

APPENDIX

Warren Police Department

Settlement Agreement Compliance Chart for Calendar Year 2018

Section II. Use of Force Policies and Practices

1. The City shall maintain use of force 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.

Status	Substantial compliance
Analysis	As noted in previous compliance letters, Warren Police Department’s (WPD) current, finalized force policies comply with the terms of the Settlement Agreement (Agreement). During the two-year, sustained-compliance period of the Agreement, WPD continued to review its use-of-force policies at least semi-annually, ensuring continued compliance with applicable laws and nationally accepted practices. In July and December 2018, WPD reviewed its use-of-force policies, noting that each policy was consistent with the Constitution and comported with best police practices.
Technical Assistance	We recommend that WPD continue to assess and update its use-of-force policies as case law and national best practice continue to develop.

2. 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.

Status	Substantial compliance
Analysis	<p>As noted above, WPD’s use-of-force policies currently comply with the requirements of the Agreement.</p> <p>WPD has identified a few areas in its use-of-force policies that it intends to assess in 2019. First, WPD wants to address an officer safety issue that it identified during its review of use-of-force incident in 2018. (See RR 2018-082, involving officer reaching into parked vehicle removing driver’s keys.) WPD also intends to provide clearer guidance to officers regarding interactions with subjects in mental health crisis. (See RR 2018-52; RR 2018-60; RR 2018-72; and RR 2018-85.) WPD intends to incorporate guidance from a 2017 6th Circuit case (See <i>Estate of Corey Hill v. Christopher Miracle</i>, 853 F.3d 306 (6th Cir. 2017)) regarding how to assess objective reasonableness under situations involving medical emergencies where there is no crime.</p>
Technical Assistance	<p>We recommend that WPD continue to assess and update its use-of-force policies as case law and national best practice continue to develop.</p> <p>We also recommend that WPD carefully assess recent case law before revising its use-of-force policy, regarding guidance on interacting with subjects suffering with mental illness.</p>

- 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.

Status	Substantial compliance
Analysis	<p>WPD issues the collapsible baton—sometimes called an ASP—and oleoresin capsicum (OC) spray to all of its officers and issues Electronic Control Weapons (ECWs) to 50 of its 70 officers. WPD has reviewed its policies on its intermediate force weapons and has determined the policies comport with current case law and professional standards. We agree.</p> <p>During its annual in-service training in September and October, WPD retrained its officers on all use-of-force policies, including appropriately using assigned intermediate weapons. WPD also incorporated scenario-based training, stressing de-escalation tactics and using intermediate weapons, when appropriate. WPD therefore remains in substantial compliance with this Agreement provision.</p>
Technical Assistance	We recommend that WPD continue to incorporate scenario-based training that its Training Committee and Street Crime Unit identify, using Warren-specific incidents to underscore the importance of using de-escalation tactics during encounters with civilians.

Section III. Evaluation, Documentation, and Review of Uses of Force

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.

Status	Substantial compliance
Analysis	<p>DOJ evaluated all 90 “response to resistance” (i.e., use-of-force) reports generated by WPD officers in calendar year 2018. WPD requires its officers to document each incident in its Blue Team software. In each use-of-force report, we note continued improvement in report writing. Officers’ narratives in these reports are generally thorough. Officers avoid using boilerplate language and adequately describe the levels of force used.</p> <p>Officers generally completed use-of-force reports with all the requisite information, including a description of events preceding the use of force; a description of the care provided afterward; and whether officers had restrained subjects on whom they used force.</p>

	<p>We identified one case in which an officer did not provide an adequate narrative. In this instance, we note that the officers' chain of command (i.e., Field Supervisor, Turn Commander, or Captain) identified the deficiencies and required the officer to supplement his Blue Team entry. (See RR 2018-02.)</p> <p>While we are generally pleased with the quality of officers' uses-of-force reports, we note several instances in which officers or supervisors did not timely submit investigations to Division Commanders for review (i.e., RR 2018-25; RR 2018-38; RR 2018-55; RR 2018-68; and RR 2018-75). Although these delays did not affect Division Commanders' ability to come to appropriate conclusions about whether officers' uses of force complied with policy, we recommend that WPD ensure that Turn Commanders submit their use-of-force reviews to Division Commanders within 72 hours, unless a Turn Commander seeks a written extension to the 72-hour deadline.</p> <p>WPD remains in substantial compliance with this provision of the Agreement.</p>
<p>Technical Assistance</p>	<p>We commend WPD's chain of command for scrutinizing officers' narratives and supervisory reviews, and we commend WPD's Division Commanders for identifying and addressing Turn Commanders who have consistently failed to submit investigations in a timely manner.</p> <p>We recommend that WPD continue to monitor closely those Turn Commanders who have failed to meet investigative deadlines. WPD should ensure that Division Commanders counsel and, if necessary, discipline the Turn Commanders or supervisors who fail to adhere to use-of-force-reporting deadlines.</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.

<p>Status</p>	<p>Substantial compliance</p>
<p>Analysis</p>	<p>As noted in our previous monitoring reports, WPD officers consistently notify their immediate supervisors after they have used force against a subject. In addition, supervisors have responded promptly to the scene to fulfill their obligations under this paragraph. Supervisors consistently examined and interviewed subjects, identified and interviewed witnesses, and assessed whether subjects involved in a use of force required medical attention. WPD continued to meet these performance standards in nearly every use-of-force incident in this review period.</p> <p>We note however that there was an incident during this reporting period in which</p>

	<p>an officer did not clearly notify his immediate supervisor following a use of force. (See RR 2018-80.) WPD reviewed this incident and ultimately concluded that the officer did not fail to fulfill his notification obligation under the use-of-force policy. WPD found that the reporting confusion occurred because of a miscommunication between the officer and his first-line supervisor. Even though WPD concluded that this miscommunication was not a policy violation, it counseled the officer for his communication failure. This was an effective resolution to the anomalous failure to meet the reporting requirement in this review period.</p> <p>Accordingly, WPD remains in substantial compliance with this provision of the Agreement.</p>
Technical Assistance	<p>WPD should continue to monitor its Blue Team entries, ensuring that officers report all use-of-force incidents and that Field Supervisors promptly respond to the scene.</p>

3. 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.

