



**New Orleans Consent Decree Monitor  
Second Quarterly Report  
May 27, 2014**

**Office of the Consent Decree Monitor**

Sheppard Mullin Richter & Hampton, LLP

Appointed By Order Of The U.S. District Court For The Eastern District Of Louisiana

## WHAT'S IN THIS REPORT?



### Office of the Consent Decree Monitor

### Second Quarterly Report May 2014

Covering  
November 1, 2013 –  
March 31, 2014

See  
[consentdecree-monitor.com](http://consentdecree-monitor.com)  
for full report

Sheppard Mullin  
Richter & Hampton LLP

### WHAT WE DID THIS QUARTER

- Performed field observations and assessed NOPD's progress in complying with the many paragraphs of the Consent Decree.
- Reviewed and provided comments on NOPD's policies and procedures.
- Reviewed Public Integrity Bureau ("PIB") reports and attended Commander-level and Deputy Chief-level disciplinary hearings.
- Reviewed Use of Force Reports, Force Investigation Team ("FIT") Reports, and PIB misconduct investigations.
- Began analyzing Vehicle Pursuit data, Canine data, and Racial Profiling data.
- Developed and initiated a Biennial Survey.
- Prepared for the future performance of the "outcome measurements."

### WHAT WE FOUND

- NOPD continues to cooperate fully with the Monitoring Team and remains committed to meeting its obligations under the Consent Decree.
- NOPD continues to make significant progress meeting its Secondary Employment obligations. The Monitoring Team has been impressed by the efforts of NOPD Office of Police Secondary Employment Director John Salomone.
- The Monitoring Team has been impressed with the investigators and the investigations conducted by NOPD's FIT. The overall FIT process, however, needs continued attention.
- NOPD has made inadequate progress (1) standing up an effective Consent Decree Implementation Unit, (2) writing (or re-writing) compliant policies, and (3) ensuring the Consent Decree's requirements have been effectively communicated to and implemented in all police Districts.
- Districts need to strengthen their internal record keeping practices to facilitate the Monitoring Team's ability to assess compliance with the Consent Decree.

### NEXT QUARTER'S ACTIVITIES

- Continue monitoring compliance with all areas reported in this Quarterly Report.
- Observe Academy and In-Service training.
- Administer Biennial Survey.
- Continue reviewing and analyzing investigations and data.
- Continue reviewing Disciplinary Hearings.
- Initiate performance of Consent Decree "outcome measurements."



## II. Consent Decree Authority

“The Monitor shall file with the Court quarterly written, public reports covering the reporting period that shall include:

- a) A description of the work conducted by the Monitoring Team during the reporting period;
- b) A listing of each [Consent Decree] requirement indicating which requirements have been: (1) incorporated into implemented policy; (2) the subject of sufficient training for all relevant NOPD officers and employees; (3) reviewed or audited by the Monitoring Team in determining whether they have been fully implemented in actual practice, including the date of the review or audit; and (4) found by the Monitoring Team to have been fully implemented in practice;
- c) The methodology and specific findings for each audit or review conducted, redacted as necessary for privacy concerns. An unredacted version shall be filed under seal with the Court and provided to the Parties. The underlying data for each audit or review shall not be publicly available but shall be retained by the Monitoring Team and provided to either or both Parties upon request;
- d) For any requirements that were reviewed or audited and found not to have been fully implemented in practice, the Monitor’s recommendations regarding necessary steps to achieve compliance;
- e) The methodology and specific findings for each outcome assessment conducted; and
- f) A projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementation of the [Consent Decree].”

**-Consent Decree Paragraph 457**

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### **III. Notes**

“The Monitor shall be subject to the supervision and orders of the [United States District Court for the Eastern District of Louisiana], consistent with [the Consent Decree]. The Monitoring Team shall only have the duties, responsibilities, and authority conferred by [the Consent Decree]. The Monitoring Team shall not, and is not intended to, replace or assume the role and duties of the City and NOPD, including the Superintendent.”

**-Consent Decree Paragraph 455**



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## Glossary Of Acronyms

“ASU”	Administrative Services Unit
“AUSA”	Assistant United States Attorney
“AVL”	Automatic Vehicle Locator
“BWC”	Body Worn Cameras
“CCMS”	Criminal Case Management System
“CD”	Consent Decree
“CIT”	Crisis Intervention Team
“CODIS”	Combined DNA Index System
“ComStat”	Computer Statistics
“CPI”	California Psychological Inventory
“CSC”	Civil Service Commission
“CUC”	Citizens United for Change
“DA”	District Attorney
“DI-1”	Disciplinary Investigation Form
“DOJ”	Department of Justice
“DVU”	Domestic Violence Unit
“ECW”	Electronic Control Weapon
“EWS”	Early Warning System
“FBI”	Federal Bureau of Investigation
“FIT”	Force Investigation Team
“FOB”	Field Operations Bureau
“FTO”	Field Training Officer
“IACP”	International Association of Chiefs of Police
“ICO”	Integrity Control Officers
“IPM”	Independent Police Monitor
“KSA”	Knowledge, Skill and Ability
“LEP”	Limited English Proficiency
“LGBT”	Lesbian, Gay, Bi-sexual, and Transgender
“MMPT”	Minnesota Multiphasic Personality Inventory
“MOU”	Memorandum of Understanding
“NNDDA”	National Narcotics Detection Dog Association
“NOFJC”	New Orleans Family Justice Center
“NOPD”	New Orleans Police Department
“NPCA”	National Police Canine Association
“OCDM”	Office of Consent Decree Monitor
“OIG”	Office of Inspector General
“OPSE”	Office of Public Secondary Employment

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“PIB”	Public Integrity Bureau
“POST”	Police Officer Standards Training Counsel
“PsyQ”	Psychological History Questionnaire
“RFP”	Request for Proposal
“SART”	Sexual Assault Response Team
“SOD”	Special Operations Division
“SRC”	Survey Research Center
“SUNO”	Southern University of New Orleans
“SVU”	Special Victims Unit
“UNO”	University of New Orleans
“USAO”	United States Attorney’s Office for the Eastern District of New Orleans
“VAW”	Violence Against Women

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## V. Introduction To Second Quarterly Report

In response to Mayor Landrieu's request to the Department of Justice ("DOJ") to assist the City of New Orleans to bring about the "complete transformation" of the New Orleans Police Department ("NOPD"), the DOJ conducted an in-depth and comprehensive investigation of the NOPD's policies and practices. That investigation resulted in a March 16, 2011 Report of Findings that documented numerous patterns or practices of unconstitutional policing. On July 24, 2012, the City, the NOPD, and the DOJ submitted to the United States District Court for the Eastern District of Louisiana (the "District Court") a proposed "Consent Decree" setting forth standards for constitutional policing the City and NOPD agreed to meet.

In crafting the Consent Decree, the City, NOPD, and DOJ agreed that "full and sustained implementation" of the various terms of the Consent Decree was necessary "to protect the constitutional rights of all members of the community, improve the safety and security of the people of New Orleans, and increase public confidence in the New Orleans Police Department." (CD Introduction) To demonstrate full and sustained implementation of the Consent Decree (sometimes called "full and effective compliance" or "sustained compliance"), the NOPD must achieve the material requirements of the Consent Decree (or show sustained and continuing improvement in constitutional policing) consistent with several specific "outcome measures" (sometimes called "outcome assessments") identified in the Consent Decree. (CD 491)

The Consent Decree is comprehensive and details specific areas for corrective action including: Use of Force; stops, searches, seizures, and arrests; photographic lineups; custodial interrogations; bias-free policing; community engagement; recruitment; training; performance evaluations; promotions; officer assistance and support; supervision; secondary employment; and misconduct. (See Appendix I for a summary of each Consent Decree section.) The Consent Decree also called for the appointment of an Independent Monitor to serve as the eyes and ears of the District Court to report on the City's and the NOPD's compliance with the requirements of the Consent Decree. The Consent Decree was approved by the District Court on January 11, 2013, and, after a lengthy selection process, on August 9, 2013, the District Court appointed the law firm of Sheppard Mullin Richter & Hampton LLP as the Consent Decree Monitor.

The Consent Decree Monitor (actually, a Monitoring Team) has a broad and important role under the Consent Decree: "To assess and report whether the requirements of [the Consent Decree] have been implemented, and whether this implementation is resulting in the constitutional and professional treatment of individuals by NOPD." Yet, the role of the Monitoring Team is also limited in scope as the Team has only "the duties, responsibilities, and authority conferred by the [Consent Decree]." The Monitoring Team, for example, is not a replacement or substitute for the Police Department, the Superintendent, the Independent Police Monitor, or any other City entity.

As detailed throughout this Second Quarterly Report, NOPD continues to make progress toward full implementation of the Consent Decree. But, the NOPD still has a long way to go to come into full, effective, and sustained compliance with all material requirements of the Consent Decree. The difficulties the NOPD has had standing up its Consent Decree Implementation Unit,

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crafting compliant and effective policies, and developing an effective training program give just a hint of the obstacles that stand in the way of full compliance.

This being said, based on our work and observations thus far, we believe the NOPD remains committed to the promises it made to the citizens of New Orleans (and its officers) in the Consent Decree. The NOPD leadership with whom we interact on a daily basis express seemingly genuine interest in making the NOPD a better police department and in effectuating the improvements guaranteed by the Consent Decree. Our daily interactions with the rank and file further confirm our view that within NOPD are a large number of dedicated, ethical, caring, and professional officers, most of whom not only are ready for change; they are longing for change. But change does not happen overnight. It comes with hard work, strong leadership, and patience.

Finally, it bears noting that, notwithstanding the many paragraph-specific findings that follow, compliance with the Consent Decree is not a numbers counting exercise. NOPD action to implement the specific Consent Decree paragraphs, while important, is only one part of the compliance equation. At the end of the day, it is *the result* of those actions that tells us whether the NOPD is marching toward its goals of “ensuring that police services are delivered to the people of New Orleans in a manner that complies with the Constitution and laws of the United States.” (CD Introduction) Those results will be measured by our observations and analysis of how and whether the NOPD, in practice, from command staff to patrol officers, satisfy the requirements of the Consent Decree, and by the New Orleans community’s experience and perceptions of how and whether the NOPD has met its commitment of full and sustained compliance with the Consent Decree.

The Monitoring Team issued its First Quarterly Report in November 2013. That Report described in greater detail the sequence of events that resulted in the Consent Decree and the appointment of the Monitoring Team. This is the Monitoring Team’s Second Quarterly Report, and covers November 2013 through March 2014.<sup>1</sup>

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<sup>1</sup> In order to bring the Consent Decree implementation and reporting activities into parallel with the City’s Fiscal Year, this Second Quarterly Report is being issued in May 2014, and covers activity from November 2013 through the first calendar quarter of 2014. Future Reports will be issued on a quarterly basis.

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## VI. Summary Of Monitoring Activities

To assess and report on NOPD's progress toward full and effective compliance, the Monitoring Team does two things: (1) We determine whether the NOPD has complied with the many specific paragraphs of the Consent Decree; and (2) we assess whether, based upon the "outcome measurements" in the Consent Decree, NOPD's efforts are resulting in constitutional policing.

We use a variety of methods and techniques to discharge our duties and assess compliance. First, we are in constant contact with the DOJ and the NOPD. The Consent Decree is a result of an investigation conducted by the DOJ. While it is our responsibility to monitor the NOPD's compliance with the Consent Decree, the DOJ has a vested interest in ensuring the unconstitutional policing its investigation revealed is eliminated, root and branch. With respect to the NOPD, virtually every weekday of the year, as well as during some weekends and major events, we are present in New Orleans. We meet with officers, and attend training, hearings, and meetings. We visit the police Districts and the NOPD's various specialty units. We accompany officers and supervisors on patrol (ride-alongs). We ask questions about NOPD's policies, procedures, practices, and probe officers' awareness of the Consent Decree's requirements. In short, we observe the NOPD in action.

Second, we rely on and contribute the expertise our team possesses. Our team consists of former police chiefs, who are recognized experts on effective, constitutional policing. Our team also consists of nationally and internationally recognized academics on constitutional policing. As they observe and interact with the NOPD, they compare NOPD's policies, procedures, and practices against the accepted standards for effective, constitutional policing. Our Monitoring Team not only evaluates and reports on whether the NOPD meets those standards, but we provide feedback to the NOPD on a real-time basis to make available to the NOPD the benefits of this collective expertise.

Third, we listen. Ultimately, the measure of the success of the changes called for in the Consent Decree is to improve policing for the people of New Orleans. We meet with oversight entities such as the New Orleans IG and the Office of the Independent Police Monitor, other law enforcement agencies such as the DA's office, the U.S. Attorneys' office, and others, and law enforcement stakeholder organizations such as the Metropolitan Crime Commission. We meet with groups that represent constituencies who were identified in the DOJ investigation that led to the Consent Decree to learn their perceptions of, and experiences with, the NOPD. Some of these groups are identified later in this report. These meetings help us understand how the community, NOPD's customers, perceives and experiences their interactions with the NOPD. In this quarter, in fact, we began taking steps to conduct the formal Biennial Survey of New Orleans police officers, detainees, and the community required by the Consent Decree. The results of these surveys will provide invaluable insight into the experiences and attitudes of all segments of the law-enforcement community.

***Quite simply, our work is intended and directed to help the parties realize their "goal of ensuring that police services are delivered to the people of New Orleans in a manner that***



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*complies with the Constitution and laws of the United States.” “The full and sustained implementation of the [Consent Decree] is intended to protect the constitutional rights of all members of the community, improve the safety and security of the people of New Orleans and increase public confidence in the New Orleans Police Department.”*

In this quarter we advanced that goal through the following activities: (1) evaluating NOPD’s policies; (2) interviewing NOPD personnel and others; (3) reviewing internal NOPD documents and data; (4) observing officers’ actions and conduct in the field; and (5) meeting with relevant community stakeholders to learn from their first-hand experiences with, and perceptions of, NOPD policies and practices. Our actions in each of these areas included the following:

#### **A. Policy Reviews**

As set forth in detail later in this Second Quarterly Report, the NOPD submitted to the Monitoring Team a number of policies for review and approval as required by the Consent Decree. We reviewed each submitted policy for clarity, comprehensiveness, effectiveness, and compliance with the specific requirements of the Consent Decree. In reviewing the policies, we drew on the expertise of the members of our Monitoring Team. For example, Professor Geoff Alpert is a leading expert in police pursuit and Use of Force policies. Professor Alex Del Carmen is similarly expert in bias-free policing. Additionally, each of our former police chiefs possesses deep and broad experience with police policy best practices and with policies used by other law enforcement agencies, and brings well-earned practical experience in how police department policies affect policing. We also conferred with the NOPD to understand the intent underlying each policy and how the policy related to Department practices. Along with the DOJ, we held day-long meetings during which NOPD explained its view of how the draft policies related to current and intended practices. The policies were reviewed line by line, drafting and substantive deficiencies were identified, modifications based on current best practices were suggested, and problems were either resolved or targeted for further development.

#### **B. Meetings With NOPD**

The Monitoring Team spent considerable time this quarter meeting with NOPD command staff, supervisors, and officers to gain understanding of and insight into how NOPD’s policies relate to the Department’s practices. We interviewed the officers responsible for training, recruitment, promotions, communications, the Public Integrity Bureau (“PIB”), the Force Investigation Team (“FIT”) of PIB, the Administrative Services Unit (“ASU”), Special Victims Unit (“SVU”), domestic violence, driver training, the Canine Unit, and much more. We observed training classes to understand how training was conducted and whether it effectively communicated NOPD policies and techniques to the officers. We asked individual officers whether they were aware of policies and whether they believed the policies gave them the information and guidance they needed to perform their jobs. We attended roll-calls, observed officers in the field, went on “ride-alongs” with officers and supervisors, and met with key personnel in every police District (and Headquarters) to assess their compliance with record-

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keeping requirements on such things as interrogations, photo lineups, visual/audio documentation, discipline, Use of Force, and supervision.

We also worked closely with DOJ, the U.S. Attorney's Office for the Eastern District of Louisiana, the Office of Independent Police Monitor ("IPM"), the New Orleans Office of Inspector General, the New Orleans Sexual Assault Response Team ("SART"), and the newly created Office of Police Secondary Employment ("OPSE"). We attended meetings and/or met with the United States Attorney Criminal Justice Coordination Group, the Community Outreach and Law Enforcement Coordinator, the New Orleans District Attorney's Office, the Orleans Parish Sheriff's Office, and the Metropolitan Crime Commission.

### **C. Meetings With Community Stakeholders**

To gain understanding of the experiences, perceptions, concerns, and needs of the New Orleans community, we met with numerous community leaders and organizations that have worked with the NOPD or represent groups identified in the Consent Decree as especially vulnerable to unconstitutional policing. These groups included New Orleans' Workers Center for Racial Justice; Latino Farmers Cooperative of Louisiana; La Coperativa; VAYLA and Puentes; College Students from Xavier University and Southern University at New Orleans ("SUNO"); an LGBT officer representative; Congress of Day Laborers; Rev. Oscar Ramos; Mary Howell, Esq.; and individual citizens, including citizens associated with Safe Streets/Strong Communities, the Citizens United for Change ("CUC"), and other organizations, who attended our Public Meetings following the issuance of our First Quarterly Report. We also met with or responded to inquiries from concerned citizens who had questions about our work or experiences with the NOPD they wanted to share.

### **D. Document & Data Reviews**

We reviewed NOPD documents and data for evidence of compliance with both Department policies and the requirements of the Consent Decree. These records included Use of Force Reports; FIT investigations of serious Use of Force events; misconduct investigations; IPM reports on misconduct investigations; audio and video recordings relating to force and misconduct investigations; records of vehicle collisions; canine bite reports; arrest reports; racial profiling complaints; training materials; daily training bulletins; and more.

### **E. Observation Of Officer Action And Conduct In The Field**

We attended roll-calls, ComStat meetings, and disciplinary hearings. We accompanied officers on patrol (ride-alongs), and met formally and informally with officers concerning their experiences, knowledge of Department policies, practices, and Consent Decree requirements. We observed crowd control management at events including Mardi Gras parades, Second Line parades, Mardi Gras Indian parades, and citizen protests. We also observed crime scene control and evidence collection.

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## **F. Compliance Reviews And Audits**

The Monitoring Team spent significant time reviewing and monitoring the NOPD's practices and conduct this quarter in a wide array of substantive Consent Decree areas. We conducted compliance reviews and audits of FIT investigations into serious Use of Force events; supervisors' Use of Force Reports documenting review of less serious Use of Force events; misconduct investigations completed by PIB; disciplinary hearings; records—including audio and video recordings—of custodial interrogations; records of vehicle collisions; canine bite reports; arrest reports; racial profiling complaints and training materials; and daily training bulletins. Our findings are detailed throughout this Second Quarterly Report.

## **G. Monitor Implementation Of Secondary Employment Program**

Section XVI of the Consent Decree calls generally for the complete restructuring of its Secondary Employment practices (what have been colloquially called “paid details”) “to ensure that officers’ and other NOPD employees’ off-duty secondary employment does not compromise or interfere with the integrity and effectiveness of NOPD employees’ primary work as sworn police officers serving the entire New Orleans community.” In response, the City created an Office of Police Secondary Employment (“OPSE”) to control and manage Secondary Employment under the direction of Lieutenant Colonel (Ret.) John Salomone, a civilian with no prior or current employment with the NOPD. OPSE currently has nine full-time civilian staff, none of whom has prior or current employment with the NOPD.

In December 2013, the City and the NOPD adopted and the Monitoring Team approved their respective Secondary Employment policies. OPSE's policies are available on its website.<sup>2</sup> Upon approval of those policies, on December 18, 2013, Superintendent Serpas circulated the policies to all officers and provided an explanation of how Secondary Employment would be regulated and managed by the City and the NOPD going forward. Importantly, he instructed all NOPD officers and employees that desired to work “details” to register with OPSE by January 10, 2014.

OPSE began managing details in February, 2014. To date:

- 262 officers have worked jobs under OPSE management (36% of authorized officers)
- 183 customers and adding more daily (26 additional in process)
- Over 15,000 hours worked
- \$342,000 paid to officers in 15 successful payrolls; over \$314,000 paid since January 1, 2014
- Officer registration status:
  - 812 officers have registered (70% of current NOPD personnel strength)

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<sup>2</sup> <http://www.nola.gov/getattachment/OPSE/20131217-OPSE-External-Policy-V3-0.pdf/>.

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- o NOPD Compliance Bureau has verified and approved 719 officers for secondary employment

Related to the City's efforts to comply with the Secondary Employment provisions of the Consent Decree, on September 11, 2013, a lawsuit captioned *Walter Powers, et. al., v. New Orleans City, et. al.*, was filed in Civil District Court for the Parish of Orleans. The Civil Service Commission also was named as a defendant in the suit. The suit claimed the City's establishment of the OPSE and the process by which the City established pay rates for Secondary Employment violated the United States and Louisiana constitutions. The plaintiffs sought declaratory and injunctive relief. The City removed the suit to the District Court where it was consolidated with the Consent Decree proceedings. After a three-day bench trial, the District Court ruled neither the creation of the OPSE nor the pay plan violated the United States or the Louisiana constitutions, and dismissed plaintiffs' claims with prejudice.<sup>3</sup>

#### **H. Biennial Survey**

The Consent Decree directs the City and the NOPD to "conduct a reliable, comprehensive and representative survey of members of the New Orleans community regarding their experiences with and perception of NOPD and of public safety." (CD 230) The Consent Decree further provides that the Monitoring Team, with DOJ approval, will retain a local individual or entity to conduct a reliable, comprehensive, and representative biennial survey of members of the New Orleans community regarding their experiences with and perceptions of NOPD and of public safety. The Consent Decree did not, however, specify the precise roles that the Monitoring Team, the City and NOPD, respectively would perform. Accordingly, with the District Court's approval, the parties and the Monitoring Team worked collaboratively to develop a survey approach designed to meet the requirements of the Consent Decree and to ensure an efficient implementation of this important project.

The approach agreed upon by the parties involves three elements: a Police Officer Survey, a Detainee Survey, and a Community Survey. Each survey instrument was designed by the Monitoring Team and reviewed and approved by the NOPD, the DOJ, and the District Court. Each instrument is tailored to the unique nature of the respondents.

To maximize participation in all three surveys, the Monitoring Team implemented redundant safeguards to ensure anonymity. First, all respondents are advised by the member of the Monitoring Team administering the survey that the surveys are anonymous. Second, the completed surveys are not shared with the parties; they are viewed only by the Monitoring Team and the District Court. Neither the City nor the DOJ will have access to the completed surveys. Third, the survey results are shared with the parties only in aggregated form. In other words, the

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<sup>3</sup> *Powers, Jr., et al. v. New Orleans City, et al.*, No. 13-cv-05993 (E.D. La. filed Apr. 7, 2014).

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results are not shared on a response-by-response basis. Consequently, the data resulting from the survey cannot be used to “back into” who said what.

The aggregated results of the survey (but not the individual responses) will be published in a future Quarterly Report of the Monitoring Team. The individual survey responses will be delivered by the Monitoring Team to the District Court.

To facilitate the coding of the data generated by each component of the Survey, the Monitoring Team selected the University of New Orleans (“UNO”) Survey Research Center (“SRC”) to take the lead on coding and preliminary data analysis. The UNO SRC provides high quality research services to people inside and outside of UNO. The SRC also provides training and experience in survey research to University graduate and undergraduate students. As of the publication of this Second Quarterly Report, the Monitoring Team was in the process of negotiating a contract with the SRC on behalf of the District Court. The Monitoring Team also is in the process of engaging with Southern University at New Orleans (“SUNO”) to secure additional local resources for the implementation of the Detainee and Community surveys. The Monitoring Team looks forward to working closely with both universities to ensure a smooth implementation of the first Biennial Survey.

A brief description of each component of the Survey project follows:

### **1. The Police Survey**

The Police Survey includes 100 questions and covers such topics as police/community relations, internal NOPD culture, and Department resources and equipment. The Monitoring Team administered the survey to NOPD officers in April 2014. The survey was administered anonymously at roll-calls in each District, at selected roll-calls of units within the Special Operations Division (“SOD”), and at selected roll-calls in Investigative & Support and Public Integrity Bureaus. Task Force officers were surveyed at their roll-calls as well. A member of the Monitoring Team attended at least one roll-call for each shift (6 am, 2 pm, and 10 pm) in each District to maximize participation. NOPD management, including Superintendent Serpas and his leadership team, were given the Police Survey at a weekly “ComStat” meeting.

The Police Survey was introduced, distributed, and collected by a member of the Monitoring Team. To maximize participation, all officers and supervisors were advised that the survey was anonymous, that survey responses would not be shared with the NOPD or the City, and that only aggregated data would be made public.

### **2. The Detainee Survey**

The Detainee Survey includes 50 questions and will be conducted within the Orleans Parish Prison (“OPP”). The survey covers topics relating to the detainee’s arrest as well as more general questions regarding the NOPD, citizen/police relations, and policing in New Orleans more generally. The Monitoring Team will conduct in-person interviews at the OPP each day during the survey period. Detainees will be interviewed as they are brought from the OPP

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“Acceptance Area” into the “Intake and Processing Center” (“IPC”). At that time, a Monitoring Team member will ask the detainee if he/she is willing to take the survey, which will be read to the detainee by the Monitoring Team member. The interviews are expected to take 15 minutes, and a full week of interviews is expected to yield more than 200 interviews. As with the Police Officer interviews, each detainee will be advised that the survey is anonymous, that survey responses will not be shared with the NOPD or the City (or the Sherriff’s Office), and that only aggregated data will be made public.

### **3. The Community Survey**

The Community Survey includes 82 questions and will be conducted house-to-house by local students engaged by the University of New Orleans on behalf of the Monitoring Team and the District Court. The survey covers topics relating to policing generally, the NOPD in particular, and police/community relations in New Orleans. The goal of the survey is to interview at least 500 randomly selected community members throughout the City. The neighborhoods and houses to be visited will be identified by the UNO using well-recognized sampling techniques designed to ensure a fair and objective sample that properly reflects New Orleans’s diversity.

As with the Police Officer Survey and the Detainee Survey, the forms completed by members of the community will not be shared with the City or with the Department of Justice. They will be maintained by the District Court. Only the aggregated data will be shared with the parties to the Consent Decree – and the public.

#### **I. Observe Academy And In-Service Training**

The Consent Decree requires the monitoring and observation of Academy and In-Service Training by the Monitoring Team. To date, the Monitoring Team has observed some of the Academy and In-Service Training while assessing the quality of the material covered as well as the quality of instruction. We also have developed an evaluation instrument to determine compliance in this particular area. Our monitoring of Academy and In-Service Training is an on-going effort, which will be given heightened focus after training on Consent Decree compliant policies begins. We expect that in the next Quarterly Report a large enough sample of these evaluations will have taken place to permit an assessment of the quality and nature of Academy and In-Service Training as required by the Consent Decree.

#### **J. Review Use Of Force and Misconduct Investigations**

Paragraph 454 of the Consent Decree provides the Monitoring Team will be provided and will review each investigation of a serious Use of Force event or Use of Force that is the subject of a misconduct investigation, and each investigation report of a serious misconduct complaint before NOPD closes and reports its recommended disposition to the subject of the review. It also provides that the Monitoring Team will coordinate with the IPM in conducting these Use of Force and misconduct investigation reviews. Upon reviewing each serious Use of Force investigation and each serious misconduct complaint investigation, the Monitoring Team will

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recommend for further investigation any Use of Force or misconduct complaint investigations determined to be incomplete or for which the findings are not supported by a preponderance of the evidence. The Monitoring Team will provide written instructions for completing any investigation determined to be incomplete or inadequately supported by the evidence. The Monitoring Team will offer recommendations for further investigation or modifications that can be incorporated while allowing NOPD to meet the deadlines mandated by state law.

