

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

LOUISVILLE METRO/JEFFERSON
COUNTY GOVERNMENT,

Defendant.

CIVIL NO. _____

CONSENT DECREE

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	USE OF FORCE	6
	A. Use of Force Principles.....	6
	B. Policy Requirements Applicable to All Uses of Force.....	7
	C. Weapon-Specific Provisions.....	12
	1. Conducted Electrical Weapons (CEWs)	13
	2. Impact Weapons	15
	3. Oleoresin Capsicum Spray (OC Spray).....	15
	4. Canines	17
	5. Firearms.....	21
	D. Training.....	22
	E. Use of Force Reporting, Investigation, and Review.....	24
	1. General Requirements Applicable to All Uses of Reportable Force.....	24
	2. Level 1 Uses of Reportable Force	26
	a) Reporting Level 1 Use of Reportable Force.....	26
	b) Supervisory and Chain of Command Review of Level 1 Uses of Reportable Force.....	27
	3. Level 2 Use of Reportable Force.....	29
	a) Reporting Level 2 Use of Reportable Force.....	29
	b) Supervisory Response and Review of Level 2 Use of Reportable Force.....	29
	c) Assessing Reviews of Level 2 Use of Reportable Force.....	32
	4. Level 3 Uses of Reportable Force	34
	a) Reporting Level 3 Use of Reportable Force.....	34
	b) Response and Review of Level 3 Use of Reportable Force	34
	c) Assessing Reviews of Level 3 Use of Reportable Force.....	38
	5. Level 4 Uses of Reportable Force	39
	F. Data Collection and Analysis.....	46
	G. Key Objectives.....	48
III.	RESIDENTIAL SEARCH WARRANT APPLICATIONS	49
	A. Policy Requirements for Residential Search Warrant Applications.....	49
	B. Data Collection and Analysis	53
	C. Training.....	55
	D. Key Objectives.....	56
IV.	RESIDENTIAL SEARCH WARRANT EXECUTIONS.....	57
	A. Planning Residential Search Warrant Executions	57
	B. Executing Residential Search Warrants.....	61

C.	After-Action Review of Residential Search Warrant Executions	62
D.	Data Collection and Analysis	63
E.	Training.....	64
F.	Key Objectives.....	65
V.	STREET ENFORCEMENT	65
A.	Voluntary Interactions	65
B.	Stops and Weapons Pat-Downs	66
C.	Searches	68
D.	Citations and Arrests.....	70
E.	Prohibiting Retaliation for First Amendment Activity and Protecting the Right to Observe and Record Officers.....	71
F.	Training.....	73
G.	Supervision	73
H.	Data Collection and Analysis	75
I.	Key Objectives.....	77
VI.	FAIR AND IMPARTIAL ENFORCEMENT	78
A.	Enforcement Requirements and Priorities	78
B.	Training.....	80
C.	Data Collection and Analysis	82
D.	Key Objectives.....	83
VII.	PROTESTS AND DEMONSTRATIONS.....	84
A.	Permitting Public Assemblies.....	84
B.	Protecting Public Protests and Demonstrations	85
C.	Training.....	88
D.	Data Collection and Analysis	89
E.	Mass Demonstration Plan	89
F.	Key Objectives.....	90
VIII.	INDIVIDUALS WITH BEHAVIORAL HEALTH DISABILITIES.....	90
A.	Behavioral Health Response and Related Services Coordination	90
B.	Behavioral Health Emergency Response.....	94
C.	Dispatching Appropriate Response	98
D.	LMPD Training and Crisis Intervention.....	101
E.	Data Collection and Analysis	104
F.	Key Objectives.....	108
IX.	SEXUAL MISCONDUCT, SEXUAL ASSAULT, AND DOMESTIC VIOLENCE	109
A.	Reports and Investigations of Sexual Assault and Domestic Violence Not involving LMPD Members.....	109

1.	Reports and Investigations of Sexual Assault not involving LMPD Members	109
2.	Sexual Assault Response Team.....	110
3.	Reports and Investigations of Domestic Violence not involving LMPD Members.....	112
4.	Supervision.....	113
B.	Reports and Investigations of Sexual Misconduct, Sexual Assault, and Domestic Violence involving LMPD Members	114
C.	Training.....	116
D.	Data Collection and Analysis	118
E.	Key Objectives.....	119
X.	COMMUNITY-BASED PUBLIC SAFETY.....	120
A.	Public Safety Plan.....	120
B.	Outreach Team.....	121
C.	Community Policing.....	123
D.	Data Collection and Analysis	125
E.	Community Surveys	126
F.	Key Objectives.....	127
XI.	AGENCY MANAGEMENT AND SUPERVISION.....	128
A.	Policies.....	128
B.	Training Generally.....	131
C.	Field Training Program.....	133
D.	Supervisor Responsibilities and Training.....	134
E.	Body-Worn Cameras	137
F.	Early Intervention	138
G.	Performance Evaluations and Promotions.....	140
1.	Performance Evaluations.....	140
2.	Promotions, Awards and Commendations	141
H.	Supervisory Professional Development Program.....	142
I.	Performance Review Board (PRB).....	142
J.	Audits and Data Analytics	144
1.	Performance Audits	144
2.	Data Analytics	145
K.	Staffing, Resources, Equipment, and Facilities.....	146
L.	Key Objectives.....	148
XII.	OFFICER AND EMPLOYEE ASSISTANCE AND SUPPORT	150
A.	Data Collection and Analysis	151
B.	Key Objectives.....	151

XIII. RECRUITMENT AND HIRING	151
A. Data Collection and Analysis	153
B. Key Objectives.....	153
XIV. MISCONDUCT INVESTIGATIONS AND DISCIPLINE.....	154
A. General Requirements	154
B. Complaint Intake and Processing, and Communication with Complainants	157
1. Complaint Types	157
2. Complaint Intake	158
3. Processing of Complaints.....	163
4. Communication with Complainants.....	165
C. Complaint Intake Testing Program.....	166
D. Misconduct Investigations.....	167
1. Staffing and Training.....	167
2. Administrative Investigations.....	169
3. Criminal Investigations	176
4. Misconduct Investigations by Outside Entities	180
E. Final Disposition and Discipline	181
F. Civilian Review and Accountability Board and Inspector General.....	183
G. Community-Centered Mediation of Misconduct Complaints	187
H. Transparency and Documentation	188
I. Key Objectives.....	191
XV. IMPLEMENTATION, ENFORCEMENT, AND RESOLUTION	192
A. Implementation	193
1. Staffing and Resources to Facilitate Implementation and Compliance.....	193
2. Implementation Plans	194
3. Collaboration Protocol.....	196
B. Independent Monitor	197
1. Selection and Term.....	197
2. Fees and Costs	201
3. Compliance Assessments	204
4. Compliance Assessments Conducted by the Monitor	207
5. Performance Reviews Conducted by Louisville Metro and LMPD.....	207
6. Monitoring Protocols.....	208
7. Recommendations and Technical Assistance.....	210
8. Comprehensive Reassessment and Five-Year Hearing.....	210
9. Semiannual Progress Reports	212
10. Communications with the Parties, the Court, and the Public	213
11. Testimony, Records, and Conflicts of Interest	214

C. Data Maintenance, Access and Confidentiality	217
D. Court Jurisdiction, Decree Modifications, and Enforcement	220
E. Self-Monitoring, Partial Termination, and Final Termination	223
1. Self-Monitoring	224
2. Partial Termination	226
3. Final Termination	227
XVI. DEFINITIONS	229

I. INTRODUCTION

1. The United States and Louisville/Jefferson County Metro Government (Louisville Metro), including the Louisville Metro Police Department (LMPD or the Department), collectively the “Parties,” share a commitment to lawful and effective public safety. The Parties enter into this Consent Decree to ensure that Louisville Metro and LMPD provide effective public safety services consistent with the Constitution and laws of the United States.

2. The Parties recognize that achieving these goals will require Louisville Metro and LMPD to partner with the communities they serve through active community participation and engagement in public safety services. LMPD will integrate community engagement and problem-oriented policing principles into its management, policies and procedures, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.

3. In developing this Consent Decree, the Parties consulted with community members, police officers, advocates, and others who are committed to effective and lawful public safety in Louisville. This Decree reflects the input of Louisville’s diverse communities. In implementing the Decree, the Parties will foster community participation and engagement to ensure that reforms are durable and sustainable.

4. The Parties recognize that police officers have difficult jobs, as do others involved in public safety, like 911 dispatchers and call-takers. LMPD officers and other Metro employees involved in public safety often work under difficult circumstances, risking their safety and well-being for the public good. This Decree includes support for officers and Metro employees, including through enhanced policies, training, supervision, and accountability systems.

5. The Parties recognize that Louisville Metro and LMPD have embarked on significant organizational changes to better serve their community and employees over the last few years.

Reforms initiated prior to the entry of this Consent Decree include:

a. The creation of LMPD's Accountability and Improvement Bureau, which includes

LMPD's:

- i. Compliance Unit;
- ii. Performance Division;
- iii. Performance Review Board;
- iv. Specialized unit dedicated to reviewing use of force investigations;
- v. Non-sworn, professional staff in training, curriculum development, wellness, and audits;

b. The creation of command and executive staff positions to oversee structural improvements;

c. Facilities improvements including new headquarters construction and the Summit Wellness Center.

6. To better address the needs of Louisville residents experiencing behavioral health emergencies, Louisville Metro initiated a pilot alternative behavioral health emergency response program in 2021. This alternative response program connects individuals experiencing behavioral health emergencies to trained crisis triage workers embedded within Louisville Metro's 911 Center and, when appropriate, dispatches trained professionals to assist residents in crisis, rather than dispatching LMPD officers. While the pilot program initially began in one LMPD patrol division with limited afternoon and evening hours, Louisville Metro rapidly expanded the program to now cover all eight patrol divisions in Jefferson County, 24 hours a

day, seven days a week. To date, the program has enabled hundreds of Louisville residents to receive crisis management services from trained behavioral health responders.

7. The Parties agree that organizational transformation is necessary to ensure that the reforms in this Decree are deeply rooted and durable. Louisville Metro and LMPD are committed to taking deliberate steps to plan for this transformation and build stakeholder support for the reforms. To improve the likelihood of successful transformation, Louisville Metro and LMPD will develop a change management plan to, among other things, engage key stakeholders at appropriate stages of implementation; establish core objectives and the sequence of those objectives; adopt communication tools, strategies, and key messages; identify the roles and responsibilities of LMPD's senior leadership in promoting change and achieving the purposes of this Decree; and implement an internal review process to regularly assess and adjust their approach to organizational transformation. LMPD will train senior leaders on the components of effective change management and will provide training to familiarize stakeholders with the details of the requirements of this Consent Decree, including how the changes apply to their work. LMPD command staff have been directly involved in the development of this Consent Decree and will be directly involved in all aspects of its implementation, including the change management plan.

8. To further the goals of organizational transformation, Louisville Metro and LMPD will establish and maintain an advisory group of officers, sergeants, and lieutenants from all LMPD Divisions charged with providing input to LMPD's senior leadership about what could make LMPD a better place to work, reduce administrative burdens, facilitate safer and more efficient operations, and enhance LMPD's capacity to be a learning organization.

9. Louisville Metro and LMPD are committed to treating each person with fairness and respect, and to subjecting people to governmental intrusions only when doing so is justified and permitted under the law. Louisville Metro and LMPD will ensure that all members of the public receive equal protection of the law, without discrimination based on race, color, ethnicity, national origin, religion, gender, gender identity, sexual orientation, or disability.

10. The Parties agree that a robust and well-functioning accountability system in which officers are held to the highest standards of integrity is critical to LMPD's legitimacy and must be a priority of Louisville Metro and LMPD. A well-functioning accountability system is one in which complaints are openly and readily received; allegations of misconduct are fully, fairly, and efficiently investigated; and officers who commit misconduct are held accountable under a disciplinary system that is fair, consistent, provides due process, and treats all involved with respect and dignity.

11. The Parties recognize that the Louisville Metro Council established the Civilian Review & Accountability Board and Office of the Inspector General to strengthen the accountability system at LMPD by providing objective and independent civilian-led oversight, and that their ability to fulfill their mission is important to enhancing LMPD's legitimacy and promoting constitutional and effective policing in Louisville. The Parties further recognize that transparency in the investigation of misconduct allegations and issuance of discipline is necessary to a well-functioning accountability system and to strong LMPD-community relations.

12. On March 8, 2023, the United States issued a report detailing the findings of its investigation, under 34 U.S.C. § 12601 and 42 U.S.C. § 12101 *et seq* (Report). As the Report explains, the United States found reasonable cause to believe that Louisville Metro and LMPD engage in a pattern or practice of conduct that deprives people of rights protected by the United

States Constitution and federal law. The United States determined that: (1) LMPD uses excessive force, in violation of the Fourth Amendment; (2) LMPD executes search warrants that lack probable cause, in violation of the Fourth Amendment; (3) LMPD unlawfully executes search warrants without knocking and announcing, in violation of the Fourth Amendment; (4) LMPD's street enforcement activities violate the Fourth Amendment; (5) LMPD unlawfully discriminates against Black people in its enforcement activities; (6) LMPD violates the First Amendment when responding to protected speech against police action; and (7) Louisville Metro and LMPD violate the Americans with Disabilities Act, in their response to people with behavioral health disabilities. The United States also found LMPD's response to sexual assault, sexual misconduct, and domestic violence raises serious concerns about gender-biased policing.

13. The United States' Complaint alleges that Louisville Metro and LMPD are engaged in a pattern or practice of conduct that deprives people of their rights under the First and Fourth Amendments to the United States Constitution; 34 U.S.C. § 12601, Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d (Title VI); the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. § 10228 (Safe Streets Act); and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131–12134 (ADA).

14. Louisville Metro and LMPD are, by and through their officials, officers, employees, agents, assigns, or successors, enjoined from engaging in the patterns or practices of conduct described in the Report and alleged in the Complaint.

15. The Parties have agreed to the terms of this Consent Decree to avoid the risks, expense, and burdens of litigation and to resolve voluntarily the claims in the United States' Complaint.

16. This Consent Decree contains definitions for certain terms, which appear in this section or in another section in which the term is frequently used. All such definitions will apply to all uses of the term throughout this Decree.

II. USE OF FORCE

A. Use of Force Principles

17. LMPD will revise and implement policies, procedures, protocols, systems, training, accountability, and supervision structures related to the use of force to ensure that officers comply with the United States Constitution, state and federal law, and this Decree.

18. LMPD policy will require the appropriate supervisor or unit to investigate or review Uses of Reportable Force to determine: (1) whether officers' force was consistent with law and LMPD policy; and (2) whether the investigating or reviewing supervisor or unit identified policy, training, tactics, or supervision concerns.

19. LMPD will document and review the policy, training, tactics, or supervision concerns raised in Use of Reportable Force reviews.

20. LMPD will develop policies that incorporate the following principles that officers:

- a. Promote the sanctity of human life as the highest priority in all enforcement actions and interactions with civilians;
- b. Carry out their law enforcement duties with professionalism and respect for the dignity of every person;
- c. Do not allow race, gender, ethnicity, or any other protected characteristic to improperly influence any decision to use force, including the amount or type of force used;

- d. Where safe and feasible, use De-escalation Techniques and tactics to increase the likelihood of resolving incidents without resorting to the use of force;
- e. Based on the facts and circumstances known to the officer, use only force that: (i) is objectively reasonable; (ii) is an amount and type of force reasonably necessary to effect an Arrest, a lawful detention, or protect the officer or other person; and (iii) minimizes harm or risk of harm to officers and civilians;
- f. Do not unnecessarily escalate encounters;
- g. Continually assess the situation and changing circumstances, and adjust the use of force appropriately;
- h. Recognize and act upon the duty to intervene to stop any officer from using force that is objectively unreasonable or otherwise violates law or policy;
- i. Accurately, timely, and completely report all Uses of Reportable Force used or observed as required by Section F below;
- j. Do not retaliate against other officers for reporting force used or observed or for intervening to stop an officer from using force that violates the law or policy; and
- k. Are held accountable for uses of force that are objectively unreasonable or otherwise violate law or policy.

B. Policy Requirements Applicable to All Uses of Force

21. To reduce the likelihood of needing to use force, LMPD policy will continue to require officers, when safe and feasible, to use De-escalation Techniques, including verbal persuasion and warnings, tactical positioning (cover and concealment), slowing down the pace of an incident, waiting out Subjects, creating distance (and thus the reactionary gap) between the

officer and the threat, and requesting additional resources (e.g. a supervisor, behavioral health care providers, negotiators, etc.), before resorting to force.

22. Prior to using force, LMPD policy will require officers to use, as appropriate and reasonably practical, a critical thinking and decision-making framework to analyze and respond to incidents through which they will consider the following:

- a. Safety Priorities;
- b. Information and intelligence;
- c. Environment and emotion;
- d. Tools, tactics, and technology; and
- e. Officer instincts and experience.

23. LMPD policy will require officers to reduce the level of force as the threat diminishes.

24. LMPD policy will require officers to, where safe and feasible, before using force against a person, consider whether the person may be noncompliant due to a medical or physical health condition; intellectual or developmental disability; mental illness; deafness or hearing loss; blindness or vision loss; language barrier; or substance use. Where it is reasonably apparent to the officer that a person's noncompliance is due to such a condition, officers will take that into consideration when determining the appropriate response to the individual's noncompliance.

25. LMPD policy will continue to require officers to evaluate the necessity of foot pursuits based on the following: Whether the suspect is armed, the seriousness of the offense, the likelihood of a successful apprehension, the availability of assistance/backup, environmental factors (e.g., weather conditions or darkness), the officer's familiarity with the geographic area of the pursuit, whether the officer has a portable radio to communicate with dispatch, and the

number of suspects involved. LMPD policy will also provide guidance on the risk of unreasonable force during or at the conclusion of a foot pursuit.

26. LMPD policy will require officers to consider the principles articulated in Paragraph 266 with respect to interactions with Juveniles requiring a Use of Reportable Force. In case of injury resulting from a Use of Reportable Force, LMPD policy will require officers to take steps to provide medical attention to the Juvenile and to notify the Juvenile's parent, guardian, or other responsible adult as soon as possible, if known or otherwise provided by the Juvenile.

27. LMPD policy will prohibit officers from using force greater than Minimal Force against handcuffed or otherwise restrained persons unless that person: (1) is physically combative or violent and (2) presents an imminent threat to the safety of the officer or others, or to prevent escape.

28. LMPD policy will prohibit officers from leaving a handcuffed or otherwise restrained person lying face-down or on their back.

29. LMPD policy will include information regarding the risks of potential asphyxia, including after the use of a CEW or OC Spray and when handling restrained or handcuffed individuals.