Status	Substantial compliance
Analysis	<p>In 2018, WPD supervisors responded to and reviewed 90 use-of-force incidents (up from last year’s total of 68). In each incident, a supervisor assessed the officer’s actions and determined whether the force used by the officer complied with WPD’s policies (e.g., Use of Force; ECW; Weapons; etc.) and whether the officer’s actions were objectively reasonable under the standards articulated in <i>Graham v. Connor</i>, 490 U.S. 386 (1989), and its progeny.</p> <p>In our assessment of these use-of-force reports and their chain-of-command reviews, we generally agreed with the supervisors’ conclusions regarding compliance with policy and adherence to <i>Graham</i>. We note that some supervisory reviews were not as thorough as others, and some included only a superficial discussion of the <i>Graham</i> factors (i.e., severity of the crime at issue, whether the subject poses and immediate threat to the safety of officers or others, and whether the subject is actively resisting or attempting to evade arrest by flight). WPD caught most of these issues during the chain-of-command reviews, and, as noted above, we generally found that supervisors arrived at the right conclusion regarding the appropriateness of force.</p> <p>Because WPD ultimately caught deficiencies in the supervisory force reviews, the variable quality of the reviews does not take WPD out of compliance with this provision of the Agreement. We have noted our concerns to WPD and provided</p>

	<p>suggestions for improvement. During the past year, DOJ and its police practices expert spoke with WPD officials, identifying and discussing several deficient investigative reviews. We expect that WPD will continue to implement remedial measures to ensure that investigations improve.</p> <p>WPD generally has ensured that Field Supervisors involved in or witnessing use-of-force incidents have not then investigated those same incidents. We did however identify an incident during this reporting period in which a supervisor reviewed a use of force that he witnessed and authorized. (<i>See</i> RR 2018-69.) To his credit, the Division Commander responsible for reviewing the incident recognized the error and directed another Turn Commander to complete the investigation. We commend WPD for self-identifying this issue and taking corrective action.</p> <p>DOJ discussed its concerns with how its Use of Force Review Board was functioning with WPD leadership. DOJ reviewed all of the Board’s findings, noting similar concerns with the quality and thoroughness of these reviews. During the first three quarters of the reporting period, we noted the Use of Force Review Board failed to assess consistently and critically whether the officer’s actions were within policy and determine whether the need for additional training or policy revisions exists. During the last quarter, we note a marked improvement in how the Board assessed its cases. (<i>See</i> RR 2018-77; RR 2018-86; and RR 2018-89.) This improvement is encouraging. We expect WPD to continue refining its Use of Force Review Board and ensure that it continues to function as a vital internal accountability mechanism.</p>
<p>Technical Assistance</p>	<p>WPD should conduct an internal assessment of all of its Turn Commander reviews, identifying those reviews where supervisors fail to list and assess thoroughly each factor of <i>Graham</i>. WPD should then conduct command-level in-service trainings on use-of-force reviews. WPD should use actual cases in an interactive, problem-solving format, focusing on analysis. WPD should also incorporate RR 2018-77 in its supervisory training scenarios so that supervisors are aware of the errors committed in that case and not repeat the same errors that WPD identified in this investigation.</p> <p>WPD should implement a systematic guide for all command-level reviews, creating a checklist that logically organizes elements that supervisors should include in each level of use-of-force review. By standardizing command-level reviews, WPD can ensure consistency, which would result in a higher quality of reviews.</p> <p>We further recommend that WPD’s Use of Force Review Board continue to assess critically use-of-force incidents, identifying policy violations, training needs, policy revisions, and changes to tactics or equipment.</p>

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.

Status	Substantial compliance
Analysis	In 2018, supervisors generally conducted adequate reviews and assessments of uses of force or injuries resulting from use-of-force incidents. When supervisors' initial reviews failed to meet expectations, WPD's chain of command appropriately required such supervisors to provide corrected reviews. Supervisors also consistently have identified and interviewed both officer and civilian witnesses to use-of-force incidents.
Technical Assistance	None at this time.

- 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.

Status	Substantial compliance
Analysis	<p>In 2018, WPD supervisors consistently ensured that officers involved in use-of-force incidents, as well as those officers who witnessed use-of-force incidents, provided written narratives describing the uses of force and the events precipitating the uses of force. Consistent with previous findings, nothing suggests that officers are sharing narratives. As we previously stated, use-of-force reports, which WPD maintains in its Blue Team software program, consistently identified all officers involved in or present at an incident.</p> <p>The reports also consistently indicated whether an injury occurred and whether WPD provided medical care or subjects refused such care. In addition, WPD reports contained photographs of subjects' injuries when injuries occurred. As described above, however, there is some variability in the quality of use-of-force reviews, though we generally agreed with the supervisors' conclusions regarding</p>

	compliance with policy and adherence to <i>Graham</i> . Accordingly, WPD remains in compliance with this provision.
Technical Assistance	We reiterate the importance of addressing variability in the quality of all use-of-force reviews, and we recommend that WPD consider developing and implementing a use-of-force-review template for investigations. We also recommend that WPD implement the aforementioned supervisory training on applying the <i>Graham</i> standards.

- 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.

Status	Substantial-compliance
Analysis	WPD supervisors reviewing use-of-force incidents have avoided using leading questions during their investigations. Supervisors have also reliably considered all relevant evidence when assessing an officer's use of force, made credibility determinations where needed, and resolved material inconsistencies. Accordingly, WPD remains in compliance with this provision of the agreement.
Technical Assistance	None at this time.

- 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.