Members of the Monitoring Team met with NOPD, specifically, the Public Integrity Bureau (“PIB”) to understand how misconduct complaints are received, classified, logged, and tracked. Additionally, the Monitoring Team requested the following information for each serious Use of Force event, as defined in paragraph 14 of the Consent Decree,<sup>4</sup> since August 9, 2013:

- FIT number
- Date of occurrence
- Name of officer who used force
- Officer’s unit of assignment
- Description of force used
- Gist of incident
- If officer is injured, the nature of injury
- Name of arrestee
- If injured, the nature of the injury
- Item number
- Date PIB/FIT notified
- PIB number if one was assigned
- 60/120 due dates
- FIT investigator assigned

The Monitoring Team reviewed 5 investigations of serious Use of Force completed by FIT and 13 investigations of Level I and II Use of Force events conducted by district supervisors. Our findings are reported later in this Report.

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<sup>4</sup> Paragraph 14 of the Consent Decree defines “serious use of force” as: (1) all uses of lethal force by an NOPD officer; (2) all critical firearm discharges by an NOPD officer; (3) all Use of Force events by an NOPD officer resulting in serious physical injury or requiring hospitalization; (4) all neck holds; (5) all Use of Force events by an NOPD officer resulting in a loss of consciousness; (6) all canine bites; (7) more than two applications of an Electronic Control Weapon (“ECW”) on an individual during a single interaction, regardless of the mode or duration of the application, and whether the applications are by the same or different officers, or ECW application for longer than 15 seconds, whether continuous or consecutive; and (8) any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject.

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## VII. Implementation Deadlines

The Consent Decree establishes deadlines for certain tasks. These milestones provide a helpful gauge for the progress, status, and forecast for NOPD's compliance efforts. The starting date for these deadlines is August 9, 2013, the date the Monitor was appointed.

**CD Paragraph:** 24

**Due Date:** October 9, 2013

**Requirement:** NOPD agrees to provide an opportunity for each officer and employee to learn about this Agreement and the responsibilities of each officer and employee pursuant to it.

**Compliance Status:** NOPD was unable to demonstrate compliance.

**CD Paragraph:** 247

**Due Date:** November 9, 2013

**Requirement:** NOPD agrees to create a full-time Department wide Training Liaison position within the Training Division, and designate a single training coordinator in each District and central organizational unit to coordinate and document training. The Training Liaison shall 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 Division.

**Compliance Status:** NOPD was able to demonstrate partial compliance. (See full discussion at p. 64)

**CD Paragraph:** 317

**Due Date:** November 9, 2013

**Requirement:** The City and NOPD agree to create a plan for the implementation of the EWS which shall include the hiring of at least one full-time-equivalent qualified information technology specialist within 270 days of the Effective Date, to facilitate the development, implementation, and maintenance of the EWS. The City and NOPD agree to maintain sufficient staffing to facilitate EWS data input and provide training and assistance to EWS users.

**Compliance Status:** NOPD was able to demonstrate partial compliance. (See full discussion at p. 92)

**CD Paragraph:** 329

**Due Date:** November 9, 2013

**Requirement:** NOPD agrees to develop and implement a schedule for testing AVL, in-car camera, and [Electronic Control Weapon] recording equipment to confirm that it is in proper working order. Officers shall be responsible for ensuring that recording equipment assigned to them or their car is functioning properly at the beginning and end of each shift and shall report immediately any improperly functioning equipment.

**Compliance Status:** NOPD was unable to demonstrate compliance. (See full discussion at p. 77)

**CD Paragraph:** 425



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**Due Date:** November 9, 2013

**Requirement:** The City agrees to request the Civil Service Commission to post online its full decisions related to NOPD discipline in a timely manner.

**Compliance Status:** NOPD was able to demonstrate compliance.

**CD Paragraph:** 26

**Due Date:** August 9, 2014

**Requirement:** NOPD shall set out a schedule for delivering all training required by this Agreement within 365 days of the Effective Date.

**Compliance Status:** NOPD was unable to demonstrate compliance.

**CD Paragraph:** 111

**Due Date:** December 9, 2014

**Requirement:** NOPD and the City agree to implement a Crisis Intervention Planning Committee (“Planning Committee”) to direct the development and implementation of the CIT. The Planning Committee shall analyze and recommend appropriate changes to policies, procedures, and training methods regarding police contact with persons who may be mentally ill with the goal of de-escalating the potential for violent encounters.

**Compliance Status:** NOPD was unable to demonstrate compliance. (See full discussion at p. 40)

**CD Paragraph:** 192

**Due Date:** February 9, 2014

**Requirement:** NOPD agrees to designate a language access coordinator who shall coordinate and monitor compliance with its language assistance plan. The language access coordinator shall assess the effectiveness and efficiency of the plan on an ongoing basis and shall report to the Superintendent or his designee regarding needed improvements and any accountability concerns. The Superintendent or his designee shall consider the information provided by the coordinator and respond as necessary to ensure that NOPD’s language assistance plan is effective.

**Compliance Status:** NOPD was unable to demonstrate compliance. (See full discussion at p. 48)

**CD Paragraph:** 193

**Due Date:** February 9, 2014

**Requirement:** NOPD agrees to develop and implement a process of consultation with representatives of the LEP community to develop and at least annually review: implementation of the language assistance plan, including areas of possible collaboration to ensure its effectiveness; identification of additional languages that would be appropriate for translation of materials; accuracy and quality of NOPD language assistance services; and concerns, ideas, and strategies for ensuring language access.

**Compliance Status:** NOPD was unable to demonstrate compliance. (See full discussion at p.48 )

**CD Paragraph:** 210

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**Due Date:** August 9, 2014

**Requirement:** NOPD agrees to work with the DA, community service providers, and other stakeholders to develop and implement a SART and collaborative SART agreement . . . to provide a coordinated and victim-centered approach to sexual violence. NOPD agrees to comply with its obligations under the SART collaborative agreement.

**Compliance Status:** NOPD was able to demonstrate partial compliance. (See full discussion at p. 55)

**CD Paragraph:** 223

**Due Date:** February 9, 2014

**Requirement:** NOPD agrees to reassess its staffing allocation and personnel deployment, including its use of specialized units and deployment by geographic area, to ensure that core operations support community policing and problem-solving initiatives, and shall agree to modify any deployment strategy found to be incompatible with effective and community-oriented policing.

**Compliance Status:** NOPD was unable to demonstrate compliance.

**CD Paragraph:** 229

**Due Date:** February 9, 2014

**Requirement:** NOPD agrees to remake the ComStat meeting. The ComStat meeting will use the underlying collection and reporting of accurate and meaningful data regarding crime trends and other public safety measures to drive discussion of community-policing successes and challenges. NOPD agrees to ensure the ComStat meeting includes discussion and analysis of trends in misconduct complaints and community priorities to identify areas of concern, and to better develop interventions to address them. NOPD agrees to use techniques such as spatial mapping and scientific deployment analysis to enable ComStat to better support and measure community and problem-solving policing efforts.

**Compliance Status:** NOPD was unable to provide audit data demonstrating compliance, and the Monitoring Team has not yet focused on the underlying data.

**CD Paragraph:** 230

**Due Date:** February 9, 2014 (and every two years thereafter)

**Requirement:** NOPD and the City agree to conduct a reliable, comprehensive, and representative survey of members of the New Orleans community regarding their experiences with and perceptions of NOPD and of public safety.

**Compliance Status:** NOPD was able to demonstrate partial compliance. (See full discussion at p. 20)

**CD Paragraph:** 234

**Due Date:** February 9, 2014

**Requirement:** NOPD, working with Civil Service, agrees to develop a written, strategic recruitment plan that includes clear goals, objectives, and action steps for attracting high-quality applicants. The strategic recruitment plan shall clearly identify the duties and goals of NOPD's Recruitment Unit. The recruitment plan shall include specific strategies for attracting applicants

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with strategic thinking and problem-solving skills, interpersonal skills, emotional maturity, capacity to use technology, fluency in Spanish and Vietnamese (because these languages are spoken by a significant segment of the New Orleans Community), and the ability to collaborate with a diverse cross-section of the community.

**Compliance Status:** NOPD was able to demonstrate partial compliance. (See full discussion at p. 60)

**CD Paragraph:** 238

**Due Date:** February 9, 2014

**Requirement:** NOPD agrees to develop and implement a system for psychological screening and assessment of all NOPD recruit candidates, and to set criteria to ensure that only individuals suitable for policing are accepted into NOPD training academy.

**Compliance Status:** NOPD was able to demonstrate compliance. (See full discussion at p. 60)

**CD Paragraph:** 241

**Due Date:** February 9, 2014

**Requirement:** NOPD and the City, working with Civil Service, agree to establish standardized qualifications and guidance for who may serve on a recruit applicant interview panel.

**Compliance Status:** NOPD was unable to demonstrate compliance. (See full discussion at p. 61)

**CD Paragraph:** 243

**Due Date:** February 9, 2014

**Requirement:** NOPD and the City agree to work with Civil Service to establish a standardized scoring system to be used by interview panelists. Eligibility for serving on a recruit applicant interview panel shall include a review of the officer's internal disciplinary file and personnel file.

**Compliance Status:** NOPD was able to demonstrate partial compliance. (See full discussion at p. 61)

**CD Paragraph:** 248

**Due Date:** December 9, 2013

**Requirement:** NOPD agrees to establish a Training Advisory Committee that shall include staff from the NOPD Training Division, NOPD field personnel, high-level NOPD command staff (Deputy Superintendent or above), a community representative from the Police-Community Advisory Board, two representatives from area colleges and universities, an outside police professional with expertise in model training practices, and a representative from the FBI, the District Attorney's Office, the USAO, and the City Attorney's Office.

**Compliance Status:** NOPD was able to demonstrate compliance. (See full discussion at p. 65)

**CD Paragraph:** 430

**Due Date:** December 9, 2013

**Requirement:** NOPD shall develop and implement a system of formal coordination between a command-level NOPD official and the DA, municipal and state court judges, the Orleans Public Defenders, the FBI, the USAO, and the IPM. This criminal justice coordination group shall be

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convened by the USAO and shall meet monthly to share regular feedback regarding the quality of NOPD arrests and indicia of misconduct; to refer specific allegations of misconduct for investigation; and to receive an update on the status of previous referrals.

**Compliance Status:** NOPD was able to demonstrate compliance.

**CD Paragraph:** 432

**Due Date:** February 9, 2014

**Requirement:** NOPD agrees to develop and implement a Community Outreach and Public Information program in each NOPD District.

**Compliance Status:** The Monitoring Team has not yet focused on this topic in depth.

## VIII. Detailed Findings

As a prefatory matter, while we found NOPD to not yet be able to demonstrate compliance with many of the Consent Decree requirements, it should be remembered NOPD is in the early phases of this significant transformation. The mere fact the Department cannot yet demonstrate compliance with a particular requirement of the Consent Decree *does not* necessarily reflect a “failure” by the NOPD. To the contrary, it may simply mean the NOPD is progressing toward compliance.

While the Monitoring Team has begun the process of conducting the many “outcome measurements” identified in the Consent Decree, this Second Quarterly Report describes NOPD’s progress in meeting its specific obligations under the many detailed paragraphs of the Consent Decree. This Report does not cover every paragraph because not every paragraph is assessed every quarter. Consent Decree requirements not covered in this Report will be covered in a future Report. Ultimately, however, every material element of the Consent Decree will be reviewed, assessed, and reported on by the Monitoring Team. *In short, the assessment here should be viewed as a snapshot of where the NOPD stands today with respect to complying with the Consent Decree; not a measure of its efforts to come into compliance or the prospects for future progress.*

Finally, it bears repeating that, notwithstanding the many paragraph-specific findings that follow, compliance with the Consent Decree is not a numbers counting exercise. NOPD’s actions to implement the specific Consent Decree paragraphs, while important, are only one part of the compliance equation. At the end of the day, it is the result of those actions that tells us whether the NOPD is marching toward its goal of “ensuring that police services are delivered to the people of New Orleans in a manner that complies with the Constitution and laws of the United States.” (CD Introduction)

### A. Policies Generally

The Consent Decree requires NOPD to submit new and revised policies, procedures, and manuals related to specified provisions of the Consent Decree to the Monitoring Team and DOJ for review and comment prior to publication and implementation. As explained in our First

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Quarterly Report, however, NOPD comprehensively revised its 1,038 page policy/procedure manual prior to appointment of the Monitoring Team without notifying the Court or the DOJ. Considering the volume of policies included in the manual and in light of the requirement that policies be reviewed by DOJ and the Monitoring Team within 15 days of receipt, the parties and the District Court recognized that 15 days was insufficient time to conduct the meaningful, thorough, and effective review necessary to ensure the NOPD's policies result in effective guidance and constitutional policing. The importance of this requirement as the cornerstone upon which all other reforms will stand can scarcely be overstated. Obviously, clear, sound, constitutional policies will be the basis for officer and employee training and practices. (CD 16)

The Consent Decree specifically requires advance approval by DOJ and the Monitoring Team of policies related to: Use, Reporting, and Review of Force; Crisis Intervention Team; Stops, Searches, and Arrests; Custodial Interrogations; Biased Policing; Community Engagement; Academy and In-Service Training; Supervision; and Misconduct Investigations (the "specified provisions"). The parties agreed that NOPD would focus on submitting for review and approval the specified provisions.

The First Quarterly Report detailed the numerous, substantive deficiencies of the policies submitted by the NOPD to DOJ and the Monitoring Team. We stated in that Report NOPD is committed to redrafting the policies as they deemed appropriate and resubmitting them to the Monitoring Team and the DOJ for further review. We anticipated receiving revised policies "over the next several weeks."

In December 2013, NOPD resubmitted a number of policies concerning the specified provisions: Firearms; Ammunition; Vehicle Pursuits; Canines; Search and Seizure; Custody Searches; Property Loss Report; Discriminatory Policing; Contacts, Detentions, and Photographing Detainees; Body Worn Camera; Misconduct Complaints/Disciplinary Investigations; and Disciplinary Hearings/Penalties. (During November and December, additional policies not falling within the category of the specified provisions also were submitted. These are addressed below.)

The resubmitted policies still exhibited many of the deficiencies previously identified to the NOPD. Additionally, for some of the policies, such as Misconduct Complaints/Disciplinary Investigations, it was not possible to understand the underlying practices they were intended to describe. In February, the NOPD, DOJ, and members of the Monitoring Team met face to face in an effort to discuss the deficiencies and move the policies toward compliance.

At the meeting, it became clear the policy deficiencies reflected two categorically-different problems. The first, and easier to address, category consisted of drafting deficiencies; policies that did not adequately explain the underlying process or provide sufficiently specific guidance. The second, more difficult, problem concerned deficiencies that were not the result of flawed drafting, but where the DOJ and/or the Monitoring Team believed the underlying processes failed to conform to the requirements of the Consent Decree. These deficiencies cannot be cured by redrafting, but require a restructuring of the process. While the parties were

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able to make progress toward curing drafting deficiencies, resolving the underlying structural shortcomings is a more difficult, time-consuming process.

In the ensuing weeks, additional problems revealed themselves. First, our and DOJ's review was hampered by not receiving all policies and procedures related to a policy area or specified provision. For example, NOPD submitted for review its Policy 301 (Use of Force Continuum), but has not submitted the underlying policy upon which it is based, Policy 300 (Use of Force). It is not possible to determine whether NOPD's Use of Force policy complies with the Consent Decree's requirements without the ability to review all Use of Force policies.

It is also clear the NOPD's policy drafting process is seriously deficient. The NOPD's revised policy manual was drafted by an outside vendor. (And, as noted in our First Quarterly Report, many of the resulting policies simply copied the Consent Decree's language). The revision process, however, is being handled by NOPD internally. Despite inquiry, NOPD has been unable to explain its policy drafting process or identify the processes' owners. Rather, responsibility appears to have reverted to the Executive Development Committee ("EDC") and the Policy Review Committee ("PRC") NOPD had assembled to review and refine the policies drafted by the vendor.

Neither the EDC nor the PRC appears to have the technical policy drafting expertise essential to drafting effective policies, nor do they appear to have engaged sufficient personnel assigned to drafting. On or about December 27, 2013, the Monitoring Team and DOJ provided feedback to NOPD on several policies submitted for review. On March 31, 2014, the NOPD resubmitted those policies for further review. It became immediately apparent, however, that, apart from minor editing changes, the majority of the policies reflected the same substantive deficiencies previously identified by DOJ and the Monitoring Team in December 2013.

While admittedly the insertion of the Monitoring Team into the policy review and approval process in August 2013 caused the NOPD to revamp the way it historically has gone about drafting policies, and, thus, added some additional complexity to its legacy processes, NOPD's policy drafting and revision process nonetheless has been seriously hampered by a lack of technical skill, personnel, and policy drafting leadership. Consequently, the NOPD is not on track to meet its Consent Decree obligations with respect to policy drafting. Whether by devoting additional internal resources or by requesting technical assistance from the Monitoring Team or an outside entity, the NOPD needs to make compliance with the policy requirements of the Consent Decree a priority. The failure to set the cornerstone for the reforms contemplated by the Consent Decree will increase the City's costs of complying with the Consent Decree by delaying implementation, review, and approval of sound, effective, constitutional policies. Even more important, it will delay achievement of the City's commitment to improving police practices for the people of New Orleans. Working with the NOPD to remedy these deficiencies and expedite the policy revision process will be a priority in the current reporting quarter. We are optimistic that the NOPD efforts to hire personnel for its Consent Decree Implementation Unit will facilitate this effort.

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Additional discussion regarding the Monitoring Team's findings with respect to specific NOPD policies is set forth within the Use of Force and Misconduct Investigation discussions below.

## **B. Use of Force**

Section III of the Consent Decree states: "NOPD agrees to develop and implement force policies, training, and review mechanisms that ensure that force by NOPD officers is used in accordance with the rights secured or protected by the Constitution and laws of the United States, and that any unreasonable uses of force are identified and responded to appropriately." The Monitoring Team reviewed and provided comprehensive oral feedback to NOPD on its current Use of Force policy (Policy 300). Our review concluded Policy 300 was not in compliance with thirteen of the twenty-three relevant paragraphs of the Consent Decree. As reported in our First Quarterly Report, we provided feedback to NOPD through a series of dialogues, one session of which covered the Use of Force policy in great detail. In addition to prompting material changes in the substance of the policies, as described above, the Monitoring Team's feedback has caused NOPD to modify the way it goes about reviewing and revising its policies. While this change in approach has caused NOPD some additional delay, the Monitoring Team is optimistic the new approach will lead to more effective, more compliant policies.

While the absence of approved Use of Force policies is quite concerning, the Monitoring Team has not allowed that absence to delay its related monitoring responsibilities. Since the later weeks of 2013, we have been receiving timely notification of substantially complete investigations into serious Use of Force events. As a result, we were able to review five investigations by FIT. Generally, we found the investigations to be well done, as the findings in each case were based upon the preponderance of evidence uncovered by the investigator. Our review did, however, find deficiencies. Most of the deficiencies can be tied directly to the lack of approved policies on Use of Force events, Use of Force reporting, and investigation of use of force. Upon issuance of an approved Use of Force policy and FIT procedural manual, along with the requisite training, NOPD should anticipate coming into compliance on the force investigation related section of the Consent Decree.

The Monitoring Team also reviewed thirteen Use of Force Reports. All thirteen files contained the required documents; that is, force statements from the officer using force and from identified witness officers, the incident report, and the Use of Force Report documenting the supervisor's investigation. A force control number was obtained from PIB and attached to the Use of Force Report. Where the investigation indicated the arrestee was treated at the hospital, documentation was included. Three of the events involved use of a Taser. In all three the Taser report was included in the file. NOPD concluded in all thirteen investigations the force was justified. The Monitoring Team identified deficiencies, however. Two of the investigations were not in compliance with the Consent Decree. In one, the investigating supervisor was involved in the use of force. He physically assisted the officer in cuffing the resisting arrestee. In the other, there is no indication that the supervisor was ever on the scene of the use of force, that he viewed the arrestee or attempted to interview him.

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The Monitoring Team's efforts this period also included reviewing current certification and record keeping practices of the Canine Unit and assessing them against the requirements of the Consent Decree. We reviewed the current reporting system within the Canine Unit and were shown how files are maintained. We confirmed the existence of files for each handler and each canine as required by the Consent Decree. We viewed the training and certification records of the Canine Units lead trainer as well. We also reviewed all deployment reports with an apprehension for 2013 and through March 30, 2014. During a follow-up visit to the Canine Unit this quarter, the Monitoring Team reviewed all deployments for 2013 and 2014 (through March 30, 2014) involving an arrest. We reviewed a total of thirty seven deployment reports. Our review found twenty-four of the thirty-seven deployments were approved by a supervisor. Further analysis revealed all but one of the thirteen unapproved deployments occurred between January 1, 2013 and August 19, 2013. In a conversation with the SOD Captain, the Monitoring Team was informed that, subsequent to our conversation in August of 2013, he had implemented a policy requiring canine handlers to obtain approval from an SOD supervisor when the canine sergeant is unavailable. The Captain said there are ten sergeants assigned to SOD. All have received special training by the canine sergeant to equip them with the knowledge necessary to make canine deployment decisions. The deployment reports we reviewed contained documentation that the deployment was approved by a supervisor in all but one of the twenty-four deployments occurring since a requirement was implemented requiring canine handlers to obtain approval from an SOD supervisor when the canine sergeant is unavailable.

Importantly, the Monitoring Team's findings this quarter relate primary to policies, procedures, and investigations regarding uses of force. The Monitoring Team's detailed focus on the constitutionality of the uses of forces themselves will be conducted as part of the forthcoming "outcome assessments" contemplated by the Consent Decree. (CD 448)

## 1. Policies

The Monitoring Team spent significant time this quarter reviewing and assessing NOPD's current Use of Force policies, specifically its general Use of Force policy (Policy 300) and its Use of Force Continuum policy (Policy 301). As of the end of the reporting quarter, ***NOPD was unable to demonstrate compliance with this Consent Decree requirement with respect to either Policy 300 or Policy 310.*** NOPD has indicated it is interested in moving forward as expeditiously as possible with the approval of all of its policies and procedures, and the Monitoring Team shares this interest. NOPD officers currently are functioning under the unapproved, non-Consent Decree-compliant policy. The effects of the absence of a compliant policy are reflected in the quality of Use of Force reporting and investigations at the operations level of the Department. Further details concerning these findings appear below.

### a. Use Of Force Policy

The Consent Decree sets forth standards and requirements governing the use of force. Generally, the NOPD agreed to develop and implement an overarching, agency-wide Use of Force policy that complies with applicable law and comports with best practices and current professional standards. The comprehensive Use of Force policy shall include all force



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techniques, technologies, and weapons, both lethal and less-than lethal, that are available to NOPD officers, including standard-issue weapons that are made available to all officers and weapons that are made available only to specialized units. The comprehensive Use of Force policy shall clearly define and describe each force option and the circumstances under which use of such force is appropriate. The general Use of Force policy will incorporate the Use of Force principles articulated above, and shall specify that the unreasonable Use of Force events will subject officers to discipline, possible criminal prosecution, and/or civil liability.

The Monitoring Team reviewed and provided comprehensive oral feedback to NOPD on its current Use of Force policy (Policy 300). Our review concluded Policy 300 was *not in compliance* with thirteen of the twenty-three relevant paragraphs of the Consent Decree. As reported in our First Quarterly Report, we provided feedback to NOPD through a series of dialogues, one session of which covered the Use of Force policy in great detail.

Among the deficiencies the Monitoring Team identified in the Use of Force policy were the following:

- The Purpose and Scope statement fails to alert the reader that, among other issues, the ensuing guidance sets out the principles and values of the NOPD, and covers the circumstance in which an officer is authorized to use force, the level of force that is allowed based upon the level of resistance the officer confronts, and the reporting and investigating requirements in the aftermath of a use of force event.
- The policy does not always conform to specific requirements of the Consent Decree. For example, though the Consent Decree includes clear definitions of terms related to force, the policy did not always use the Consent Decree definitions.
- The Consent Decree makes a distinction between active resistance and defensive resistance; the NOPD policy incorporates defensive resistance into the definition of active resistance, thereby making no distinction between the two levels of resistance.
- The notification, reporting, and investigative duties of police officers, supervisors and command personnel are not presented in an orderly manner, making it difficult for a reader to understand what is expected of him/her.

In short, *NOPD was unable to demonstrate compliance with this Consent Decree requirement with respect to Policy 300.*

#### **b. Use Of Force Continuum Policy**

On March 31, 2014, NOPD forwarded a draft of Policy 301, Use of Force Continuum, to the Monitoring Team and to the DOJ. The Consent Decree does not require the Department to adopt a force continuum but the Monitoring Team agrees that it is a valuable adjunct to the force policy. This policy, however, covers only a portion of the policy requirements related to Use of Force. As noted above, NOPD has not resubmitted Policy 300, which sets forth the NOPD's

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basic Use of Force policy. Without this foundational policy, the Monitoring Team is unable to review meaningfully the derivative Use of Force policies, like Policy 301.

## 2. Vehicle Pursuits (CD 30-31)

Paragraphs 30 and 31 of the Consent Decree deal with Vehicle Pursuits. Among other things, paragraph 30 prohibits vehicle pursuits “except where an officer obtains express supervisory approval, and the officer and supervisor have considered multiple factors and determined that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.” Paragraph 31, on the other hand, focuses on the tracking and analysis of vehicle pursuits. Specifically, paragraph 31 of the Consent Decree requires that NOPD “track and analyze vehicle pursuits, including the violation that prompted the pursuit; the officer(s) involved in the pursuit; the supervisor approving the pursuit; the outcome of the pursuit; any officer, suspect, or bystander injuries or deaths; property damage; and related criminal or civil legal actions.” The Consent Decree further requires that such data and analysis “be included in the EWS and in NOPD’s Use of Force Annual report.”

The Monitoring Team spent time this quarter reviewing NOPD’s data relating to vehicle pursuits. Our initial review reveals NOPD is maintaining significant data regarding vehicle pursuits, and that NOPD is capturing the right data elements. NOPD is not, however, compiling the data properly in accordance with the best practices provided by the Monitoring Team. For example, although NOPD can provide high-level summary reports, the Department cannot identify and provide data from individual pursuits. Such data, once compiled properly, will serve as a baseline for future monitoring and will permit a number of instructive analyses.

Although not directly relating to the Consent Decree, NOPD also provided data relating to officer-involved collisions. These data are tangentially related to the vehicle pursuit requirements of the Consent Decree, but are critically important for monitoring and assessing officer safety related to collisions. The Monitoring Team spent significant time analyzing these data, and our initial assessment of those data is attached to this Report at Appendix III and is summarized below.

- NOPD officers were involved in a total of 1,620 collisions between 2007 and 2013. February, May, and July were the three months with the highest frequencies of collisions. The average number of crashes in these months is 22.43 in February, 22.14 in May and 21.86 in July while the total average of crashes is 19.29 per month. *See* Table 1, Frequency of Collisions by Year and Month.
- The number of collisions was relatively similar across years. However, 2011 and 2013 had significantly fewer officer-involved collisions. The number of collisions in these years was between 28% and 45% less than the other years. *See* Table 1, Frequency of Collisions by Year and Month.



