



Government of The Virgin Islands of the United States



December 3, 2014

VIPD'S STATUS REPORT FOR QUARTER ENDING NOVEMBER 21, 2014

The VIPD has reviewed the IMT's Compliance Status Report dated November 20, 2014. The IMT's November 20, 2014 Report has changed compared to the IMT Report that was filed on August 29, 2014. The prior report is clearer than the November Report. At times, it is impossible to exactly what exactly is being assessed. Although VIPD agrees with many of the findings of the IMT, there are some findings or representations that it disputes or believes needs further clarification. This report addresses most of those issues that VIPD either disputes or has determined needs further clarification.

AUDIT & INSPECTION UNIT

On October 31, 2014, the Commissioner officially designated Police Lieutenant Sandra Colbourne as the Audit and Inspection Unit Commander. Lieutenant Colbourne has already begun performing her duties as the AIU Commander and is in the process of conducting an audit with other VIPD employees. Also Lieutenant Colbourne will work with the working groups in auditing the various provisions of the Consent Decree. Lieutenant Colbourne will not be conducting the audits by herself. She will be assisted by other VIPD employees. VIPD disagrees with the IMT that "single person staffing with temporary duty personnel is clearly deficient." The audits conducted by the working groups have continued to improve and the assignment of Lieutenant Colbourne, with the assistance of working group members or temporary assigned staff should enhance the audits. At this time, VIPD does not agree that transferring the Department's Compliance Coordinator to the AIU is in the best interest of VIPD. The Compliance Coordinator serves an important role in the management of records, exchanges of documents and information between VIPD and the IMT. As the parties are all aware, tracking the exchange of information and documents in a consent decree of this magnitude is no easy feat.

USE OF FORCE

With respect to the IMT's comments regarding impediment to compliance as to paragraph 32 the IMT reports that "[t]he development of protocols, outcome measure and evaluation has not been completed." It is unclear what this means. Does this relate to the Training Advisory Committee or lesson plans? If this pertains to the Training Advisor Committee, it is irrelevant to the training on the templates as it is the Director and the Use of Force working group that would be responsible for creation of any lesson plan, not the Training Advisory Committee.

Subparagraph 34 (c) and paragraph 37 were never reported as goals for any of the quarters. Yet, they are discussed in "Section III Court Goals and Paragraph Compliance Detail." Although VIPD has brought this to the IMT's attention the IMT has refused to remove discussions on these

paragraphs from the report. VIPD believes that this is contrary to the Court's May 22, 2014 Order. The order specifically provides that "each party shall file a report regarding progress made towards achievement of the *quarterly goals for the quarter that has ended.*" Since subparagraph 34 (c) and paragraph 37 were never reported as goals for any of the quarters they should not have been included in the November quarterly report and should not be considered at the Hearing. Their inclusion defeats the objective that the "parties target meaningful and achievable goals", if the IMT is free to add goals without any of the parties' input.

MANAGEMENT & SUPERVISION

Paragraph 60(d) – the IMT reports that "there is also a draft of a flow chart currently being reviewed." The flow chart was completed before the November 21, 2014. With respect to the directive for the records bureau, there has been no discussion with the IMT regarding incorporating this directive in a policy and the M&S has not informed the IMT that the directive will be incorporated in a policy. The November report is the first time M&S has learned from the IMT the directive will be incorporated in a policy.

Paragraph 60(h) the IMT reported they have been informed of a dated request from VIPD to VIAG re motor vehicle accident during the 3rd Quarter. The request to VIAG from VIPD was initiated on November 3, 2014. On November 13, 2014 a reminder request was sent to VIAG. On November 19, 2014, the information requested was sent to VIPD.

The IMT's representation that "while materials are being received the materials are not always complete and usable" is incorrect. In 2013, the VIAG provided the VIPD with cases filed against VIPD dating back five years. VIPD requested additional data or clarification as to some of the cases that were provided. In fact, in the August quarterly report the monitors reported that "the monitors have been advised that as it relates to civil and administrative claims, the VIAG has provided the VIPD with the complaints and claims filed against VIPD and its officers. Where VIPD has requested additional information they have been provided." M&S has not reported to the IMT that any information provided by VIAG in 2014 were not complete or usable. The IMT needs to update its data.

