

THE HONORABLE JAMES L. ROBART

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CLERK U.S. DISTRICT COURT  
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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA

Plaintiff,

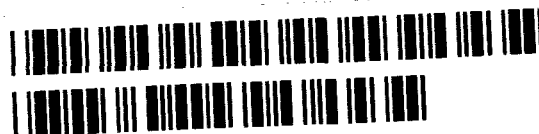
vs.

CITY OF SEATTLE

Defendant.

CASE No. C12-1282JLR

SECOND-YEAR MONITORING  
PLAN



12-CV-01282-ORD

This memorandum introduces and summarizes the Seattle Monitoring Team’s “Second-Year Monitoring Plan” (also referred to as the “Plan”). The Plan builds on noteworthy progress achieved by the Seattle Police Department (“SPD” or the “Department”)—collaborating with the Parties, Monitoring Team, and the Community Police Commission (“CPC”) and other community stakeholders—during the first year of monitoring—in developing new policies on use of force, stops and detentions, bias-free policing, response to individuals in behavioral crisis, and performance mentoring. It reflects important organizational changes that the Department has made to implement the policy changes and to create structures for “critical self-analysis and continual self-improvement,” including the Use of Force Review Board (“UOFRB”) and Crisis

1 Intervention Committee (“CIC”). (See Dkt. No. 114 at 1) These achievements during the first  
2 year and future opportunities for the upcoming year are part of the same overriding goal:  
3 enabling the SPD to rigorously and systematically manage for itself the risk of unconstitutionally  
4 excessive force and impermissibly bias-based policing in the future after the Consent Decree  
5 ends.

6 Formally, the Second-Year Monitoring Plan constitutes the Monitor’s plan, approved by  
7 the Parties, for anticipated compliance by the City of Seattle (the “City”) and the Seattle Police  
8 Department with the Settlement Agreement and related agreements (“Settlement Agreement” or  
9 “Consent Decree”) entered into by the City and the United States Department of Justice (“DOJ”)  
10 on July 27, 2012; as ordered on August 27, 2012; and as modified on September 21, 2012 by the  
11 United States District Court for the Western District of Washington by the Hon. James L. Robart.  
12 The Plan covers the period of March 17, 2014 to March 16, 2015. (See Dkt. No. 3-1.)

13 The Plan itself differs in form from that filed in the first year. Specifically, it delineates  
14 major objectives, key results, and milestones associated with each of those objectives. It also  
15 provides details on how the Monitoring Team and DOJ, under its own independent enforcement  
16 obligation, will assess progress. Because the major concerns for the next year relate largely to  
17 the training of new policies and the implementation of new systems and approaches, the  
18 Monitor—with the DOJ and City (the “Parties”)—believes that a more detailed plan will allow  
19 for increased collaboration among a rejuvenated and active set of stakeholders, a clearer means  
20 of measuring progress, and a clearer understanding within the Seattle community about the  
21 progress and status of reform.

22 This memorandum is not a comprehensive discussion of SPD’s progress toward  
23 compliance. It does not supplant the Monitoring Team’s Third Semiannual Report, which will  
24 detail developments over the past six months, the Department’s progress, and SPD’s current  
25 compliance status and which will be filed by June 15, 2014. Instead, this memorandum looks

1 ahead to the challenges and opportunities that lay ahead during the second year.

2 The Monitoring Plan Matrix itself is attached as Appendix A. A shorter summary of  
3 deadlines contained in the Plan is attached as Appendix B. Finally, an agreement between the  
4 Monitor, Parties, and SPD regarding FIT is attached as Appendix C.

5 **I. PRIMARY OBJECTIVES FOR THE SECOND YEAR OF MONITORING**

6 With the significant progress achieved in the area of policy drafting during the first year,  
7 the second year will be a year of implementation—of translating policies into action, through  
8 training, and of translating major objectives into action, by innovating systems and processes.  
9 Officers must be trained in the new requirements and expectations embodied in the newly  
10 approved policies. Plans for ensuring that SPD provides the appropriate number of well-trained  
11 supervisors to hold officers accountable under the new policies must become a focused project  
12 that is rigorously executed. An interim, off-the-shelf database solution for tracking use of force,  
13 IAPro, and using data generated thereby to manage officer performance must be implemented at  
14 the same time that a comprehensive, customized database solution for ensuring that SPD can  
15 self-manage the risk of unconstitutional policing is designed. The structure and process for the  
16 internal review of officer use of force must continue to be updated, with a single Board  
17 reviewing all uses of force rather than one group reviewing firearms discharges and another  
18 reviewing other types of force.