- NOPD Division 2 accounted for the largest proportion of all collisions between 2007 and 2013, but other Divisions followed closely behind (e.g., Divisions 1, 5, and 8). *See* Table 2, Division of Assignment for Collisions 2007-2013.
- The highest number of collisions between 2007-2013 occurred in 2009 by division 8. *See* Table 3, Divisions of Assignment with Most Collisions by Year.
- The average age of an NOPD officer involved in a collision between 2007 and 2013 is 38. The youngest officer involved in a collision was 21 and the oldest was 83, according to the data provided by NOPD. The average number of years on the job for an officer involved in a collision was 11.5. The length of tenure ranged from 1 to 53 years for collision-involved officers. An overwhelming majority of collisions occur during “routine” driving practices (94.5%). About 4% of collisions involved emergency driving. Damage was reported as follows: 61% light damage, 25% moderate damage, and 13% heavy damage. Almost all collisions occurred during “good” weather conditions (96%). Rain was present in just over 3% of collisions. *See* Table 4, Collision Characteristics 2007 through 2013.
- Over one-third of collisions resulted in charges against the officer (35.5%). With respect to reprimands, almost all officers involved in the collisions were sent to driving school (94.3%). The most common length of suspension was 1 day (18.4%) and 43.3% of officers received a letter of reprimand. The average length of time between the accident date and a board hearing (for those that had a hearing) was 196.81 days. The lag between collision and hearing ranged from 36 to 533 days. *See* Table 4, Collision Characteristics 2007 through 2013.
- When compared to the other Divisions, officers in Divisions 5, 6, and 7 seem to have a greater chance of having charges brought against them after a collision, with Division 6 having the highest percentage (47%). In terms of frequency, when compared to other Divisions, officers in Division 2 had the highest number of charges brought against them (68 charges). Regarding those with the lowest percentage of charges filed, Division 1 collisions had the lowest percentage of cases where charges were filed (67.1%). In terms of frequency, Division 2 collisions had the lowest number of cases where charges were filed (109 no charges). *See* Table 5, Frequency of Collisions by Division of Assignment (1 through 8) for Charge vs. No Charge.
- The percentage of collisions that result in charges and no charges seems to be relatively stable over the years. However, it does appear that charges become slightly less frequent in the most recent years (2012 and 2013). *See* Table 6, Frequency of Collisions by Year for Charge vs. No Charge.
- A higher percentage of collisions in Platoons 2 and 3 seem to result in charges when compared to Platoon 1. *See* Table 7, Frequency of Collisions by Platoon Shift for Charge vs. No Charge.



- Charges are more likely if an officer was engaging in emergency driving. If a “collision” occurs while parked the officer is not likely to be charged. *See* Table 8, Frequency of Collisions by Driving Code for Charge vs. No Charge.
- If “minor” injuries were sustained these officers are the least likely to be charged. *See* Table 9, Frequency of Collisions by Injury for Charge vs. No Charge.
- Except for the “no damage category” (which has a very small N), a higher percentage of officers are charged when there is damage sustained in the collision. *See* Table 10, Frequency of Collisions by Damage Scale for Charge vs. No Charge.
- Overall, it appears that weather conditions have little relationship with charging decisions. *See* Table 11, Frequency of Collisions by Weather Conditions for Charge vs. No Charge.
- On average, those officers who are charged are slightly younger than those not charged. On average, those officers who are charged have less time on the job. *See* Table 12, Collision Characteristics for Charge vs. No Charge by Officer Characteristics.
- Officers in Divisions 5, 6, and 7 are each 50% more likely than the “other divisions” (*e.g.*, homicide, sex crimes, traffic, etc.) to have charges filed against them. For every one year increase in an officer’s tenure, his/her odds of being charged after a collision reduce by about 3.5%. In more realistic terms, an officer who has been on the job for 5 years is about 17.5% less likely than a rookie to have charges filed against him/her, all else equal. Thus, more experienced officers are less likely to be charged. *See* Table 13, Logistic regression equation for the effects of officer and collision characteristics on charge decision.
- If an officer was engaged in “emergency driving” before the collision, he/she is about 142% more likely to be charged than an officer engaging in other driving (*e.g.*, normal patrol or being parked). *See* Table 13, Logistic regression equation for the effects of officer and collision characteristics on charge decision.
- Officers who are injured in the collision are 55% less likely to be charged compared to officers who are not injured. The odds of being charged increase by about 31% if the collision resulted in some form of damage. *See* Table 13, Logistic regression equation for the effects of officer and collision characteristics on charge decision.

These data will serve as a baseline against which the Monitoring Team can track NOPD’s progress as it works to come into full compliance with the requirements of the Consent Decree as they relate to Vehicle Pursuits.

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### 3. Use Of Canines (CD 39-52)

Though the existing Department-level Canine Policy has not yet been approved by DOJ or the Monitoring Team, it serves as the current policy guide for the Canine Unit. In addition, in January 2012, the Canine Unit issued a unit-level Policy and Operating Procedures directive that builds upon the requirements set out in the Department Policy. The Canine Unit sergeant and trainer have implemented practices based on those two documents. (CD 38, 52)

The Monitoring Team's efforts this period consisted of reviewing current certification and record keeping practices of the Canine Unit and assessing them against the requirements of the Consent Decree. We reviewed the current reporting system within the Canine Unit and were shown how files are maintained. We confirmed the existence of files for each handler and each canine as required by the Consent Decree. We viewed the training and certification records of the Canine Unit's lead trainer as well. We also reviewed all deployment reports with an apprehension for 2013 and through March 30, 2014. (CD 48, 50)

The Canine Unit is part of the Special Operations Division and is comprised of one sergeant, six patrol dog teams, and one drug dog team. The patrol dog teams are cross-trained into at least one additional specialty, for example, tracking and narcotics or tracking and munitions.

Training and certification records for each handler and each canine are maintained in a separate file. The training and certification records of the lead trainer, who is also assigned a patrol dog, are maintained in a separate file. Records indicate all handler/canine teams possess a current certification, and we confirmed the existence of records of the certification in each handler's training records file. The NOPD uses two different certification agencies, the National Narcotics Detection Dog Association ("NNDDA") and the National Police Canine Association ("NPCA"). During one of our visits, we observed the certification test of three teams by the NNDDA. All three teams received certification. (CD 48, 50)

Though we have not yet observed certification testing by the NPCA, we were informed by the SOD Captain that all but one of the canine teams passed. The team that failed to meet the certification requirements is comprised of a recent pairing of the unit's most junior handler with a recently acquired canine. The Captain informed us the team will undergo remedial training and be retested by the certifying agency in the near future. We will review the handler's certification and training record on subsequent visits to the Canine Unit. (CD 48, 50)

NOPD Canine Unit training occurs Tuesday of each week. The Monitoring Team observed two training sessions this quarter. Only one of the observed sessions was completed; the second was interrupted by a call out of the Canine Unit to assist in the search for two suspected armed subjects. During the session observed, we found the canines were compliant with recall and release commands as required by the Consent Decree.

The Consent Decree requires that a canine supervisor be on-call or on-duty at all times. With only one sergeant assigned to the Canine Unit, it is not possible for him to cover canine

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operations 24/7. During our visit to the Canine Unit in August 2013, we reviewed several canine deployment reports and found they lacked documentation that the deployment was approved by a supervisor. We identified this deficiency to the sergeant and his superior, the SOD Captain. The canine sergeant explained that when he is not available, the canine handler is the most knowledgeable person to make the deployment decision and it is NOPD's current practice to leave the decision to him/her. We pointed out that the Consent Decree and best practices require the decision to be made by a supervisor. We suggested the Department should provide guidance through policy and training to other supervisors so that they have sufficient knowledge to make proper deployment decisions. (CD 41)

During a follow-up visit to the Canine Unit this quarter, the Monitoring Team reviewed all deployments for 2013 and 2014 (through March 30, 2014) involving an arrest. We reviewed a total of thirty seven deployment reports. Our review found twenty-four of the thirty-seven deployments were approved by a supervisor. Further analysis revealed that all but one of the thirteen unapproved deployments occurred between January 1, 2013 and August 19, 2013. In a conversation with the SOD Captain, the Monitoring Team was informed that, subsequent to our conversation back in August of 2013, he had implemented a policy requiring canine handlers to obtain approval from an SOD supervisor when the canine sergeant is unavailable. The Captain said there are ten sergeants assigned to SOD. All have received special training by the canine sergeant to equip them with the knowledge necessary to make canine deployment decisions. The deployment reports we reviewed contained documentation that the deployment was approved by a supervisor in all but one of the twenty-four deployments occurring since that practice was implemented. (CD 48)

Of the twenty-seven deployments with apprehension occurring in 2013, seven indicate the deployment resulted in a bite to the suspect, for a bite ratio of 26%. (CD 51) The Monitoring Team received a copy of the Canine Unit's statistical report. It contains a spreadsheet with statistics that track each officer's apprehensions by month, including information on whether a bite occurred. It also includes calculation of bite ratios. For 2013, the report shows a bite ratio of 22%, different from the bite ratio we independently developed. The difference between our analyses is the number of total apprehensions. Both analyses show seven bites for the year, but NOPD's data show 32 apprehensions whereas the Monitoring Team's review identified 27 apprehensions. In the ensuing months, we will review the documents supporting NOPD's statistics and seek to understand the reasons for the delta.

The Consent Decree (CD 100) requires the canine supervisor notify FIT in every incident involving a canine bite. In the thirty-seven deployments we reviewed, thirteen resulted in bites. FIT was notified in nine of the thirteen. Since August 2013, after our first visit with the Canine Unit, FIT was notified and responded to every deployment resulting in a bite. Based on our review of the deployment reports, all thirteen subjects were wanted for violent felonies or could have reasonably been expected to be armed. (CD 43)

Appendix V to this Quarterly Report is a spreadsheet reflecting the canine data underlying the foregoing findings. The Monitoring Team's review this quarter was limited to documents maintained at the Canine Unit office. The investigations into the canine deployments

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and bites conducted by the FIT team will be the subject of further monitoring and subsequent reports. Additionally, as with other uses of force, the Monitoring Team will be conducting “outcome assessments” that focus on the propriety and constitutionality of canine deployments, including an assessment of “bite ratios” broken down, where possible, by type of arrest, age, race, gender, and ethnicity. (CD 448)

#### 4. Notification To Force Investigation Team Of Serious Use Of Force Events

Paragraph 454 of the Consent Decree requires NOPD to “provide each investigation of a serious use of force event or use of force that is the subject of a misconduct investigation, and each investigation report of a serious misconduct complaint investigation (*i.e.*, criminal misconduct; unreasonable use of force; discriminatory policing; false arrest or planting evidence; untruthfulness/false statements; unlawful search; retaliation; sexual misconduct; domestic violence; and theft)” to the Monitoring Team before closing the investigation or communicating the recommended disposition to the subject of the investigation or review. (See our report on ¶375-420 for further discussion on review of serious misconduct investigations.)

Since the later weeks of 2013 we have been receiving timely notification of substantially complete investigations into serious Use of Force events. As a result, we were able to review five investigations by FIT.

#### 5. Force Investigation Team (CD Paragraphs 96-107)

While the absence of approved Use of Force policies is quite concerning, the Monitoring Team has not allowed that absence to delay our related monitoring responsibilities. As reported above, the Monitoring Team has reviewed several FIT investigations of serious Use of Force events, as well as a sample of field supervisors’ Use of Force Reports of their investigation into Level 1 and Level 2 Use of Force events, to assess whether officers and supervisors are complying with the reporting requirements contained in the existing but not yet approved policies. ***Our review revealed the NOPD FIT has made strides in improving the quality of investigations into serious Use of Force events.*** The lack of a compliant policy and training, however, continues to impact negatively the quality of NOPD’s Use of Force reporting by field supervisors and investigations at the operations level within the Department. Those Consent Decree paragraphs for which we have been able to make specific findings are set forth below.

##### a. CD Paragraph 96

Paragraph 96 of the Consent Decree requires NOPD to establish a single, uniform reporting and investigation/review system for all Level 4 Use of Force events (*i.e.*, serious Use of Force events, including critical firearm discharges). ***NOPD was able to demonstrate partial compliance with this Consent Decree requirement, but was unable to demonstrate full compliance with this requirement.***

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As previously reported, the Department has yet to obtain approval of its Use of Force policy and its policy on reporting Use of Force. Additionally, it has yet to issue a FIT standard operating procedure manual. Nevertheless, the Use of Force policy found in NOPD's current policy and procedure manual partially satisfies the requirement of paragraph 96 of the Consent Decree. The first responding supervisor at the scene of a serious Use of Force event is required to notify the NOPD command desk who then notifies FIT. FIT is required to respond to the location, take control of the scene and commence its investigation. In our review of five Level 4 Use of Force events, we found that FIT was notified in a timely manner and responded to the location with sufficient staff to complete the required investigative tasks.

**b. CD Paragraphs 97-107**

Paragraph 97 of the Consent Decree provides NOPD shall ensure all serious Use of Force events are investigated fully and fairly by individuals with appropriate expertise, independence, and investigative skills to ensure Use of Force events that are contrary to law or policy are identified and appropriately resolved. The Consent Decree further requires that NOPD create a FIT to conduct investigations of serious Use of Force events, Use of Force events indicating apparent criminal conduct by an officer, Use of Force events by NOPD personnel of a rank higher than sergeant, or Use of Force events reassigned to FIT by the Superintendent or his designee or PIB. The Consent Decree also requires that, within 280 days from the Effective Date, NOPD agrees to recruit, assign, and train a sufficient number of personnel to FIT to fulfill the requirements of this Agreement. Prior to performing FIT duties, FIT members shall receive 40 hours of FIT-specific training in FIT procedures; call out and investigative protocols; proper roles of on-scene counterparts such as crime scene technicians, the Monitor, the DA, the IPM, and the City Attorney's Office; and investigative equipment and techniques. FIT members must receive FIT-specific annual In-Service Training. ***NOPD was able to demonstrate partial compliance with this Consent Decree requirement, but was unable to demonstrate full compliance.***

The NOPD has established a Force Investigation Team as a unit within PIB. FIT is commanded by a lieutenant and staffed with three sergeants and a detective. The Monitoring Team obtained copies of the resumes of the staff and found each member possessed extensive and relevant investigative experience.

- The lieutenant has four years as an investigative supervisor and two as a sergeant in the Homicide Division. He also has seven years' experience as a detective in district violent crimes units.
- The sergeant with the primary duty of conducting administrative investigations into serious Use of Force events has five years' experience as a PIB investigator. Prior to being assigned to PIB, he served three years as a district detective.
- Both sergeants assigned to conduct the criminal investigation into serious Use of Force events also have significant investigative backgrounds. One worked as an investigator in the Homicide Division for five years and, prior to that, was assigned to a district shooting squad where he investigated non-fatal police shootings. The other worked in the



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Homicide Division as a major case squad detective for five years and as a district detective investigating non-fatal police shootings.

- The recently assigned detective has twelve years' investigative experience, working in the NOPD Homicide Division and the sex crimes section.

Based upon the Monitoring Team's review of five Use of Force investigations, we found FIT investigators exhibited the knowledge, skill, and ability necessary to conduct the often complicated investigations into police Use of Force events. The FIT personnel showed competency in their investigating, interviewing, interrogating, and writing abilities, and evidenced strong analytical skills. They also displayed the necessary objectivity and integrity their assignment requires.

Though they brought to their FIT assignment significant knowledge, skills, and abilities, FIT personnel clearly have recognized the need for specialized training in investigating police involved shootings and other serious Use of Force issues. Since the creation of the FIT unit, one or more members of FIT have attended the following training:

- Force Investigations Team Class (March 2012): 40 hours at PIB
  - Taught by LAPD Force Investigation personnel
  - Among subjects presented: OIS team leader functions, immediate notifications, crime scene processing, investigative strategies, interviewing civilian witnesses, sworn officer witnesses, case completion and presentation, and legal aspects of OIS investigations.
- FBI/PIB Investigations Class (March 2013): 40 Hours at PIB
  - Taught by FBI
  - Among subjects presented: ethical policy, interviews and interrogations, evidence, and crime scene management.
- Criminal Investigation of Deadly Force and Officer Involved Shootings: 20 hours in Lake County, Florida
  - Taught by David Rivers of the Public Agency Training Council
  - Among subjects presented: 12 High Risk Tasks, Investigations, Documentation, Warrants, Memory and Trauma, Interviewing Involved Officers, Procedural Issues, Miranda.
- Internal Affairs, Citizen Complaints and Officer Discipline
  - Taught by Lou Reiter

The PIB Deputy Superintendent, the PIB Commander, and the FIT Lieutenant each expressed recognition and a desire to provide the FIT with additional training. While NOPD is not yet in full compliance with respect to its FIT-related obligations under the Consent Decree, the FIT unit should be commended for its knowledgeable and dedicated personnel, their obvious interest in continuing education, and the unit's progress toward full compliance.

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During the reporting quarter, the Monitoring Team was able to review five completed FIT investigations. Generally, we found the investigations to be well done. The findings in each case were based upon the preponderance of evidence uncovered by the investigator. In none of the investigations did we find any deficiencies that, if corrected, would have affected the preponderance of evidence. In cases involving serious Use of Force events, FIT received timely notification from the field supervisor, responded to the scene in a timely manner, took charge of the scene, gathered and preserved evidence, identified and interviewed involved and witness officers, conducted a canvass and interviewed civilian witnesses, and recorded all interviews of officers and citizens. The investigator avoided giving preference to officers over civilians and based the finding on a preponderance of evidence. The criminal aspect of the incident was conducted by the Criminal Unit of FIT, not by the Department's Homicide Division. The administrative investigation was isolated from the criminal investigation and conducted by FIT's Administrative Unit. In one of the cases, criminal charges were indicated and presented to the DA for prosecution. The DA's office declined prosecution.

Our review did, however, find deficiencies. Most of the deficiencies can be tied directly to the lack of approved policies on Use of Force events, Use of Force reporting, and investigation of use of force. Upon issuance of an approved Use of Force policy and FIT procedural manual, along with the requisite training, NOPD should anticipate coming into compliance on the force investigation related section of the Consent Decree.

Deficiencies found include: lack of uniformity in the investigative process and report format; failure to complete a preliminary report and forward it to the Superintendent or his designee within 24 hours; identification of any policy, training or equipment implications derived from the investigation; and lack of documentation that recommended follow-up action to remediate deficiencies uncovered by the investigation actually occurred. In the case presented to the DA's office, the FIT investigator was not given any feedback as to why the DA chose not to proceed with criminal prosecution.

Additionally, although paragraph 106 of the Consent Decree requires that the FIT complete a preliminary report to present to the Superintendent or his designee as soon as possible, but in no circumstances later than 24 hours after learning of the Use of Force, our review of FIT investigations into serious Use of Force events discovered no such report. In a conversation with a FIT investigator, we were informed there is currently no requirement that such a report be prepared. If the Superintendent or Deputy Superintendent wants information on the event and/or the progress of the investigation within the first 24 hours, or at any time, the investigator must send a copy of his/her summary report that is initiated the day of the event, and is updated and compiled through the life of the investigation.

### **C. Stops, Searches, And Arrests (CD 122-162)**

The Consent Decree requires NOPD to ensure all investigatory stops, searches, and arrests are conducted in accordance with the rights secured or protected by the Constitution and laws of the United States. NOPD further must ensure investigatory stops, searches, and arrests are part of an effective overall crime prevention strategy; are consistent with community priorities for enforcement;

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and are carried out with fairness and respect. The Monitoring Team began gathering and analyzing NOPD's stop, search, and arrest data, but the substance of this analysis will be performed in a future quarter. It should be noted, however, the Monitoring Team did find NOPD's systems and documentation currently to be inadequate to meet NOPD's obligations under the Consent Decree. For example, much of the documentation regarding stops, searches, and arrests required by the Consent Decree has not yet been implemented by the NOPD. Other processes, for example, the City's process for having officers complete Field Interview Cards and then capturing those cards in a meaningful way, also have significant shortcomings. These inadequacies and shortcomings have made it hard for the Monitoring Team to focus on this area of the Consent Decree. We have raised these issues with the NOPD and are working closely with the NOPD to ensure these critical gaps are remedied promptly and in advance of the forthcoming "outcome assessments" required by the Consent Decree.

Notwithstanding the difficulty of obtaining the data necessary, the Monitoring Team, did assess compliance with paragraph 149 of the Consent Decree this quarter. Paragraph 149 provides generally, within 270 days of the Effective Date of the Consent Decree, NOPD "shall develop a written or electronic report format to collect data on all investigatory stops and searches, whether or not they result in an arrest or issuance of a citation." The Consent Decree outlines specific information concerning the capabilities of the system.

While the NOPD is progressing toward compliance with this requirement, currently, the NOPD lacks the data and analytics capabilities to assess whether NOPD officers engage in racial profiling. According to the NOPD PIB, ten racial profiling complaints were filed in 2013. All ten complaints were reviewed by the Monitoring Team. Our review showed that all ten complaints were investigated the PIB and that the investigative approach was consistent in each case. None of the investigations, however, involved a review of the officer's prior history to determine whether there had been prior complaints of a similar nature.

The Monitoring Team's review further revealed NOPD has not established policies or procedures for investigating a racial profiling complaint. Consequently, each investigating officer has wide discretion with respect to how to investigate the complaint and what standards to apply to the challenged conduct. The absence of established definitions of racial profiling or investigative standards makes it difficult to determine reliably what conduct was investigated or the types of evidence an investigative officer should obtain and consider.

As the NOPD moves toward compliance with paragraph 149 of the Consent Decree, it will acquire the ability to perform data-driven comparative analyses as part of investigating racial-profiling complaints. At the moment, however, *the NOPD is unable to demonstrate compliance with this Consent Decree requirement.* We note, however, the Department has received approval to hire new personnel whose primary responsibility, according to the NOPD, will be to enhance the Department's data collection mechanisms to meet the standards set forth in the Consent Decree.



## **D. Custodial Interrogations (CD 163-170)**

This section of the Consent Decree requires officers to refrain from violence or threats of violence to obtain statements during interrogations. The section further requires the NOPD to ensure that custodial interrogations in a police facility are video and audio recorded, that qualified interpreters be used during interrogations, that all equipment failures be documented, and that officer notes be maintained in case files. Our specific findings regarding Custodial Interrogations follow.

### **1. Interrogations and Restrictions**

#### **a. CD Paragraph 163**

Paragraph 163 of the Consent Decree provides that officers shall not use physical violence or make threats to carry out harm to the individual or the individual's family during custodial interrogations. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

PIB personnel report they received one complaint within the past few months of a threat of physical violence related to a custodial interrogation. The case was J-11231-13. There was no video/audio recording since the incident occurred in the field. The investigation into the case is still in progress.

Of the Districts visited (4, 5, 6, and 7), only one District was able to retrieve audio/video recordings of custodial interrogations. Several recordings were reviewed and did not contain any indication of physical violence or threat of physical violence.

#### **b. CD Paragraph 164**

Paragraph 164 of the Consent Decree provides that all custodial interrogations that take place in a police facility, and all interrogations that involve suspected homicides or sexual assaults, shall be video and audio recorded, and that all recorded custodial interrogations will be recorded in their entirety. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

NOPD rejects the concept of a "pre-interview" and prohibits any decision not to record any portion of the interrogation based on such categorization. The recording equipment shall not be turned off unless the suspect states that he/she does not want the interview to be recorded. If the suspect requests that he/she does not want the interview to be recorded, the interviewer will record the subject making this request and shall document this request in the case report.

Of the Districts visited (4, 5, 6, and 7), only one District was able to retrieve audio/video recordings of custodial interrogations. One District was able to retrieve video recordings, but without the audio. Another District was unable to retrieve any recordings. The final District explained their system enables them to record only video. Two detectives explained they use



handheld recorders to capture audio. None of the recordings in that District were available for review.

**c. CD Paragraph 165**

Paragraph 165 of the Consent Decree provides that, if the interrogation is not able to be video and audio recorded because of equipment failure or malfunction, detectives shall record the interrogation by means of a digital or cassette recorder. Any equipment failure shall be explained and documented in the case report, the case file, and in a memo to the Deputy Chief of the Investigation & Support Bureau. As discussed above, ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

**d. CD Paragraph 166**

Paragraph 166 of the Consent Decree requires that all officers shall maintain in the case file their notes taken during interviews and interrogations. ***The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** None of the Districts could provide a list of all custodial interrogations. One would have to review every case file to determine which contained documentation regarding custodial interrogations.

**e. CD Paragraph 167**

Paragraph 167 of the Consent Decree provides that, within 270 days from the Effective Date, NOPD shall designate interview rooms for all Districts and specialized units, and ensure that interview rooms are equipped with functioning audio and video recording technology that allows for recording and maintenance of all phases of interrogations. ***The NOPD was able to demonstrate partial compliance with this requirement this quarter.***

Districts 1, 4, 5, 6, and 7 all have designated interview rooms. Not all are equipped with functioning audio/video recording technology, however. (District 7 records video and detectives state audio recordings are recorded separately.) Only one District could retrieve video/audio recordings during the audit.

**f. CD Paragraph 168**

Paragraph 168 of the Consent Decree provides that, within 270 days from the Effective Date, NOPD shall use qualified interpreters for any interrogation of an LEP individual, and Miranda warnings shall be provided to the subject in his or her primary language. Because of the dual role bilingual NOPD employees may have when conducting an interrogation and simultaneously acting as an interpreter, they should only be used as an interpreter during an interrogation if they have identified themselves as officers or employees of the Department, are authorized as NOPD interpreters, and are trained in using interpretation protocols consistent with best practices, as required by the Consent Decree and NOPD's language assistance policy and plan. ***The NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

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Very few interrogation recordings were available for review. Of the few reviewed, all were conducted in English. There was no list of interpreters available for investigators. Investigators referenced interpretation devices that are available within the Department, but they cannot be used for interrogations.

No evidence has been provided regarding authorized interpreters, that the interpreters are qualified, or that the interpreters have been trained in using interpretation protocols consistent with best practices.

## 2. Detective Selection And Interrogation Training

Paragraphs 169 and 170 of the Consent Decree require the NOPD to revise eligibility requirements for detective selection to include experience, writing samples, supervisory recommendations and the use of interviews. These paragraphs further require special training in interrogation procedures, including an ethics component, for newly assigned detectives, and also require all detectives receive annual training in regard to updates and legal changes concerning interrogations. Our specific findings relating to these areas follow.

### a. CD Paragraph 169

Paragraph 169 of the Consent Decree provides that NOPD shall post all detective openings throughout the Department and shall revise eligibility criteria for detectives in Districts and specialized units to require appropriate experience, writing samples, supervisor recommendations, and an interview. *NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

There were no detective openings posted in some Districts since August 2013. Some District personnel did provide messages sent department-wide that included the following requirements for consideration: (1) resume and (2) written reports. These also included information that an interview would be conducted. None, however, listed a requirement for a supervisor's recommendation.

### b. CD Paragraph 170

Paragraph 170 of the Consent Decree requires that, within 365 days of the Effective Date, NOPD develop and deliver at least 24 hours of formal training for newly assigned detectives on interrogation procedures and methods. This training shall include legal standards; ethics; the mechanics of conducting effective and constitutional investigations; and causes for investigative failures and false confessions. It further requires that NOPD provide regular, and at least annual, In-Service Training to all detectives on updates and changes to the law regarding interrogations and confessions. *While NOPD has until August 2014, NOPD is not yet able to demonstrate compliance with this Consent Decree requirement.*

The last detective criminal investigation training course was conducted in May 2011. Accordingly, the Monitoring Team was unable to monitor a training class for detectives. No

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lesson plan was available to review training subjects, but the Training Academy captain did provide a printout of the information regarding the training. The subjects listed included major crime scene investigations, preparing arrest and search warrants, preparing photo lineups, interview and interrogation techniques, death investigations, crime scene forensics, and report writing for detectives.

The requirements of legal standards; ethics; mechanics of conducting effective and constitutional investigations; and causes for investigative failures and false confessions were not listed as included topics as required. There was, however, a reference to being honest in the PowerPoint presentation.

The training materials and class were designed by detectives. The Academy staff, however, should provide input regarding the training that needs to be developed to ensure the training includes all of the subjects required of the Consent Decree.

#### **E. Photographic Lineups (CD 171-175)**

Paragraphs 171-175 of the Consent Decree include requirements relating to photographic lineups. Specifically, NOPD must ensure that photographic lineups are conducted effectively and in accordance with the rights secured or protected by the Constitution and laws of the United States, so as to elicit accurate and reliable information. To achieve this outcome, NOPD agreed to implement the requirements as set forth below.

##### **1. CD Paragraph 171**

Paragraph 171 of the Consent Decree provides that no officer who is involved in the investigation shall participate in administering the photographic lineup. The individual who administers the lineup shall not have any knowledge as to which photograph depicts the suspect in the investigation. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

No District visited during January and February 2014 (Districts 1, 4, 5, 6, and 7) was able to provide information regarding any of the photo lineups conducted by District personnel. They were not able to provide a list of cases that included any audio/video recording of the lineup.

Without a list of cases that include recordings it is not possible to determine if recordings were made without reviewing every single case file. That is impractical. None of the Districts maintain a file of investigations that include photographic lineups. Without a list of cases that include photographic lineups it is not possible to determine compliance.