30. LMPD policy will prohibit officers from using force for punishment.

31. LMPD policy will prohibit officers from using force in retaliation for a person lawfully exercising their right to witness, observe, record, comment on, or protest police activity. Retaliation exists when an officer uses force in the absence of probable cause or other applicable standard when the officer would not have taken such action in the absence of non-criminal statements or expressive conduct.

32. Recognizing that tactics leading up to the use of force can influence whether the force is necessary, LMPD policy will prohibit officers from using unreasonable tactics that exacerbate or escalate an encounter and thereby create a need for force.

33. LMPD policy will continue to require that an officer will use only the force techniques on which the officer is trained and only use the weapons issued by the Department that are enumerated in LMPD policy and on which the officer has been trained and certified, unless warranted by extenuating circumstances.

34. LMPD will develop use of force policies that prohibit the use of Neck Restraints unless Deadly Force is authorized.

35. LMPD policy will continue to require that officers render or obtain any necessary medical care whenever a use of force results in a person having an injury, complaining of injury, or requesting medical attention as soon as reasonably practicable. LMPD policy will continue to require officers to provide emergency first aid consistent with their training and experience, until professional medical care providers are on scene.

36. LMPD policy will specify that use of force that is not objectively reasonable or that otherwise violates law or LMPD policy will subject officers to possible discipline, criminal prosecution, or civil liability.

37. LMPD policy will require that officers and sergeants who carry a firearm also carry on their person at least one Less-Lethal weapon that they are trained and certified to use, at all times while on duty, whether in uniform or while working in a plainclothes capacity.

38. LMPD will develop and implement use of force policies that categorize force into four levels for the purposes of reporting, investigating, and reviewing each Use of Reportable Force. These levels will be based on the following factors: potential of the technique or weapon to cause

injury or disability, degree of actual injury or disability, duration of force, and potential for misuse of the weapon or force. The use of Minimal Force does not constitute Use of Reportable Force. Each level of force, as defined below, will require increasingly rigorous reporting, investigation, and review.

a. **Level 1:** Includes the following when the below types of force result in no obvious injury or complaint of injury by the Subject, unless it rises to a Level 2, 3, or 4 Use of Reportable Force:

- i. Pain compliance techniques, excluding control or escort techniques that are not reasonably expected to cause injury;
- ii. Pointing a firearm at an individual;
- iii. Using the CEW warning alert; and
- iv. Forcible takedowns.

b. **Level 2:** Includes the following, unless it rises to a Level 3 or 4 Use of Reportable Force:

- i. Force that results in physical injury, or complaint of injury;
- ii. A CEW discharge;
- iii. A use of OC spray or other chemical weapons;
- iv. Weaponless defense techniques (e.g., elbow or closed-fist strikes, knee strikes, kicks);
- v. A discharge of a Special Impact Munitions Systems (SIMS) or similar Less-Lethal launcher/munition;
- vi. A canine-inflicted injury;
- vii. A strike with an Impact Weapon; and

- viii. An intentional striking of an occupied vehicle or Subject with a vehicle.
- c. **Level 3:** Includes the following unless it rises to a Level 4 Use of Reportable Force:
 - i. Use of force resulting in a loss of consciousness or hospitalization (treatment in an Emergency Department does not constitute hospitalization);
 - ii. Uses of Deadly Force that do not meet the definition of Level 4 Use of Reportable Force;
 - iii. Neck Restraint;
 - iv. Strike to the head, neck, sternum, spine, groin, or kidney area with an Impact Weapon;
 - v. Kick to a person's head or neck;
 - vi. A strike to a person's throat; and
 - vii. Knee strike to a prone or supine person's head, neck, or spine;
- d. **Level 4:** Includes any uses of force resulting in death, Serious Physical Injury, and any firearm discharges at a Subject.

C. Weapon-Specific Provisions

39. LMPD policy will require officers to carry and use only department-issued or approved weapons, including CEWs, Impact Weapons, OC Spray, and Firearms, absent extenuating circumstances.

40. LMPD policy will provide clear guidance for each type of force tool authorized for use by LMPD officers. These policies will clearly describe each force tool and its proper use; the circumstances under which the use of such force is appropriate; the tool's level of force; and the training and certification requirements that each officer must satisfy to carry and use each

authorized force tool. The Implementation Plan will include the appropriate duration and cadence of the initial and ongoing training programs.

1. Conducted Electrical Weapons (CEWs)

41. LMPD will require that officers successfully complete approved annual training on CEWs, including a testing component, and be currently certified on CEWs, in order to carry and use CEWs.

42. LMPD policy will require that officers Discharge CEWs only where grounds for Arrest or detention are present, and: (1) such force is necessary to protect the officer or another person from imminent physical injury; and (2) when less intrusive means have been or will likely be ineffective or increase the likelihood of greater harm to the officer, the Subject, or another party.

43. LMPD policy will reflect that the initial Discharge and cycle of a CEW is a use of force. LMPD policy will also reflect that any subsequent cycle of the CEW is a separate use of force. Each cycle must be objectively reasonable and otherwise comply with law and LMPD policy. LMPD policy will require officers to report the justification for each cycle in their Use of Force Reviews. LMPD policy will also require officers to reevaluate the situation after the first CEW cycle to determine if subsequent cycles are necessary. In determining whether any additional cycle is objectively reasonable, LMPD policy will require officers to consider whether the individual has the ability to comply and has been given a reasonable opportunity to do so, prior to applying another cycle.

44. LMPD policy will prohibit officers from employing more than three cycles or 15 total seconds of a CEW against a Subject during a single incident unless exigent circumstances are present. LMPD policy will require officers to consider alternative control measures if the individual does not respond to three CEW cycles.

45. LMPD policy will require officers to:
- a. Consider the Subject's apparent age, size, physical and mental condition, and the feasibility of lesser force options before they Discharge a CEW;
 - b. When feasible and doing so does not place officers or other persons at risk, clearly warn the person who is the target prior to Discharging a CEW, and provide reasonable time to cease the activity that justifies the Discharge of a CEW;
 - c. Whenever feasible and doing so does not place officers or other persons at risk, announce to other officers present that they are Discharging a CEW;
 - d. Not intentionally Discharge a CEW to the face, head, neck, breasts, chest, or genitals, and instead aim to target at the lower center mass, i.e. below the shoulders in the back or below the rib cage in the front;
 - e. Not intentionally Discharge more than one CEW at a time against a Subject;
 - f. Except where Deadly Force is justified, not Discharge CEWs when it is reasonably evident that a Discharge may cause Serious Physical Injury, including if the Subject is in danger of falling from a significant height or drowning, if the Subject is in physical control of a vehicle in motion, or if the Subject has been exposed to flammable material, such as gasoline or an alcohol-based pepper spray;
 - g. Not Discharge CEWs on a Subject who is obviously pregnant, elderly, a small child, visibly frail, or has low body mass, except in exigent circumstances;
 - h. Not Discharge a CEW solely on the basis that a person flees from an officer;
 - i. Not Discharge CEWs against a handcuffed or otherwise restrained individual, unless the individual is aggressively, physically resisting and lesser means would likely be ineffective to subdue the individual or has already failed; and

- j. Keep CEWs in a holster that is not on the same side as the officer's firearm to reduce the chances of accidentally drawing and/or firing a firearm.

46. LMPD will develop a CEW policy that includes specific protocols regarding officers' responsibilities following a Discharge of a CEW where probes made contact with the Subject. These protocols will include requirements and restrictions on the removal of CEW probes; the need to engage in restraint techniques that do not impair a person's respiration; requirements to monitor individuals subjected to CEW cycles while in police custody; and requirements to inform medical personnel of the facts and circumstances of CEW Discharges.

47. LMPD policy will require officers to obtain an appropriate medical evaluation by emergency responders in the field or at a medical facility for all persons subjected to a Discharge of a CEW where there has been a complete cycle of the CEW.

48. LMPD will regularly audit pointings of CEWs to ensure compliance with the law and policy.

2. *Impact Weapons*

49. LMPD policy will require the initial use and any subsequent use of an Impact Weapon to be objectively reasonable.

50. LMPD policy will prohibit officers from using Impact Weapons on a person who is handcuffed or otherwise restrained, unless that person: (1) is physically combative or violent, and (2) presents an imminent threat to the safety of the officer or others.

3. *Oleoresin Capsicum Spray (OC Spray)*

51. LMPD policy will require that officers use OC Spray only when such force is objectively reasonable, including when used for crowd dispersal or protection.

52. LMPD policy will require that each subsequent use of OC Spray after the initial use of OC Spray must also be objectively reasonable.

53. LMPD policy will prohibit officers from using OC Spray to disperse crowds unless the objective risk of harm to officers, bystanders, or property outweighs the risk of harm to bystanders from LMPD's use of OC spray. (For the use of OC Spray to disperse a crowd at a public protest or demonstration, see Section VII.B.)

54. Where OC spray is used on a person in a crowd, LMPD policy will require officers to direct the spray only at the person(s) who created the risk of harm to officers, bystanders, or property.

55. LMPD policy will require officers to, whenever practical and reasonable, issue a verbal warning to the Subject and allow a reasonable amount of time to allow the Subject to comply with the warning, before using OC Spray.

56. LMPD policy will prohibit officers from using OC Spray on a person who is handcuffed or otherwise restrained, unless that person: (1) is physically combative or violent; and (2) presents an imminent threat to the safety of the officer or others, or to prevent escape.

57. LMPD policy will prohibit officers from using OC Spray on a person in custody in a police vehicle, unless

- a. The person presents an imminent threat of physical harm to the officers, themselves, or others, or is attempting to materially damage the vehicle; and
- b. Less intrusive means have been or will likely be ineffective or increase the likelihood of greater harm to the officer, the Subject, or another party.

58. LMPD policy will require that if officers use OC Spray on a person in custody in a police vehicle, officers will allow air inside the car to circulate, such as by leaving open the car doors or windows.

59. LMPD policy will require officers to render aid consistent with their training and experience as soon as practicable, including flushing affected areas, and obtaining an appropriate medical evaluation by emergency responders in the field or at a medical facility for Subjects on whom OC Spray has been used under the following circumstances: When the Subjects complain of or exhibit continued effects after affected areas have been flushed; or when they inform officers that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis, heart ailment) that may be aggravated by chemical spray.

4. *Canines*

60. LMPD policy will require that canines only be deployed for apprehension in the following circumstances:

- a. The Subject is suspected of having committed a violent felony and the Subject is displaying active resistance; or
- b. A Subject is suspected of having committed a felony (unless the only felony charge is fleeing) and:
 - i. The Subject has concealed themselves and has refused to surrender after warnings have been given; and
 - ii. A search of the premises would expose officers to a risk of injury.

61. LMPD policy will limit off-leash canine deployments for the purpose of apprehension to those situations in which:

- a. The Subject is suspected of having committed a violent felony and the Subject is displaying active resistance, or
- b. The Subject is reasonably suspected of having committed a felony, and
 - i. Is reasonably suspected to be armed based upon individualized information specific to the person, or
 - ii. Where the area to be searched is contained and reasonably secured by police with minimal risk of canine contact with an uninvolved individual.

62. LMPD policy will require canine handlers to keep their canines within visual and auditory range during deployments at all times when safe and feasible. Exceptions include when a canine clears a threshold (e.g., rounding a corner, entering a room, ascending/descending a stairwell, or entering a confined space, such as a crawl-space) or when a person is escaping.

63. LMPD policy will require a canine supervisor (with rank of sergeant or higher) to be on call or on-duty at all times. LMPD policy will require canine handlers to notify a canine supervisor of all deployments, and if feasible, prior to the deployment.

64. LMPD policy will require that canine handlers issue three loud and clear warnings that a canine will be deployed and advise the suspect to surrender, unless such warnings impose an imminent threat of danger to the canine handler or other officers and persons on scene. LMPD policy will require that canine handlers allow a reasonable amount of time between each warning to provide the Subject an opportunity to surrender. LMPD policy will require canine handlers to repeat the warnings during deployment as the canine and handler move into areas beyond earshot of the initial warnings.

65. LMPD policy will prohibit canine handlers from deploying a canine into an occupied vehicle unless a person in the vehicle poses a risk of serious injury to the officer, canine, or others.

66. In instances where a canine apprehends a person by biting, LMPD policy will require the canine handler to remove the canine as soon as it is safe to have the canine release the bite. The fact that a person struggles when seized or confronted by a canine, by itself, does not establish that a canine cannot safely release a bite. If a canine fails to release on command, LMPD policy will prohibit deploying that canine again for apprehension of a person until it is evaluated for decommission or retraining, and, retrained if that is recommended.

67. LMPD policy will require the canine handler or an on-scene officer to request Emergency Medical Services as soon as practicable when a person sustains a canine bite. If the person requires additional medical attention, LMPD policy will require that the person will be transported to a medical facility for treatment.

68. For each canine-inflicted injury, LMPD policy will require the involved handler, as well as all other officers who used or observed force, to complete a written statement before the end of each officer's shift. In addition to the information that must be included in all written statements regarding Level 2 Uses of Reportable Force, LMPD policy will require a canine handler's written statement documenting a canine apprehension to include the following:

(a) whether there was contact between the canine and the person, including contact with the person's clothing; (b) the approximate duration of the canine's contact with the person; and (c) the approximate distance of the canine from the handler at the time the canine made contact with a person. In addition, in all apprehensions where there is canine contact, visible injury to a suspect, or a complaint of injury, LMPD policy will require an un-involved supervisor to respond

to the scene to complete the investigative requirements for a Use of Reportable Force included in this Decree.

69. LMPD will establish, implement, and maintain a canine certification program that requires: (a) canines and their handlers to demonstrate control and proficiency in specific, widely accepted obedience and criminal apprehension exercises; (b) canines and their handlers to receive a minimum of 16 hours of training every four weeks; (c) the trainer to keep detailed records of whether each canine team has met specific control criteria for each control exercise, and what remedial training was given if a canine team was deficient in any area; and (d) the trainer to report all deficiencies to the unit supervisor. LMPD's canine certification program will require canine teams to be certified annually by a nationally recognized trainer or organization and will prohibit a canine team from deploying unless its certification is current. LMPD will ensure that the certifying agency's standards are consistent with LMPD policy and this Decree.

70. LMPD will utilize a qualified trainer who can provide certified canine training, deliver certified training, and maintain training records in accordance with LMPD policy and this Decree.

71. LMPD will record and track each canine team's training records, certification records, and health records, regardless of whether individual handlers also maintain records.

72. LMPD will track canine deployments and canine apprehensions, and calculate and track canine bite ratios on a monthly basis to assess its canine unit and individual canine teams. LMPD will require the review of the performance of any handler whose bite ratio exceeds 20 percent during a six-month period, or the entire unit if the unit's bite ratio exceeds that threshold.

5. *Firearms*

73. LMPD policy will require officers to qualify with each firearm they are issued and authorized to carry at least annually. LMPD will track the date of officers' qualifications. LMPD policy will require officers to relinquish any LMPD-issued firearm with which they fail to qualify.

74. LMPD policy will require that officers only point a firearm at a person when the officer reasonably believes that the situation may escalate to create an imminent threat of Serious Physical Injury or death to the officer or another person.

75. LMPD policy will prohibit officers from:

- a. Discharging a firearm unless the officer has identified the location of the intended target;
- b. Discharging a firearm before identifying themselves as a law enforcement officer and stating their intention to use deadly force, unless such actions are not safe and feasible or when the officer's intentions are otherwise apparent;
- c. Discharging their firearms either at, or from, a moving vehicle except in response to gunfire, imminent threat of gunfire, or, in the rare case, where the vehicle is intentionally being used as a weapon against the officer or others. Officers will not discharge their weapons at vehicles simply because a Subject is attempting to flee. Officers will avoid tactics that unreasonably place them in a position where the vehicle can be used as a weapon against them; and
- d. Discharging a firearm at an individual whose actions present only a threat to themselves (e.g., attempted suicide).

D. Training

76. LMPD will provide all officers with initial and ongoing use of force training that reflects the Constitution and LMPD policies. The Implementation Plan will include the appropriate duration and cadence for the initial and ongoing training programs. Initial use of force training will cover, at a minimum:

- a. Proper use of force decision-making under the critical-thinking, decision-making model described in Paragraph 22, through the use of role-playing scenarios and interactive exercises;
- b. The Fourth Amendment and related law;
- c. De-escalation Techniques, both verbal and tactical, that enhance officers' ability to make Arrests without using force. Such De-escalation Techniques may include talking persuasively, slowing down the pace of the situation, disengaging, containing an area, surveilling the situation, waiting out a subject, requesting backup, using cover, calling in specialized units, or delaying arrest, any of which may be an appropriate response to a situation, even when the use of force would be legally justified;
- d. Instruction for officers to consider the possibility that a Subject may be noncompliant due to a medical or physical health condition; intellectual or developmental disability; mental illness; behavioral health crisis; deafness or hearing loss; blindness or vision loss; language barrier; or substance use;
- e. Proper deployment and use of all LMPD issued or approved weapons, technologies, and tactics;

- f. Effects of CEWs, including, at a minimum: (1) the risks of harm caused by prolonged or repeated CEW exposure; (2) the risks to persons exhibiting signs of mental illness, substance use, or experiencing a behavioral health crisis; (3) the risks CEWs may present to a subject who is pregnant, elderly, a small child, frail, has low body mass, or is in apparent medical crisis; and (4) that persons subjected to CEW cycles may be physically unable to comply with commands due to the effect of the device;
- g. The use of OC Spray and officers' responsibilities following OC Spray use, including minimizing exposure of non-targeted individuals and decontamination of exposed subjects;
- h. The limitations on tackling or otherwise pushing people off of bicycles unless the person's actions pose a risk of imminent physical harm to the officer or another person;
- i. The policy limitations on using force against persons who are restrained or under control;
- j. Firearms training, including the circumstances under which it is appropriate to point a firearm at a person;
- k. Identifying and responding to someone who may be armed;
- l. Proper foot pursuit tactics, including when foot pursuits are appropriate and how to avoid the use of excessive force during or at the conclusion of a foot pursuit;
- m. The duty to intervene when they witness an officer using excessive force; and
- n. Use of force reporting.

77. Supervisors of all ranks, as part of their initial and ongoing in-service supervisory training, as included in the Implementation Plan, will receive training in conducting use of force reviews or investigations appropriate to their rank; strategies for effectively directing officers to minimize uses of force and to intervene effectively to prevent or stop objectively unreasonable force; and supporting officers who report objectively unreasonable force.

E. Use of Force Reporting, Investigation, and Review

1. General Requirements Applicable to All Uses of Reportable Force

78. LMPD policy will require that at least one officer on scene at a Use of Reportable Force will notify a Permanent-Rank Supervisor immediately, or as soon as practicable, following a Use of Reportable Force. The supervisor will notify the Division chain of command of the basic facts and circumstances of Level 2 and 3 incidents prior to the end of shift during which the force occurred, absent extenuating circumstances.

