

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

UNITED STATES OF AMERICA,)	
)	CASE NO.: 1:15-CV-01046
Plaintiff,)	
)	
vs.)	JUDGE SOLOMON OLIVER, JR.
)	
CITY OF CLEVELAND)	<u>MEMORANDUM REGARDING 2016</u>
)	<u>OUTCOME MEASURES</u>
Defendant.)	
)	
)	

I. INTRODUCTION

The Consent Decree (the “Decree,”) requires the Monitoring Team to conduct qualitative and quantitative “outcome assessments” to measure whether the implementation of reforms required by the Decree are resulting in safe, effective, and constitutional policing. Dkt. 7-1 ¶ 367. The Monitoring Team’s First Semiannual Report introduced the importance of the assessments:

[T]he Decree requires that the Monitor assess whether the implementation of the

Consent Decree's reforms is contributing to the necessary outcomes of ensuring safe, effective, and constitutional policing consistent with Cleveland's values. Ultimately, these 'outcome measurements' explore whether implemented changes are having the actual effects across the Cleveland community that they are intended to have. A notable feature of the Cleveland Consent Decree is its express inclusion of a host of specific outcome assessments that the Monitor must evaluate and track over time

Dkt. 65 at 70. As the Monitor explained in its First Memorandum Providing Baseline Assessment Report of June 22, 2016 ("First Baseline Assessment Report"), "[a]ccordingly, the outcome measures, both qualitative and quantitative, aim to gauge, document, and tell the story of reform across the Division and the City of Cleveland over time. To do so, the Monitoring Team must first establish and capture baseline assessments to which future improvements will be measured." Dkt. 73 at 1-2.

This is the second annual update of the Baseline Assessment report, first filed in June 2016. The First Baseline Assessment Report is incorporated and referenced herein specifically as to Part I (Introduction) and Part II (Nature of Data Considered). Dkt. 73 at 1-6. Attached hereto as Exhibit A is a spreadsheet providing a detailed breakdown of all quantitative measures that the Decree requires be assessed over time – indicating whether the numbers can be considered as baselines and, where no numbers are listed, usually summarizing the nature of the deficiencies. Dkt. 7-1 ¶ 367.

There remain challenges in the collection and use of data by the Cleveland Division of Police ("CDP") for managerial purposes. In the coming year, the Monitoring Team will focus more directly on the gaps and work with the leadership at CDP to use the data in a way that helps manage the department, hold people and units accountable and keep processes and systems in motion.

This is the first outcome measures report that can include *comparative data* in any of the outcome measures required by the Consent Decree. The First Baseline Assessment Report, which the Monitoring Team submitted to the Court in late June 2016, included the 2015 baseline measures required by the Consent Decree. Dkt. 73; Dkt. 7-1 ¶ 367. Those measures serve as a baseline reference point for assessing the progress, over time, of the reform efforts instituted by the City and CDP during the Consent Decree to date.

This section describes the work that the Monitoring Team has undertaken with CDP to collect data on many of those same measures for the calendar year 2016. Additionally, consistent with the obligations of Paragraph 363 of the Consent Decree and also described in this report, the Monitoring Team has conducted Community Focus Groups and interviews of arrested detainees during this reporting period. Dkt. 7-1 ¶ 363. As this report also summarizes, a subset of the Monitoring Team conducted a substantial qualitative assessment of a statistically-significant sample of cases from the Internal Affairs Unit. *Id.* That team also began to collect and analyze data on disciplinary cases as required by the Consent Decree. *Id.* Finally, this report also provides an update on CDP's progress in complying with the Decree's requirement that it hire a Data Analysis and Collection Coordinator. Dkt. 7-1 ¶ 257.

Collecting and compiling the data required by the Consent Decree remains a challenge for CDP. Some data remain uncollected or are in the early stages of collection. Delays in the full implementation of the Law Enforcement Record Management System (LERMS) and backlogs in the review of other administrative reviews have contributed to the difficulty. In particular, the slow pace of review of various types of incidents in CDP's IAPro system, the Division's centralized officer performance database, remains an impediment to the Division's ability to use data for real-time supervision, operations, and risk management.

II. SUMMARY OF RELEVANT CONSENT DECREE PROVISIONS

As set forth in Paragraph 367 of the Decree, the Monitoring Team will conduct specific delineated qualitative and quantitative assessments to measure whether the Decree has resulted in constitutional policing. Dkt. 7-1 ¶ 367. Measurements relating to use of force; addressing individuals in crisis; and stop, search and arrest are primary concerns of the Consent Decree. *Id.* Additionally, many policy and training issues in the Department include a requirement for data collection. *Id.*

The specific outcome measures to which the United States and Cleveland agreed in the Consent Decree address a host of areas including: use of force; crisis intervention; stops, searches and arrests; bias-free policing and community engagement; recruitment; officer training; officer assistance and support; supervision; civilian complaints; and internal investigations, and discipline. *Id.* The outcome measures related to these nine areas are broken down into many specific measures and sub-parts. As reported in the First Baseline Measure Report, there are approximately 471 discrete data points on which the Consent Decree requires annual assessment. Dkt. 73.