##### **2. CD Paragraph 172**

Paragraph 172 of the Consent Decree provides, before any lineup is administered, eyewitnesses shall be admonished that the suspect might or might not be present in the lineup. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

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No cases were available in order to monitor compliance with this section of the Consent Decree. Without a list of cases that include recordings it is not possible to determine if recordings were made without reviewing every single case file. That is impractical. None of the Districts maintain a file of investigations that include photographic lineups. Without a list of cases that include photographic lineups it is not possible to determine compliance.

### 3. CD Paragraph 173

Paragraph 173 of the Consent Decree provides NOPD shall select “filler” photographs—those that do not depict the suspect—of individuals who generally fit the witness’s description of the perpetrator. When there is a limited or inadequate description of the perpetrator provided by the witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features. For the reasons discussed above, *the NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

### 4. CD Paragraph 174

Paragraph 174 of the Consent Decree provides NOPD shall keep a complete record of each display procedure and results. The record shall include the time, date, location, identity of the viewing person, photograph numbers, and name of the lineup administrator. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.* No records of each display were present in any of the Districts on the days of the audits.

### 5. CD Paragraph 175

Paragraph 175 of the Consent Decree provides NOPD will document other information pertinent to the display procedure, including any statements made by the viewing individual and identities of other persons present during the procedure. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.* As noted, no records were present concerning individual displays.

### 6. CD Paragraph 176

Paragraph 176 of the Consent Decree provides, if a suspect selection is made, NOPD agrees to mark and maintain as evidence the photographs used in the lineup, including a copy of the photo array if one was used. It shall be kept as evidence until the final disposition of the case, at which time it shall become a part of the permanent case file. *The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

### F. Bias-Free Policing (CD 177-194)

The Consent Decree obligates NOPD to deliver police services that are equitable, respectful, and bias-free, in a manner that promotes broad community engagement and confidence in the Department. In conducting its activities, NOPD agreed to ensure that members of the public receive equal protection of the law, without bias based on race, color, ethnicity, national origin, religion,



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gender, disability, sexual orientation, or gender identity, and in accordance with the rights secured or protected by the Constitution and laws of the United States. Obviously, these obligations go to the very core of constitutional policing.

The NOPD's efforts to comply with Consent Decree's Bias-Free Policing requirements will be fully assessed – through data analysis, personal observations, and community surveys – in a future Quarterly Report. For the moment, however, we note the NOPD has informed the Monitoring Team it has received funding from the City and currently is in the process of hiring personnel whose main task and objective will be to address many of the requirements of Consent Decree paragraphs 177-194. The Monitoring Team looks forward to working with these individuals once they are brought on board.

Additionally, as discussed in greater detail earlier in this Report, the Monitoring Team was able to review all ten racial profiling complaints filed in 2013. Our review showed that all ten complaints were investigated by the PIB and that the investigative approach was consistent in each case. None of the investigations, however, involved a review of the officer's prior history to determine whether there had been prior complaints of a similar nature.

### **G. Policing Free Of Gender Bias (CD 195-222)**

Section IX of the Consent Decree requires NOPD “to respond to and investigate reports of sexual assault and domestic violence professionally, effectively, and in a manner free of gender-based bias, in accordance with the rights secured or protected by the Constitution and laws of the United States.” This section further requires NOPD “to appropriately classify and investigate reports of sexual assault and domestic violence, collaborate closely with the DA and community partners, including the New Orleans Family Justice Center (“NOFJC”), and apply a victim-centered approach at every stage of its response.”

The Monitoring Team has reviewed the New Orleans Office of Inspector General's (“OIG”) performance audit of the NOPD's Uniform Crime Reporting (“UCR”) process for the period June 1, 2010 through May 31, 2013. *See* NOLA OIG Audit Report A&R13PAU002 (5/14/14). The OIG's audit focused on the FBI's 2012 published crime statistics for forcible rape reported in the UCR by the NOPD. The audit identified significant problems with misclassification of offenses for sexual battery and forcible rape offenses. Specifically, according to the OIG, its audit “found that NOPD violated guidelines by misclassifying and not reporting to the UCR Program 41 of the 90 (46%) offenses tested.” *See* OIG Press Release “New Orleans Police Misclassify Forcible Rape Cases” (5/14/14). The OIG's audit also “concluded the NOPD violated the Louisiana Public Records Law, and also found NOPD internal policy violations including failure to corroborate signal and/or disposition changes with supporting documentation, failure to complete incident reports prior to end of shifts, lack of timely supervisor review of reports, and failure to remit evidence to Central Evidence & Property.” *Id.*

The issues identified by the OIG fall within the heart of the Consent Decree. The issues identified also fall squarely within the scope of the issues that are being and will continue to be

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reviewed by the Monitoring Team. As described below, the NOPD's work with the SART and the Blueprint for Safety over the last year has begun the process of increasing awareness within the NOPD regarding sexual violence and domestic violence. These collaborative efforts are a good beginning to understanding victims' needs; however, it is only a beginning. The accuracy of reports, reviews, and records is critical to the effective and efficient investigation of all citizen complaints. As part of its forthcoming auditing and review projects, as well as the outcome assessments required by the Consent Decree, the Monitoring Team will be looking into the issues raised in the OIG report. The Monitoring Team also will be looking into how these issues interact with and/or impact training, supervision, data integrity, record keeping, and policing free of gender bias generally.

As a starting point, over the course of this reporting quarter, the Monitoring Team met frequently with members of the NOPD, the IPM, and various community groups to assess the Department's compliance with the requirements of this section of the Consent Decree. These meetings have involved NOPD management and rank and file officers, the supervisor of the NOPD Special Victims section, the New Orleans District Attorney's Office, the coordinator of the New Orleans SART (Sexual Assault Response Team) program, the Executive Director of the New Orleans Family Justice Center, the Coordinator of the Blueprint For Safety, and many more. Based upon our work this quarter, we believe ***NOPD has made progress toward compliance. Nonetheless, NOPD is not in full compliance yet.***

As of the conclusion of this reporting quarter, NOPD had not developed policies that incorporate the substance necessary to meet the requirements of the Consent Decree. NOPD has stated, and the Monitoring Team has confirmed, that both SART participants, the BluePrint for Safety Coordinator, and NOPD supervisors are working on such policies and accompanying written directives.

In addition to monitoring NOPD's efforts to develop compliant policies, the Monitoring Team spent a significant amount of time monitoring the Department's efforts to launch a fully functional SART program. According to the VERA Institute of Justice, a SART "is a multidisciplinary team of health care providers, law enforcement representatives, advocates, and other professionals who coordinate their actions to help ensure that victims of sexual assault are supported and perpetrators held accountable." The Monitoring Team recognizes the creation of an effective SART program is a collaborative effort among NOPD, the District Attorney, community service providers, and other stakeholders, and that NOPD's ability to achieve compliance with the requirements of the Consent Decree in this area is dependent, in part at least, upon the actions of these other groups. (CD 210)

The Monitoring Team's findings with respect to specific Consent Decree paragraphs follow:

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## 1. CD Paragraph 195

Paragraph 195 of the Consent Decree requires NOPD “to develop and implement clear policies and procedures governing its response to reports of sexual assault.” ***The NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

The NOPD does not yet have a specific policy on Sexual Assault. NOPD has been working closely with the SART and is developing citywide protocols with the SART group; however, they need to develop a Sexual Assault policy that incorporates all of the requirements in the Consent Decree. Any compliant policy must clearly delineate the respective duties of all responders and the communications division. A compliant policy also must have clear and detailed guidelines for steps at each stage of the NOPD’s response to a reported sexual assault. As of the closing date of this reporting quarter, however, compliant policies and procedures are not yet in existence.

## 2. CD Paragraphs 196-199

Paragraph 196 of the Consent Decree requires that NOPD “[p]atrol officers or other first responders [] document their observations and any actions taken, including any statements of victims, witnesses, and reporting persons, in calls for service related to sexual assaults.” Further, paragraphs 197-199 of the Consent Decree require that NOPD develop either protocols or clear and detailed guidelines for initial and follow-up victim interviews, on-scene and follow-up investigations, and forensic examinations of both victims and suspects, as well as evidence preservation and crime scene management in the sexual assault context. ***The NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance with these paragraphs.***

The SART program is intended to coordinate the efforts of all partners in New Orleans responsible for providing an appropriate response to victims of sexual assault. Even though the SART has been meeting for almost one year, they have not had an “official” roll-out yet. NOPD reports the official roll out is anticipated before the end of April 2014.

While NOPD does incorporate many of the Consent Decree elements in its various investigatory written directives, specific guidelines for these areas must be included in a separate Sexual Assault policy (or written directive) that includes “clear and detailed guidance” at each step of the investigation to meet all Consent Decree requirements. This has not been done yet. Although NOPD does not have a specific policy on sexual assault, many observations and actions are captured in sexual assault reports (as required by paragraph 196). Accordingly, ***NOPD was unable to demonstrate compliance with this Consent Decree requirement, but was able to demonstrate partial compliance.***

To demonstrate full compliance with the requirements of these paragraphs, NOPD must develop and implement a specific policy on sexual assault. The Monitoring Team has received very positive feedback regarding the NOPD lieutenant leading the SART effort for the NOPD (Lt. Gilbert), and NOPD is aware of the deficiencies in this area and is working to develop a

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Sexual Assault policy that will meet the Consent Decree requirements. Therefore, the Monitoring Team believes the NOPD is progressing toward compliance.

### 3. CD Paragraph 200

Paragraph 200 of the Consent Decree requires that, “through its on-going training, NOPD [will] keep officers apprised, and shall inform victims, of available services, referrals, or other assistance.” *NOPD was unable to demonstrate full compliance with this Consent Decree requirement, but was able to demonstrate partial compliance.*

NOPD has demonstrated to the Monitoring Team that some training in this area has been done through roll-calls and electronic means. NOPD has not demonstrated, however, that all officers are kept apprised of the resources available. Furthermore, NOPD has not demonstrated that victims are informed of the resources available to them. When developed and implemented, NOPD’s policy on sexual assault should include provisions addressing both the ongoing training of officers and dissemination of information to victims of sexual assault concerning the assistance services available. To demonstrate full compliance, NOPD must demonstrate that a policy on sexual assault that includes these requirements has been implemented and that both officers are being trained and that victims are being notified.

### 4. CD Paragraph 201

Paragraph 201 of the Consent Decree requires that Special Victims Supervisors provide direct supervision of their subordinates. Paragraph 201 further identifies how supervisors are to respond to a scene, build relationships with advocates and programs, enhance training, review reports, demonstrate a detailed understanding of victims’ rights, and incorporate victim interactions and services into performance evaluations. *NOPD is not yet able to demonstrate compliance with the requirements of the Consent Decree.*

NOPD has issued a memorandum that acknowledges the requirements of paragraph 201 and directs officers to take the necessary steps to comply. While this is a good first step toward compliance, the Monitoring Team advised NOPD that, to demonstrate full compliance, these instructions must be incorporated into a written policy and procedure in order to ensure these requirements continue to be addressed and that officers are held accountable for these requirements. As of the close of this monitoring quarter, NOPD was unable to demonstrate this written guidance has been developed and implemented.

### 5. CD Paragraph 202

Paragraph 202 of the Consent Decree requires that NOPD “track all [Combined DNA Index System (“CODIS”)] hit outcomes with the CODIS Hit Outcome Program software provided by [the] National Institute of Justice.” *NOPD is not yet able to demonstrate compliance with this requirement of the Consent Decree.* Although NOPD reported that they are tracking CODIS hit outcomes, as of the end of the reporting quarter they had not provided the required documentation to demonstrate their use of the correct software. In the upcoming

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quarter, the Monitoring Team will meet with NOPD to observe the software used and to discuss the CODIS hit outcomes.

## 6. CD Paragraphs 203-205

Paragraphs 203, 204, and 205 of the Consent Decree include additional training requirements relating to sexual assault.

- Paragraph 203 requires that NOPD “incorporate [International Association of Chiefs of Police (“IACP”)] recommendations for VAW Law Enforcement Best Practices into its training.”
- Paragraph 204 requires that NOPD “provide initial training for sex crimes detectives of no fewer than 32 hours.”
- Paragraph 205 requires that NOPD “provide detailed initial and recruit training on responding to sexual assault for patrol officers and other first responders of no fewer than four hours, and ongoing annual in-service training.”
- Paragraph 205 also requires that NOPD “incorporate fact-based scenarios involving stranger and non-stranger sexual assault into recruit and in-service training on topics such as general investigation, crime scene preservation, and report writing.”

Although NOPD is making progress in each of these areas, *NOPD is not yet able to demonstrate compliance with the requirements of the Consent Decree for these paragraphs.*

NOPD has not yet incorporated the IACP recommendations into its training as required by paragraph 203, although NOPD has acknowledged this requirement and is working to improve the training in this area. NOPD also reports that annual In-Service Training for sex crimes detectives will far exceed the Consent Decree requirement of no fewer than 32 hours. While NOPD has agreed to collect and provide to the Monitoring Team the documentation necessary to demonstrate compliance with the Consent Decree requirements, as of the conclusion of this reporting quarter, NOPD had yet to provide this proof.

According to NOPD, Sex Crimes and Domestic Violence each will have two hours of classroom instruction in 2014 and two hours of on-line instruction. NOPD was working on rolling out an enhanced lesson plan for domestic violence training during the second quarter. Our review of the NOPD’s training materials, however, revealed that the required fact-based scenario training has not been included in the 2014 training. While NOPD acknowledged this deficiency during the previous quarter and reported it will add a fact-based scenario element and will modify the 2014 lesson plans in order to come into compliance with paragraph 205, NOPD is not yet able to demonstrate compliance. In the coming quarter, the Monitoring Team will meet with staff to review lesson plans and conduct follow-up with monitoring of the required hours for training with documentation. The Monitoring team will monitor the fact-based training classes when they are implemented.



## 7. CD Paragraphs 206-208

Paragraphs 206, 207, and 208 include several requirements relating to the coding, classification, and tracking of sexual assaults, specifically:

- Paragraph 206 prohibits patrol officers and detectives from coding reported sexual assaults in a miscellaneous or non-criminal category without the express written approval of the Investigative Services Bureau Special Victim Section Commander and the Investigative Services Bureau Criminal Investigations Division Commander.
- Paragraph 207 requires that NOPD “train supervisors and investigators in the Sex Crimes unit in the proper definitions and application of ‘unfounded,’ ‘false,’ and ‘baseless’ classifications in the context of sexual assault.”
- Paragraph 207 requires that the “immediate supervisor in the Sex Crimes Unit and the Special Victims Section Commander [] closely review and approve in writing any decision to classify a report as ‘unfounded.’”
- Paragraph 207 requires that NOPD “track each of these conclusions separately in NOPD’s [Criminal Case Management System (“CCMS”)] and publicly report them on at least a semi-annual basis.”
- Paragraph 208 requires that NOPD “separately track all reports of felony sexual assault, including drug-facilitated sexual assault, sexual assaults involving persons with disabilities rendering them unable to consent, sodomy, and male victims of sexual assault,” and that this data also be tracked in NOPD’s CCMS.
- Paragraph 208 requires that NOPD “make a reasonable effort to enter into a Memorandum of Understanding with the DA to track information related to the outcomes of domestic violence cases including whether the case was ultimately dismissed, resulted in a plea agreement, or tried, and the final outcome of the trial.”

***NOPD was unable to demonstrate compliance with this Consent Decree requirement, but was able to demonstrate partial compliance.***

NOPD has issued a memorandum that acknowledges the requirements of paragraph 206 and directs officers to take the necessary steps to comply. Additionally, NOPD reported that supervisors and investigators have been trained in the definitions as required by paragraph 207. NOPD has not, however, demonstrated that the requirements of paragraph 206 have been incorporated into a written directive, or that it is tracking sexual assaults through CCMS. Furthermore, the Monitoring Team has learned that the DA’s office is unlikely to enter into an MOU with NOPD, and therefore NOPD must develop a separate mechanism to monitor and track why certain cases are not accepted for prosecution.

## 8. CD Paragraph 209

Paragraph 209 of the Consent Decree requires that NOPD “track in its Justice Trax Laboratory Information Management System the evidence collected and whether it was

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submitted to a crime lab for testing.” Additionally, paragraph 209 requires that, “[w]here evidence is not submitted, NOPD [will] record in this System the justification for this decision.” ***The NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance***

NOPD uses the “Iresults” management system, developed by Justice Trax, to track the processing of sexual assault evidence. The Monitoring Team has not yet had the opportunity to assess whether the manner in which NOPD uses the Iresults systems meets the requirements of the Consent Decree, but plans to do so in the next reporting quarter.

### 9. CD Paragraph 210

Paragraph 210 of the Consent Decree requires that NOPD “work with the DA, community service providers, and other stakeholders to develop and implement a SART and collaborative SART agreement within 180 days of the Effective Date” of the Consent Decree. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

Many elements of the SART Program are currently underway, and the members meet monthly. Although the NOPD has been an active participant in these SART meetings and Lt. Gilbert of the NOPD Special Victims Unit is widely accepted and supported by SART members as a contributing SART member, the NOPD did not draft a SART agreement within the 180 days of the Effective Date of the Consent Decree. Progress is being made toward an agreement, but NOPD has yet to demonstrate compliance with this requirement. As noted above, however, the Monitoring Team recognizes the creation of an effective SART program is a collaborative effort among NOPD, the District Attorney, community service providers, and other stakeholders, and that NOPD’s ability to achieve compliance with the requirements of the Consent Decree in this area is dependent, in part at least, upon the actions of these other groups. (CD 210)

### 10. CD Paragraph 211

Paragraph 211 of the Consent Decree requires NOPD “to develop a mechanism to select and permit a committee of representatives from the community” to review sexual assault investigations and “to develop a protocol to ensure that feedback and recommendations from this committee are incorporated into policies, general training, remedial training for specific officers or detectives, and the decision to re-examine and re-open investigations, if warranted.” ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

NOPD has not yet begun to develop a mechanism to select and permit a committee of representatives from the community to review cases on a semi-annual basis. The deadline for the development of this mechanism, however, has not yet passed (within 365 days of the Effective Date). NOPD has committed to review a sampling of sexual assault investigations with SART, but has not yet developed the required protocols for a review to be performed.

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## 11. CD Paragraphs 212-213

Paragraphs 212 and 213 of the Consent Decree require that NOPD delineate roles and responsibilities in its domestic violence policies and procedures, provide detailed guidelines for each stage of NOPD's response to a report of domestic violence, and "prioritize victim safety and protection at each stage of its response to a report of domestic violence" by providing "clear guidelines for on-scene and follow-up investigation." ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

The Monitoring Team and NOPD met and reviewed the requirements of paragraphs 212 and 213 during the first quarter, and during the second quarter NOPD reported that they are still working to implement these requirements. Specifically, NOPD is making progress in delineating the respective duties of the various "responders" and call-takers to domestic violence incidents/calls for service in their policies and procedures. Additionally, the Monitoring Team observed that, although NOPD is following the Blueprint for Safety Protocol, they are still in the process of ensuring that these principles are incorporated thoroughly into the Department's practices, including revising policies and procedures.

## 12. CD Paragraph 214

Paragraph 214 of the Consent Decree requires NOPD "to discourage dual arrests of offenders and victims" by providing "guidance on when dual arrests are permissible and require[ing] supervisory approval to effectuate a dual arrest," revising policies to require custodial arrest, where appropriate, and by training officers "on how to identify the primary aggressor." ***NOPD was able to demonstrate compliance with this Consent Decree requirement.***

NOPD has revised Policy 320 and PR320 to include language that discourages dual arrests for domestic violence and guidance on when dual arrests are permissible, including when a supervisor must give approvals. Furthermore, domestic violence training was recently enhanced (for the March 2014 in-service class), and includes education on handling calls for protection orders, and information on probable cause for arrests for domestic violence, and methods for identifying the primary aggressor. The Monitoring Team has spoken with the District Attorney's Office, which has advised us they are not seeing over-use of "dual arrests" by the NOPD in domestic violence cases. The Monitoring Team will conduct its own compliance assessments in future quarters.

## 13. CD Paragraphs 215-216

Paragraph 215 of the Consent Decree requires NOPD "to continue to participate in the operation, development, and sustainability of the NOFJC; work in co-location with other civil and criminal agencies and community-based organizations; and support a centralized, multi-agency Family Justice Center model in the handling of domestic violence and sexual assault cases in New Orleans." Paragraph 216 requires NOPD "to collaborate with and refer all victims to the NOFJC." ***NOPD was unable to demonstrate full compliance with this Consent Decree requirement, but was able to demonstrate partial compliance.***



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A member of the Monitoring Team met with Mary Claire Landry, Executive Director of the NOFJC, several times during the second quarter. Ms. Landry stated her belief that the NOPD continues to participate in the operation, development, and sustainability of the NOFJC, and noted that NOPD has several investigators assigned to offices in the NOFJC building. Ms. Landry also stated her desire to “house” detectives from the Sexual Assault Unit. The Monitoring Team also observed NOPD’s work with other community organizations via SART and the Blueprint for Safety efforts. The Monitoring Team also observed an improvement in the number of NOPD referrals to the NOFJC, but notes that NOPD should be documenting all referrals in police reports.

#### 14. CD Paragraph 217

Paragraph 217 of the Consent Decree includes a number of requirements aimed at ensuring that NOPD continues “close collaboration with the DA and community providers to ensure that policies and protocols remain victim-centered and effective.” To facilitate collaboration, the Consent Decree requires at least quarterly meetings with the NOFJC, as well as the designation of a representative to review and coordinate domestic violence policies. ***NOPD was unable to demonstrate compliance with these Consent Decree requirements.***

NOPD unofficially has designated a sergeant as its representative; however, to meet the requirements of paragraph 217 of the Consent Decree, the Superintendent must officially designate a Commander. The current representative, however, is coordinating with the Blueprint for Safety Coordinator for internal consistency in NOPD’s policies and meets daily with the DA assigned to the DVU in the NOFJC. The representative also has identified recent training needs and during the second quarter was working on improving the domestic violence training. The Monitoring Team will review this training during the upcoming quarter.

#### 15. CD Paragraph 218

Paragraph 218 of the Consent Decree requires NOPD “to assign sufficient staff to the DVU at the NOFJC to permit detectives to review, on a weekly basis, District-level reports on incidents of domestic violence, for the purpose of identifying training needs and tracking the Districts’ response to domestic violence.” ***NOPD was unable to demonstrate compliance with these Consent Decree requirements.***

The Monitoring Team spoke with a representative from the DA, DVU, and NOFJC, and all were of the opinion that NOPD has not assigned sufficient staff to the DVU at the NOFJC. The NOPD representative is assigned to review all cases that come in on a daily basis and he must “prioritize” them for assignment based on their severity. As a result, there is a delay in responding to follow-up cases and some cases do not receive follow-up. Furthermore, there are only three DVU Detectives assigned under the NOPD representative (as compared to six prior to Hurricane Katrina), and they all stated to the Monitoring Team they are over-worked and require additional staff. To confirm these staffing issues, the Monitoring Team may conduct a study of calls for service as compared to assignments.



## 16. CD Paragraph 219

Paragraph 219 of the Consent Decree requires that NOPD “offer training on domestic violence that incorporates IACP recommendations for VAW Law Enforcement Best Practices.” *NOPD was unable to demonstrate compliance with these Consent Decree requirements.*

The NOPD representative at NOFJC is responsible for updating domestic violence training and incorporating best practices and VAW and IACP recommendations. During the second quarter, the representative reported that work was being done to update to this training, but as of the end of the reporting quarter this documentation had not been provided. In the upcoming quarter, the Monitoring Team has meetings scheduled with NOPD to determine progress in this area.

## 17. CD Paragraph 220

Paragraph 220 of the Consent Decree requires NOPD “to provide at least four hours of initial and recruit training on domestic violence for all officers” and “to incorporate fact-based scenarios involving domestic violence into recruit and in-service training.” *The NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance.*

The NOPD is providing two hours of In-Service Training at the Academy for sexual assault and domestic violence. The additional two hours will be included in online training. Our review of the NOPD’s training materials, however, revealed the required fact-based scenario training has not been included in the 2014 training. While NOPD reports it will add a fact-based scenario element and will modify the 2014 lesson plans in order to come into compliance with paragraph 220, NOPD is not yet able to demonstrate compliance. In the coming quarter, the Monitoring Team will meet with staff to review lesson plans and conduct follow-up with monitoring of the required hours for training with documentation. The Monitoring Team will monitor the fact-based training classes when they are implemented.

## 18. CD Paragraph 221

Paragraph 221 of the Consent Decree requires that NOPD “provide domestic violence detectives with initial training of no fewer than 32 hours.” *The NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance.*

During the second quarter, NOPD reported that Domestic Violence detectives will receive greater than 32 hours of domestic violence training this year. As of the end of the reporting quarter, however, NOPD had not provided documentation proving compliance. In the upcoming quarter, the Monitoring Team will attempt to obtain the documentation demonstrating compliance with this paragraph.

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## 19. CD Paragraph 222

Paragraph 222 of the Consent Decree requires NOPD to track dispositions of domestic violence investigations, to track dual arrests and domestic violence arrests by gender, to make a reasonable effort to enter into an MOU with appropriate agencies to assist in this tracking, and to report the data publicly on an annual basis. *The NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance.*

After speaking with the DA's Office, the Monitoring Team determined an MOU was unlikely to be signed, but that data concerning refusals to proceed with domestic violence cases are sent to each District. The NOPD is tracking the required data, including dual arrests and domestic violence arrests by gender, and these statistics are included in the NOPD representative's monthly reports. Additionally, NOPD is working with Blueprint for Safety Coordinator to develop the required annual report (although a report has not been issued yet).

### H. Recruitment (CD 234-244)

Section XI of the Consent Decree provides that the NOPD and the City, working with the Civil Service, will develop and implement a comprehensive recruitment program that successfully attracts and hires a diverse group of highly qualified and ethical individuals to be NOPD police officers. The Consent Decree further provides NOPD and the City, again working with the Civil Service, will ensure that NOPD's recruit program assesses each applicant in a manner that is valid, reliable, fair, and legally defensible. The Monitoring Team reviewed NOPD's compliance with its Recruitment requirements this quarter.

Over the course of this reporting period, the Monitoring Team met with NOPD management and supervisors in the NOPD Recruiting and Applicant Investigation Division to discuss the NOPD hiring process. NOPD confirms (and we will verify in the coming quarter) that funding is in place to implement a variety of recruiting initiatives, including the addition of one sworn officer and one civilian Spanish-speaking officer to the recruiting unit. Among other things, the Monitoring Team reviewed NOPD's "Recruitment Goals and Plan" document, which, if followed, will help the NOPD meet its Consent Decree obligations. For example, one NOPD recruiting goal is to increase the number of Hispanic and Vietnamese employees to achieve parity with the community. This goal, like the other goals, is accompanied by sensible objectives and strategy statements. The Monitoring Team also reviewed a PowerPoint presentation NOPD delivered to the City Council on September 25, 2013 titled "NOPD Recruitment & Applicant Investigation: 2013 Recruitment Effort." The presentation reflected sensible efforts if implemented properly.

The Monitoring Team also confirmed NOPD has entered into a professional services agreement with the Institute for Public Safety Personnel ("IPSP") to assist with its recruiting efforts, including the development of content, rules and training for the NOPD applicant interview panels. The IPSP is a consulting firm that provides public safety departments with personnel testing and evaluation services.

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In sum, NOPD has sensible and impressive aspirations with respect to enhancing its recruiting capabilities. Furthermore, NOPD has made some progress toward achieving those aspirations already. The effectiveness of its efforts, of course, is best measured by the results, which the Monitoring Team will be assessing carefully in the coming quarters. In the meantime, the following paragraphs reflect our findings with respect to several specific Consent Decree requirements.

