

Seattle Monitoring Plan

Methodology for Use of Force, Crisis Intervention, Stops and Detentions, and Supervision

I. EVALUATING THE STATUS OF COMPLIANCE

The Monitoring Team will work to provide the Court, and the community, with updates on SPD's performance and progress on imperatives that constitute the Consent Decree's primary Commitments. Dkt. 3-1 at 3. These include use of force, crisis intervention, stops and detentions, and supervision. Issues relating to bias-free policing and officer misconduct, because they are closely related to and surface significantly in the other core areas for consideration, are included throughout all aspects of the evaluation process. Ex. A at Line 9. The purpose of the Compliance Status Update process is to provide the Court and Seattle community with up-to-date information and data on where the Department stands across the areas that the Consent Decree covers. The final Compliance Status Update will be filed by November 15, 2021. Ex. A at Line 16.

Meanwhile, the Monitor will "publicly issue reports . . . every six months detailing the Parties' compliance with and implementation of" the Decree. Dkt. 3-1 ¶ 196. The Monitor will file these reports by June 1, 2021 and November 8, 2021. Ex. A at Line 6. The two reports will address the status of the City and SPD's progress in implementing the Monitoring Plan and overall progress under the Consent Decree.

The Consent Decree provides no specific formula regarding the precise point at which deficient performance is indicative of a "pattern or practice." Instead, the Decree expressly contemplates a balancing of factors. Specifically "[n]on compliance with mere technicalities, or temporary or isolated failure to comply during a period of otherwise sustained compliance, will not constitute failure to maintain full and effective compliance." Dkt. 3-1 ¶ 184. Likewise, "temporary compliance during a period of otherwise sustained noncompliance will not constitute full and effective compliance." *Id.* As the prior Monitoring Team articulated, and the Court endorsed, "compliance with provisions of the Consent Decree depends not just on the number or percent of instances where SPD is adhering to requirements but also on the quality or nature of those instances where SPD is falling short." First Systemic Assessment at 6.

Consequently, in evaluating all of the evidence below, the Monitoring Team will seek to balance:

- The Department and its officers' performance during a material span of time, number of incidents or encounters, and number of officers;
- The Department's trends with respect to its aggregate performance over time, including comparisons of more-recent material spans of time with prior, similar spans;
- The severity or significance of a performance or incident that deviates from policy, law, or Consent Decree requirements; and
- The extent to which SPD and/or its accountability partners appropriately identify performance contrary to law, expectations, or Consent Decree requirements and take appropriate remedial action that is consistent with the significance and severity to the nature and magnitude of the identified performance deficiency.

As a general matter, SPD will provide aggregate data and information to provide updates of all modes and types of analysis conducted in the assessment reports conducted by the Monitor in Phase II relating to the listed topics. This document seeks to inventory many of the primary issues or questions that were asked previously and need to be answered again for a more-recent time period.

Unless otherwise indicated, it is contemplated that the time periods covered would be calendar years 2019 and 2020. If data from the calendar year 2018 was not captured in prior assessments, then that data should also be provided in all relevant areas.

II. USE OF FORCE: Paragraphs 69–129

The Monitor will assess whether use-of-force outcomes comply with SPD's Use of Force Policies, which incorporate the requirements of the Consent Decree. The Monitor will also assess whether SPD has continued to thoroughly examine officer uses of force consistent with SPD policy and the terms of the Consent Decree.

Objectives and Methodology

The SPD Force Review Board (“FRB”) and Force Review Unit (“FRU”) will report to the Monitor and DOJ the information and analytics described herein. By policy, FRB and FRU review Type II and III uses of force to determine if they were compliant with SPD’s Use of Force Policy.

According to the procedures set forth in 8.400 and 8.500, which were adopted under the Consent Decree, force is reported, investigated, and reviewed as follows. After using Type I force, an officer must screen the incident with a sergeant and complete a use of force report. The sergeant begins the investigation of the incident and, if necessary, elevates the review up the chain of command.

Type II uses of force are reviewed in depth first by an administrative lieutenant, through the chain of command to the section captain, and then by the FRU. Type III uses of force are investigated by a specially trained unit called the Force Investigation Team. The FRB provides an additional layer of review for all Type III uses of force, including officer-involved shootings, and certain categories of Type II uses of force, including serious policy violations. In addition, the Board reviews a ten percent random sample of Type II cases (SPD Policy 8.500-POL-3.10).

