

**APPENDIX**

**Warren Police Department**

**Settlement Agreement Compliance Chart – January 21, 2015**

**Section II. UOF Policies and Practices.**

1. The City shall maintain UOF policies that:
  - a. define terms clearly;
  - b. define “force” as that term is defined in this Agreement;
  - c. incorporate a use-of-force model that relates the force options available to officers to the types of conduct by individuals that would justify the use of such force, and that teaches disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units as appropriate responses to a situation, and that requires the use of a verbal warning before the use of force, when possible;
  - d. state that, whenever possible, individuals should be allowed to submit to arrest before force is used;
  - e. state that the use of excessive force shall subject officers to discipline, possible criminal prosecution, and/or civil liability;
  - f. ensure that sufficient less lethal alternatives are available to all patrol officers; and
  - g. explicitly prohibit the use of choke holds and similar carotid holds except where deadly force is authorized.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change from Dec. 2013</b>
<b>Analysis</b>	As noted in our December 18, 2013 compliance chart, WPD’s current use-of-force policies are consistent with the terms of the Settlement Agreement (“Agreement”). <i>See</i> Policies 96-007, Use of Force; 02-003, Electronic Control Weapons (“ECWs”); 12-004, ASP Tactical Baton; 12-003, Oleoresin Capsicum (“OC”) Spray. All were updated in June 2013. Along with other WPD policies, officers maintain copies of these policies in their patrol cars or in their lockers. WPD trained all officers on these policies in 2013. During 2014 in-service training, WPD again trained officers on its use-of-force and weapons policies. WPD’s use-of-force policies include the definitions and other terms required by the Agreement. WPD is in substantial compliance with this provision.
<b>Technical Assistance</b>	As case law and national best practices in policing continue to develop, it is incumbent on WPD to continually improve and update its policies to ensure its policies are consistent with the Constitution, case law, and national policing

	standards. WPD should move forward with its current plan to update and augment its use-of-force policies, pursuant to our recommendations. Specifically, WPD should develop in consultation with us a new policy regarding the use and deployment of patrol rifles. WPD should amend its weapons policies to direct when officers should reholster a sidearm or ECW, when practicable, before going hands-on with a subject. WPD should also give clear direction on the mandate that all supervisors be aware of any approved personal weapons their officers are actively carrying on any given shift, and audit to ensure officers do not carry unapproved personal weapons on duty.
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- For the duration of this Agreement, WPD shall ensure that its use-of-force policy meets the above criteria. If notified by DOJ that WPD’s policies do not meet the above criteria at any point during the term of this Agreement, WPD shall revise its policies consistent with the above criteria and submit the revised policy to DOJ for approval. DOJ will review and comment on WPD’s revised use-of-force policies. WPD shall further revise its use-of-force policies consistent with the DOJ comments, and WPD shall resubmit the revised policies to DOJ for its consideration for approval. WPD shall not implement any revisions to its use-of-force policies unless approved by DOJ. Once the DOJ has approved these policies, WPD shall immediately implement any revisions. Within thirty days of DOJ’s approval of WPD’s revised use-of-force policies, WPD shall retrain all WPD officers on the revised policies, and shall keep a written record of such training of all existing and new WPD employees as part of each employee’s personnel file.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change from Dec. 2013</b>
<b>Analysis</b>	As noted above, WPD’s use-of-force policies currently meet the requirements of the Agreement. Nonetheless, we have recently raised concerns about the deployment of patrol rifles; WPD going hands-on with a weapon drawn; and officers’ use of personal weapons. WPD has chosen to address these concerns, in part, by revising its use-of-force policy, and we commend WPD for doing so.
<b>Technical Assistance</b>	This provision requires that WPD seek DOJ approval before implementing any revisions to its use-of-force policies. As noted above, WPD is planning to augment its use-of-force policies with certain additions we have recommended. WPD should submit drafts of the changes to us for approval and possible revision before promulgating the new policies. Implementation of the approved policies will necessarily require training on the new policies.

- WPD represents that every uniformed WPD officer is provided an intermediate force weapon. WPD shall continue to provide every uniformed WPD officer with an intermediate force weapon, which all uniformed officers shall carry on their person at all times while on duty and may be used when appropriate under law and policy. WPD has previously selected the telescoping baton as WPD’s current assigned intermediate force

device for all sworn officers. WPD may select a different intermediate force weapon, provided that WPD make the selection uniform across all sworn officers. WPD shall incorporate its selected intermediate force weapon into WPD’s force policy, and shall continue to train all its sworn officers on an annual basis on the proper use of the selected intermediate force weapon.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change from Dec. 2013</b>
<b>Analysis</b>	All WPD patrol officers are assigned and are required to carry ASP batons and OC spray. In addition, 35 officers are issued ECWs. During roll call, supervisors visually check each patrol officer to ensure that they are carrying their assigned weapons. WPD has in place approved policies for all three of these intermediate weapons. WPD policy requires that all officers be trained on their assigned weapons annually. All officers have been trained on the ASP and OC spray for 2014. In addition, WPD has provided ECW training for those officers assigned an ECW. Accordingly, WPD is currently in substantial compliance with this Agreement provision.
<b>Technical Assistance</b>	Currently, WPD provides ECW training only to those officers who are assigned ECWs. Recognizing that even an officer assigned no ECW may at some point be called upon to operate an ECW belonging to another officer, WPD has elected to provide ECW training to all officers beginning in 2015. WPD has also opted to include ECW training in its annual in-service training beginning in 2015. We approve both of these changes. We will audit training records to ensure that WPD follows through on both changes.

**Section III. Evaluation, Documentation, and Review of UOF**

1. WPD requires all uses of force to be documented in writing. Each WPD officer involved in a use-of-force incident shall separately complete a use-of-force report, or a separate addendum to the original use-of-force report. Each officer shall indicate on his or her respective report each and every type of force he or she used or was a party to. Each officer involved in a use-of-force incident shall include in his or her report a narrative description of the events preceding the use of force, a description of the force used, and a description of the care given after force was used. All use-of- force reports shall indicate whether or not the subject on whom force is used was restrained or not at the time force was used. WPD shall ensure that WPD officers complete and submit all use-of-force reports within twenty-four hours of the end of the shift on which a use of force occurs.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	DOJ has reviewed all “response to resistance reports,” or use-of-force reports, that WPD has provided to us. In December 2013, we found WPD to be non-compliant

	<p>with this provision of the Agreement. Not all officers involved in or present during use-of-force incidents were completing use-of-force reports. Not all use-of-force reports explained the justification for the use of force. We now find that patrol officers involved in use-of-force incidents or present at such incidents consistently complete the required reports. In addition, officers consistently state the type of force used and whether the subject was restrained at the time; with very few exceptions, they also submit their reports on time. However, while some officers consistently submit narratives that adequately describe the type of force used and the events preceding the use of force, others fail to do so, resorting to canned jargon and ambiguous terminology that does not adequately describe, for example, exactly how an officer took a subject to the ground. In addition, officers consistently fail to clarify the sequence of events, omitting what commands, if any, they gave to a subject before using force and what actions subjects took in response to officers' actions.</p> <p>Overall, however, officers' reporting has improved, and, thus, we find that WPD is now in partial compliance with this provision of the Agreement.</p>
<p><b>Technical Assistance</b></p>	<p>As part of its annual in-service training, WPD includes an instruction block on proper report writing which stresses the need for an officer to describe in detail the actions that the officer as well as the subject took during a use-of-force incident. WPD should continue to include this instruction as part of its in-service training. WPD would benefit from brief segments of retraining on report writing during rollcall throughout the course of the year. While supervisors have generally been more adept at identifying and correcting deficiencies in report writing during the past year, as discussed more thoroughly below in Section III.3, supervisors must be even more vigilant in identifying deficient reports, asking the officers to correct the deficiencies and, where needed, referring the officer for retraining on report writing.</p> <p>In December 2013, DOJ also noted a technical hurdle that impeded WPD's efficiency and effectiveness regarding use of force reporting: WPD had in place a process for force reporting that required officers to return to the station to complete a fillable pdf document on a desktop computer. The time spent traveling back and forth to the station to complete the reports hindered officers' ability to more effectively patrol the streets and provide assistance to other officers. WPD has recently transitioned officers to the BlueTeam software as part of its recently implemented Early Intervention System. With BlueTeam, officers can complete their use-of-force reports on the mobile computers in their patrol cars. This should eliminate the need to make multiple, time-consuming trips back to the station.</p>