Status	Substantial compliance
Analysis	As we noted in our 2017 Compliance Report, WPD assigned a new Captain to oversee its Emergency Services Division (ESD) in August 2017. We have been impressed with the Captain's performance over the past 16 months. During this period, the Captain has taken a hands-on approach to working with Turn Commanders and identifying deficient reviews. In 2018, the ESD Captain

	<p>reviewed over 85% of all use-of-force incidents. These reviews were thoughtful and critical. We further note that his reviews identified deficiencies in use-of-force reports, and he required first-line supervisors to make the changes when necessary. Importantly, he continued to identify and return use-of-force reviews that were vague, lacked substance, or failed to explain fully the application of the <i>Graham</i> standard to an incident. Moreover, he identified unreasonable delays in submitting use-of-force reports and counseled first-line supervisors who failed to adhere to review timelines.</p> <p>We are encouraged that the ESD Captain has taken an active role in evaluating these incidents, ensuring that reviews are timely and thoroughly conducted. We are also pleased with his willingness to hold supervisors accountable when they fail to adhere to WPD and Agreement requirements, noting that he has counseled supervisors for their review failures and timeliness in submitting reviews to him. This internal accountability mechanism is an improvement that we have recognized since he has taken over the ESD Division.</p> <p>The Criminal Investigations Captain in contrast has not been as active in carefully evaluating use-of-force incidents assigned to him, all of which involve “no-knock” warrants. While we have no reason to conclude that any of these incidents violated the terms of the Agreement, we are concerned that his reviews have not been thorough. WPD’s Use of Force Review Board also has recognized the shortcoming in his reviews, and it has provided guidance on how the Criminal Investigations Captain should review these investigations in order to improve their quality. We echo the Review Board’s recommendations and expect these investigations to improve in the future.</p>
Technical Assistance	<p>WPD Captains should continue to identify diligently and to address deficiencies and discrepancies in use-of-force packets. We also recommend that WPD closely monitor its “No-Knock” warrant reviews, ensuring that these reviews carefully assess: (a) information available to Entry Team members about the residents/occupants of the habitation; and (b) what additional information is available concerning who is present or likely to be present at the time WPD executes on the warrants.</p>

IV. Civilian 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, 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.

Status	Substantial compliance
Analysis	WPD’s complaint form remains available online and elsewhere throughout the community. Individuals wishing to pick up copies of the complaint form may also pick up a copy at the following locations: (1) the lobby of the Police Department; (2) the Warren Public Library; (3) the office of the Director on Safety and Services of the City of Warren; and (4) The Urban League. WPD also requires its officers to keep complaint forms in their patrol vehicles so that they can give forms to community members who wish to file a complaint. We recognize WPD’s continued commitment to the civilian-complaint process. WPD remains in substantial compliance with this provision of the Agreement.
Technical Assistance	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.

Status	Substantial compliance
Analysis	As we noted in our previous compliance reports, WPD maintains a placard at the police department that includes relevant contact numbers and describes the complaint process. WPD officers also carry complaint forms in their patrol cars while on duty that officers supply to members of the community who wish to file a complaint. WPD also provided training in 2018 instructing officers to avoid discouraging civilians from making complaints and, when necessary, informing civilians of the right to make a complaint.
Technical Assistance	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

2. part of in-services to all officers at the implementation of this Agreement.

Status	Substantial compliance
Analysis	WPD maintains a complaint policy that describes the complaint process (<i>See Public Complaints, Policy Number 07-001</i>). WPD has trained all officers on the proper procedures to accept and resolve complaints, including updating complainants on the status of investigations. WPD included a one-hour block of instruction on public complaints during its 2018 in-service training and provided updates as needed during roll-call training throughout the year.
Technical Assistance	We recommend that the Policy and Training Review Board continue to analyze complaint trends, among other indicators, to help guide training and policy development.

3. 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.

Status	Substantial compliance
Analysis	WPD revised its complaint policy in 2015, and it has consistently provided annual training since then. The current policy meets all the requirements of this paragraph. The current policy also provides clear guidance regarding how WPD accepts, investigates, and resolves complaints. The current policy further requires WPD to notify each complainant in writing after it concludes each investigation. Accordingly, WPD remains in substantial compliance with this provision of the Agreement.
Technical Assistance	None at this time.

4. 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.).

Status	Substantial compliance
Analysis	<p>WPD’s public complaint policy requires officers to forward public complaints to the on-duty Turn Commander by the end of their shift. Turn Commanders then must forward the complaint to Internal Affairs by the end of their shift. The policy makes clear that no more than 72 hours may elapse between the time the complaint is filed and the time it is forwarded to Internal Affairs. In our 2018 review of complaints, we note that WPD complied with the 72-hour timeline in each instance.</p> <p>WPD also uses a centralized tracking system for all complaints in which each complaint receives a unique identifying number. The Policy and Training Review Board also analyzes complaint trends, among other indicators, to help guide training and policy development. Accordingly, WPD complies with the requirement of this provision.</p>
Technical Assistance	None at this time.

C. Investigation of Complaints

1. WPD shall investigate every complaint of employee misconduct.

Status	Substantial compliance
Analysis	<p>In 2018, WPD received 17 complaints alleging employee misconduct. Of the 17 complaints, four involved unprofessionalism; three involved disrespect; three involved unlawful arrests; two involved dereliction of duty; one involved reckless driving; one involved improper police action; one involved unlawful search; one involved unlawful questioning; and one involved criminal trespass, uniform violation, and threatening a civilian.</p> <p>For each complaint, the Internal Affairs Sergeant identified and interviewed witnesses, contacted the complainant, and interviewed the involved officer. WPD’s Internal Affairs Sergeant conducted thorough investigations, assessing whether the officer’s actions violated WPD policy and procedures.</p> <p>In addition to conducting thorough investigations, the Internal Affairs Sergeant assessed each complaint for search or seizure violations and reviewed officer histories before making recommendations to the ESD Commander. We note that WPD sustained two of the 17 complaints filed in 2018: one sustained complaint involved indecent, profane, and harsh language (<i>See IA 2018-011</i>); and the other sustained complaint involved criminal trespass, uniform violation, disrespect, and threatening a civilian. (<i>See IA 2018-03.</i>) We also note that WPD required an</p>

