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Consent Decree Status Update

Office of the Consent Decree Monitor
Virtual Public Meeting

October 22, 2024

Agenda

- Introduction
- Parties' Joint Motion
- The Role of the Monitor
- Compliance Summary
- Proposed Sustainment Plan
- Conclusion

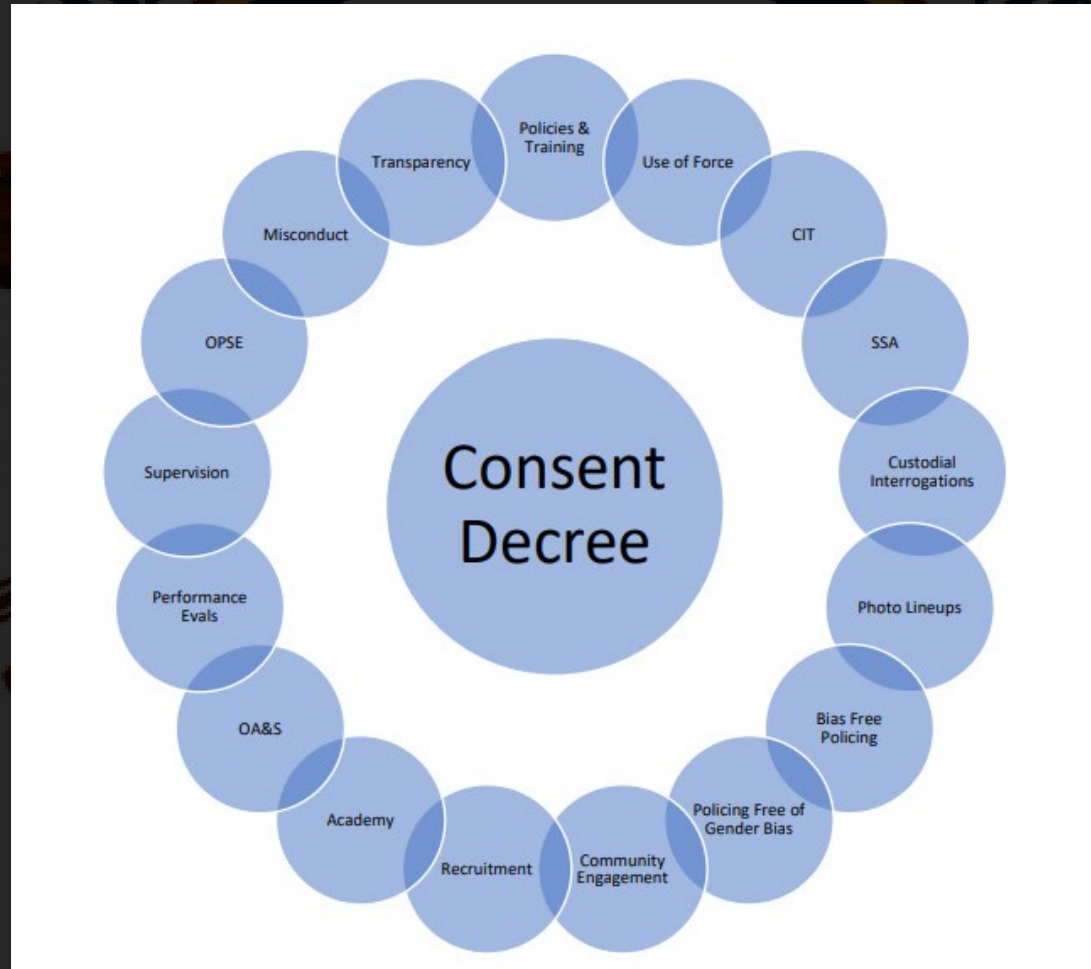


Introduction

A Few Preliminary Notes

- Questions and comments can be shared via the Q&A button
- All appropriate questions will be posted to the OCDDM website with the name of the commenter (if shared)
- Some questions will be answered during the public meeting; other answers will be posted to the OCDDM website
- A recording of this session will be posted to the OCDDM website
- Our next public meetings will be in person in New Orleans next week