2. Officers shall notify their immediate supervisors following all uses of force or upon the receipt of an allegation of excessive force. Upon such notification the immediate supervisor of the involved officer(s) shall promptly respond to the scene, examine the

subject for injury, interview the subject, and ensure that the subject receives needed medical attention. When a Sergeant is involved in a use of force or an allegation of excessive force, the Lieutenant on duty shall be the immediate supervisor. The Chief of Police, or his or her designee, shall promptly respond to the scene of any use of deadly force.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>We have found that officers consistently notify their immediate supervisors after they have resorted to force with a subject, and supervisors, consistent with policy and the terms of this Agreement, have responded to the scene. Supervisors examine and interview the subject and ensure the subject receives medical attention, if needed.</p> <p>WPD has also ensured that supervisors involved in use-of-force incidents have not then been responsible for investigating the same incidents.</p>
<b>Technical Assistance</b>	None at this time.

- The immediate supervisor shall review, evaluate, and document each use of force in the supervisor’s review section of the use-of-force report including his or her determination of whether or not the officer’s actions were within WPD policy, and whether or not the force used was objectively reasonable. Any officer or supervisor who used force during the incident, or whose conduct led to an injury, or who authorized conduct leading to the use of force or allegation of excessive force, will not be eligible to review the incident.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	<p>In December 2013, we noted that the supervisory review for use-of-force incidents was consistently deficient. We specifically observed that the WPD Captain in charge of Emergency Services at the time consistently failed to apply the correct legal or policy standards to the use of force reviews and almost never provided any details or analysis in his limited comments. Deficiencies and inconsistencies in officers’ reports and narratives also regularly went unchecked. WPD’s supervisory reviews of use-of-force incidents have improved since then. With few exceptions, reviewing supervisors up the chain of command now evaluate officers’ uses of force according to WPD policy and the “objectively reasonable” standard, taking into account the factors discussed in the Supreme Court case <i>Graham v. Connor</i>, 490 U.S. 386 (1989). WPD also consistently ensures that supervisors involved in a use-of-force incident are not among those supervisors who review the incident.</p> <p>Now, supervisors often identify and address incomplete reports, inadequate narratives, inconsistencies, and other deficiencies in patrol officers’ reports,</p>

	<p>requiring the officers to supplement their initial reports with additional information. However, while such supervisory actions now occur more frequently than they did a year ago, supervisors still too often fail to identify and address discrepancies within an officer’s own report or between officers’ reports. Also, supervisors too often fail to identify and address jargon or ambiguous language in officers’ narratives. In addition, supervisors too frequently fail to identify and address incomplete narratives that do not adequately describe the sequence of events or the actions taken by the officer and subject.</p> <p>While supervisors now consistently and properly assess officers’ uses of force by applying the standard set forth in <i>Graham</i>, we have found that, on several occasions, WPD supervisors have determined uses of force to be reasonable where the circumstances surrounding the incidents and the subjects’ actions documented in the use-of-force reports fail to establish the reasonableness of the use of force. In one instance, an officer kned a handcuffed subject in the abdomen in order to get him to sit down in a patrol car after the subject refused to do so. (RR # 14-49). In another, an officer who was straddling a subject struck him in the face with his elbow in order to control and handcuff the subject. (RR # 14-64). At the very least, WPD should have flagged such instances for further review.</p> <p>Overall, however, supervisory reviews have improved. Accordingly, WPD is no longer non-compliant but is in partial compliance with this provision of the Agreement.</p>
<p><b>Technical Assistance</b></p>	<p>Where officers’ reports contain insufficient information, include discrepancies, or are otherwise inadequate, supervisors must be more diligent in identifying such inadequacies and directing the officers to supply the missing information by submitting supplemental reports.</p> <p>In the course of our on-site visits and teleconferences we have reviewed with WPD management and their counsel all use-of-force reports that WPD provided to us. WPD has matured as an organization developing greater strengths in its analysis of force events. We expect WPD management and counsel to internalize the level of scrutiny routinely applied to use-of-force reports in our meetings together. Now, WPD management should assist lieutenants and sergeants in likewise developing such critical analysis. WPD also should set the expectation that supervisors apply that scrutiny to assure force reports present a clear justification for officer’s actions if such justification exists.</p> <p>WPD supervisors must also more closely scrutinize and assess officers’ actions when resorting to force by more thoroughly evaluating each <i>Graham</i> factor and other relevant information.</p> <p>We have asked WPD to re-examine certain incidents where the use-of-force narratives failed to establish the reasonableness of the use of force. Depending on the revised reports WPD resubmits to us—i.e., whether there was an objectively</p>

	reasonable basis for the uses of force in a lawful police interaction—WPD may need to open full Internal Affairs investigations into these incidents.
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4. Supervisors shall conduct a review of all uses of force or an injury resulting from a use of force by any officer under their command. As part of this review, supervisors shall interview all witnesses to a use-of-force incident or an injury resulting from a use of force.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>In December 2013, DOJ found that supervisors failed to reliably identify and interview witnesses to use-of-force incidents. WPD supervisors have greatly improved in this regard and now consistently identify and interview both officer and civilian witnesses to use of force incidents.</p> <p>However, as discussed above in Section III.3, supervisors do not consistently conduct adequate reviews of use-of-force incidents. Thus, WPD remains in partial compliance regarding this provision of the Agreement.</p>
<b>Technical Assistance</b>	See comments in Section III.3, above.

5. Consistent with the requirements of the collective bargaining agreement and/or other applicable authority, supervisors shall ensure that all officer witnesses provide a statement regarding use-of-force incidents. Officers shall not be permitted to see one another’s statements prior to submission of their own statement. Supervisors shall ensure that all use-of-force reports identify all officers who were involved in the incident or were on the scene when it occurred. Supervisors shall ensure that all reports indicate whether an injury occurred, whether medical care was provided, and whether the subject refused medical treatment. Supervisors shall ensure that all reports include contemporaneous photographs or videotapes taken of all injuries at the earliest practicable opportunity, both before and after any treatment. Supervisors shall document their review of the use-of-force report in the supervisor’s review section of every use-of-force report. Supervisors shall record therein their evaluation of the basis for the use of force, a determination of whether the officer’s actions were within WPD policy, and whether the force used was objectively reasonable.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change from Dec. 2013</b>
<b>Analysis</b>	WPD supervisors consistently ensure that officers involved in use-of-force incidents, as well as those officers who witness use-of-force incidents, provide written narratives describing the uses of force and the events precipitating the uses of force. Nothing suggests that officers are sharing narratives. Use-of-force reports

	<p>consistently identify all officers involved in or present at the incident; reports also consistently indicate whether an injury occurred and whether medical care was provided or refused. In addition, WPD now more consistently provides photographs of subjects' injuries than it did in the past.</p> <p>As in December 2013, we note again that there is no video available of some use-of-force incidents because the relevant mobile video recording device ("MVR") was inoperable at the time. WPD seems to be repairing these as quickly as it can and is in the process of transitioning to newer MVR models.</p> <p>In December 2013 we also noted WPD's failure to provide ECW downloads and photographs of AFIDs when officers deployed their ECWs. Since then, WPD has begun including ECW downloads for all use of force incidents involving ECWs, and investigators take pictures of AFIDs when the environment and situation allows. When it is impractical to do so – e.g., when the AFIDs are concealed by tall grass – supervisors document why AFIDs were not photographed.</p> <p>As noted in Section III.3, however, we have found that supervisors do not effectively evaluate officers' use-of-force incidents on a consistent basis. Accordingly, WPD remains in partial compliance with this provision.</p>
<b>Technical Assistance</b>	<p>We have found that while some narratives officers provide as part of their use-of-force reports are lacking sufficient detail, those same officers, in fact, do provide sufficient detail in the incident reports that accompany the use-of-force reports. In such instances, officers – and their supervisors – should ensure that the use-of-force narratives are of the same quality as the incident report narratives.</p> <p>We also encourage WPD to continue to ensure that as many officers as possible are in patrol cars with operable MVRs. As WPD is aware, recordings of use-of-force incidents not only assist supervisors in their use-of-force investigations but can also protect officers from unfounded allegations of misconduct.</p>