19 **A. Policy Development**

20 The Second-Year Monitoring Plan plainly reflects the significant achievements during  
21 the previous year. Indeed, in the upcoming year, policy development will focus on just two  
22 major areas. The first involves a revision and update of OPA's Training and Operations Manual.  
23 That revision, which the Monitor will submit to the Court by June 30, 2014, will necessarily  
24 involve revision of policies that: (1) address when and how officers must report misconduct, and  
25 (2) detail the prohibition against retaliation toward individuals reporting, conducting, or

1 cooperating with a misconduct investigation. Having collaborated with the CPC on a process for  
2 receiving and considering draft recommendations, the Parties—in consultation with the CPC and  
3 various other stakeholders—will complete work on the OPA manual by June 30, 2014. It should  
4 be noted that this process is distinct from the CPC’s larger charge to consider the overall  
5 structure of the Office of Police Accountability, discussed in greater detail below.

6 The second area of policy development involves the data that SPD policy will require that  
7 the Department collect on stops and detentions. When the Court approved the consensus policies  
8 on stops and detentions on December 30, 2013, it did so subject to ongoing discussions and  
9 ultimate agreement on what type of information should be collected by officers when they stop  
10 or detain a subject. (Dkt. No. 116 at 2.) A workgroup that includes representatives of SPD,  
11 DOJ, CPC, the City Attorney’s Office, the Mayor’s office, and the Monitoring Team are in  
12 active, productive discussions about precisely what information is collected. The group will  
13 complete its work by May 16, 2014.

14 The Monitoring Team is mindful that progress requires ongoing critical self-analysis, and  
15 constant appraisal of what is and is not contributing to SPD meeting the requirements and goals  
16 of the Settlement Agreement. Indeed, the Consent Decree requires that the policies on which the  
17 Parties, SPD, and Monitoring Team collaborated during the first year of monitoring be  
18 periodically assessed “to ensure that the[y] . . . continue[] to provide effective direction to SPD  
19 personnel and remains consistent with the purpose and requirements of the Settlement  
20 Agreement and current law.” (Settlement Agreement ¶ 180.) Accordingly, the Monitoring  
21 Team, working with SPD and the Parties, may ask that the Court approve edits, additions, or  
22 changes to previously approved policies based on lessons learned after the policies have become  
23 effective and been implemented. The Monitoring Plan sets forth a schedule for review of  
24 previously approved policies in which an initial, formal review occurs 180 days after  
25 implementation began.

1 **B. Use of Force Training**

2 Again, a major area of focus during the second year of monitoring will be training.  
3 Sound policies on paper necessarily cannot have practical effect without officers understanding  
4 them, knowing what is expected of them under the policies, and, in many instances, receiving  
5 experiential, scenario-based training that allows officers to learn and develop new skills in a  
6 realistic environment. Training officers on the new use of force policies is of paramount  
7 importance. The new use of force policies reflect significant changes in SPD's prior practices:

- 8 • Officers must "accomplish the police mission with the cooperation of the public as  
9 effectively as possible, and with minimal reliance upon the use of physical force." (Dkt.  
10 No. 107-1 at 1 );
- 11 • Officers must use "de-escalation tactics and techniques . . . which seek to minimize the  
12 likelihood of the need to use force during an incident" when safe to do so and the totality  
13 of circumstances permit (Dkt. No. 107-1 at 8; *id.* at 1);
- 14 • Officers must "use only the force necessary to perform their duties" and "use only the  
15 degree of force that is objectively reasonable, necessary under the circumstances, and  
16 proportional to the threat or resistance of a subject" (Dkt. No. 107-1 at 1, 3);
- 17 • Officers must carry a less-lethal force tool, such as a conducted energy weapon ("CEW"  
18 or "taser"), OC spray (pepper spray), or baton (Dkt. No. 107-1 at 11);
- 19 • Officers must report and document all uses force except de minimis force (Dkt. No. 107-  
20 3 at 2); and
- 21 • A dedicated Force Investigations Team ("FIT") conducts all investigations of serious  
22 force (Type III and officer-involved shootings), (Dkt. No. 107-3 at 7), and a multi-  
23 disciplinary body (the UOFRB) reviews every instance of significant (Type II and above)  
24 force.