### 1. CD Paragraph 234

Paragraph 234 of the Consent Decree requires that NOPD, working with Civil Service, develop a written, strategic Recruitment Plan that includes clear goals, objectives, and action steps for attracting high-quality applicants. The strategic Recruitment Plan must clearly identify the duties and goals of NOPD's Recruitment Unit. The Recruitment Plan must include specific strategies for attracting applicants with strategic thinking and problem-solving skills, interpersonal skills, emotional maturity, capacity to use technology, fluency in Spanish and Vietnamese (because these languages are spoken by a significant segment of the New Orleans Community), and the ability to collaborate with a diverse cross-section of the community.

While the Recruitment Plan required by Paragraph 234 of the Consent Decree is complete and has been reviewed by the Monitoring Team, neither the NOPD Recruitment Plan nor the Civil Service applicant documentation articulate that applicants will be screened for strategic thinking, problem-solving skills, interpersonal skills, capacity to use technology, fluency in Spanish and Vietnamese, or the ability to collaborate with a diverse cross-section of the community. ***NOPD, thus, was unable to demonstrate compliance with this Consent Decree requirement.*** That being said, the Monitoring Team does note that NOPD is creating a new website; hosting more job fairs; conducting more "meet and greets" at community functions, churches, and roll-calls; advertising; and engaging in other recruiting activities, all of which, if implemented properly, should help the NOPD come into compliance with various elements of the Consent Decree.

### 2. CD Paragraph 238

Paragraph 238 of the Consent Decree provides that NOPD will develop and implement a system for psychological screening and assessment of all NOPD recruit candidates, and will set criteria to ensure that only individuals suitable for policing are accepted into NOPD training academy.

***NOPD appears to be in compliance with the Consent Decree requirements regarding psychological assessments.*** All recruit applicants must pass psychological screening prior to being cleared for hire. The psychological screenings are handled by the Civil Service Department. A licensed psychologist administers, scores, and analyzes the results of the Minnesota Multiphasic Personality Inventory ("MMPI"), California Psychological Inventory ("CPI"), and Psychological History Questionnaire ("PsyQ"). The psychologist also reviews the candidate's NOPD background information, educational history, and work history and conducts a clinical interview with each candidate for a minimum of one hour. A determination then is made

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by the psychologist as to each candidate's psychological suitability for law enforcement work. A confidential report is furnished to Civil Service by the psychologist. Compliance with this Consent Decree paragraph was confirmed by reviewing redacted psychological assessment reports, NOPD policies, and other documents provided by the psychologist.

### 3. CD Paragraph 241

Paragraph 241 of the Consent Decree provides that NOPD and the City, working with Civil Service, must establish standardized qualifications and guidance for who may serve on a recruit applicant interview panel. Eligibility for serving on a recruit applicant interview panel shall include a review of the officer's internal disciplinary file and personnel file.

After discussing this Consent Decree requirement with various members of the NOPD, as of the end of the reporting quarter *NOPD was unable to demonstrate compliance with this Consent Decree requirement.* In part, this failure appears to be due, in part at least, to the inability of the NOPD and the Civil Service Commission to work together to meet the requirements of Paragraph 241.

### 4. CD Paragraph 243

Paragraph 243 of the Consent Decree provides that NOPD and the City shall work with Civil Service to establish a standardized scoring system to be used by interview panelists. The scoring system shall be used to assess recruit applicants immediately following the applicant's interview. These assessment forms shall be maintained by the Recruitment Unit.

The NOPD's effort with respect to Paragraph 243 of the Consent Decree is a work in process. The Department hired the Institute for Public Safety Personnel, Inc. to help it establish a standardized scoring system to be used by interview panelists. The Company has created a special scoring system for NOPD. NOPD is in the process of selecting the panel. Once selected, the panel will be trained by the Company on process and scoring system. *NOPD has made progress toward compliance.*

### 5. CD Paragraph 235

Paragraph 235 of the Consent Decree requires NOPD to develop a protocol that includes specific criteria for assigning officers to the Recruitment Unit, including officers' work history, disciplinary history, length of employment at NOPD, and demonstrated commitment to community-oriented policing. NOPD reportedly has a knowledge, skill, and ability ("KSA") system in place that has been applied to the last few transfers into the unit. However, those KSAs are not institutionalized in Policy or Unit Standard Operating Procedures, thus cannot be verified. *NOPD was unable to demonstrate compliance with this Consent Decree requirement.*



## 6. CD Paragraph 236

Paragraph 236 of the Consent Decree requires NOPD to staff the Recruitment Unit sufficiently to permit the Unit to fulfill its responsibilities. This item cannot be objectively determined until the specific performance criteria required by paragraph 237 and outcomes and activities as detailed in paragraph 244, discussed below, are met.

## 7. CD Paragraph 237

Paragraph 237 of the Consent Decree requires Recruitment staff be trained on recruiting a qualified and diverse workforce, including training on employment law. NOPD also must establish specific performance criteria to evaluate recruitment staff effectiveness in hiring increasing numbers of high quality recruits. While the Recruitment Plan has established goals and objectives, specific criteria to measure staff effectiveness are not indicated. Accordingly, ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

## 8. CD Paragraph 239

Paragraph 239 of the Consent Decree requires the Recruitment Unit to conduct affirmative outreach to a broad group of community members (*e.g.*, college and university initiatives, military outreach, the PCAB, and community meetings in each District), and shall create and foster relationships with those organizations to enhance recruitment efforts. As of our review, community meetings had not been held in Districts 1 and 7. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement. The Monitoring Team notes, however, NOPD is nearing compliance on this item.***

## 9. CD Paragraph 240

Paragraph 240 of the Consent Decree requires the NOPD and the City, working with Civil Service, to ensure the dates and times of the officer recruit application period and testing dates are advertised “widely.” The dates and times are published on eight web boards and online at NOLA.gov but they do not appear to be “advertised widely,” as required. Advertisements in additional media or publications relating to minority issues would demonstrate compliance with this requirement. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement. The Monitoring Team notes, however, NOPD is nearing compliance on this item.***

## 10. CD Paragraph 242

Paragraph 242 of the Consent Decree is dependent upon implementation of paragraphs 241 and 243. Accordingly, ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

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## 11. CD Paragraph 244

Paragraph 244 of the Consent Decree requires the Recruitment Unit to report annually its recruiting activities and outcomes, including the number of applicants, interviewees, and selectees, and the extent to which the Recruitment Unit has been able to recruit applicants with needed skills, such as problem-solving abilities or fluency in Spanish or Vietnamese, and a discussion of any challenges to recruiting highly qualified applicants. NOPD advised they completed this requirement in 2012 but are preparing end of year 2013 data to provide the next annual report. They did provide a briefing to the City Council on September 25, 2013 that included much of this information. NOPD must report this data annually, however, to meet the requirements of paragraph 244.

*At the time of this report, NOPD was unable to demonstrate compliance with this Consent Decree requirement.*

### I. Academy And In-Service Training (CD 245-288)

This section of the Consent Decree requires NOPD to ensure all police officers receive adequate training in order to understand the law as well as departmental policy. It also requires all NOPD training received by police officers reflect the Department's expectations that officers respect the rights of all individuals they encounter. The Consent Decree further requires that NOPD officers employ strategies to build community partnerships to more effectively increase public trust and safety.

#### 1. CD Paragraph 245

Paragraph 245 of the Consent Decree provides that the NOPD Training Division shall be the central coordination point for all training, including the recruit training Academy; field training; all In-Service Training, including firearms and other use of force training; roll-call training; supervisory training; tactical and task force training; and all elective training. *NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance with this requirement.*

The Training Academy is the central coordination point for most training including recruit training, field training, in-service training, and supervisory training. Some training, however, was not coordinated with the Training Academy such as detective training and tactical training.

Roll-call training is supposed to be conducted at each duty location. The Monitoring Team was unable to assess whether training is conducted since there is no record of the training at the Academy. The roll-call training is also supposed to include 24 hours of training for supervisors to meet the requirement of 64 hours of training, but there is no documentation that any supervisors or officers received the training.

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The Training Academy is designated as the central coordination point for firearms training but documented firearms training was not available at the Training Academy for the Monitoring Team's review. Early Warning System training records were similarly unavailable at the Training Academy. The lesson plans are believed to be housed at PIB.

The detective training conducted in 2011 (last known training) was conducted by personnel of the NOPD detective branch and without input by the Training Academy. The Training Academy was unable to produce a copy of the lesson plan when requested.

The Monitoring Team also determined that some NOPD managers are approving training without knowledge by Academy staff. The Academy staff learns of such training after they receive a certificate for training attended.

Further, tactical training lesson plans are not housed at the Training Academy. If they do exist, they appear to be housed at the SOD.

## 2. CD Paragraph 246

Paragraph 246 of the Consent Decree provides that NOPD's Training Division Commander shall be responsible for overseeing all NOPD training, including recruit Academy; field training; all in-service training; and for ensuring that training is delivered consistent with NOPD's written training plan. ***NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance with this requirement.***

The Training Academy is responsible for overseeing some of the NOPD training including recruit training, field training, and some in-service training (not roll-call training). NOPD's training plan, however, is not yet developed.

## 3. CD Paragraph 247

Paragraph 247 of the Consent Decree provides that, within 90 days of the Effective Date, NOPD agrees to create a full-time Department-wide Training Liaison position within the Training Division, and designate a single training coordinator in each District and central organizational unit to coordinate and document training. The Training Liaison shall establish and maintain communications with each District training coordinator to ensure all officers complete training as required and that documentation of training is provided to the Training Division. ***The NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance with this requirement.***

The Department has designated a Department-wide Training Liaison. This Training Liaison has identified a single training coordinator in each District to coordinate and document training. No roll-call training, however, has been documented.





#### 4. CD Paragraph 248

Paragraph 248 of the Consent Decree provides that, within 120 days of the Effective Date, NOPD agrees to establish a Training Advisory Committee that shall include staff from the NOPD Training Division, NOPD field personnel, high-level NOPD command staff (Deputy Superintendent or above), a community representative from the Police-Community Advisory Board, two representatives from area colleges and universities, an outside police professional with expertise in model training practices, and a representative from the FBI, the District Attorney's Office, the USAO, and the City Attorney's Office.

The Advisory Committee was established in March 2012, and NOPD reports the Committee meets once a month. The Monitoring Team has attended and monitored select meetings of the Committee and confirmed, at least preliminarily, the meetings are functioning as intended. The Monitoring Team also reviewed the list of Training Advisory Committee members and confirmed it met the requirements of the Consent Decree, although we note the Commander of the Training Academy is not a member of the Advisory Committee, which we believe somewhat limits the effectiveness of the Committee. ***NOPD is in compliance with this Consent Decree requirement at this time.*** The Monitoring Team will be attending future meetings of the Advisory Committee to ensure it is functioning as contemplated in the Consent Decree.

#### 5. CD Paragraph 249

Paragraph 249 of the Consent Decree provides that NOPD's Training Advisory Committee shall develop a written training plan for NOPD's recruit Academy, field, and in-service training, to ensure that recruits, officers, and civilian personnel are trained to effectively and lawfully carry out their duties in accordance with the Constitution and laws of the United States. The plan shall comport with best practices and the requirements of the Consent Decree. ***While NOPD had until May 6, 2014, NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

#### 6. CD Paragraph 250

Paragraph 250 of the Consent Decree requires the NOPD to submit the training plan to the Monitoring Team and DOJ. The Monitoring Team shall review the training plan and provide the Parties with written comments. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement, as NOPD has not yet developed the required training plan.***

#### 7. CD Paragraph 251

Paragraph 251 of the Consent Decree provides that the Training Advisory Committee shall annually review and update NOPD's training plan. To inform this update, the Training Advisory Committee shall conduct a needs assessment, taking into consideration: trends in misconduct complaints; problematic Use of Force events; analysis of officer safety issues; input from members at all levels of NOPD; input from members of the community, including

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community concerns; court decisions; research reflecting the latest in law enforcement trends; individual District needs; and any changes to Louisiana or federal law, or to NOPD policy. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement, as NOPD has not yet developed the required training plan.***

#### 8. CD Paragraph 258

Paragraph 258 of the Consent Decree requires NOPD to implement the Knowledge, Skills, and Ability Protocols for all staff assigned to the training division and all adjunct instructors within NOPD. The paragraph goes on to provide minimum qualification requirements for Academy staff. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** A Training Academy sergeant was unable to provide any documentation regarding the above criteria. He advised that all records were lost in Hurricane Katrina in 2006.

#### 9. CD Paragraph 259

Paragraph 259 of the Consent Decree provides that NOPD shall actively seek out and retain qualified instructors, including instructors from outside NOPD, with expertise in areas such as law and investigations, as necessary, to supplement the skills of in-house training staff and adjunct instructors. Additionally, the Consent Decree requires NOPD to incorporate experts and guest speakers such as judges; prosecutors, including representatives of the USAO; crime victims; and community members, to participate in courses at the Training Academy. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

#### 10. CD Paragraph 260

Paragraph 260 of the Consent Decree requires NOPD to ensure all new and current Training Division staff and NOPD adjunct instructors receive forty hours of initial training, including training on effective teaching, adult-learning techniques, curriculum development, and annual in-service training. The Consent Decree further requires NOPD to ensure instructors use only curricula and lesson plans approved by the Training Division. NOPD also must require that instructors use a variety of adult learning techniques, scenario-based training, and problem-solving practices, in addition to traditional lecture formats. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** A training academy sergeant was unable to provide any documentation regarding the above criteria.

#### 11. CD Paragraph 261

Paragraph 261 of the Consent Decree requires that NOPD evaluate the performance of Training Division staff and all adjunct or other training instructors and shall remove staff and instructors who do not meet NOPD criteria. NOPD must document each evaluation using an established set of criteria to be developed pursuant to this Agreement. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** While evaluations are available for NOPD personnel at the Academy, the performance evaluations do not adequately



evaluate performance. The evaluation forms consists of only two items for evaluation. The NOPD needs to establish criteria to adequately evaluate performance.

#### **12. CD Paragraph 264**

Paragraph 264 of the Consent Decree requires NOPD to develop and implement a recruit training program that comports with NOPD's written training plan described above, and that reflects the requirements of the Consent Decree. ***While NOPD has until August 9, 2014, NOPD is not yet in compliance with this Consent Decree Requirement.*** A written training plan does not yet exist.

#### **13. CD Paragraph 265**

Paragraph 265 of the Consent Decree provides that NOPD shall modify the amount and content of recruit Academy training to comport with its written training plan and the requirements of this Agreement. NOPD further must provide recruits with at least 880 hours of Academy instruction. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement because a written training plan does not yet exist.***

#### **14. CD Paragraph 266**

Paragraph 266 of the Consent Decree provides that, in addition to the training requirements reflected in the substantive provisions of this Agreement, NOPD must ensure sufficient recruit Academy instructional hours in certain enumerated areas. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement because a written training plan does not yet exist.*** The Monitoring Team was unable to locate any training records to demonstrate a recruit class was provided with the training required in paragraph 266. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened.

#### **15. CD Paragraph 267**

Paragraph 267 of the Consent Decree provides that NOPD shall structure the recruit training Academy so that instruction is delivered in logical progression to ensure that each skill or unit builds on previous skills or units. NOPD also must schedule training modules so that recruits become proficient in fundamental tasks before progressing to more advanced skills and activities. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement because a written training plan does not yet exist.*** No training records exist to demonstrate a recruit class was provided with the progression of training required in paragraph 267. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened.

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## 16. CD Paragraph 268

Paragraph 268 of the Consent Decree provides that, in addition to inclusion in separate training modules, NOPD must incorporate training on constitutional and statutory law; ethical decision making; community policing; de-escalation of force; and bias-free policing throughout the course of the recruit Academy training. NOPD further must reinforce legal concepts in the context of instruction on interviewing and interrogation, crime scene processing, and report writing. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement because a written training plan does not yet exist.*** No training records exist to demonstrate a recruit class was provided with the subjects required in paragraph 268. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened.

## 17. CD Paragraph 269

Paragraph 269 of the Consent Decree requires NOPD to use problem-based learning and scenario-based exercises throughout the course of the recruit Academy. NOPD agrees to ensure that scenario-based exercises have specific training objectives, and to evaluate achievement in multiple areas, such as constitutional and statutory law, officer safety, NOPD procedures, and report writing. NOPD also must require recruits to produce actual reports and statements at the end of scenario-based exercises. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement because a written training plan does not yet exist.*** No training records exist to demonstrate a recruit class was provided with the scenario-based exercises as required in Paragraph 269. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened.

## 18. CD Paragraph 270

Paragraph 270 of the Consent Decree requires NOPD to intersperse skills training in areas such as driving, firearms, and defensive tactics throughout the course of the recruit Academy training, to allow recruits to develop and reinforce these skills over time. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement since a written training plan does not yet exist.*** No training records exist to demonstrate a recruit class was provided with the skills training required in paragraph 270. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened.

## 19. CD Paragraph 271

Paragraph 271 of the Consent Decree requires that NOPD not add recruit candidates after the first week of the recruit training Academy. As of January 7, 2014, no recruit class was in training at the Academy. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened. ***The Monitoring Team will assess NOPD's compliance with this Consent Decree requirement in the next quarter.***

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## 20. CD Paragraph 272

Paragraph 272 of the Consent Decree provides that, to ensure continuity of training, NOPD shall minimize interruptions to recruit Academy training for the purpose of staffing special events and other functions. The Consent Decree notes this does not preclude the use of recruits for Mardi Gras-related service functions or in case of emergencies. The Monitoring Team will evaluate compliance with this paragraph of the Consent Decree when the next recruit training class is convened. ***The Monitoring Team will assess NOPD compliance in the next quarter.***

## 21. CD Paragraph 275

Paragraph 275 of the Consent Decree provides that NOPD must develop and implement a field-training program for recruit academy graduates that comports with NOPD's written training plan and this Agreement. NOPD's field training program shall follow Academy training and shall be at least sixteen weeks. ***While NOPD has until August 9, 2014, NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance.***

## 22. CD Paragraph 276

Paragraph 276 of the Consent Decree provides that NOPD's policies and procedures on field training shall delineate the criteria and methodology for selecting FTOs and Field Training Sergeants. Only highly qualified officers shall serve as FTOs and Field Training Sergeants. NOPD must establish formal eligibility criteria for FTOs and Field Training Sergeants based on their performance evaluations, previous superior performance as police officers, and complaint and disciplinary histories. FTO appointments will be subject to review for reappointment at the Training Division Commander's discretion. District commanders will also have discretion, upon consultation with the Training Academy staff, to remove a field-training officer from the FTO program. ***The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** A Training Academy sergeant reports that more than one training officer was removed as a field training officer, but no names or dates of removal were provided.

## 23. CD Paragraph 277

Paragraph 277 of the Consent Decree provides that NOPD shall ensure all current and new FTOs and Field Training sergeants receive at least 40 hours of initial supervisory-level training and annual in-service training in the following areas: management and supervision; community-oriented policing; effective problem solving techniques; and field communication. FTOs and Field Training sergeants shall be required to maintain, and demonstrate on a regular basis, their proficiency in managing recruits and subordinates, practicing and teaching community-oriented policing, and solving problems effectively. NOPD shall maintain current documentation of FTOs' evaluations and training. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** The field training sergeant responsible for these records was on extended leave due to an injury and no other personnel were able to provide this information to the Monitoring Team.



#### 24. CD Paragraph 278

Paragraph 278 of the Consent Decree requires that NOPD ensure recruits in the field-training program are trained in a variety of geographic areas within New Orleans; in a variety of shifts; and with several FTOs. ***The NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

The field training sergeant responsible for these records was on extended leave due to an injury. No other personnel were able to provide this information to the Monitoring Team. The Captain responsible for training, however, explained to the Monitoring Team that recruits are sent to 16 weeks of field training and are shifted to three different Districts during those 16 weeks, with the last four weeks at the same duty location as their first four weeks of field training. We will assess whether this happens in practice in a future Quarterly Report.

#### 25. CD Paragraph 279

Paragraph 279 of the Consent Decree requires that NOPD review and evaluate annually the performance of FTOs and Field Training Sergeants, with re-certification dependent on satisfactory prior performance and feedback from the Training Division staff. ***The NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** Evaluations are available for NOPD personnel at the Academy. However, the performance evaluations do not adequately evaluate performance. The evaluation consists of only two items for evaluation. The NOPD needs to establish criteria to adequately evaluate performance.

#### 26. CD Paragraph 280

Paragraph 280 of the Consent Decree provides NOPD shall create a mechanism for recruits to provide confidential feedback regarding the quality of their field training, including the extent to which their field training was consistent with what they learned in the Academy, and suggestions for changes to Academy training based upon their experience in the FTO program. The Consent Decree further provides that NOPD shall consider feedback and to document its response, including the rationale behind any responsive action taken or decision to take no action. ***While NOPD has until August 9, 2014, NOPD is not yet able to demonstrate compliance with this Consent Decree requirement.*** There is no documentation available regarding a mechanism for recruit feedback.

#### 27. CD Paragraph 281

Paragraph 281 of the Consent Decree provides that NOPD must review and revise its FTO participation policy to establish and implement a program that effectively attracts the best FTO candidates. ***While NOPD has until August 9, 2014, NOPD was not yet able to demonstrate compliance with this Consent Decree requirement.*** There is no documentation available regarding a review and revision of the FTO participation policy.

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## 28. CD Paragraph 282

Paragraph 282 of the Consent Decree requires that NOPD's Training Advisory Committee shall conduct a study of the feasibility of implementing a Police Training Officer model that would incorporate community- and problem-oriented policing principles, and problem-based learning methods of teaching. If NOPD and the City find it feasible, NOPD and the City must implement this program. ***While NOPD has until August 9, 2014, NOPD is not yet able to demonstrate compliance with this Consent Decree requirement.*** There is no documentation available regarding the requirements of Paragraph 282.

## 29. CD Paragraph 283

Paragraph 283 of the Consent Decree provides that NOPD shall develop and implement a mandatory annual In-Service Training program that comports with NOPD's written training plan and the requirements of this Agreement. NOPD agrees to provide at least sixty-four hours of In-Service Training to each officer pursuant to this program within 365 Days of the Effective Date of this Agreement and annually thereafter. In-Service Training will be comprised of a forty-hour core curriculum and twenty-four hours of additional elective training. Specialized training for officers in certain units or assignments (such as the initial forty hour training for specialized CIT officers) shall be considered additional elective training. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

A training plan is not yet developed. Documentation is not available to determine compliance. The Training Academy does list a forty-hour training course for officers and lists twenty-four hours of roll-call training for the other elective training. There is no record, however, of any officer attending roll-call training available.

## 30. CD Paragraph 284

Paragraph 284 of the Consent Decree provides that NOPD shall create core-training requirements for the following positions: officers; command staff; lieutenants and sergeants; detectives; narcotics investigators; and specialized units. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** The Academy is still developing the core training.

## 31. CD Paragraph 285

Paragraph 285 of the Consent Decree requires that NOPD plan, develop, and implement a comprehensive roll-call training program. Roll-call training shall be provided at the beginning of each shift. Roll-call training shall include special topics selected by the Training Division Commander or District Commanders that address officer safety, readiness, community concerns, or departmental procedural matters. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.***

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The Academy is using the Lexipol roll-call training. There is no documentation, however, that officers are attending roll-call training. The Training Academy does send a list to duty locations advising supervisors of officers that missed the roll-call training. Subsequent lists include the same officers who missed prior training. In addition, the only locations receiving roll-call training are the Districts.

#### **J. Officer Assistance And Support (CD 289-294)**

Section XIII of the Consent Decree requires NOPD “to provide officers and employees ready access to the mental health and support resources necessary to facilitate effective and constitutional policing.” This section of the Consent Decree includes several specific requirements, including:

- Paragraph 289 of the Consent Decree requires NOPD “to further develop and offer a centralized and comprehensive range of mental health services that comports with best practices and current professional standards”
- Paragraph 290 of the Consent Decree requires that, within 180 days of the Effective Date, NOPD “develops a department-wide mental and physical health and wellness program” that meets the requirements of the Consent Decree
- Paragraph 291 of the Consent Decree requires NOPD “to compile and distribute a list of internally and externally available mental health services to all officers and employees”
- Paragraph 292 of the Consent Decree requires NOPD “to train management and supervisory personnel in officer support services protocols to ensure wide availability and use of officer support services” and “to incorporate discussion of currently available officer support services”
- Paragraph 293 of the Consent Decree requires NOPD “to involve mental health professionals in developing and providing academy and in-service training on mental health stressors”
- Paragraph 294 of the Consent Decree requires NOPD “to involve mental health professionals in officer training on use of force”

The Monitoring Team attempted to obtain data on these requirements on multiple occasions during the reporting quarter, yet, as of the end of the reporting quarter, NOPD had not provided the documentation required. *Accordingly, NOPD was unable to demonstrate compliance with these Consent Decree requirements.*<sup>5</sup>

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<sup>5</sup> Shortly following the end of this reporting quarter, NOPD did provide information regarding enhancements to its Employee Assistance/Counseling program. According to NOPD, the City employs a “contractual psychiatrist” who handles fitness for duty issues relative to officer-involved shootings. NOPD also explained the Department recently hired an additional psychologist to assist in this area. Additionally, the Department explained it is in the process of *(footnote continued on next page)*



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Based on initial conversations with NOPD, the Monitoring Team does not believe that NOPD has a centralized and comprehensive range of mental health services that meets the requirements of the Consent Decree. IPM is pursuing a grant that, if awarded, would be used to fund Project Restoration, a multifaceted program aimed at reducing the high incidence of post-traumatic stress disorder in the victims of police misconduct, harassment, or abuse.

In the upcoming quarter the Monitoring Team will meet with both Chief Landry and IPM to evaluate NOPD's compliance with the requirements of these paragraphs.

## **K. Supervision (CD 306-331)**

Section M of the Consent Decree requires that NOPD "ensure that an adequate number of qualified first-line supervisors are deployed in the field to allow supervisors to provide the close and effective supervision necessary for officers to improve and grow professionally; to police actively and effectively; and to identify, correct, and prevent misconduct."

During the reporting quarter, the Monitoring Team visited Districts 4, 5, 6, 7, PIB, and Headquarters. *Although the Monitoring Team is unable to find NOPD to be in full compliance with the following paragraphs, NOPD exhibited a high level of cooperation and a strong desire to achieve and maintain compliance with the provisions of the Consent Decree.*

### **1. Duties Of Supervisors**

#### **a. CD Paragraph 306**

Paragraph 306 of the Consent Decree requires that NOPD supervisors be held accountable for providing the close and effective supervision necessary to direct and guide officers. Further, paragraph 306 provides a detailed definition of what constitutes close and effective supervisions. *The NOPD was unable to demonstrate full compliance with the entire definition of close and effective supervision, but was able to demonstrate partial compliance.*

NOPD was able to demonstrate that some supervisors perform the following tasks contemplated by the Consent Decree's definition of close and effective supervision:

- Responding to the scene of certain arrests;
- Reviewing arrest reports; and

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"reviewing and expanding" the function of its "Employee Relations Unit." According to NOPD, this unit provides assistance to officers who are injured on the job and assists families of officers who are killed in the line of duty. The recently-provided documentation goes on to discuss a number of other services officered by the City and/or the NOPD. The Monitoring Team will review these services, consider their compliance with the requirements of the Consent Decree, and assess their effectiveness in a future quarter.

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- Reviewing daily activity reports.

NOPD was unable to demonstrate that all supervisors in all Districts met other requirements contemplated by the Consent Decree's definition of close and effective supervision, including, but not limited to:

- Counseling and redirection;
- Maintaining files relating to job performance, including disciplinary reports, performance evaluations, and counseling memos; and
- Community engagement.

In the upcoming quarter, the Monitoring Team will continue to assess each District's progress toward ensuring that supervisors met all requirements contemplated by the Consent Decree's definition of close and effective supervision.

#### **b. CD Paragraphs 307-310**

Paragraphs 307 through 310 of the Consent Decree include requirements relating to the assignment of supervisors.