The Consent Decree, in paragraph 367, identifies the many data points that will be collected, analyzed and compared year to year. Dkt. 7-1 ¶ 367. Each subparagraph describes in detail the topic and sub topics for collection. *Id.* Additionally, it instructs the Monitor to “conduct a reliable comprehensive, and representative survey of the members of the Cleveland community regarding their experiences with and perceptions of the CDP and of public safety.” Dkt. 7-1 ¶ 367. This survey was designed and fielded in the spring of 2016 and will not be repeated until next year. Paragraph 363 requires the Monitor to survey and observe residents and police personnel, and interview arrested detainees, in groups that comprise representative

samples of linguistic representation and demographic category, to capture a baseline. Dkt. 7-1 ¶ 363. The planning for these groups included input and liaising with CDP supervisors and DOJ representatives as required by the Consent Decree. Paragraph 369 of the Decree calls for the Monitor to plan a schedule for compliance checks of these aspects of the Decree. Dkt. 7-1 ¶ 369. Pursuant to this requirement, in this period the Monitor proposed a plan for the quality review of the investigations conducted by the Internal Affairs Unit.

III. DATA COLLECTION PROCESS

Since the First Baseline Assessment Report of June 2016, the Outcome Measures Team of the Monitoring Team has worked closely with many of CDP's subdivisions to create data collection plans, to support compliance with the Consent Decree, and to understand better existing systems and barriers to data collection and use. This report includes all of the measures which were reported in June 2016. Some additional required data collection points remain difficult or impossible to collect at this time.

Data collection efforts since June 2016 have been less onerous for all parties due to a new template for data collection that now is in place, and a strong relationship of cooperation between sub-units of the CDP and the Outcome Measures Team. The Outcome Measures Team remained in close contact with reporting parties throughout the year offering suggestions to improve data collection efforts.

Since the filing of the First Baseline Assessment Report, all reporting parties at the CDP have been aware of the requirement to file an annual report and the assistance provided by the Monitoring Team on tracking measures. The Outcome Measures Team foreshadowed the expectation of reporting in every meeting and expressed the intent to follow the same model for 2016. The Team provided templates in Excel for easy collection and analysis. These templates

were shared in early 2016 for the baseline measures reporting for 2015 and again in early 2017 for this second annual outcome measures report. Each reporting unit was asked to complete and return the template to the Monitoring Team.

The most complicated data comes from the IAPro and Blue Team systems. Data from these systems facilitate the analysis of the Internal Affairs (IA) and the use of force data. The Monitor did not officially request data on use of force or IAPro until April 2017 because it had been aware of a backlog in Blue Team chain of command reviews. In early autumn of 2016, the Monitoring Team noted that there was a backlog in the review and the chain of command sign off of reports in Blue Team. Not only did this raise concerns related to sound management and liability, but also to the anticipated delays this would cause for the required annual reporting of the outcome measures. As of late 2016, there were some 400 cases in backlog dating to March of 2016; approximately 145 of those were use of force cases. Chief Williams and Implementation Coordinator Greg White were advised of the concern and requested to develop a plan to eliminate the backlog. As of the date of this submission, there remain 16 use of force cases that still require review.

As expressed in the First Baseline Assessment Report, there remain infrastructure encumbrances to the collection of some required data. The CDP's data infrastructure continues to be inadequate, duplicative and inconsistent, or rudimentary and confusing. In other places, backlogs and systems inefficiencies interfere with or prevent quality data from being collected. Consequently, some of the data required in the Consent Decree are still not available.

IV. OUTCOME MEASURES

This section highlights each of the key categories of data requested in the Consent Decree and any notable insights and changes from the last report on the data collection effort. The

format (e.g., number and lettering) is directly taken from the Consent Decree. Dkt 7-1 ¶ 367. For example, subsection A, “Use of Force,” below, corresponds to Paragraph 367(a) of the Consent Decree. Dkt 7-1 ¶ 367 (a). To adhere to the Consent Decree’s organizational scheme, this Report deviates somewhat from separate numbering and lettering of sub-parts of its sections. For each measure requested, we explain whether the data were included in the annual review, whether the data were excluded and why, comparisons to the First Baseline Assessment Report, any limitations of the data reported, and next steps where applicable.

A. Use of Force

The information on the Use of Force (UOF) comes primarily from the IAPro system. Officers began entering their use of force reports into Blue Team, the officer input section of IAPro, in 2016. Supervisors in the chain of command review those use of force reports in Blue Team and then forward them along the chain. During the course of the year, the Monitoring Team realized that there were significant numbers of use of force cases in Blue Team that had not passed through the levels of review and were, essentially, in backlog. Failure or inability to react to the content, quality and details of use of force reports in a timely manner can create or contribute to management’s failure to act on problem behavior. The Monitoring Team raised these concerns to Chief Williams and, in the final quarter of calendar year 2016, there was a demonstrated concerted effort to eliminate the backlog and move the cases to completion. The Monitoring Team will continue to work with Department leadership in the next reporting period to create systems and structures to assess the chain of command’s timely review of these cases.