25 Finally, we note with interest the SPD's collaboration with the Washington State Criminal

1 Justice Training Center (“CJTC”) in various types of this training.

2 **1. Comprehensive Training**

3 The use of force policy became the official policy of the SPD on January 1, 2014. The  
4 SPD recognized that the variances between the old and new use of force policies would require  
5 that officers be thoroughly trained in the new policies. According to the First-Year Monitoring  
6 Plan, a first draft of the specific content and curricula for comprehensive use of force training  
7 was to be provided on December 31, 2013.

8 As part of the First-Year Monitoring Plan, the SPD committed to produce a final training  
9 plan and comprehensive training curriculum by March 15, 2014. The first draft of the  
10 comprehensive use of force training is due on April 18, and a comprehensive training plan is due  
11 May 30. The Second-Year Monitoring Plan requires that SPD provide the plans and curriculum  
12 for comprehensive use of force training by May 30 and all training be completed for patrol  
13 operations and other Department personnel, as determined by the approved training plan, by  
14 December 31, 2014.

15 **2. Interim Training**

16 Mindful that it would be unfair to hold officers to new standards before they had received  
17 any training, the SPD agreed with the Monitor and the Parties that the SPD should provide an  
18 “interim training” that would introduce important elements of the new policies and clarify  
19 expectations. That interim training—which consists of a one-day, in-class training and  
20 additional e-learning components—has commenced. If all officers have received such training  
21 by the stipulated deadline April 30, 2014, it will constitute a significant milestone in the  
22 implementation of the Consent Decree.

23 The interim training does not, however, supplant a comprehensive training that the  
24 Settlement Agreement requires that SPD develop and for the Court to approve. (See SA ¶¶ 128-  
25 29.) SPD continues to refine, in close consultation with DOJ’s training consultant and the



1 Monitor's senior police experts, both a work plan for providing the comprehensive training and  
2 specific curricula and content for the various elements of the training program. The  
3 comprehensive training will address the new policies in greater detail and provide more scenario-  
4 based and practical skills training.

5 The Plan provides December 31, 2014 as the deadline for having trained all patrol  
6 operations personnel and others identified by the training plan. The Monitoring Team and DOJ  
7 recognize that SPD will need to dedicate substantial resources and organizational focus to meet  
8 the deadline. The Parties are confident that SPD can meet the deadline—and that the centrality  
9 of use of force to the Settlement Agreement requires it.

### 10 **3. Less Lethal Training**

11 Paragraph 76 of the Consent Decree provides that:

12 The weapon-specific policies will continue to include training and  
13 certification requirements that each officer must meet before being permitted to  
14 carry and use the authorized weapon. Officers will only carry weapons authorized  
15 by the Department. SPD will consult with the Monitor as to whether and when  
16 each uniformed officer should be required to carry at least one Less Lethal Device.

17 (Dkt. No. 3-1 at 18.) The approved Use of Force policy now requires that officers carry at least  
18 one less-lethal device. (Dkt. No. 107-1 at 11.)

19 It is important that SPD officers are quickly trained in less lethal force options so that  
20 they may carry and use them. The Monitoring Team has pressed for that training to be provided.  
21 The Monitor suggested, and the Parties agreed, that the less than lethal training will take place on  
22 an expedited basis. Thus, by July 15, officers should be certified and carrying a less lethal  
23 device.

1 **D. Stops and Detentions Training**

2 An “interim” training will also be created and conducted for the policies on stops and  
3 detentions and on bias-free policing. An “interim” training program—consisting of an  
4 introductory message from the Interim Chief of Police that articulates the values that animate the  
5 policy, interactive e-learning modules, and a series of roll call trainings—will provide officers  
6 with a clear understanding of requirements and expectations under the policies. This interim  
7 training is slated to be completed by August 1, 2014. A more comprehensive training program—  
8 consisting of in-class training on the policies and scenario-based, interactive exercises—will be  
9 designed by August 31, 2014. That comprehensive training will be completed by a date to which  
10 the Parties, SPD, and the Monitoring Team will stipulate upon the SPD’s completion of a  
11 rigorous work plan (referred to in the Plan Matrix as the Instructional System Design Model  
12 (“ISDM")). SPD, the Parties, and Monitoring Team will be working with the CPC throughout  
13 the development of comprehensive materials. (*See* Dkt. No. 3-1 at ¶¶ 146-47.)