	<p>officer to receive remedial training in resolving one complaint in which WPD did not sustain the allegation of misconduct. (See IA 2018-015.)</p> <p>WPD remains in substantial compliance with this provision.</p>
Technical Assistance	<p>We recommend that WPD continue to take a closer look at the trend of complaints involving rudeness and unprofessionalism, consistent with previous technical assistance. Because of the proportion of complaints that involve disrespectful and unprofessional conduct, we suggest that WPD include a block of instruction during its annual and roll-call training on avoiding aggressive verbal and non-verbal communication when addressing civilians. Lastly, we commend WPD for sustaining complaints where the preponderance of evidence supported such findings.</p>

2. WPD shall explicitly prohibit from investigating an incident any officer involved in that incident.

Status	Substantial compliance
Analysis	<p>WPD's current complaint policy makes clear that no officer involved in an incident that is the subject of an administrative investigation may conduct the investigation of that incident. WPD's practices have consistently followed this policy. In 2018, WPD did not assign an officer to investigate an internal affairs complaint if that same officer was involved in the underlying incident. WPD in fact assigned a single designated sergeant to investigate all internal affairs complaints filed in 2018. Accordingly, WPD remains in substantial compliance with this provision.</p>
Technical Assistance	<p>We recommend that WPD take a closer look at its IA staffing levels prospectively to ensure that WPD is capable of completing all internal affairs investigations in a timely fashion, even if the currently assigned investigator is on leave or needs assistance. If WPD would benefit from having another person assigned, that person should receive training on the conduct of internal affairs investigations before assuming such responsibilities.</p>

3. 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.

Status	Substantial compliance
Analysis	In 2018, WPD generally completed investigations for all 17 complaints filed during that year in a timely manner. In eight of the 17 investigations, the Internal Affairs Sergeant sought a 30-day extension from the Chief of Police. In each of these investigations, the Chief approved the extension request. The Chief's extension approvals were consistent with the terms of the Agreement and WPD's complaint policy. Where investigations took longer than 20 days, WPD provided those complainants with an update on the status of the investigation at approximately the 20-day mark. We note that the Internal Affairs investigations were perhaps the most thorough and comprehensive investigations within WPD that we have reviewed over the past two years. We however recognized a trend, noting that nearly half of the investigations required extra time to complete. WPD remains in substantial compliance with this provision.
Technical Assistance	We recommend that WPD conduct a staffing assessment, determining whether it should increase the number of officers assigned to the Internal Affairs Division.

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.

Status	Substantial compliance
Analysis	As we noted above, WPD's revised complaint policy thoroughly describes WPD's process for accepting, investigating, and resolving all allegations of misconduct. The complaint policy makes clear that investigators must apply a preponderance of the evidence standard when making a finding regarding allegations contained within a complaint or when investigating collateral misconduct discovered during an investigation. In all 17 complaints filed and investigated during 2018, WPD appropriately applied this standard. Accordingly, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

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.

Status	Substantial compliance
<p>Analysis</p>	<p>As we noted in previous compliance reports, WPD’s Internal Affairs officers¹ are effectively trained regarding the proper procedures to apply while investigating complaints, including those procedures specified in the Agreement provision. Consistent with past practices, WPD has encouraged its Internal Affairs officers to seek and attend external trainings.</p> <p>In 2018, we note that Internal Affairs officers attended various external trainings, focused on improving investigative skills. The Internal Affairs Sergeant attended a Core Criminal Investigation course hosted by the Ohio Peace Officer Training Academy, covering internal investigations and officer misconduct.</p> <p>The Internal Affairs Lieutenant attended two training courses: one course covering unbiased truth and scientific realities surrounding officer performance under stress, action/reaction time, memory, and decision-making during dynamic encounters; and another course hosted by Mill Creek Metropolitan Park Police, covering managing the discipline process.</p> <p>Accordingly, WPD remains in substantial compliance with this provision.</p>
<p>Technical Assistance</p>	<p>We continue to encourage WPD investigators to engage in continuing education courses regarding civilian complaints and officer misconduct investigations. We also recommend that WPD consider sending its Internal Affairs sergeant to the FBI National Academy or FLETC IA Program, allowing for improvement in investigation skills and broadening his knowledge base.</p>

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

¹ WPD’s Internal Affairs Division consists of one Sergeant, responsible for conducting all internal investigations, and a Lieutenant, primarily responsible for reviewing the Sergeant’s recommendations and overseeing WPD’s Early Intervention System.

shall obtain contemporaneous photographs or videotapes of all injuries at the earliest practicable opportunity, both before and after any treatment, including cleansing of wounds.

Status	Substantial compliance
<p>Analysis</p>	<p>Of the 17 complaints filed and investigated in 2018, WPD took appropriate steps to locate and interview any individuals who may have witnessed the incidents in question. WPD policy requires audio recording of all interviews of WPD employees. WPD policy also requires audio recording of all interviews of non-employees as well, unless the non-employee requests not to be recorded. WPD adhered to these policy requirements throughout 2018. WPD also ensured that all witness officers required to provide a statement did so without having access to other officers' statements.</p> <p>Of the 17 complaints filed and investigated in 2018, two alleged that the complainant suffered an injury. In the first incident, the complainant reported a wrist injury that occurred after an officer reportedly handcuffed the complainant too tightly (noting red marks on the complainant's wrist) (<i>See</i> IA 2018-011). In the other incident, the complainant alleged that an officer grabbed his private parts during a search incident to arrest (<i>See</i> IA 2018-013). In both of these investigations, WPD conducted thorough investigations concerning these allegations, and WPD found that the officers' conduct in both investigations were within WPD policy and complied with the constitutional standards for using force as announced in <i>Graham</i>.</p> <p>WPD policy makes clear that, for all allegations involving an injury to a person, WPD must obtain contemporaneous photographs or video footage of any alleged injury at the earliest practical opportunity, both before and after treatment. In these incidents, we note that WPD either reviewed video footage of the alleged injuries or accepted photographs that the complainants provided, taken shortly after the alleged incidents. WPD also uploaded video footage, photographs, and medical documentation that at least one of the complainants provided into its IA Pro system.</p> <p>Accordingly, we find WPD remains in substantial compliance with this provision.</p>
<p>Technical Assistance</p>	<p>None at this time.</p>

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.