Data collected in 2016 continue to reflect a need for more streamlined data collection processes. As reported in the First Baseline Assessment Report, there is some inconsistency across different data collection sources that makes uniting and coherently reporting the disparate

sources challenging. Dkt. 73 at 7-14. However, progress has been made with regard to missing data, with more cases being entered into the IPro system and with more complete information compared to the baseline data collection

- 1. Number of UOF as compared to arrest, by force type, by district, arrest if any, race, ethnicity, age, gender of the subject; and if indicated at the time force was used, the subject's mental or medical condition, use of drugs or alcohol, or presence of a disability.*

CDP data indicate that there were 318 uses of force in calendar year 2016. Because not all data had been entered into the IPro system as of the date of this Report, the data reflected in this Report are based on only 307 use of force cases. This is compared to 350 uses of force cases in 2015. The majority of individuals to whom force was applied in these incidents were: black (219 subjects in 2016 vs. 259 in 2105); male (223 subjects in 2016 vs. 265 in 2015); and, age 29 or younger (184 subjects in 2016 vs. 198 in 2015).

Data Not Collected/Challenges: Consistent with baseline data for 2015, data for 2016 do not include information on the medical or mental state or presence of drugs or disability of the person on whom force was used. Nor does the use of force reporting process in place uniformly collect information on the medical condition or disability of the person on whom force was used. Although the CDP collected some information, for at least some portion of 2015 and for all of 2016, about whether the subject appeared to be under the influence of drugs, other subject conditions (such as alcohol intoxication) were not yet uniformly collected in 2016. Of the 307 use of force cases in 2016 included in this Report, three subjects were categorized as "known medical condition" with no further classification of the specific medical condition. Likewise, it does not appear that officers have received instruction as to how a subject's conditions should be defined or reflected on force reports. Consequently, it remains impossible to discern, for

example, whether when an officer checks “drugs” on a use of force report, the notation indicates that the subject appeared to be under the influence of drugs during the force incident or whether drugs were found during or after the incident.

CDP also collected information about whether the subjects of force are subsequently arrested: the most frequently listed arrest “type” was “obstructing justice” (370 incidents), which outpaced “violence toward others” (156 incidents), “Cleveland codified ordinance – Part 6” (150 incidents), “violence toward police officers” (105 incidents), “damage to property” (76 incidents), and smaller numbers of incidents for three other categories (“drugs/alcohol,” “crisis intervention,” and “miscellaneous offense”). For the 2016 outcomes, we examined the “other” category in more granular detail and this category now reflects arrest types with fewer than 25 incidents each. Of note in comparing 2015 to 2016 data, the categories of arrest types that have increased significantly are “violence toward police officer”, “obstructing justice”, “crisis intervention”, and “Cleveland codified ordinance – Part 6”. However, as with the 2015 baseline data, it remains unclear as to why “crisis intervention” is an arrest type rather than a feature of the subject or the incident itself.

Next Steps: The Division will need to ensure that IAPro and its modified reporting process is uniformly capturing information on the potential disability, mental state, and use of drugs or alcohol of subjects, as well as with respect to “arrest type” (i.e., charge type) where a subject involved in a force incident was arrested. The use of a revised Use of Force reporting form and system should substantially assist in that regard.

2. *Number of officers and members of the public injured; number of force complaints and disposition of complaints; force type, geographic area and demographic information as available from complainant.*

CDP reports that 192 officers were injured in the context of force incidents that occurred in calendar year 2016 (vs. 134 in 2015). Thus, between 2015 and 2016 there was a 43% increase in officer injuries. In 2016, 69 members of the public were injured in the context of force incidents (vs. 77¹ in 2015) — a 10% decrease in public injuries. It is not readily clear, from these aggregate numbers alone, whether the increase in injuries is due to better or routine reporting, higher levels of subject resistance across a broader volume of cases, or some other explanation.

Data Not Collected/Challenges: None.

Next steps: With respect to the data on civilian complaints, there remain data limitations due in large part to the collection and analysis of filings at the Office of Professional Standards (“OPS”). Because many community-initiated complaints are reported to the OPS directly, and we remain unsure about the number and type of cases of UOF complaints that are filed with and investigated by OPS, we cannot conclusively report that these data are complete. Members of the Monitoring Team continue to work with OPS on improving its structures and performance.

3. *Number of ECW (Taser) applications*

CDP’s IAPro database reflects 36 applications of the Taser in 2016 (vs. 44 in 2015). Thus, there was an 18% decrease in Taser usage.

Data Not Collected/Challenges: Data regarding ECW use relative to other weapon/force instruments is not clearly delineated.

¹ Please note that this number was misreported in the 2015 baseline report as 112 public injuries.

Next steps: A clearer delineation of force types is forthcoming pursuant to the requirements of the Consent Decree.

4. Number of uses of force found to violate policy, broken down by force type, geographic area, type of arrest, actual or perceived race, ethnicity, age and gender of the subject; and, if indicated at the time force was used, the subject's mental or medical condition, use of drugs or alcohol, or the presence of a disability.

In 2016, there were 16 use of force cases that the Division found to have violated policy. This is compared to 9 cases in 2015. These sixteen 2016 cases involved 15 officers and 11 subjects relative to 9 officers and 8 subjects in 2015. Of the 11 subjects in 2016: six were black (same as in 2015); two were white (vs. one in 2015); one was Hispanic (same as in 2015); and, two were of unknown races (vs. 0 in 2015). All were male (11 subjects) (as were the eight subjects in 2015); three were young (age 29 or younger) (same as in 2015); four were between the ages of 30 and 35 (vs. two in 2015); two were over the age of 40 (same as in 2015); and, two were of unknown ages (vs. one in 2015). Additionally, of these 11 subjects; four were under the influence of alcohol; two were under the influence of drugs; three were unimpaired; and, two had unknown medical conditions. Because data on the condition of subjects was not collected in 2015, it is not possible to provide a comparison regarding that category.

