

# City of Milwaukee Settlement Agreement

## Six-Month Report on Non-Compliant Items

MARCH 2021



PREPARED BY THE CRIME AND JUSTICE INSTITUTE



CRIME AND JUSTICE INSTITUTE

A Division of Community Resources for Justice

# CONTENTS

- Introduction.....4
- Areas of Progress and Challenges.....6
  - Areas of Progress.....6
  - Challenges.....7
- Update on Non-Compliant Items .....9
  - SA Paragraph IV.14 .....9
  - SA Paragraph IV.A.1.....10
  - SA Paragraph IV.A.2.b.....10
  - SA Paragraph IV.A.2.c .....11
  - SA Paragraph IV.A.2.d.....12
  - SA Paragraph IV.A.3.....12
  - SA Paragraph IV.A.5.....13
  - SA Paragraph IV.A.7.....14
  - SA Paragraph IV.B.1.d .....14
  - SA Paragraph IV.C.5.....15
  - SA Paragraph IV.D.1.j.....15
  - SA Paragraph IV.E.1.....16
  - SA Paragraph IV.E.2 .....16
  - SA Paragraph IV.E.3 .....17
  - SA Paragraph IV.E.4.....17
  - SA Paragraph IV.E.4.....18
  - SA Paragraph IV.F.1.....18
  - SA Paragraph IV.F.7 .....19
  - SA Paragraph IV.G.1.....19
  - SA Paragraph V.1.d.i .....20
  - SA Paragraph V.1.d.iii .....22
  - SA Paragraph V.1.d.vi.....23
  - SA Paragraph V.1.d.vii.....23
  - SA Paragraph V.1.d.viii.....24
  - SA Paragraph V.1.d.ix.....24

|                           |    |
|---------------------------|----|
| SA Paragraph VIII.2 ..... | 25 |
| Video Footage Review..... | 26 |
| Conclusion.....           | 28 |

## INTRODUCTION

The Settlement Agreement among the Parties in *Charles Collins, et al. v. City of Milwaukee, et al.*<sup>1</sup> stipulates that a Consultant provide the Parties an annual report addressing compliance with the terms of the Agreement. In addition, the Agreement states:

*Should the Consultant find that the Defendants are non-compliant with any of the requirements of this Agreement, the Consultant shall submit a report within six (6) months determining whether Defendants have rectified the issue(s). (SA V.A.1)*<sup>2</sup>

The Crime and Justice Institute (CJI) serves as the Consultant per mutual approval of the Parties. The items reviewed for compliance in CJI's [first annual report](#)<sup>3</sup> from September 2019 included Settlement Agreement requirements with specific delivery dates during the first year of the Agreement, as well as items expected at quarterly, six-month or 12-month intervals. In our [second annual report](#)<sup>4</sup> of September 2020, we reviewed all of the Settlement Agreement requirements for compliance. This six-month report provides an update on the progress and status of the items deemed non-compliant in our second annual report per SA V.A.1.

Over the past six months, we have worked closely with the Defendants to make progress in a variety of areas including, but not limited to:

- Focusing attention and resources on non-compliant items;
- Refining internal processes at MPD and FPC related to the Settlement Agreement;
- Adhering to multi-year project plans including interim deadlines and milestones to work toward full compliance;
- Continuing to determine the documentation required to adequately demonstrate that compliance for individual requirements in the Settlement Agreement has been achieved;
- Continuing to refine and improve the quality of the required data extractions MPD shares with the Consultant, Plaintiffs' counsel, and FPC on a quarterly basis;
- Conducting a video footage review;

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<sup>1</sup> Order and Settlement Agreement (July 23, 2018). *Charles Collins, et al. v. City of Milwaukee, et al.*, (17-CV-00234-JPS) United States District Court Eastern District of Wisconsin, Milwaukee Division.

<sup>2</sup> Citations to a specific paragraph of the Settlement Agreement will appear in this report as SA followed by the paragraph number.

<sup>3</sup> <https://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/Reports/Crime-and-Justice-Institute/CJIAnnualReport2019CityofMilwaukeeSettlementAgreement.pdf>

<sup>4</sup> <https://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/Reports/Crime-and-Justice-Institute/CJIYearTwoReport.pdf>

- Working more closely with a three-attorney team at the City Attorney’s Office; and
- Working with newly-promoted Command Staff members.

As of the writing of this report, CJI conducts regular, virtual meetings with:

- Inspector Boston-Smith and other MPD personnel responsible for requirements of the Settlement Agreement;
- FPC Executive Director Todd;
- FPC staff who are responsible for compliance with the Settlement Agreement<sup>5</sup>;
- Three-attorney team from the City Attorney’s Office; and
- Plaintiffs’ counsel and affiliated representatives.

CJI is also in occasional communication with the offices of the Mayor, Common Council President, and City Attorney. CJI is invited to present virtually at a meeting of the Legislative Subcommittee of the Fire and Police Commission on March 23, 2021 where we will provide updates on the status of efforts toward compliance.

The categories of compliance remain unchanged from previous reports and are as follows:<sup>6</sup>

- **Compliant:** The Defendants have complied fully with the requirement and the requirement has been demonstrated to be adhered to in a meaningful way and/or effectively implemented.
- **In Process:** The Defendants have made sufficient, partial progress toward key components of a requirement of the Settlement Agreement but have not achieved or demonstrated full compliance. The Defendants may have made notable progress to technically comply with the requirement and/or policy, process, procedure, protocol, training, system, or other mechanism of the Settlement Agreement but have not yet demonstrated effective implementation. This includes instances where an insufficient span of time or volume of incidents have transpired for effective implementation in a systemic manner. It may capture a wide range of states, from the Defendants having taken only very limited steps toward compliance to being nearly in compliance.
- **Non-Compliant:** The Defendants have not complied with the relevant requirement of the Settlement Agreement. This includes instances in which the Defendant’s efforts may have begun but the Consultant has deemed those efforts insufficient.

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<sup>5</sup> Throughout this report, FPC refers to the Executive Director and staff unless the language specifically includes the Commissioners.

<sup>6</sup> We also use a status of “unable to assess” for some items deemed non-compliant in the annual report that CJI will not be re-assessing until our data analysis of 2020 traffic stops, field interviews, no-action encounters, frisks, and searches.

In addition to providing updates on non-compliant items, we provide some general reflections on areas of overall progress and challenges that the Defendants have been experiencing during the previous six months. A comprehensive report of the Defendants' efforts and status on all aspects of the Settlement Agreement will be included in our third annual report, which is forthcoming in September 2021.