The FRB is a select group of SPD personnel with representatives from various aspects of SPD operations who are specially trained to review officer uses of force. The board meets regularly to make determinations as to (1) whether a use-of-force investigation is thorough and complete; (2) whether the force was compliant with SPD policy, and consistent with training, and core principles; and (3) whether any broader, systemic issues need to be addressed with respect to policy, tactics, equipment, supervision, or otherwise.

The FRU, comprised of a captain, a lieutenant, a sergeant, and two detectives, reviews all Type II uses of force. When certain factors are present in a Type II case—such as the use of less-lethal tools or use of a canine—the FRU places it on the calendar to be reviewed by the FRB.

Objective 1: Compare use-of-force numbers and rates from 2020/21 to the numbers and rates from Phase II; identify and describe significant trends.

Generally, SPD will provide aggregate data and information to provide updates of all modes and types of analysis conducted in the assessment reports conducted by the Monitor in Phase II relating to officer use of force, use of force reporting, and use of force investigation.

Methodology Questions and Data Collected

- How many Type I, Type II, and Type III uses of force were reported in relevant time periods since the most-recent Use of Force assessment in Phase II?
 - Number of cases received by OPA in 2020 that involved misconduct allegations related to the use of force and number of force-related misconduct allegations (one case may involve multiple allegations). Number of force-related misconduct allegations that OPA sustained and number of uses of force and number of officers involved in the sustained allegations. This data is collected by OPA, and accordingly OPA will report it to the Monitor and DOJ
 - Number of incidents involving a Type II force, Type III force, or an OIS
 - Number of Type I, II, and III uses of force
 - Percentage of officer dispatches in which any force was used; percentage in which greater than Type I force was used
 - Age, race/ethnicity, and gender of subjects of force
 - Note: this data would be provided both with and without the totals from the 2020 protest incidents, in order to enable apples-to-apples comparisons with previous years
- What was the frequency of all types of use of force, including use of less lethal tools?
 - Handcuff/hobble
 - Taser
 - Control hold
 - Firearm - Point
 - Firearm - Fire

- Personal Weapons
- Chemical Agent/OC
- Chemical Agent/Other
- Baton
- 40 mm
- Canine
- Blast Balls
- Vehicle Tactics/PIT
- Vehicle Tactics/Other
- Any other physical force or force instruments listed in drop-down menus within the IA Pro/BlueTeam environment
- What is the rate of:
 - Subject injury in Type III cases?
 - Officer injury (excluding officer injuries incurred in contexts other than use of force incidents?)
- How do these numbers compare to the SPD's outcome data in previous phases?
 - How has the relative proportion of serious versus low-level force changed?
 - How has the overall amount of force changed?
 - How has the rate of force changed?
 - How has the frequency of use of less lethal tools changed?
- FIT Investigations of Type III Incidents (and certain Type IIs)
 - Number of FIT responses, broken down by type:
 - Type III force
 - OIS
 - Unintentional firearm discharges
 - In-custody deaths
 - Assaults on officers
 - Potential Misconduct
 - Returned to Patrol
- Cases Reviewed, FRU/FRB by Type (Type II, Type III, OIS, In-Custody Death)
 - FRB Findings

- # of FIT investigations reviewed by FRB
- # of FIT investigations not reviewed by FRB. If yes, why?
- # of investigation approved by FRB with no issues, # approved with minor issues, # disapproved
- # of referrals by FIT to OPA for identified potential misconduct
- Description of issues identified in each of these areas:
 - Prior to arrival on scene
 - Scene investigation
 - Follow-up investigation
 - Evidence
 - Timeliness
 - Thoroughness
- For each use of force that it reviewed, overall aggregate statistics for FRB’s findings regarding:
 - Whether the officer took reasonable efforts to de-escalate prior to using force
 - Whether the force was reasonable, necessary and proportional
 - Whether the force conformed to other Use of Force Policy requirements
 - On-scene supervision;
 - OPA referrals;
 - Use of force investigations and chain of command review.
- How many misconduct allegations related to the use of force did OPA investigate? What was the disposition for each allegation?
- Across all of the above data points, were there disparities or trends related to subject demographics?