Status	Substantial compliance
Analysis	In each of the 17 complaints filed in 2018, we note that WPD thoroughly conducted its investigations and did not automatically give more weight to an officer’s version of events. In all incidents in which the investigator had only the officer’s word against the complainant’s, the investigator determined the finding to be “inconclusive” (defined as a finding in which “there are insufficient facts to decide whether the alleged misconduct occurred”). In all complaint investigations, WPD also consistently considered all relevant evidence. WPD worked to resolve material inconsistencies between witness statements. We therefore conclude that WPD remains in substantial compliance.
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	<p>During 2018, we note that three complainants alleged that a WPD officer used excessive force (<i>See</i> RR 2018-07; RR 2018-11; and 2018-13) and no complaints alleging misconduct other than force involved force as a collateral issue. Five of the 17 complaints entailed searches, and nine of the 17 complaints involved seizures. In those incidents where there was either a search or a seizure, WPD investigated the searches and seizures, irrespective of whether the searches or seizures were the reason of the individual’s complaint. WPD concluded that all searches and seizures were lawful.</p> <p>In addition, WPD’s IA Sergeant used a template for his investigative reports that included a section that required him to state whether any searches or seizures took place during the incident. This was helpful in tracking the number of searches or seizures involving civilian complaints that occurred in 2018, and it appeared to be</p>

	<p>useful to WPD as it assessed the legality of officer conduct.</p> <p>Consistent with our previous compliance reports, no complainants withdrew their complaints in 2018. Even if this had occurred, WPD policy would have required WPD to complete an investigation of any allegation. All complaints were resolved based on the information, evidence, and investigatory techniques available.</p> <p>WPD remains in substantial compliance with this provision.</p>
Technical Assistance	None at this time.

9. 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.

Status	Substantial compliance
Analysis	<p>We note that WPD continues to evaluate consistently allegations to assess all five elements included in this provision. As we mentioned earlier, WPD created an investigative template that its internal affairs investigator uses. This tool has been an asset in assisting WPD in ensuring constituency in its investigations and eliminating variability in assessments.</p> <p>WPD's internal affairs Sergeant consistently made findings and recommendations that were thorough and well reasoned. The ESD Commander consistently assessed these findings and recommendations, and provided thoughtful discipline recommendations to the Chief. The ESD Commander also consistently made helpful determinations regarding the need for new tactics, training, or policy changes, among other issues.</p> <p>The Chief thereafter reviewed the recommendations and timely informed the officers of his finding. Thus, WPD remains in compliance with this provision.</p>
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	As previously noted, each investigator’s report had an “Allegations” section that numerically lists each allegation, and the “Conclusion” section contained a sub-section devoted to each allegation that includes a finding and an explanation for the finding. Accordingly, WPD remains in compliance with this provision.
Technical Assistance	None at this time.

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

Status	Substantial compliance
Analysis	As noted in previous reports, WPD subjected even minor complaints to full internal affairs investigations rather than chain-of-command investigations. WPD therefore has not had any chain-of-command investigations that have been untimely or which internal affairs did not track. We note that in 2018, internal affairs generally completed all investigations in a timely manner.
Technical Assistance	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.

Status	Substantial compliance
Analysis	<p>In 2018, the Captains who supervised officers who were the subjects of complaints reviewed the investigator’s recommended findings on time in every incident and did not return any for additional investigation. Thereafter, internal affairs forwarded the recommended findings to the Chief for final approval. His reviews were likewise careful and complete. He imposed discipline or corrective measures where appropriate, with explanations justifying those actions. (<i>See IA 2018-11.</i>) For example, the Chief recommended that an officer receive an administrative reprimand for unprofessional conduct (<i>see IA 2018-03</i>), and the Chief recommended that an officer receive a 32-day suspension, reduction in rank, and fitness for duty evaluation for his criminal and unprofessional conduct.</p> <p>We further note that, during this reporting period, the internal affairs Sergeant identified a collateral misconduct incident. The Chief accordingly recommended that the officer receive an administrative reprimand and remedial training for his unprofessional conduct. (<i>See IA 2018-15.</i>)</p> <p>WPD has generally completed its reviews on time and in a sufficient manner. Accordingly, WPD remains in compliance with this provision.</p>
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	<p>In 2018, WPD consistently informed complainants regarding the status of internal investigations. WPD also informed each complainant about the outcome of the investigation within one week of concluding each investigation. WPD remains in compliance with this provision of the Agreement.</p>
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	<p>WPD received one complaint in 2018 alleging criminal misconduct. (See IA 2018-03.) We note that once the Department determined that the complaint involved potential criminal conduct, it forwarded the case file to the City’s Law Director for criminal investigation by that office. WPD also concurrently conducted its administrative investigation as the criminal investigation proceeded.</p> <p>WPD’s complaint policy dictates that, if the Chief determines that the misconduct, if true, would violate criminal law, the Chief will meet with the City’s Law Director, who will determine whether to initiate a criminal investigation. WPD’s policy clarifies that administrative investigations must be conducted concurrently with any criminal investigation and WPD must not disclose to criminal investigators or prosecutor any information gathered by way of <i>Garrity</i>-protected statements. The current policy also makes clear that <i>Garrity</i> warnings are only necessary and should only be given where an officer refuses to provide a voluntary statement during an administrative investigation. WPD has adhered to these requirements.</p>
Technical Assistance	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.