Data Not Collected/Challenges: The issues relating to uniformly collecting information about a subject's mental/medical condition, use of drugs or alcohol, and disability discussed above also continue to apply to this category.

Next steps: There remains a lack of uniform collection of data about medical or mental health conditions and determining the link to arrest data is difficult. With forthcoming changes in Computer Aided Dispatch ("CAD") and LERMS, these issues should be resolved by the end of the year.

5. *Number of officers who have more than one instance of violation of the use of force policy.*

In 2016, one officer was found to have violated the use of force policy more than once. Going forward, and especially in light of the fact that no officer fit this criterion for 2015, coupled with the Consent Decree's requirements regarding the Officer Intervention Program ("OIP"), Dkt. 7-1 ¶¶ 326–36, the Monitoring Team and Parties will need to clarify whether this outcome measure should potentially reflect more than multiple policy violations in a calendar year and instead reflect multiple policy violations in a different time period.

Data Not Collected/Challenges: None.

Next Steps: The Division will need to ensure that it has a system or process for cumulatively capturing Use of Force violations across time.

6. *Number of force reviews or investigations indicating a policy, training or tactical deficiency.*

At least as of mid-Spring 2016, there were 16 cases in which the use of force was found by internal CDP review to be related to a violation of policy, training, or tactics. This is compared to nine cases in 2015. Of the 2016 cases, 11 involved policy violations (vs. five in 2015), while five involved tactical deficiencies (vs. two in 2015). There were no training deficiencies in 2016 compared to two in 2015. Additionally, of the 11 policy violation cases, five appear to have been related to the failure to notify or request supervisors in a timely manner; two related to adherence to the Use of Less Lethal Force (ULLF) and wearable camera policy; another two to stop and frisk and untruthful reports; one pertained to failure to report an incident; and one related to the policy violation of a late submission of forms.

Data Not Collected/Challenges: None.

Next Steps: None.

7. *Number of use of force administrative investigations that are returned for lack of completeness.*

Data Not Collected/Challenges: In both 2015 and 2016, it has not been possible to distinguish between cases that were returned for substantive reasons (e.g., for being incomplete with regard to the material details of the incident or poorly written) and cases that were returned for technical reasons (e.g., missing signature or incomplete form). Consequently, there is not yet a baseline, and no update that can be provided.

Next Steps: The Division will need to ensure that it has a system or process for classifying deficiencies in use of force administrative investigations.

B. Addressing Individuals In Crisis

In 2016, the data reported are drawn from two main sources – the CAD of the CDP and the report prepared by the Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board that also relies heavily on the CAD. Data from the CAD is collected by each policing district and reported to the Mental Health Response Advisory Committee (“MHRAC”). Members of the Division and the Monitoring Team have worked closely with MHRAC and community stakeholders in drafting policy and training relative to responding to individuals in crisis. In this process, they have paid close attention to the reporting requirements of the Consent Decree and have been thoughtful about methods of capturing data that do not create perverse incentives to quality response to individuals in crisis.

1. *Number of calls for service and incidents with individuals in crisis, broken down by whether specialized Crisis Intervention Team (CIT) officers responded to the calls and the rate of which the individuals in crisis are redirected to the health care system.*

2. *The number of police interactions where force was used on individuals in crisis, including the type of force used; the reason for the interaction, i.e., suspected criminal conduct or a call for assistance; the threat to public safety, including whether the person was armed and if so, with what; a description of the type of resistance offered, if any; and a description of any attempts at de-escalation.*

Data Not Collected/Challenges: For both of these categories, the quality of the data reported in 2016 is an improvement from 2015. However, the reported numbers continue to be lower than the actual numbers and likely represent an underreporting of the actual number of calls for service with individuals in crisis. Additionally, it is impossible to make an “apples-to-apples” comparison between 2015 and 2016 data as they reflect different calendar year start and end dates. For instance, in 2016 the ADAMHS Board report noted that there were 789 forms completed (which is 10% of total possible mental health calls) and this data was collected from October 1, 2015 through October 31, 2016. The First Baseline Assessment Report observed that the ADAMHS Board report noted that there were 1048 forms completed (which is 10% of total possible mental health calls); however, these data were collected from January 1, 2014 through September 30, 2015.

The data form that is supposed to be completed by officers has a low compliance rate at the current time. This is acknowledged by all stakeholders and is not a criticism, given that active work is underway on upgrades to CAD that will eliminate the need for manual, paper-based crisis incident reporting. The Division’s current lack of systems integration also explains the inability to connect crisis calls and UOF. Those cases are, likewise, likely being underreported.

Calls in actuality may differ on scene than as reported in CAD. At the present time, there is no expectation that officers report back to the communications center new information garnered by the on scene response. For example, if an officer, upon arriving at the scene to

which the officer was dispatched without being told there is a person in crisis faces such a circumstance, the “record” at CAD is not updated to reflect that the call in fact involved a person in crisis. The CAD data therefore only reflect calls for service with individuals in crisis if that is the way the call is dispatched and is not modified based on on-scene experience.

Because there are no specially identified CIT officers, the responses are not broken down by officer as required by the Decree.