- The Parties agree that it is improper for WPD personnel conducting reviews of use-of-force incidents to ask officers or other witnesses leading questions that improperly suggest legal justifications for officers' conduct when such questions are contrary to appropriate law enforcement techniques. In each use-of-force review, WPD shall consider all relevant evidence including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations, if feasible. WPD will make all reasonable efforts to resolve material inconsistencies between witness statements.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	WPD has improved its collection of material evidence, including pictures and ECW downloads. We have seen use-of-force reviews, however, in which an officer's account of an incident differed from the account supplied by the subject or another



	witness and, without explanation, the investigating supervisor has accepted the officer's version of events. Supervisors have also failed to identify and address material inconsistencies within an officer's own report and between multiple officers' reports.
<b>Technical Assistance</b>	When officers or other individuals who have been involved in or who have witnessed a use-of-force incident provide conflicting statements regarding the incident, the investigating supervisor must determine the credibility of each individual's account and explain why the investigator chose to accept one version of events over another. Supervisors must also resolve any material inconsistencies between statements provided by multiple officers in use-of-force packets. If supervisors gather additional information from officers, they should require the officers to submit supplemental reports. WPD must then maintain both the original record and supplement as part of the force review.

7. For each use-of-force incident, a WPD Captain will timely evaluate each use of-force review supervisors conducted for such incident, identify any deficiencies in those reviews, and require supervisors to timely correct any deficiencies. WPD shall hold supervisors accountable for the quality of their reviews. WPD shall take appropriate non-disciplinary corrective action and/or disciplinary action whenever a supervisor fails to conduct a timely and thorough review of a use of force, or neglects to recommend appropriate corrective action, or neglects to properly implement appropriate corrective action.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – change from non-compliant</b>
<b>Analysis</b>	<p>The evaluations conducted by WPD captains have improved since December 2013. Currently, WPD captains more frequently identify deficiencies in use-of-force packets and require their subordinates to make the requisite changes. However, as noted above in Section III.3, WPD captains, like other reviewing supervisors, still too often fail to identify and address deficiencies and discrepancies between multiple accounts that are included within the use-of-force packets.</p> <p>Overall, however, these reviews have improved. Notably, we consistently find captains analyzing use-of-force incidents under the appropriate standard. Accordingly, we find that WPD is no longer non-compliant but is in partial compliance with this provision of the Agreement.</p>
<b>Technical Assistance</b>	WPD captains should more diligently identify and address deficiencies and discrepancies in use-of-force packets. See comments in Section III.3, above.

#### IV. Citizen Complaint Process.

##### A. Public Information

1. WPD has developed and implemented a program to inform persons that they may file complaints regarding the performance of any officer. The complaint form is presently available at [www.warren.org](http://www.warren.org), the City’s website. The City also presently makes complaint forms and directions for submitting complaints publicly available at all governmental properties. The City has proceeded to make the public aware of the complaint form process. During the performance of this Agreement, WPD shall continue to make complaint forms, directions on submitting complaints, and informational materials publically available at government properties including, but not limited to: WPD headquarters, all City public libraries, the Office of the Director of Public Safety, the Internet, and, upon request, to community groups and community centers.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>WPD’s complaint form has been available online and elsewhere throughout the community for some time. WPD recently updated and improved its complaint form by adding a contact number people can call if they need assistance completing the form as well as a “What Happens Next” section at the end of the form. The section helps explain the complaint process and outlines other resources available to individuals who are dissatisfied with the complaint process. Complaint forms are currently available at the Warren Police Department; city hall; the Urban League; and at other locations throughout Warren.</p> <p>We commend WPD for recently improving its complaint form and for continuing to make it available to members of the community in a variety of locations.</p>
<b>Technical Assistance</b>	None at this time.

2. Within 30 days of the effective date of this agreement, WPD shall permanently post in a public space at WPD headquarters a placard describing the complaint process and include the relevant phone numbers. WPD shall require all officers to carry informational brochures and complaint forms in their official vehicles at all times while on duty. If a citizen objects to an officer’s conduct, that officer will inform the citizen of his or her right to make a complaint. Officers shall not discourage any person from making a complaint.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>WPD continues to maintain a placard at the police department, visible to visitors, that includes relevant contact numbers and describes the complaint process. In addition, all officers carry complaint forms in their patrol cars while on duty. Officers have been trained to avoid discouraging complaints and, when needed, to</p>

	inform citizens of the right to make a complaint.
<b>Technical Assistance</b>	None at this time.

B. Means of Filing and Tracking of Complaints

1. WPD shall continue to maintain clear complaint acceptance and complaint resolution policies and procedures. WPD shall ensure that all officers are trained in acceptance of complaints. Training on the complaint acceptance policy and procedure will be a part of in-services to all officers at the implementation of this Agreement.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	WPD maintains a policy that clearly describes the complaint process (Policy 07-001). WPD has trained all officers on the proper procedure to accept complaints, and WPD continues to include a four-hour block of instruction on the complaint policy as part of its annual in-service training. In December 2013, DOJ found WPD to be partially compliant with this provision of the Agreement because WPD at times failed to investigate all officers identified by complainants and because WPD did not consistently inform complainants of the outcomes of their complaints. We now find that WPD has remedied these substantial deficiencies. Accordingly, WPD is in substantial compliance with this provision.
<b>Technical Assistance</b>	None at this time.

2. The complaint-acceptance policy shall specify that WPD shall accept complaints in writing or verbally, in person or by mail, telephone (or TDD), facsimile, electronic mail, or drop box. The policy shall require that all WPD employees accept complaints and promptly deliver them to a supervisor. The policy shall state that an employee accepting a complaint may describe facts that bear upon a complainant’s demeanor and physical condition but may not express opinions regarding his/her mental competency or veracity. The complaint-resolution policy shall require that WPD resolve each complaint in writing.

<b>Status</b>	<b>Partial compliance – ongoing obligation – change from substantial compliance</b>
<b>Analysis</b>	As noted in 2013, the complaint policy lacks clarity on how WPD uses the outcome of allegations that do not rise to the level of internal affairs investigations. Policy 07-001, Section V.C.2. We now also note that WPD’s complaint policy fails to state that an employee accepting a complaint may not express opinions regarding a complainant’s mental capacity or veracity. Because WPD failed to address the first

	deficiencies and because of our recent discovery of the second deficiency, we now find WPD to be in partial, rather than substantial, compliance with this provision.
<b>Technical Assistance</b>	<p>In practice, WPD has routed all complaints to internal affairs, even though the policy allows for the turn or division commander to conduct the investigation. WPD should revise its policy to state that all complaints will be routed to internal affairs; in the alternative, WPD should revise its policy to state that allegations which do not rise to the level of an internal affairs complaint nevertheless require a written resolution for the officer(s) and complainant(s).</p> <p>WPD should also revise its policy to note that an employee accepting a complaint may not express opinions regarding a complainant's mental capacity or veracity.</p>

- WPD shall refer copies of allegations of misconduct against WPD to WPD's Internal Affairs Unit ("IA") within three business days of receipt of a complaint. Within 90 days of the effective date of this Agreement, WPD shall institute a centralized numbering and tracking system for all complaints. Immediately upon receipt of a complaint, WPD shall assign each complaint a unique identifier, which WPD shall provide to the complainant. WPD shall track in a database each complaint according to the basis for the complaint (e.g., excessive force, discourtesy, improper search, etc.).

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	WPD is in substantial compliance with this provision of the Agreement.
<b>Technical Assistance</b>	In December 2013, we recommended that WPD make its policy clear that the WPD supervisor advised of a complaint must ensure that he or she provides all the complaint material to internal affairs as quickly as practicable, but in no event longer than 72 hours. We renew this recommendation.