Status	Substantial compliance
Analysis	<p>As noted in previous DOJ reports, WPD uses IAPro as its Early Intervention System (EIS) database, which allows WPD to maintain and organize information needed to assess, supervise, and manage WPD’s officers. WPD also uses IAPro’s BlueTeam software, which allows officers to enter use-of-force reports and other information from their patrol cars.</p> <p>During this monitoring period, WPD updated its EIS policy to, among other things: define a critical firearm discharge; clarify which Supervisors were tasked with certain duties by distinguishing between Field Supervisors, Turn Commanders, and Division Commanders consistently; and describe, in detail, the EIS administrator’s duties. WPD also provided training to all patrol officers and supervisors on the EIS. WPD has been effectively using the EIS to evaluate the performance of its officers. Accordingly, WPD remains in compliance with this provision.</p>
Technical Assistance	None at this time.

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.;

Status	Substantial compliance
Analysis	Under the Agreement and WPD policy, WPD tracks each of the above indicators through its EIS. In addition, WPD policy requires that EIS also track chronic absenteeism as well as all vehicle pursuits and accidents. WPD remains in compliance with this provision.
Technical Assistance	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).

Status	Substantial compliance
Analysis	Pursuant to WPD’s EIS policy, WPD continues to include the appropriate identifying information for both officers and civilians. WPD remains in compliance with this provision.
Technical Assistance	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.

Status	Substantial compliance
Analysis	As noted above in Section V.A.1, WPD has revised its EIS policy and has trained its officers on the revisions. WPD remains in compliance with this provision.
Technical Assistance	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.

Status	Substantial compliance
Analysis	<p>WPD has effectively implemented and has adhered to the requirements of its policy. In accordance with the Agreement and WPD policy, WPD’s EIS administrator manages its EIS. The same person currently also serves as head of Internal Affairs. The EIS administrator identifies an employee for review whenever BlueTeam generates an alert, based on the criteria listed in Section V.A.2 above. The officer’s Field Supervisor reviews the alert and assigns an intervention plan, if appropriate, which is approved up the officer’s chain of command, including the Chief. The appropriate supervisor within the officer’s chain of command then implements the plan. The EIS administrator reviews and implements the plan.</p> <p>Supervisors further review the EIS “dashboard,” which provides them with information regarding each of their officers and those officers’ status for each data point tracked by the EIS system, on a daily basis. Supervisors use this information to identify potential issues affecting their unit or an individual officer.</p> <p>The EIS administrator also generates monthly reports compiling EIS data grouped according to WPD divisions, shifts, and units, and sorted by date and names of officers triggering any alert. The EIS administrator uses this data to identify trends and patterns affecting individual officers or groups of officers that may require intervention.</p> <p>WPD has also constructed and uses an audit checklist that the EIS administrator completes on a monthly basis. WPD uses this checklist to ensure that the EIS administrator generates monthly reports regarding EIS data, analyzes the data, and reviews intervention plans.</p> <p>At the end of each quarter, the EIS administrator completes an additional section of the checklist that requires the administrator to verify what intervention plans, if any, are incomplete. The EIS administration also ensures that a quarterly report of relevant, department-wide EIS information has been prepared for and reviewed by the Chief. The quarterly report includes the EIS administrator’s analysis of alerts for that quarter, broken out by officer, shift, unit, and division. The report also provides the administrator’s determination regarding what, if any, notable patterns have emerged that might require a response from WPD. The Chief signs off on the report and may include additional instructions for the administrator in light of information contained in the report.</p> <p>In 2018, WPD initially reported 185 alerts, and it carefully reviewed the data and removed duplicate alerts, eventually concluding that it had only 96 non-duplicate alerts. DOJ assessed WPD’s response to 28 percent of these alerts (27 out of 96). All of the alerts that DOJ reviewed listed the kind of incident, provided a brief description of the incident, and indicated the outcome or disposition of the incident.</p> <p>Although it appeared that supervisors assessed each incident to determine whether an Intervention Plan was necessary, many supervisors incorrectly filled out the alert</p>

	<p>recommendation form. Moreover, many supervisors failed to document properly their recommendations on the alert form. We nevertheless found that, despite some mistakes in filling out forms, supervisors generally took appropriate action in response to alerts, such as by initiating interventions when they were called for.</p> <p>WPD should continue to assess this oversight tool and ensure that supervisors correctly document and note their interventions. Although we conclude that WPD complies with this provision, supervisors need to improve their documentation, noting policy violations, justifying why the action they took to remedy the situation was appropriate, and including other behavior that does not implicate a WPD policy but could nevertheless benefit from intervention to reduce poor outcomes.</p>
Technical Assistance	We recommend that WPD revise its alert recommendations form and include specific directions to supervisors for their responses. It appears that supervisors have not always filled out these forms correctly.

- 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.

Status	Substantial compliance
Analysis	As noted above in Section V.A.1, WPD has revised its EIS policy and has trained its officers on the revised policy. The revised policy memorializes the requirements of the provision, which the policy assigns as tasks for the EIS administrator. Pursuant to WPD’s revised policy, WPD consistently enters information into its EIS in a timely, accurate, and complete manner, and maintains that information in a secure manner. Accordingly, WPD remains in compliance with this provision.
Technical Assistance	None at this time.

- 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.

Status	Substantial compliance
Analysis	WPD's EIS remains operational in a manner that we previously found compliant

	with the Agreement. WPD, therefore, remains in compliance with this provision of the agreement.
Technical Assistance	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.

Status	Substantial compliance
Analysis	WPD's EIS is operational.
Technical Assistance	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.

Status	Substantial compliance
Analysis	WPD has not proposed to add, subtract, or modify any data tables, fields, etc. during 2018.
Technical Assistance	We encourage WPD to continue assessing its EIS, ensuring that WPD modifies the system, where appropriate, to 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.

