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## Detroit Police Dept. Use of Force Findings Letter

March 6, 2002

Ms. Ruth Carter  
Corporation Counsel  
City of Detroit  
660 Woodward Avenue, Suite 1650  
Detroit, MI 48226-3491

Re: Investigation of the Detroit Police Department

Dear Ms. Carter:

As you know, the Civil Rights Division and the United States Attorney's Office for the Eastern District of Michigan are jointly conducting an investigation of the Detroit Police Department (DPD), pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. We greatly appreciate the cooperation of the City of Detroit and the DPD thus far in this investigation.

At the beginning of our investigation, you requested that we inform you as soon as possible if we identified any problems during the course of the investigation. Since the investigation began, we and our consultants have reviewed hundreds of pages of documents, and interviewed over one hundred DPD officers, including command-level and line officers. Based on this preliminary review, we have identified several areas of concern, which we set forth below, along with our recommendations for addressing these problems.

Important aspects of our fact-gathering process have yet to be completed, most notably reviewing DPD incident reports and investigations provided by the City. Therefore, this letter is not meant to be exhaustive, but rather focuses on significant concerns we have identified and recommendations we can provide based on our review of the DPD's policies and procedures.

The issues identified below focus on the following areas: use of force and use of force reporting, external complaints, internal investigations, supervisory oversight, discipline, and training. Please note that we may identify additional issues as our investigation progresses, and that the concerns discussed below do not relate to the components of our investigation that are focused on holding cell conditions and arrest and witness detention policies and practices.

### I. Use of force and use of force reporting

#### A. Use of force

DPD policy does not define "use of force," nor adequately address when and in what manner the use of less-than-lethal force is permitted. In addition, DPD officers only have a limited array of force options available. The vast majority of DPD officers are permitted to use only two weapons: a firearm and chemical spray (officers on foot patrol and officers in the Tactical Services Section are permitted to carry a baton). This limited array of force options may lead to the use of excessive force in situations where chemical spray may be an inappropriate option, but the use of deadly force is not justified.

We recommend that DPD policy define "use of force," and ensure that the definition includes all physical (pain compliance, punches, kicks, leg sweeps, etc.) and instrumental (firearm, baton, chemical spray, flashlight, etc.) acts that impose any degree of force on a member of the public. DPD policy should adequately address when and in what manner the use of less-than-lethal force is permitted. The DPD should train officers in these policies.

We recommend that the DPD make at least one additional intermediate force option available to all officers, and train all officers in the use of this option. The additional intermediate force option should be one that can reasonably be carried by all officers at all times while on duty, be higher on the force continuum than chemical spray, and be lower on the force continuum than a firearm, e.g., a collapsible baton.

#### B. Use of force reporting

Pursuant to DPD policy, officers are not required to report uses of force other than uses of firearms and chemical spray, unless the use of force results in a

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visible injury or complaint of injury. Officers are required to report firearms and chemical spray discharges in a Preliminary Complaint Report (PCR). Some officers indicated that they would report a use of force pursuant to an arrest in the PCR in which they reported the arrest. For shots fired, chemical spray discharges, injuries to prisoners, police chases, and the destruction of animals, supervisors are required to complete a Police Action Incident Report (PAIR), on which they record information regarding the incident and their disciplinary or corrective action recommendation.

Both the PCR and the PAIR are apparently incident-based, so that one PCR and one PAIR are sometimes used to report multiple uses of force if they occurred in the same incident. This may result in supervisors failing to evaluate the appropriateness of each individual use of force. Additionally, one PAIR is used to record all officers involved in an incident, and there is no requirement that the supervisor indicate which of the involved officers used force. This, in addition to the fact that there is only one space provided for a disciplinary recommendation, may result in a supervisor failing to evaluate each individual officer's role in the incident. The DPD does not use PCRs or PAIRs to count or track uses of force, and it would be extremely difficult to do so because PCRs are not numbered consistently and PAIRs are not numbered, and PCRs and PAIRs are sometimes used to report multiple uses of force, are also used to report other police actions, and are not entered into a computerized database.

