

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE VIRGIN ISLANDS**

UNITED STATES OF AMERICA,)	
)	C.A. No. 3:08-CV-158
Plaintiff,)	
)	
v.)	
)	
1. THE TERRITORY OF THE VIRGIN ISLANDS; and)	
)	
2. THE VIRGIN ISLANDS POLICE DEPARTMENT,)	
)	
Defendants.)	

**REPORT REGARDING DEFENDANTS’ EFFORTS TO COMPLY WITH
QUARTERLY GOALS BY NOVEMBER 6, 2015**

Pursuant to the Court’s August 21, 2015 Order, Dkt. # 165, Plaintiff, the United States of America, files this report regarding Defendants’ efforts to meet the quarterly goals by the deadline of November 6, 2015. Though the Virgin Islands Police Department (“VIPD”) met all six goals, the Department of Justice (“DOJ”) notes that VIPD generally did not do so until very late in the quarter. In addition, though VIPD completed drafting or redrafting documents as required by some of the goals, none of those documents are yet in final form, and a considerable amount of work remains to be completed on each. Finally, although VIPD met all six goals, for the fifth quarter in a row VIPD has once again failed to bring a single paragraph of the Consent Decree into compliance. Overall, VIPD remains in substantial compliance with 31 of 51 paragraphs of the Consent Decree, with 20 paragraphs not in substantial compliance. VIPD’s compliance status regarding the Consent Decree paragraphs has not budged since August 2014.

Quarterly Goals

For the quarter ending November 6, 2015, VIPD was obligated to meet the following goals:

1. Revise OC policy to address weight variance and develop a database to record OC weights, to be implemented territory-wide.
2. Submit revised draft OC policy to USDOJ and IMT.
3. Develop a flowchart for Use of Force investigations and the adjudicative process.
4. Update existing flowchart for Citizen Complaint Process and the adjudicative process.
5. Complete the test in-service evaluation survey form.
6. Submit draft revised disciplinary policy and matrix to USDOJ and IMT.

As noted above, VIPD met all of the goals set for this quarter. However, VIPD generally repeated its usual pattern of waiting until the final days of the quarter to do so, engaging in a flurry of activity just before the quarter's end. Regarding the first and second goals, which required VIPD to revise its OC policy and submit it to the DOJ and the Independent Monitoring Team ("IMT"), VIPD produced drafts on September 29 and October 27, neither of which accounted for input from the DOJ. Finally, on November 10, VIPD provided a draft of the OC policy to the DOJ that did, in fact, begin to address DOJ's concerns. DOJ approved a final version of this policy on November 18.

Regarding the third and fourth goals, which required VIPD to develop or update flow charts regarding use-of-force investigations and the citizen complaint process, DOJ did not receive drafts of either until roughly the final week of the quarter. VIPD provided a draft of the use-of-force flow chart to the IMT (but not the DOJ) on October 29 and another draft to DOJ on November 6—the last day of the quarter. VIPD provided DOJ with a draft of the

complaint process flow chart on November 4—just two days before the quarter ended. DOJ received another draft of the complaint flow chart on November 16. While the goals did not explicitly require VIPD to produce final versions of either of the charts, DOJ notes that considerable work remains to complete both of them.

VIPD completed the fifth goal, which required VIPD to produce an in-service survey form, in a relatively timely fashion; the IMT approved a final version on September 29. However, VIPD did not provide a revised disciplinary policy and matrix to DOJ and the IMT, per the requirements of the sixth goal, until November 3—a mere three days before the end of the quarter. In addition, the changes that VIPD made to the policy are generally confusing and only serve to weaken the policy rather than improve it.

Had VIPD also completed a significant amount of work this quarter regarding the 20 outstanding paragraphs of the Consent Decree, DOJ would be less concerned about the pace at which VIPD accomplished the six goals it set for itself—none of which were onerous. Regarding the Consent Decree, however, VIPD only managed to move a mere sub-paragraph into *partial* compliance—sub-paragraph 69.a. VIPD edged forward on this sub-paragraph by submitting a standard operating procedure of the Audit Unit to the IMT for review.

Moving forward into the next quarter, however, DOJ expects greater commitment and productivity from VIPD as it goes about identifying and achieving goals. During a Consent Decree Summit held on St. Thomas November 12 and 13, DOJ and the IMT worked closely with VIPD to identify all tasks necessary to attain both outstanding goals and consent decree paragraphs, create deadlines for the tasks, and assign a specific individual to each task to ensure its completion. In addition, DOJ has encouraged VIPD to provide, as part of next quarter's goals filing, extensive detail regarding each goal that includes sub-goals and dates set

incrementally throughout the quarter by which those sub-goals must be accomplished. By taking such an approach, VIPD will better position itself to work more efficiently and effectively throughout the next quarter.