79. LMPD policy will require that officers who use or observe a Use of Reportable Force will be subject to appropriate Corrective Action if a Permanent Rank Supervisor is not notified as required by Paragraph 78, up to and including termination.

80. LMPD policy will require that officers accurately, thoroughly, and timely report their Uses of Reportable Force.

81. LMPD will create a unit designated to review and investigate force incidents as outlined in this Section of this Decree. Members of this unit will be subject to all requirements of this Decree that apply to Professional Standards Division (PSD) investigators.

82. The LMPD unit designated to review and investigate Uses of Reportable Force will conduct quality assurance reviews of a sample of Level 1 Uses of Reportable Force and all Level 2 Uses of Reportable Force and will investigate all Level 3 Uses of Reportable Force.

83. LMPD policy will require the supervisor who reviews a Use of Reportable Force to hold a permanent-rank higher than any involved officer(s) who used the Use of Reportable Force or ordered that it be used. If a Lieutenant or above is involved, the review may be conducted by a Lieutenant or above. The Chief or their designee, in their discretion, may reassign a review of force of any Level to another unit for investigation.

84. LMPD policy will permit supervisors and investigators to recategorize any Use of Reportable Force to a higher level. LMPD policy will require supervisors and investigators to recategorize any Use of Reportable Force that appears to have been inappropriately or improperly categorized.

85. LMPD policy will require supervisors and investigators to investigate any recategorized Use of Reportable Force at the appropriate level and determine, if initially categorized at the lower level, why it was miscategorized, and if Corrective Action is required.

86. LMPD policy will require supervisors and investigators to promptly notify the chain of command if they determine that an officer's statement reveals evidence of potential Serious Misconduct and document their notification in the Use of Force Reviews.

87. When an incident involves multiple types of force or multiple officers, LMPD policy will require the entire incident to be reported and investigated at the highest level of force used by any officer during the incident.

88. LMPD policy will prohibit officers from using conclusory statements, boilerplate, or canned language (e.g., "furtive movement" or "fighting stance" or "characteristics of an armed person"), unless officers also provide supporting incident-specific detail in their Use of Force Reviews.

89. LMPD policy will require officers to be subject to Corrective Action, including discipline as appropriate, if they submit a written statement or Use of Force Review with material omissions or inaccuracies.

90. Where a reviewing authority finds the material omissions or inaccuracies to be deliberate, LMPD policy will require officers to be subject to appropriate Corrective Action, up to and including termination, subject to legal limits.

91. LMPD policy will require the appropriate supervisor or unit to review the information previously omitted or provided inaccurately to determine the facts of the incident. LMPD policy will require the appropriate supervisor or unit to thoroughly review the entire incident using the new information to determine if officers' actions complied with policy.

92. LMPD will develop and implement policies that include particularized reporting and review requirements for the various force options available to officers, including CEWs, Impact Weapons, OC spray, and Firearms.

93. LMPD will retain all body-worn camera video related to an incident involving a Use of Reportable Force according to the appropriate record retention schedule established by the Kentucky Department of Libraries and Archives or for the length of this Decree, whichever is longer.

2. Level 1 Uses of Reportable Force

a) Reporting Level 1 Use of Reportable Force

94. LMPD policy will require every officer who uses Level 1 Use of Reportable Force to submit a written use of force statement documenting:

- a. A detailed account of the incident from the officer's perspective;
- b. The reason for the initial police presence;

- c. A specific description of the acts that led to the use of force;
- d. The level of resistance encountered; and
- e. A description of every type of force used.

95. For Level 1 Use of Reportable Force, LMPD policy will require an officer who used the force to submit a Use of Force Review within 72 hours, or the end of the officer's next tour of duty, whichever is later, absent extenuating circumstances. LMPD policy will require the officer to attach the body-worn camera footage from all officers who used or observed the Use of Reportable Force as part of their Use of Force Review.

b) Supervisory and Chain of Command Review of Level 1 Uses of Reportable Force

96. LMPD policy will require an Uninvolved Permanent-Rank Supervisor of an officer who uses Level 1 Use of Reportable Force to thoroughly review the incident for consistency with LMPD policy or determine that the force used should be properly categorized as a higher Level Use of Reportable Force. This review will be completed, absent extenuating circumstances, within 72 hours or by the end of the supervisor's next tour of duty, whichever is later, after receiving an officer's Use of Force Review.

97. LMPD policy will require supervisors to ensure that supplemental evidence or statements from officers, witnesses, or Subjects are obtained when it appears that additional relevant and material evidence is necessary to resolve any discrepancies, provide missing information, or improve the reliability or credibility of the findings. LMPD policy will require that every supervisor in the chain of command is responsible for ensuring the accuracy and completeness of the Use of Force Review completed by supervisors, and for initiating any necessary Corrective Action.

98. LMPD policy will require the first commander in the chain of command who reviews the Uninvolved Permanent-Rank Supervisor's review of a Level 1 Use of Reportable Force to evaluate whether the review is timely, thorough, complete, and to make the necessary and appropriate findings of whether the use of force was consistent with LMPD policy. LMPD policy will require each higher-level supervisor in the chain of command who reviews the Use of Force Review to ensure that it is complete and that the review was thorough. LMPD policy will require the chain of command to complete its review within 21 days from the use of force, absent extenuating circumstances.

99. LMPD policy will require that if a reviewing commander believes that the findings of the Use of Force Review are not supported by a preponderance of the evidence, he or she will: (a) consult with the investigating supervisor and any previous reviewer about any recommended changes to the findings, and (b) will document requests for changes. Any supervisor in the chain of command may discuss the changes to the findings with any other reviewing supervisor(s).

100. For reviews involving Level 1 Use of Reportable Force, Lieutenants will ordinarily be the final reviewers. LMPD policy will require Lieutenants to make the final determinations of (a) whether the findings by the chain of command regarding the Use of Reportable Force are consistent with law and LMPD policy, and supported by a preponderance of the evidence; (b) whether the review is timely, thorough, and complete; and (c) whether there are tactical, equipment, policy, or other opportunities for improvement.

101. If the Lieutenant identifies any potential Misconduct, they will forward their completed Use of Force Review to the Major or acting Major for review. The Major or acting Major will review the incident and determine what, if any, Corrective Action is needed and whether to refer to PSD. The Major or acting Major will complete their review within 72 hours of the end of the

Major's, or acting Major's, next tour of duty after receiving the incident, absent extenuating circumstances.

102. If the Lieutenant does not identify any Misconduct, they will submit their final review and approval of the Level 1 Use of Force Review.

3. *Level 2 Use of Reportable Force*

a) *Reporting Level 2 Use of Reportable Force*

103. LMPD policy will require every officer who uses or observes a Level 2 Use of Reportable Force to submit a written use of force statement documenting:

- a. A detailed account of the incident from the officer's perspective;
- b. The reason for the initial police presence;
- c. A specific description of the acts that led to the use of force;
- d. The level of resistance encountered; and
- e. A description of every type of force used.

104. For a Level 2 Use of Reportable Force, LMPD policy will require the officer who used or observed the force to submit a written use of force statement by the end of the officer's shift, absent extenuating circumstances.

b) *Supervisory Response and Review of Level 2 Use of Reportable Force*

105. For a Level 2 Use of Reportable Force, LMPD policy will require an Uninvolved Permanent-Rank Supervisor of an officer using such force to respond to the scene. The supervisor will determine, based on policy and the facts then known, the level at which the use of force should be categorized.

106. For a Level 2 Use of Reportable Force, LMPD policy will require the Uninvolved Permanent-Rank supervisor responding and investigating to:
- a. Identify and separate, when feasible, all Subjects, involved officers, and witnesses, once the scene is secure;
 - b. Audio or video record all interviews with civilian witnesses and interview civilian witnesses separately, when feasible;
 - c. Audio or video record interviews of the Subject, or the Subject's refusal to be interviewed;
 - d. Request the Subject's statement regarding the Use of Reportable Force and explain LMPD's administrative review process. If a Subject is free to leave, the supervisor will advise them, and will not extend the Subject's detention to facilitate the investigative process of the Use of Reportable Force;
 - e. Interview the officers who used or observed force individually;
 - f. Not ask officers or other witnesses leading questions that suggest legal justifications for the officers' conduct, where such questions are contrary to appropriate law enforcement techniques;
 - g. Obtain from all officers who use Reportable Force an initial in-person, oral use of force statement on the scene, absent extenuating circumstances;
 - h. Use trauma-informed techniques where appropriate;
 - i. Canvass the area to collect relevant evidence, including available video footage, that may have captured any part of the Use of Reportable Force. If no video is available or relevant, document efforts to canvass for such video. If multiple videos

are available, document which videos were collected and why they were sufficient to capture the incident;

- j. Review body-worn camera or other video which may have recorded all or part of the use of force and document their review. Supervisors should obtain copies of relevant videos outlined in (i) above (other than body-worn camera footage) and include them in their Use of Force Review. Supervisors will review video as soon as reasonably practicable.
- k. Photograph the scene, including any departmental, governmental, or private property damaged as a result of an officer's involvement; and
- l. Photograph the officer and the Subject for identification purposes and capture evidence of injuries or claims of injury to anyone involved, and denote the lack of injury when applicable.

107. LMPD policy will require the Uninvolved Permanent-Rank Supervisor of an officer who uses a Level 2 Use of Reportable Force to thoroughly review the incident for consistency with LMPD policy. The supervisor will complete the Use of Force Review and forward it to a Lieutenant (or higher-ranking supervisor, as necessary) of the officer(s) who used the Reportable Force within 72 hours of the incident or by the end of their next tour of duty, whichever is later, absent extenuating circumstances.

108. The Use of Force Review will include, at a minimum, the following:

- a. A detailed, narrative description of the incident, the force used by the officer(s) and the Subject(s), any injuries sustained by the Subject(s) and the officer(s), and the sequence of events comprising the incident, with sufficient detail to provide a commander who reviews the report with a complete understanding of the incident;

- b. Documentation of the supervisor's actions in conducting the initial investigation;
- c. Documentation of all evidence that was gathered, including physical evidence; photographs; video footage, and the names, phone numbers, addresses, and recorded statements of the Subject(s) of the force and any civilian witnesses to the incident; and reports by involved and witness officers; and
- d. Notation of any material inconsistencies in the evidence or witness statements.

109. For a Level 2 Use of Reportable Force, LMPD policy will require supervisors to include in their Use of Force Reviews a determination of whether each Use of Reportable Force was: (1) objectively reasonable; (2) an amount and type of force reasonably necessary to effect an Arrest, a lawful detention, or protect the officer or other person; (3) minimized harm or risk of harm to officers and civilians; and (4) otherwise compliant with LMPD policy.

110. LMPD policy will require the supervisor to identify, if applicable, potential opportunities for improvement to relevant policy, training, equipment, or tactics. The supervisor will provide timely, constructive feedback to the involved officer(s), where appropriate.

111. Where a supervisor identifies any potential Misconduct, they will forward their completed Use of Force Review up their chain of command for review. Each supervisor in the chain of command will complete their review within 72 hours of the end of their next tour of duty after receiving the incident, absent extenuating circumstances.

c) Assessing Reviews of Level 2 Use of Reportable Force

112. LMPD policy will require the first commander in the chain of command who reviews the Uninvolved Permanent-Rank Supervisor's review of a Level 2 Use of Reportable Force to evaluate whether the review is timely, thorough, complete, and to make the necessary and appropriate findings of whether the use of force was consistent with LMPD policy. LMPD policy

will require each higher-level supervisor in the chain of command who reviews the Use of Force Review to ensure that it is complete and that the review was thorough. LMPD policy will require the chain of command to complete its review within 21 days of the use of force, absent extenuating circumstances.

113. LMPD policy will require supervisors to ensure that supplemental evidence or statements from officers, witnesses, or Subjects are obtained when it appears that additional relevant and material evidence is necessary to resolve any discrepancies, provide missing information, or improve the reliability or credibility of the findings. LMPD policy will require that every supervisor in the chain of command is responsible for ensuring the accuracy and completeness of the Use of Force Review completed by supervisors, and for initiating any necessary Corrective Action.

114. LMPD policy will require that if a reviewing commander believes that the findings of the Use of Force Review are not supported by a preponderance of the evidence, he or she will: (a) consult with the investigating supervisor and any previous reviewer about any recommended changes to the findings, and (b) will document requests for changes. Any supervisor in the chain of command may discuss the changes to the findings with any other reviewing supervisor(s).

115. If a supervisor or reviewing commander identifies any potential Misconduct in their review of a Level 2 Use of Reportable Force, the Major or Acting Major in their chain of command will review the incident and determine what, if any, Corrective Action is needed and whether to refer to PSD. LMPD policy will require the Major or acting Major to complete their review within 72 hours of the end of the Major's, or acting Major's, next tour of duty after receiving the incident, absent extenuating circumstances.

116. If there is no Misconduct identified with the Level 2 Use of Reportable Force, the Lieutenant will forward the Use of Force Review to the LMPD unit designated for force investigations for final review and approval.

4. Level 3 Uses of Reportable Force

a) Reporting Level 3 Use of Reportable Force

117. LMPD policy will require every officer who uses a Level 3 Use of Reportable Force to submit a written use of force statement documenting:

- a. A detailed account of the incident from the officer's perspective;
- b. The reason for the initial police presence;
- c. A specific description of the acts that led to the use of force;
- d. The level of resistance encountered; and
- e. A description of every type of force used.

118. For a Level 3 Use of Reportable Force, LMPD policy will require the officer who used the force to submit a written use of force statement by the end of the officer's shift, absent extenuating circumstances.

b) Response and Review of Level 3 Use of Reportable Force

119. For a Level 3 Use of Reportable Force, LMPD policy will require an Uninvolved Permanent-Rank Supervisor of an officer using such force to respond to the scene. That supervisor will determine, based on policy and the facts then known, the level at which the use of force should be categorized. That supervisor will also take initial steps to secure the scene and manage involved personnel until turning the scene over to the LMPD unit designated for force investigations of the incident.

120. For a Level 3 Use of Reportable Force, LMPD policy will require the Uninvolved Permanent-Rank Supervisor to immediately notify the LMPD unit designated for force investigations of the incident.

121. For a Level 3 Use of Reportable Force, LMPD policy will require the LMPD unit designated for force investigations to promptly respond to the scene and investigate the incident.

122. LMPD policy will require the LMPD unit designated for force investigations to do the following when responding to and investigating a Level 3 Use of Reportable Force:

- a. If not already done, identify and separate, when feasible, all Subjects, involved officers, and witnesses, once the scene is secure;
- b. Audio or video record all interviews with civilian witnesses and interview civilian witnesses separately, when feasible;
- c. Audio or video record interviews of the Subject, or the Subject's refusal to be interviewed;
- d. Request the Subject's statement regarding the Use of Reportable Force and explain LMPD's administrative review process. If a Subject is free to leave, the supervisor will advise them, and will not extend the Subject's detention to facilitate the investigative process of the Use of Reportable Force;
- e. Interview the officers who used or observed force individually about the specific acts that led to the Use of Reportable Force, including the reason for the initial police presence, the level of resistance encountered, and a description of every type of force used or observed. The investigator will conduct these interviews by the end of their tour of duty, absent extenuating circumstances;

- f. Do not ask officers or other witnesses leading questions that suggest legal justifications for the officers' conduct, where such questions are contrary to appropriate law enforcement techniques;
- g. Use trauma-informed techniques where appropriate;
- h. Canvass the area to collect relevant evidence, including available video footage, that may have captured any part of the Use of Reportable Force. If no video is available or relevant, document efforts to canvass for such video. If multiple videos are available, document which videos were collected and why they were sufficient to capture the incident;
- i. Review body-worn camera or other video which may have recorded all or part of the use of force and will document their review. Investigators should obtain copies of relevant videos outlined in (h) above (other than body-worn camera footage) and include them in their use of force review. Investigators will review video as soon as reasonably practicable.
- j. Photograph the scene, including any departmental, governmental, or private property damaged as a result of an officer's involvement; and
- k. Photograph the officer and the subject for identification purposes and to capture evidence of injuries or claims of injury to anyone involved, and denote the lack of injury when applicable.

123. For a Level 3 Use of Reportable Force, LMPD policy will require the investigator in the LMPD unit designated for force investigations to complete their Use of Force Review within 72 hours of the incident or by the end of their next tour of duty, whichever is later and absent

extenuating circumstances, unless their supervisor approves a reasonable extension. The Use of Force Review will include, at a minimum, the following:

- a. A detailed, narrative description of the incident, the force used by the officer(s) and the Subject(s), any injuries sustained by the Subject(s) and the officer(s), and the sequence of events comprising the incident, with sufficient detail to provide a commander who reviews the report with a complete understanding of the incident;
- b. Documentation of the supervisor's actions in conducting the initial investigation;
- c. Documentation of all evidence that was gathered, including physical evidence; photographs; video footage, and the names, phone numbers, addresses, and recorded statements of the Subject(s) of the force and any civilian witnesses to the incident; and reports by involved and witness officers; and
- d. Notation of any material inconsistencies in the evidence or witness statements.

124. For a Level 3 Use of Reportable Force, LMPD policy will require the investigators in the LMPD unit designated for force investigations to include in their Use of Force Reviews a determination of whether each Use of Reportable Force was: (1) objectively reasonable; (2) an amount and type of force reasonably necessary to effect an Arrest, a lawful detention, or protect the officer or other person; (3) minimized harm or risk of harm to officers and civilians; and (4) otherwise compliant with LMPD policy.

125. For a Level 3 Use of Reportable Force, LMPD policy will require the investigator to identify, if applicable, potential opportunities for improvement to relevant policy, training, equipment, or tactics. The investigator will notify the supervisors in the officer's chain of command of this feedback where appropriate.

126. Where an investigator determines that force used by an officer may be considered Misconduct, LMPD policy will require the investigator to refer the conduct to their chain of command. LMPD policy will require each supervisor in the chain of command to complete their review of the conduct within 72 hours of the end of their next tour of duty after receiving the incident, absent extenuating circumstances.

127. LMPD will develop and implement a force investigation training curriculum and procedural manual for the personnel in LMPD's unit designated for force investigations. The manual and training will include, at a minimum, the following:

- a. Definitions of all relevant terms;
- b. Clear statements of the Unit's mission and authority;
- c. Procedures on report writing;
- d. Procedures for collecting and processing evidence; and
- e. Scene management procedures.

c) Assessing Reviews of Level 3 Use of Reportable Force

128. LMPD policy will require the commander who reviews the investigation of a Level 3 Use of Reportable Force to evaluate whether the review is timely, thorough, complete, and make the necessary and appropriate findings of whether the use of force was consistent with LMPD policy. LMPD policy will require each higher-level supervisor in the chain of command who reviews the Use of Force Review to ensure that it is complete and that the review was thorough. LMPD policy will require that each subsequent review will be completed within 10 days after receiving the Use of Force Review, absent extenuating circumstances.