Next steps: Full integration of CAD with both LERMS and the UOF reporting system is required to accurately capture the totality of the responses to individuals in crisis. Additionally, more regular and frequent integration and analysis of the CAD data would be of use to CDP CIT and the ADAMSH Board. The completion of the technological integration, new policies, training and roll out as well as the selection of specialized CIT Officers should permit accurate and reliable reporting moving forward. Additionally a specified data collection period should be designated that reflects a full calendar year in all reports of CIT data.

C. Stop, Search, and Arrest Data

In 2015, no data was reported in this category. In 2016, CDP still did not collect data on stops, searches, and arrests pursuant to such activity. Accordingly, this Report cannot include any comparison to last year nor can new data be reported. The CDP reports that with upgrades anticipated to the CAD system there will be an ability to count stops, searches and arrests pursuant to the stops in the near future. This count is unlikely to include retrospective activity and as such will not be available for a full calendar year until 2018. Once the system is upgraded in 2017, we will work with the Division to ensure full capacity in 2018.

D. Bias-Free Policing and Community Engagement

Data in this category was provided by the Division mostly through District Commanders. Homicide data was received from the homicide unit and OPS. This section also includes reference to the biennial survey and accompanying outreach via focus groups and interviews discussed in greater detail below. The biennial survey will not be conducted again until 2018.

Community engagement is an area that requires attention from the Division leadership and District Commanders. The array and number of community partnerships and engagements is always difficult to track and count. For example, officers on foot or bicycle patrol may have countless self-initiated positive encounters with the public that they do not record. Indeed officers in zone cars attending neighborhood events or even those who speak with residents while on patrol may also have similar positive, self-initiated encounters that are not documented.

1. *Number of community partnerships, number of community partnerships with youth, variety of community partnerships.*

Data Not Collected/Challenges: The Outcome Measures Team has received detailed information about the number of community partnerships from four of the Division's five districts to date. In 2015, only three of the five districts provided the requisite data, which prevented the Team from determining a definitive baseline regarding community partnerships. Nevertheless, it should be noted that in 2016 the police districts collectively reported 66 community partnerships as compared to 57 partnerships in 2015. The Monitoring Team suspects that the overall numbers for CDP are likely larger than the aggregate of the numbers from the individual districts, particularly given not all districts reported their data.

Next Steps: The Division needs to create a more sophisticated and robust system for capturing these data at both the district and Division level. For example, officers on non-district

assignments may be engaged in formal community engagement efforts, yet this information is not captured and is likely being underreported.

2. Homicide Clearance rate

In 2016, CDP's homicide clearance rate was 51 percent, as compared to 56 percent in 2015. Of 139 homicides in Cleveland in 2016, 71 were solved and 68 were unsolved. This represents a 21% increase in the rate of unsolved homicides relative to 2015.

Data Not Collected/Challenges: None.

Next Steps: None.

3. Number of civilian complaints regarding police services related to discrimination and their disposition

Data Not Collected/Challenges: In 2015 we were unable to report this number due to the inadequate and rudimentary tracking system at OPS. At the time the First Baseline Assessment Report was submitted, we found evidence that in 2015 there were 294 complaints received at OPS, and 86% of cases had not completed the investigatory process. For 2016, we have found evidence that there were 263 complaints received at OPS, and 65% of cases have not completed the investigatory process to date. It is important to note that these data do not specifically account for complaints related to alleged discriminatory police misconduct. Moreover, the data reported by OPS during the calendar years 2015 and 2016 has been inaccurate and unreliable. As a result, the Monitoring Team is unable to verify the reliability of the OPS data.

Next Steps: We will continue to work with OPS and CDP to get a more accurate and detailed understanding of how the 2015 baseline numbers compare to the 2016 data.

4. Biennial community survey

This survey was conducted in 2016 and will not be repeated until 2018.

E. Recruitment Measures

These data are collected from the City's Civil Service Commission (CSC) and augmented by the Department of Public Safety (DPS). Once the exam is administered and candidates are selected, the CSC relies on data from the Recruitment Division of the DPS. The recruitment and exam process changed in 2016 to an online registration, application and testing system called Neogov. NeoGov is an online software platform designed for the government and public sector that offers automated screening of candidates to facilitate the hiring process. The final recruit class has not been selected so there is data missing.

1. The number of qualified recruits; recruits by race and gender

Since the filing of the First Baseline Assessment Report, there have been two new classes of recruits – 1) class number 136 of new recruits, and 2) class number 137 of lateral recruits. There has also been a new test using the NeoGov online registration, application, and test, which will result in the formulation of class 138. As with the 2015 baseline report, the Outcomes Measurement Team considered “qualified” recruits to be those who were “hired” and those whose names were certified and vetted for the Academy as indicated by the CSC. Using this general definition, we can only report on class numbers 136 and 137 and are unable to report on the number of qualified recruits for class 138 as those decisions have not yet been made.

To date, the number of qualified recruits reported in 2016 was 151 and the total number of applicants in 2016 was 1,459. This number represents a 3% increase in applicants as the number of qualified recruits reported in 2015 was 191 and the total number of applicants was 1,410. However, it is also important to note that there was a 21% decrease in the number of qualified applicants as the number of applicants who were not qualified in 2016 was 1,308 as compared to 1,219 in 2015.

Of the 1,459 applicants in 2016: 693 applicants were white; 518 were black; 11 were Asian; 148 were identified as Hispanic; and the remainder were classified in other categories. A total of 1,163 applicants identified their gender as male, with 296 identifying their gender as female. Based on these demographic results, the largest increase in applicants was seen among black applicants, with a 27% increase in the number of black applicants in 2016 as compared to 2015.