Overall Compliance Efforts

As noted above, an entire 15 months have passed since VIPD last attained compliance with a paragraph of the Consent Decree. Though the Territory's leadership and VIPD's command staff have set for themselves the aggressive deadline of August 2016 to attain substantial compliance with the Consent Decree—a mere nine months away—VIPD has been unable to overcome significant handicaps that prevent it from making any real, substantial gains toward compliance.

One glaring shortfall, as both IMT and DOJ have repeatedly noted quarter after quarter, is VIPD's paucity of committed supervisors who consistently complete their work and effectively lead their subordinates. Time and again, VIPD supervisors fail to respond to incidents of use of force; fail to properly assess officers' use of force reports; fail to competently complete their review of the use of force; and fail to timely complete citizen complaint investigations. In addition, DOJ has recently learned that, due to a shortage of supervisors, there are shifts when VIPD does not even have a single supervisor on duty. VIPD absolutely must ensure that it has promoted a sufficient number of officers into supervisory positions and assigned an ample number of supervisors to patrol, *for all shifts*, where they are needed to respond to, review, and evaluate force incidents.

Regarding training, as noted in previous DOJ and IMT reports, VIPD needs to conduct semi-annual, data-driven reviews of the quality and consistency of use-of-force training to ensure effectiveness and compliance with law and VIPD policy. VIPD should conduct these

reviews in conjunction with its semi-annual reviews of the use-of-force policy. VIPD must also be sure to upload all required information into Power DMS for each officer. VIPD cannot ensure it is providing its officers with quality, effective training—and cannot comply with the consent decree—until it is effectively evaluating and tracking that training.

Problems with VIPD's early intervention program ("EIP") remain, as well. Supervisors have failed to respond to alerts in an effective manner. Of 44 alerts on St. Thomas during 2015, as noted in the Third Quarter IMT Report, the majority lacked the necessary assessments or action plans. While DOJ notes that VIPD has recently hired two data analysts to help improve VIPD's adherence to the program and has recently begun offering additional EIP training to VIPD personnel, DOJ has yet to see a marked improvement in the way in which VIPD operates and adheres to its EIP program.

All of the above problems are ones that DOJ has identified each quarter for the past year, and the IMT has been identifying these problems—and many others—for much longer. Each quarter, the IMT produces an extensive report that marches through each paragraph and sub-paragraph of the Consent Decree and identifies exactly what VIPD must do to attain compliance with the relevant provision. Quarter after quarter, the IMT often repeats the same list of impediments and list of recommendations for each non-compliant provision because VIPD has failed to take any action to address the identified problems.

This is not to say that VIPD is completely stagnant. As noted above, unlike the past quarter, in which VIPD met none of the goals it set for itself, this quarter VIPD did meet every single goal. In addition, VIPD also took steps that, ultimately, will help it move toward compliance on Consent Decree provisions related to the investigations and reviews of uses of force. Specifically, during the first week in November, VIPD provided quality training for

personnel involved in the Force Review Board and Force Investigation Team. While more training is needed, the training conducted this past quarter is a positive move in the right direction.

As also stated in previous quarterly reports, DOJ remains confident that VIPD's command staff is committed to achieving substantial compliance, and we note that VIPD's consent decree compliance coordinator and consent decree audit manager both have enthusiastically assumed their relatively new roles. And perhaps it is worth noting that, though VIPD has made little forward progress regarding the outstanding 20 consent decree paragraphs, it has at least maintained compliance with 31 other paragraphs without losing that ground. VIPD is indeed inching forward. But while there are those individuals within VIPD who are striving to effect positive change, there also are many who remain stagnant. VIPD must ensure everyone is working together to attain compliance in order to ensure it moves forward in a timely manner.

Conclusion

Though VIPD met the six goals set to be completed this quarter, VIPD failed to bring any consent decree paragraphs into compliance and managed only to move a single subparagraph from non-compliance to partial compliance. Especially considering its self-imposed August 2016 deadline for substantial compliance looming, VIPD must redouble its efforts to address foundational problems such as an insufficient staff of supervisors and a failure to properly assess and track training before it can begin to move substantially toward compliance.

Respectfully submitted,

FOR THE UNITED STATES:

November 20, 2015

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Plaintiff's Report Regarding Defendants' Efforts to Comply With Quarterly Goals by November 6, 2015 was filed electronically on November 20, 2015 using the CM/ECF system, which will send electronic notification to the following:

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