We recommend that the DPD explicitly require officers to report all uses of force, aside from un-resisted handcuffing, regardless of whether there is a visible injury or complaint of injury. The DPD should create a use of force form that officers would be required to use to report all uses of force. The form should only be used to record uses of force, not other police action. The DPD should require supervisors to review and evaluate in writing each use of force by each officer under their supervision. This could be accomplished by revising the PAIR so that the PAIR clearly records each individual use of force and which officers used force, and requires an individualized assessment and recommendation regarding each officer. We recommend that the use of force forms and PAIRs be numbered and entered into a computerized database to allow uses of force to be tracked, and, as discussed further below, recorded in an early warning system (EWS). The DPD should adequately train all officers in use of force reporting, and, specifically, in the use of the new use of force form.

## II. External complaints

An adequate external complaint process is a crucial oversight mechanism and an important deterrent of misconduct. The Office of the Chief Investigator (OCI), a component of the Board of Police Commissioners (BPC),<sup>(1)</sup> is responsible for investigating external complaints. Some aspects of the DPD's external complaint process have the potential to discourage the filing of complaints, and to impair their effective tracking and resolution.

### A. Intake and tracking of external complaints

DPD policies permit an individual to file a complaint with the OCI or a DPD precinct or section. Those who wish to file a complaint with a DPD precinct or section may only do so by speaking to a supervisor, who will complete a Citizen Complaint Report (CCR), the DPD's complaint form. Members of the public may not complete complaint forms themselves; in fact, complaint forms are not available to the public. The DPD does not explicitly prohibit DPD officers from refusing to accept external complaints or from discouraging members of the public from filing complaints.

DPD supervisory officers are permitted to resolve some external complaints informally, a practice that may lead to under-reporting of complaints. DPD policy apparently prohibits supervisory officers from informally resolving complaints alleging "misconduct," although the policy does not define "misconduct." Based on our review of precinct desk blotters, it appears that supervisory officers sometimes informally resolve complaints that allege behavior which should be characterized as misconduct. DPD policy requires that complaints resolved informally be recorded in precinct desk blotters, and that these complaints be referred to the OCI in a memo. However, according to the OCI, precincts do not always send these memos to the OCI. The OCI does not review or track complaints that are resolved informally at the precinct level. These complaints are not given a number or entered into the OCI's computer database, which is used to track complaints by officer, and which the OCI plans to use as an EWS.

The OCI also attempts to resolve complaints informally. If a complaint is resolved informally by the OCI, the complaint is recorded in a log book, but it is not given a number, nor is it entered into the computer database. The OCI does not enter any complaints in its database until the investigation is complete and a final disposition is reached. As a result of these practices, the OCI does not have the ability to track informally-resolved complaints by officer, nor have a complete count of external complaints. Moreover, the ability of the computer database to function as an EWS is compromised (discussed more fully in section IV. B. supra).

We recommend that the DPD adopt and implement the following policies: members of the public should be able to file complaints by telephone, facsimile, electronic or regular mail, or in person, by speaking with a supervisor, an OCI investigator, completing a complaint form themselves, or providing relevant information in narrative form; complaint forms should be available and

information regarding the complaint process should be posted in a visible, public place in DPD precincts, other DPD commands, the OCI, and other public buildings, including, for example, City Hall and libraries; complaint forms and other relevant materials should be made available to community groups upon request; DPD officers should carry written materials regarding the external complaint process in their patrol cars; DPD policy should require officers to provide complete and accurate information regarding the external complaint process, including written materials, to members of the public who request information about filing a complaint; and officers should be explicitly prohibited from refusing to accept external complaints, and from discouraging members of the public from filing complaints.

We further recommend that the DPD provide training on handling external complaints and interpersonal skills to DPD personnel with responsibility for receiving complaints. We recommend the DPD enforce its existing policy prohibiting the informal resolution of complaints alleging misconduct. We recommend that DPD policy define "misconduct" to ensure that appropriate complaints are fully investigated. This could include criteria for excluding complaints asserting only that the seizure was improper solely because the complainant is not guilty of a traffic or parking violation. We recommend that the DPD require all misconduct complaints to be recorded on complaint forms and promptly referred to the OCI; and that all relevant information regarding all misconduct complaints be entered in the OCI's computerized database and the EWS immediately upon receipt by the OCI. This information should be updated as more information becomes available.

#### B. External complaint investigations

The OCI employs both sworn and civilian investigators. While the DPD apparently conducts background investigations on all civilian investigator applicants, the OCI has no eligibility criteria for sworn investigator applicants related to their complaint and disciplinary histories. Such criteria ensure that only officers with the highest ethical standards serve as investigators. Many OCI investigators are civilians and have never received any formal investigative training. The OCI does not provide mandatory, pre-service training to new civilian or sworn investigators, nor mandatory, periodic, in-service training to current civilian or sworn investigators.