In its update on this subparagraph, the IMT reported that the response was received on 12/03/14. As noted above, the response to the request re motor vehicle accidents was provided to VIPD on November 19, 2014. What was sent to the IMT on December 3, 2014 was a letter to the Commissioner from the Attorney General regarding the forwarding of complaints and claims filed against VIPD and its officers. As the monitors reported, the AG does not believe that a MOA is necessary and instead has memorialized the process for the exchange of information in a letter to the Commissioner which he copied to supervisors in the Office of the Attorney General.

TRAINING

Training was unable to bring any new paragraph into compliance partly because the IMT moved the goal post further back and expanded the Consent Decree.

Notwithstanding Training and IMT's differences with what is required to achieve substantial compliance, the Training Bureau had a sense of direction with the last quarterly report but it appears from the November report that the IMT wants training to start all over again even on matters that the IMT and Training had reached some consensus or agreement. A new member of the IMT team has been requesting documentation from training that was sent to the IMT in the past.

Training Review Committee

The Training Advisory Committee held a second meeting for this calendar year on October 3, 2014. A prior meeting was held this year on May 20, 2014. Most of the persons who attended the May 20, 2014 also attended the October 3, 2014 meeting. In its November 2014 Report the IMT reported that neither first responders nor the lead from the Use of Force Working Group are members. The November 20, 2014 report is the very first time that the monitors have recommended that first responders and the lead from the Use of Force Working Group should be included as members. It was not discussed at the recent summit or in the August IMT report. In fact, the monitors have never complained about the composition of the committee and during the last court hearing represented that appropriate persons attended the May 20, 2014 meeting. The IMT's representation that the lead from the Use of Working Group is not represented on the committee is incorrect. Captain Duggan who is the point person for the Use of Force Working Group attended both the May and October meetings. Additionally, Police Chief Parris whom she also represented is in fact the head of the Use of Force Working Group. Also Officer Bennerson, who attended both the May and October 2014 meetings is not a supervisor and is a first responder. He is a canine officer who works primarily on the streets, even though he is a part-time instructor at the Police Academy. The IMT's representation that the proposed force Review Committee Chair was not included as requested by Captain Duggan is premature. As the monitors are well aware, a protocol which would formally establish the membership of the committee has not been completed. Additionally, the Force Review Board Policy has not been finalized or approved and the Chair of the Board does not exist as of this report. The protocol and membership on the committee were discussed during the October meeting. No decision was made to reject first responders, lead from the Use of Force Working Group, or the Chair of Force Review Committee as members.

The November report is also the first time that the monitors have raised the issue of directly routing suggestions to the committee. There is no legitimate basis why any suggestion anonymous or otherwise cannot be sent to the Training Director or left at the Training Academy and then provide to the committee when it meets. The committee consists of individuals who work in different divisions within VIPD. Since the committee's focus is training, Training is the most appropriate entity to collect such information and then bring it to the committee's attention when it meets.

The VIPD disagrees with the IMT's assessment of the Advisory Committee Meeting. During the meeting some of the discussions include review of use of force incidents as reported by IAB territory-wide, the quality of training provided, areas where training may be needed,

further research to determine effectiveness of certain types of uses of force, and coordination of roll call training.

During the summit, there were discussions regarding a protocol for the Training Advisory Committee. Discussions regarding the content of the protocol revealed that the IMT now had a different and expansive view of the content of the protocol than what was previously represented to Training. Since Training was unclear as to what the IMT was now requesting, it asked Mr. Palmer to provide it with a sample of a protocol for a similar committee. To date, Training has not received such a sample. Training is awaiting receipt of a sample protocol from the IMT, so that it can formulate a protocol that will satisfy the IMT.

Instructor Selection Process

The IMT and training have discussed the instructor selection process on several occasions. During the August summit there were extensive discussions on the waiver requirement. In fact, VIPD was under the impression that the waiver issue had been resolved. In the August IMT Report the only comment that the IMT had with respect to the instructor selection process was "Despite the fact that a directive has been developed and issued concerning the selection and training of VIPD officers, trainers, there is still the need to develop standard definitions for the certification and re-certification of instructors. VIPD plans to add an addendum to its directive that would further define the classes of instructors and establish a formalized certification process for each of the instructors in VIPD." VIPD in reliance on the discussions in the August summit and the August IMT Report revised the instructor selection directive consistent with the comments by the IMT in August Report. Training was shocked when the IMT raised the issue of the waiver after it submitted its revised directive regarding the instructor selection process. Training believed that this issue was resolved during the August Summit.