### C. Investigation of Complaints

- WPD shall investigate every complaint of employee misconduct.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	In December 2013, we noted that for certain complaints involving multiple officers, WPD did not investigate each officer that was a subject of the complaint. WPD now consistently investigates all officers that are the subjects of complaints. In December 2013 we also noted that WPD failed to investigate all potential violations of policy raised by the complainants. Again, WPD now consistently addresses all potential policy violations that potentially arise from misconduct

	<p>allegations.</p> <p>Based on the information provided to DOJ, it appears that WPD investigated every complaint of employee misconduct it received during the past year. However, as discussed previously with WPD, we note that on one occasion the investigating officer told the complainant – who had called WPD to make a complaint – that she could come to police headquarters to make her complaint. As made clear in this Agreement and WPD policy, whether WPD accepts and resolves a complaint must not depend on the manner in which an individual makes a complaint. In addition, as required by the Agreement and WPD policy, a WPD police officer must not discourage an individual from filing a complaint. In this instance, the complainant, indeed, did go to the police station and fill out several complaint forms. WPD investigated the allegations, finding two of them to be exonerated and one to be unfounded. Even if this complainant had not driven to the WPD police station and had not filled out a complaint form, however, WPD nonetheless would have been required to accept and resolve her verbal complaint.</p> <p>We have been informed that the City recently settled a civil complaint resolving allegations against WPD officers. It is further our understanding that WPD did not reach an administrative finding during the pendency of the civil claim. WPD may not avoid its court-ordered obligation to investigate complaints of employee misconduct merely because a parallel civil litigation is pending. Rather, WPD must timely complete internal affairs investigations for the sake of the effective administration of policing operations and compliance with the Agreement. For all complaints of employee misconduct WPD receives, including complaints of which WPD is made aware through the process of civil litigation, WPD must timely complete investigations, reach findings, and inform the complainants of the outcomes.</p> <p>We understand that WPD will now investigate the complaint related to the civil lawsuit mentioned above. We commend WPD for doing so. However, because WPD failed to initiate an administrative investigation into this complaint of its own accord – and because it had no intention of doing so until prompted by DOJ – WPD remains in partial compliance with this provision.</p>
<p><b>Technical Assistance</b></p>	<p>As required by the Agreement and WPD policy, WPD must accept and resolve all complaints whether they are submitted in writing or verbally, and whether they are submitted in person or via phone, mail, fax, email, or drop box. WPD must do so and must continue to do so to come into full compliance and maintain full compliance with the Agreement.</p> <p>WPD must also investigate every complaint of employee misconduct, regardless of the manner in which WPD is made aware of the complaint, and regardless of whether parallel civil litigation is pending. WPD should change its citizen complaint policy to make clear that WPD will investigate all complaints of</p>

	employee misconduct, including those complaints filed in a civil action.
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- WPD shall explicitly prohibit from investigating an incident any officer involved in that incident.

<b>Status</b>	<b>Partial compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	WPD’s citizen complaint policy does not include this explicit prohibition. In practice, WPD has not assigned an officer to investigate an internal affairs complaint if that same officer was involved in the underlying incident. WPD must add the explicit prohibition to its policy, however, to achieve substantial compliance with this provision.
<b>Technical Assistance</b>	WPD should revise its policy consistent with this Settlement Agreement provision.

- WPD shall complete all investigations of officer misconduct within 40 days of the earlier of WPD’s receipt of a complaint or WPD’s discovery of alleged officer misconduct, unless the Chief of Police extends that deadline in writing at the written request of the assigned investigator. The Chief of Police may permit only one extension at a time of no more than 30 days per extension, and shall not permit more than a maximum of two possible extensions. The Chief of Police shall record, as part of the investigative file for the incident, his or her basis for granting or denying the request for extension. WPD shall provide written notice to the complainant of any extensions.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>WPD’s IA investigations typically range from around 10 to around 25 days. One recent investigation actually took 43 days, though we realize this is an aberration – and the investigating officer noted that it was due to an oversight. However, as noted in our analysis in Section IV.C.1, WPD has only recently begun an IA investigation into the allegations underlying a civil lawsuit Warren recently settled. We remind WPD that WPD must commence an investigation after WPD receives a complaint or discovers alleged officer misconduct – regardless of the manner in which WPD learns of the allegation. In addition, before an investigation exceeds the 40-day mark, the investigator must receive written permission from the Chief. Because we have found that WPD has consistently completed its investigations into officer misconduct within the allotted 40 days, we find that WPD remains in substantial compliance with this provision.</p> <p>We also note that, in the past, some IA investigations have been prolonged because the matters were referred to Ohio’s Bureau of Criminal Investigation (“BCI”) and</p>

	WPD awaited the conclusion of the BCI investigation before proceeding with the IA investigation. WPD now conducts its IA investigations concurrently with the BCI criminal investigations, and thus now avoids such delays.
<b>Technical Assistance</b>	WPD should ensure that internal affairs begins investigations promptly upon receipt of an allegation and that it obtains the required written extensions whenever investigations take longer than 40 days.

4. Within 90 days of the effective date of this agreement, WPD shall adopt a single policy concerning the investigation of misconduct complaints, regardless of whether the investigation is conducted by IA or a chain-of-command supervisor. WPD shall apply a preponderance of the evidence standard to the evaluation of all allegations contained in a complaint or collateral misconduct discovered during the course of investigating a complaint.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	WPD has adopted a single policy concerning the categorization and investigation of complaints (Policy 07-001). Though its policy allows a chain-of-command supervisor to conduct complaint investigations, in practice, WPD conducts a full internal affairs investigation into all complaints. WPD also applies a preponderance of the evidence standard when making its investigative findings.  In December 2013, we noted that WPD failed to reliably identify and investigate collateral misconduct that arose in the investigation of a complaint. We now find that WPD consistently does so.
<b>Technical Assistance</b>	As we noted above and in December 2013, if WPD policy is to allow for complaints to be directed to an officer’s chain of command for investigation, WPD should make clear in its policy that chain-of-command investigations are subject to the same tracking, findings, and notification requirements as internal affairs investigations.

5. The personnel participating in IA have presently been trained on the factors to consider when evaluating complainant or witness credibility, examination and interrogation of accused officers and other witnesses; identifying misconduct even if it is not specifically named in the complaint; and using the preponderance of the evidence standard as the appropriate burden of proof.

<b>Status</b>	<b>Substantial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	As we noted in December 2013, WPD’s principle internal affairs investigator has taken training on the conduct of internal affairs investigations. He displays the

	certificate of training form the Ohio Peace Officer Training Academy in his office.
<b>Technical Assistance</b>	We continue to encourage all WPD IA investigators to engage in continuing education courses regarding the proper execution of IA investigations.

6. IA or chain-of-command investigators assigned to the investigation of complaints shall interview all witnesses to the incident who are capable of being identified through the exercise of reasonably diligent investigation. All interviews of WPD employees regarding the incident shall be recorded (audio or video). All interviews of non-WPD employees regarding the incident shall be recorded (audio or video), unless the interviewee specifically requests not to be recorded. If an interviewee requests not to be recorded, WPD shall secure a written declination of recording executed by the interviewee. An interviewee’s refusal to have an interview recorded will not relieve WPD of its obligation to interview all witnesses to an incident giving rise to a complaint. Consistent with the requirements of the collective bargaining agreement and/or other applicable authority, the assigned investigators shall ensure that all officer witnesses provide a statement regarding the incident. Officers shall not be permitted to see one another’s statements prior to submission of their own statement. For all allegations involving injury to a person, the assigned investigator shall obtain contemporaneous photographs or videotapes of all injuries at the earliest practicable opportunity, both before and after any treatment, including cleansing of wounds.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	<p>In December 2013, we noted that most of the internal affairs investigations we reviewed did not include separate interviews of the complainants. Rather, at the time, WPD relied upon the complainants’ statements in their submitted complaint forms. To its credit, WPD now consistently supplements the information provided in the complaint with information gleaned from recorded interviews with the complainants. Indeed, it seems that WPD’s IA investigator has spent much time tracking down complainants, placing multiple phone calls, repeatedly leaving voicemails, knocking on doors, and leaving business cards.</p> <p>However, WPD still fails to consistently interview all witnesses – whether civilians or other police officers – who may have witnessed an event that is the subject of a complaint. If there are reasons why a potential witness was not interviewed – e.g., an investigator was unable to locate the witness despite good faith efforts to do so, or a video recording of the incident makes additional information unnecessary – the investigation packet should note this information.</p> <p>For allegations involving injury to a person, the IA investigator consistently obtained the relevant photographs.</p> <p>Because WPD now consistently interviews complainants rather than merely relying</p>



	on their initial complaint forms, WPD is no longer non-compliant with this provision. We find WPD is only partially compliant, however, because WPD still fails to consistently interview or attempt to interview all relevant witnesses.
<b>Technical Assistance</b>	While we understand that WPD records interviews of all police officers as well as interviews of civilian complainants and witnesses – unless they object to the recording – it is unclear from the investigative packet that this is taking place. As previously discussed with WPD, WPD should note in the investigative packet which interviews have been recorded and any complainant or witness interviews that are not recorded owing to the interviewee’s objections.