In some cases, the OCI does not investigate complaints, which may result in a failure to investigate misconduct. The OCI does not investigate complaints filed by complainants who later wish to withdraw their complaint, who are subsequently unwilling to cooperate, or whom the OCI is unable to locate. In such cases, the investigations are closed, regardless of the merit of the complaint. Moreover, it is unclear whether the OCI investigates anonymous complaints, because there is no policy addressing whether such complaints should be investigated; this may prevent the investigation of valid complaints.

We have identified the following issues regarding OCI's investigative policies and practices that may affect the quality of OCI investigations. Historically, the OCI sent written questions to all officers who were the subject of a complaint, as well as all witnessing officers, rather than conducting in-person interviews. The OCI has recently amended this policy to require in-person, tape-recorded interviews of officers who are the subject of a use of force complaint; other interviews of officers continue to be conducted by written questions. Conducting interviews by written questions is often an inadequate investigative practice because it does not permit an assessment of credibility, does not allow for immediate follow-up questioning, and may produce "canned" responses. In addition, there is no written policy governing when OCI investigators should compel statements from officers pursuant to *Garrity v. New Jersey*, 385 U.S. 493 (1967). Investigators seem uncertain about when it is appropriate to do so. Currently, interviews of complainants are conducted on the telephone or in person, and are not recorded, which may lead to inaccurate reporting of interviews, and disputes over the content of interviews. Finally, the OCI does not review the relevant complaint or disciplinary history of an officer who is the subject of a CCR, which might prevent investigators from discovering a pattern of problematic behavior by an officer or unit.

Our interviews revealed that some investigators and officers were uncertain when the OCI or a DPD supervisory officer should refer an external complaint to the Internal Controls Section (ICS).<sup>(2)</sup> DPD policy apparently requires that all complaints containing allegations of criminality by DPD personnel should be referred to the ICS, but some investigators told us that referral would depend upon the level of force used, e.g., a punch would require referral, while a chemical spray discharge would not.

We recommend that the OCI establish eligibility criteria for sworn investigator applicants pertaining to their complaint and disciplinary history; remove investigators whose actions while serving as investigators would have disqualified them from selection as investigators; and provide mandatory, pre-service training to all new investigators and mandatory, periodic, in-service training to all current investigators.

We recommend that the OCI institute the following investigative policies and practices: for all complaints alleging misconduct, require investigators to conduct in-person, recorded interviews with all complainants, witnesses, and officers who are the subject of such complaints; require that all complaints alleging

misconduct, including, anonymous complaints, withdrawn complaints, and complaints filed by complainants who are unwilling to cooperate with the OCI or whom the OCI is unable to locate, are investigated to the extent reasonably possible to determine whether or not the allegations can be resolved; create written guidelines regarding when to compel statements pursuant to Garrity that ensure the integrity of potential criminal investigations, and train investigators in them; and require investigators to review the relevant complaint and disciplinary history of all officers who are the subject of a complaint.

The DPD should issue guidelines clarifying when the OCI or a DPD command should refer a complaint to the Internal Controls Section, and train supervisory officers and investigators in these guidelines.

#### C. Disposition of external complaints

After the OCI investigates a CCR, the matter is referred to the Board of Police Commissioners (BPC). By City Charter, the BPC has the absolute authority to make findings in the case and, if a complaint is sustained, makes a recommendation regarding the imposition of discipline. However, the Police Chief can effectively override the BPC's findings, without a written explanation, by imposing no discipline.

Complainants are notified of the disposition of complaints they have filed, but not the reasons for the disposition, or whether the subject officer is disciplined or other corrective action is taken. The BPC and the OCI do not provide a forum in which complainants can register their opinion if they are dissatisfied with the resolution of their complaint.

We recommend that the Chief of Police be required to provide a written explanation to the BPC when he or she chooses not to impose discipline on an officer who is the subject of a sustained complaint. This policy will foster improved communication between the BPC and the Chief regarding policing practices. We recommend that the OCI notify a complainant of the status of his/her complaint after a fixed period of time, notify the complainant of the ultimate disposition of his/her complaint and the reasons for the disposition when a disposition is reached, and notify the complainant whether discipline was imposed or other corrective action was taken on the subject officer at the time of such action. The BPC or the OCI should provide an opportunity for complainants to register their opinion if they are dissatisfied with the resolution of their complaint.