The Consent Decree



Consent Decree Requirement

- The Consent Decree requires the City and NOPD to achieve “full and effective” compliance with its terms
- Full and effective compliance means:
 - Sustained compliance with all material requirements of this Agreement or sustained and continuing improvement in constitutional policing, as demonstrated pursuant to the Agreement’s outcome measures. (CD491)
- The Consent Decree requires institutional changes, with an emphasis on policies, training, supervision, discipline, and transparency

Parties' Joint Motion

- The Parties' Joint Motion does not ask the Court to find “full and effective compliance,” but recognizes that the City and NOPD have made sufficient progress to enter the two-year Sustainment Period pursuant to a proposed “Sustainment Plan”

The proposed joint motion is appropriate because: (1) the City has achieved compliance sufficient to enter the sustainment period as set forth by Paragraph 491 of the Decree; (2) the Sustainment Plan addresses the discrete remaining tasks and provides mechanisms for the City to demonstrate compliance for the required two years; and (3) the Sustainment Plan provides safeguards to pause the sustainment period or to remove the City from the sustainment period if the City fails to maintain compliance.

MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO BEGIN SUSTAINMENT PERIOD
AND APPROVE SUSTAINMENT PLAN at 4.

The Court's Role

- **Judge Morgan will decide whether to grant the motion**
 - The Monitor does not make that decision
- Public input will be an important consideration in the Judge's evaluation
- The court will hold a hearing at which the public will be able to make comments
- Comments can be submitted to the Monitor or the court no later than 11/8
 - To the Monitor: aburns@consentdecreemonitor.onmicrosoft.com
 - To the Court: Clerk@laed.uscourts.gov
 - Via mail: Clerk of Court, U.S. District Court, EDLA; 500 Poydras St., Room C-151; New Orleans, LA 70130

The Monitor's Role

- Assess and report on NOPD's and the City's progress in implementing the CD
- Evaluate whether the reforms mandated by the CD are working and, if not, recommend changes
- Rely on our team's expertise to help the City and NOPD achieve compliance
- Constructively engage communities and stakeholders in the reform process
- Assist the NOPD, the City, and the DOJ in resolving any differences that might arise over the particulars of implementing the CD
- **We serve as the eyes and ears of, and the advisor to, the federal court**