129. LMPD policy will require supervisors to ensure that supplemental evidence or statements from officers, witnesses, or Subjects are obtained when it appears that additional

relevant and material evidence is necessary to resolve any discrepancies, provide missing information, or improve the reliability or credibility of the findings. LMPD policy will require that every supervisor in the chain of command is responsible for ensuring the accuracy and completeness of the Use of Force Review completed by supervisors, and for initiating any necessary Corrective Action.

130. LMPD policy will require that if a reviewing commander believes that the findings of the Use of Force Review are not supported by a preponderance of the evidence, he or she will: (a) consult with the investigating supervisor and any previous reviewer about any recommended changes to the findings, and (b) will document requests for changes. Any supervisor in the chain of command may discuss the changes to the findings with any other reviewing supervisor(s).

131. If anyone in the chain of command identifies any potential Misconduct in their review of a Level 3 Use of Reportable Force, a representative of the Executive Staff will review the incident and determine what, if any, Corrective Action is needed and whether to open a PSD investigation. The reviewing representative will complete their review within 72 hours of the end of the representative's next tour of duty after receiving the incident, absent extenuating circumstances.

132. If there is no Misconduct identified with the Level 3 Use of Reportable Force, the incident will be closed and logged for tracking purposes by the Lieutenant of the unit responsible for investigating the use of force.

5. Level 4 Uses of Reportable Force

133. LMPD policy will require an Uninvolved Permanent-Rank Supervisor to respond to all Level 4 Uses of Reportable Force and to take initial steps to secure the scene and manage

involved personnel until turning the scene over to a higher-ranking commanding officer or arriving Special Investigations Division (SID) personnel.

134. In every incident involving Level 4 Reportable Force or an In-Custody Death, LMPD policy will require an Uninvolved Permanent-Rank Supervisor via the chain of command to immediately notify the SID.

135. LMPD policy will require the highest-ranking commanding officer or designee responding to assume control as the Incident Commander and to take steps to secure and maintain the integrity of the scene, which will be left intact to be processed by SID personnel, including making reasonable attempts to identify civilian witnesses, separating all involved and witness officers, and keeping them on the scene until SID personnel arrives, absent extenuating circumstances.

136. LMPD policy will require the Public Integrity Unit to respond to the scene and investigate every incident involving a Level 4 Use of Reportable Force or an In-Custody Death, or as ordered by the Chief of Police or their designee.

137. LMPD policy will require that after any officer-involved shooting, any officer who discharged their firearm will provide a Public Safety Briefing to their supervisor as soon as possible after the scene is stable. Officers who discharged their firearm will remain on the scene, absent extenuating circumstances, until providing their Public Safety Briefing. LMPD policy will require the supervisor to capture the Public Safety Briefing on body-worn camera or other means. The Public Safety Briefing must include, as known by the officer:

- a. All types of Reportable Force used by the officer and the threat presented by other involved persons;
- b. Direction of shots fired by the officer and suspect(s);

- c. Location of any unsecured weapons;
- d. Location of injured persons;
- e. Description of non-apprehended suspects and their direction of travel, time elapsed since any suspect was last seen, and any weapon(s) that were available to them;
- f. Description and location of any known injured persons or witnesses;
- g. Description and location of any known evidence; and
- h. Other information as necessary to ensure officer and public safety, and assist in apprehending outstanding suspects.

138. LMPD policy will require all Uses of Level 4 Reportable Force to be thoroughly reviewed for consistency with LMPD policy. LMPD policy will require the individuals investigating Level 4 Uses of Reportable Force to have appropriate expertise, independence, and investigative skills to: (a) conduct investigations to identify whether uses of force are consistent with LMPD policy and law; and (b) identify policy, training, equipment, or tactics related to the use of force.

139. To achieve this outcome:

- a. Only personnel within the Professional Standards Division who have been specially trained in conducting force investigations will conduct administrative investigations of Level 4 Uses of Reportable Force and other Uses of Reportable Force as assigned to PSU by the Chief of Police or their designee. PSU investigations involving the death of an individual while in, or as an apparent result of being in, LMPD's custody (In-Custody Deaths) will be conducted by these individuals.

- b. LMPD's Public Integrity Unit will conduct criminal investigations of all Level 4 Uses of Reportable Force, any Uses of Reportable Force assigned to PIU by the Chief of Police or their designee, and any In-Custody Deaths.

140. LMPD policy will require PSU to conduct administrative investigations of force incidents concurrently with any PIU criminal investigation into the same force incident, absent specific circumstances that would jeopardize the criminal investigation and upon the approval of the Chief or their designee. LMPD policy will require the Chief or designee to document in the PSU case file any decision to postpone an administrative investigation, along with the rationale for doing so. Criminal and administrative investigations need not be initiated the same day to be considered concurrent. Criminal and administrative investigators may also coordinate their investigative steps in order to advance the purposes of the concurrent investigations.

141. LMPD policy will require PSU to be LMPD's primary administrative investigating entity of Level 4 Uses of Reportable Force and In-Custody Deaths. PSU may call upon other units to assist or provide technical expertise. The PSU investigator will lead all investigative activity related to the administrative investigation, which includes observing or reviewing any interviews conducted by PIU, conducting follow-up interviews and supplementing the investigation, which may include locating and interviewing additional witnesses, and locating additional video that may have captured the incident.

142. LMPD policy will require the SID Commander or their designee to be available at all times to evaluate potential referrals from LMPD supervisors.

143. LMPD policy will require the designated PSU and PIU staff members to have appropriate expertise and investigative skills to identify uses of force that are contrary to law or

policy. LMPD policy will require PSU and PIU staff members to perform their duties consistent with the law and LMPD policy.

144. LMPD policy will require the LMPD unit designated to investigate force incidents to facilitate the Performance Review Board's (PRB) identification of trends or patterns of policy, training, equipment, or tactical opportunities for improvement, or lessons related to the use of force by providing the unit's data and findings, and any other information as necessary and available, to the PRB.

145. LMPD policy will require SID to have the following responsibilities when responding to and investigating a Level 4 Use of Reportable Force:

- a. SID personnel will assume control of the use of force investigation upon their arrival;
- b. SID personnel will, absent extenuating circumstances, record all interviews with civilian witnesses unless the civilian witnesses refuse to be recorded;
- c. SID personnel must record (audio and/or video) all interviews with involved officers;
- d. SID personnel will separate all involved and witness officers until all officers are interviewed;
- e. SID personnel will ensure all available video evidence is gathered. This evidence may include, but is not limited to, private or public video, cell phone video footage, and body-worn camera footage. SID personnel will arrange a canvass for any publicly or privately owned video that may have captured the incident, and attempt to obtain copies voluntarily. If the owner of privately-owned video refuses, SID

- personnel will document the location and/or owner of the video. If no privately-owned video is discovered, SID personnel will document that none was found;
- f. SID personnel will review body-worn camera or other video which may have recorded all or part of the use of force and will document their review. SID personnel should obtain copies of relevant videos outlined in (e) above (other than body-worn camera footage) and include them in the electronic investigative file. SID personnel will review video as soon as reasonably practicable;
 - g. SID personnel will arrange for the Crime Scene Unit to process the scene and provide relevant work product, including photos of the scene and involved individuals, as soon as practicable to SID;
 - h. SID personnel will attempt to conduct an audio or video recorded interview of the Subject(s) of the Level 4 Use of Reportable Force to obtain their account of what happened, if possible;
 - i. SID personnel will conduct interviews of the officers who used or observed the Level 4 Use of Reportable Force as soon as practical. If an LMPD officer affirmatively refuses to give a voluntary interview and there is probable cause to believe the officer has committed a crime, SID personnel will consult with the appropriate prosecuting agency, and seek approval of the Chief of Police or their designee before taking a compelled statement from an involved officer as part of an administrative investigation. In circumstances where there is probable cause the officer has committed a crime, SID personnel will document in writing all decisions regarding whether to compel an involved officer's interview;

- j. SID personnel will ensure that officers involved in a Level 4 Use of Reportable Force do not review any BWC recordings related to the incident either prior to being interviewed by the investigative unit or before being released to the public;
- k. The investigator will document all decisions to hold in abeyance any aspect of an administrative investigation; and
- l. In the case of an officer-involved shooting, SID personnel will arrange for any officer who discharged their firearm to be drug and alcohol tested.

146. LMPD policy will require the administrative investigation into a Level 4 Use of Reportable Force to be completed pursuant to the timeline set forth in Paragraph 550. At the conclusion of each use of force investigation, LMPD policy will require PSU to prepare an investigation report. The report will include:

- a. A narrative description of the incident, including a precise description of the evidence to determine if the officer's conduct complied with LMPD policy;
- b. Documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. If there are no known witnesses or witnesses who refuse to be interviewed or are unable to be identified, the report will specifically state this fact;
- c. The names of all LMPD employees who witnessed any part of the Use of Reportable Force;
- d. An evaluation of the basis for the use of force, based on the independent review of the evidence gathered, including PSU's recommendation regarding whether the involved officer's actions appear to comply with LMPD policy; and

- e. If the involved officer used a weapon, documentation of the officer's certification and training for the weapon.

147. LMPD policy will require the PRB to review the incident within 60 days of the use of force or as soon as possible thereafter.

148. LMPD policy will require PSU to maintain their investigation files in a centrally-located database in which PSU can readily identify the associated criminal investigation being conducted by PIU. PIU will conduct its criminal investigation pursuant to Section XIV of this Decree.

F. Data Collection and Analysis

149. LMPD will collect and maintain all data and records necessary to accurately evaluate its use of force practices, facilitate transparency, and enable broad public access to information related to LMPD's Uses of Reportable Force to the extent permitted by law.

150. LMPD will ensure the collection and tracking of all documents related to uses of force, allegations of misconduct, and related materials, including:

- a. Use of Force Reviews, including all associated supervisory reviews; and
- b. Force investigations conducted by SID.

151. LMPD will maintain a reliable and accurate electronic system that includes the following data derived from Use of Reportable Force-related documents:

- a. The type(s) of force used;
- b. The actual or perceived race, ethnicity, age, and gender of the Subject(s);
- c. The name, code number, and assignment of the officer(s) who used force or witnessed a use of force (including whether the officer was assigned to a specialized unit, such as CID);

- d. The patrol division where the use of force occurred;
- e. Whether the incident occurred during an officer-initiated contact or a call for service;
- f. The Subject's perceived mental health or medical condition, use of drugs or alcohol, or the presence of a disability, if indicated at the time force was used;
- g. The Subject's actions prior to the use of force, including whether the subject(s) possessed, brandished, and/or used weapon(s);
- h. Whether the subject was handcuffed or otherwise restrained during a use of force; Any injuries or complaints of injury sustained by officer(s) or Subject(s), and whether medical services were offered;
- i. Whether the subject was charged with an offense, and, if so, which offense(s);
- j. For firearms-related Level 4 Uses of Reportable Force, the number of shots fired by each involved officer whether the subject was armed or unarmed; and any recommended remedial firearms training; and
- k. The length of time between each step in the review process of the force investigation.

152. LMPD will compile statistics of relevant force-related data for the LMPD command staff and PRB. LMPD may accomplish this by generating a regularly-updated dashboard.

153. LMPD will periodically audit Use of Force Reviews to identify significant trends, to correct deficient policies and practices, and to improve performance and supervision. LMPD also will periodically review its use of force forms and data collection systems to improve the accuracy and reliability of force data. LMPD will conduct these audits and reviews according to a timeline established in the Implementation Plan.

154. On a schedule determined by the Implementation Plan, LMPD will analyze the prior calendar year's force data, including the force-related data listed above, to determine trends, make recommendations regarding potential improvements based on this analysis, and document its findings in a Use of Force Annual Report. The PRB will review the Use of Force Annual Report pursuant to the requirements outlined in Section XI.I. LMPD will post the Use of Force Annual Report on its website.

G. Key Objectives

155. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD's use of force complies with the requirements of this Consent Decree.

Key Objective 2: Where safe and feasible, LMPD uses De-escalation Techniques before resorting to force.

Key Objective 3: LMPD uses force tools in accordance with the requirements of this Consent Decree.

Key Objective 4: LMPD uses canines in accordance with the requirements outlined in Section II.D.4 of the Consent Decree.

Key Objective 5: LMPD reports and reviews Level 1 Uses of Reportable Force in accordance with the requirements outlined in Section II.F of the Consent Decree.

Key Objective 6: LMPD reports and reviews Level 2 Uses of Reportable Force in accordance with the requirements outlined in Section II.F of the Consent Decree.

Key Objective 7: LMPD reports and reviews Level 3 Uses of Reportable Force in accordance with the requirements outlined in Section II.F of the Consent Decree.

Key Objective 8: LMPD reports and reviews Level 4 Uses of Reportable Force in accordance with the requirements outlined in Section II.F of the Consent Decree.

Key Objective 9: Louisville Metro and LMPD regularly analyzes qualitative and quantitative data of Uses of Reportable Force to identify significant trends, to correct deficient policies and practices, and to improve performance and supervision.

Key Objective 10: LMPD identifies and holds officers accountable for uses of force that are objectively unreasonable or otherwise violate law or policy as required by this Consent Decree.

III. RESIDENTIAL SEARCH WARRANT APPLICATIONS

A. Policy Requirements for Residential Search Warrant Applications

156. LMPD policy will require officers to articulate specific, individualized, and accurate facts that establish probable cause for each person, place, or item that they propose to search, and for each item that they propose to seize in all Residential Search Warrant applications.

157. LMPD policy will prohibit officers from relying on generalities, boilerplate, or conclusory language that fails to establish probable cause, in Residential Search Warrant applications.

158. LMPD policy will require officers to include articulable facts establishing probable cause to search every requested person identified in the application, their home, or items belonging to them, other than mere association with an investigatory target in Residential Search Warrant applications.

159. LMPD policy will prohibit officers from relying on information they know to be materially false or incorrect to justify an application for a Residential Search Warrant. Officers

will promptly withdraw or correct information in pending Residential Search Warrant applications when officers learn that included information may be materially false or incorrect.

160. LMPD policy will prohibit officers from relying on race, or any other protected characteristic, when seeking a Residential Search Warrant, to establish probable cause for searching an individual, except as part of a specific and credible description of that individual in an ongoing investigation that also includes other appropriate identifying factors that are not protected characteristics.

161. LMPD policy will require officers to identify any Confidential Informant referenced in or relied upon in preparation of the Residential Search Warrant application, by the Confidential Informant's unique identifier, in the investigative case file where the search warrant is maintained, according to requirements in Paragraph 178.

162. For Residential Search Warrant applications in which probable cause is based in part on the statements of Confidential Informants, LMPD policy will require officers to articulate specific facts in the application that establish at least one of the following:

- a. The veracity, reliability, and basis of knowledge of the Confidential Informant; or
- b. Independent corroboration of the Confidential Informant's statements.

163. LMPD policy will prohibit officers from using any Confidential Informant as the sole basis to establish probable cause for a Residential Search Warrant application when the investigating officer knows the Confidential Informant has knowingly provided materially false or misleading information to establish probable cause in a prior investigation. Officers may, however, use Confidential Informants who have knowingly provided such information to corroborate independent evidence that alone would establish probable cause for a Residential Search Warrant.

164. In all Residential Search Warrant applications, LMPD policy will require officers to identify the scope of the search and whether the warrant will be executed between the hours of 10:00 P.M. and 6:00 A.M., consistent with the requirements of Section V of this Decree.

165. LMPD policy will require officers to receive court approval to execute a Residential Search Warrant between the hours of 10:00 P.M. and 6:00 A.M. by providing reasonable cause in the warrant application that there is a need to execute the warrant during these hours.

166. LMPD policy will prohibit officers from requesting a court seal a Residential Search Warrant unless sealing is necessary to protect a legitimate law enforcement interest, such as to protect the integrity of a criminal investigation or the identity of Confidential Informants.

167. LMPD policy will require officers to limit their requests to seal a Residential Search Warrant application to 60 days but may request the court extend the seal for additional 30-day periods, when the officer can articulate a legitimate law enforcement interest for the extensions, such as protecting the integrity of a criminal investigation or the identity of Confidential Informants.

168. LMPD policy will require officers to submit Residential Search Warrant applications to their immediate supervisor, who will review the application for compliance with LMPD policy.

169. After the immediate supervisor has approved the Residential Search Warrant application, LMPD policy will require the supervisor to submit the application to a lieutenant or major in their chain of command, who will review the application for compliance with LMPD policy.

170. LMPD policy will require reviewing supervisors to be responsible for the quality of their reviews of the Residential Search Warrant applications approved for submission to the court.

171. Before an officer may seek judicial authorization of a Residential Search Warrant, LMPD policy will require the officer to request a prosecutor with jurisdiction over the matter or other consulting attorney review the Residential Search Warrant application to ensure that there is probable cause for each person, place, or item the officer proposes to search.

172. LMPD policy will require supervisors to document their review of all Residential Search Warrant applications.

173. LMPD policy will require officers to document in the case file their request for a legal review of their Residential Search Warrant applications. If officers consulted with a prosecutor or other consulting attorney, LMPD policy will require officers to document that legal review was obtained.

174. LMPD policy will require that consulting attorneys employed or contracted with LMPD to review Residential Search Warrant applications will be held responsible for the quality of their review of applications approved for submission to the court. LMPD will address any deficiencies found during subsequent reviews with the attorneys during employment or contractual review.

175. LMPD policy will require officers to be held accountable, pursuant to Section XIV, when deficiencies in their Residential Search Warrant applications are found. This includes subjecting officers to discipline, up to and including termination, for knowingly submitting a false or misleading Residential Search Warrant application.

176. LMPD, in consultation with the Jefferson County Attorney's Office, will allocate appropriate resources so that consulting attorneys are readily available to officers and supervisors, in order to provide guidance regarding Fourth Amendment requirements, related law, and LMPD policies regarding Residential Search Warrant applications.

177. LMPD policy will require officers to direct Residential Search Warrant applications to whichever judge is on call and assigned to review applications at the time in which the warrant is sought. LMPD policy will require officers to comply with any search warrant review protocols developed by the Jefferson County Courts, to eliminate forum-shopping.

B. Data Collection and Analysis

178. LMPD will develop, implement, and maintain an electronic system to organize all relevant documents related to each Residential Search Warrant application in the investigative case file associated with the Residential Search Warrant application. In addition to a copy of each Residential Search Warrant application submitted for judicial authorization, the case file will include, where applicable, the following:

- a. The name of the officer(s) involved in preparing the application;
- b. A supervisor's review of the application;
- c. Documentation of the request for the legal review of the application and whether review was provided; and
- d. The judicial review of the application with any annotations.