With respect to the Decree’s provisions on force reporting, investigation, and review, SPD’s Force Review Unit (“FRU”) will conduct an audit using the Phase II methodologies previously approved by the Parties and Court. As the prior review contemplated, the role of independently verifying SPD’s work will be served by the Office of Inspector General. As also performed in Phase II, the Monitoring Team and Department of Justice will evaluate the work of both the FRU/FRB and OIG through a randomized sample of the cases reviewed by each entity.

Objective 2: Use of Force and Crowd Management

The Monitor and DOJ will conduct an in-depth examination of SPD's force used at protests and demonstrations in 2020 and make findings regarding compliance with the Consent Decree requirements related to use of force, use of force reporting, investigation and review, and constitutional policing generally.

The requirements of the Consent Decree regarding the use of force, like the Constitutional and legal standards governing use of force, attach to all uses of force – whether the force occurs within the context of one subject or a limited number of persons being involved in the encounter, whether many individuals are present when force is deployed, or whether force is directed by supervisors within any type of operational context.

Methodology Questions and Data Collected

- SPD will provide to the Monitor and DOJ all incident action plans related to protests between May 25 and November 30, 2020.
- SPD will identify statistically-significant sample (computed at a 95% confidence interval, 5% margin of error, and 50% response distribution) of all use-of-force reports related to protest incidents between May 25 and November 30, 2020. (These reports may need to be provided on a rolling basis as they are reviewed, approved, and finalized.)
- SPD will provide, through Evidence.com, all related body-worn video that is associated with the use of force reports identified above. SPD will provide all Seattle Police Operations Center records for the time period in question (which include incident action plans and rules of engagement for protests or demonstrations). SPD also will provide Force Investigation Reports for all protest incidents that FIT investigated.
- The City will provide all of OPA's and OIG's recommended disciplinary findings in protest cases to the Monitor and DOJ as they become available.

- OIG will provide reports related to crowd management-related issues and evaluation, including SER interim reports.
- SPD will provide reports and narrative on their process for implementing recommendations generated from the SER.

SPD has preemptively flagged that uses of force occurring during the 2020 protests have not been timely reviewed in the manner prescribed by the use of force policies. SPD has indicated that the abnormally high volume of force incidents, the large number of witness officers to each event, and the ongoing demands on supervisor time (due to on-going protests) rendered the typical review process unworkable. Accordingly, as part of the Phase III assessments, SPD will provide information regarding:

- How many force incidents have not been reviewed from protest-related work in 2020;
- What modified review process is either underway or planned for those incidents and how it will achieve the Consent Decree mandates to ensure that all uses of force are timely reviewed for both misconduct and lessons learned by the Department; and
- What review process SPD plans to use for like situations (i.e. review of uses of force in large or ongoing crowd management/protest related events) in the future and how that process will achieve the same Consent Decree mandates referenced above.

III. CRISIS INTERVENTION – Paragraphs 130–137

Generally, SPD will provide aggregate data and information to provide updates of all modes and types of analysis conducted in the assessment reports conducted by the Monitor in Phase II relating to crisis intervention.

Objective 1 – Training and Response

- SPD will provide a report to the Monitor and DOJ that describes SPD’s training in the areas of crisis intervention, de-escalation, and scenario-based integrated tactics training. The report will also describe the training provided to dispatchers with respect to identifying calls for service regarding individuals in crisis. SPD will also submit quarterly updates regarding the training that it provides and any challenges faced.

- How many Crisis Contacts in 2019 and 2020?
 - Number of cases received by OPA in 2020 that involved subjects in behavioral crisis or alleged violations of SPD's crisis intervention policy and number of allegations involved in these cases (one case may involve multiple allegations). Number of allegations sustained and number of officers involved in the sustained allegations. This data is OPA's (not SPD's), and accordingly OPA will report it to the Monitor and DOJ.
 - Number of incidents involving any use of force
 - Percentage of CAD Events with a related crisis report
 - Age, race, gender of subjects of a crisis report
 - How many subjects did SPD have repeated contact with in 2020?
 - What percentage of crisis reports:
 - Resulted in an emergent detention
 - Were referred for services
 - Resulted in the documentation of an offense
- How many crisis response plans were generated in 2020?
- What is the rate of crisis events resulting in a reportable use of force in 2020?
 - What is the distribution of force types?
 - What was the frequency of use of less lethal tools in 2020?