Data Not Collected/Challenges: None

Next Steps: Recruitment data needs to be collected for class 138.

2. Summary of recruitment activities, including leveraging community partnerships

In 2015, as noted in the First Baseline Assessment Report, there were no data reported in this area as the DPS recruitment team was not collecting these data. Dkt. 73 at 20. For 2016, the recruitment efforts included a significant amount of outreach through a number of outlets. The Division's Recruitment Team utilized social media, electronic media and creative use of posters, billboards and TV and radio advertisements. Specifically, there were nine billboard advertisements yielding 538,043 impressions, 20 posters placed on regional transit buses, and 24 posters placed in regional transit station. There were 50,000 mobile/digital banner ads placed, in addition to 60 blog and city website posts, eight Facebook/twitter/Instagram posts, and four radio station advertisements.

The Recruitment Team also established partnerships with 17 local organizations to facilitate recruitment. Eight of these partnerships are directed towards people of all races, while seven specifically focus on blacks and two on Hispanics.

Based on the NeoGov data on applicants, 40% heard about the job through the city website, 26% from a friend, 19% from searching online (e.g., Google search), and the remaining from other means.

Data Not Collected/Challenges: None

Next Steps: None

3. Number and race, ethnicity, gender of applicants who failed the initial screening and the reasons for the failure

In 2016, 1,308 applicants were reported to have failed the initial screening. Failures by race were as follows: white (594), black (492), Asian (9), Hispanic (133), and other (80). The largest categories for reasons for failure were related to deficiencies in the application (343) (e.g., failed to include personal history) and test failure (223). Of the 1,308 failures, 1,032 were males.

Data Not Collected/Challenges: Several 2016 categories are difficult to compare to 2015 baseline data. For instance, in 2016, there was a new category capturing the “number of applicants whose applications were rejected” (339 applicants). This category did not exist in 2015, although both 2015 and 2016 include a category called “did not submit their personal history statement,” which for 2015 included 240 applicants and in 2016 only four applicants. This large differential suggests that there might be overlap in these two categories. The same is true for other categories of failures.

Next Steps: The CSC needs to ensure consistency in reasons for failure categories going forward pursuant to the requirements of the Consent Decree. Dkt. 7-1 ¶ 367.

4. *Number of applicants with fluency in languages other than English, list of languages spoken by recruits*

Data Not Collected/Challenges: There are no comparison data for this category as these data were not collected and therefore not reported in the First Baseline Assessment Report. These data were not collected in 2016 either.

Next Steps: The CSC needs to collect the data on language proficiency pursuant to the requirements of the Consent Decree.

5. *Lateral candidates by race, gender ethnicity, disability; list of lateral candidates*

There were 210 lateral candidates considered in 2016. Lateral candidates by race was as follows: white (116), black (57), Asian (1), Hispanic (18), other (18).

Data Not Collected/Challenges: None.

Next Steps: None.

6. *Number of applicants with at least two years of college, a college degree, or at least two years of military service.*

There were 802 individuals with two or more years of college and 247 applicants had a college degree.

Data Not Collected/Challenges: We have not reported previously on the years of military service because this data is not collected by the CSC or the CDP. However, the Monitoring Team can report on the number of applicants who have demonstrated they have at least 180 days of active military service and/or if they are disabled veterans. In 2016, there were 89 applicants with 180-plus days of military experience and two disabled veterans.

Next Steps: The CSC needs to collect the data on military experience pursuant to the requirements of the Consent Decree. Dkt. 7-1 ¶ 367 (e)(6).

7. Pass/fail rate for applicants by race, ethnicity and gender

The Monitoring Team calculated the pass/fail rate for 2015 as well as for 2016. These data are reliant on the accuracy of the underlying data as reported by the CSC.

In 2016, the pass rate for whites was 51.3% (vs. 46.0% in 2015), for blacks 59.6% (vs. 69.2% in 2015), for Hispanics 89.0% (vs. 89.5% in 2015), and for Asians 99.3% (vs. 99.0% in 2015), and for all other categories 97.8% (vs. 98.7% in 2015)

Data Not Collected/Challenges: None.

Next Steps: None.

8. Average length of time to move applicants through each phase

Data Not Collected/Challenges: In both 2015 and 2016, data are not available to determine how long each phase of the process takes. Many aspects of the phases are overlapping in time.

Next Steps: The City and/or Division will need to develop a system/process to accurately capture the length of time to move applicants through each phase of the process.

9. Final composition of recruit class by race, ethnicity, and gender

Of the members of the recruit class in 2016 who did not separate from the class at some point during the year, 38 class members were white, two were Hispanic/Latino, 10 were black, and one was Asian. The class consisted of 43 individuals identifying their gender as male and 19 individuals identifying their gender as female.

Data Not Collected/Challenges: The Outcomes Measurement Team is unable to report on self-identified disability except for disabled veterans, as such information is either not collected or not readily available.

Next Steps: The final composition for class 138 based on the 2016 recruitment cycle needs to be included in future reports. The City and/or Division need to ensure a mechanism for ensuring that recruits identify any disability status.