## **AREAS OF PROGRESS AND CHALLENGES**

This report provides updates on the items deemed non-compliant in the second year of the Settlement Agreement. The Defendants have continued to make progress and experience challenges over the last six months beyond what we present below. We take this six-month report as an opportunity to highlight some of those achievements and issues. This is not a comprehensive assessment of the Defendants' efforts toward compliance in all areas but rather presents the highlights of efforts toward compliance with the Settlement Agreement since our last report.

### **Areas of Progress**

MPD designed and instituted several new internal processes to help the Department make progress toward compliance. As referenced in our second annual report, MPD developed an overall tracking system that established interim and final due dates for all of MPD's items in the Settlement Agreement. During this last six-month period, MPD effectively used that system to hold individuals and divisions accountable for the items for which they are responsible and to alter due dates when necessary. The tracking system allows the Administration Bureau Inspector to monitor closely progress on all of the required items. The use of these systems demonstrates a growth in sophistication and thinking across the many aspects of the Police Department that have a role to contribute to compliance. Achieving compliance is predicated on sound policies, exemplary training, effective street operations, and supervision. The ongoing review by the Inspector in the Administrative Bureau closes the important feedback loops for continuous improvement.

CJI and the Defendants MPD and FPC now have well-established processes to move individual Settlement Agreement requirements toward compliance. The iterative process in which CJI and the Defendants discuss what is needed, address any barriers, receive formal documentation under standardized cover sheets, and engage in weekly or bi-weekly meetings has improved the overall work flow, understanding of challenges, and documentation of progress. This is an important and weighty effort on all and the attention to detail by the MPD and the FPC on this process is integral to success.

The City Attorney's Office three-person team is now closely engaged with all aspects of the City's effort toward compliance. During the last six-months, the attorney team

appropriately established itself as a central organizing point for work that involves both the MPD and FPC. In past reports, we identified the absence of this central point as a gap and challenge. Their activities include regular communication and engagement with the Plaintiffs' counsel, advancing their understanding of the City's overall progress toward compliance. The team is supportive of efforts at the City level - where appropriate and useful - sharing lessons, identifying areas for collaboration, and supporting teams and leadership at the MPD and FPC. CJI believes that the continued engagement of this team is important to keeping momentum, appropriate internal and external transparency, and a legal focus on the work toward compliance.

We have witnessed a new level of communication and collaboration between FPC staff and MPD staff. It is a good sign that FPC staff and the Inspections Section are collaborating on appropriate exchanges of information, access to required data, and training on systems. This type of communication increases efficiencies and facilitates progress toward compliance without compromising the FPC's oversight role.

The quarterly data extractions MPD provides to CJI, Plaintiffs' counsel, and the FPC have continued to improve in quality and completeness. In addition to some of the progress outlined below related to SA IV.A.5, MPD has added data notes for additions or changes to the quarterly extraction data releases, began to provide individual identifiers (Master Name Index or MNI) for warnings found in TraCS data, and continued to refine their vetting process to remove personally identifiable information (PII) from the data before releasing it.

## Challenges

Since our second annual report in September 2020, both the FPC and MPD have experienced changes in leadership. Such transitions can be disruptive to the daily work toward compliance regardless of the competence and commitment of new leadership or interim leadership. The two-month gap in confirming a permanent Executive Director of the FPC undoubtedly slowed progress toward compliance. However, we are encouraged by the appointment of Lee Todd and his efforts to date. He has advanced position postings, engaged with the FPC staff working on compliance, and joins regular meetings with the CJI team. In addition, since the departure of Chief Morales, MPD has been led by two Acting Chiefs, first Michael Brunson and now Jeffrey Norman. Even with stated commitment to the Settlement Agreement and the goal of achieving compliance, changes in leadership, and changes to the Command Staff that accompanied these transitions, can impede momentum, as new staff need time to learn about and understand the requirements of the Settlement Agreement.

As stated in other places in this report, command and other leadership changes helped to advance progress in the MPD particularly since the end of summer 2020. From October 2018, when CJI's engagement began, we have worked with no less than nine

people in key positions at MPD assigned to help achieve compliance who have retired, including two chiefs. Over that same period, managerial changes resulted in the reassignment of about six key MPD staff away from this work. We witnessed a significant, yet expected, learning curve with each transition. With every change in personnel, relationships must be established or reset; there is a loss of momentum; and a significant amount of training and coaching by CJI is necessary. The structure and expectations in place since last summer undoubtedly have generated the greatest energy toward progress in two and one half years. In short, skilled people are in the right positions. An inspector's assignment with near-singular focus on advancing and getting this work right has been instrumental to the progress. Both rank and focus matter for the person managing the day-to-day efforts toward compliance. This next period, from March through June of 2021 is an intense period, as the Department must focus on the timely delivery of materials and updates on compliance efforts for the third annual report, which is due in draft form to the Parties on July 23.

As we have stated in previous reports, staffing levels at the FPC have been a barrier to progress toward compliance. As of this writing, two and a half years into the Settlement Agreement, the FPC still does not have sufficient auditing staff to meet the audit-related requirements. We are encouraged by the hiring of the Audit Manager and the hiring of a second Investigator, but until an auditing team is in place, staffing at the FPC continues to be a challenge that limits progress towards compliance. The new Executive Director is fully aware of this concern, reposted the open auditor positions in early 2021, is in possession of resumes, and, as of this writing, is scheduling interviews.

The removal of personal identifiable information (PII) from the required data the City shares with the Consultant and the Parties and public posting of required data has been a labor-intensive effort that we have detailed in previous reports. The MPD elected to commit significant staff resources to redact data manually for the quarterly extractions. Though the system chosen is time intensive, there is a workable system in place. The FPC continues to redact manually officer-specific PII from required data that the FPC posts publicly. We are aware that the Defendants are exploring alternatives to manual redaction by the FPC staff in the hopes of reducing the amount of FPC staff time needed to meet this annual requirement.



## UPDATE ON NON-COMPLIANT ITEMS

In our second annual report, CJI found the Defendants to be non-compliant with regard to the paragraphs of the Settlement Agreement referenced below. For each of those items we include the relevant Settlement Agreement paragraph and requirement language, any progress that Defendants have made in the previous six months or the lack thereof, and an updated compliance status as of the six-month mark.