### III. Criminal and Internal Investigations

Thorough and complete criminal and internal investigations ensure that a law enforcement agency identifies and addresses instances of police misconduct. The ICS is responsible for criminal and other internal investigations. The ICS was downsized in 1994 from a bureau, when it was headed by a deputy chief, to a section, which is headed by an inspector. Some DPD officials informed us that the downsized ICS has insufficient authority and stature to perform its function effectively. For example, one official told us that if a precinct commander is not responsive to an investigation of officers under his/her command, the ICS might have difficulty addressing this situation because the head of the ICS, an Inspector, is outranked by the precinct commander.

The ICS does not have eligibility criteria for investigator applicants pertaining to their complaint and disciplinary history. As discussed above, such criteria help to ensure that officers who have engaged in misconduct are not investigating allegations of misconduct. The DPD does not provide mandatory, pre-service training to new ICS investigators, nor mandatory, periodic, in-service training to current ICS investigators.

It is important to ensure that investigations of alleged criminal misconduct and other high-risk incidents are conducted by an independent office with no potential conflicts of interest. While DPD policy apparently permits referrals to the ICS in cases deemed appropriate by a supervisory officer, the DPD does not require the referral of uses of force, aside from police shootings, to the ICS. Therefore, DPD investigations of alleged criminal misconduct may be conducted by officers in the same command as the officers who allegedly engaged in the misconduct, creating a potential conflict of interest. The ICS only regularly rolls out and investigates police shootings and in-custody deaths.

The ICS apparently does not investigate complaints that are anonymous, withdrawn, filed by a complainant who is unwilling to cooperate with ICS investigators, or filed by a complainant whom ICS investigators are unable to locate. In such cases, the ICS will close the investigation. Additionally, there is no written policy governing when ICS investigators should invoke Miranda or Garrity in interviewing officers, including whether they should consult with the Wayne County Attorney's Office in this regard, and investigators seem uncertain about when to do so. Based on our interviews, it appears that investigators sometimes compel statements pursuant to Garrity even when they suspect criminality. This practice jeopardizes potential criminal prosecutions because the DPD does not separate the criminal and administrative investigations of potentially criminal incidents. The Special Investigations Unit (SIU), which investigates police shootings, does not record interviews.

Before opening an investigation, the ICS conducts a preliminary investigation to determine whether they believe a full investigation is warranted. The ICS does

not include such preliminary investigations in their computerized database, and does not plan to include them in the Early Warning System ("EWS"). Preliminary investigations are not numbered and are not listed on index cards that record officer contacts with ICS. These practices undermine the ability of ICS investigators to identify patterns of problematic behavior. Preliminary investigations should be tracked in an EWS because the repeated appearance of similar allegations may reveal the need for non-disciplinary corrective action to be taken before the investigation is completed (discussed more fully in section IV. B. *supra*).

We recommend that the DPD take appropriate measures to ensure that the office charged with conducting internal investigations has sufficient authority and stature to function effectively.

The ICS should establish eligibility criteria for investigator applicants pertaining to their complaint and disciplinary history. The ICS should remove all investigators whose actions while serving as investigators would have disqualified them from selection as investigators. The DPD should provide mandatory, pre-service training to all new ICS investigators, and mandatory, periodic, in-service training to all current ICS investigators.

All uses of force should be referred to the ICS. The ICS should investigate all uses of force in which the subject is visibly injured or complains of pain, or that require hospitalization or result in death, and all firearm discharges, except discharges in the course of training or certification. After initial review, the ICS should be permitted to delegate investigations of other uses of force. The ICS should roll out and investigate all firearm discharges, except discharges in the course of training or certification, and all uses of force that require hospitalization or result in a death.

The ICS should investigate, to the extent reasonably possible, all complaints alleging misconduct that are anonymous, withdrawn, filed by complainants who are unwilling to cooperate with ICS investigators, or filed by complainants whom ICS investigators are unable to locate. The DPD should create guidelines clarifying when investigators should invoke Miranda or Garrity in interviewing officers to protect the integrity of potential criminal investigations, and train all investigators in these guidelines. In investigating misconduct complaints, the ICS should adequately document (e.g., tape- or video-record) all interviews with witnesses and officers. The ICS should include preliminary investigations in their computerized database and the EWS, number preliminary investigations, and list them on ICS contact cards. In order to avoid any improper negative inferences being drawn about an officer or unit, the EWS should clearly indicate that the investigations are preliminary, and the EWS should be updated as more current information becomes available. For example, when the ICS decides to open a full investigation, the EWS should be updated to reflect this, and when the ICS reaches a disposition in an investigation, the EWS should be updated to reflect this.