**Our role is institutional not individual
We are not an investigative entity**



How We Monitor And Measure

The Monitoring Team



Jonathan Aronie
Lead Monitor



David Douglass
Deputy Monitor

Team Members



Theron
Bowman



Mary Ann
Viverette



Mitch
Brown



Bob
McNeilly



Chet
Epperson



Bill
Murphy

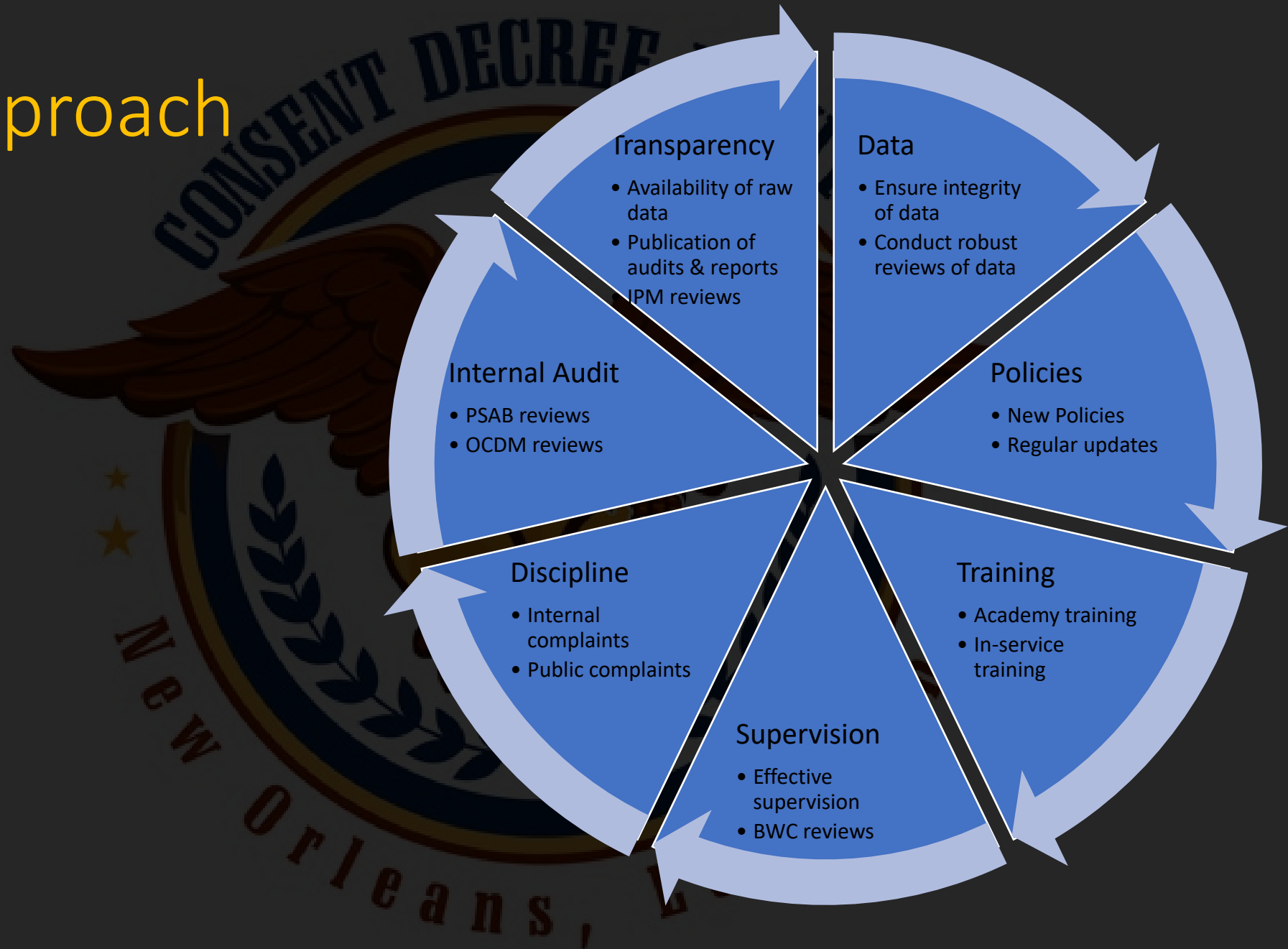


Geoff
Alpert



Ashley
Burns

Our Approach



The Monitoring Process

Policies	Training	Practices	Supervision	Accountability	Transparency
<ul style="list-style-type: none">Review all material policies, procedures, and protocols	<ul style="list-style-type: none">Assess training materialsObserve Classroom InstructionAssess Annual Master Training PlanAudit systems	<ul style="list-style-type: none">AuditsBWC reviewsRide-alongsAssess practicesTargeted reviews	<ul style="list-style-type: none">AuditsBWC reviewsInsight reviewsRide-alongsAssess practicesTargeted reviews	<ul style="list-style-type: none">OCDM Audits of PIBOCDM review of PIB investigationsUFRB reviewsSDRB reviewsReviews of PSAB audits	<ul style="list-style-type: none">OCDM ReportsOCDM public meetingsNOPD reportsOIPMPolicy Review PanelCommunity Engagement