14 **E. Crisis Intervention Training**

15 The Department has worked extensively throughout the first year of Monitoring with the  
16 Crisis Intervention Committee (“CIC”). The CIC is a group of some 42 regional mental health  
17 providers, clinicians, advocates, academics, outside law enforcement representatives and the  
18 judiciary, (*See* Dkt. 114 at 57), tasked with finding new approaches for the SPD’s policies and  
19 procedures on dealing with individuals experiencing behavioral crisis. The SPD-CIC  
20 collaboration yielded important new policies, training, and procedures on response to individuals  
21 in behavioral crisis that align the SPD closely with departments that are “thought leaders” in the  
22 area.

23 The Monitoring Plan for the Second Year proposes a number of CIT milestones in this  
24 coming year. First, SPD—working collaboratively with the CIC, the State Police Academy (the  
25 “CJTC”) and King County MIDD Program—will conduct and implement a “basic,” 8-hour crisis



1 intervention training, which will be approved by the Court, for all patrol and other key  
2 Department personnel by December 31, 2014. Second, by May 15, 2014, SPD must propose a  
3 standard (or standards) for how recently an officer must have taken the CIT 40-hour course in  
4 order to be considered “advanced CIT-certified,” which will be provided on a timetable that will  
5 be reviewed by June 30, 2014. SPD will formulate “advanced” training for those CIT-certified  
6 officers to complete annually so that such officers stay abreast of the most recent developments  
7 in this challenging area of law enforcement. Additionally, SPD will develop a crisis intervention  
8 program for dispatchers, which will be approved by May 30, 2014.

9 Concurrently, sub-committees of the CIC will work on developing data analysis plans for  
10 collecting data on all SPD interactions with those that appear to be in behavioral crisis, as well as  
11 analyzing the systems of resource development.

#### 12 **F. Data & Information Technology**

13 The Court-approved Use of Force policy for SPD went into effect on January 1, 2014.  
14 The SPD had agreed that the new use of force policy required a reliable system for collection of  
15 data on use of force that would also be in service by January 1. In the Monitor’s Second  
16 Semiannual Report, we pointed out deep problems with the SPD’s data systems and the absence  
17 of any reliable data on use of force. (*Id.* at 7-13.) As a stopgap measure to report and record use  
18 of force pending development and implementation of a permanent BI system, the SPD—with the  
19 approval of the Monitor and Parties—purchased off-the-shelf software called IAPro to meet  
20 interim needs. SPD initially agreed that IAPro would be up and running by January 1, 2014. The  
21 SPD deadline for the commencement of IAPro was extended to April 15, 2014.

22 However, the SPD recently informed the Parties that it would not be able to meet the  
23 April 15 deadline but could anticipate partial compliance by May 31, 2014 and full compliance  
24 by September 30. Those dates are incorporated in the Plan. If those dates are met, it will  
25 represent exponential progress toward compliance and the ability of SPD to analyze officer

1 performance and manage the risk of unconstitutional policing.

2 Pricewaterhouse Coopers conducted an exhaustive study of the SPD's existing data  
3 systems and found that it is imperative that SPD construct a new business intelligence system  
4 ("BIS"). Once a vendor is approved, it will take a year or two to construct the BIS. Unexpected  
5 technical difficulties could drive the process out further. An RFP for the BIS will be completed  
6 by July 30, 2014.

7 **G. Supervision**

8 Pursuant to the First-Year Monitoring Plan, the SPD was to provide by December 31,  
9 2013, a plan to address the "unity of command," to eliminate the use of untrained acting  
10 sergeants, and to deploy a sufficient number of first-line supervisors to meet the obligations of  
11 paragraphs 153 and 155 of the Consent Decree. SPD's December 31 submission did not contain  
12 a sufficiently adequate plan. Nonetheless, over the last year, the SPD has endeavored to reduce  
13 the number of squads using in-squad relief, which is detrimental to the unity of command, and  
14 the percentage of untrained acting sergeants.

15 The SPD is completing a span of control analysis that: (1) analyzes the scope of a  
16 supervisor's tasks and the supervisor's workload; (2) if needed, reshapes the precincts'  
17 boundaries and the sectors within each precinct so that there can be an adequate number of first-  
18 line supervisors; and (3) creates a plan to train acting sergeants. The First-Year Monitoring Plan  
19 indicated that, by June 30, 2014, paragraphs 153 and 155 of the Consent Decree would be fully  
20 implemented. On the June 30 compliance deadline, the Monitor will, in consultation of the  
21 Parties, report to the Court whether SPD has met the goals of paragraphs 153-155.