#### **IV. Supervisory oversight**

##### **A. Risk assessment and management**

In the late 1990's, the DPD abolished the Risk Management Division and relocated the Risk Assessment Section to the Legal Affairs Division, effectively downsizing the office performing the risk management and assessment functions from a division to a section. Based on our review, the risk assessment processes currently in place in the DPD are periodic meetings between the Police Legal Advisor and the head of the Risk Assessment Section to review recently settled lawsuits, and informal reviews of officers under their command by some commanders. The DPD apparently does not have a risk management plan nor does it provide any risk management training to supervisory officers, even though DPD policy requires the Risk Assessment Section to develop risk management plans and programs and provide risk management training. The DPD does not have any mechanisms to facilitate intra-departmental information sharing regarding training, risk assessment and management, planning and policy review. The DPD does not review high-risk incidents, such as police shootings and in-custody deaths, from a risk assessment perspective. While individual command-level officers may conduct inspections of their commands, it appears that no office in the DPD coordinates and conducts inspections. The Planning and Inspection Unit, which is charged with performing this function, does not do so.

We recommend that the DPD create, implement, and regularly update a risk management plan. This plan should provide for an EWS; regular, periodic inspections of all DPD commands; regular, periodic audits of, among other things, use of force reporting, training, external complaint intakes and investigations, criminal and other internal investigations, and the disciplinary process; command-level risk-assessment reviews of all high-risk incidents, and improved information sharing regarding training, risk assessment and management, planning, and policy review. The DPD should provide risk assessment and management training, including training regarding the EWS, to all supervisory staff. The DPD should consider consolidating under one command all offices with functional responsibility for training, risk assessment, planning, and policy review.

##### **B. Early warning system**



An early warning system (EWS)<sup>(3)</sup> is a critical component of a risk assessment and management system. The DPD does not have a fully operational EWS, or other method by which to identify patterns of problematic behavior by an officer, shift, or unit. DPD officials recognize the need for an EWS, and the DPD has been in the process of creating a computerized EWS for several years. We were told that a partial EWS is now on-line. This system currently only contains historical data on citizen complaints, although the DPD intends to input other historical data. In the interim, it is more difficult for the DPD to identify at-risk officers or units at an early stage, increasing the likelihood of misconduct.

Our review of the DPD's plans for an EWS revealed deficiencies that will significantly limit the EWS's effectiveness. The DPD apparently does not plan for the EWS to contain information on non-sustained complaints, uses of force, criminal arrests and charges, civil lawsuits, arrest reports, training history, or referrals for administrative counseling. It is important that the EWS contain information on non-sustained complaints because a number of such complaints containing similar allegations may indicate that an officer is engaged in a pattern of problematic behavior and/or is at risk of engaging in misconduct. Also, as explained above, the DPD apparently does not plan to include in the EWS information regarding preliminary investigations and regarding complaints unless sustained. As discussed above, it is important that the EWS contain the most recent available information to ensure that the EWS can flag patterns of problematic behavior before misconduct takes place. Delaying the input of information into the EWS until a full investigation is opened or until a final disposition is reached might prevent the DPD from identifying an at-risk officer and taking non-disciplinary corrective action, e.g., retraining, before he/she engages in misconduct. A police department can prevent improper negative inferences from being drawn from such information by clearly indicating the status of the information, e.g. non-sustained complaint, preliminary investigation, and by updating the EWS as more current information becomes available.

The DPD will provide inadequate access to the EWS. The system will contain files from the OCI, the ICS, and the precincts, but each office will only have access to their own files in the database, preventing supervisors from obtaining comprehensive data about an officer or unit. We received conflicting information from different sources, but it appears that the Risk Assessment Section will have access to the entire database.