Status	Substantial compliance
Analysis	As noted above in Section V.A.5, WPD supervisors review on a daily basis an EIS "dashboard," which shows them, at a glance, information regarding each of their

	<p>officers and the officers' status for each data point tracked in the EIS. Supervisors use this information to identify issues or potential issues regarding each of their officers as well as to make comparisons within and among entire shifts and units.</p> <p>The EIS administrator also completes an audit checklist on a monthly basis affirming that WPD has produced monthly reports compiling EIS data, sorted according to shifts, units, and divisions, and has analyzed the data to identify problematic trends or patterns. As also noted above, at the end of each quarter, the EIS administrator completes an additional section of the checklist that, among other things, requires the administrator to verify that a quarterly report of relevant, department-wide EIS information has been prepared for and reviewed by the Chief. According, WPD remains in compliance with this provision.</p>
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	This Chief of Police is applying this standard in the appropriate situations. Based on our reviews, we have no reason to conclude that WPD had deviated from this standard.
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	In 2018, WPD thoroughly reviewed community complaints and use-of-force incidents, imposing discipline when appropriate. In all sustained cases where discipline was appropriate, either the ESD Captain or a first-line supervisor counseled officers for matters such as: using improper techniques or tactics, failing

	<p>to activate on-body recording devices; displaying unprofessional conduct or dereliction of duty; failing to submit use-of-force investigations in a timely manner; failing to follow emergency vehicle operations protocol; failing to maintain control of crime scene and managing subordinate officers; and failing to notify a supervisor after a use-of-force incident in a timely manner.</p> <p>We note that the Chief suspended an officer for 32 days and sought to rescind his supervisory responsibilities for being unprofessional, disrespectful, condescending, and using profane language during an encounter with a civilian. (See IA 2018-03.) In another matter, the Chief reprimanded an officer for using profane language and exhibiting unprofessional conduct. (See IA 2018-11.) WPD’s actions regarding these matters illustrate its continued commitment to enforcing its policies and holding officers accountable for conduct inconsistent with the standards of the agency.</p> <p>WPD’s continued commitment to ensuring that its internal accountability systems are meaningful is a major reason why it remains in compliance with this provision of the Agreement.</p>
Technical Assistance	None at this time.

- 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.

Status	Substantial compliance
Analysis	<p>As we noted above, WPD imposed disciplinary measures where appropriate throughout 2018. WPD also considered non-disciplinary corrective action where appropriate, such as requiring an officer to re-attend training to address stress management, de-escalation tactics, and verbal and non-verbal communication.</p> <p>Although WPD does not currently use a disciplinary matrix, we note that WPD has imposed discipline in a consistent and reasonable manner. WPD remains in compliance with this provision.</p>
Technical Assistance	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.

Status	Substantial compliance
Analysis	<p>WPD conducted its annual in-service training for 2018 in September and October. WPD covered the following topics during its in-service training: use-of-force policies, including topics such as the use of less-lethal weapons; defensive tactics; public complaints; interacting with people in crisis; and various traffic-stop scenarios.</p> <p>WPD brought in an outside emergency room professional to discuss how to recognize and manage a potentially fatal condition called “excited delirium.” In this block of instruction, the medical professional showed videos of subjects having an excited delirium episode and offered strategies and suggestions for managing these subjects.</p> <p>WPD supplemented its annual in-service training with roll-call trainings on multiple occasions to cover topics related to use of force, civilian complaints, emergency vehicle operations (pursuits), restraints, and recognizing and handling excited delirium.</p> <p>In 2018, WPD also sent four additional officers through a 40-hour Crisis Intervention Training (CIT) course, bringing its total of CIT officers to 50 out of 70. Most notably, WPD incorporated Warren-specific videos, identified by its Training Committee, into its 2018 Annual Training curriculum. These videos showed deficient practices and techniques that WPD officers used in 2018. These videos were indelible teaching moments, illustrating WPD’s commitment to self-correction and self-improvement.</p> <p>The policies and procedures on which WPD trained its officers are current and consistent with applicable laws. WPD remains in compliance with this provision.</p>
Technical Assistance	<p>We commend the Training Committee for its efforts in identifying problematic practices and techniques at WPD. We encourage WPD to continue developing and implementing this self-correcting and self-improving mechanism. We also encourage WPD to develop a sustainable methodology, allowing it to identify, assess, and address deficient practices and techniques that officers use during encounters with subjects.</p>

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.

Status	Substantial compliance
Analysis	<p>WPD developed and implemented a policy, outlining WPD’s processes for developing, implementing, maintaining, and reviewing WPD policies, procedures, and training in 2016. This policy outlined the functions of the Policy and Training Review Board, described the frequency and method used for reviewing and revising all policies, and listed the duties of the Training Director, which included those listed in this Agreement provision. The policy also described the processes associated with in-service, roll call, and external training.</p> <p>In 2018, WPD required that all officers achieve a score of 90% on a written use-of-force examination, which included multiple choice, true/false, and fill-in-the blank questions. (Sixty-eight officers took the use-of-force written test, and all passed on the first attempt.) The training director successfully managed WPD’s 2018 training initiatives, including in-service and roll-call training. The training director also ensured that WPD instructors were knowledgeable regarding the subject matters they taught.</p> <p>WPD’s training policy also outlines procedures for evaluating use-of-force training curricula, and for conducting semi-annual reviews of use-of-force training and policies. The training review during this monitoring period analyzed: use-of-force incidents; public complaints; calls for service; current and emerging legal issues; trends in law enforcement; officer feedback; and other areas of need that the Board deemed helpful.</p> <p>The Board conducted its reviews and provided its reports to the Chief in July and December 2018. The July report carefully assessed current training to ensure that training met officers’ needs. In conducting this assessment, the Board evaluated use-of-force incidents, public complaint trends, calls for service, and incidents involving subjects with excited delirium to determine what issues WPD should address during annual training. The December report reiterated the recommendations of the July report and added additional recommendations including: incorporating more traffic-stop scenarios during use-of-force training; providing better guidance on clearing buildings; incorporating first aid/CPR refresher training; discussing establishing perimeters and tracking; and</p>