179. LMPD will use its centralized electronic tracking system to maintain accurate and reliable data regarding Residential Search Warrant applications, including, if available:

- a. The case number associated with each Residential Search Warrant application;
- b. Identifying and demographic information for each person proposed to be searched in each Residential Search Warrant application;
- c. Identifying and demographic information for each person actually searched during Residential Search Warrant executions;

- d. The address of each residence proposed to be searched in Residential Search Warrant applications;
- e. Category of items or areas to be searched;
- f. Category of evidence sought to be obtained;
- g. The charges being investigated;
- h. Whether officers used a Confidential Informant in the search warrant application;
- i. The name and badge number of the lead investigator and, if different, the officer who prepared the search warrant application;
- j. The name and badge number of the officer who signed the affidavit in support of the search warrant application;
- k. The name and badge number of the supervisor who approved the search warrant application;
- l. The name of the prosecutor or other consulting attorney who reviewed the search warrant application or whether the request to review was denied;
- m. The name of each judge who reviewed the warrant;
- n. Each judge's decision to approve or deny the warrant;
- o. The time of day the search warrant was authorized to be executed;
- p. The date the search warrant was approved by the court;
- q. The date the search warrant was executed;
- r. The date the search warrant was returned; and
- s. The date(s) the search warrant was under seal.

180. If a Residential Search Warrant is denied by the court, LMPD will also document in the electronic tracking system for Residential Search Warrants:

- a. The reason(s) for denial, if provided;
- b. Whether the warrant application was abandoned or resubmitted to address the reason(s) for denial; and
- c. Any policy or training concerns, or Corrective Action issued to the officers and/or supervisors who drafted or approved the denied application.

181. LMPD will maintain a centralized electronic record-keeping system to maintain records regarding Confidential Informants. This system will allow LMPD the ability to identify when a Confidential Informant's authorization is set to expire. LMPD will prohibit any consideration (i.e., payment, charging decision) from being made to a Confidential Informant once the informant's authorization has lapsed or been rescinded, unless a supervisor approves the payment. This electronic record-keeping system will record approvals and justifications for the approvals.

182. LMPD policy will require officers to document in the electronic record-keeping system for Confidential Informants when an informant has knowingly provided false or misleading information to establish probable cause in a prior investigation. LMPD policy will require officers to verify that the system contains no record of an informant providing false or misleading information before using an informant as the sole basis to establish probable cause for a Residential Search Warrant application.

C. Training

183. LMPD will provide initial and ongoing training on Residential Search Warrant applications to all officers involved in preparing, reviewing, or approving a search warrant application. The appropriate duration and cadence of the initial and ongoing training programs will be identified in the Implementation Plan. The training will include:

- a. Fourth Amendment requirements, related law, and LMPD policies regarding Residential Search Warrant applications;
- b. Procedures for preparing, reviewing, and submitting Residential Search Warrant applications, including practices involving proper use of Confidential Informants;
- c. Practical learning modules to facilitate each officer's ability to complete search warrant applications and each supervisor's ability to effectively review such applications; and
- d. For supervisors who review Residential Search Warrant applications, supervision and review of Residential Search Warrant applications for compliance with the law and LMPD policy.

D. Key Objectives

184. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: Residential Search Warrant applications include the necessary specificity and detail to establish individualized probable cause for each person, place, or item proposed to be searched.

Key Objective 2: Information from Confidential Informants for narcotics-related Residential Search Warrant applications is used appropriately to establish probable cause.

Key Objective 3: LMPD limits requests to seal Residential Search Warrant applications to legitimate enforcement interests, such as protecting the integrity of a criminal investigation or the identity of Confidential Informants.

Key Objective 4: LMPD complies with Jefferson County Courts’ search warrant review protocols.

Key Objective 5: LMPD supervisors review Residential Search Warrant Applications as required by this Consent Decree and hold officers accountable for violations of policy relating to Residential Search Warrant Applications as required by this Consent Decree.

Key Objective 6: LMPD collects data for Residential Search Warrant Applications as required by this Consent Decree.

IV. RESIDENTIAL SEARCH WARRANT EXECUTIONS

A. Planning Residential Search Warrant Executions

185. LMPD will revise its Risk Matrix as needed to memorialize the Risk Assessment process of evaluating and determining the presence of potential hazards or dangerous conditions to law enforcement personnel and the public that may be present or may occur during a Residential Search Warrant’s execution. This Risk Matrix will identify the risk level of each warrant’s execution as: low-risk, medium-risk, or high-risk. The Risk Matrix will also include the following:

- a. Target background, including known associates, likelihood of violence, likelihood of the presence of weapons, criminal history, specialized training, likelihood of impairment by alcohol or drugs, known mental health history, and vehicles;
- b. Location information, including any surveillance history, points of entry, and an assessment of the surrounding area; and
- c. Presence of other people or animals.

186. LMPD policy will require officers to complete the Risk Matrix memorializing LMPD's Risk Assessment of a Residential Search Warrant's execution prior to executing a Residential Search Warrant.

187. LMPD policy will require supervisors to: (a) review each Risk Matrix for adherence to LMPD policy, (b) document their review of all Risk Matrices, and (c) maintain that review in the investigative case file.

188. LMPD policy will require reviewing supervisors to be subject to Corrective Action when deficiencies in their review of Risk Matrices are found.

189. LMPD policy will require the SWAT Team to review all Risk Matrices. If the SWAT Team agrees with the Risk Assessment memorialized in the Risk Matrix, the SWAT Team will authorize the warrant's execution. If the SWAT Team disagrees with the Risk Assessment, the SWAT Team will return the Risk Matrix to the officer who prepared it with recommendations for correction. If the SWAT Team and the officer who prepared the Risk Matrix disagree on the Risk Assessment, the Risk Matrix will be forwarded to the Major with responsibility for the SWAT Team, who will make the final determination of whether the warrant execution is low-risk, medium-risk, or high-risk.

190. LMPD policy will require officers to execute Residential Search Warrants between the hours of 6:00 A.M. and 10:00 P.M., absent exigent circumstances, unless officers provide reasonable cause in the application for the Residential Search Warrant that there is a need to execute the warrant during the hours between 10:00 P.M. and 6:00 A.M. and a court approves the timing.

191. For high-risk Residential Search Warrants, LMPD policy will require the SWAT Team to execute the warrant, absent exigent circumstances. If SWAT does not execute a high-risk

Residential Search Warrant, then LMPD will document why as soon as practicable after execution. LMPD policy will otherwise prohibit other officers, units, or squads from leading executions of high-risk Residential Search Warrants.

192. For medium-risk Residential Search Warrants, LMPD policy will require the SWAT team to determine whether the execution should be conducted by the SWAT team or by other officers, given the risks involved in executing the warrant. If the SWAT team determines that it should execute the Residential Search Warrant, it will convey this determination to the officer who prepared the Risk Matrix. If the SWAT Team determines that the execution of the Residential Search Warrant can be conducted by other officers, and the officer who prepared the Risk Matrix disagrees, the matter will be resolved by the Major with responsibility for the SWAT Team. LMPD policy will require the SWAT team and the Major to document their determinations in writing.

193. For low-risk Residential Search Warrants, LMPD policy will require non-SWAT officers to execute the warrant.

194. LMPD will develop and implement an Operation Plan for each Residential Search Warrant execution. The Operation Plan will include:

- a. The case synopsis;
- b. The authorized Risk Matrix;
- c. The lead investigator;
- d. Each officer involved and the duties of each officer;
- e. The equipment expected to be used, including any weapons;
- f. A physical assessment of the location, including primary and alternate entry points, physical characteristics of those entry points, and available photographs and videos;

- g. Consideration of any investigative target or other occupant, including animals, who may be present at the location during the search warrant execution;
- h. The plan for approach;
- i. The Tactical Method of Execution;
- j. A description of law enforcement Deconfliction efforts; and
- k. The route to a hospital or health care facility, in case any officer or civilian is injured during the warrant's execution.

195. LMPD policy will require officers to consider the following Safety Priorities, in this order, when creating an Operation Plan to execute a Residential Search Warrant:

- a. Hostages/Victims;
- b. Innocent Bystanders/The Public;
- c. Public Safety Personnel/SWAT/EMS; and
- d. Hostage Taker/Suspect.

196. LMPD policy will require Operation Plans for Residential Search Warrant executions to consider the Safety Priorities when selecting a Tactical Method of Execution to accomplish the mission.

197. Before the Residential Search Warrant is executed, LMPD policy will require a supervisor to review the Operation Plan to determine whether it complies with LMPD policy. LMPD policy will require supervisors to document their review of all Operation Plans, including any deficiencies that the supervisor identifies. LMPD policy will require reviewing supervisors to be subject to Corrective Action when deficiencies in their review of Operation Plans are found.

198. LMPD policy will require officers to maintain the Operation Plan in the case file, developed according to Paragraph 178.

B. Executing Residential Search Warrants

199. LMPD policy will require an officer or supervisor to provide a briefing regarding the Operation Plan to all officers participating in the Residential Search Warrant's execution prior to the execution.

200. LMPD policy will require a supervisor to be present during each Residential Search Warrant execution.

201. LMPD policy will require officers executing a Residential Search Warrant to comply with the following announcement procedures before entering a building during service of a Residential Search Warrant:

- a. Physically knock or otherwise make known the presence of LMPD officers;
- b. Verbally notify occupants of their identity as LMPD officers;
- c. Verbally notify occupants of their purpose to execute a search warrant; and
- d. Wait a reasonable period of time, based on the totality of circumstances, after making known the presence of LMPD officers to allow people inside to let officers into the residence, as required by law.

202. LMPD policy will require officers executing a Residential Search Warrant to activate their body-worn cameras no later than five minutes prior to arrival at the scene of a Residential Search Warrant and keep the camera active for a minimum of five minutes after the officer's completion of participation in the warrant's execution.

203. LMPD policy will require Members to video record the seizure of currency and, so long as the currency is in their custody and control at the time of counting, LMPD policy will require Members to video record the counting.

204. LMPD policy will prohibit officers from using Dynamic Entry as the default method of entry.

C. After-Action Review of Residential Search Warrant Executions

205. LMPD will develop and implement an after-action report form to assist in supervisory review and documentation of the execution of all Residential Search Warrants. The report will include, if not otherwise included in the Operations Plan or if different from the Operations Plan, the following:

- a. The name, code number, and assignment of the officer(s) who were present and their respective roles;
- b. Whether the execution was preceded by making LMPD officers' presence known and if not, why;
- c. An estimate of the amount of time that passed between making LMPD officers' presence known and entry into the residence;
- d. Information to document the occurrence of tactical briefings;
- e. Whether the Operation Plan was followed, including Tactical Method of Execution, and the reason for any departures from the Plan;
- f. Which body-worn camera footage was reviewed in completing the report, if applicable; and
- g. An overall assessment of the tactics and supervision of the execution and any related recommendations, if applicable.

206. The after-action report will be maintained in the case file developed under the terms of Paragraph 178.

D. Data Collection and Analysis

207. As part of the centralized electronic tracking system for Residential Search Warrant applications required by Paragraph 178, LMPD will include information related to the execution of Residential Search Warrants, including:

- a. The name, code number, and assignment of the officer(s) who were present and their respective roles;
- b. The patrol division where the search warrant was executed;
- c. Identifying and demographic information for every person, other than officers, present at the residence that is subject to a search or seizure under the executed warrant;
- d. The date, time, and location of the execution;
- e. Risk level of the warrant (high-risk, medium-risk, or low-risk);
- f. Category of items seized during the execution, including the approximate quantity and valuation of the items seized;
- g. Each type of force used during the execution;
- h. The names and code numbers of officers who used force and a link to related use of force reviews or investigations;
- i. Identifying and demographic information about each person on whom officers used force;
- j. Any discharge of a firearm on a domesticated animal;
- k. A detailed description of all property destroyed or damaged during the execution;

- l. Identifying and demographic information about each person arrested during the execution or as a result of information obtained during the execution;
- m. All criminal charge(s) associated with that Arrest;
- n. For executed warrants, the completed Risk Matrix associated with the warrant execution;
- o. A supervisor's review and authorization of the Risk Matrix;
- p. The completed Operation Plan for executing the warrant;
- q. A supervisor's review and authorization of the Operation Plan;
- r. Video and audio recordings and photographs of the warrant execution;
- s. The warrant's return to the court; and
- t. The after-action report.

E. Training

208. LMPD will provide officers with initial and ongoing training on Residential Search Warrant executions. The appropriate duration and cadence of the initial and ongoing training programs will be included in the Implementation Plan.

209. LMPD will provide all officers involved in Tactical Method of Executions of high-risk and medium-risk warrants training on Risk Assessments, Operation Plans, and execution topics appropriate to their roles. The training will include role-playing scenarios and interactive exercises, where applicable, that illustrate proper execution of Residential Search Warrants.

210. LMPD will provide additional training to the supervisors involved in directing and reviewing the execution of Residential Search Warrants. The additional training will be on command-and-control and reviewing Risk Matrices, Operation Plans, and after-action reports.

F. Key Objectives

211. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD accurately completes and reviews Risk Matrices for Residential Search Warrant executions.

Key Objective 2: LMPD accurately completes and reviews Operations Plans which consider Safety Priorities when selecting Tactical Methods of Operations.

Key Objective 3: LMPD executes Residential Search Warrants during the appropriate time of day as required by this Consent Decree.

Key Objective 4: LMPD executes Residential Search Warrants after complying with the Knock and Announce Procedures required by this Consent Decree.

Key Objective 5: LMPD officers record Residential Search Warrant executions on their body-worn cameras as required by this Consent Decree.

Key Objective 6: LMPD reviews and assesses every Residential Search Warrant with an after-action report as required by this Consent Decree.

V. STREET ENFORCEMENT

A. Voluntary Interactions

212. LMPD policy will require that, during Voluntary Interactions, officers will refrain from using words or actions that would lead a reasonable person to believe that the person(s) are not free to leave or must answer questions.

213. LMPD policy will require that, during Voluntary Interactions, officers will reply in the affirmative if asked by the person(s) whether they may leave or decline to engage in conversation.

214. LMPD will revise its policies as necessary to prohibit officers from using a person's reluctance or refusal to engage in a Voluntary Interaction as the basis for reasonable suspicion or probable cause to justify a Stop, Weapons Pat-Down, Search, Citation, or Arrest of the person. Reluctance or refusal to engage includes, but is not limited to, a failure to stop, failure to answer questions, or decision to end the encounter or walk away.

215. If at any point a Voluntary Interaction evolves into a Stop, Weapons Pat-Down, Search, Citation, or Arrest, LMPD policy will require that officers act in accordance with the corresponding policies for that law enforcement action.

B. Stops and Weapons Pat-Downs

216. LMPD policy will require that officers have reasonable suspicion that crime is afoot based on specific and articulable facts to conduct Pedestrian Stops.

217. LMPD policy will require that officers have probable cause to believe that the driver has committed a traffic violation or reasonable suspicion that crime is afoot based on specific and articulable facts to conduct Traffic Stops.

218. LMPD policy will require that, at the beginning of each self-initiated Stop or as soon as feasible, LMPD officers will contact dispatch and state the location and whether the Stop is a Pedestrian or Traffic Stop.

219. LMPD policy will require that, during a self-initiated Stop, LMPD officers will tell the subject of the Stop their name, rank, and the reason for the Stop unless providing this information will compromise the investigation or the safety of the officers or other persons.

220. LMPD policy will require that, if asked, officers will inform the person(s) Stopped whether they are free to leave.

221. LMPD policy will require officers to have a reasonable belief based on specific and articulable facts that the person to be Patted Down is armed and dangerous when conducting a Weapons Pat-Down.

222. LMPD policy will require officers to clearly describe the reasonable, articulable suspicion for each Stop for which documentation is required by paragraph 255 and each Pat-Down, and the specific facts on which the suspicion is based, on a written form. LMPD policy will require that officers use specific, individualized, and accurate descriptive language articulating the basis for the Stop or Pat-Down.

223. LMPD policy will prohibit officers from describing large geographic areas such as entire neighborhoods, divisions, or beats as “high-crime” areas.

224. LMPD policy will prohibit officers from using any one of the following factors in isolation, without other specific, individualized information, to establish reasonable suspicion for a self-initiated Stop, Search, or Pat-Down:

- a. A person’s geographic location, presence in a high-crime area, or proximity to the scene of suspected or reported crimes;
- b. A person’s response to the presence of police officers, such as a person’s attempt to avoid contact with an officer; or
- c. A person’s presence in the company of others suspected of criminal activity.

225. LMPD policy will prohibit officers from using information or evidence discovered after a Stop was initiated as a justification for the Stop.

226. LMPD policy will continue to prohibit officers from prolonging a Stop beyond the length reasonably necessary to complete the tasks related to the reason for the Stop or related to any reasonable suspicion of criminal conduct uncovered during the Stop. LMPD policy will

prohibit officers from purposefully delaying the completion of tasks related to a Traffic Stop. Nothing will prohibit officers from engaging in Voluntary Interactions initiated by the Subject after the conclusion of the Stop.

227. LMPD policy will prohibit officers from deploying a narcotics-detecting canine during a Traffic Stop unless they have reasonable, articulable suspicion that use of the canine will lead to the discovery of illegal narcotics.

228. LMPD will regularly audit deployments of narcotics-detecting canines during Traffic Stops to ensure compliance with the law and policy.

229. LMPD policy will require that, after completing any Stop for which documentation is required by paragraph 255 that does not result in a Citation or Arrest, an officer will offer the person Stopped a record of the encounter showing the report number.

C. Searches

230. LMPD policy will prohibit officers from conducting a warrantless Search of a vehicle during a Traffic Stop except where officers have consent to Search, the Search is conducted incident to a lawful Arrest, or officers have probable cause to believe, based on articulable facts, that they will find evidence of a crime in the vehicle. LMPD policy may permit officers to conduct a warrantless Search of areas of the passenger compartment of a vehicle that may conceal a weapon if they have reasonable suspicion, based on specific and articulable facts, that an occupant of the vehicle is dangerous and may gain immediate control of a weapon.

231. LMPD policy will prohibit officers from conducting a warrantless Search of a home except where the officers have consent to Search, the Search is incident to a lawful Arrest, the Search is limited to a lawful “protective sweep,” or exigent circumstances justifying a Search exist.

232. LMPD policy will prohibit officers from conducting a warrantless Search of a person's body or clothing during a Stop unless the Search is limited to a lawfully conducted Weapons Pat-Down, is conducted incident to a lawful Arrest, is conducted with the consent of the person searched, or is justified by probable cause to believe the Search would uncover evidence of a crime and exigent circumstances exist.

233. LMPD policy will prohibit officers from requesting consent to search a vehicle or dwelling unless the officer has reasonable, articulable suspicion that the Search will reveal evidence of a crime.

234. LMPD policy will require that where an officer seeks consent for a Search, the person to be searched must affirmatively consent to the Search prior to it being conducted. LMPD policy will continue to require that officers document the person's consent on body-worn camera video or on a written form. If a person withholds consent, LMPD policy will continue to prohibit officers from repeatedly seeking consent without providing additional information to legally justify the Search during the same interaction. LMPD policy will continue to require officers to discontinue a consent Search of a person who previously consented to the Search but subsequently revoked their consent, unless some other basis to legally justify a warrantless Search exists.