The DPD's plan for using the EWS will significantly limit its utility as an oversight mechanism. The Risk Assessment Section, which will administer the EWS, is inadequately staffed to effectively perform this function. Most computerized early warning systems incorporate flags that trigger supervisory review. The flags that the DPD is planning to use are inadequate because they set the trigger for review too high, and only take into consideration external complaints, excluding other data that may signal problematic behavior. The only flag that the Risk Assessment Section will use is three CCRs in six months (as noted above, a CCR is not entered in the database until a disposition is reached). The OCI's flag will be two CCRs in three months, while the ICS will have its own flag, which has yet to be determined. The DPD apparently does not plan to require supervisory review of EWS data for officers who are being considered for promotions, transfers, or selection as an ICS investigator, an OCI investigator, or a FTO. The DPD apparently does not plan to require investigators to review an officer's relevant EWS data before reaching a disposition in an investigation of that officer, nor to require supervisors sitting in the disciplinary hearing of an officer to review that officer's relevant EWS data. It does not appear that the EWS will create a common control number for incidents that are the subject of several reports or investigations.

We recommend that the DPD invest additional resources in the computerized EWS to ensure its completion at the earliest date possible. We recommend that the EWS contain information on all investigations, including preliminary investigations, all complaints, including non-sustained complaints and complaints prior to final disposition, uses of force, criminal arrests and charges, civil lawsuits, arrest reports, training history, discipline, and other corrective actions. We recommend that the ICS, the OCI and Risk Assessment have full read-only access to the EWS; and that supervisors have read-only access to EWS data regarding officers that they supervise.

We recommend that the DPD revise its plan for using the EWS as follows: the DPD should staff the Risk Assessment Section adequately to administer the EWS; the DPD should develop additional flags for the EWS based on the accumulation of various types of conduct, not just external complaints, or require supervisors to review the EWS data of an officer every time that officer uses force or receives an external complaint; if the DPD chooses to use flags, all offices that use the EWS should generate regular reports based on these flags; the DPD should require supervisors to review regularly the EWS data of officers they supervise; the DPD should require supervisors to review the EWS data of officers under their supervision who are being considered for promotion or for selection as FTOs, or who are transferring into their command; the DPD should require the OCI and the ICS to consider EWS data regarding officers who apply for investigator positions in their offices; the DPD should require that, before reaching a disposition in an investigation of an officer, the investigator review the officer's EWS data that is relevant to the subject of the investigation, and that all supervisors sitting in the disciplinary hearing of an officer review that officer's

EWS data that is relevant to the subject of the investigation before ruling; and the EWS should create a common control number for incidents that are the subject of several reports or investigations.

### C. Policy planning

Effective policy planning is an important element of supervisory oversight that can decrease the risk of police misconduct. The DPD Manual, which is issued to all officers, has not been updated to reflect many changes in policy, e.g., the manual does not reflect the major departmental reorganization of 1994. The DPD does not regularly review its policies to ensure their compliance with current law, internal consistency, and adequacy in light of risk assessment information. The DPD does not review commands' Standard Operating Procedures (SOPs) to ensure their consistency with DPD policies. There is no central repository for DPD policies; DPD policy requires the Planning and Inspection Unit (PIU) to collect all DPD policies, but the PIU does not have the SOPs of many commands. The PIU, which also has responsibility for revising and updating the manual, is understaffed. It was downsized from a section to a unit in 1994.

We recommend that the DPD regularly review and update its policies, and review its SOPs to ensure their consistency with DPD policies. The DPD should ensure that all sworn officers have updated manuals, and that officers are trained in revised policies. The DPD should ensure that there is an office that serves as the central repository for all policies, including SOPs, and that this office has procedures in place to ensure that it has all policies. The DPD should provide adequate staffing and resources to the office that is charged with performing the above functions.

## V. Discipline

Our review revealed that there is a significant backlog of disciplinary cases. According to DPD officials, the backlog is approximately 1-2 years for cases awaiting initial hearings, and approximately 2-3 years for cases awaiting BPC appellate hearings. Documents provided by the DPD and the Law Department indicate that, in some cases, alleged offenses that took place over three years ago are still awaiting initial hearings at Trial Boards or Chief's Hearings, while some alleged offenses that took place over four years ago are still pending appeals to the BPC.

Many command-level officers expressed great frustration with the disciplinary backlog, saying that it hinders the ability to impose discipline, and significantly reduces the deterrent effect of discipline. Some command-level staff opined that the backlog for BPC appeals is particularly long because the BPC only meets for one hour weekly, and only schedules two appellate hearings per month.