- Paragraph 307 requires that, within 270 days of the Effective Date, all Field Operations Bureau District officers shall be assigned to a single, consistent, and clearly-defined supervisor.
- Paragraph 308 requires that task force and narcotics supervisors work the same days and hours as the officers they are assigned to supervise, absent specified circumstances.
- Paragraph 309 requires that District Platoon Patrol supervisors work the same days and hours as the officers they are assigned to supervise, absent specified circumstances.
- Paragraph 310 requires that, within 270 days of the Effective Date, first-line patrol supervisors shall be assigned to supervise no more than eight officers, and be available throughout their shift to respond to their subordinates.

***NOPD was unable to demonstrate full compliance, but was able to demonstrate partial compliance.*** Specifically, NOPD demonstrated each officer was assigned to a single supervisor in most Districts, and generally, there were at least three supervisors assigned to a platoon with eight to twelve officers. The Monitoring Team observed this ratio for FOB officers, platoon officers, and narcotics/task force officers. Additionally, the Monitoring Team observed that, when a sergeant is not on duty in the narcotics or task force units, those detectives/officers are supervised by the platoon supervisor. On occasion, therefore, more than eight personnel report to one supervisor. The Monitoring Team will continue to track NOPD's progress toward being fully compliant with the requirements of paragraphs 307-310.

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### c. CD Paragraph 311

Paragraph 311 of the Consent Decree provides that, within 270 days of the Effective Date, NOPD shall develop and implement a program to identify and train acting patrol supervisors who can fill-in, on a temporary, as-needed basis, for assigned supervisors who are on vacation, in training, ill, or otherwise temporarily unavailable. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** The Training Academy reports this training has not yet been developed, and therefore no personnel have been trained.

### d. CD Paragraph 312

Paragraph 312 of the Consent Decree provides that District commanders and platoon lieutenants shall be responsible for the close and effective supervision of officers under their command, including ensuring that all officers comply with all applicable laws and policies. ***NOPD was unable to demonstrate full compliance with this Consent Decree requirement.*** The Monitoring Team observed that supervisors' activity reports are not designed to capture the information necessary to provide this evidence. Although some Districts stated that information relating to this requirement is provided at roll-call, none could produce evidence to this effect.

### e. CD Paragraph 313

Paragraph 313 of the Consent Decree requires that NOPD hold commanders and supervisors directly accountable for the quality and effectiveness of their supervision. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement.*** NOPD was unable to provide evidence to demonstrate counseling/redirection, counseling memos, performance evaluations, or disciplinary actions, and therefore could not demonstrate that supervisors were held accountable for performing their duties.

## 2. Supervisor And Command-Level Training (CD Paragraphs 314-315)

Paragraph 314 of the Consent Decree requires NOPD to develop and implement mandatory supervisory training for all new and current supervisors that both meets the hours requirements of paragraph 314 and the subject matter requirements delineated in paragraph 315. ***NOPD was unable to demonstrate compliance with this requirement.*** NOPD was unable to provide documentation demonstrating compliance with either the hours or subject matter requirements. The Training Academy advised the Monitoring Team that it anticipates developing courses that meet the subject matter requirements of paragraph 315 by the end of 2014.

## 3. Early Warning System (CD Paragraphs 316-326)

Paragraphs 316 through 326 of the Consent Decree include requirements relating to the development and implementation of an Early Warning System ("EWS"). Paragraph 316 of the Consent Decree includes the general requirement that NOPD develop an EWS, and paragraphs 317-326 include specific requirements relating to the EWS:

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- Paragraph 317 requires that NOPD create a plan for the implementation of the EWS, including a requirement to hire at least one full-time-equivalent qualified information technology specialist within 270 days of the Effective Date
- Paragraph 318 requires that NOPD develop and implement a protocol setting out which data fields will include historical data
- Paragraph 319 requires that NOPD develop and implement a protocol for using the EWS and the information obtained from it
- Paragraph 320 requires that the EWS include a computerized relational database
- Paragraph 321 requires that the EWS include appropriate identifying information for each involved employee and civilian
- Paragraph 322 requires that NOPD maintain computer hardware in sufficient amount and in good working order to permit personnel ready and secure access to the EWS
- Paragraph 323 includes requirements relating to the length of time NOPD must maintain information within the EWS
- Paragraph 324 requires that the EWS computer program and computer hardware be operational, implemented, and in use within three years of the Effective Date
- Paragraph 325 requires that NOPD provide in-service training to all employees regarding EWS protocols prior to the implementation of the system
- Paragraph 326 requires that NOPD request and receive approval for any modifications to the EWS

The Monitoring Team reported in the First Quarterly Report that NOPD had provided a copy of an Early Warning System Implementation Plan (dated April 10, 2013). In the most recent reporting quarter, NOPD provided the Monitoring Team a Request For Proposals, dated March 11, 2014, for the procurement of an Early Warning System. The RFP states that all bids are due by May 8, 2014, and the Monitoring Team was informed that the City hopes to award a contract in June.

Although NOPD deserves to be commended for making significant progress toward developing and implementing an EWS, *NOPD was unable to demonstrate full compliance with any of these Consent Decree requirements by the end of the reporting quarter.* The Monitoring Team will continue to assess NOPD's progress toward developing and implementing an EWS in the upcoming quarter. In the meantime, the Monitoring Team will monitor whether NOPD continues to use its current system, IAPro, to identify officers for inclusion in its Professional Performance Enhancement Program (PEPP) and Job Performance Improvement Plan as required by Consent Decree paragraph 324.

#### 4. Visual And Audio Documentation Of Police Activities

##### a. CD Paragraph 327

Paragraph 327 of the Consent Decree provides that, within two years of the Effective Date, NOPD agrees to maintain and operate video cameras and AVL in cars used for a variety of response calls. *While NOPD has until August 2015, NOPD was able to demonstrate partial*

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*compliance, but was unable to demonstrate full compliance with this Consent Decree requirement.* The Monitoring Team observed the operation, use, and review of recordings in Districts 4, 5, 6, and 7, and will continue to monitor NOPD's progress toward demonstrating full compliance with paragraph 327.

**b. CD Paragraph 328**

Paragraph 328 of the Consent Decree requires that NOPD develop and implement policies and procedures regarding AVL, in-car cameras, Electronic Control Weapons ("ECWs"), and similar equipment that meet the specific requirements identified in the Consent Decree. *NOPD was unable to demonstrate compliance with this requirement.* NOPD reported that its policies and procedures do not include the requisite information relating to this equipment.

**c. CD Paragraph 329**

Paragraph 329 of the Consent Decree requires that, within 90 days of the Effective Date, NOPD shall develop and implement a schedule for testing AVL, in-car camera, and ECW recording equipment. *NOPD was unable to demonstrate compliance with this Consent Decree requirement.* The Monitoring Team discussed the status of implementing a testing schedule with multiple supervisors, but none were aware of any progress. Further, the supervisors reported to the Monitoring Team they were unable to test the ECW recording equipment.

**d. CD Paragraph 330**

Paragraph 330 of the Consent Decree provides that supervisors shall be responsible for ensuring that officers under their command use in-car camera recording equipment, AVL equipment, ECW cameras, and similar equipment, and report any equipment problems. *NOPD was able to demonstrate partial compliance with this Consent Decree requirement, but was unable to demonstrate full compliance with this requirement.*

The Monitoring Team observed conflicting information regarding whether supervisors ensure uniform compliance with the use and functionality requirements of the Consent Decree. The Monitoring Team will continue to review whether NOPD develops and implements a uniform system that ensures all supervisors require the use of in-car cameras and report any problems.

**e. CD Paragraph 331**

Paragraph 331 of the Consent Decree provides that, within 365 days of the Effective Date, NOPD provide each supervisor with handheld digital recording devices and require that supervisors use these devices to record complainant and witness statements taken as part of use of force or misconduct complaint investigations. While NOPD has until August 2015, *NOPD was unable to demonstrate compliance with this Consent Decree requirement.* Although at least one supervisor at every duty location was assigned a handheld digital recorder, not all could demonstrate how to use the device or when the device should be used.

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## **L. Secondary Employment System (CD 332-374)**

Section XVI of the Consent Decree calls generally for the complete restructuring of Secondary Employment practices “to ensure that officers’ and other NOPD employees’ off-duty secondary employment does not compromise or interfere with the integrity and effectiveness of NOPD employees’ primary work as sworn police officers serving the entire New Orleans community.”

In May 2012, prior to appointment of the Consent Decree Monitor, the City created an Office of Police Secondary Employment (“OPSE”) to control and manage Secondary Employments under the direction of Lieutenant Colonel (Ret.) John Salomone. OPSE currently has 9 full-time civilian staff.

In December 2013, the City and the NOPD adopted and the Monitoring Team approved their respective secondary employment policies. OPSE’s policies are available on its website.<sup>6</sup> Upon approval of the policies, on December 18, 2013, Superintendent Serpas circulated these policies to all officers and provided an explanation of how Secondary Employment would be regulated and managed by the City and the NOPD going forward. Importantly, he instructed all NOPD officers and employees that desired to work details to register with OPSE by January 10, 2013.

OPSE began managing details in August 2013, with full implementation starting in January 2014. As of Director Salomone’s most recent report, April 16, 2014:

- 262 officers have worked jobs under OPSE management (36% of authorized officers)
- 183 customers and adding more daily (26 additional in process)
- Over 15,000 hours worked
- \$342,000 paid to officers in 15 successful payrolls; over \$314,000 paid since January 1, 2014
- Officer registration status:
  - 812 officers have registered (70% of current NOPD personnel strength)
  - NOPD Compliance Bureau has verified and approved 719 officers for secondary employment

While these statistics are impressive and reflect the growing success of OPSE, the Monitoring Team has observed continued misunderstandings and confusion among police officers regarding the role of OPSE, the benefits of OPSE, and the future of OPSE. Notwithstanding these misunderstandings and confusion, we also have observed increased acceptance of OPSE from

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<sup>6</sup> Policies and Procedures for Customers and Officers, City of New Orleans Office of Secondary Police Employment, *available at* <http://www.nola.gov/getattachment/OPSE/20131217-OPSE-External-Policy-V3-0.pdf/>.

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officers and from the business community. We believe this increased acceptance is reflected in the trend of the statistics reported to the Monitoring Team by OPSE on a monthly basis.

OPSE continues to work with secondary employers to meet their needs and to address specific issues or concerns they may have. For example, in response to feedback from certain potential customers concerning the burdens imposed by the Consent Decree's advance payment requirement, Director Salomone sought approval to create an exception. Because the Advance Payment provisions were elements of the Consent Decree, the exception required a modification of the Consent Decree. DOJ and the Monitoring Team reviewed and evaluated the request and concurred that a modification to the Consent Decree was warranted. The parties then submitted a joint motion to amend the Consent Decree to the District Court, which was granted.

Director Salomone and his staff continue to meet and speak with secondary employers concerning OPSE's operations and their needs. Additional revisions to its policies and procedures may be sought as OPSE continues to receive and respond to customer feedback. Where proposed changes affect the current terms of the Consent Decree, as for example did the Advance Payment provision, the Monitoring Team and DOJ will review and consider them in the same manner in which the request for an advance payment exception was reviewed.

*In general, the City and NOPD have either complied with or are moving toward compliance with the Secondary Employment requirements of the Consent Decree Paragraph.* Because OPSE has only begun managing secondary employment, it would be premature to evaluate compliance with certain Secondary Employment provisions of the Consent Decree. Compliance with these provisions will be addressed in subsequent reports.

**1. Secondary Employment Coordinating Office**

**a. CD Paragraph 332**

Pursuant to paragraph 332 of the Consent Decree, the Secondary Employment Coordinating Office ("Coordinating Office") "shall have sole authority to arrange, coordinate, arrange fully-auditable payment, and perform all other administrative functions related to NOPD employees' off-duty secondary law enforcement employment (historically referred to as paid details) and shall be operated in accordance with the requirements of this Agreement." *The City has demonstrated compliance with this Consent Decree requirement.* We reviewed the database management systems used by OPSE to manage secondary employment. We also reviewed the systems used to manage payment for secondary employment details. We will continue to monitor the operations of these systems to ensure continued compliance.

**b. CD Paragraph 333**

Paragraph 333 of the Consent Decree requires that the Coordinating Office be directed by a civilian with no actual conflict of interest or appearance of conflict of interest. This Coordinating Office Director ("Director") shall not be a present or former NOPD employee. The Director shall be an unclassified civil servant appointed by, and serving at the pleasure of, the

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Mayor, and shall remain independent from actual or perceived influence by NOPD. *The City has demonstrated compliance with this Consent Decree requirement.* John Salomone is a civilian with no current or previous employment relationship with the NOPD or the City of New Orleans. We have monitored his implementation of OPSE and observed that in developing and implementing OPSE's policies and systems he has been guided by the letter and spirit of the Consent Decree and has demonstrated independence from actual and perceived influence by NOPD.

**c. CD Paragraph 334**

Paragraph 334 of the Consent Decree requires that the Coordinating Office employ a civilian in the role of "Major Special Events" Coordinator with no actual conflict of interest or appearance of conflict of interest. This Major Special Events Coordinator shall not be a present or former NOPD employee. This Coordinator will report to the Director. Major Special Events include Mardi Gras, Jazz Fest, Essence Music Festival, French Quarter Festival, Voodoo Fest, college bowl and college championship events, professional sporting events, and other events as designated by the Mayor, Chief Administrative Officer, the Deputy Mayor for Public Safety, the City Attorney, City Council, or the Superintendent as a Major Special Event. *The City has demonstrated compliance with this Consent Decree requirement.* The City hired Chis Mark, who like Director Salomone is a retired Army officer with no current or previous ties to the NOPD.

**d. CD Paragraph 335**

Paragraph 335 of the Consent Decree requires that the Director's and all other Coordinating Office employees' salaries be independent of the number of off-duty secondary jobs worked or the amount of revenue generated by secondary employment. *The City has demonstrated compliance with this Consent Decree requirement.* Salaries of the OPSE employees are set independent of the number of off-duty secondary jobs worked or the revenue generated by secondary employment.

**e. CD Paragraph 336**

Paragraph 336 of the Consent Decree requires that the Coordinating Office be staffed with civilians with no actual conflict of interest or appearance of conflict of interest, and shall not have been NOPD employees within the previous two years. *The City has demonstrated compliance with this Consent Decree requirement.* All of OPSE's employees are civilians with no actual or apparent conflict of interest and have not been NOPD employees within the previous two years.

**f. CD Paragraph 337**

Paragraph 337 of the Consent Decree requires that the Coordinating Office not be located in, or immediately adjacent to, NOPD Headquarters, District Headquarters, or a District



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Substation. *The City has demonstrated compliance with this Consent Decree requirement.* OPSE is located in City Hall.

## 2. Coordinating Office Responsibilities

### a. CD Paragraph 338

Paragraph 338 of the Consent Decree requires that the City develop and implement and the Coordinating Office shall maintain a searchable list of off-duty secondary employment opportunities, which can be accessed through either the existing NOPD employee website or another accessible database. *The City is moving toward compliance with this Consent Decree requirement.* The current system is accessible from the internet but not through the existing NOPD employee website or other websites readily available to NOPD employees.

### b. CD Paragraph 339

Paragraph 339 of the Consent Decree requires that the Coordinating Office maintain a roster of NOPD employees interested in working off-duty secondary employment. *The City has demonstrated compliance with this Consent Decree requirement.* Officers who want to work secondary employment must register with the OPSE, and OPSE maintains the list of registrants.

### c. CD Paragraph 340

Paragraph 340 of the Consent Decree requires that the Coordinating Office establish a rotation system that provides a fair and equitable number of secondary employment opportunities to all NOPD employees in consideration of preferences for assignment and availability. The Coordinating Office shall rotate NOPD employees working Recurring Secondary Employment positions at least every 365 days. *The City has demonstrated compliance with this Consent Decree requirement.* OPSE has used a commercially available database management system to manage its rotation system. It has acquired and is using the ISELINK system to manage the rotation that complies with the requirements of the Consent Decree.

### d. CD Paragraph 341

Paragraph 341 of the Consent Decree requires that the Coordinating Office fill all new secondary employment opportunities and temporary vacancies pursuant to written and consistently applied criteria. NOPD employees shall not be permitted to select substitutes or allow another employee to work an assigned secondary job in place of the employee. *The City has demonstrated compliance with this Consent Decree requirement.* We have reviewed the criteria used by OPSE to fill secondary employment criteria. We have also confirmed that NOPD employees are not permitted to select substitutes for a scheduled employment opportunity. We will continue to monitor compliance with this requirement in practice.

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**e. CD Paragraph 342**

Paragraph 342 of the Consent Decree requires that the Coordinating Office establish an after-hours notification system, which provides them the capability of accepting information and making assignments 24 hours a day, 365 days per year. ***The City has demonstrated compliance with this Consent Decree requirement.*** OPSE currently assigns an employee to assume after-hours duty to ensure that assignments can be made 24 hours a day, 365 days a year. OPSE is currently exploring alternatives that would relieve its employees of assuming this responsibility. We will continue to monitor compliance with this requirement.

**f. CD Paragraph 343**

Paragraph 343 of the Consent Decree requires that the Coordinating Office remove NOPD employees from the secondary employment roster where the employees are performing unsatisfactorily, are under suspension, administrative reassignment, or have been charged with a crime. ***At this early stage of implementation of the OPSE, there have been no identified instances of unsatisfactory performance that would trigger this obligation; however, the Monitoring Team will continue to monitor compliance with this requirement.***

**g. CD Paragraph 344**

Paragraph 344 of the Consent Decree requires that Officers engaging in secondary employment be required to comply with all NOPD internal procedures governing off-duty secondary employment, including the completion of an NOPD Secondary Employment Authorization Form. ***The City has demonstrated compliance with this Consent Decree requirement.*** OPSE and the NOPD established registration policies and procedures. Only officers who have completed the required paperwork are eligible for secondary employment. In future quarters we will audit the paperwork to confirm the policies and procedures are consistently followed.

**h. CD Paragraph 345**

Paragraph 345 of the Consent Decree requires that the Coordinating Office develop and implement a plan for working with NOPD to ensure supervisors conduct in-person inspections of secondary employment sites based upon the frequency worked. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement; however, the Monitoring Team understands OPSE is working toward compliance.*** The Monitoring Team will continue to monitor compliance with this requirement.

**i. CD Paragraph 346**

Paragraph 346 of the Consent Decree requires that the Coordinating Office ensure no NOPD employee is supervising another employee of higher rank. ***The assignment system implemented by the NOPD takes into account rank and is designed to comply with this***

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*element of the Consent Decree, and the Monitoring Team will continue to monitor compliance with this requirement.*

**j. CD Paragraph 347**

Paragraph 347 of the Consent Decree requires that the Coordinating Office be responsible for collecting and maintaining a searchable database of all secondary employment worked. This database shall be searchable by secondary employment assignment and by employee and shall identify the employee working the secondary employment, secondary employment hours, and assignment locations. This database shall maintain historic and current information on all employees' secondary employment. ***The City has demonstrated compliance with this Consent Decree requirement.*** OPSE maintains a searchable database management system that meets the requirements of this paragraph, which it uses to make assignments and to pay officers.

**k. CD Paragraph 348**

Paragraph 348 of the Consent Decree requires that a schedule of fees be established by the City to offset costs associated with the coordination and required support provided through the Coordinating Office to take into account costs, including but not limited to, administrative fees, hourly wage rates, and equipment usages. The schedule of fees shall be publicly available. ***The City has demonstrated compliance with this Consent Decree requirement.*** The City Council approved pay rates for secondary employment. The approved rates are available on the OPSE website.

**l. CD Paragraph 349**

Paragraph 349 of the Consent Decree requires that the Coordinating Office be responsible for the annual, public release of the following information:

- The number of NOPD employees who worked secondary employment by District and rank;
- The average number of secondary employment hours worked by District and rank;
- The salaries of Coordinating Office employees and the Coordinating Office's administrative operational costs; and
- The net and gross amounts of City income derived through secondary employment.

A draft annual report has been provided to and reviewed by the Monitoring Team. ***NOPD was unable to demonstrate compliance with this Consent Decree requirement; however, OPSE has demonstrated that it has been moving toward compliance.***

**m. CD Paragraph 350**

Paragraph 350 of the Consent Decree requires that the Coordinating Office ensure all potential employers are notified of their responsibilities. The OPSE and NOPD have issued guidelines notifying officers that register to work secondary employment details of these



obligations. Officers must acknowledge, in writing, receipt of the requirements and their agreement to abide by them. *The City has demonstrated compliance with this Consent Decree requirement.*

### 3. Secondary Employment Compensation

#### a. CD Paragraph 351

Paragraph 351 of the Consent Decree requires that the Coordinating Office, working with NOPD and the City, develop and implement an auditable payment system that ensures that secondary employment pay is made to NOPD employees. *The City has demonstrated compliance with this Consent Decree requirement.* We observed a demonstration of this system. We will continue to monitor compliance with this paragraph.

#### b. CD Paragraph 352

Paragraph 352 of the Consent Decree requires that NOPD employees working secondary employment not be permitted to receive any compensation, either cash or in-kind, including bonuses or gifts, unless such compensation, bonus, or gift, is provided through and documented by the Coordinating Office and is in accordance with the Louisiana Ethics Code for public employees. Nominal compensation in the form of food or beverages is permitted in accordance with the Louisiana Ethics Code for public employees. *The City's Secondary Employment policies comply with this Consent Decree requirement. Continued compliance in practice will be the subject of ongoing monitoring.*

#### c. CD Paragraph 353

Paragraph 353 of the Consent Decree requires that travel time to and from secondary employment not be compensated, unless it involves specialized patrol services or use of specialized equipment. *The City's Secondary Employment policies comply with this Consent Decree requirement. Continued compliance in practice will be the subject of ongoing monitoring.*

#### d. CD Paragraph 354

Paragraph 354 of the Consent Decree requires that NOPD employees not be permitted to solicit secondary compensation or employment. Individuals or entities seeking to employ NOPD employees to work secondary employment must work through the Coordinating Office. *The City's Secondary Employment policies comply with this Consent Decree requirement. Continued compliance in practice will be the subject of ongoing monitoring.*



#### 4. Limitations On Secondary Employment Work

##### a. CD Paragraph 356

Paragraph 356 of the Consent Decree requires that NOPD and the Coordinating Office establish a standard form by which NOPD employees can register to work secondary employment assignments. No employee shall be eligible to work secondary employment without first registering with the NOPD Compliance Section and obtaining authorization from the employee's direct supervisor and unit commander. Secondary employment authorization shall be valid for one calendar year. When determining whether an NOPD employee qualifies for authorization to work secondary employment, NOPD and the Coordinating Office shall evaluate factors that include:

- The quality of the employee's primary employment performance, assessed pursuant to written criteria;
- Whether the employee is an active member of the NOPD or grandfathered reserve officer in good standing;
- The applicant's disciplinary record, complaint history, and work performance history;
- The applicant's level of experience; and
- Whether the employee is seeking a supervisory or non-supervisory position.

*The City's Secondary Employment policies comply with this Consent Decree requirement.* Continued compliance in practice will be the subject of ongoing monitoring.

##### b. CD Paragraph 357

Paragraph 357 of the Consent Decree states that only a POST certified commissioned member who has successfully completed his/her FTO training and has achieved permanent status as Civil Service "Police Officer I" may work police-related secondary employment assignments unsupervised. *The City's Secondary Employment policies comply with this Consent Decree requirement.* Continued compliance in practice will be the subject of ongoing monitoring.

##### c. CD Paragraph 358

Paragraph 358 of the Consent Decree states that POST certified commissioned members who completed FTO training, but have not obtained permanent status of Civil Service "Police Officer I," may work secondary employment if supervised by a ranking officer at the grade of sergeant or above. *The City's Secondary Employment policies comply with this Consent Decree requirement.* Continued compliance in practice will be the subject of ongoing monitoring.

##### d. CD Paragraph 359

Paragraph 359 of the Consent Decree states that POST certified commissioned members hired as lateral transfers successfully completing FTO training may work authorized secondary

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employment unsupervised. ***The City's Secondary Employment policies comply with this Consent Decree requirement.*** Continued compliance in practice will be the subject of ongoing monitoring.

**e. CD Paragraph 360**

Paragraph 360 of the Consent Decree states that, regardless of prior approval, members shall not engage in secondary employment while absent in the following status: Sick; Injured On-Duty; Worker's Compensation; Maternity Leave; Leave Without Pay; or Suspended or under Administrative Reassignment with a restricted police commission. Members must return to full duty status and have completed a full tour of duty prior to working a secondary employment opportunity. ***The City's Secondary Employment policies comply with this Consent Decree requirement.*** Continued compliance in practice will be the subject of ongoing monitoring.

**f. CD Paragraph 361**

Paragraph 361 of the Consent Decree states that secondary employment for City departments and agencies shall be prohibited. Instead, departments and agencies shall cover compensation for employees through authorized City reimbursement procedures. ***The City has demonstrated compliance with this Consent Decree requirement.***

**g. CD Paragraph 362**

Paragraph 362 of the Consent Decree identifies prohibited types of Secondary Employment. ***The City's Secondary Employment policies demonstrate compliance with this Consent Decree requirement.*** The Monitoring Team will monitor compliance in practice.

**h. CD Paragraph 363**

Paragraph 363 of the Consent Decree states that NOPD employees are prohibited from working secondary employment that conflicts with the employee's NOPD duties and ethical obligations. ***The City's Secondary Employment policies demonstrate compliance with this Consent Decree Requirement.*** The Monitoring Team will monitor compliance in practice.

**i. CD Paragraph 364**

Paragraph 364 of the Consent Decree requires that Secondary Employment by NOPD employees be limited to a maximum of twenty-four hours per seven-day work week (Sunday through Saturday). Exceptions to the hour limitation may be granted for Major Special Events where manpower requirements are so intensive that sufficient resources may not be available for the safe operation of the event (*e.g.*, Jazz Fest and Mardi Gras). ***The City's Secondary Employment policies demonstrate compliance with this Consent Decree requirement.*** The Monitoring Team will monitor compliance in practice.

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#### j. CD Paragraph 365

Paragraph 365 of the Consent Decree requires that no employee, including reserve officers, work more than sixteen hours within a twenty-four hour period. (The twenty-four hour period begins the first time the employee reports for either regular duty or secondary employment allowing for a minimum of eight hours of rest within each twenty-four hour period.) These hours are cumulative and include normal scheduled work hours, overtime, off-duty secondary employment, and outside employment. *The City's Secondary Employment policies demonstrate compliance with this Consent Decree requirement.* The Monitoring Team will monitor compliance in practice.

#### k. CD Paragraph 366

Paragraph 366 of the Consent Decree Requirements concerns eligibility of Commissioned Reserve officers to accept secondary employment. *The City's Secondary Employment policies demonstrate compliance with this Consent Decree requirement.* The Monitoring Team will monitor compliance in practice.

### 5. Secondary Employment Employee Responsibilities

#### a. CD Paragraph 367

Paragraph 367 of the Consent Decree requires that NOPD employees seeking to work any secondary employment submit a signed Secondary Employment Registration Form ("Registration Form") initially and annually thereafter to the Coordinating Office. This Registration Form shall include acknowledgment that:

- the employee understands that working secondary employment is a privilege subject to strict criteria;
- the employee represents NOPD while working secondary employment;
- the employee must abide by all NOPD policies while working secondary employment; and
- the employee may be disciplined by NOPD for policy violations committed while working secondary employment.

*The City has demonstrated compliance with this Consent Decree requirement.* We reviewed OPSE's registration form, which meets the requirements of this paragraph. We have been advised that officers are required to complete the form prior to working secondary employment jobs. We will audit the paperwork in future quarters.

#### b. CD Paragraph 368

Paragraph 368 of the Consent Decree requires that employees working secondary employment have the same responsibility to carry appropriate departmental equipment (e.g., police radios) and document their activities in the same manner as if they were on-duty,

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including completing incident, arrest, and Use of Force Reports, and reporting allegations of misconduct or observed misconduct. *The City's Secondary Employment policies demonstrate compliance with this Consent Decree requirement.* The Monitoring Team will monitor compliance in practice.

## 6. Secondary Employment Supervision

### a. CD Paragraph 369

Paragraph 369 of the Consent Decree requires that the Coordinating Office, working with NOPD, determine the number of employees and supervisors necessary to work a secondary job, considering factors that include:

- The anticipated number of people attending the function;
- Whether alcoholic beverages will be served;
- Whether the event is open to the public or is private/by invitation only;
- The location of the event; and
- The history of the event and employer.