235. LMPD will regularly audit consent searches to ensure compliance with the law and policy.

236. LMPD policy will continue to require that officers engaged in a Search activate body-worn cameras and record the entirety of all Searches of pedestrians, vehicles, occupants of vehicles, and homes.

237. LMPD policy will require that officers clearly describe the justification and supporting facts for each Search in a written report, including the justification for any request for consent to Search a vehicle or dwelling. LMPD officers will use specific, individualized, and accurate descriptive language to describe the basis for a Search.

238. LMPD policy will prohibit officers from using information known to be materially false or incorrect as the basis for a Stop, Pat-Down, Search, Citation, or Arrest.

D. Citations and Arrests

239. LMPD policy will continue to require officers to clearly articulate on any Citation, including arrest citations, the specific facts forming the basis for the probable cause to believe the person cited has committed or is committing an offense.

240. LMPD will develop new protocols for how officers handle Citations and Arrests for the following offenses, when not combined with other offenses:

- a. Obstructing governmental operations;
- b. Obstructing a highway;
- c. Criminal trespassing;
- d. Disorderly conduct;
- e. Loitering;
- f. Littering;
- g. Drinking alcohol in a public place;
- h. Possession of drug paraphernalia; and
- i. Vehicular equipment violations, such as improper windshield or window tinting, headlights, or taillights.

241. For the offenses listed in the previous paragraph, LMPD policy will require that:

- a. The officer first reasonably determines whether any enforcement action is appropriate;
- b. If an enforcement action is appropriate, the officer determines whether a warning or referral to Deflection or the Outreach Team would be appropriate;
- c. The officer only issues a citation if they determine that a warning or referral to Deflection or the Outreach Team would be inappropriate or insufficient to address the matter;
- d. The officer only makes an Arrest if they determine that a citation and/or referral to Deflection or the Outreach Team would be inappropriate or insufficient to address the matter; and
- e. If a citation is issued or an Arrest is made, the officer documents their reasons for concluding that less intrusive action would be inappropriate or insufficient.

242. LMPD policy will require that officers notify a supervisor as soon as practicable after making an Arrest.

243. LMPD policy will continue to require that officers provide *Miranda* advisements prior to a custodial interrogation.

E. Prohibiting Retaliation for First Amendment Activity and Protecting the Right to Observe and Record Officers

244. LMPD policy will prohibit officers from taking any Police Action in retaliation for a person lawfully exercising their right to witness, observe, record, comment on, or protest police activity. Retaliation exists when an officer takes Police Action in the absence of probable cause or other applicable standard when the officer would not have taken such action in the absence of non-criminal statements or expressive conduct.

245. LMPD policy will prohibit officers from treating a person or group differently based on the content of their protected speech or expression.

246. LMPD policy will require that officers may only prohibit a person from photographing or recording police officers performing their law enforcement duties in public, if the person: (a) threatens the officer's safety or the safety of others; (b) compromises legitimate police actions; or (c) physically interferes with the performance of the officer's duties. LMPD policy will prohibit officers from using force against or arresting a person who is photographing or recording police officers performing their law enforcement duties in public, unless the person is committing a crime and such force is otherwise permissible under the terms of this Consent Decree. LMPD policy will require officers to document any instance in which they prohibit photographing or recording police activity that occurs in public, and the reason for the prohibition. LMPD policy will require that a supervisor review this documentation by the end of the supervisor's shift and evaluate in writing whether the prohibition on photographing or recording was appropriate.

247. LMPD policy will prohibit officers from destroying cameras, other recording devices, sounds, images, videos, or other recorded material, ordering a person to intentionally destroy the same, or otherwise causing such destruction, except as permitted or required by law or record retention schedule. LMPD policy will prohibit officers from seizing a person's photography or recording equipment used to record Law Enforcement Activity except when permitted by law and policy. In those circumstances, LMPD policy will require officers to document the equipment seized and return the equipment to the person per LMPD's property release policy, unless LMPD obtains a warrant or is otherwise permitted by law to maintain custody of the equipment. LMPD policy will require Supervisors to review and approve seizures of photography or recording equipment within 72 hours.

F. Training

248. LMPD will continue to provide all officers with training on Stops, Searches, and Arrests, including initial and ongoing training of a duration and at a cadence to be specified in the Implementation Plan. This training will cover the following topics:

- a. Fourth Amendment requirements and related law; LMPD policies regarding Stops, Searches, and Arrests;
- b. Procedures for conducting Searches during street enforcement activities, including handling, recording, and taking custody of seized property or evidence;
- c. Understanding LMPD's public safety strategies or plans;
- d. Identifying traffic violations that create serious risk to public safety;
- e. The impact of Pretextual Stops on public safety and police legitimacy;
- f. Proactive policing strategies other than Pretextual Stops that address community issues;
- g. Appropriate use of discretion in addressing low-level offenses to support LMPD public safety and quality of life strategies; and
- h. Determining what response—including a non-law enforcement response—will be sufficient to address a significant risk to public safety, based on credible evidence about the short- and long-term effects of various types of responses on public safety.

G. Supervision

249. LMPD policy will require that a supervisor reviews each report documenting a Stop, Pat-Down, Search, or criminal Citation for adherence to law and LMPD policy and memorializes their review in writing within 72 hours of the incident, absent extenuating circumstances.

250. LMPD policy will require officers to be subject to appropriate Corrective Action when supervisors recognize a Stop, Pat-Down, Search, Citation, or Arrest lacked legal justification, was insufficiently documented, or otherwise violated law or LMPD policy or indicates a need for Non-Disciplinary Corrective Action. LMPD policy will require that supervisors document the Corrective Action taken or recommended, if any, including whether an administrative or criminal investigation is recommended.

251. LMPD policy will require that if a supervisor becomes aware of an Arrest without legal justification, the supervisor will immediately ensure that the arrestee is released if they are in LMPD custody, or convey the deficiencies in the Arrest to prosecutors if the arrestee has been charged but is no longer in LMPD's custody, and will include documentation of all such actions in their report.

252. LMPD policy will require that, when supervisors identify deficiencies in officers' Stops, Pat-Downs, Searches, Citations, and Arrests, supervisors consider available information regarding previous deficiencies of the same officers and take appropriate action to address any relevant patterns of deficient performance.

253. LMPD policy will require that supervisors notify their division chain of command of Stops, Pat-Downs, Searches, or criminal Citations that a supervisor believes are without legal justification, within 7 days of their completion absent extenuating circumstances. LMPD policy will require that the division chain of command review the supervisor's assessment and recommendations and ensure that appropriate Corrective Action is taken, including referring the incident for administrative or criminal investigation, if necessary.

254. LMPD policy will require that supervisors be subject to appropriate Non-Disciplinary Corrective Action and/or discipline for failing to conduct complete, thorough, and accurate

reviews of officers' Stops, Pat-Downs, Searches, Citations, and Arrests in conformity with their training.

H. Data Collection and Analysis

255. LMPD policy will require that officers document every Traffic Stop and Self-Initiated Pedestrian Stop.

256. Documentation of Stops listed in the previous paragraph will include:

- a. The officers' names and code numbers;
- b. Date and time of the Stop;
- c. Location of the Stop;
- d. Duration of the Stop;
- e. The apparent or disclosed race, ethnicity, gender, and age;
- f. The apparent or disclosed disability status (including type of disability) of each person Stopped, if applicable;
- g. Reason for the Stop;
- h. Whether the Stop was a Pretextual Stop, and if so, the specific unrelated crime that motivated the Stop;
- i. Whether the driver of a vehicle or any passenger was ordered by an officer to exit the vehicle;
- j. Whether officers conducted any Search or Pat-Down during the Stop, the identity of the person Searched or Patted Down, the type of Search or Pat-Down, the specific facts articulating reasonable suspicion or probable cause for justifying the Search or Pat-Down, and whether any weapons, narcotics, or other contraband or evidence of a crime was found;

- k. Whether officers asked for consent to Search a vehicle, and if so the specific facts articulating reasonable suspicion justifying the request for consent;
- l. Whether officers handcuffed any person;
- m. Whether officers deployed a narcotics-detecting canine, and if so, whether the canine sniffed a vehicle and/or a person, the results of the sniff, and the specific facts articulating the reasonable suspicion justifying the canine deployment;
- n. Disposition of the Stop, including whether officers issued a warning or Citation, or made an Arrest.

257. LMPD policy will require that officers document every warrantless Search of a home, including:

- a. The officers' names and code numbers;
- b. Date and time of the Search;
- c. Location of the home;
- d. Duration of the Search;
- e. The apparent or disclosed race, ethnicity, gender, and age;
- f. The apparent or disclosed disability status (including type of disability) of each person in the home at the time of the Search, if applicable;
- g. Justification for the warrantless Search and facts supporting that justification;
- h. Any weapons, narcotics, or other unlawful contraband found during the Search; and
- i. Whether officers handcuffed any person.

258. LMPD policy will require that officers submit all documentation of Stops, Pat-Downs, and Searches to the officer's supervisor by the end of the officer's shift.

259. LMPD will modify or develop an electronic report format to collect data on all Stops for which documentation is required by paragraph 255, Pat-Downs, and Searches, whether or not they result in a Citation or Arrest. This system will be searchable and allow for aggregate analysis.

260. LMPD will develop a protocol for comprehensive, agency-wide analysis, on at least an annual basis, of the Stop, Pat-Down, Search, Citation, and Arrest data collected. The protocol will set out steps for determining whether officers' street enforcement practices comply with LMPD policy. This protocol will be developed in collaboration with the Independent Monitor and the United States through the process established in paragraph 607. If this analysis indicates that divisions or units may be engaging in unlawful street enforcement practices or failing to effectively promote public safety and build community trust, LMPD will take appropriate Corrective Action and will document all Corrective Action taken.

261. The Implementation Plan will include a schedule for LMPD to conduct audits that verify whether officers are (a) reporting all Pedestrian and Traffic Stops to dispatch, and (b) documenting all Pedestrian and Traffic Stops in appropriate databases. LMPD will take appropriate Corrective Action in response to deficiencies identified through audits.

262. LMPD and Louisville Metro commit to publicly sharing the underlying data of any analyses required herein, subject to appropriate exemptions permitted by state law, upon request.

I. Key Objectives

263. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD officers consistently conduct Pedestrian Stops in accordance with the requirements of this Consent Decree.

Key Objective 2: LMPD officers consistently conduct Traffic Stops in accordance with the requirements of this Consent Decree.

Key Objective 3: LMPD officers consistently conduct Weapons Pat-Downs in accordance with the requirements of this Consent Decree.

Key Objective 4: LMPD officers consistently conduct warrantless Searches in accordance with the requirements of this Consent Decree.

Key Objective 5: LMPD officers consistently make Arrests and issue Citations only when justified by probable cause.

Key Objective 6: LMPD supervisors will monitor the performance of their officers to ensure compliance with law and policy relating to Stops, Pat-Downs, Searches, Citations, and Arrests and address deficiencies by taking appropriate Corrective Action and documenting such action.

Key Objective 7: LMPD collects the data required by this section, regularly conducts the audits and analyses required by this section, takes appropriate Corrective Action in response to any problems identified, and uses such analyses to evaluate practices and improve performance and supervision.

VI. FAIR AND IMPARTIAL ENFORCEMENT

A. Enforcement Requirements and Priorities

264. LMPD policy will continue to require officers and employees to treat all members of the public with appropriate courtesy and respect and introduce themselves by name whenever reasonable and practicable, including during law enforcement actions that require Searches, Arrests, and Reportable Force. LMPD policy will continue to prohibit officers and employees

from using harassing, derogatory, or inappropriately intimidating language when interacting with members of the public.

265. LMPD policy will prohibit officers from considering race, or any other protected characteristic, to any extent or degree when taking or refraining from taking any law enforcement action, except as part of a specific and credible description of a suspect in an ongoing investigation that also includes other appropriate identifying factors that are not protected characteristics.

266. LMPD policy will require that officers approach their Law Enforcement Activity with Juveniles, including Stops, Searches, Arrests, custodial detentions, and uses of force, in a manner that is developmentally appropriate and considers the individual characteristics of the Juvenile, if apparent or known, including age, gender, size, exposure to trauma, developmental and mental status, and disability status. LMPD policy will require officers to use alternatives to Arrest when appropriate.

267. LMPD policy will provide officers with clear, ongoing guidance on lawful and effective traffic enforcement. LMPD will prioritize violations that constitute threats to public safety. LMPD will ensure that officers describe the public safety reason for each traffic stop in their reports. LMPD policy will prohibit the selection of particular communities, locations, or neighborhoods for targeted traffic enforcement based on the demographic composition of the area or on demographic characteristics or income.

268. LMPD policy will prohibit officers from conducting Pretextual Stops unless the actual reason for the Stop is an existing investigation or informal inquiry into a specific unrelated crime.

269. Louisville Metro and LMPD policy will enable officers to address vehicular equipment violations, other than registration-related violations, and any additional violations agreed upon by the Parties without issuance of a citation.

270. LMPD policy will prohibit the use of quotas, whether formal or informal, for Stops, Citations, contraband recovery, or Arrests, including Arrests for specific types of offenses.

271. LMPD policy will prohibit officers from displaying symbols, including tattoos, while in public or on duty that are sexist, racist, vulgar, or indicate affinity with any person or organization that advocates hatred, oppression, or persecution of any person or group.

B. Training

272. LMPD will continue to provide training on fair and impartial law enforcement, including initial and ongoing training of a duration and at a cadence to be specified in the Implementation Plan. The initial training will include the following topics:

- a. Clear guidance on prohibited conduct, including selective enforcement or non-enforcement of the law and selection or rejection of particular tactics or strategies based upon stereotypes or bias;
- b. Policies related to nondiscriminatory policing and traffic enforcement;
- c. The specific history and racial challenges in Louisville;
- d. The four central principles of procedural justice, a concept designed to build public confidence in the police: (1) treating people with dignity and respect; (2) giving individuals a chance to be heard during encounters; (3) making decisions fairly and transparently, based on facts; and (4) conveying goodwill and trustworthiness;
- e. Understanding implicit bias and how to minimize its impact on policing;
- f. Providing policing services to people with Limited English Proficiency; and

g. Enforcement strategies, decision-making, and problem-based policing.

273. LMPD will work with community organizations in each patrol division to provide training for officers assigned to that division regarding the histories and cultures of neighborhoods in the Division, including local immigrant and ethnic communities. The training will be provided on an ongoing basis, with the format and frequency to be set forth in the Implementation Plan.

274. LMPD will provide additional initial and ongoing training to supervisors and command staff regarding their responsibilities to ensure that officers engage in fair and impartial policing. The Implementation Plan will include the appropriate duration and cadence of the initial and ongoing training programs. The initial training will include the following topics, as relevant to their rank:

- a. How to evaluate and respond to evidence of discriminatory practices when reviewing enforcement data, including data concerning Stops, Searches, Citations, and Arrests;
- b. How to respond to complaints of Discriminatory Policing or improper Stops;
- c. How to evaluate Pretextual Stops consistent with the federal law and LMPD policy; and
- d. How to develop and implement problem-solving and community engagement strategies to address public safety challenges and develop positive relationships with community members.

275. LMPD will consult with members of the public or community-based organizations knowledgeable about various communities and issues in Louisville for development of the

trainings required by this Section, and when appropriate, participate in the delivery of these trainings.

276. LMPD will provide initial and ongoing training on policies related to interactions with Juveniles. The Implementation Plan will include the appropriate duration and cadence of the initial and ongoing training programs. LMPD will consult with experts in child and adolescent development, as well as representatives from local youth organizations, for the development of this training, and when appropriate, participate in the delivery of these trainings.

C. Data Collection and Analysis

277. LMPD will compile data on the racial composition of individuals subjected to the following law enforcement actions, according to a timeline established in the Implementation Plan:

- a. Traffic Stops and Citations, including Citations for equipment violations, expired registration, non-speed moving violations, and other similar minor traffic offenses;
- b. Pedestrian Stops;
- c. How often officers frisk or Search drivers, passengers, pedestrians, and vehicles;
- d. How often officers' Searches yield contraband;
- e. Citations and Arrests for drug possession;
- f. Misdemeanor Citations and Arrests;
- g. Uses of force; and
- h. Residential search warrant executions.

278. LMPD will regularly analyze, according to a timeline established in the Implementation Plan, data of Stops, Pat-Downs, Searches, Citations, and Arrests for indicators of Discriminatory Policing. LMPD will base its analyses on accurate, complete, and reliable data. LMPD will

conduct its analyses using reliable statistical methods. If the analyses shows evidence of Disparities that may indicate Discriminatory Policing, LMPD will take appropriate Corrective Action to address them.

279. LMPD will publish, according to a timeline established in the Implementation Plan, written reports that provide the results of its analysis conducted pursuant to the previous paragraph and identify steps currently being taken or planned by LMPD and Louisville Metro to address racial Disparities that may indicate Discriminatory Policing.

280. LMPD and Louisville Metro commit to publicly sharing the underlying data of any analyses required herein, subject to appropriate exemptions permitted by state law, upon request.

D. Key Objectives

281. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD consistently collects accurate, complete, and reliable data to enable assessments of compliance with the other Key Objectives of this section.

Key Objective 2: LMPD consistently conducts Pedestrian Stops in a manner that does not discriminate based on race, pursuant to the analytical methodologies established in accordance with this Section.

Key Objective 3: LMPD consistently conducts Traffic Stops in a manner that does not discriminate based on race, pursuant to the analytical methodologies established in accordance with this Section.

Key Objective 4: LMPD consistently conducts warrantless Searches in a manner that does not discriminate based on race, pursuant to the analytical methodologies established in accordance with this Section.

Key Objective 5: LMPD consistently issues Citations in a manner that does not discriminate based on race, pursuant to the analytical methodologies established in accordance with this Section.

Key Objective 6: LMPD consistently conducts Arrests in a manner that does not discriminate based on race, pursuant to the analytical methodologies established in accordance with this Section.

VII. PROTESTS AND DEMONSTRATIONS

282. Louisville Metro and LMPD policy will require officers and relevant Louisville Metro personnel to protect First Amendment protected activity, specifically:

- a. The right to engage in lawful public protest about specific police conduct or policing in general;
- b. The right to criticize or complain about police conduct without being subject to retaliation by police officers; and
- c. The right to unobtrusively observe and record police officers in the public discharge of their duties in all traditionally public spaces, including sidewalks, parks, and locations of lawful public protests, as well as any other areas where people otherwise have a legal right to be present, including a person's home or business and common areas of public and private facilities and buildings.

A. Permitting Public Assemblies

283. Louisville Metro policy will require that: (a) Louisville Metro exercises its authority to grant or deny permit applications for First Amendment-protected activity, to define security needs, or to pass costs of security onto applicants within constitutional limits; and (b) the Office of Special Events notifies permit applicants of decisions in writing, including specific reasons for

any denials of applications, and retains documentation of its decision notifications according to applicable record retention schedules.