The DPD and the Law Department do not have guidelines regarding the amount of time necessary to process a disciplinary case. Based on our review, Trial Boards are usually scheduled for only one day, although they often last longer than that. This practice apparently results in frequent continuances during Trial Boards. Settlement negotiations rarely take place until the day that a disciplinary hearing is scheduled, eliminating the possibility that settlements could reduce the disciplinary backlog.

The DPD and the BPC should take steps to reduce the backlog of disciplinary cases, including reducing the length of time between alleged offenses, Chief's Hearings, Trial Boards, and BPC appeals. The DPD and the BPC should schedule Chief's Hearings, Trial Boards, and BPC appeals more frequently, and establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process. The DPD and the Law Department should schedule Trial Boards for as many days as they are likely to last. The DPD and the Law Department should take measures to encourage settlements prior to disciplinary hearings, e.g., establish pre-disciplinary hearings, as suggested by the Law Department.

## VI. Training

### A. Field Training

Field training for new officers is an integral component of a training program, which helps to minimize the risk of officers engaging in problematic behaviors, including the use of excessive force. We understand that the DPD has an insufficient number of Field Training Officers (FTOs). Many probationary officers do not have FTOs, or have FTOs for only a portion of the field training program. Some officers expressed the opinion that there are not enough FTOs because the DPD provides inadequate incentives for officers to become FTOs. The DPD has no eligibility criteria for FTOs pertaining to FTO applicants' complaint and disciplinary histories. Such eligibility requirements help to ensure that officers who have engaged in misconduct do not train new officers.

We recommend that the DPD take measures to recruit and train more FTOs, including providing additional incentives to encourage officers to apply to become FTOs. Possible incentives include greater monetary compensation or priority for receiving training. The DPD should establish FTO eligibility criteria that consider applicants' complaint and disciplinary histories. The DPD should also remove FTOs whose actions while serving as FTOs would have disqualified them from selection as FTOs. We also recommend that the DPD solicit anonymous

evaluations of FTOs from probationary officers, which would assist the DPD's efforts to evaluate FTOs and improve the FTO program.

#### B. In-service training

DPD officers could benefit from receiving more in-service training than is currently provided. Aside from firearms certification, there is no mandatory, periodic, department-wide, in-service training. The DPD's firearms certification program requires officers to be certified in firearms annually. Our review, however, indicates that the DPD does not certify all officers in a given year, in violation of DPD policy. According to the Firearms Training Unit, approximately 75% of sworn officers are certified in firearms each year. Apparently, there are no measures in place to ensure that all officers are certified in firearms annually. DPD policy permits an officer who has not been certified to continue to carry a firearm.

Due to the infrequency with which officers use firearms, and the serious risk involved in using firearms, we recommend that the DPD require all sworn officers to be certified in firearms at least semiannually; that the firearms certification include testing on use of force decision-making skills; that the DPD institute measures to ensure that all officers are certified semiannually; and that the DPD prohibit officers who have not been certified from carrying firearms. We also recommend that the DPD provide additional, mandatory, annual, in-service training, including training on the use of force, legal developments, diversity, and police integrity. Use of force training should train officers only to use reasonable force and instruct them in de-escalation techniques that can help them avoid using force or minimize the amount of force used. The DPD should document and ensure that all sworn officers have successfully completed the training.

Thank you again for the continued cooperation of the Law Department and the DPD. We look forward to working with you and the DPD in the coming months as our investigation proceeds.

Sincerely,

Steven H. Rosenbaum  
Chief  
Special Litigation Section

Jeffrey G. Collins  
United States Attorney  
Eastern District of Michigan

cc: The Honorable Kwame M. Kilpatrick  
Chief Jerry A. Oliver, Sr.

1. Pursuant to the City Charter and DPD policy, the BPC, whose five members are appointed by the Mayor, oversees the DPD.
2. The ICS, which is discussed below, is responsible for criminal and internal investigations of DPD officers.
3. An EWS is a relational data system, usually computerized, for maintaining, integrating, and retrieving information necessary for effective supervision and management of a police department and its personnel. A police department can use EWS data regularly and affirmatively to promote best professional police practices, accountability and proactive management; to manage the risk of police misconduct, and potential liability therefor; to evaluate and audit the performance of officers and units; and to identify, manage, and control at-risk officers, conduct, and situations.

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