	<p>incorporating scenario-based exercises involving identifying lethal threats.</p> <p>The Chief signed off on both reports, and WPD’s 2019 training plan will address all of these topics.</p> <p>WPD’s training policy also requires the Board to develop an annual training plan, to be completed and submitted to the Chief for approval before December 1 of the calendar year preceding the training. The Board submitted the plan and the Chief approved it on December 13, 2018. Among other things, the plan is based on the Board’s analysis of trends and concerns with: use-of-force incidents, public complaints, calls for service, officer feedback, and other areas. It includes a list of proposed in-service training topics as well as a list of suggested external training courses that the Board thinks would be useful to WPD officers.</p> <p>Accordingly, WPD remains in compliance with this provision of the Agreement.</p>
Technical Assistance	<p>We commend WPD for investing the time biannually to address issues of concern with the Department. We would recommend, however, that the Board provide a little more detail in its reports and describe how it ultimately prioritized areas of concern. Although the current reports satisfy the requirements of the Agreement, we believe that it would be helpful for the reports to explain how the Board identified topics, what outcomes the Department should expect, and how the Department will track and assess implementation.</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.

Status	Substantial compliance
Analysis	<p>As we noted previously in this report, WPD conducted in-service training in September and October 2018. Each officer underwent the training for one week, or 40 hours. Topics included: using appropriate levels of force, understanding the importance of crisis intervention, identifying excited delirium, conducting automobile searches, addressing active shooter situations, and using defensive tactics before resorting to lethal or less-lethal munitions. All officers participated in multiple hands-on scenarios that allowed them to apply proper use-of-force decision making. WPD’s Policy and Training Review Board reviewed the training and determined that it was consistent with WPD policy as well as applicable laws and best practices. DOJ agrees. WPD remains in compliance with this provision.</p>

Technical Assistance	None at this time.
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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.

Status	Substantial compliance
Analysis	Pursuant to its new Policies and Training policy, within 30 days of completing training, WPD enters information regarding all training classes for all officers into its records management system (RMS), called IDNetwork. The system tracks and can sort data by officer name, type of training, date of training, location, hours, and cost. The system does not have a field for instructor name, but when WPD knows the instructor’s name, WPD enters the name into a “remarks” field. WPD maintains lesson plans, tests, and objectives for in-house classes on file. WPD has also established a repository on a shared server where supervisors can upload training suggestions based on reviews of community complaints and use-of-force investigations. Thus, WPD remains in substantial compliance with this provision.
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	As noted above in Section VI.A.2, WPD’s Policies and Training policy outlines procedures for evaluating use-of-force policies and training curricula biannually. The policy also requires WPD’s Policy and Training Review Board to conduct semi-annual reviews of use-of-force training and consider revising such training based on a review of, among other things: use-of-force incidents, public complaints, calls for service, legal issues, law enforcement trends, and officer feedback. Upon completion, the Board prepares a report, subject to the Chief’s review and approval, describing all training recommendations. Upon the Chief’s approval, WPD’s training director must implement the recommendations. Likewise, WPD’s Policies and Training policy requires the Board to conduct semi-annual reviews of use-of force and related policies, including: emergency

	<p>vehicle operations, firearms, use of force, less-lethal weapons, hobble restraint, and officer-involved shootings. Upon completion of each review, the Board must issue a report to the Chief that describes, among other things: which policies the Board reviewed; whether the policies are compliant with applicable laws, best practices, and other WPD policies and procedures; and whether policies or procedures require any additions or modifications. The Chief must approve or disapprove of the recommendations and direct any further action.</p> <p>Also as already noted in Section VI.A.2, the Board provided two such semi-annual reports, one in July and the other in December, both of which contained recommendations and assessments for use-of-force training and policies. The reports listed several recommendations for in-service training for implementation in 2019, including: specific emphasis incorporating more scenario-based exercises during annual training; providing training on personal wellness; addressing excited delirium; understanding the importance of establishing canine perimeters and tracking; and providing legal updates regarding Fourth Amendment issues.</p> <p>The reports also included an assessment of WPD’s force and force-related policies and findings as to whether each was consistent with law and best practices. As noted above, the Board found all WPD force policies to be consistent with relevant law and did not recommended any changes in 2018. 2018 marks the third year that WPD has compiled semi-annual reviews of its use-of-force policies and training—a requirement that is now memorialized in WPD’s training policy.</p>
Technical Assistance	None at this time.

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.

Status	Substantial compliance
Analysis	<p>WPD’s 2018 in-service training covered all the topics required by this provision, including: use-of-force policy updates, practical applications of force, scenario-bases trainings, de-escalation techniques, and conflict management. In October 2018, DOJ and its subject-matter expert attended sessions of WPD’s annual training and observed various scenario-based trainings.</p> <p>In 2018, WPD also established a Training Committee to review incidents captured by WPD officers’ body cameras to find videos that can be used in future training programs. We participated in a training module created by the Training Committee. During this module, Training Committee members showed videos of WPD officers, illustrating various deficient tactical practices. Training Committee members then conducted after-action reviews, discussing these videos and allowing officers to provide feedback regarding the deficient tactics identified in the videos. We note that this question-and-answer portion of the training was critical in underscoring the importance of sound police practices. The videos were also teachable moments that every student appreciated, allowing for a robust discussion about civilian and officer safety and appropriate tactics and techniques.</p> <p>WPD has also provided crisis intervention training to 50 of its 70 officers. WPD typically provides this specialized training annually and plans to have eventually all of its officers CIT trained.</p> <p>In addition, WPD sent several of its officers to 26 different external trainings, including Cybercrime Investigations, Human Trafficking Intervention, Internet Investigations, Managing the Discipline Process, Advanced Supervisory Training, Criminal Investigations, and Legal Updates on Confessions and Interrogations. WPD spent over \$20,000 on external trainings, illustrating its commitment to enhancing internal capacity within the department.</p>
Technical Assistance	<p>We recommend that WPD continue to earmark external training funds, so that officers may seek and attend trainings that build professional capacity.</p> <p>We also recommend that WPD continue to allow its Training Committee to audit use-of-force videos and reports, identifying training and tactical issues that can be incorporated into annual and roll-call trainings.</p>