F. Training Measures

The Outcomes Measurement Team has had frequent and regular contact with the CDP's Compliance Bureau and Training Section pursuant to data collection efforts related to the Consent Decree. It was anticipated that training on new policies would begin in earnest during 2016 but in fact, much has been delayed until the second half of 2017. We have participated in numerous meetings and discussions around the content of training and the alignment of efforts with requirements of the Consent Decree – specifically tracking training and evaluation of content and instructors. By the autumn of 2017, the CDP's training unit anticipates using a learning management system to maintain, record and report on the training by officer, hours and subject – all key training measures outlined in the Consent Decree. With assistance from the Monitoring Team, the training unit has finalized an evaluation tool for students to assess the quality of the instructor and the relevance, utility, and quality of the training modules.

G. Officer Assistance and Support Efforts

For 2016, 209 officers used assistance and support services.

Data Not Collected/Challenges: The CDP's Employee Assistance Program (EAP) unit began using an evaluation tool to capture officers' experiences with and opinions on the program in the first quarter of 2017. Because of the sensitivity associated with this unit and the need for confidentiality, much work was done to create a tool that was informative for the unit and would not compromise officer/user privacy.

Next Steps: The CDP needs to continue to roll out the evaluation tool pursuant to the requirements of the Consent Decree, which requires survey analysis of adequacy of officer assistance and support services. Dkt. 7-1 ¶ 367. .

H. Supervision Measurements

To date there are no processes in place to measure supervision.

Data Not Collected/Challenges: There remain no clear methods to identify, track, and count officer violations and performance problems, nor the supervisors' response to those problems. Some violations are currently being entered into Blue Team, but these entries do not constitute the universe of issues.

Next Steps: The Division will need to establish a system/process for capturing how supervision is conducted in the Division.

I. Civilian Complaints

The vast majority of civilian complaints are made at the OPS. Only those complaints that could be criminal in nature are investigated by the Division's IA Unit. Due to the unreliability of the count in last year's report based on the then state of the investigations at OPS, there is no baseline to which to compare this year's data. Similarly, the processing of cases at OPS has been a main focus of other members of the Monitoring Team this year. Where there are data for this section it typically is based on sources within the Division or the City's Department of Law, and it is reported below and in the Appendix. The critical next step for each of the outcome measures noted below is for the Monitoring Team to work closely with OPS and the Division to assist in developing a system to more appropriately capture and investigate citizen complaints.

1. *Number of complaints, and whether any increase or decrease in this number appears related to access to the complaint process*

OPS reports that there were 263 resident complaints about police conduct in calendar year 2016. This is compared to 294 complaints in 2015.

Data Not Collected/Challenges: The lack of defined processes and protocols within OPS makes gauging the reliability of the overall complaint numbers challenging.

2. *Number of sustained, exonerated, unfounded, not sustained, and administratively dismissed complaints by type of complaint*

Data Not Collected/Challenges: The data reported are incomplete. Only 93 of the 263 cases from 2016 have been completed and received dispositions as of the submission of this Report. Sixty cases went to the Police Review Board (PRB) in 2016. Of those 60, only seven were forwarded to the Chief for review and discipline.

3. *Number of complaint allegations supported by a preponderance of the evidence*

Data Not Collected/Challenges: The data reported are incomplete. In any event, it is not readily apparent that the “preponderance of evidence” standard was rigorously applied by OPS or PRB during 2016 or that, even if it was, OPS investigative files are sufficiently thorough and complete so as to enable a satisfactory qualitative review of the investigations to determine if the application of the standard by OPS or PRB is appropriate.

4. *Average length of time to complete investigations by complaint type*

Data Not Collected/Challenges: The available data reported are incomplete.

5. *Number of officers who were subjects of multiple complaints or who had repeated instances of sustained complaints*

Data Not Collected/Challenges: Here, too, the available data reported are incomplete.

6. *Arrests of officers for on- and off-duty conduct*

For 2016, CDP records indicate that 11 officers were arrested in connection with off-duty conduct. Two officers were arrested in connection with on-duty conduct.

Data Not Collected/Challenges: None.

Next Steps: CDP and the City need to ensure that information collected about arrests of officers is adequately logged and reflected in IAPro.

7. *Criminal prosecutions of officers for on-or off-duty conduct*

Ten officers were prosecuted in connection with off-duty conduct. Two officers were prosecuted in connection with on-duty conduct. One officer who was arrested in relation to off-duty conduct was not prosecuted.

Data Not Collected/Challenges: None.

Next Steps: None.

8. *Other than vehicle accidents not involving a pursuit, number and nature of civil suits against the City or CDP officers for work related conduct, and the amount of judgments against or settlements resulting from those civil suits*

Data Not Collected/Challenges: There are twelve cases logged that represent large civil suits. Of these cases, nine are not yet settled; therefore, the settlement value in this Report is incomplete. However, we can report now on the complete 2015 data, which was unavailable at the time of the First Baseline Assessment Report. Of the eight cases logged in 2015, all but one has been settled with judgments, totalling to date \$20,136.82.

Next Steps: The Monitoring Team will be continuing to work with the CDP, the City, and in particular the City's Law Department to collect the data necessary.

V. QUALITATIVE REVIEWS

The Consent Decree requires that the Monitoring Team conduct a qualitative review of previous investigations conducted by a number of administrative units. Dkt. 7-1 ¶ 367. We began this review with cases investigated by IA in 2015 as the baseline. The Monitoring Team's review commenced in the autumn of 2016 and included several members of the Team with extensive experience in Internal Affairs, the investigation of citizen complaints, and legal issues.

The team members selected a random sample of 2015 cases from IA, oversampling those related to UOF (n=45, including five test cases done to assess the appropriateness of the tool). The numbers reported exceeded 45 as some cases investigated involved multiple accused employees. An assessment tool was created in Qualtrics and was tested using five cases to be reviewed by the designated team members. Subsequent to that testing and review, the tool was refined and finalized so that the assessment process could be fully accomplished.

In addition to the provisions set out in the Consent Decree, the Monitoring Team members considered generally accepted law enforcement practices in reviewing the sampling of complaints provided. Such standards included, but were not necessarily limited to the following suggested guidelines.²

Of the 45 files reviewed, there was one that was devoid of any materials. The reviewers assessed 44% of the investigations as good or very good (33% good and 11% very good). Thirty-three percent of the remaining files were fair and 20% were deemed poor. Further review

² See U.S. DEPARTMENT OF JUSTICE, COMMUNITY ORIENTED POLICING SERVICES (COPS) OFFICE, STANDARDS AND GUIDELINES FOR INTERNAL AFFAIRS: RECOMMENDATIONS FROM A COMMUNITY OF PRACTICE 36-37 (2003) <https://ric-zai-inc.com/Publications/cops-pl164-pub.pdf>; CHIEF BEAU THURNAUER, BUREAU OF JUSTICE ASSISTANCE AND INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, INTERNAL AFFAIRS: A STRATEGY FOR SMALLER DEPARTMENTS, <http://www.theiacp.org/portals/0/pdfs/bp-internalaffairs.pdf>.

of the assessment tool suggested there needs to be universal improvements to the record keeping and the content of the files. We found there were significant pieces of data missing from the investigative files and assessors were unable to determine whether the files were transmitted with the data inadvertently not included, or whether the data never existed. For example, reviewers could not properly assess cases involving use of force in nine out of 54 cases because of missing information. The quality of investigations also seemed to be hampered by inadequate equipment, training on the use of the equipment, standardization of process, format and form, and general training and adherence to commonly accepted principles of internal investigations.

A more comprehensive study of the qualitative study can be found in the Monitoring Team's Third Semiannual Report. Dkt. 135 at 42-47.

VI. DATA COLLECTION AND ANALYSIS COORDINATOR

As required in Paragraph 257 of the Consent Decree, the Division is required to “designate an individual or individuals as the ‘Data Collection Analysis Coordinator’.” Dkt. 7-1 ¶ 257. The duties and responsibilities of this position are detailed in Paragraphs 258 – 263 of the Decree. Dkt. 7-1 ¶ 258-63. The City has found it challenging to recruit and hire one individual to serve in this position. As a backstop, the City issued a request for proposals and hired a team from Case Western University's Begun Center to commence with internal data collection and review. The Outcomes Measurement Team met with the Case Western team leader, Dan Flannery, a few times and shared insights and lessons about the state of data and data collection at the CDP. Consistent with the Second-Year Monitoring Plan, the Outcomes Team and the team from Case Western, along with members of the Division and representatives from the City, began monthly meetings in the second quarter of calendar year 2017. Dkt. 120-1 at 24. These

meetings are designed to review the specific paragraphs (257-268) in the Consent Decree that govern the activity and expectations for this role. Dkt. 7-1 ¶ 267-268. It is important to the Monitoring Team that the parties work to minimize redundancy and to maximize support and technical assistance provided to CDP as the Case Western team works to track, store, analyze and use data in a more comprehensive and integrated manner. The Case Western team has prepared a draft two-year plan for the collection, cleaning, and analysis of data that remains in a process of revision based on review and comment by the Department of Justice and the Monitoring Team. They also have begun to develop a plan for building capacity for the use of the data.

VII. CONCLUSION

This purpose of this memorandum is to summarize those outcome measures required by the Consent Decree that currently have sufficient data in 2016, compared to the baseline in 2015 data. This filing also identifies what other areas will require work and focus in order to have data that can serve as benchmark data going forward. (Exhibit A provides a detailed breakdown of all quantitative measures that the Decree requires be assessed over time – indicating whether the numbers can be considered as baselines and, where no numbers are listed, usually summarizing the nature of the deficiencies.) In addition, this Report summarizes the other evaluation components of the Consent Decree that have been completed in 2016, such as focus groups and interviews of arrested detainees, as well as a qualitative review of Internal Affairs Unit and disciplinary cases. Finally, it updates the Court on the CDP's progress in hiring a Data Analysis and Collection Coordinator.

The Monitoring Team will continue to evaluate and update the Court, and public, on all outcome measures at least yearly (or, in the case of the community survey, once every two

years) to assess the nature of progress over time in translating various reforms of the Consent Decree into real-world reform, effective law enforcement, and constitutional policing across Cleveland's diverse communities.

Respectfully submitted,

/s/ Matthew Barge

MATTHEW BARGE
Monitor
234 5th Avenue, Suite 314
New York, New York 10001
Tel: (202) 257-5111
Email: matthewbarge@parc.info

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2017, I served the foregoing document entitled Memorandum Regarding 2016 Outcome Measures via the court's ECF system to all counsel of record.

/s/ Matthew Barge
MATTHEW BARGE