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### SA Paragraph IV.14

*“Defendants shall recruit, hire, and promote a diverse corps of police officers at all levels of the chain of command to reflect the diversity of Milwaukee communities. FPC will update the promotional testing procedures for positions subject to such testing to include questions and activities testing a candidate’s ability to lead and direct community policing efforts.”*

#### **Progress Update:**

There are two elements to this particular paragraph: 1) recruit, hire, and promote a diverse corps of police officers, and 2) update promotional testing procedures. Regarding the first element, the FPC submitted a draft 2020 recruitment and retention plan that covers 911 operators, the Milwaukee Fire Department, and the Milwaukee Police Department. The plan provides some limited information about efforts towards diversity with police recruitment. The FPC has not provided any information related to efforts to promote a diverse corps of police officers. Additional work is needed to reflect ongoing efforts of benchmarking and tracking of the recruitment, hiring, and promotion of a diverse corps of police officers. While a plan is promising, tracking the success of the plan is critical, specifically because the Agreement requires a “corps of police officers at all levels of the chain of command to reflect the diversity of Milwaukee communities.” This requirement should be baselined using population data, and measured accordingly at each rank. While the Agreement does not define diverse, we take this to relate to a variety of categories, including but not limited to, age, race, ethnicity, and gender identity. The FPC has not provided information in this regard.

Regarding the second element, efforts are underway to create a Community Policing Standard Operating Procedure (SOP). The SOP will serve as a foundation from which future promotional exams can test knowledge about community policing. In the summer of 2020, the FPC conducted three promotional exams. Per the FPC’s request, the testing company made some modifications to those exams to incorporate community policing concepts. The testing company has submitted documentation indicating that those efforts to incorporate community policing into promotional exams will continue once Defendants finalize the Community Policing SOP.

**Updated Status: In process**

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## SA Paragraph IV.A.1

*“Defendants shall ensure that every traffic stop, field interview, no-action encounter, frisk, and search conducted by any member of the MPD is documented in an electronic, digitized record regardless of the outcome of the encounter.”*

### Progress Update:

We rely on two sources of information to assess whether every traffic stop, field interview, no-action encounter, frisk, and search has an electronic, digitized record: MPD internal audits and information from the quarterly extraction data.

MPD conducts regular audits of traffic stops, field interviews, and no-action encounters, with audit samples drawn from Computer Aided Dispatch (CAD) assignments with the call types “traffic stop,” and “subject stop,” for traffic stops and field interviews, respectively. MPD’s Audit Unit has completed two sets of audits since our second annual report. In both sets of audits, MPD found encounters, frisks, or searches that officers did not document per the Settlement Agreement. We present details of the audit findings for each specific type of encounter in the information for S.A. Paragraphs IV.A.2.b-d.

The Defendants provided quarterly extraction data for all four quarters of 2020 since CJI developed our second annual report.<sup>7</sup> CJI continues to find information in the CAD file that does not match to information provided in the RMS or TraCS data files, but to a lesser extent than data from 2019. This may indicate data entry errors when officers type CAD numbers into RMS or TraCS forms, but could also indicate police encounters that lack electronic, digitized documentation specified by the Settlement Agreement.

### Updated Status: Non-compliant

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## SA Paragraph IV.A.2.b

*“Defendants shall ensure that all field interviews are documented in RMS.”*

### Progress Update:

We rely on two sources of information to determine progress toward whether Defendants are documenting all field interviews in RMS: MPD internal audits and information from the quarterly extraction data.

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<sup>7</sup> The Defendants provided quarter four of 2020 on March 15, 2021 but CJI did not review it prior to this writing.

In MPD's audit of field interviews occurring between July and December 2019, the Audit Unit found that officers documented two encounters in TraCS instead of RMS and 14 encounters lacked RMS documentation altogether. The audit sample in this audit consisted of 95 randomly selected encounters with a CAD call type "subject stop." Their most recent audit of field interviews covering the period January 1, 2020 and June 30, 2020 includes 93 randomly selected encounters with either the CAD call type of "subject stop" or "boat stop". This audit found that officers did not document eight encounters.

The Defendants have provided quarterly extraction data for all four quarters of 2020 since CJI filed the second annual report. Similar to the MPD internal audit findings, CJI observed encounters in the CAD file with the call type "subject stop" that did not have corresponding RMS documentation.

**Updated Status: Non-compliant**

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### **SA Paragraph IV.A.2.c**

*"Defendants shall ensure that all no-action encounters are documented in CAD."<sup>8</sup>*

#### **Progress Update:**

We rely on two sources of information to determine progress toward whether Defendants are documenting all no-action encounters in RMS: MPD internal audits and information from the quarterly extraction data.

In MPD's most recent audits of no-action encounters, all had documentation in RMS. These two audits focused on encounters occurring during 2020. The audit sample consisted of encounters identified as no-action encounters from the CAD call type designation for a no-action encounter, as well as no-action encounter reports filed in RMS. This is an improvement from the first audit where auditors found one no-action encounter not documented in RMS.

The Defendants have provided quarterly extraction data for all four quarters of 2020 since CJI filed the second annual report. All no-action encounter data from RMS matches to CAD information.

**Updated Status: Compliant**

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<sup>8</sup> The Settlement Agreement says that no-action encounters must be documented in CAD, however the Parties have agreed to document no-action encounters in RMS.

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## SA Paragraph IV.A.2.d

*“Defendants shall ensure that all frisks and searches are documented in either TraCS or RMS as appropriate, based on whether the circumstances of the frisk or search are appropriately characterized as a traffic stop or field interview.”*

### Progress Update:

We rely on two sources of information to determine progress toward whether Defendants are documenting all frisks and searches: MPD internal audits and information from CJJ’s semiannual analysis of encounters.