The Path to Compliance

An Extensive Record

- Prior OCDM Public Presentations, e.g.:
 - Loyola 2019
 - Court 2021

- Regular Public Meetings

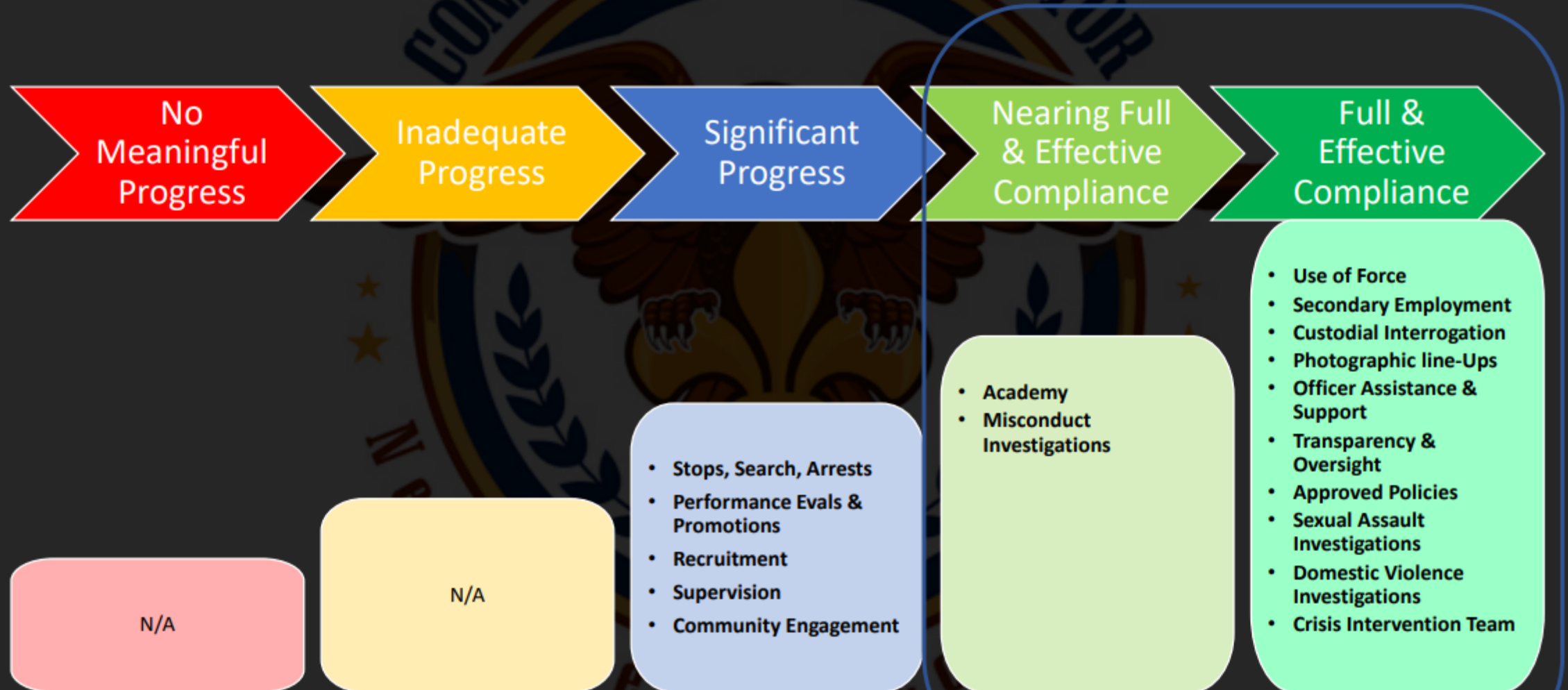
- Regular Reports

- Special Reports

- Annual Reports

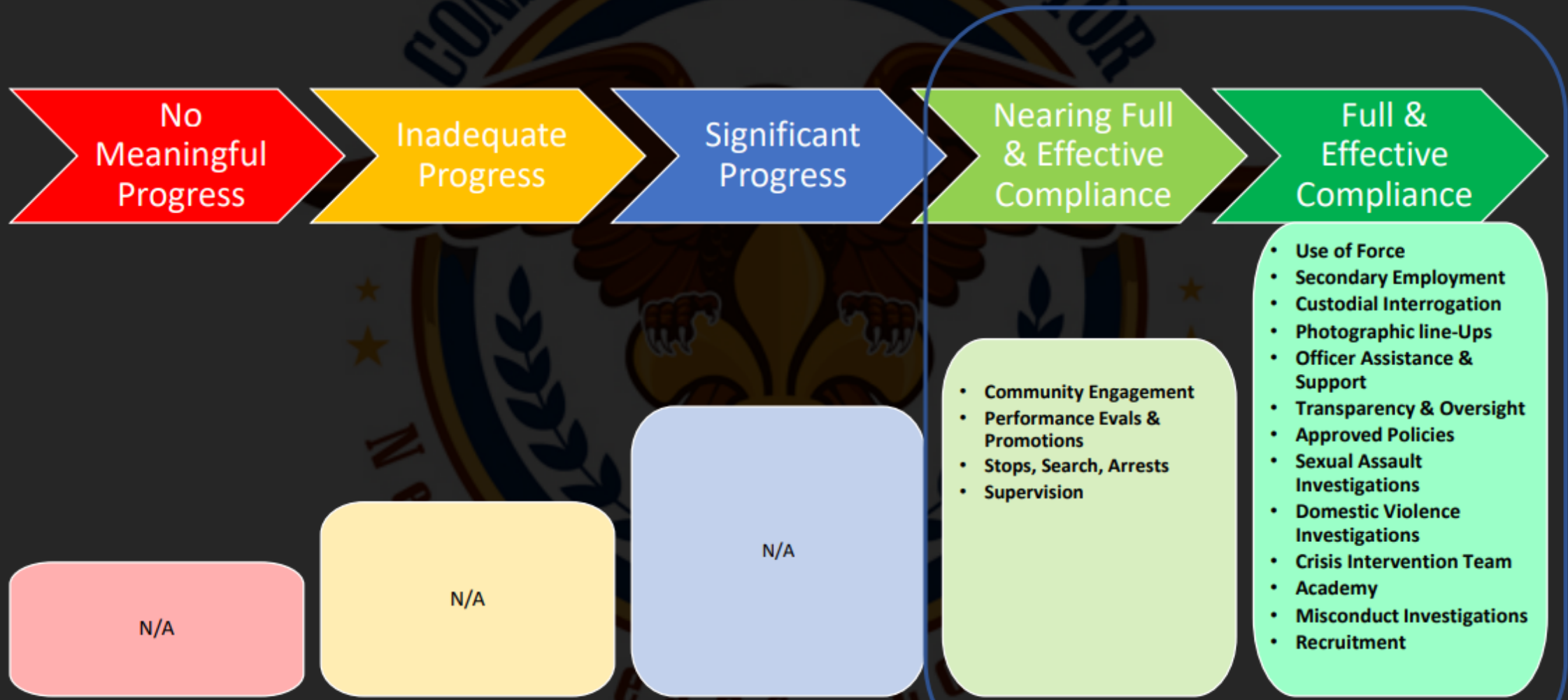
Monitor Reports are available at
<http://consentdecreemonitor.com/reports>.

NOPD Status – January 2019



*Section VIII (Bias Free Policing) requires additional testing by the Monitoring Team and DOJ prior to offering a finding.

NOPD Status – January 2021



*Section VIII (Bias Free Policing) requires additional testing by the Monitoring Team and DOJ prior to offering a finding.



Status Update – Oct. 2024

Monitoring Team's Recent Focus

- Supervision
- Performance Evaluations and Promotions
- Community Engagement
- Stops, Searches and Arrests
- Misconduct Investigations and Adjudication (PIB)
- OPSE

Supervision

- Supervision audits (NOPD PSAB and OCDDM)
- Insight (Early Warning System)
- Use of Force Review Board
- Supervisory Discipline Review Board
- Performance Evaluations and Promotions

Performance Evaluations & Promotions

- Slow start
- Steady improvement over last few years
- Current concern regarding recent promotions exam is under review

Community Engagement

- Community oriented problem solving
- PCAB process
- Geographic deployment
- NOPD meetings and reports

Stops, Searches, and Arrests

- Task Forces Disbanded
- FOB Inspection process
- Steady improvement
- Recent audit



Misconduct Investigations



- Ups and downs over the years
- Backsliding led to Court Show Cause Hearing, including multiple findings of non-compliance
- NOPD implemented a meaningful Remedial Measures Plan and monthly status reports to the Court
- NOPD, OCDM, DOJ developed an expanded audit protocol

Secondary Employment

- Issues concerning no-shows, double-dipping, hours violations
- New systems and controls implemented
- New combined payroll system to be implemented
- Updated audit protocol in development



The Proposed Sustainment Plan

What Is The “Sustainment Period”?

Paragraph 491 of the Consent Decree contemplates a 2-year period during which NOPD and the City must demonstrate the durability/sustainability of their achievements before being released from the Consent Decree.

What Happens During The Sustainment Period?

- NOPD must continue to comply with the Consent Decree and its commitments under the *Sustainment Plan*
- The Court retains complete jurisdiction and oversight
- The Monitoring Team stays in place
- Active monitoring continues, but more reliance is placed on NOPD's internal systems
- The Court has the power to suspend or terminate the Sustainment Period at any time

Summary Of Sustainment Plan Elements

- Maintain the Serious Discipline Review Board and Use of Force Review Board
- Maintain EPIC/ABLE
- Maintain MAX, analytics program
- Maintain City Council Regulation
- Continue Cooperating with OIPM
- Regular publication of disciplinary letters issued in previous quarter
- Outside audit of PSAB
- Public Policy Review Schedule
- Quarterly Reports to DOJ, Monitor, Court, and City Council
- Implement all necessary Corrective Action Plans

Illustrative Corrective Action Plans

- Use of Force
 - Convene Use of Force Review Board within 120 days of investigation completion
 - Expand reviews to cover rate of unauthorized use of force per arrest
- Stops, Searches, and Arrests
 - Report DA Refusal Rates
 - Improve documentation of consent searches
- Training
 - Use of Logbooks
 - FIC documentation
 - Search vs. pat-down

Illustrative Corrective Action Plans (cont.)

- Bias-Free Policing
 - Address 2022 and 2023 Bias Free Audit results
 - Explore partnership with outside data expert
- Policing Free of Gender Bias
 - Publish quarterly sexual assault and domestic violence data
 - Assign investigator to SA GOA calls
- Performance Evaluations and Promotions
 - Ensure supervisors use Early Warning System (“EWS”) as part of performance evaluations
 - Ensure approved Promotions Protocol is being followed

Illustrative Corrective Action Plans (cont.)

- Supervision

- New custodial interrogation and photo lineup audits within 90 days
- Conduct Serious Discipline Review Board hearings within 60 days of the issuance of discipline
- Incorporate proposed revisions to existing EPU policy
- Executive Protection Unit audit within 120 days; audit protocol within 60 days
- Report to the Court on Supervisory Discipline Review Board findings
- Acquire new EWS system; audit EWS system quarterly

Illustrative Corrective Action Plans (cont.)