284. LMPD policy will require that, when evaluating safety plans for permit applications for public assemblies, LMPD will consider only lawful, narrow, objective, and definite standards and prohibit consideration of the content of First Amendment-protected activity. LMPD will communicate with permit applicants regarding safety plans in writing, address all standards, and comply with the First Amendment.

B. Protecting Public Protests and Demonstrations

285. LMPD policy will prohibit officers from unlawfully interfering with individuals lawfully gathering in groups for public protests and demonstrations. As described below, LMPD will have:

- a. Clear guidelines regarding individually-applied discretionary decisions by officers during public protests and demonstrations;
- b. Clear guidelines for officers who perform crowd management duties regarding activation of body-worn cameras, prominent display of badge numbers (or other means of effective identification), and appropriate uniform and protective equipment;
- c. Clear guidelines on using Less-Lethal force during public protests and demonstrations, including the criteria for using Crowd Control Force Tools, providing required warnings, and appropriately articulating the following during use of force reporting:
 - i. The justification for using force in compliance with LMPD's Policies on protests and demonstrations and use of force;

- ii. Whether a warning was provided in advance of using force; and
 - iii. Whether a supervisor approved the use of Crowd-Control Force Tools in advance.
- d. Clear guidelines on making Arrests during public protests and demonstrations, including the criteria for exercising lawful discretion to Arrest, determining whether an Arrest is necessary, and completing an arrest citation for each individual Arrest;
- e. Clear guidelines on declaring unlawful assemblies and issuing dispersal orders during public protests and demonstrations, including the criteria for providing warnings, identifying routes of egress, and completing a report articulating the reason for the dispersal;
- f. Clear guidelines for dealing with members of the press or credentialed media during public protests and demonstrations, including guidance on who is considered a member of the media and when it is appropriate to charge or arrest someone identifying themselves as a member of the media;
- g. A public information sharing plan that is implemented before, during, and after public protests and demonstrations, and that includes a traffic control plan for streets and sidewalks without unduly limiting First Amendment-protected activity;
- h. An internal plan to communicate to all officers participating in LMPD's response to a public protest or demonstration applicable policies, procedures, and rules of engagement; and
- i. A plan to support officer safety and well-being.

286. LMPD policy will require an officer of the rank of Lieutenant or above to determine whether an assembly at a protest or demonstration is unlawful. The facts and circumstances of an

unlawful assembly determination will be documented in writing before the end of their shift. LMPD policy will prohibit officers from issuing orders to disperse until such a determination is made. A dispersal order will include, at a minimum, the reasons for the order, a sufficient number of warnings to give people in the assembly time and space to disperse safely, and at least one route of egress that is accessible at the time each warning is given. Dispersal orders and warnings will have sufficient audibility in light of the size and other circumstances of the assembly.

287. LMPD policy will require officers to obtain supervisory approval before using Crowd Control Force Tools to manage or disperse people at a public protest or demonstration. Supervisors will approve the use of Crowd Control Force Tools only when the objective risk of harm to bystanders or the objective risk of serious property damage from the actions of civilians outweighs the objective risk of harm to bystanders from LMPD's use of Crowd Control Force Tools.

288. LMPD policy will require officers to obtain supervisory approval, to be documented as soon as feasible, before issuing citations or making Arrests for refusing to obey a dispersal order or for activities related to public protest or demonstration, unless the activities pose an imminent threat to public safety. Absent exigent circumstances, which will be documented in writing as soon as feasible, officers will obtain the approval of a supervisor to arrest a person for obstructing law enforcement while recording police activity or for refusing to obey a dispersal order while engaged in a public protest or demonstration, before transporting the arrestee to a holding facility. Supervisors will approve such Arrests only if supported by individualized probable cause.

289. LMPD policy will make clear that officers will only make Arrests at a public protest or demonstration without supervisory approval if the Arrest is supported by individualized probable cause and necessary to address an imminent threat to public safety.

290. Parties recognize that there may not be, during the life of this Decree, any large-scale protests and demonstrations about specific police conduct or policing in general. In the absence of any protests about specific police conduct or policing in general or known compliance issues, the Monitor will deem this subsection in compliance once the required training has occurred and the policy has been implemented for one year. Thereafter, the Monitor will continue to assess Substantial Compliance pursuant to Paragraph 690.

C. Training

291. LMPD will develop and deliver training on First Amendment-protected activity, including crowd management, that consists of lesson plans and scenarios that train officers on:

- a. Applicable First and Fourth Amendment principles, including the right to photograph and record police officers discharging their duties in public;
- b. Key concepts of the National Incident Management System, or other comparable system for incident command and management;
- c. Policy requirements related to taking and documenting Police Actions during a public protest or demonstration;
- d. De-escalation techniques;
- e. Protocols for obtaining supervisory approval for use of Crowd Control Force Tools, declarations of unlawful assembly, orders to disperse, or Arrests in the context of First Amendment-related activity; and

- f. Maintaining composure and professionalism in responding to a public protest or demonstration where policing is the object of protest, or other speech critical of police.

292. LMPD will request that other law enforcement agencies responding within the Louisville Metro area assign personnel that have received crowd management training, if available.

D. Data Collection and Analysis

293. LMPD will collect reliable data regarding its responses to First Amendment-protected activity, specifically the following:

- a. Number of Complaints alleging Misconduct by LMPD officers related to violations of LMPD's crowd control and retaliation policies, including by the Complaint's subject matter, the complainant's demographics, and the final Disposition;
- b. During protests and demonstrations, number of uses of force by force type, injuries sustained by protesters and by officers, dispersal orders, Arrests by charge, and sustained policy violations for not activating BWCs, for using excessive force, and for making unnecessary Arrests; and
- c. Corrective Actions or improvement measures identified and implemented.

E. Mass Demonstration Plan

294. LMPD will create a mass demonstration response plan to respond to large-scale demonstrations that involve a significant number of people or are lengthy in duration. The response plan will prioritize facilitating and preserving First Amendment rights, protecting public safety, and avoiding escalation and physical injury. The plan will include points of contact who will be available to respond promptly to media inquiries, communicate information with

media outlets, and coordinate with journalists in the field when officers are responding to large-scale demonstrations. The plan will include well-being protocols for Members deployed during public demonstrations or civil unrest, which should include health and safety guidance during pre-deployment briefings and guidance on close monitoring and periodic affirmative checks on officers by supervisors as well as the mental health and medical professional(s) available to provide health care to officers. The plan will include a process for a written after-action review at the conclusion of each qualifying event, which will be distilled into a public-facing report. Louisville Metro and LMPD will establish a timeframe for developing the response plan as part of the Implementation Plan.

F. Key Objectives

295. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: Louisville Metro complies with its policies that protect the First Amendment right to engage in lawful public protest, including the permit application process, that are required by this Consent Decree.

Key Objective 2: LMPD complies with its policies that protect the First Amendment right to engage in lawful public protest that are required by this Consent Decree.

VIII. INDIVIDUALS WITH BEHAVIORAL HEALTH DISABILITIES

A. Behavioral Health Response and Related Services Coordination

296. Louisville Metro will convene and oversee a Behavioral Health Coordination and Oversight Council that will include, at a minimum, LMPD's Behavioral Health Response Coordinator; the Louisville Mayor's office; MetroSafe; Louisville Metro's Office of Resilience and Community Services; Louisville Metro's Department of Public Health and Wellness; a

representative from Deflection; and a Louisville Metro Detention Center representative familiar with the behavioral health needs of people in the Detention Center. The Council will be cochaired by LMPD's Behavioral Health Response Coordinator, an employee of Louisville Metro not employed by LMPD, and a representative from Deflection.

297. Louisville Metro will also request participation on the Behavioral Health Coordination and Oversight Council from: Kentucky's Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) and Department of Medicaid Services (DMS); Louisville behavioral health providers (including all providers providing crisis services); Peer Support Specialists; homelessness services providers; people with behavioral health disabilities who have had law enforcement contact; judges or a representative from Jefferson County District Court's Mental Health Division; the Jefferson County Attorney's Office; the Kentucky Department of Public Advocacy; and Kentucky Protection & Advocacy.

298. The Behavioral Health Coordination and Oversight Council will have the goals of a) reducing the number of people with behavioral health disabilities who have unnecessary encounters with police; b) reducing the number of police encounters with people with behavioral health disabilities involving unnecessary use of force and reducing the severity of the force when force is required; c) reducing rates of unnecessary arrest and incarceration of people with behavioral health disabilities; d) reducing unnecessary drop-offs at hospital emergency departments; and e) ensuring that when police response is necessary, police are equipped to de-escalate a crisis and are able to divert the person with behavioral health disabilities to the community service system as quickly as possible and where appropriate.

299. The Behavioral Health Coordination and Oversight Council will meet regularly to review Louisville Metro's progress towards the goals in Paragraph 307 and make recommendations to support the successful implementation of those goals.

300. The existing Crisis Intervention Team (CIT) Advisory Committee may serve as a subcommittee of the Behavioral Health Coordination and Oversight Council.

301. The Behavioral Health Coordination and Oversight Council will also convene an Incident Review Subcommittee which will include at least LMPD's Behavioral Health Response Coordinator, a MetroSafe representative, a Deflection representative and a representative from a separate behavioral health service provider, and a person with lived experience with a mental illness or substance use disorder.

302. Pursuant to a schedule set forth in the Implementation Plan process, the Incident Review Subcommittee will regularly review incidents involving LMPD or Deflection encounters with individuals exhibiting symptoms of a behavioral health crisis to debrief the incident and make recommendations for any changes in policy or practice to improve Louisville Metro and LMPD response to similar incidents in the future. The subcommittee will consider relevant 911 calls, body-worn camera footage, and reports. Incidents will include:

- a. All Level 4 Uses of Reportable Force by LMPD against a person exhibiting behavioral health issues;
- b. Level 2 and 3 Uses of Reportable Force by LMPD against a person exhibiting behavioral health issues, to be selected through a methodology agreed upon by the Parties through the Implementation Plan process; and

- c. Any LMPD or Deflection encounters with a person experiencing a behavioral health crisis that caused a serious injury of the person with behavioral health needs, an LMPD officer, or Mobile Crisis Response team member.

303. A summary of these incidents and recommendations will be provided to the full Behavioral Health Coordination and Oversight Council and to the Performance Review Board (see Section XI.I).

304. The Incident Review Subcommittee will not review an incident until associated SID or PSD investigations, if any, have concluded.

305. The Behavioral Health Coordination and Oversight Council will publish an annual report that summarizes the work of the Council over the past year, describes the findings of the reviews pursuant to Paragraphs 299 and 302-303 and Louisville Metro's and LMPD's response to recommendations, and reports the data set forth in Paragraphs 346 and 348. This report will be issued three months after the end of the past year, and the Parties and the Independent Monitor will have the opportunity to review the report prior to publication. Louisville Metro will consider appropriate changes to policies, procedures, and training based on the findings of this report.

306. A representative designated by Louisville Metro, the LMPD Chief (or designee), and the Executive Director of MetroSafe (or designee) will receive and consider the recommendations of the Behavioral Health Coordination and Oversight Council, and any subcommittees, that are related to their respective agencies. They will publicly report on which recommendations will be implemented, the reasons why other recommendations will not be implemented, and the status of implementation.

B. Behavioral Health Emergency Response

307. Louisville Metro will have the goals of providing an emergency response to people with behavioral health needs that includes the most behavioral health-involved and least police-involved response appropriate and consistent with public safety, and will develop and implement policies and protocols regarding behavioral health emergency response consistent with those goals. When public safety needs require LMPD to respond, LMPD will operate an Advanced Behavioral Health Response Program, consistent with the goals of de-escalating crises and reducing the unnecessary use of force; improving the safety of police officers, people with behavioral health disabilities, and others; referring people in crisis to Louisville Metro's behavioral health emergency response system; and reducing unnecessary Arrests of people experiencing behavioral health crisis.

308. Louisville Metro will, through programs including MetroSafe, Deflection, and LMPD's behavioral health response, provide timely and accessible support to people experiencing a behavioral health crisis by, where possible: (a) de-escalating people in behavioral health crises in person or by telephone; (b) providing effective interventions to divert people from unnecessary contacts with LMPD, Arrests, or involuntary hospitalizations; (c) serving as an entry or re-entry point to the community-based behavioral health system, which may include Deflection assessing the person's needs, connecting them with needed services, and arranging the least restrictive means of transportation to those services; and (d) collecting data regarding Louisville Metro's response to people experiencing behavioral health crisis and using the data to improve Deflection and LMPD's Behavioral Health Response Program.

309. Louisville Metro will make best efforts to partner with the Commonwealth of Kentucky to: (a) coordinate Louisville Metro's behavioral health emergency response with

Commonwealth-funded behavioral health services, and (b) seek funding opportunities to improve the community-based services available to people experiencing behavioral health crisis, and share data, to the extent possible.

310. Louisville Metro will operate its Deflection program to consistently and timely respond 24 hours a day, 365 days a year to calls involving behavioral health that do not need law enforcement response that are received by its 911 Center, or are referred to Deflection by LMPD officers. Louisville Metro's Deflection program will ensure sufficient Mobile Crisis Response Teams to consistently and timely respond in person, 24 hours a day, 365 days a year, to Deflection calls where an on-scene response is needed.

311. When Mobile Crisis Response Teams are dispatched, they will:

- a. Respond in person and engage with people experiencing behavioral health crisis in the community;
- b. De-escalate the person in crisis without LMPD involvement whenever appropriate;
- c. Offer assessments and interventions in the community, whenever possible;
- d. Facilitate a prompt connection to necessary behavioral health services in the most integrated setting appropriate, including a warm handoff to these services where possible;
- e. Include two trained staff, with the goal that at least one staff member on a Mobile Crisis Response Team at any given time is a behavioral health professional, behavioral health professional under clinical supervision, as defined in 902 KAR 20:091, or Peer Support Specialist. A behavioral health professional must be available for consultation to the team and for assessment purposes if not involved in

the onsite response. All Mobile Crisis Response Team staff must be reliably trained and assessed to be skilled in the requirements of this paragraph;

- f. Be trained to provide emergency mental health services and de-escalation; and
- g. Not be employees of LMPD.

312. Louisville Metro will conduct recruitment outreach, or assist a community provider with recruitment outreach, to a broad spectrum of community stakeholders, aimed at ensuring sufficient staffing for Deflection, and increasing diversity of Deflection staffing, including race, gender, and disability.

313. Louisville Metro will develop policies, protocols, and training regarding response to calls where both LMPD officers and behavioral health professionals are on the scene. This will include the circumstances in which Mobile Crisis Response Teams should call LMPD officers to assist, the circumstances in which LMPD officers should call Deflection, and how LMPD officers should interact with behavioral health professionals, including when behavioral health professionals should take the lead in interacting with a person experiencing a behavioral health crisis. These policies, protocols, and training will be consistent with Louisville Metro's goal to provide an emergency response to people with behavioral health needs that is the most behavioral health-involved and least police-involved response appropriate and consistent with public safety.

314. LMPD officers will call for Deflection in circumstances they respond to that could benefit from behavioral health responders, as consistent with policies set forth in Paragraph 313. Deflection will respond in a timely manner to these calls from LMPD officers, consistent with policy. Within one year after the Effective Date, the Behavioral Health Coordination and Oversight Council, in consultation with the Monitor, will assess whether LMPD officers are

calling for Deflection to the extent required in this Decree and LMPD's policies, and will make recommendations for how Louisville Metro can achieve a police-supported behavioral health response to calls where police presence is required due to public safety concerns. Based on this assessment and in consultation with Deflection, Louisville Metro will change policies, protocols, and training to make police-supported behavioral health response available for those calls.

315. Louisville Metro policy will require that Mobile Crisis Response Teams will respond to all dispatched calls in a timely manner pursuant to triaging protocols set forth in paragraph 324. This response will be in person at the location in the community where a situation arises. When information gathered from the Crisis Triage Worker indicates that a Mobile Crisis Response Team should be dispatched, the Crisis Triage Worker will document the need for and dispatch a Mobile Crisis Response Team. Mobile Crisis Response Teams must respond with an average time of 30 minutes or less, from the time of that decision to arrival. Louisville Metro will have sufficient Deflection capacity to provide this average response time.

316. Louisville Metro will seek to partner with providers of crisis stabilization centers or other community-based crisis stabilization settings to enable Mobile Crisis Response Teams, LMPD officers, and Emergency Medical Services and Fire Department staff to bring and refer individuals to these units. Louisville Metro and LMPD policy will require that Mobile Crisis Response Teams, LMPD officers, and Emergency Medical Services and Fire Department staff will, when appropriate, offer to bring an individual they encounter in need of behavioral health crisis services to a community-based crisis stabilization center or other community-based crisis stabilization setting as an alternative to an emergency department for further evaluation, observation, treatment, or referral, as necessary. Louisville Metro will train Mobile Crisis Response Teams, LMPD officers, and relevant Emergency Medical Services and Fire

Department staff about the importance of community-based crisis stabilization and the circumstances under which these settings are appropriate.

317. Louisville Metro will promote sustainability of Deflection, including by seeking to partner with the Commonwealth of Kentucky to access Medicaid and State funding.

318. Louisville Metro will conduct targeted outreach about how and when Deflection and other resources would be appropriate. This outreach will include community groups, social service providers, behavioral health service providers, and fire department and Emergency Medical Services personnel.

C. Dispatching Appropriate Response

319. Louisville Metro will have Crisis Triage Workers embedded in MetroSafe 24 hours a day to receive 911 calls transferred by MetroSafe Call-Takers about behavioral health emergencies that do not pose an immediate threat to life or physical safety.

320. Louisville Metro policy will require that when a MetroSafe Call-Taker determines that a 911 call meets eligibility criteria for Deflection, the Call-Taker will transfer the call to a Crisis Triage Worker. The Crisis Triage Worker will assess the emergency, de-escalate over the phone where possible, and coordinate with dispatchers for the appropriate response. The Crisis Triage Worker will remain on the line with the caller, when possible, until the appropriate response arrives on the scene. The Crisis Triage Worker will offer the caller other community-based behavioral health services as appropriate.

321. Louisville Metro policy will require Crisis Triage Workers to have a bachelor's degree or an associate degree in a related field with relevant work experience, or to be a Peer Support Specialist.

322. Louisville Metro policy will require Crisis Triage Workers to receive training in behavioral health crisis assessment and de-escalation.

323. Louisville Metro will have Crisis Triage Team Leads embedded in MetroSafe to supervise and provide support to the Crisis Triage Workers. The Crisis Triage Team Leads will assist Crisis Triage Workers with assessing calls related to behavioral health, supporting Crisis Triage Workers in de-escalating over the phone, and coordinating dispatch of the appropriate response to behavioral health emergencies.