*The City has demonstrated compliance with this Consent Decree requirement.* OPSE coordinates with the City's permitting office and with the appropriate NOPD officer to determine the number of officers required for a secondary employment job.

### b. CD Paragraph 370

Paragraph 370 of the Consent Decree sets forth the minimum supervisory requirements for secondary employment. *The City has demonstrated compliance with this Consent Decree requirement.* OPSE's policies satisfy the requirements of this paragraph. We will audit the records of secondary employment jobs worked to ensure continued compliance.

### c. CD Paragraph 371

Paragraph 371 of the Consent Decree requires that sergeants and lieutenants be allowed to back-fill a police officer opening, but those supervisors electing to fill such a vacancy are eligible for compensation at the hourly rate approved for the police officer position as negotiated between the Coordinating Office and the employer. Captains or above shall only be allowed to fill open vacancies at a supervisory staffing level equivalent to a captain's position. *The City's Secondary Employment policies demonstrate compliance with this Consent Decree requirement.* The Monitoring Team will monitor compliance in practice.

### d. CD Paragraph 373

Paragraph 373 of the Consent Decree requires that the Coordinating Office implement a system so that on-duty NOPD patrol supervisors are aware of each secondary job within that supervisor's geographical coverage area and the identity of each employee working each



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secondary job. *The City has been unable to demonstrate compliance with this Consent Decree requirement.* OPSE is aware of the need to establish procedures to satisfy this requirement of the Consent Decree.

**e. CD Paragraph 374**

Paragraph 374 of the Consent Decree requires that the Coordinating Office implement a system so that each District shall have a current and historical record of all secondary employment worked in the District. *The City has been unable to demonstrate compliance with this Consent Decree requirement.* OPSE is aware of the need to establish procedures to satisfy this requirement of the Consent Decree.

**M. Misconduct Complaint Intake, Investigation, And Adjudication (CD 375-426)**

Section XVII of the Consent Decree sets forth the NOPD's obligations with respect to its misconduct complaint intake, investigation, and adjudication process. The Consent Decree provides that NOPD and the City must ensure all allegations of officer misconduct are received and are investigated fully and fairly; all investigative findings are supported using the preponderance of the evidence standard and documented in writing; and all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent. The Monitoring Team's specific findings regarding Section XVII are described here.

**1. CD Paragraph 378**

Paragraph 378 of the Consent Decree requires that NOPD "have a civilian serve as PIB commander." The PIB has been run by Deputy Chief Arlinda Westbrook since shortly after Superintendent Serpas's appointment in May 2010. Chief Westbrook previously served as Deputy City Attorney. She moved to the NOPD and assumed command of the PIB as a civilian. *NOPD is in compliance with this Consent Decree requirement.*

**2. CD Paragraph 379**

Paragraph 379 of the Consent Decree requires that NOPD and the City, among other things, ensure that a sufficient number of well-trained staff are assigned and available to complete and review thorough and timely misconduct investigations in accordance with the requirements of the Consent Decree. Paragraph 379 goes on to provide that ICOs (Integrity Control Officers) "shall report directly to the PIB Commander on PIB-related matters." The Monitoring Team will assess the sufficiency and training of the PIB staff in a future quarter. In this quarter, however, the Monitoring Team did assess whether NOPD's ICOs report to the PIB Commander on PIB-related matters as required by the Consent Decree.

ICOs historically were tasked with conducting administrative internal investigations within the various NOPD Districts. These investigations were similar to the investigations being performed by their fellow PIB officers, but typically were of a less serious nature (*i.e.* non-

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criminal investigations). In April 2011, however, the NOPD restructured the ICO function and removed the ICOs from the Districts, placing them instead in a centralized location.<sup>7</sup>

On September 23, 2012, NOPD again restructured the ICO function into what now is known as the “Administrative Support Unit,” or the ASU. *See* Field Operations Bureau Policy #8A. While Policy #8A formally eliminated the position of ICO, the New Orleans Civil Service Commission found that the responsibilities of the ASU mirror the vast majority of the responsibilities of the former ICOs. *See Gremillion, et al. v. Department of Police*, No. 7992, Aug. 9, 2013. While the Consent Decree has not been modified to substitute “ASU” for ICO,” the Monitoring Team views the terms as interchangeable for our monitoring purposes.

The ASU formally falls under the supervision of the Field Operations Bureau, not the PIB. *See* Public Integrity Bureau Complaint # 2013-937N (attached exhibit – email from Bernadine Kelly re ASU Chain of Command). In testimony before the Civil Service Commission, Deputy Superintendent Albert explained the reason for the reporting structure was to streamline the responsibilities of the officers assigned to the ASU and “to ensure that [there was] compliance with the policies and instructions throughout the department.” NOPD contends the ASU reporting structure complies with Paragraph 379 of the Consent Decree because the ASU officers report to Chief Westbrook (PIB). The Monitoring Team concludes differently.

To assess compliance with Paragraph 379 of the Consent Decree, as well as to evaluate the work being performed by both PIB and ASU, the Monitoring Team requested a broad range of documents from the City relating to the functions currently performed by the ASU. NOPD confirmed it produced all requested documents that exist. Based upon our review of the produced materials, coupled with our analysis of a Civil Service Commission hearing relating to the nature of the work performed by ASU, we conclude (1) the ASU performs work similar to, and in some cases indistinguishable from, their PIB counterparts, and (2) the ASU does not report to the PIB Commander on PIB-related matters as required by the Consent Decree.

#### **a. ASU Performs Primarily PIB-Type Functions**

NOPD’s internal documentation states the ASU is supposed to perform a multitude of discrete tasks. Field Operations Bureau Policy #8A. These tasks cover such things as performing PIB investigations, attending community meetings, reviewing narcotic arrests made by FOB units, and performing satisfaction surveys. Our review, however, suggests that the ASU is performing few of these tasks beyond conducting PIB investigations. Our view in this regard is supported by the following:

- Discussions with ASU personnel. Over the course of the reporting quarter, the Monitoring Team interviewed the members of the ASU on multiple occasions. The ASU

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<sup>7</sup> The ASU function currently is housed in a trailer located in City Park off Harrison Avenue, next to the NOPD Canine and Mounted Units.



team stated that the vast majority of their time is spent conducting PIB investigations, and that very little of their time is spent on their other functions.

- NOPD issued Job Performance Improvement Plans to several ASU personnel criticizing them for failing to perform their non-investigation functions. *See* Job Performance Improvement Plans (provided by NOPD in response to the Monitoring Team’s request for relevant documents).
- In a recent Civil Service Commission challenge to the pay scale of the ASU, the Civil Service Commission concluded the ASU was entitled to a 10% pay increase based upon the fact that the ASU was performing PIB investigation duties. *See Gremillion, et al. v. Department of Police*, No. 7992, Aug. 9, 2013. The Civil Service Commission awarded the pay differential on all work performed by ASU, suggesting that the Civil Service Commission found that PIB-type work dominated ASU’s workload. *Id.*

In short, we conclude that PIB investigation work dominates the daily activities of the ASU. The Monitoring Team has received copies of ASU’s ComStat reports, and will review and analyze these data in the upcoming quarter to further verify this finding.

#### **b. ASU Does Not Report To PIB**

While the Monitoring Team understands that, on paper, the ASU reports to the PIB Commander, in practice such reporting is illusory. Our review identified little if any indicia of control or supervision performed by the PIB over the ASU. For example,

- NOPD was unable to produce a single example of the PIB overturning, or even questioning, a decision by an ASU investigator. NOPD confirmed it was unaware of any instance where the PIB overruled or modified a report prepared by an ASU investigator.
- According to the members of PIB with whom we spoke this quarter, ASU investigations are received and filed by PIB without any critical, substantive review.
- NOPD was unable to identify any meaningful management or oversight of the ASU function by any member of PIB. While we identified coordination and communication between ASU and the Commanders within the Field Operations Bureau, we identified no similar coordination or communications between ASU and PIB.
- Documents produced to the Monitoring Team by NOPD this quarter suggest that ASU investigators were told not to communicate with the PIB. *See* Public Integrity Bureau Complaint # 2013-937N (attached exhibit – email from Bernadine Kelly re ASU Chain of Command).

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These findings support the Monitoring Team's conclusion that the ASU investigators report to the PIB in name only. They do not report to the PIB in any meaningful way.

### c. Conclusion

Based upon this assessment, the team concluded *NOPD was unable to demonstrate compliance with Paragraph 379 of the Consent Decree*. Specifically, the Monitoring Team has determined that the ICOs, now called ASU officers, appear to perform primarily PIB matters, but do not report to PIB on such matters.<sup>8</sup>

### 3. Discipline Process And Transparency (CD 421-425)

The Monitoring Team attended multiple disciplinary hearings this quarter to assess compliance with numerous Consent Decree elements. Specifically, the Monitoring Team monitored 10 disciplinary hearings, including Commander-level hearings and Deputy Chief-level hearings. Without disclosing the details of those particular hearings, the issues covered ranged from failure to submit a report to more serious matters such as drunk driving while operating a city vehicle following an unauthorized extra-duty detail.

While the Monitoring Team will report more fully on the issue of Disciplinary Hearings in a future Quarterly Report, our preliminary observations suggest that *NOPD has not demonstrated compliance with its obligations under the Consent Decree*. Based upon the disciplinary hearings we monitored, we cannot yet say the hearings are resulting in fair and consistent discipline. We saw evidence of inconsistent hearing procedures, deviations from the letter and spirit of the Consent Decree, and troubling conclusions by the hearing officer. We saw evidence that the IPM is not consistently permitted to participate in disciplinary hearings as contemplated by the Memorandum of Agreement between NOPD and IPM.<sup>9</sup> Furthermore,

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<sup>8</sup> The NOPD has informed the Monitoring Team that, on March 27, 2014, the Department received a promotional register from the New Orleans Civil Service Department for the position of Police Sergeant. According to NOPD, coincident with the promotion of the new sergeants, it began "assigning responsibility for disciplinary investigations involving administrative policy violations to an immediate supervisor across all Bureaus." Effective with this change, ASU officers no longer will be charged with handling disciplinary investigations. The Monitoring Team will confirm that this is, in fact, the case.

<sup>9</sup> Paragraphs 37-41 of the Memorandum of Understanding ("MOU") between NOPD and the IPM relate to "Discipline and Hearings." Among other things, the MOU provides NOPD must give IPM advance notice of disciplinary hearings, complete access to the proceedings, and complete access to all materials. NOPD also must permit IPM to attend all disciplinary hearings and provide IPM with notice of hearing officer findings. At the hearings, the MOU contemplates IPM will "make determinations as to whether departmental rules or policies have been violated, (footnote continued on next page)

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NOPD's current penalty schedule, found in Procedure 1021, has not been approved by DOJ or the Monitor.

The Monitoring Team plans to review these and other related issues closely and report our findings in a future Quarterly Report. The Monitoring Team also plans to carefully analyze NOPD's disciplinary data to fully monitor whether discipline is being imposed across the NOPD community on a fair, unbiased, and constitutional basis.

## **IX. Agreement Implementation And Enforcement (CD 444-492)**

### **A. Review Of PIB Investigations (CD 454)**

The Consent Decree requires that NOPD "provide each investigation of a serious use of force or use of force that is the subject of a misconduct investigation, and each investigation report of a serious misconduct complaint investigation (*i.e.*, criminal misconduct; unreasonable use of force; discriminatory policing; false arrest or planting evidence; untruthfulness/false statements; unlawful search; retaliation; sexual misconduct; domestic violence; and theft)" to the Monitoring Team before closing the investigation or communicating the recommended disposition to the subject of the investigation or review.

During the past several months, the Monitoring Team has worked closely with NOPD PIB on a process to ensure the Monitoring Team receives timely notification of the opening of any/every investigation involving allegations of serious misconduct. We have had success in receiving notification of serious Use of Force events, but timely notification of investigations into allegations of serious misconduct still is a work in process.

Soon after our appointment by the District Court in August 2013, the Monitoring Team met with Deputy Chief Westbrook (in charge of PIB) and members of her staff to discuss ways to ensure we could meet our obligation to review completed investigations without adversely impacting investigation time limits imposed by state statutes. Subsequently, on October 17, 2013, the Monitoring Team sent NOPD a protocol for reviewing misconduct and Use of Force investigations pursuant to Paragraph 454 of the Consent Decree. The protocol set forth NOPD's obligations to provide each investigation to the Monitoring Team before closing and before communicating any disposition recommendation. After several additional meetings and document exchanges, on February 16, 2014, NOPD agreed upon an internal process, and

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make recommendations regarding appropriate discipline, and review the appropriateness of disciplinary sanctions as authorized by paragraph 13 of the Ordinance. These determinations, recommendations, and findings shall be submitted to the NOPD in writing within seven (7) days of receipt of notice of the discipline." While the MOU does not speak directly to what role IPM plays *during* a disciplinary hearing, the Monitoring Team assumes, in order to be meaningful, it at least would involve asking questions and engaging in discussion with the hearing officer outside of the presence of the subject of the hearing.

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assigned responsibility for providing the Monitoring Team with notice of complete investigations within twenty-four hours of the date the investigation is substantially complete. Notwithstanding these agreements, NOPD has failed to provide the Monitoring Team with timely notification of the substantial completion of investigations into allegations of serious misconduct.

Over the ensuing weeks, the Monitoring Team explored alternate methods of ensuring we were made aware of allegations of serious misconduct so we could ensure our timely review of PIB investigations. Eventually, we requested – and now are receiving – weekly copies of the PIB Control Log, the Intake and Administrative Sections weekly briefings, and all DI-1's, which are the internal forms on which allegation of misconduct initially are documented. With considerable time and effort, the Monitoring Team developed a spreadsheet comprising the data we extracted from these documents to enable our identification of allegations of misconduct that fall within the definition of serious misconduct.

While workable as a temporary measure, maintaining the resulting process is labor intensive and time consuming. It also does not ensure the Monitoring Team is made aware of all serious misconduct investigations in a timely fashion. It is more of a backstop than a primary solution.

Moreover, the information we are extracting from the above listed documents reflects what is known at the time the allegation is received and logged at PIB. If the ensuing investigation subsequently uncovers officer behavior that rises to the level of serious misconduct, the Monitoring Team will not know of the outcome without PIB alerting us to their findings. Consequently, we have had further discussions with PIB and are optimistic we will have a new process in place to ensure timely notification of completed investigations into serious misconduct. Specifically, going forward, PIB will send the Monitoring Team a digital copy of each investigator's investigative summary within twenty-four hours of its completion. This report will detail the entire investigation, including the investigator's findings and recommendations. It is the basis for any further action by the Department, including discipline or other corrective action. We are optimistic this new process will move the NOPD toward compliance with its Consent Decree requirements. *At the moment, however, NOPD is unable to demonstrate compliance with this Consent Decree requirement.*

#### **B. Coordination With IPM (CD 459)**

The Consent Decree provides that the Monitoring Team shall coordinate and confer with the Independent Police Monitor. (CD 459) The Monitoring Team and IPM communicated frequently during this quarter and coordinated their efforts to the extent practicable. The Monitoring Team remains pleased with and grateful for the level of cooperation it continues to receive from IPM and the Office of the Inspector General.

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### C. NOPD Consent Decree Implementation Unit (CD 467)

Paragraph 467 of the Consent Decree provides that the City and NOPD will “hire and retain, or reassign current NOPD employees to form, an inter-disciplinary unit with the skills and abilities necessary to facilitate implementation” of the Consent Decree. The Consent Decree goes on to explain this unit “will serve as a liaison between the Parties and the Monitoring Team and will assist with the implementation of and compliance with this Agreement.” Among other things, the Consent Decree Implementation Unit is intended to

- Coordinate the City and NOPD’s compliance and implementation activities;
- Facilitate the provision of data, documents, materials, and access to the City and NOPD personnel to the Monitoring Team and DOJ, as needed;
- Ensure that all data, documents, and records are maintained as provided in this Agreement; and
- Assist in assigning implementation and compliance related tasks to NOPD personnel, as directed by the Superintendent or his designee.

A fully functioning, adequately staffed, and properly resourced Consent Decree Implementation Unit is a critical component of NOPD’s ability to come into compliance with the terms of the Consent Decree. Unfortunately, throughout the prior quarter, ***NOPD was not in compliance with this requirement.***

At the outset of the Consent Decree, NOPD vested the duties of the Consent Decree Implementation Unit in a former NOPD officer and manager reporting directly to the Superintendent. Subsequently, on October 23, 2013, Superintendent Serpas made a formal offer of employment to Mr. (now Deputy Chief) Jay Ginsberg to lead the then-recently created “Compliance Bureau,” which, among other things, was intended to oversee the Department’s implementation of the Consent Decree. Deputy Chief Ginsberg accepted the offer that same evening, but his official engagement by the NOPD had to await City Counsel endorsement, which did not occur immediately. On December 1, 2013, Deputy Superintendent Ginsberg became the director of the NOPD Compliance Bureau. Deputy Chief Ginsberg continues to lead the Compliance Bureau, reporting directly to the Superintendent.

In our First Quarterly Report, we reported that NOPD advised us it was “working toward a goal of having ‘all staffing parameters for this new bureau in place on, or before, December 1st, 2013.’” As of the close of the current reporting period, however, NOPD has not achieved this goal. Indeed, as of March 31, 2014, Deputy Superintendent Ginsberg had only one employee, a police commander, reporting to him to support Consent Decree compliance. This lack of resources has contributed to a number of our findings that NOPD has been unable to demonstrate compliance with several Consent Decree provisions.

On March 17, 2014, NOPD petitioned the New Orleans Civil Service Commission to create five new “unclassified” positions in the NOPD Compliance Bureau. *See* Civil Service Commissions Agenda for March 17, 2014. Following arguments by Deputy Superintendent

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Ginsberg and Superintendent Serpas, the Civil Service Commission approved NOPD's request for the five new positions upon the condition that the positions be publically advertised and include minimum qualifications, expected duties, and salary range. The Civil Service Commission further required that the position must report directly to Deputy Superintendent Ginsberg (not to an NOPD Commander or to any other Civil Service position). The approved positions will "sunset" after three years, at which time NOPD will have to return to the Civil Service Commission and request the approval for the positions be extended.

Following the Civil Service Commission's approval<sup>10</sup> of the Compliance Bureau positions, NOPD advertised the positions through the City's employment web site. *See* Appendix IV for a copy of the job announcement.

While the approval for, and announcement of, these new positions obviously reflect forward movement, the Monitoring Team remains concerned that the Compliance Implementation Unit remains under-resourced some seven months following the implementation of the Consent Decree. In particular, while we see value in NOPD's decision to create new, dedicated positions, and, while we understand the process in New Orleans to establish a new "unclassified" position is not always a rapid or simple one, NOPD never was precluded from reassigning existing personnel to support Chief Ginsberg pending hiring of new personnel. The Monitoring Team will continue to assess and report on the City's ongoing efforts to bring itself into compliance with this critical Consent Decree requirement.

#### **D. NOPD And City Cooperation (CD 470-476)**

The Consent Decree provides that the City and NOPD shall fully cooperate with the Monitoring Team in all aspects of its responsibilities. *See, e.g.*, CD 470-476. We are pleased to report that the City and NOPD did cooperate with the Monitoring Team throughout this reporting quarter.

#### **X. What Are We Doing Next Quarter?**

The Monitoring Team will continue to focus on a wide range of Consent Decree elements throughout the third quarter. A primary focus of our efforts, however, will be working with the NOPD to facilitate the development of policies and procedures that satisfy the requirements of the Consent Decree since, in many ways, the policies are the threshold compliance element upon which other critical Consent Decree requirements rest. Training, for example, cannot be effectively implemented until the trainers have good policies on which to train. Of course,

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<sup>10</sup> While the Civil Service Commission is the entity that initiates the process to amend a Unclassified Pay Plan in New Orleans, the City Council then must meet and vote to amend the Plan by ordinance. The City Council met and adopted the necessary ordinance on April 10, 2014. The ordinance was received by the Mayor on April 14, 2014 and approved on April 16, 2014.



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whether officers' conduct on the streets—the ultimate issue of concern—complies with the Consent Decree is dependent upon Consent Decree compliant policies and training. The disciplinary process is also an example of an important Consent Decree element highly dependent upon sound, well-drafted policies. Although we have monitored all these areas (training, officer conduct, and disciplinary hearings), and compared them to current NOPD policies, which is important to benchmarking where NOPD stands today in order to measure its progress, the ultimate test is whether NOPD's policies and practices meet the requirements for constitutional policing as set forth and agreed upon in the Consent Decree.

Our third quarter also will see the implementation of the City's first Consent Decree "Biennial Community Survey." Paragraph 230 of the Consent Decree requires that NOPD and the City conduct a "reliable, comprehensive, and representative survey of members of the New Orleans community regarding their experiences with and perceptions of NOPD and of public safety." As described in our First Quarterly Report, the Monitoring Team worked closely with the City, the NOPD, and the DOJ to craft a Biennial Community Survey that is fair, balanced, and effective. The result of this effort is a three-part survey that encompasses the views of community members, police officers, and detained suspects. As of the publication of this Second Quarterly Report, the Police Officer component of this survey will have been completed. The Community Survey and the Detainee Survey are slated for implementation this calendar year.

Finally, our third quarter will continue to involve the close monitoring of NOPD's ongoing practices in a number of Consent Decree areas, including disciplinary hearings, bias-free policing, Use of Force events, misconduct investigations, secondary employment, and more. Such activities will remain a core component of our monitoring activities in every reporting quarter.

## **XI. Conclusion**

As noted at the outset of this Second Quarterly Report, based on our work and observations thus far, we believe the NOPD remains committed to the promises it made to the citizens of New Orleans (and its officers) in the Consent Decree. NOPD leadership with whom we interact on a daily basis express genuine interest in making NOPD a better police department and in effectuating the improvements guaranteed by the Consent Decree. Our daily interactions with the rank and file further confirm our view that within NOPD are a large number of ethical, caring, and professional officers who also are dedicated to improving the Department.

Our work, however, also has revealed that, in many important ways, the NOPD is not yet consistently delivering the quality of services the people of New Orleans are entitled to and are demanding. While we have received compliments from members of the community about the NOPD generally, and about many individual NOPD officers in particular, it is clear there nevertheless is widespread dissatisfaction with the overall performance of the NOPD.

Meeting their obligations under the Consent Decree requires that the City and NOPD have (a) incorporated the Consent Decree requirements into meaningful and understandable policies, (b) effectively trained all relevant personnel as necessary to fulfill their responsibilities;

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and, perhaps most importantly, (c) ensured that the requirements of the Consent Decree are being carried out in actual practice. The Monitoring Team will continue vigilantly to observe, assess, and report on whether the NOPD is meeting each of these obligations. We believe the transformation embodied in the Consent Decree is achievable, but will require persistence on the part of the NOPD and patience on the part of those whom they serve.

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## APPENDIXES



## **XII. Appendix I: Summary of Consent Decree Elements**

The Consent Decree is comprehensive in nature and details specific areas for corrective action including: use of force; stops searches, seizures and arrests; photographic lineups; custodial interrogations; bias-free policing; policing free of gender bias; community engagement; recruitment; training; performance evaluations; promotions; officer assistance and support; supervision; secondary employment; and misconduct-complaint intake, investigation and adjudication.

The Consent Decree represents a proactive and robust mandate for reform of the policies, training, and practices of the NOPD with specific agreed-upon corrective actions and timeframes for implementation. What follows is a summary of NOPD's core obligations under the Consent Decree.

### **Policies and Training**

NOPD agrees that its policies and procedures shall reflect and express the Department's core values and priorities, and provide clear direction to ensure that officers and civilian employees enforce the law effectively and constitutionally. NOPD and the City agree to ensure that all NOPD officers and employees are trained to understand and be able to fulfill their duties and responsibilities pursuant to NOPD policies and procedures.

### **Use of Force**

NOPD agrees to develop and implement force policies, training, and review mechanisms that ensure that force by NOPD officers is used in accordance with the rights secured or protected by the Constitution and laws of the United States and that any unreasonable Use of Force events are identified and responded to appropriately. NOPD agrees to ensure that officers use non-force techniques to affect compliance with police orders whenever feasible; use force only when necessary, and in a manner that avoids unnecessary injury to officers and civilians; and de-escalate the use of force at the earliest possible moment.

### **Crisis Intervention Team**

NOPD agrees to minimize the necessity for the use of force against individuals in crisis due to mental illness or a diagnosed behavioral disorder.

### **Stops, Searches, and Arrests**

NOPD agrees to ensure that all NOPD investigatory stops, searches, and arrests are conducted in accordance with the rights secured or protected by the Constitution and laws of the United States. NOPD agrees to ensure that investigatory stops, searches, and arrests are part of an effective overall crime prevention strategy; are consistent with community priorities for enforcement; and are carried out with fairness and respect.



## **Custodial Interrogations**

NOPD agrees to ensure that officers conduct custodial interrogations in accordance with the subjects' rights secured or protected by the Constitution and laws of the United States, including the rights to counsel and against self-incrimination. NOPD agrees to ensure that custodial interrogations are conducted professionally and effectively, so as to elicit accurate and reliable information.

## **Photographic Lineups**

NOPD agrees to ensure that photographic lineups are conducted effectively and in accordance with the rights secured or protected by the Constitution and laws of the United States, so as to elicit accurate and reliable information.

## **Bias-Free Policing**

NOPD agrees to deliver police services that are equitable, respectful, and bias-free, in a manner that promotes broad community engagement and confidence in the Department. In conducting its activities, NOPD agrees to ensure that members of the public receive equal protection of the law, without bias based on race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity, and in accordance with the rights secured or protected by the Constitution and laws of the United States.

## **Policing Free of Gender Bias**

NOPD agrees to respond to and investigate reports of sexual assault and domestic violence professionally, effectively, and in a manner free of gender-based bias, in accordance with the rights secured or protected by the Constitution and laws of the United States. NOPD agrees to appropriately classify and investigate reports of sexual assault and domestic violence, collaborate closely with the DA and community partners, including the New Orleans Family Justice Center, and apply a victim-centered approach at every stage of its response.

## **Community Engagement**

NOPD agrees to promote and strengthen partnerships within the community, and to engage constructively with the community, to ensure collaborative problem solving and ethical and bias-free policing, and to increase community confidence in the Department.

## **Recruitment**

NOPD and the City, working with the Civil Service Commission, agree to develop and implement a comprehensive recruitment program that successfully attracts and hires a diverse group of highly qualified and ethical individuals to be NOPD police officers. NOPD and the City, working with the Civil Service Commission, agree to ensure that NOPD's recruit program assesses each applicant in a manner that is valid, reliable, fair, and legally defensible.



### **Academy and In-Service Training**

NOPD is committed to ensuring that all officers and employees receive adequate training to understand the law and NOPD policy and how to police effectively. NOPD training shall reflect and instill agency expectations that officers police diligently, have an understanding of and commitment to the constitutional rights of the individuals they encounter, and employ strategies to build community partnerships to more effectively increase public trust and safety.

### **Officer Assistance and Support**

NOPD agrees to provide officers and employees ready access to the mental health and support resources necessary to facilitate effective and constitutional policing.

### **Performance Evaluations and Promotions**

NOPD agrees to ensure that officers who police effectively and ethically are recognized through the performance evaluation process, and that officers who lead effectively and ethically are identified and receive appropriate consideration for promotion. NOPD shall further ensure that poor performance or policing that otherwise undermines public safety and community trust is reflected in officer evaluations so that NOPD can identify and effectively respond.

### **Supervision**

NOPD and the City agree to ensure that an adequate number of qualified first-line supervisors are deployed in the field to allow supervisors to provide the close and effective supervision necessary for officers to improve and grow professionally; to police actively and effectively; and to identify, correct, and prevent misconduct.

### **Secondary Employment System**

The City shall completely restructure what is currently known as its Paid Detail system to ensure that officers' and other NOPD employees' off-duty secondary employment does not compromise or interfere with the integrity and effectiveness of NOPD employees' primary work as sworn police officers serving the entire New Orleans community. To achieve this outcome, the City shall develop and implement an off-duty secondary employment system that comports with applicable law and current professional standards.