7. In each misconduct investigation, WPD shall consider all relevant evidence including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations, if feasible. WPD specifically shall not give an automatic preference for an officer’s statement over a non-officer’s statement, nor will WPD disregard a witness’ statement merely because the witness has some connection to the complainant. WPD will make efforts to resolve material inconsistencies between witness statements.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	<p>In December 2013, we found WPD to be non-compliant with this provision because WPD failed to routinely interview civilian complainants. Accordingly, we noted, WPD was effectively giving more weight to officers’ statements. Now, we find that WPD consistently interviews complainants. In addition, while we find that WPD still fails to interview all witnesses, WPD seems just as likely to fail to interview officer witnesses as civilian witnesses, thus indicating no bias towards officers’ statements. Nothing suggests that WPD is not considering other evidence and making the relevant credibility determinations.</p> <p>Nevertheless, because WPD still fails to consistently interview all relevant witnesses, as noted in Section IV.C.6, WPD fails to consider all relevant evidence and still falls short of substantial compliance with this provision. We now find WPD to be in partial compliance.</p>
<b>Technical Assistance</b>	To come into compliance, WPD must consistently interview or make a good faith effort to attempt to interview all identifiable witnesses.

8. During a misconduct investigation, WPD will continue to investigate all relevant police activity, including each use of force (i.e., not just the type of force complained about). The investigation shall also evaluate any searches or seizures that occurred during the incident. WPD shall not close an investigation simply because the complaint is withdrawn or the alleged victim is unwilling or unable to provide

medical records or proof of injury or the complainant will not provide additional statements or written statements; rather, WPD shall continue its investigation as necessary to determine whether the original allegation(s) can be resolved based on the information, evidence, and investigatory procedures and techniques available. In each investigation, the fact that a complainant pled guilty or was found guilty of an offense will not be considered as evidence of whether a WPD officer used or did not use a type of force, nor will it justify discontinuing the investigation.

<b>Status</b>	<b>Substantial-compliance - ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	<p>In December 2013, we found WPD to be in partial compliance regarding this provision because we found that WPD did not consistently identify and address collateral misconduct or allegations raised against all officers. We now find that WPD consistently does so.</p> <p>We have also determined that WPD does not close investigations if complaints are withdrawn or if the complainant is uncooperative. WPD also completed investigations without regard to whether the complainant pled guilty to an underlying charge.</p> <p>Thus, we now find WPD to be in substantial compliance with this provision.</p>
<b>Technical Assistance</b>	None at this time.

- For each allegation, the assigned investigator shall make a written recommended determination to the Division Commander as to whether: (1) the police action was in compliance with policy, training and legal standards regardless of whether the complainant suffered harm; (2) the incident involved misconduct by any officer; (3) the use of different tactics should or could have been employed; (4) the incident indicates a need for additional training, counseling or other non-disciplinary corrective measures; and (5) the incident suggests that WPD should revise its policies, training, or tactics. WPD shall ensure that assigned investigators' reports contain a written recommended determination on each of these elements.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change from December 2013</b>
<b>Analysis</b>	While the information required in this provision may be generally gleaned from the completed internal affairs investigative packets, investigators fail to specifically provide the written recommendations this provision requires.
<b>Technical Assistance</b>	When completing the final internal affairs memo that details the findings of the investigation, the assigned investigator must include, as part of the conclusion or elsewhere in the document, a segment that makes specific recommendations

	regarding each of the five subject areas addressed in this provision. Each recommendation must be supported by sufficient facts and analysis to support the recommendation.
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10. The misconduct-investigation policy shall require that WPD reach a separate investigative finding for each allegation. WPD shall ensure that a separate recommended investigative finding is reached and recorded in the assigned investigator’s report for each allegation of employee misconduct. Each allegation in an investigation shall be resolved by making one of the following investigative findings:

- a. “Unfounded,” where the investigation determines, by a preponderance of the evidence, that no facts to support that the incident complained of actually occurred;
- b. “Sustained,” where the investigation determines, by a preponderance of the evidence, that the person’s allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;
- c. “Inconclusive,” where the investigation determines, by a preponderance of the evidence, that there are insufficient facts to decide whether the alleged misconduct occurred; and
- d. “Exonerated,” where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate WPD policies, procedures, or training.

<b>Status</b>	<b>Partial compliance - ongoing obligation – no change from Dec. 2013</b>
<b>Analysis</b>	In December 2013, we found that WPD’s failure to investigate all allegations against all identifiable officers prevented a finding of substantial compliance with this provision. As noted above in Section IV.C.1, WPD failed to initiate an administrative investigation into a matter that was the subject of a civil lawsuit against WPD officers, and WPD policy does not require it to do so. Accordingly, WPD remains in partial compliance with this provision.
<b>Technical Assistance</b>	WPD must investigate all allegations against WPD officers and make findings in each case according to this provision. This requirement applies to all allegations, including those that are the subject of a civil action against WPD. WPD policy should reflect this requirement.

11. IA shall track and monitor chain-of-command investigations to ensure timely and thorough completion of investigations.

<b>Status</b>	<b>Substantial-compliance - ongoing obligation – no change since December 2013</b>
<b>Analysis</b>	As noted in December 2013, WPD subjects even minor complaints to full internal affairs investigations. WPD has not had any chain-of-command investigations, therefore, that have been untimely or which internal affairs did not track.
<b>Technical Assistance</b>	None at this time.

12. Within one week of completion of the IA’s review of the investigative file, the Captain in command of the personnel at issue shall, in writing, either accept or reject the recommended findings, or return the investigative report for further IA investigation, and shall set forth, in the investigative file, his or her basis for doing so unless referred to the Chief of Police for further action.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since December 2013</b>
<b>Analysis</b>	In December 2013, we noted that the Captain in charge of the Emergency Services Division consistently failed to include within the investigative file a written acceptance or rejection of the internal affairs findings. Since then, a new Captain has assumed command of the Emergency Services Division, and she consistently provides a written evaluation of the recommended findings in compliance with this provision. However, other supervisors are consistently failing to do this.
<b>Technical Assistance</b>	WPD must ensure that each Captain or acting Captain in the chain of command for subject officers either timely returns the investigative report for further investigation or accepts or rejects, in writing, the investigator’s recommended findings. In addition, in accordance with this provision, the Captain must provide the basis for his or her action.

13. WPD shall keep all non-anonymous complainants informed periodically regarding the status of the complaint investigation. Within one week of the completion of the investigation, WPD shall notify, in writing, all non-anonymous complainants of the investigation’s outcome, including an appropriate statement regarding whether any non-disciplinary corrective action or disciplinary action was taken.

<b>Status</b>	<b>Substantial-compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	In December 2013, we noted that WPD had failed to provide written responses to all non-anonymous complainants. We now find that WPD does so.
<b>Technical Assistance</b>	None at this time.