In MPD’s traffic stop audit of July through December 2019, auditors observed one frisk and three searches on video where officers did not document the frisk and searches in a contact summary in TraCS. A sample audit of field interviews conducted during the same period found five frisks and four searches on video where officers did not document the frisks and searches in RMS. The Audit Unit’s most recent audits of traffic stops and field interviews covering the period January 1, 2020 and June 30, 2020 also found frisks that officers did not document in TraCS or RMS

CJJ’s semiannual analysis of traffic stops, field interviews, no-action encounters, and frisks identifies any CAD call types that are likely to involve frisks and determines whether the data extractions for the period under scrutiny reflect frisks for those encounters. The analysis published in October 2020 assessed a sample of encounter data from January to June 2020 and found that all the call types likely to involve a frisk noted a frisk in documentation.<sup>9</sup>

### Updated Status: Non-compliant

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## SA Paragraph IV.A.3

*“IV.A.3 - Defendants shall ensure that each traffic stop, field interview, and no-action encounter documented pursuant to this paragraph...is assigned a unique stop identification number.”*

### Progress Update:

MPD uses the CAD number as the unique stop identification number, a nine-digit number assigned by dispatch when communicating with officers about a police encounter. While this number is automatically generated in the CAD data, officers

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<sup>9</sup> Crime and Justice Institute. (October 2020). *Semiannual Analysis of Traffic Stops, Field Interviews, No-action Encounters, and Frisks*.  
<https://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/Reports/Crime-and-Justice-Institute/CJISemiannualAnalysisOctober2020.pdf>

manually input the CAD number when completing forms in RMS and TraCS. The quarterly data extractions have common codes in the CAD number field, such as “NULL,” “Walk-in,” and district indicators for where encounters occurred. The presence of these common codes do not reflect a unique stop identification number. However, conversations with MPD indicate that their relatively newly-implemented supervisory reviews focus on proper and complete documentation, including the accuracy of the CAD number fields officers must manually key in when documenting encounters. In-service training also reinforces the importance of documentation standards for officers. This focus on accurate CAD number input indicates commitment to meeting the unique stop identifier requirement.

**Updated Status: Non-compliant**

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### **SA Paragraph IV.A.5**

*“IV.A.5 - There shall be a unique identifier that bridges TraCS, RMS, and CAD in order to permit analysis of all traffic stops, field interviews, no-action encounters<sup>10</sup>, frisks, and searches of a specific individual regardless of the database in which the information is stored.”*

**Progress Update:**

MPD has made appreciable progress to incorporate a unique person identifier, the “Master Name Index (MNI) number”, into TraCS files. As the MNI number is not native to the TraCS database, and the state of Wisconsin maintains the TraCS database, MPD’s Information Technology Division developed a method to import TraCS information to the RMS system in order to assign persons listed on citations or warnings an MNI number. MPD had established this import for citations at the time of CJI’s second annual report but was still working to complete the process for warnings.

This process was not complete in time to incorporate into the quarter four 2020 data extraction, but the Defendants provided an updated TraCS forms file on March 10, 2021 that includes MNI numbers for warnings occurring during quarter four of 2020. As CJI received this file after our submission deadline for updates on compliance for this report, we will assess the files for completeness in the third annual report in September 2021. The data extraction for quarter one 2021 and all subsequent data extractions will have MNI numbers for TraCS and RMS data.

**Updated Status: In process**

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<sup>10</sup> The Parties have agreed to remove no-action encounters from this requirement.

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## SA Paragraph IV.A.7

*“The MPD database(s) of video footage from police-vehicle cameras and body-worn cameras shall be searchable by CAD number with video to be produced one incident at a time, with such searches available for both types of video within one year from the date of this Agreement. Video footage concerning traffic stops, field interviews, no-action encounters, frisks, and searches shall be easily and quickly made available to the Consultant upon request, and no later than seven (7) calendar days from the date of the request.”*

### Progress Update:

CJI submitted a request to MPD for video footage associated with 10 CAD numbers in January 2021. MPD was able to deliver the requested video footage well within the seven calendar day deadline set out by the Settlement Agreement.

**Updated Status: Compliant**

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## SA Paragraph IV.B.1.d

*“IV.B.1.d - MPD will require and train supervisors...to regularly review and analyze [traffic stop, field interview, no-action encounter, frisk, and search] records for patterns of individual officer, unit, and squad conduct to identify at an early stage trends and potential bias-based behaviors, including but not limited to racial and ethnic profiling and racial and ethnic disparities in the rates of traffic stops, field interviews, no-action encounters, and frisks made without sufficient legal justification.”*

### Progress Update:

For the 2021 in-service training MPD is including a break-out session for supervisors that covers how to review and analyze data on traffic stops, field interviews, no-action encounters, frisks, and searches for bias and recognizing potential patterns of biased behaviors. Additional verification regarding the requirements of supervisors in terms of what they are reviewing and analyzing is needed to achieve full compliance. This requirement is critical to achieving the essence of this Agreement, and training supervisors on this content is challenging, in part because there are no national models from which to draw. MPD has worked diligently to create their own training for supervisors to identify potential biased-based behaviors. Topics include, but are not limited to, necessity for oversight, reviewing standards for officers, sources of information for assessment of potential trends in behavior, warning signs, steps to address a behavioral problem, and supervisor accountability. Adherence to the training is important, and we hope to report on signs of progress in the future. Recently, MPD reported that after a recent internal audit revealed potential bias and

disparate treatment in the way some patrol officers used the smell of marijuana to search vehicles in communities color, members of the Executive Staff took a closer look at the data. As a result, a directive was issued mandating that additional factors must be present beyond the smell of marijuana in order to justify the search of a vehicle. We hope additional proactive measures are taken as a result of this requirement in the Agreement and will continue to track these efforts.

**Updated Status: In process**

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### **SA Paragraph IV.C.5**

*“Defendants shall continue the changes to the purpose and content of command staff meetings, including discussion and evaluation of community policing measures.”*

**Progress Update:**

During MPD’s weekly captains’ meetings, the Inspector of Patrol reviews the recent and upcoming community engagement efforts and discusses community policing measures. MPD has provided some documentation in the form of meeting minutes and agendas that demonstrate that community policing efforts and measures are regularly discussed. MPD has been working with the Collaborative Community Committee (CCC) to draft a Community Policing SOP. The SOP will help establish a foundation for Command Staff to discuss and evaluate community policing measures. The quality, frequency, and consistency of these efforts will need to be assessed prior to reaching full compliance.

**Updated Status: In process**

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### **SA Paragraph IV.D.1.j**

*“Defendants shall prohibit investigators from conducting investigations in a manner that may reflect biases against complainants, including asking hostile questions to complainants; applying moral judgements related to the dress, grooming, income, life-style, or known or perceived criminal history of complainants; giving testimony by officers greater weight than testimony by complainants; providing summary reports that disadvantage complainants and are unrelated to facts developed in the investigation; issuing complaint dispositions that are not justified by the facts developed in the investigation; recommending inconsistent discipline for officer misconduct.”*

**Progress Update:**

The MPD was deemed compliant and the FPC was deemed non-complaint for this requirement in our second annual report. The FPC has since updated Rule XV, which

governs complaints, and their Intake Guidelines to prohibit investigators from conducting investigations in a manner that may reflect biases against complainants outlined in the above paragraph. These changes to FPC policy were approved on August 24, 2020.

**Updated Status: Compliant**

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### **SA Paragraph IV.E.1**

*“Defendant FPC shall audit data, dashboard camera footage, and body camera footage on traffic stops, field interviews, no-action encounters, frisks, and searches, every six (6) months to identify:*

- a) Officers who fail to conduct these encounters in compliance with constitutional standards and principles set forth in this Agreement;*
- b) Officers who fail to properly document these encounters in accordance with the terms of this Agreement;*
- c) Supervisors who fail to properly review subordinate officers’ reports to identify officers who fail to conduct traffic stops, field interviews, no-action encounters, frisks, and/or searches in compliance with constitutional standards and this Agreement, or to ensure that the encounters are properly documented in compliance with the terms of this Agreement; and*
- d) Supervisors who fail to require re-training and/or discipline for subordinate officers who conduct unreasonable, unreported, or insufficiently documented encounters.”*

**Progress Update:**

The FPC has developed and shared an initial, draft plan to conduct audits of traffic stops, field interviews, no-action encounters, frisks, and searches. Given that audits are required at six-month intervals and, as of the writing of this report, the work plans are still in draft form and the actual audit work has not commenced, Defendants remain non-compliant for this item.

**Updated Status: Non-compliant**

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### **SA Paragraph IV.E.2**

*“In order to ensure that complaints from members of the public are appropriately investigated, the FPC, including through the work of any retained consultants, shall conduct an audit every six (6) months of: (a) complaints submitted by members of the public to the MPD, and (b) complaints from members of the public to the FPC.”*

**Progress Update:**



The FPC has developed and shared a plan to conduct audits of complaints from members of the public submitted to the MPD and the FPC. The FPC has made notable headway on their review of internally-generated complaints as required in SA IV.D.5.b, as their review of records from the first six-months of 2020 is nearly complete. While that requirement, deemed in process in the second annual report, will not be reassessed in this report, the work plan for that requirement closely mirrors the plan for this requirement. In addition, the FPC has pulled complaint records from the first six months of 2020 and started an initial review. We now deem the FPC in process for this item given the efforts that are underway; however, much work remains to achieve compliance.

**Updated Status: In process**

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### **SA Paragraph IV.E.3**

*“Defendant FPC shall be permitted to spend funds appropriated by Defendant Milwaukee to hire additional staff and/or employ experts or consultants to conduct the audits described in paragraphs IV.E.1 and 2. The Consultant also shall review such audits for accuracy and, if the Consultant concludes that the audits are incomplete or inaccurate, conduct its own audits of these matters. In addition, the Consultant shall provide training and technical assistance to Defendant FPC to develop the FPC’s capacity to conduct such reviews and audits itself, in order to be able to fully and appropriately exercise its oversight obligations.”*

**Progress Update:**

Defendant FPC was deemed non-compliant for this item because as of September 2020 no real progress had been made on the audits per SA IV.E.1 and IV.E.2. The FPC hired an Audit Manager in October 2020 to lead the audit-related work for the Settlement Agreement. As of February 2021, the FPC posted job openings for auditor positions and was in the process of reviewing candidates and conducting interviews. While some progress has been made related to the FPC audits, the work has not progressed to a point where the Consultant (CJI) can review for accuracy and completeness.

**Updated Status: In process**

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### **SA Paragraph IV.E.4**

*“Defendant FPC shall use audits to, inter alia, identify officers who need additional training on traffic stop, field interview, no-action encounter, frisk, and search policies and/or discipline for the conduct of unreasonable, unreported, or insufficiently documented encounters.”*

### **Progress Update:**

As FPC audits on traffic stops, field interviews, no-action encounters, frisks, and searches have not been conducted, the Defendant FPC has not used audit findings to identify officers in need of additional training. Progress has not been made on this requirement and Defendants remain non-compliant.

**Updated Status: Non-compliant**

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### **SA Paragraph IV.E.4**

*“IV.E.4 - Defendants shall ensure that data and findings from the FPC audits described in paragraphs IV.E.1. and IV.E.2 shall be incorporated into the MPD’s AIM System...”*

### **Progress Update:**

In our second annual report, we determined MPD to be in process and FPC to be non-compliant for this requirement in the Settlement Agreement. At that time, MPD had already begun the process of creating data fields to input the data once it is available. The FPC has not conducted the audits described in IV.E.1 and IV.E.2, and, therefore, has not incorporated the data and findings from the audits into MPD’s AIM System.

**Updated Status: MPD remains in process; FPC remains non-compliant**

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### **SA Paragraph IV.F.1**

*“MPD will develop and maintain a system of benchmarks and alert notification triggers for any employee involved in three (3) incidents of traffic stops, field interviews, no-action encounters, frisks, and searches that are insufficiently documented, legally unsupported, or based on racial or ethnic profiling over a rolling one (1)-year period.”*

### **Progress Update:**

MPD has developed a system of benchmarks and alert notification triggers in the Administrative Investigations Management (AIM) system and has demonstrated to CJJ that the system is working through AIM reports showing instances in which the new system was triggered. MPD submitted a report of alerts generated between November 2020 and February 2021. In addition, MPD has drafted revisions to SOP 440 to reflect this new system and changes to the process. We will continue to monitor the reports emanating from the system to track whether the system is being fully adhered to department-wide.

**Updated Status: In process**

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## SA Paragraph IV.F.7

*“Defendants shall require MPD supervisors to refer for investigation any officer identified through supervisory review to have engaged in four (4) or more traffic stops, field interviews, no-action encounters, frisks, or searches that are unsupported by the requisite reasonable suspicion or probable cause, are not properly reported, or are insufficiently documented in a three (3)-year period. Such investigation shall be conducted by the MPD Internal Affairs Division, or by the commanding officer of the district, under the supervision of the MPD Internal Affairs Division.”*

### Progress Update:

MPD has established a system where supervisors are referring for investigation officers who have engaged in four or more traffic stops, field interviews, no-action encounters, frisks, or searches that are not supported by reasonable suspicion or probable cause, are not properly reported, or are insufficiently documented in a three-year period. MPD submitted documentation to demonstrate that the system identified an officer who had reached the threshold and was referred for investigation. MPD has drafted revisions to SOP 450 to reflect this new system and changes to the process. While this progress represents a significant milestone for MPD, the documentation submitted illustrates a process that builds a road map for compliance, and whether this process is being adhered to department wide has yet to be seen. This will need some time to assess thoroughly given the stipulated three-year time frame. We will continue to keep close watch regarding consistency of reporting and progress in implementation.