324. Louisville Metro and LMPD will modify dispatching policies, procedures, and protocols as necessary to meet the goals of this Section. These policies and protocols will address the criteria for transferring calls to Crisis Triage Workers; the criteria for utilizing Mobile Crisis Response Teams, the Outreach Team, and Advanced Behavioral Health Response Officers; triaging and response time expectations; and when LMPD officers should request Deflection.

325. Louisville Metro policy will require that when a person requires transportation for behavioral health crisis care, the Mobile Crisis Response Team will be used wherever safe and practicable. If a Mobile Crisis Response Team is unavailable, Emergency Medical Services should be used whenever safe and practicable. If it is not safe or practicable to use a Mobile Crisis Response Team or Emergency Medical Services, an Advanced Behavioral Health Response Officer should be used.

326. LMPD policy will require that if an LMPD response is required for a known behavioral health crisis, Louisville Metro and LMPD will dispatch Advanced Behavioral Health Response officers whenever available.

327. On a timeline set forth in the Implementation Plan, Louisville Metro will evaluate its criteria for Deflection and modify its policies and protocols to expand the calls where Deflection can respond, consistent with public safety. After this evaluation, Louisville Metro policy will not exclude a Deflection response solely because the 911 caller is a third party or because substance use may have contributed to the call for service.

328. Louisville Metro will provide MetroSafe Call Takers, dispatchers, and supervisors initial and ongoing training on relevant behavioral health topics. The appropriate duration and cadence of initial and ongoing training programs will be part of the Implementation Plan. The training will include:

- a. Identifying individuals experiencing a behavioral health crisis;
- b. Information that should be gathered when the call-taker suspects that the call involves an individual in crisis and how to relay that to the responder or the Crisis Triage Worker;
- c. De-escalation techniques;
- d. Suicide intervention by phone;
- e. When and how to transfer eligible calls to Crisis Triage Workers; and
- f. Available community behavioral health resources.

329. Louisville Metro will seek to partner with the operator of 988 to enhance coordination between 988 and 911.

330. Louisville Metro and LMPD will review their policies and practices regarding service of Mental Inquest Warrants, including any risk assessments and Risk Matrices to plan for executing Mental Inquest Warrants. It will revise these policies and practices with the goal of sending the least intrusive response to execute these warrants consistent with public safety. In

their policies and practices, Louisville Metro and LMPD will require an Advanced Behavioral Health Response Officer to lead all pre-planned service of Mental Inquest Warrants. In revising the policies and practices, Louisville Metro and LMPD will consider ways to reduce the number of LMPD officers present at these warrants, consistent with public safety, and whether a behavioral health professional could accompany LMPD officers on the execution of any of these warrants.

D. LMPD Training and Crisis Intervention

331. All new LMPD recruits will receive training on responding to people with behavioral health needs during basic training. All officers will also receive additional, ongoing training on responding to people with behavioral health needs. The Implementation Plan will include the appropriate duration and cadence for these basic and ongoing training programs.

332. The basic and ongoing training will include:

- a. Recognizing common characteristics and behaviors associated with behavioral health disabilities;
- b. Effective communication for interacting with individuals experiencing a behavioral health crisis, including De-Escalation Techniques;
- c. Reasonable modifications under the ADA for individuals with behavioral health disabilities;
- d. Legal grounds for, and alternatives to, hospitalization of individuals with behavioral health disabilities;
- e. How to avoid unnecessary incarceration for individuals with behavioral health disabilities;

- f. Local community resources for treatment, services, or support for individuals with behavioral health disabilities or intellectual and developmental disabilities (IDD), including crisis services; and
- g. When to call for Deflection or an Advanced Behavioral Health Response Officer and what to do when Deflection or an Advanced Behavioral Health Response Officer is not immediately available.

333. LMPD will consult with behavioral health clinicians and individuals with behavioral health disabilities with experience of law enforcement interactions in developing this training.

334. LMPD will review and update this training curriculum regularly.

335. LMPD will adapt its Crisis Intervention Team (CIT) Program to a Behavioral Health Response Program to train officers to respond to individuals experiencing a behavioral health crisis when a police response is required. In addition to basic behavioral health response training for all officers, LMPD will offer specialized training for volunteer officers to become Advanced Behavioral Health Response Officers.

336. LMPD will designate a commanding officer to act as Behavioral Health Response Coordinator to lead the Behavioral Health Response Program, including the Advanced Behavioral Health Response Officers. The Coordinator will have demonstrated competence and successful experience in resolving interactions with people in crisis without resorting to force and in diverting people from unnecessary criminal justice involvement. The Behavioral Health Response Coordinator's sole role will be leadership and oversight of the Behavioral Health Response Program.

337. The Behavioral Health Response Coordinator will conduct outreach to, solicit input from, and make best efforts to develop partnerships with advocates, individuals with behavioral

health disabilities and their families, and others associated with the behavioral health and IDD disability community.

338. The Behavioral Health Response Coordinator will consider an officer's performance evaluations, their supervisor's recommendation and assessment of the officer's de-escalation abilities, and disciplinary history in selecting Advanced Behavioral Health Response Officers.

339. The Behavioral Health Response Coordinator will continuously assess whether all Advanced Behavioral Health Response Officers continue to be appropriate candidates to serve as Advanced Behavioral Health Response Officers, and will remove unqualified officers from the roster of Advanced Behavioral Health Response Officers. LMPD will designate Advanced Behavioral Health Response Officers for use by MetroSafe in dispatching officers.

340. LMPD will provide Advanced Behavioral Health Response Officers initial and ongoing Advanced Behavioral Health Response training, including scenario-based exercises, site visits to behavioral health providers, and interaction with people with behavioral health disabilities. The Implementation Plan will outline the appropriate duration and cadence for initial and ongoing training for the Advanced Behavioral Health Response Officers. This advanced training will include:

- a. trauma-informed de-escalation;
- b. suicide intervention;
- c. community-based services for people with behavioral health disabilities;
- d. criteria for Deflection;
- e. the effects of substance misuse;
- f. perspectives of individuals with behavioral health disabilities; and
- g. the rights of people with behavioral health disabilities.

341. LMPD policy will require that at least two officers in each patrol squad will be designated as Advanced Behavioral Health Response Officers, who will respond to behavioral health emergencies in Louisville when law enforcement presence is required.

342. LMPD policy will require that, when Advanced Behavioral Health Response Officers respond, Advanced Behavioral Health Response Officers will have responsibility for the scene over other LMPD officers. If a non-Advanced Behavioral Health Response supervisor of a higher rank has assumed responsibility for the scene, the supervisor will seek the input of an Advanced Behavioral Health Response Officer, if available.

343. LMPD policy will require that LMPD officers will notify MetroSafe when they arrive on scene to a call that they believe should be reclassified to a behavioral health call, or that they believe could be handled by Deflection. MetroSafe will handle those calls as required by Section VIII.C.

E. Data Collection and Analysis

344. Louisville Metro will conduct ongoing quality review of MetroSafe calls involving identified behavioral health issues.

345. Louisville Metro will develop a protocol for a Quality Sampling Review (QSR) to regularly review 911 calls related to behavioral health issues and Louisville Metro's response to these calls. This protocol will be developed in consultation with the Independent Monitor and the United States. The protocol will include a review of calls that may be behavioral health-related but are not designated as behavioral health-related by MetroSafe. The QSR will include review of a sample of responses to calls received by MetroSafe and will examine whether sufficient information was obtained to determine an appropriate response to the situation presented, whether the appropriate response was dispatched, and whether the response complied with the

policies and protocols developed pursuant to this Section. The portion of the QSR that will review call-taking processes, dispatching determinations, and Deflection responses will include review of call recordings and written documentation and will be completed by MetroSafe. The portion of the QSR that will review LMPD responses will include review of body-worn camera footage and any associated LMPD documentation, and will be completed by LMPD.

MetroSafe's and LMPD's review will examine calls from the same sample, and each agency's results will be combined into a QSR Report. The Independent Monitor will review a sample of the QSR and either validate its accuracy or identify discrepancies and provide technical assistance.

346. Louisville Metro will analyze the results of the QSR process, take action as appropriate to achieve compliance with the terms of this Consent Decree, and share results of the QSR with the Behavioral Health Coordination and Oversight Council.

347. Louisville Metro will evaluate MetroSafe call codes and determine which codes may contain calls that could be appropriate for a Deflection response. Louisville Metro will develop protocols for, train, and provide quality assurance to MetroSafe employees to ensure that incidents appropriate for Deflection response are coded in a way that enables such a response.

348. Louisville Metro will collect data regarding 911 calls involving behavioral health crises and responses by Deflection or LMPD. Louisville Metro will track, at a minimum:

- a. The number of calls coded as involving a behavioral health issue by MetroSafe;
- b. The response provided to each of those calls;
- c. The number of calls transferred to a Crisis Triage Worker;
- d. The number of times that Mobile Crisis Response Teams were dispatched;
- e. The locations to which the Mobile Crisis Response Teams were dispatched;

- f. The number of times LMPD was dispatched for calls identified as a behavioral health issue;
- g. The number of those times Advanced Behavioral Health Response Officers were dispatched;
- h. The number of times LMPD officers called Deflection regarding a call they responded to, and the associated codes of those calls;
- i. The number of times Deflection called LMPD to assist with a response;
- j. The average time between call received and call dispatched, and between call dispatched to arrival on scene, for Deflection response to identified behavioral health issues, by LMPD Division and by shift;
- k. The average time between call received and call dispatched, and between call dispatched to arrival on scene, for Advanced Behavioral Health Response Officer response to identified behavioral health issues, by LMPD Division and by shift;
- l. The average length of time of Deflection engagement;
- m. The number of times that LMPD brought individuals with behavioral health needs to:
 - i. Crisis Stabilization Centers or other community-based crisis stabilization services;
 - ii. University of Louisville Hospital Emergency Psychiatric Services;
 - iii. Another psychiatric hospital;
 - iv. Louisville Metro Detention Center; or
 - v. An LMPD facility.

- n. The number of Uses of Reportable Force against an individual with an identifiable behavioral health disability and the type of force used, broken down by response type;
- o. The number and types of injuries sustained by responders when responding to behavioral health issues, broken down by response type;
- p. The number and types of injuries to individuals experiencing behavioral health issues who had encounters with Deflection or LMPD, broken down by response type; and
- q. Outcomes of incidents involving behavioral health issues, including:
 - i. The number of calls regarding behavioral health issues handled by a Crisis Triage Worker with no in-person response needed;
 - ii. The number of Mobile Crisis Response Team responses resolved on scene;
 - iii. The number of Deflection responses that resulted in voluntary or involuntary hospitalization; and
 - iv. The number of people identified as repeat utilizers of Deflection or LMPD regarding behavioral health issues.

349. Louisville Metro will report the data in Paragraph 348 every six months to the Behavioral Health Coordination and Oversight Council and to the public and use the data to reduce unnecessary law enforcement responses to individuals with behavioral health disabilities and drive service system improvements.

F. Key Objectives

350. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: Louisville Metro provides an emergency response to people experiencing a behavioral health crisis that includes the most behavioral health-involved and least police-involved response appropriate and consistent with public safety.

Key Objective 2: Louisville Metro convenes and oversees a Behavioral Health Coordination and Oversight Council that meets regularly to review relevant incidents and Louisville Metro's progress toward its goals and that makes recommendations to support the successful implementation of those goals.

Key Objective 3: Louisville Metro operates its Deflection program as required by this Consent Decree.

Key Objective 4: MetroSafe Call-Takers identify, triage, and dispatch Deflection-eligible calls as required by this Consent Decree.

Key Objective 5: LMPD operates a Behavioral Health Response Program according to the requirements of this Consent Decree.

Key Objective 6: Louisville Metro and LMPD regularly analyze qualitative and quantitative data of calls involving identified behavioral health issues, as required by this Consent Decree, to improve Louisville Metro's and LMPD's operations with respect to complying with the Americans with Disabilities Act.

IX. SEXUAL MISCONDUCT, SEXUAL ASSAULT, AND DOMESTIC VIOLENCE

A. Reports and Investigations of Sexual Assault and Domestic Violence Not involving LMPD Members

351. LMPD policy will require its personnel responding to and investigating reports of Sexual Assault and Domestic Violence not involving LMPD Members to provide trauma-informed responses to victims.

1. Reports and Investigations of Sexual Assault not involving LMPD Members

352. LMPD policy will identify the appropriate LMPD personnel to respond to and investigate reports of Sexual Assault and will assign to the respective personnel all necessary response and investigative duties.

353. LMPD policy will require its personnel to document all Sexual Assault reports.

354. LMPD policy will require its personnel responding to and investigating reports of Sexual Assault to interview victims and witnesses in a trauma-informed manner.

355. LMPD policy will require its personnel to undertake all reasonable efforts to locate suspects and, when appropriate, interview them.

356. LMPD policy will require its personnel responding to and investigating reports of Sexual Assault to secure the crime scene; identify, gather, and preserve all evidence; and, when appropriate, canvass for witnesses and video.

357. LMPD policy will require its personnel responding to reports of Sexual Assault to complete timely reports including, when applicable, JC3 reports, Domestic Violence Lethality Screens for First Responders, and strangulation forms.

358. LMPD policy will require its personnel assigned to investigate Sexual Assault to regularly contact victims about the investigation, including significant updates in the investigation until final resolution of the case.

359. LMPD policy will require its personnel to offer all victims of Sexual Assault access to medical care, social service referrals, and information from a trained sexual assault victim advocate.

360. LMPD policy will require that its personnel assigned to investigate or supervise the investigation of Sexual Assault reports do not have a history of sustained complaints of Sexual Misconduct, Sexual Assault, Domestic Violence, or gender bias.

361. LMPD policy will require its personnel assigned to investigate reports of Sexual Assault to maintain standardized, comprehensive, secure, and centrally-located case files consistent with Special Victims Unit policies.

362. LMPD policy will require that all Sexual Assault reports be timely and thoroughly investigated prior to closing or clearing and if an investigation is returned from a prosecutor due to inadequate investigation, additional investigation will be conducted in a timely manner.

363. LMPD policy will articulate clear criteria, consistent with National Incident-Based Reporting System guidelines, for closing and clearing reports of Sexual Assault.

2. Sexual Assault Response Team

364. Louisville Metro and LMPD will re-establish Louisville's Sexual Assault Response Team (SART) to regularly review LMPD's Sexual Assault response, including investigations and applicable policies and procedures, and to provide recommendations that improve services to victims of Sexual Assault. In re-establishing the SART, Louisville Metro and LMPD will request participation from community and governmental stakeholders, such as representatives from

Sexual Assault crisis service organizations, medical providers, and prosecutors to create policies and protocols governing the SART.

365. The SART will meet at least every six months to review a sample of all reports of Sexual Assaults received by LMPD and investigations of those reports opened by LMPD with the goal to evaluate the particular responses and investigations and any policy, training, or other recommendations that will provide improved services to victims.

366. The SART and LMPD will jointly develop a protocol for Sexual Assault report and investigation review. This protocol will include:

- a. A sampling method for selecting reports and investigations to review;
- b. Assessment criteria for each report and investigation reviewed;
- c. Evaluation for indications of bias through a review of written reports and recorded interviews;
- d. Review of feedback collected by LMPD or Louisville Metro from advocates and victims involved in the reviewed reports or investigations; and
- e. Appropriate safeguards to protect ongoing investigations, confidential or privileged information, and personal information protected from disclosure by applicable laws.

367. LMPD will develop a protocol to:

- a. Forward feedback and recommendations from the SART to the Assistant Chief of the Support Bureau and require that the Assistant Chief of the Support Bureau provides a written response to recommendations within 30 days of receipt;

- b. Forward the feedback and recommendations from the SART and the written response of the Assistant Chief of the Support Bureau to the Performance Review Board for its awareness; and
- c. Outline the process by which the Special Victims Unit will decide whether to reopen, reexamine, or re-categorize cases or to pursue additional avenues of investigation, where warranted.

3. Reports and Investigations of Domestic Violence not involving LMPD

Members

368. LMPD policy will identify appropriate LMPD personnel to respond to and investigate reports of Domestic Violence and will assign to the respective personnel all necessary response and investigative duties.

369. LMPD policy will require its personnel to document all Domestic Violence reports.

370. LMPD policy will require its personnel to conduct timely and thorough investigations of all Domestic Violence reports.

371. LMPD policy will require its personnel responding to Domestic Violence reports to interview victims and witnesses in a trauma-informed manner.

372. LMPD policy will require its personnel to undertake all reasonable efforts to locate suspects and, when appropriate, interview them.

373. LMPD policy will require its personnel to offer all victims of Domestic Violence access to medical care, social service referrals, and information from a trained victim advocate.

374. LMPD policy will require its personnel responding to reports of Domestic Violence to secure the crime scene; identify, gather, and preserve all evidence; and when appropriate, canvass for witnesses and video.

375. LMPD policy will require its personnel responding to Domestic Violence reports to timely complete reports including, when applicable, JC3 reports, Domestic Violence Lethality Screen for First Responders, and strangulation forms.

376. LMPD policy will require its personnel assigned to investigate Domestic Violence reports to regularly contact victims about the investigation, including significant updates in the investigation until final resolution of the case.

377. LMPD policy will require that its personnel assigned to investigate or supervise the investigation of Domestic Violence reports do not have a history of sustained complaints of Sexual Misconduct, Sexual Assault, Domestic Violence, or gender bias.

378. LMPD policy will require its personnel assigned to investigate Domestic Violence reports to maintain standardized, comprehensive, secure, and centrally-located case files consistent with Special Victims Unit policies.

379. LMPD policy will require all Domestic Violence reports to be timely and thoroughly investigated prior to closing or clearing, and if an investigation is returned from a prosecutor due to inadequate investigation, additional investigation will be conducted in a timely manner.

380. LMPD policy will articulate clear criteria, consistent with National Incident-Based Reporting System guidelines, for closing and clearing Domestic Violence reports.

4. Supervision

381. LMPD policy will require sufficient supervision of investigations of Sexual Assault and Domestic Violence reports, including but not limited to:

- a. A system of automated alerts to trigger supervisory review of open Sexual Assault and Domestic Violence investigations, and a policy governing the supervisory review. Supervisory review of the investigative file of any Sexual Assault or

Domestic Violence that is closed or classified as “unfounded” will assess whether a comprehensive, complete, thorough, and timely investigation has been conducted and whether appropriate follow-up investigation and victim contact has been completed;

- b. Routine case reviews between Special Victims Unit sergeants and investigators to review progress on open cases; and
- c. Regular meetings between Special Victims Unit supervisors and prosecutors to review data and trends related to Sexual Assault and Domestic Violence investigations referred by LMPD, including the number of investigations referred by LMPD, number of investigations where prosecution is pursued or declined, case outcomes, reasons for prosecutors’ declined prosecution, and gaps in investigations.

B. