP will have to train supervisors on how to use the new performance evaluation tool, and must train officers on how to conduct self-assessments.

This is another area of work where the engagement from the Director of Public Safety is essential to coordinate activities across government.

Under the 2023 Monitoring Plan, the City has again been tasked with incorporating community and problem-oriented policing into its promotions and evaluations. While some work has been done on the evaluations, the Monitoring Team will need to see the end results, as well as any evidence that such values are integrated into the promotions process in a standardized way, in order to be able to assess whether these requirements have been implemented.

5. 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

a. 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;”⁶⁸
- Ensure rigorous investigations and reviews of force incidents;⁶⁹
- 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;”⁷⁰
- Provide supervisors with the ability to “review all documentation of investigatory stops, searches, and arrests;”⁷¹
- Ensure that officers can receive the training required by the Decree;⁷²
- Provide necessary opportunity for “first line supervisors [to] provide close and effective supervision of officers;”⁷³
- Implement the Early Intervention System;⁷⁴ and

⁶⁸ Dkt. 413-1 at ¶ 27.

⁶⁹ Id. at ¶¶ 93-130.

⁷⁰ Id. at ¶ 151.

⁷¹ Id. at ¶ 168.

⁷² Id. at ¶ 271.

⁷³ Id. at ¶ 322.

⁷⁴ Id. at ¶ 326-36.

- Provide supervisors with the ability to “conduct adequate random and directed audits of body worn camera recordings.”⁷⁵

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.”⁷⁶

b. Where the Division Stands Now

As the Monitoring Team has reported, the Division completed the Decree-mandated Staffing Plan in 2017. Since then, the Monitoring Team has not received information about updates on implementation of CDP’s Staffing Plan. It behooves the City to update its staffing plan in accordance with current numbers, goals, and vision articulated by the new Mayor and Chief of Police, and the current climate in policing. The realities are numbers of staff are decreasing, recruitment is more challenging than ever, officers are tired and stressed, and the community across the U.S. is calling for a new relationship with law enforcement. The Monitoring Team encourages the City to use the data at its disposal to evaluate “what is has always done” and the “way it has always been done” for the current times. With a new economy, a new generation of officers, and a different vision from the community there is great opportunity.

⁷⁵ *Id.* at ¶ 339.

⁷⁶ *Id.* at ¶ 320.

XII. SUPERVISION

1. 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

a. Background

The Consent Decree requires that CDP ensure “close and effective supervision of officers.”⁷⁷ Supervisors must be held “directly accountable for the quality and effectiveness of their supervision” of officers in their command.⁷⁸ 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.⁷⁹

b. Where the Division Stands

During this reporting period, the Division, along with the MT and DOJ, has been intensively working on an in-service training for its supervisors, with the assistance of an outside vendor Polis Solutions. As stated above, the curriculum appears promising and the Monitoring Team looks forward to assessing its implementation. Such training, which provides clear guidance to supervisors both on how to implement specific mandates of the Consent Decree as well as

⁷⁷ Dkt. 413-1 ¶ 322.

⁷⁸ Id. ¶ 325.

⁷⁹ Dkt. 413-1 ¶ 323.

generally how to mentor, coach, and oversee officers to promote positive performance and accountability, are essential for CDP’s continued progress toward becoming a self-correcting 21st century policing agency.

c. Progress and Tasks that Remain

CDP must move forward with finalizing and implementing performance evaluations to ensure that front-line supervisors provide close and effective supervision as required under the Decree. It must also complete the supervisor in-service training of all CDP supervisors to support its supervisory competency. The Monitoring Team persists in looking for opportunities to review the work of supervisors in practice, which it has and will continue to do as it conducts its topic-specific assessments such as use of force, discipline, searches and seizures, in order to further assess adherence to 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.

2. 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

a. 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.

The Division’s OIP must serve as a broader management tool that will “proactive[ly] identif[y] . . . potentially problematic behavior among officers” and it must 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.⁸⁰ 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.⁸¹

b. Where the Division Stands

Throughout this reporting period, drafts of the OIP policy (which encompasses its vision for an updated EIS system), as well as the Employee Assistance Unit (EAU) manual, continue to be exchanged between the parties. In addition, the Division has met to discuss the development of the OIP with the Monitoring Team and DOJ during this reporting period. There remain some open questions that CDP is trying to decide how to address. Specifically, CDP reports that it has been doing significant internal work to resolve outstanding questions around thresholds and indicators, and to ensure that the OIP policy fully incorporates the EIS program requirements outlined in the Consent Decree. The Monitoring Team appreciates that CDP has been working to identify best practices to effectively implement the OIP policy and an EIS program, and looks forward to receiving an updated version of the policy that it hopes will cover all of the requirements.

c. Progress and Tasks that Remain

Ultimately, CDP will need to finalize its policies, manuals, and implementation materials related to the OIP/EIS to fully establish an upgraded EIS. Until this program has been developed and fully implemented, in line with Consent Decree requirements for EIS, this section will continue to lag in progressing to compliance.

⁸⁰ Dkt. 413-1 at ¶¶ 326-27.

⁸¹ *Id.* at ¶ 328.

3. 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.”	OPERATIONAL 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.”	OPERATIONAL 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

a. 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.

b. Where the Division Stands

In 2021, the City reported that all CDP patrol officers are equipped with Axon’s Body Worn 3 camera systems. Under policy, patrol officers must use their cameras when working a City shift. Progress and Tasks that Remain

i. Compliance with Policy

As noted in previous reports, the Monitoring Team remains concerned about both the use of force CDP personnel working secondary employment, as well as the lack of video footage available for these incidents of force. Officers serving in a secondary employment capacity are in full CDP uniform, yet they are not equipped with their WCS. This gap in equipment usage and footage

availability continues to impede quality of investigations by CDP, and also complicates the Monitoring Team’s ability to conduct effective oversight.

ii. General Policy for the Release of CDP Information

As stated previously, when the Monitoring Team approved the Division’s body-worn cameras policies, the approval was dependent 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 has still not received a draft of such a policy from the Division, despite having requested it and written about it in previous iterations of this report. The Monitoring Team continues to strongly encourage the CDP to prioritize developing a policy on the release of records, data and information, as this is an important part of police legitimacy and demonstrations of transparency for the community. The Monitoring Team is also aware that legislation has been passed requiring the release of police BWC video within newly defined timeframes and this requirement must be reflected in CDP policy.

XIII. OUTCOME ASSESSMENTS

The Consent Decree sets forth a number of specific outcome assessments primarily in paragraph 367 – Outcome Measures – that are largely quantitative measures across various domains. These counts enable the Division and the Monitoring Team to assess the frequency of events such as use of force and arrests, the rate of change across years as well as data from the City’s Civil Service Division that reveals the number of recruits, demographic information, and their collective success/failure rates in the hiring process. The several subparagraphs in Paragraph 367 translate into over 750 rows of data on an excel spreadsheet, with each row representing a different measure. Nearly every line of that paragraph generates a row of data to be collected and analyzed. These outcome measures can contribute to the Monitoring Team’s understanding of whether CDP’s implementation of the specific policies, procedures, and ways of providing policing services envisioned by the Consent Decree are indeed resulting in behavior change that leads to safe, fair, effective, and constitutional policing. They are also fundamentally necessary for effective management of all operations and processes. The deep dive that the Data Team does and presents at monthly CDP Stat meetings is the first step in building intellectual curiosity about the data. Leaders and members must act to further that curiosity, encourage all levels of supervisors to ask questions of the data, and use those data to drive actions.

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. The Data Team continues to collect these outputs and assemble them in the sheet designed by the Monitoring Team in 2015. The effort to collect and record these data is substantial and could be utilized by many departments in the City far more effectively. One clear example is the richness of the data across now more than six years concerning the officer candidate pre-screening success and failure. These data are primarily held by the Civil Service Department and yet, analysis across years of these data could inform recruitment strategies, or management decisions by the Division or Training Committee around methods of testing or need to support candidates differently to enhance pre-screening success.

The Monitoring Team also notes that the Data Analytics Unit has created dashboards, using Microsoft PowerBi, to report data during CDP Stat since early in 2022. The Monitoring Team appreciates this hard work and feels strongly that these dashboards should induce the Division, beyond the Data Analytics Uni, to dive more deeply into the details of the data to better understand their meaning, as well as to facilitate management throughout CDP. In the reports the Division has created thus far on use of force, on recruitment, and on drafts the Monitoring Team has seen for stops, searches, and arrests, there is minimal analysis and insufficient commentary on deeper questions that could inform or leverage change. We cannot envision a clear path to compliance without regular, robust analysis and application of these data for continued Division improvement. Collection along with analysis is required to be able to operate as a self-managing entity and one that is able to identify, study, and implement changes necessary to reach compliance.

With the concerns about recruitment and retention of police officers across the US, ensuring the applicants that are serious and engaged complete the application process and pass all stages is an important element for successful recruiting. In other jurisdictions, municipalities find ways to support and promote candidate success. Study groups, exercise groups, and investments in other types of support could help promising candidates pass at higher rates. It seems important for the leadership of the Division of Public Safety as well as in the Division to review these data and use them to inform innovative strategies to help achieve goals.

The Monitoring Team is working with the City to identify and prioritize the assessments for 2023. These qualitative assessments test adherence in practice to the policies in place. The assessments are in various stages of completion, and several are ongoing in a rolling fashion. The list below describes what assessments are in process for the calendar year of 2023.

- Force Review Board (FRB): This is an ongoing review and Monitoring Team members attend each FRB meeting. The Monitoring Team completes qualitative reviews of all cases presented during the FRB Meetings. Feedback is provided in real time and a summary report is forthcoming.
- Crisis calls that resulted in the handcuffing of female juveniles: This was inspired by conversations at MHRAC meetings where participants had specific questions and concerns around officer bias in these situations. The Monitoring Team reviewed cases and encourage the MHRAC to conduct a more thorough and complete review using calls for service.
- Use of Force: A committee of the Monitoring Team is conducting reviews of all reported use of force cases closed in a calendar quarter of 2022. Three reviews have been completed and submission of those reports is forthcoming as the City and Monitoring Team review the data. The Monitoring Team plans to complete the 2022 review and have a summary report by April 1, 2023
- Chief of Police Discipline: This review is completed and the report has been filed.
- Force Investigation Team (FIT): The Monitoring Team is completing the reviews of all Level 3 use of force cases, all of which were reviewed by the FIT. The Monitoring Team plans to have a report draft no later than April 1, 2023.
- Stop, Search & Seizure: The Monitoring Team is in discussion with the City on the final methodology and review instrument. We are prepared to begin that review as soon as agreement is reached.

There are a number of other contemplated assessments. The Monitoring Team and City are in discussion about the staging of those assessments. Once the priorities are established, the Monitoring Team will circulate a draft methodology and instrument for review and feedback. At the conclusion of the assessment, there will be discussion with the City on the findings, data will be shared and a report drafted.



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