22 **H. Review of the Use of Force**

23 The Monitor has recommended the merger of the SPD's Firearm Review Board into the  
24 Use of Force Review Board by December 31, 2014 or sooner. The Monitor will propose that the  
25 Assistant Chief of the Compliance & Professional Standards Bureau be added to the Use of

1 Force Review Board when it considers officer-involved shootings.

2 **I. In-Car Video and Microphones**

3 The in-car video system (“ICV”), which SPD officers are required to use, significantly  
4 assists the Board and the Office of Professional Accountability (“OPA”) in its review of force  
5 cases. Early in the first year of monitoring, the Monitoring Team observed that in-car video was  
6 unavailable to the Use of Force Review Board in a large number of instances. Audio from the  
7 officer’s “on-body,” shoulder microphone was sometimes not being recorded, was unintelligible,  
8 or was not appropriately synced with the video. The SPD blamed COBAN, the company that  
9 designed and installed the cameras and microphones. COBAN, in turn, blamed SPD officers for  
10 failing to turn on the cameras and the microphones, for not charging the batteries, and for  
11 resisting the policy that all incidents be recorded.

12 The Monitoring Team has met with SPD on numerous occasions, and spoken directly  
13 with COBAN at multiple junctures. The problems appear partly due to user error and partly due  
14 to technical glitches. Nonetheless, significant problems remain with respect to audio. Officers  
15 sometimes fail to turn on their microphones when they leave the vehicle—which policy requires  
16 and is obviously a prerequisite for capturing high-quality audio of recorded incidents. Moreover,  
17 some of the on-body microphone units’ batteries purportedly cannot hold a sufficient charge to  
18 last for a full shift. Issues also remain with the capture and storage of the video itself.

19 The Monitoring Team will expect that, whether user error or technical glitches, the issues  
20 that may be preventing the successful capture of video and audio of use of force and other  
21 incidents will be resolved. The Monitoring Team and SPD recently agreed that, by May 1, all  
22 known and reasonably foreseeable technical problems must have been resolved and that SPD  
23 will certify the same to the Parties, Monitoring Team, and Court.

24 **J. Disciplinary System**

25 The disciplinary system in the SPD is actually three systems of complaint, discipline and

1 appeal. It has evolved since 1999 as a product of labor negotiations, "improvement efforts" and  
2 political pressure with the ultimate result of being byzantine and less than transparent. Mayor  
3 Murray has asked Dr. Bernard Malekian, a retired Pasadena California Chief of Police, and the  
4 former head of the COPS office, to do a thorough review of the disciplinary system with an  
5 interdisciplinary team, coupled with technical assistance provided by the Monitor and  
6 DOJ. Although specific date is not set forth in the Monitoring Plan, it is hoped and expected that  
7 recommendations for overhaul of the disciplinary system will be shared and completed in the  
8 next six months.

## 9 II. CONCLUSION

10 The Second-Year Monitoring Plan is before this Court for approval. It endeavors to set  
11 realistic dates for compliance that take into account the some delay necessarily caused by  
12 replacement of the Interim Chief and the selection of a new Chief of Police. We anticipate a new  
13 Chief taking office in late spring or early summer, according to goals set by the Mayor.

14 The first year of monitoring was marked by significant achievements but also some delay  
15 in the tasks defined in the Consent Decree and in the First-Year Monitoring Plan. To ensure that  
16 enduring progress toward achieving the major objectives of the Consent Decree continues at an  
17 elevated rate, the party or parties seeking a delay must seek an extension from the Court. The  
18 Monitor may, at his discretion, support or comment on the motion to extend.

19 For these reasons, we respectfully seek this Court's approval of the Second-Year  
20 Monitoring Plan.


21 DATED this 17<sup>th</sup> day of March, 2014.

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23 

24  
25 \_\_\_\_\_  
Merrick J. Bobb, Monitor

1 The Court hereby approves the Second-Year Monitoring Plan dated March 17, 2014.

2 DONE IN OPEN COURT this 24<sup>th</sup> day of March, 2014.

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6 THE HONORABLE JAMES L. ROBART  
7 UNITED STATES DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

I certify that on the 17<sup>th</sup> day of March, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

- J. Michael Diaz                    [michael.diaz@usdoj.gov](mailto:michael.diaz@usdoj.gov)
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DATED this 17<sup>th</sup> day of March, 2014.

/s/ Carole Corona  
Carole Corona