**Updated Status: In process**

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## SA Paragraph IV.G.1

*“Defendants shall ensure that the MPD monthly crime and safety meetings, which MPD already conducts, will include on their agendas in all districts concerns, if they are raised, about the MPD’s actions, including but not limited to policies and practices concerning traffic stops, field interviews, no-action encounters, and frisks.”*

### Progress Update:

Agendas for the district-level monthly crime and safety meetings now include an invitation for members of the public to raise concerns about policies and practices on traffic stops, field interviews, no-action encounters, and frisks. Since September 2020 MPD has been submitting crime and safety meeting agendas for their seven Districts to CJI. CJI plans to attend crime and safety meetings to verify in person once travel is permitted.

**Updated Status: In process**

## SA Paragraph V.1.d.i

*“Analysis of TraCS data demonstrating that fewer than 14% of records of traffic stops, frisks, and searches documented in TraCS during the previous six (6) months are missing any of the information required by paragraph IV.A.3 for inclusion in records.”*

### Progress Update:

Table 1 outlines the extent to which TraCS data for traffic stops and associated frisks and searches are missing any of the required information listed in the Settlement Agreement. The period of assessment for this report is quarters one and two of 2020. The previous 12 months of data, (quarters one through four of 2019) are included for comparison’s sake. Two elements do not meet the 14% threshold that the Settlement Agreement requires. The first is the field for violations, offenses, or crimes, which is called “violationLocalOrdinanceDescription” in the extraction data and comes from the TraCS\_ELCI\_Joined, Tracs\_NTC\_Joined, and Tracs\_Warning\_Violation files. As mentioned in our second annual report, we assessed this field as missing only if the outcome of the stop was not marked as no law enforcement outcome. In other words, we only looked at the violation field for missing data when we expected that field to have data. The second is the use of force justification field, which comes from the AIM data that MPD provides, as there are no fields in the TraCS database for use of force information. Among the records of use of force associated with traffic stops between January 1, 2020 and June 30, 2020, nearly 70% of the justifications were missing. This analysis also includes for the first time an assessment of the transcript of the officer’s communication with dispatch, which MPD did not provide prior to quarter one of 2020.

**Table 1:** Percent of Traffic Stop Records Missing Data in TraCS

| IV.A.3 Subsection | Data Element            | Q1Q2 2019 | Q3Q4 2019 | Q1Q2 2020 |
|-------------------|-------------------------|-----------|-----------|-----------|
| a                 | Age                     | 26.80%    | 4.36%     | 3.71%     |
| a                 | Gender                  | 26.80%    | 4.36%     | 3.71%     |
| a                 | Race and ethnicity      | 26.80%    | 4.36%     | 3.71%     |
| b                 | Address                 | 1.60%     | 1.06%     | 2.62%     |
| b                 | Police district         | 4.00%     | 4.99%     | 5.88%     |
| c                 | Date of encounter       | 0.00%     | 0.00%     | 1.73%     |
| d                 | Start time of encounter | 0.00%     | 0.01%     | 1.73%     |

| IV.A.3 Subsection | Data Element   | Q1Q2 2019    | Q3Q4 2019    | Q1Q2 2020              |
|-------------------|--|--------------|--------------|------------------------|
| e                 | Narrative of legal basis                               | 60.50%       | 0.01%        | 1.75%                  |
| e                 | Transcription of officer's communication with dispatch | not received | not received | 4.32%                  |
| f                 | Frisk Y/N  | not clear    | not clear    | not clear              |
| f                 | Frisk legal basis                                      | not clear    | 0.91%        | 1.53%                  |
| g                 | Search Y/N   | 26.70%       | 4.31%        | 3.66%                  |
| g                 | Search legal basis                                     | 0.10%        | 4.32%        | 3.67%                  |
| h                 | Contraband found Y/N                                   | 0.00%        | 4.31%        | 3.66%                  |
| h                 | Contraband type  | 0.20%        | 4.31%        | 3.66%                  |
| i                 | Use of force Y/N                                       | not received | not received | not clear <sup>1</sup> |
| i                 | Use of force type                                      | not received | not clear    | 0.00%                  |
| i                 | Use of force justification                             | not received | not received | 68.42%                 |
| j                 | Encounter outcome                                      | 0.10%        | 0.01%        | 1.76%                  |
| j                 | Violations, offenses, or crimes                        | 57.11%       | 49.91%*      | 47.90%                 |
| l                 | Officer names  | 3.80%        | 0.07%        | 1.73%                  |
| l                 | Officer IDs  | 0.00%        | 0.00%        | 1.73%                  |
|                   | Unique stop ID number (match to CAD)                   | 3.00%        | 1.06%        | 2.62%                  |

Notes:

<sup>1</sup>The TraCS database does not contain fields that would indicate whether force was used or not during a given encounter. Instead, MPD provides supplemental data from the AIM database that contains information on use of force. The AIM data includes one record for each use of force that occurred during a given encounter. Thus, it is not possible to evaluate the extent to which this field is missing.

**Updated Status: Non-compliant**

## SA Paragraph V.1.d.iii

*“Analysis of CAD data demonstrating that fewer than 14% [of] records of no-action encounters documented in CAD during the previous six (6) months are missing any of the information required by paragraph IV.A.3 for inclusion in records.”*

### Progress Update:

Table 2 outlines the extent to which RMS<sup>11</sup> data for no-action encounters are missing any of the required information listed in the Settlement Agreement. The period of assessment for this report is quarters one and two of 2020. The previous 12 months of data, (quarters one through four of 2019) are included for comparison’s sake. The only element that is missing the 14% threshold that the Settlement Agreement requires is the field for the encounter outcome, subsection j in Table 2 below. The Settlement Agreement specifies that for no-action encounters this field is the C-code for “no action” (C21). Thus, the missing data assessment for this particular field is a reflection of whether the code is correct rather than whether there is data in that particular field. MPD is aware of such data entry challenges and is working to correct them through the current in-service training.

**Table 2:** Percent of No-Action Encounter Records Missing Data in RMS

| IV.A.3 Subsection | Data Element             | Q1Q2 2019    | Q3Q4 2019 | Q1Q2 2020 |
|-------------------|--------------------------|--------------|-----------|-----------|
| a                 | Gender                   | 0.00%        | 0.00%     | 0.00%     |
| a                 | Race                     | 0.00%        | 0.00%     | 0.00%     |
| a                 | Ethnicity                | 0.00%        | 0.00%     | 0.00%     |
| b                 | Address                  | 1.90%        | 0.00%     | 0.00%     |
| b                 | Police district          | 2.80%        | 3.85%     | 2.55%     |
| c                 | Date of encounter        | 0.00%        | 0.00%     | 0.00%     |
| d                 | Start time of encounter  | 0.00%        | 0.00%     | 0.00%     |
| e                 | Narrative of legal basis | 0.00%        | 0.00%     | 0.00%     |
| j                 | Encounter outcome        | not received | 88.46%    | 65.33%    |

<sup>11</sup> Although the Settlement Agreement calls for analysis of CAD data here, MPD documents no-action encounters in RMS. The Parties have agreed to this change.

| IV.A.3 Subsection | Data Element                         | Q1Q2 2019 | Q3Q4 2019 | Q1Q2 2020 |
|-------------------|--------------------------------------|-----------|-----------|-----------|
| I                 | Officer names                        | 0.00%     | 0.00%     | 0.00%     |
| I                 | Officer IDs                          | 0.00%     | 0.00%     | 0.00%     |
|                   | Unique stop ID number (match to CAD) | 9.30%     | 1.28%     | 1.09%     |

Updated Status: Non-compliant

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### SA Paragraph V.1.d.vi

*“Analysis of CAD data on no-action encounters demonstrates that fewer than 15% of records documented during the previous six (6) months fail to show that the traffic stops and encounters were supported by individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation.”*

#### Progress Update:

CJI’s semiannual analysis of traffic stops, field interviews, no-action encounters, and frisks involves an assessment of individualized, objective, and articulable reasonable suspicion (IOARS) for every six months of encounter data. We have conducted three analyses to date. The most recent IOARS analysis assessed encounters occurring during the first half of 2020 (January through June).

While we were encouraged by the marked progress the Defendants had made in documenting IOARS for no-action encounters from the first to the second half of 2019, the analysis of IOARS documentation for no-action encounters failed to show continued progress. CJI found that 50% of no-action encounters in the sample failed to establish IOARS as justification for initiating a police encounter.<sup>12</sup>

Updated Status: Non-compliant

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### SA Paragraph V.1.d.vii

*“Analysis of TraCS and RMS data on frisks demonstrates that fewer than 15% of frisks records documented during the previous six (6) months fail to show that the frisks*

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<sup>12</sup> Crime and Justice Institute. (October 2020). *Semiannual Analysis of Traffic Stops, Field Interviews, No-action Encounters, and Frisks*. <https://www.cjinststitute.org/assets/sites/2/2020/11/CJI-Semiannual-Analysis-October-2020.pdf>

*were supported by individualized, objective, and articulable reasonable suspicion that the stop subject was armed and dangerous.”*

#### **Progress Update:**

CJI’s semiannual analysis of traffic stops, field interviews, no-action encounters, and frisks involves an assessment of individualized, objective, and articulable reasonable suspicion (IOARS) for every six months of encounter data. We have conducted three analyses to date. The most recent IOARS analysis assessed encounters occurring during the first half of 2020 (January through June).

The Defendants continue to miss the established benchmark by a wide margin with less than ten percent of frisks meeting the IOARS standard to justify the frisk.<sup>13</sup>

After publishing the October 2020 IOARS report, MPD requested CJI’s analysis of IOARS to identify patterns in practice that may be contributing to officers not meeting the IOARS standard for frisks. MPD’s interest in these data is encouraging and is an important step in their growth as a department.

#### **Updated Status: Non-compliant**

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### **SA Paragraph V.1.d.viii**

*“Analysis of TraCS data on traffic stops demonstrates that there is no significant racial or ethnic disparity in the rate at which Black and white people, and Latino and white people, are subjected to traffic stops after controlling for agreed upon benchmarks.”*

#### **Progress Update:**

The basis for this stipulation of the Settlement Agreement is an annual analysis of encounter data conducted in preparation for the annual reports that are published in September. We will base the next analysis on encounter data for calendar year 2020 and will present the results in CJI’s September 2021 annual data analysis report.

#### **Updated Status: Unable to Assess**

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### **SA Paragraph V.1.d.ix**

*“Analysis of RMS data on [field interviews] demonstrates that there is no significant racial or ethnic disparity in the rate at which Black and white people, and Latino and white people, are subjected to field interviews after controlling for agreed upon benchmarks.”*

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<sup>13</sup> Ibid.



### **Progress Update:**

The basis for this stipulation of the Settlement Agreement is an annual analysis of encounter data conducted in preparation for the annual reports that are published in September. We will base the next analysis on encounter data for calendar year 2020 and will present the results in CJI's September 2021 annual data analysis report.

**Updated Status: Unable to Assess**

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## **SA Paragraph VIII.2**

*"No Amendments of this Agreement will be valid unless made in writing and signed by all of the signatories hereto."*

### **Progress Update:**

In our first annual report we found that the Defendants made changes to the Agreement in three instances without consulting or communicating with Plaintiffs' counsel: 1) documentation of no-action encounters in the RMS database rather than the CAD database (IV.A.2.c); 2) delay in achieving supervisory review thresholds (IV.C.1.a-d); and 3) training conducted by Northwestern University that was required to be conducted by an Internal Affairs Division supervisor (IV.D.2). The City Attorney's Office has been in communication with Plaintiffs' counsel to rectify these outstanding items. For the first item, the Plaintiffs' counsel agreed to the change of documenting no-action encounters in RMS rather than CAD in May 2020. For the second, Plaintiffs' counsel agreed in February 2021 that the issue of delayed supervisory review from 2019 is now moot. For the third, Plaintiffs' counsel was provided information on Northwestern University's trainers and deemed them acceptable with the understanding that the Parties will agree upon future use of trainers outside of the Agreement in advance.

**Updated Status: Compliant**

## VIDEO FOOTAGE REVIEW<sup>14</sup>

Paragraph IV.A.1 stipulates that Defendants “ensure that every traffic stop, field interview, no-action encounter, frisk, and search conducted by any member of the Milwaukee Police Department is documented in an electronic, digitized record regardless of the outcome of the encounter.” To assess the extent to which MPD is documenting all traffic stops, field interviews, no-action encounters, frisks, and searches according to the provisions of the Settlement Agreement, in April 2020 CJI requested access to all body-worn camera videos and dashboard camera videos for selected days. Such access permits CJI to compare police actions recorded on video with the electronic data provided by MPD. After extensive discussion with the Defendants regarding the scope and process for this proposed review, in July 2020 MPD gave CJI access to video footage and we began the process of reviewing and coding the videos. CJI completed the video review and coding in December 2020. As of the writing of this report, analysis of these data are still underway. Here we summarize our methodology for this review and will release our findings in a future report when the analysis is complete.

We requested all video recordings that occurred on three randomly selected days from the month of September 2019. September was chosen because it occurs outside of officer in-service training, is not a winter or summer month when different patterns of criminal activity may be expected, and is typically considered an average month. MPD verified that the three randomly selected days did not have any system-wide technological disturbances that would indicate these days were atypical in documentation, nor did any major city events, officer trainings, high profile crimes, or other unusual events occur during these days that would make them historical outliers.

Three days represented a tremendous amount of video footage and resource constraints limited our review to only two of the three days requested: Wednesday, September 4 and Sunday, September 29. This provided us a view of a typical weekday and a typical weekend day from which to assess three research questions:

1. Are there any encounters relevant to the Settlement Agreement with video footage that do not have accompanying documentation in the data extraction that CJI, Plaintiffs’ counsel, and the FPC receive?
2. Are there any encounters relevant to the Settlement Agreement with documentation in the data extraction for which there is no accompanying video footage?

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<sup>14</sup> CJI hired graduate students Torri Sperry of the University of Maryland, College Park and Rosemary Volinski of Northeastern University to assist with the review.

3. Is there missing documentation in RMS or TraCS for frisks or searches observed in video footage?

CJI catalogued and coded all video footage provided for these two days but concentrated our efforts on body-worn camera footage and reviewed dashboard camera footage as supplementary when needed. Body-worn camera footage is much more likely to show interactions between officers and the public, providing the necessary detail we needed to categorize each interaction. We categorized video footage into four groups: field interviews, traffic stops, no-action encounters, and other encounters.<sup>15</sup> We also noted videos in which we observed activities that appeared to be frisks or searches. In total, we reviewed 6,139 videos for the two days, which amounted to 1,650 unique encounters. MPD provided supplementary files of CAD numbers for all encounters on those two days. These files contained 5,480 unique CAD numbers for the two days.

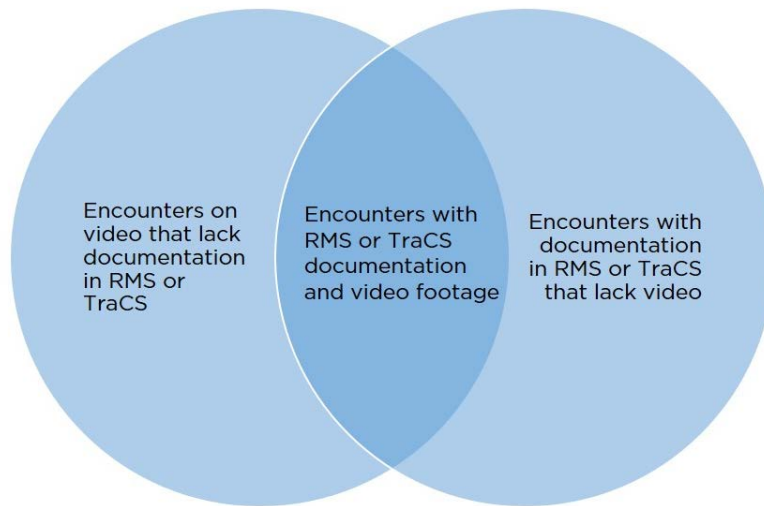
We received every CAD entry and all video footage recorded during September 4 and September 29, 2019. Thus, the universe of videos we reviewed is much broader than the encounters that officers need to document per paragraph IV.A.1 of the Settlement Agreement. After completing the review and coding of the video footage, we merged the newly created data with the quarterly extraction data and the supplementary files of CAD numbers. The new merged dataset was then constrained to include only encounters that we would expect to be in the quarterly extraction data, namely traffic stops, field interviews, no-action encounters, frisks, and searches that occurred on the two dates of interest. Ideally, for each encounter that is relevant to the Settlement Agreement, video footage and documentation in RMS or TraCS that includes a CAD record will exist. Figure 1 graphically represents the outcomes for encounters included this video review to help address the above research questions.

CJI has identified encounters that we would expect to fall within the documentation requirements of the Settlement Agreement. We are in the process of assessing whether there is documentation in the quarterly extraction data for those encounters, and if not, why that might be the case. The analysis phase of this review includes an iterative process with MPD to understand the extent to which documentation may be missing from the quarterly extraction data, officers did not properly document encounters, or encounters actually fall outside of the purview of the Settlement Agreement requirements. Our analysis is ongoing and findings from this review will be released at a later date.

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<sup>15</sup> The category of “other” encompassed anything that did not meet the Settlement Agreement definitions for field interview, traffic stop, or no-action encounter.

**Figure 1.** Potential Video Footage Analysis Outcomes



Note: The area represented by each portion of this diagram is not representative of the actual volume of encounters that have or lack documentation. CJJ will provide an updated graphic once the full analysis is completed.

## **CONCLUSION**

Of the items deemed non-compliant in CJJ's second annual report from September 2020, the Defendants have become compliant in a few areas, have demonstrated varying levels of progress in others, and remain non-compliant in others. As we have restated in our annual reports, this kind of comprehensive and sustainable change is difficult, and challenges are inevitable. The importance of maintaining forward momentum comes from the language and the behavior of leaders. Focused attention on filling vacancies, hiring the right people, and keeping good people in important roles will accelerate the pace of the work. We continue to work with the Defendants toward the goal of full compliance with all requirements of the Settlement Agreement. Our third annual report will again reassess all of the items in the Settlement Agreement for compliance. In particular, we will be looking to ensure that the systems and processes the Defendants worked to design in implement during this third year are working as intended. We will also be presenting our annual data analysis of traffic stops, field interviews, no-action encounters, and frisks that will shed light on how changes to policies, training, and internal processes are translating to how officers are engaging with the community.