Kirkpatrick's Four Level Evaluation Model

The IMT made numerous mention of the Kirkpatrick's Four Level Evaluation Model. The first time that the IMT ever mentioned the Kirkpatrick model of training to the Director was the day after the November summit. The director believes that this type of evaluating is not conducive for policing and the size of the VIPD should be considered. Moreover, the Kirkpatrick model has been criticized. See below.

There are three problematic assumptions of the Kirkpatrick model

- 1) the levels are not arranged in ascending order,*
- 2) the levels are not casually linked, and*
- 3) the levels are positively inter-correlated (Alliger and Janak,(1989).*

One part of Kirkpatrick's four levels that has failed to uphold to scrutiny over time is Reaction. For example, a Century 21 trainer with some of the lowest level one scores was responsible for the highest performance outcomes post-training (level four), as measured by his graduates' productivity. This is not just an isolated incident – in study after study the evidence shows very little correlation between Reaction evaluations and how well people actually perform when they return to their job (Boehle,

2006).

There is no requirement in the Consent Decree that VIPD adopt the Kirkpatrick model. These new the requirements have changed since Mr. Palmer Wilson came onboard has placed the Training Bureau at a disadvantage.

Power DMS

The IMT's report on Power DMS was not truthful. The IMT reported that neither the Director of Training nor any one of his staff has the capability to sign on, operate, or load training data into Power DMS. They also reported that only Ms. Tweed from MIS can load data into the system. This type of reporting is irresponsible. The Training Bureau staff have uploaded all the current information on Power DMS, administered over 400 tests online and knows how to sign on to the system.

Paragraph 73. During the August IMT report paragraph 73 had two requirements - (1) review use of force training semi-annually and (2) ensure the quality, consistency, and compliance with applicable law and VIPD policy. The VIPD was in partial compliance with (1) and in partial compliance with (2). The IMT November report has paragraph 73 as having subsections a to h. Paragraph 73 of the Consent Decree has no subsection a to h. Thus, VIPD does not know what subsections a-h as reported by the IMT requires. It is impossible for VIPD to meet compliance by the IMT's standard when the IMT appears to have unilaterally amended the Consent Decree the goal post is constantly being moved.

Paragraphs 74 and 77. In the August IMT Report, the IMT reported VIPD in substantial compliance with subsections (b) and (d) and partial compliance in all other subsection of paragraph 74. In this report the IMT has reported as follows

- Subparagraph (a) - not in substantial compliance
- Subparagraph (c) - not in substantial compliance
- Subparagraph (d) - not in substantial compliance
- Subparagraph (e) - partial compliance
- Subparagraph (f) - not in substantial compliance
- Subparagraph (g) - not in substantial compliance

A similar change was made to paragraph 77 (b) which was changed from partial compliance in the August IMT Report to not in compliance in the IMT's November Report. When asked why the subparagraphs were changed from partial compliance to not in substantial compliance, the IMT today reported that they decided amongst themselves, without any consultation with VIPD, that as it relates to training where there is no percentage for compliance the assessment they would no longer use partial compliance. Instead a paragraph would either be in compliance or not in compliance. This method of assessment as it relates to training is unfair and inconsistent. In none of the subparagraphs that the IMT now claims are not in substantial compliance is there any evidence that Training did not take any action during this quarter to move towards compliance, yet it gets a lower assessment. As the VIPD has informed the IMT its prior "all or nothing" method of assessment does not give VIPD credit for the work it has done and only serves to erode morale for those VIPD personnel that have worked tirelessly to

bring VIPD closer to achieving the objectives of the Consent Decree. For reasons unknown to VIPD, the IMT has unilaterally decided to revert to an assessment method for training that fails to take into consideration the efforts of Training.

Paragraph 81. In the August IMT Report paragraph 81 has two requirements – (1) provide burden of proof training to al supervisor – In compliance and (2) provide supervisory training on leadership and command accountability – Partial Compliance. In the IMT November Report, paragraph 81 has three subsections. It is not clear from the report what are requirement of subsections and it is not clear whether Training is being assessed on the same criteria as in the August IMT Report.