<b>Assistance</b>	
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14. Subject to the protection against self incrimination in criminal proceedings for statements compelled consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967), but without withholding non-compelled statements or compelled statements that may be used in a criminal proceeding against a person other than the compelled witness, WPD shall make a written referral of all allegations of criminal misconduct by WPD employees to the City, County, or Federal Prosecuting Attorney or other appropriate agency for possible criminal prosecution, pursuant to that prosecutor’s own prosecutorial discretion, as soon as allegations of criminal conduct are reported to IA or are uncovered by the assigned investigator. WPD shall ensure the referral of all allegations of criminal conduct by WPD employees to the appropriate criminal prosecutor within one day of WPD’s discovery of those allegations of criminal conduct. The misconduct-investigation policy shall continue to require the completion of an administrative investigation irrespective of the initiation or outcome of criminal proceedings, with the appropriate coordination with the criminal matter.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	The internal affairs files provided to us demonstrate that WPD consistently provides written <i>Garrity</i> notices to subject officers. In addition, WPD consistently refers allegations of potentially criminal conduct to BCI.  Accordingly, WPD remains in substantial compliance with this provision.
<b>Technical Assistance</b>	None at this time.

## V. Management and Supervision

### A. Risk Management System

1. Within 150 days of the effective date of this Agreement, WPD shall develop and implement an early intervention system, i.e., a risk management system, to include either a computerized relational database or paper system for maintaining, integrating, and retrieving information necessary for supervision and management of WPD. WPD will regularly use this data to promote civil rights and best police practices; to manage risk and liability; and to evaluate the performance of WPD officers across all ranks, units, and shifts.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	In December 2013, we found WPD to be non-compliant regarding this provision because WPD had begun putting into place an Early Intervention System (“EIS”)

	<p>that did not comport with the requirements of the Agreement. WPD has made tremendous progress since then. WPD has now developed a computerized EIS database using a customized version of the IAPro software that effectively allows WPD to maintain information needed to assess, supervise, and manage WPD's officers. WPD has also incorporated the use of IAPro's BlueTeam software, which allows officers to enter use-of-force reports and other information from their patrol cars. With the assistance of DOJ's expert consultant, WPD has also developed an EIS policy that details how WPD is to use its EIS to manage risk and liability and evaluate officer performance. All patrol officers and supervisors have now been trained on the EIS.</p> <p>The EIS is now live and is tracking the requisite domains for each officer. The system already includes data points from the previous 12 months. Once an officer triggers an alert, as outlined in WPD's EIS policy, WPD's IA investigator will notify the officer's commander and begin an evaluation.</p> <p>WPD has made significant improvements regarding EIS, and we now find WPD to be in substantial compliance with this provision. We commend WPD, specifically the Lieutenant charged with the responsibility of establishing EIS, for their laudatory effort to bring EIS to fruition.</p>
<b>Technical Assistance</b>	<p>Going forward, we will monitor WPD's new EIS to assess its efficacy and provide technical assistance to adapt EIS to lessons learned during its implementation.</p>

2. The risk management system shall collect and record the following information for each officer:
  - a. all uses of force;
  - b. the number of canisters of chemical spray used by officers;
  - c. all discharges of conductive energy devices;
  - d. all injuries to prisoners;
  - e. all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct," or "obstruction of official business";
  - f. all firearm discharges, both on- and off-duty, including unintentional discharges, but excluding discharges in planned training exercises or hunting;
  - g. all complaints (and their dispositions);
  - h. all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City and its officers, or agents, resulting from WPD operations or the actions of WPD officers;

- i. all incidents involving the pointing of a firearm at a person (if any such reporting is required);
- j. all discipline and non-disciplinary corrective action taken against officers; and
- k. all positive personnel reviews, commendations, awards, etc.;

<b>Status</b>	<b>Substantial compliance – ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	In December 2013, we found WPD to be non-compliant with this portion of the Agreement because the EIS WPD was putting into place did not track all of the data points itemized in this provision. WPD has now configured its EIS to track all of this information in addition to chronic absenteeism. Thus, we now find WPD to be in substantial compliance with this provision.
<b>Technical Assistance</b>	None at this time.

3. The risk management system shall include, for the incidents included in the database, appropriate identifying information for each involved officer (e. g., name, badge number, shift and supervisor) and civilian (e.g., race, ethnicity or national origin, if available).

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	As set forth in this provision and in WPD’s new EIS policy, WPD includes the appropriate identifying information for both officers and civilians. Thus we now find WPD to be in substantial compliance with this provision.
<b>Technical Assistance</b>	None at this time.

4. Within 210 days of the effective date of this Agreement, WPD shall prepare a protocol for using the risk management system.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	WPD has recently finalized and distributed an EIS policy that incorporates edits from DOJ and comports with the requirements of this Agreement. Accordingly, we now find WPD to be in substantial compliance with this provision.
<b>Technical Assistance</b>	None at this time.

5. At a minimum, the protocol for using the risk management system shall include the following provisions and elements:
  - a. The protocol is comprised of the following components: data storage, data retrieval, reporting, data analysis, pattern identification, supervisory assessment, supervisory intervention, documentation and audit.
  - b. The protocol will require the risk management system to analyze the data according to the following criteria: (i) number of incidents for each data category by individual officer and by all officers in a unit; (ii) average level of activity for each data category by individual officer and by all officers in a unit; and (iii) identification of patterns of activity for each data category by individual officer and by officers in a unit.
  - c. The protocol will require the system to generate reports on a monthly basis describing the data and data analysis and identifying individual and unit patterns.
  - d. The protocol will require that WPD Captains, Lieutenants, and supervisors review, on a regular basis but not less than quarterly, system reports, and evaluate individual officer, supervisor, and unit activity.
  - e. The protocol will require that WPD Captains, Lieutenants, and supervisors initiate intervention for individual officers, supervisors and for units based on appropriate activity and pattern assessment of the information contained in the risk management system.
  - f. The protocol will require that intervention options include discussion by Captains, Lieutenants, supervisors, and officers; counseling; training; and supervised, monitored, and documented action plans and strategies designed to correct inappropriate activity.
  - g. The protocol will specify that actions taken as a result of information from the risk management system be based on all relevant and appropriate information, including the nature of the officer's assignment, crime trends and crime problems, and not solely on the number or percentages of incidents in any category of information recorded in the risk management system.
  - h. The protocol will require that WPD Captains, Lieutenants, and supervisors promptly review the risk management system records of all officers recently transferred to their sections and units.
  - i. The protocol will require that WPD Captains, Lieutenants, and supervisors be evaluated on their ability to use the risk management system to enhance effectiveness and reduce risk.
  - j. The protocol will require that the risk management system be managed and administered by IA. IA will conduct quarterly audits of the risk management



system to ensure that analysis and intervention are taken according to the process described above.

- k. The protocol will require regular reviews, at no less than quarterly intervals, by appropriate managers of all relevant risk management system information to evaluate officer performance citywide, and to evaluate and make appropriate comparisons regarding the performance of all WPD units in order to identify any significant patterns or series of incidents.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	<p>As noted in Section V.A.4 above, WPD has recently promulgated a revised EIS policy. This policy incorporates the above requirements and is a tremendous improvement upon the draft policy EIS had in December 2013.</p> <p>Additionally, WPD dedicated time and resources to working with our expert consultant to develop a protocol for the EIS administrator to use the system to identify outliers based on a quarterly analysis.</p> <p>Accordingly, WPD is now in substantial compliance with this provision.</p>
<b>Technical Assistance</b>	None at this time.

- 6. WPD shall maintain all personally identifiable information about an officer included in the risk management system during the officer’s employment with WPD for at least five years. Information necessary for aggregate statistical analysis will be maintained indefinitely in the risk management system. WPD shall enter information into the risk management system in a timely, accurate, and complete manner, and maintain the data in a secure and confidential manner. WPD shall input new or changed information, if any new or changed information addressing the aforementioned risk management categories exists, at least on a monthly basis, if not sooner, subject to the confidentiality provisions of Section 149.43 of Ohio Revised Code and current collective bargaining agreements.

<b>Status</b>	<b>Partial compliance – ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	<p>In December 2013, we noted that WPD had not yet established its EIS and WPD was thus out of compliance with this provision. While now active and tracking the requisite domains for each officer, WPD’s EIS is in its infancy, and it is too early to tell whether WPD will meet some of the requirements in this provision. We do note, however, that though the system went live only recently, it includes data points for officers spanning the past year. WPD is also currently entering data in a manner consistent with this provision. Officers’ EIS files are kept separately from</p>

	their personnel files, so WPD can more effectively keep the information confidential.
<b>Technical Assistance</b>	Though this Agreement does not require WPD to memorialize the requirements of this provision in writing, WPD should considering doing so in WPD's EIS policy, EIS manual, or elsewhere.

7. WPD shall either purchase the risk management system off-the-shelf (and customize the system, if necessary to meet the requirements of this agreement), or WPD may develop and implement its own risk management system. In either case, WPD shall adhere to the following schedule:
  - a. Within 210 days of the effective date of this Agreement, WPD will submit a protocol for using a risk management system to DOJ for review and approval. WPD will share drafts of this document with DOJ to allow DOJ to become familiar with the document as it develops and to provide informal comments on it. WPD and DOJ will together seek to ensure that the protocol receives final approval within 30 days after it is presented for review and approval.
  - b. Within 270 days of the effective date of this Agreement, WPD shall prepare, for the review by and subject to the approval of DOJ, a plan for including appropriate fields and values of new and historical data into the risk management system (the "Data Input Plan"). The Data Input Plan will identify the data to be included and the means for inputting such data (direct entry or otherwise), the specific fields of information to be included, the past time periods for which information is to be included, the deadlines for inputting the data, and the responsibility for the input of the data. The Data Input Plan will include historical data that is up to date and complete in the risk management system. WPD and DOJ will together seek to ensure that the protocol receives final review and approval within 30 days after it is presented for approval.
  - c. Within 270 days of the effective date of this Agreement, subject to the review and approval of DOJ, WPD will issue a Request for Proposal ("RFP") for the design and implementation of the risk management system consistent with this Agreement, or WPD will set forth parameters for its own development and implementation of a risk management system constructed by WPD.
  - d. Within 360 days of the effective date of this Agreement, or later with the agreement of DOJ, WPD will select the contractor to design and implement the risk management system, or, if WPD has chosen to construct its own risk management system, WPD will contract for all the necessary components for such an in-house risk management system by this time.
  - e. Within 450 days of the effective date of this Agreement, WPD will have ready for testing a beta version of the risk management system consisting of: (i) any necessary hardware and operating systems, configured and integrated with

WPD’s existing automated systems; (ii) any necessary data base software installed and configured; (iii) data structures created, including interfaces to source data; and (iv) the use-of- force information system completed, including historic data. DOJ will have the opportunity to participate in testing the beta version using use-of-force data and test data created specifically for purposes of checking the risk management system.

- f. Within 540 days of the effective date of this Agreement, the risk management system will be operational and fully implemented.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from non-compliance</b>
<b>Analysis</b>	In December 2013, we found WPD to be out of compliance with this provision because WPD did not yet have in place an effective EIS. Now, WPD has promulgated a satisfactory EIS policy and its EIS, which tracks the domains required by this Agreement, is active. Thus, we now find WPD to be in substantial compliance with this provision.
<b>Technical Assistance</b>	None at this time.

- 8. Prior to implementation of the new risk management system, WPD will continue to use existing databases and resources to the fullest extent possible, to identify patterns of conduct by WPD officers or groups of officers.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	While WPD’s EIS is now active, three months must pass before WPD can calculate its quarterly use of force average per arrests and discretionary offense charges and thus assess its officers’ uses of force. In the meantime, WPD continues to utilize the software available to it and data collected in a spreadsheet to emulate a risk management system accessible to WPD’s senior administration.
<b>Technical Assistance</b>	None at this time.

- 9. Following the initial implementation of the risk management system, and as experience and the availability of new technology may warrant, WPD may propose to add, subtract, or modify data tables and fields, modify the list of documents scanned or electronically attached, and add, subtract, or modify standardized reports and queries. WPD shall submit all such proposals for review and approval by DOJ before implementation.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – change from “inapplicable at this time”</b>
<b>Analysis</b>	WPD has already added, with our encouragement and approval, additional fields to the list of domains the Agreement requires WPD to track.
<b>Technical Assistance</b>	WPD’s EIS is in its infancy and WPD has yet to propose other modifications. We encourage WPD to fine tune its EIS where WPD believes such modifications may increase the system’s efficiency and effectiveness.

B. Oversight

1. WPD shall develop a protocol for utilizing the risk management system to conduct audits of all WPD officers’ performance and management of risk. Each supervisor charged with conducting audits shall use the protocol. The protocol will establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency, and cover all WPD shifts and units.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	In December 2013, we found WPD to be in partial compliance with this provision because WPD did not yet have an EIS protocol in place. WPD now has in place an EIS policy, approved by DOJ, that addresses the required auditing and managerial review functions. Thus WPD is now in substantial compliance with this provision.
<b>Technical Assistance</b>	WPD’s EIS policy requires quarterly audits to ensure the system is functioning as intended. DOJ will review these audits to ensure they are both timely and complete.

C. Discipline

1. The Chief of Police shall have just cause to dispense appropriate discipline when he/she determines, based on the outcome of an administrative investigation, that a preponderance of evidence demonstrates that a violation of WPD policy has occurred.

<b>Status</b>	Statement of a standard; not an obligation unless WPD deviates from standard - ongoing obligation
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2. WPD will continue to follow the disciplinary process in place in the collective bargaining agreements (“CBAs”). WPD shall ensure that its disciplinary procedures penalize uses of excessive force, improper searches and seizures, discrimination, or dishonesty, and reflect the seriousness of those infractions. WPD will impose appropriate punishment for violations when WPD believes the officer’s misconduct

exhibits a lack of fitness for duty. WPD shall submit this revised process for the review and approval of DOJ.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>In December 2013, we found WPD to be in substantial compliance regarding this provision, noting that WPD had actively imposed discipline when WPD believed it possessed just cause to do so.</p> <p>DOJ notes that in May 2014 a WPD police officer accidentally discharged his ECW while handcuffing a subject. In the resulting review, a WPD Captain noted that the incident was “unfortunate” and suggested a need to retrain officers. However, WPD did not issue the police officer a counseling statement until prompted by DOJ.</p> <p>This incident notwithstanding, WPD has otherwise imposed discipline on officers when WPD has sustained findings of alleged misconduct against them. Thus WPD remains in substantial compliance with this provision.</p>
<b>Technical Assistance</b>	None at this time.

3. Absent exceptional circumstances, WPD will take disciplinary corrective action when an appropriate disciplinary matrix indicates that imposition of discipline should take place. In a case where discipline has been imposed on an officer, WPD must also consider whether non-disciplinary corrective action also is required. Whenever discipline is warranted, WPD shall impose discipline within the timeframe permitted by WPD’s CBAs and applicable statute.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>In December 2013, we found WPD to be in substantial compliance with this provision because WPD had pursued discipline when it determined it had just cause to do so. WPD remains in substantial compliance with this provision.</p>
<b>Technical Assistance</b>	None at this time.

## VI. Training

### A. Management Oversight

1. WPD shall continue to ensure that its use-of-force training complies with applicable laws and WPD policy. WPD may continue to seek technical assistance from DOJ on the content and conduct of WPD’s use-of-force training.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	WPD has provided us with its use-of-force PowerPoint presentations that WPD uses to train its officers. DOJ also attended WPD’s in-service use of force training for 2014 and reviewed a video recording of the training. WPD’s use of force thoroughly covers WPD’s use-of-force policies, including proper use-of-force decision making, use of force reporting, and use of force review.
<b>Technical Assistance</b>	We will observe WPD’s training in the 2015 training cycle to further assess compliance with this provision.