- Office of Secondary Employment (OPSE)
 - Develop OPSE audit protocol
 - Unified OPSE and NOPD payroll system
 - Ongoing review of PIB/DA/DOJ reviews/investigations
- Misconduct Investigations and Adjudication
 - Complete PIB Remedial Plan
 - Expand random integrity checks
 - Implement new PSAB audit protocol

Monitor's Role During Proposed Sustainment Period

- Audits
- Spot Audits
- As needed / as directed reviews
- Report to Judge Morgan
- Issue Quarterly Reports and Special Reports as warranted
- Ongoing Public Meetings

Ensuring Sustainability In the Proposed Sustainment Period And Beyond

- Complete suite of new policies
- PSAB Audit Protocols
- City Counsel Regulation
- Department-wide SOPs
- Pro-Active Video Release Policy
- New Promotions Process
- Regularly updated Academy training
- Academy Academic Director
- Transformative Active Bystandership Program (EPIC/ABLE)

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Examples of Ongoing Public Concerns

Illustrative Ongoing Public Concerns

- Bias-Free Policing
- Use of Force
- PCABs
- Favoritism
- Promotions
- SA/DV data



Bias-Free Policing

- The Consent Decree addresses Bias-Free Policing in numerous ways
 - Use of Force
 - Stops, Searches and Arrests
 - First Amendment
 - Gender Bias
 - Limited English Proficiency
- “NOPD agrees to deliver police services that are equitable, respectful, and bias-free, in a manner that promotes broad community engagement and confidence in the Department. In conducting its activities, NOPD agrees to ensure that members of the public receive equal protection of the law, without bias based on race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity, and in accordance with the rights secured or protected by the Constitution and laws of the United States. . . .”

Bias-Free Policing (cont.)

- Audits
 - Use of Force and SSA
 - Complaint Investigation and Adjudication
 - Bias-Free Audit
- Specific Incidents
 - Protests

Use of Force

- Significant credible data available
- Use of Force Review Boards
 - Our reviews identified some UFRB backsliding prior to 2024
 - More recent reviews show a return to a meaningful process
- K9
 - Policies in place
 - Training in place
- Vehicle Pursuits
 - Strong policies in place
 - Our reviews identified a pattern of misconduct years ago that prompted a deep dive by the OCDM
 - More recent reviews show a high level of compliance by officers and supervisors
 - 100% PSAB review

Drivers of Significant Use of Force Improvements

- New policies
- Enhanced training
- Highly trained FIT investigators
- Wide adoption of Body Worn Cameras
- Implementation of best practice EPIC/ABLE active bystandership program
- Meaningful Use of Force Review Board process
- CIT program
- Improved Officer Health & Wellness programs
- Robust PSAB audit process

PCABs

- PCABs take their role seriously, but their effectiveness is hampered by
 - Inconsistent performance
 - Inadequate City support for process
- New PCAB Plan under review

Favoritism

- Public (and NOPD) complaints that certain “connected” individuals are not held accountable
- Numerous investigations/reviews underway, including an ongoing review by the Monitor of the City’s statements regarding the recent promotions exam
- Monitor recommends strengthening independent investigative processes
- We will continue to closely monitor

SA/DV Data

- Public brought issue to NOPD's attention
- NOPD took prompt corrective action
- Corrective Action Plan now in place



Conclusion

A Recipe For Success

Contributors to Past Success

- Highly credible and proven NOPD leadership team
- Dedicated and energetic PSAB
- DOJ guidance/partnership
- Vigilant Monitoring Team
- Significant OCDM technical assistance
- Close judicial oversight

Keys to Continued Progress

- Empower NOPD leadership to continue reform path
- Implement additional tools to *sustain* reforms
- Expand community trust
- Continue building PSAB self-audit capacity
- Continue positive relationship among NOPD, DOJ, and OCDM

Monitoring Team Path Forward



Continue reviewing ALL serious uses of force



Continue robust audits and assessments



Continue leveraging internal NOPD PSAB audits to the maximum extent possible



Continue providing technical assistance as requested



Work with DOJ and NOPD to conduct additional outcome assessments as appropriate



Ensure compliance with Sustainment Plan, if approved



Thank you!