### **Misconduct Complaint Intake, Investigation, and Adjudication**

NOPD and the City agree to ensure that all allegations of officer misconduct are received and are fully and fairly investigated; that all investigative findings are supported using the preponderance of the evidence standard and documented in writing; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent.

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## **Transparency and Oversight**

To ensure comprehensive, effective, and transparent oversight of NOPD, NOPD and the City agree to develop, implement, and maintain systems that are meant to be sustained after the completion of the Consent Decree. To facilitate effective and constitutional policing and increase trust between NOPD and the broader New Orleans community, these oversight systems shall ensure that improper incidents, practices, or trends are identified and corrected in an equitable and timely manner.

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**XIII. Appendix II: NOPD Policy Status Matrix**

NOPD POLICY					POLICY DUE DATES					Approved
Policy	Procedure	Title	Consent Decree Paragraph(s)	Consent Decree Element	Monitoring Team Informal policy review Meeting(s) with NOPD	NOPD Submitted P(&PR) to Monitoring Team and DOJ	Monitoring Team Response Due	Monitoring Team/DOJ Response to NOPD	NOPD Response	
209	No	Weapons Training & Requalification	28	Use of Force	10/17/2013					
300	Yes	Use of Force	27-29; 76-95	Use of Force	10/17/2013					
301	No	Use of Force Continuum	27-29?	Use of Force		3/31/2014	4/21/2014	4/8/2013		
302	Yes	Use of Force Review Boards	108	Use of Force	10/8/2013					
306	Yes	Handcuffing and Restraints	27-29?	Use of Force	10/17/2013					
308	No	Control Devices and Techniques	69?	Use of Force	9/20/2013					
309	Yes	Electronic Control Weapons	54-68	Use of Force	10/4/13; 10/23/2013					
310	No	Force Investigative Team/Officer Involved Shooting	96-107	Use of Force	10/4/2013					
312	No	Firearms	32-37?	Use of Force	10/11/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
313	No	Ammunition	32-37?	Use of Force	10/17/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
314	No	Vehicle Pursuits	30-31	Use of Force	10/3/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
318	No	Canines	38-53	Use of Force	10/17/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
320	Yes	Domestic Violence	212-222	Policing Free of Gender Bias	10/10/2013					
322	Yes	Search and Seizure	127-140,	Stops, Searches & Arrests	10/11/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
323	Yes	Custody Searches	127-140?	Stops, Searches & Arrests	10/11/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
336	Yes	Victim and Witness Assistance	178-189	Bias-Free Policing, Language Assistance	10/10/13; 10/29/13					
361	No	Property Loss Report				11/11/2013	12/11/2013	12/11/2013	12/18/2013	Yes
402	No	Discriminatory Policing/Bias Based Profiling, LGBT Community	48-58	Bias-Free Policing	10/10/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
419	Yes	Arrests	38-45	Arrest, Search & Seizure	10/10/2013					
440	Yes	Contacts, Detentions and Photographing Detainees	171-176?	Photographic Line-Ups	10/29/2013	12/6/2013	12/27/2013	12/27/2013	3/31/2014	
446	Yes	Digital Mobile Video Audio	165, 331	Photographic Line-Ups	10/10/2013					



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NOPD POLICY					POLICY DUE DATES					Approved
Policy	Procedure	Title	Consent Decree Paragraph(s)	Consent Decree Element	Monitoring Team Informal policy review Meeting(s) with NOPD	NOPD Submitted P(&PR) to Monitoring Team and DOJ	Monitoring Team Response Due	Monitoring Team/DOJ Response to NOPD	NOPD Response	
		Recording								
447	Yes	Body-Worn Camera				11/11/2013	12/2/2013	12/5/2013	1/6/2014	Yes
448	No	Mobile Digital Computer & AVL	315, 327-331	Photographic Line-Ups	10/10/2013					
600	Yes	Investigation and Prosecution		Photographic Line-Ups	10/10/2013					
1000		Recruitment	234-244	Recruitment	10/11/2013					
1020	No	Misconduct Complaints / Disciplinary Investigations	375	Misconduct Complaint Intake, Investigation, and Adjudication		12/6/2013	12/27/2013	12/27/2013		
1021	Yes	Disciplinary Hearings/ Penalties	421-424	Misconduct Complaint Intake, Investigation, and Adjudication		12/6/2013	12/27/2013	12/27/2013		
1023	Yes	Negotiated Settlement	375,376, 388-401		10/18/2013	8/30/2013		12/24/13		Yes
1025	No	Mediation Settlement			2/2014					
1040	No	Secondary Employment	332-374	Secondary Employment	9/2013	12/3/2013		12/31/2013		Yes

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#### XIV. Appendix III: Vehicle Collision Data Analysis

Table 1. Frequency of Collisions by Year and Month

		Frequency of Collisions							
Month	Total # Collisions	2007	2008	2009	2010	2011	2012	2013	
January	117	23	30	21	17	5	9	12	
February	157	30	24	22	35	6	22	18	
March	139	31	14	33	25	4	27	5	
April	122	14	29	24	13	5	20	17	
May	155	24	20	31	27	17	22	14	
June	143	29	22	19	23	16	25	9	
July	153	12	21	35	23	18	30	14	
August	117	17	25	18	14	21	13	9	
September	137	20	28	22	15	19	17	16	
October	147	25	29	19	15	17	18	24	
November	114	16	21	20	8	18	13	18	
December	115	22	24	20	14	13	14	8	
Total # Collisions	1620	263	287	284	229	159	230	164	

*Note:* Columns may not sum to “total # collisions” because there were four reported collisions with missing data on year or month.



Table 2. Division of Assignment for Collisions 2007-2013

Division	<i>N</i>	%
1	149	9.2
2	177	10.9
3	100	6.2
4	115	7.1
5	141	8.7
6	132	8.1
7	96	5.9
8	157	9.7
Academy	16	1.0
CIB	13	0.8
Crime Lab	12	0.7
Fleet	13	0.8
Homicide	40	2.5
ISB	24	1.5
K9	8	0.5
Narc	21	1.3
PIB	39	2.4
SCID	35	2.2
Sex Crimes	8	0.5
SOD	76	4.7
Superintendent	17	1.0
Technology	9	0.6
Traffic	63	3.9

*Note:* Entries include the total number of collisions in the respective division between 2007 and 2013 (*N*). The percentages represent the percent of all department collisions that occurred in the respective division between 2007 and 2013 (%). Division of assignments that represented at least 0.5% of all collisions were included in this table. Accordingly, percentages do not sum to 100%.

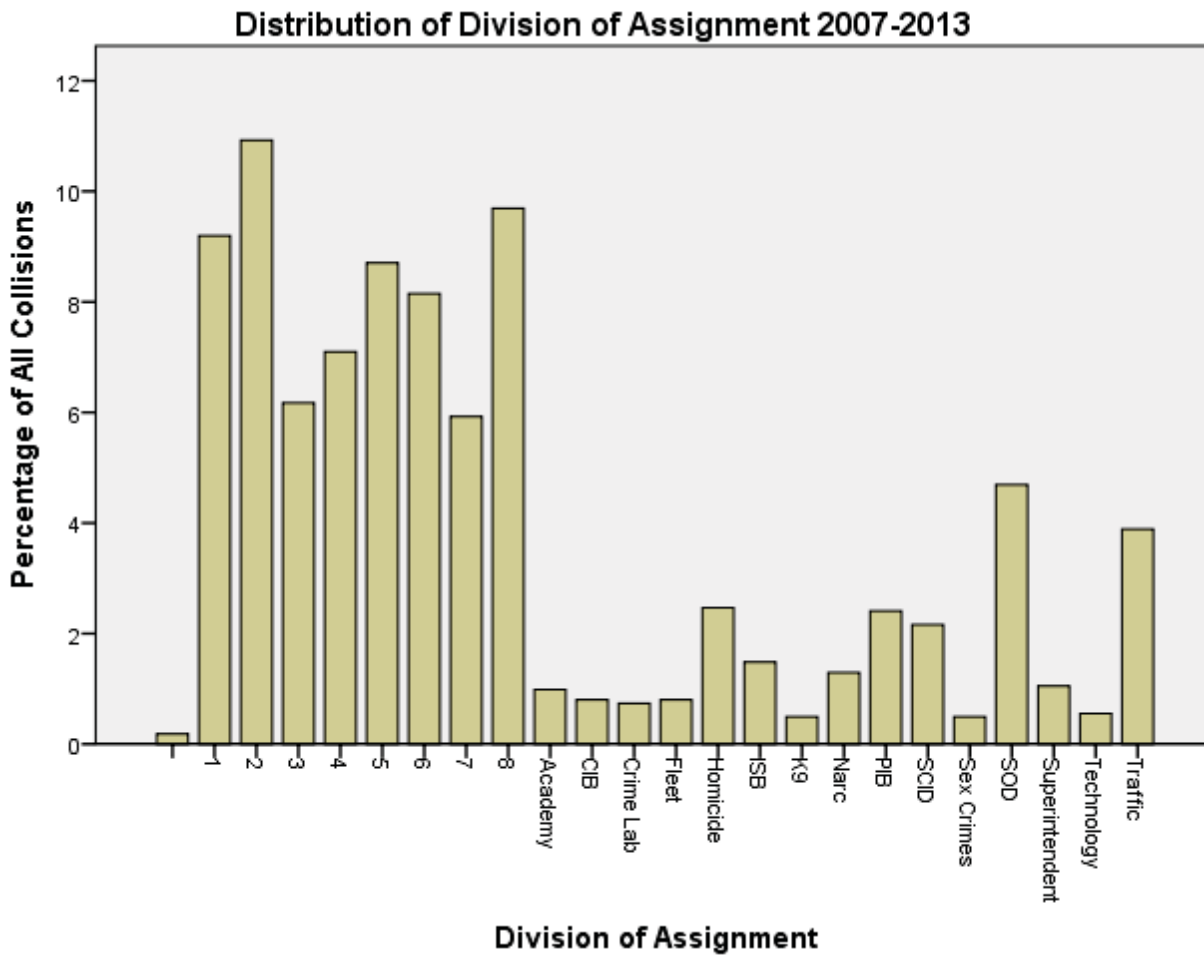




Table 3. Divisions of Assignment with Most Collisions by Year

Division	2007	2008	2009	2010	2011	2012	2013
	<i>N</i> %	<i>N</i> %	<i>N</i> %	<i>N</i> %	<i>N</i> %	<i>N</i> %	<i>N</i> %
1	18 6.8	25 8.7	17 6.0	32 14.0	18 11.3	23 10.0	16 9.8
2	32 12.2	30 10.5	25 8.8	24 10.5	19 11.9	29 12.6	17 10.4
3	18 6.8	23 8.0	23 8.1	7 3.1	2 1.3	17 7.4	10 6.1
4	25 9.5	14 4.9	26 9.2	10 4.4	10 6.3	17 7.4	13 7.9
5	17 6.5	21 7.3	22 7.7	27 11.8	21 13.2	21 9.1	12 7.3
6	21 8.0	24 8.4	22 7.7	23 10.0	17 10.7	16 7.0	9 5.5
7	15 5.7	13 4.5	15 5.3	16 7.0	16 10.1	9 3.9	12 7.3
8	21 8.0	28 9.8	35 12.3	19 8.3	14 8.8	23 10.0	15 9.1
Homicide	4 1.5	4 1.4	6 2.1	8 3.5	3 1.9	6 2.6	9 5.5
PIB	8 3.0	5 1.7	4 1.4	7 3.1	4 2.5	5 2.2	6 3.7
SCID	8 3.0	6 2.1	5 1.8	2 0.9	7 4.4	6 2.6	1 0.6
SOD	8 3.0	18 6.3	11 3.9	14 6.1	3 1.9	9 3.9	13 7.9
Traffic	14 5.3	11 3.8	18 6.3	9 3.9	1 0.6	5 2.2	5 3.0

*Note:* Entries include the total number of collisions in the respective division by year (*N*). The percentages represent the percent of all department collisions during a given year that occurred in the respective division (%).

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Table 4. Collision Characteristics 2007 through 2013

	N	Average or percent	Minimum	Maximum
<i>Officer Characteristics</i>				
Age	1511	38.24	21	82
Years on the job	1511	11.45	1	53
<i>Collision Characteristics</i>				
Day of week:	1614	---	---	---
Monday	255	15.8		
Tuesday	235	14.6		
Wednesday	219	13.6		
Thursday	244	15.1		
Friday	266	16.5		
Saturday	222	13.8		
Sunday	173	10.7		
Platoon shift:	1590	---	---	---
1	820	51.2		
2	534	33.6		
3	236	14.8		
Driving code:	1554	---	---	---
1	1469	94.5		
2	65	4.2		
3	2	0.1		
Parked	5	0.3		
RP	8	0.5		
Officer injury:	1582	---	---	---
None	1293	81.7		
Minor	252	15.9		
Moderate	37	2.3		
Damage scale:	1617	---	---	---
None	3	0.2		
Light	989	61.0		
Moderate	408	25.2		
Heavy	217	13.4		
Weather conditions:	1615	---	---	---
Good	1556	96.0		
Wet	6	0.4		
Rain	53	3.3		
Officer charged:	1618	---	---	---
Charged	575	35.5		
No charge	1043	64.4		

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	N	Average or percent	Minimum	Maximum
<i>Reprimand characteristics</i>				
Driving school:	405	---	---	---
Yes	382	94.3		
No	23	5.7		
Penalty:	423	---	---	---
1 day	78	18.4		
2 days	23	5.4		
3 days	36	8.5		
4 days	2	0.5		
5 days	33	7.8		
6 days	1	0.2		
7 days	1	0.2		
8 days	6	1.4		
10 days	10	2.4		
12 days	1	0.2		
13 days	1	0.2		
15 days	9	2.1		
20 days	3	0.7		
25 days	1	0.2		
30 days	1	0.2		
45 days	1	0.2		
A1	25	5.9		
A2	2	0.5		
A3	6	1.4		
Letter of reprimand	183	43.3		
Number of days from accident date to board date	424	196.81	36	533

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Table 5. Frequency of Collisions by Division of Assignment (1 through 8) for Charge vs. No Charge

Division of Assignment	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
1	49	32.9	100	67.1
2	68	38.4	109	61.6
3	37	37.0	63	63.0
4	42	36.8	72	63.2
5	62	44.0	79	56.0
6	62	47.0	70	53.0
7	41	42.7	55	57.3
8	56	35.7	101	64.3

*Note:* Percentages represent the percent of total collisions for the category (*i.e.*, charge or no charge) in divisions 1-8 that occurred in the respective division.



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Table 6. Frequency of Collisions by Year for Charge vs. No Charge

Year	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
2007	99	37.8	163	62.2
2008	98	34.1	189	65.9
2009	107	37.7	177	62.3
2010	84	36.7	145	63.3
2011	62	39.0	96	61.0
2012	74	32.2	156	67.8
2013	51	31.1	113	68.9

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Table 7. Frequency of Collisions by Platoon Shift for Charge vs. No Charge

	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
Platoon shift				
1	269	32.8	551	67.2
2	209	39.1	323	60.7
3	95	40.3	141	59.7

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Table 8. Frequency of Collisions by Driving Code for Charge vs. No Charge

Driving code	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
1	526	35.9	941	64.1
2	41	63.1	24	36.9
3	1	50.0	1	50.0
Parked	0	0.0	5	100.0
RP	4	50.0	4	50.0

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Table 9. Frequency of Collisions by Injury for Charge vs. No Charge

	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
Extent of injury				
None	495	38.3	796	61.7
Minor	66	26.2	186	73.8
Moderate	13	35.1	24	64.9

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Table 10. Frequency of Collisions by Damage Scale for Charge vs. No Charge

	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
Damage scale				
None	2	66.7	1	33.3
Light	329	33.3	659	66.7
Moderate	159	39.1	248	60.9
Heavy	84	38.7	133	61.3

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Table 11. Frequency of Collisions by Weather Conditions for Charge vs. No Charge

	Charge		No Charge	
	<i>N</i>	%	<i>N</i>	%
Weather conditions				
Good	551	35.5	1003	64.5
Wet	2	33.3	4	66.7
Rain	20	37.8	33	62.2

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Table 12. Collision Characteristics for Charge vs. No Charge by Officer Characteristics

	Charge	No Charge
	Average	Average
Officer age	36.71	39.17
Years on job	9.50	12.63



Table 13. Logistic regression equation for the effects of officer and collision characteristics on charge decision

Variables	Charge (= yes) <sup>a</sup>	
	<i>b</i> (SE)	Odds Ratio
Division <sup>b</sup>		
1	0.024 (0.218)	---
2	0.173 (0.199)	---
3	0.149 (0.247)	---
4	0.164 (0.233)	---
5	0.469 (0.211)*	1.598
6	0.406 (0.214)†	1.501
7	0.432 (0.245)†	1.541
8	0.083 (0.209)	---
Year <sup>c</sup>		
2007	0.350 (0.222)	---
2008	0.199 (0.220)	---
2009	0.236 (0.218)	---
2010	0.171 (0.228)	---
2011	0.262 (0.246)	---
2012	0.170 (0.228)	---
Driver's age (continuous)	0.007 (0.009)	---
Driver's years on job (continuous)	-0.035 (0.010)**	0.965
Platoon <sup>d</sup>		
2	0.116 (0.126)	---
3	0.167 (0.166)	---
Emergency driving (yes = 1) <sup>e</sup>	0.886 (0.274)**	2.424
Injury (yes = 1) <sup>f</sup>	-0.790 (0.157)**	0.454
Damage (yes = 1) <sup>g</sup>	0.273 (0.118)*	1.314
Bad weather (yes = 1) <sup>h</sup>	-0.024 (0.292)	---
Intercept	-0.830 (0.355)*	---
	Nagelkerke $R^2 =$	0.081
	$\chi^2 =$	92.273**

\*\* $p < 0.01$ ; \* $p < 0.05$ ; † $p < 0.10$ .

<sup>a</sup> Logistic regression equation (reference category is "no charge").

<sup>b</sup> Each variable is dummy coded and reference category is all other divisions besides 1 through 8.

<sup>c</sup> Each variable is dummy coded and reference category is 2013.

<sup>d</sup> Each variable is dummy coded and reference category is Platoon 1.

<sup>e</sup> Variable is dummy coded so that 1 indicates the officer was engaged in emergency driving (DRIVINGCODE was original variable). The reference category is any other type of driving.



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<sup>f</sup> Variable is dummy coded (1= some type of injury sustained) and reference category is “no injury.”

<sup>g</sup> Variable is dummy coded (1= some type of damage sustained) and reference category is “no damage.”

<sup>g</sup> Variable is dummy coded (1= wet or rain weather conditions) and reference category is “good weather.”

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## **XV. Appendix IV: NOPD Compliance Bureau Job Announcement**

### **NOPD Compliance Manager**

Entrance Salary

\$65,000.00 - \$75,000.00 annually plus benefits

### **Description**

#### **Background**

The City of New Orleans and the New Orleans Police Department (NOPD) have entered into a Consent Decree with the U.S. Department of Justice. Under the terms of this agreement, NOPD must implement a series of reforms outlined in the Consent Decree, document its compliance with these requirements, and have this compliance accepted and certified by the U.S. District Court. Altogether, the Consent Decree is composed of more than 490 paragraphs that detail required reforms on a wide range of subjects. The firm of Sheppard, Mullin, Richter & Hampton LLP has been selected to monitor the implementation of this agreement, and will provide regular updates to the Court and to the public about NOPD's progress in implementing the required reforms.

In December 2013, NOPD Superintendent Ronal Serpas created the Compliance Bureau to monitor and verify the Department's compliance with Consent Decree requirements and to work in close partnership with the Sheppard Mullin monitoring team. The Compliance Bureau is led by Deputy Superintendent Jay Ginsberg and incorporates NOPD's Policy Standards, Training Standards, Compliance Standards, Performance Standards, and Information Systems Sections. NOPD anticipates hiring a total of five Compliance Managers under this announcement to oversee and document its progress in implementing Consent Decree-mandated reforms. Compliance Managers are expected to independently manage significant portfolios and will report to Deputy Superintendent Ginsberg.

### **Minimum Qualifications**

- Graduate degree in law, criminal justice, business, public policy, or related field.
- Advanced certification in statistical analysis, auditing or other relevant area of concentration desired.
- Demonstrated experience writing for both public and internal consumption.
- Experience in data analysis, project management, and/or auditing.
- Track record of delivering results in a high-pressure environment with multiple workstreams.
- Direct experience working with senior and mid-level leaders in government and/or the private sector.
- Understanding of the mechanics of city government and/or criminal justice agencies.
- Experience working in a law enforcement environment desired.

### **Duties and Responsibilities**

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- Managing and maintaining strong relationships with stakeholders both within and outside of NOPD, including officers, supervisors, senior City officials, members of the Sheppard Mullin team, and community leaders.
- Developing clear and appropriate compliance plans to deliver results on all priority areas the Manager is responsible for.
- Achieving defined targets by regularly monitoring performance on multiple simultaneous projects and resolving issues when needed.
- Provide analysis and advice to key stakeholders, including Deputy Superintendent of Compliance, Superintendent of Police, Deputy Mayor of Public Safety, and Mayor.
- Develop policy recommendations and oversee policy implementation.
- Creating comprehensive work plans and task schedules that identify all actions, resources, and deliverables required to achieve the desired results.
- Work independently with minimal supervision.

Please direct questions and resumes to Deputy Superintendent Jay Ginsberg at [jaginsberg@nola.gov](mailto:jaginsberg@nola.gov).

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**XVI. Appendix V: NOPD Canine Unit Deployment Analysis**

Item #	Date	Approving Supervisor Unit	Warning	Offense	Arrest	Weapon	Bite	On/Off Lead	FIT Notified
A 18095 13	1/14/13		Yes	Agg Assault	Yes	Yes	Yes	On	Unk
B 00520 13	2/1/13		Yes	Residential Burglary	Yes	No	Yes	On	Unk
B 14606 13	2/10/13		Yes	Armed Robbery	Yes	No	No	On	
B 16143 13	2/11/13		Yes	Armed Robbery	Yes	No	No	On	
B 23329 13	2/17/13		Yes	Illegal Carrying	Yes	No	No	On	
C 03566 13	3/3/13		Yes	Stolen Auto	Yes	No	No	On	
F 00786 13	6/1/13		Yes	Agg Assault	Yes	Unk	Yes	On	Unk
F 24035 13	6/18/13		Yes	Warrant -ProVi	Yes	No	No	On	
F 32742 13	6/24/13		Yes	Stolen Auto	Yes	No	No	On	
G 12734 13	7/10/13		Yes	Armed Carjacking	Yes	No	No	On	
G 08628 13	7/16/13		Yes	Illegal Carrying	Yes	Yes	Yes	On	Unk
H 1611-13	8/12/13		Yes	Illegal Carrying	Yes	Unk	No	On	
H 26041 13	8/19/13	K9	Yes	Stolen Auto	Yes	No	No	On	
H 36535 13	8/27/13	K9	Yes	Rape	Yes	No	No	On	
H 39603 13	8/29/13	5th	Yes	Illegal Carrying	Yes	Yes	No	On	
H 40307 13	8/29/13		Yes	Illegal Carrying	Yes	No	No	On	
I 14432 13	9/11/13		Yes	Stolen Auto	Yes	No	No	On	
J 15739 13	10/12/13	5th	Yes	Illegal Carrying	Yes	No	Yes	Off	Yes
J 20990 13	10/15/13	SOD	Yes	Illegal Carrying	Yes	No	No	On	
J 23283 13	10/17/13	SOD	Yes	Armed Robbery	Yes	Yes	No	On	
J 34548 13	10/25/13	3rd	Yes	Armed Robbery	Yes	No	No	On	
J 39304 13	10/28/13	SOD	No	Agg Batt of PO	Yes	No	Yes	On	Yes
K 20531 13	11/15/13	7th	Yes	Stolen Auto	Yes	No	No	On	
G 24216 13	12/5/13	SOD	Yes	Murder	Yes	No	Yes	On/Off	Yes
L 11507 13	12/9/13	SOD	Yes	Murder	Yes	No	No	On	
L 26957 13	12/20/13	K9	Yes	Stolen Auto	Yes	No	No	On	
L 33804 13	12/25/13	SOD	Yes	Carjacking	Yes	No	No	On	
A 05884 14	1/5/14	K9	Yes	Agg Assault	Yes	Unk	Yes	On/Off	Yes
A 05884 14	1/5/14	K9	Yes	Agg Assault	Yes	No	Yes	On/Off	Yes
A 26898 14	1/21/14	5th	Yes	Illegal Carrying	Yes	No	No	On	Yes
A 32056 14	1/25/14	SOD	Yes	Illegal Carrying	Yes	Unk	Yes	On	Yes
A 37753 14	1/30/14	K9	Yes	Agg Assault	Yes	Yes	Yes	On/Off	Yes
B 33631 14	2/26/14	SOD	Yes	Stolen Auto	Yes	No	No	On	
C 11745 14	3/9/14	5th	Yes	Illegal Carrying	Yes	Yes	Yes	On	Yes

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Item #	Date	Approving Supervisor Unit	Warning	Offense	Arrest	Weapon	Bite	On/Off Lead	FIT Notified
C 24010 14	3/19/14	SOD	Yes	Illegal Carrying	Yes	Unk	No	On	
C 34731 14	3/27/14	K9	Yes	Auto Burglary	Yes	No	No	On	
C 38775 14	3/30/14	1st	Yes	Armed Robbery	Yes	Yes	Yes	On	Yes

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**XVII. Appendix VI: Force Review Data**

Item #	Force #	Date Occurred	Resistance Encountered	Force Description	Force Level	Unit	Investigator Finding	File Complete	Comment
K-33197-13	2013-387	11/24/2013	Verbally threatened officer	Displayed, Pointed, Painted ECW	1	2nd	Justified	Yes Taser report in file	Sgt. Viewed the Taser Video
L-26957-13	2013-0401	12/20/2013	Fled stolen vehicle	K9 Deployment no apprehension	1	K9	Justified	Yes	
A-05182-14	2014-002	1/5/2014	Actively resisted cuffing	Forcible cuffing after arrestee fell to the ground	1	4th	Justified	Yes	
A-05310-14	2014-0009	1/5/2014	Active resistance	Taser Application	2	8th	Justified	Yes Taser report in file	Sgt. Viewed the Taser Video
A-33338-14	2014-0021	1/27/2014	Active resistance	Forcible take down	2	6th	Justified	Yes	The sergeant's report fails to document that he went to the scene and observed the arrestee.
A-39049-14	2014-0024	1/31/2014	Assaulted Officer & Active resistance	Forcible take down and cuffing	2	6th	Justified	Yes	
B-27914-14	2014-0033	2/22/2014	Officer was responding to a call at a location known to be occupied by armed persons.	Drew weapon but did not point	1	4th	Justified	Yes	CD does not require investigation of drawing a weapon if the officer does not point it at the subject.
B-06628-14	2014-0035	2/6/2014	Active resistance	Forcible take down and cuffing	2	6th	Justified	Yes	
B-31652-14	2014-0039	2/24/2014	Active resistance	Forcible take down	2	8th	Justified	Yes	
C-01891-14	2014-0048	3/2/2014	Woman was forcing her attention on a man who did not want her attention	Use arm against a wall to prevent a woman from following a man who did not want her to follow him. No other force used. No arrest made.	1	8th	Justified	Yes	
C-02443-14	2014-0054	3/2/2014	Active resistance	Forcible cuffing	1	5th	Justified	Yes	The investigating sergeant was involved in the use of force event. He assisted the officer in the cuffing.
C-15770-14	2014-0063	3/12/2014	Fleeing traffic stop for outstanding warrant.	Discharged Taser at fleeing subject. Subject escaped.	2	7th	Justified	Yes Taser report in file	
D-03815-14	2014-0073	4/3/2014	Officer was responding to call of a man with a gun.	Pointed Weapon	1	1st	Justified	Yes	