Objective 2 – Deployment and Supervision

- What is the distribution of CIT-certified officers across precinct/watch/sector, administrative assignment, and rank?
- What number of calls for service are associated with a Crisis Template?
 - How do these calls break down by initial/final call types, and distribution across precinct/sector/watch (and is the break down appropriately reflected in the distribution of CIT-certified officers)?
- In what percentage of incidents was a CIT-certified officer on-scene?
 - How do these calls break down by initial/final call types, and distribution across precinct/sector/watch?

- As a percentage of total call volume, how many calls were identified by Communications as involving a subject in crisis?
 - How do these calls break down by initial/final call types, and distribution across precinct/sector/watch?
- In what percentage of cases involving a Crisis Template was a CIT-certified officer requested or dispatched?
 - What percentage of calls were cleared by a CIT-certified officer as primary?
 - What percentage of templates were completed by the CIT-certified officer?
- What were the response times in these cases?
- Are officers appropriately filling out crisis templates when an incident involves a person in crisis?
- Is SPD ensuring consistent documentation of crisis templates?

Objective 3 – Outcome Reporting

This section of the audit will report on SPD’s continued and expanded tracking of information regarding SPD’s interactions with individuals in crisis. Consent Decree, paragraph 136. It will also describe SPD’s consultations with the CIC to determine what interactions result in data collection, and the types of information to be collected based on the level of interaction. Subject to the CIC’s review and recommendations, and applicable law, SPD gathers and tracks the following data when available:

- a) Date, time and location of the incident;
- b) Subject’s name, age, gender, race, and address;
- c) Whether the subject was armed, and the type of weapon;
- d) Whether the subject is a U.S. military veteran;
- e) Complainant’s name and address;
- f) Name and badge number of the officer on scene;
- g) Whether a supervisor responded to the scene;
- h) Techniques or equipment used;
- i) Any injuries to officers, subject, or others;
- j) Disposition; and
- k) Brief narrative of the event (if not included in any other document).

Objective 4 – Minimize the use of force against individuals in crisis

SPD will continue its work in providing training in verbal tactics with the goal of reducing the use of force against individuals in behavioral or mental health crisis, or who are under the influence of drugs or alcohol, and to direct or refer such individuals to the appropriate services where possible. Consent Decree, paragraph 130

The SPD Force Review Board (“FRB”) and Force Review Unit (“FRU”) will conduct this portion of the audit. By policy, FRB and FRU review all Type II and III uses of force to determine if they were compliant with SPD’s Use of Force Policy. Among other things, FRB and FRU answer the following questions:

- Was the use of force consistent with policy?
- Was the use of force consistent with training and core principles with respect to decision making?
- Was the use of force consistent with training and core principles with respect to de-escalation?

This section will include an aggregate of the FRB/FRU review and findings on all crisis incidents involving a use of force for the year 2020. This analysis will be accomplished through the new reporting and analytics capabilities described in the Type I & II Use of Force Reporting, Review, and Investigation Audit methodologies.

IV. STOPS AND DETENTIONS: Paragraphs 138–144

Generally, SPD will provide aggregate data and information to provide updates of all modes and types of analysis conducted in the assessment reports conducted by the Monitor in Phase II relating to stops, searches, seizures, and detentions. The evaluation will cover the calendar years 2019 and 2020.

Methodology Questions and Data Collected

- The report will describe relevant training content with respect to stops and detentions. The report will also include data drawn from the Data Analytics Platform (DAP) via Cornerstone on the relevant trainings completed by patrol officers.
- SPD Audit, Policy, and Research Section will review the training plans and materials and evaluate the following: Does SPD provide all patrol officers with annual in-service trainings that adequately cover all of the following topics:
 - the importance of police-community contacts for effective policing and community relations and trust;
 - Fourth Amendment and related law; SPD policies, and requirements in this Agreement regarding investigatory stops and detentions;
 - First Amendment and related law in the context of the rights of individuals to verbally dispute officer conduct;
 - legal distinction between social contacts, non-custodial interviews, and investigatory Terry stops;
 - distinction between various police contacts according to the scope and level of police intrusion; and
 - the facts, circumstances, and best practices that should be considered in initiating, conducting, terminating, and expanding an investigatory stop or detention, including when an individual is free to leave, and when an officer will identify him or herself during a contact.
- SPD will report to the Monitor and DOJ on the following outcomes regarding SPD's use of stops and detentions:
 - Number of *Terry* stops
 - Pedestrian
 - Bicycle
 - Motor Vehicle
 - Percentage of *Terry* stops that led to an arrest
 - Percentage of *Terry* stops resulting in citation or warning.
 - Percentage of *Terry* stops that were responsive to a call for service from the public (i.e., 911 call) and percentage resulting from officer on-views