2. WPD’s director of training shall, consistent with applicable law and WPD policy:
  - a. ensure the effectiveness of all use-of-force training by implementation of competency-based written examinations covering the use-of-force policies and requiring a minimum passing score of 90% for all WPD officers;
  - b. develop and implement use-of-force training curricula;
  - c. select and train WPD officer trainers;
  - d. develop, implement, approve, and oversee all in-service training;
  - e. in conjunction with the Chief of Police, develop, implement, approve, and oversee a patrol division roll call protocol designed to effectively inform officers of relevant changes in policies and procedures;
  - f. establish procedures for evaluating all training curricula and procedures; and
  - g. conduct regular needs assessments to ensure that use-of-force training is responsive to the knowledge, skills, and abilities of the officers being trained.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>WPD has developed and implemented a use-of-force training curricula, and its training supervisor oversees all in-service training. During in-service use of force training in 2014, WPD required its officers to take a written examination covering each use-of-force policy. While some officers had to retest due to deficient scores, all officers eventually attained a passing score of 90%.</p> <p>When WPD changes its policies or procedures, it informs patrol officers accordingly during roll call. Officers sign for new and revised policies, indicating that they have received them, not that they have read and understood them. When the revised policies are dispersed, officers receive a new copy of the revised policy. Changes are not marked in the policy, and changes are not explained. Officers keep a copy of WPD policies in their patrol car or in their locker, and twice a year, a</p>

	<p>Lieutenant inspects all officers' policies to be sure they are up to date.</p> <p>WPD has in place no procedures to evaluate training; and WPD does not conduct needs assessment to ensure that use-of-force training is adequate or effective. Because of this and because WPD does not effectively explain to officers relevant changes in policy, WPD remains in partial compliance rather than substantial compliance.</p>
<b>Technical Assistance</b>	<p>When officers sign for new or revised policies, their signatures should indicate that they have read and understood them, not just that they have received them. When revising policies, WPD should distribute a copy of the revised policy with changes and revisions clearly marked so that officers can quickly determine how the new policy differs from the outdated version. In addition, when WPD distributes new or revised copies, a supervisor should clearly explain what has changed, why any change has made, and how the change will affect officers. Supervisors must give officers an opportunity to ask questions regarding new or revised policies.</p> <p>We noted in December 2013 that WPD must establish procedures for evaluating the effectiveness of training curricula and procedures. In addition, we noted that WPD must conduct needs assessments to ensure use of force training is responsive to the knowledge, skills, and abilities of the officers being trained. We now note that WPD still has not done so, and WPD will not be in substantial compliance with this provision until it has.</p>

- WPD shall provide training consistent with WPD policy, law, and current best police practices, and will ensure that only mandated objectives and approved lesson plans are taught by instructors. WPD policy requires a minimum of 40 hours per calendar year of training for each sworn officer. WPD will continue to ensure that each officer receives training in use of force and other matters for a minimum of 40 hours per calendar year for each sworn officer. WPD will make best efforts to train each work shift as a team in their use-of- force training.

<b>Status</b>	<b>Substantial compliance – ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>In 2014, WPD provided officers with 40 hours of in-service training. This included eight hours of use-of-force training and related legal updates; four hours of complaint policy training; and four hours of report writing. WPD provided officers with hands-on training for OC Spray, ASP baton, ECWs, and firearms at other times throughout the year. We have reviewed WPD's use-of-force training materials and have observed WPD's in-service use-of-force classroom instruction, and we have found all to be consistent with WPD policy, law, and current best practices. Accordingly, WPD remains in substantial compliance with this provision.</p>

<b>Technical Assistance</b>	As noted in December 2013, WPD should ensure it offers tailored training that emphasizes areas of expertise in which officers generally seem to be less informed based on needs assessments. We will continue to assess compliance with this provision during the 2015 training cycle.
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4. WPD will continue to utilize written records of lesson plans and other training materials, and continue to maintain records of training each officer has received.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	<p>As noted previously, WPD has provided DOJ with its use-of-force Power Point presentation and tests that WPD uses for classroom instruction during in-service and ECW training. WPD has no other written materials it uses for use of force training.</p> <p>WPD has recently made improvements to the way in which it records training. Until recently, WPD’s training records essentially consisted of sign-in sheets containing the signatures of officers who attended in-service training. WPD now maintains an Excel spreadsheet on which it records the name of the class, the location or sponsor, the name of the officer trained, the date of training, the number of hours devoted to the training, and the cost of the training. While helpful, the spreadsheet is not specific enough. For example, the chart fails to break down “in-service training” into the various topics covered; instead, it merely lists a 40-hour block of in-service training for the participating officers. WPD should ensure that it is carefully tracking when, where, and how officers are trained. Because it is not doing so, WPD remains in partial compliance.</p>
<b>Technical Assistance</b>	<p>WPD is in the process of updating its use-of-force policy to address officers’ use of patrol rifles; to require officers to reholster their weapons, when practical, before going hands-on with a subject; and to ensure that shift commanders are aware of any and all approved personal weapons officers are carrying on that commander’s shift. WPD must ensure that it updates its use-of-force training to reflect these and any other changes.</p> <p>In addition, WPD should maintain training records for each officer in which WPD documents all training that officer has received. In one central location, for each officer, WPD should be able to determine:</p> <ul style="list-style-type: none"> <li>• Date training session took place</li> <li>• Setting where training session took place (In-service; roll call; etc.)</li> <li>• Subject matter (Taser, ASP, UOF policy, Fourth Amendment, etc.)</li> <li>• Type of training (classroom, scenario-based/hands on)</li> <li>• Number of hours devoted to topic</li> <li>• Exam score, if an exam was given, and whether retesting was necessary</li> </ul>



	Maintaining such training files will also assist WPD in implementing its EIS. Specifically, if EIS triggers review of an officer, individual training records will permit an assessment of the officer’s training or need for further training in any given area.
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**B. Curriculum**

1. The director of training shall review all use-of-force training and use-of-force policies on at least a semi-annual basis to ensure compliance with applicable laws and WPD policy. The director of training shall produce a written record of this review. The director of training will consult with the City’s Law Department on any additions, changes and/or modifications regarding use-of-force training or policies to ensure compliance with applicable law.

<b>Status</b>	<b>Partial-compliance - ongoing obligation – no change since Dec. 2013</b>
<b>Analysis</b>	While WPD updates its use-of-force policies as new and updated information becomes available, it does not specifically and systematically review these policies on at least a semi-annual basis. Accordingly, WPD has also failed to provide a written record of the review this provision requires.
<b>Technical Assistance</b>	WPD must review both its use of force policies and training materials at least twice a year and produce a written record of these reviews. WPD’s counsel should assist WPD to ensure policies comport with current legal standards.

2. WPD shall provide all recruits, officers, supervisors, and managers with training on use of force at least annually. Such training shall include and address the following topics:
  - a. WPD’s use-of-force policy, as described in this Agreement;
  - b. proper use-of- force decision making;
  - c. WPD’s use-of-force reporting requirements;
  - d. the Fourth Amendment and other constitutional requirements;
  - e. examples of scenarios faced by WPD officers that illustrate proper use-of-force decision making;
  - f. interactive exercises that emphasize proper use-of-force decision making;
  - g. de-escalation techniques that encourage officers to make arrests without using force, and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized units,

or delaying arrest may be the appropriate response to a situation even when the use of force would be legally justified;

- h. threat assessment; and
- i. appropriate training on conflict management.

<b>Status</b>	<b>Substantial compliance - ongoing obligation – change from partial compliance</b>
<b>Analysis</b>	<p>As noted previously, in 2014, WPD has provided officers with eight hours of use-of-force training during in-service training as well as additional use-of-force training, including hands-on and scenario-based training for firearms, OC Spray, and the ASP baton. WPD’s firearms training has included live-fire exercises as well as simulated indoor exercises that stress proper use-of-force decision making using a virtual firearms simulation system.</p> <p>WPD has also provided crisis intervention training for 30 of its officers. WPD sends officers to this training annually and plans to eventually have all of its officers CIT trained.</p> <p>In December 2013, we found WPD’s scenario-based training to be deficient. WPD has made improvements in this area, and we now find WPD to be in substantial compliance with this provision.</p>
<b>Technical Assistance</b>	<p>As noted, WPD provided officers with eight hours of use-of-force instruction during its 2014 in-service training. All eight hours were classroom instruction. While we acknowledge that WPD offered its officers scenario-based and hands-on instruction regarding weapons and use of force decision-making at other times throughout the year, we recommend that WPD include such training during in-service.</p> <p>We will continue to observe and critique WPD’s training during 2015.</p>