- Demographics of subjects of *Terry* stops
- Case identifier information that identifies each individual incident (location, time of day, and triggering event).
- Decision to search
 - Consent obtained
 - Result of the search
 - Hit rate
- Number of uses of force after a *Terry* stop
 - UoF that resulted in arrest

Separately, SPD's APRS will conduct an audit, verified by the Officer of Inspector General, of stop templates to ensure (1) completeness, and (2) that all stops are supported by the necessary reasonable articulable suspicion. APRS and OIG will use the methodology previously used in Phase II, which was approved by the Parties and Court.

V. SUPERVISION

Generally, SPD will provide aggregate data and information to provide updates of all modes and types of analysis conducted in the assessment reports conducted by the Monitor in Phases I and II relating to supervision.

Methodology Questions and Data Collected

- General: SPD will provide a report to the Monitor and DOJ on the following metrics that address SPD's supervision of patrol officers:
 - During the reporting time period, how many first line supervisors did SPD employ?
 - Percentage of first line supervisors in a permanent role, percentage in a temporary or acting role
 - Number of patrol officers with a consistent, clearly defined supervisor at the rank of sergeant or higher
 - Percentage of new sergeants or acting sergeants who received First Line Supervisor training within 90 days of assuming responsibilities

- What percentage of operations officers did not have a single identified first-line supervisor?
- What percentage of officers did not have supervisors that were assigned the same days and hours as their shift?
- EIS: SPD will provide the Monitor and DOJ with the following:
 - Number of EIS assessments completed
 - Number of assessments that led to a mentoring plan and which risk categories were triggered for each mentoring plan
 - Time taken to complete mentoring plans
 - Regular updates on SPD's innovation strategies and future plans for the EIS program.
 - In how many cases was the chain of command review/investigation of force delayed beyond the requirements of applicable policy?¹
 - Has SPD monitored EIS to determine whether it is meeting its risk management objectives?
 - Do the new EIS threshold levels and triggers better meet SPD's risk management objectives, as compared with 2018?
 - Does the EIS policy contain a mechanism by which the threshold for review is lower after EIS has already been triggered?
 - Has information related to supervisor, precinct, squad and unit trends with respect to EIS been collected, maintained, and retrieved?
 - Has use of force information been collected, maintained, and retrieved at the precinct level?
 - Has information on closed OPA complaints and their dispositions been collected, maintained, and retrieved at the precinct level?
 - Has the number of individual officers who have triggered EIS reviews been collected, maintained, and retrieved at the precinct level?

¹ These latter two questions were also answered as part of the Part II report on Type I/II Use of Force reporting and investigation submitted to the Court on July 31, 2019.

- Has the number of supervisor reviews of officers based on EIS triggers been collected, maintained, and retrieved?
- PRC
 - Are supervisors periodically and appropriately reviewing EIS activity of officers in their chain of command?
 - Are EIS intervention strategies being implemented in a timely matter?
 - Is data regarding interventions being tracked in EIS?
 - What share of supervisors review the progress of assigned intervention strategies as appropriate?

Appendix One: Alphabetical List of Acronyms and Names of Organizations,
Systems, and Processes

APRS: Audit Policy and Research Section

CAD: Computer Aided Dispatch

CI: Crisis Intervention

CIC: Crisis Intervention Committee

CIT: Crisis Intervention Trained

City: City of Seattle

Court: United States District Court for the Western District of Washington

CPC: Community Police Commission

DAP: Data Analytics Platform

EIS: Early Intervention System

FRB: Force Review Board

FRU: Force Review Unit

DOJ: United State Department of Justice

OIG: Office of the Inspector General

OPA: Office of Police Accountability

PRC: Performance Review Committee

SER: Sentinel Event Review

SPD: Seattle Police Department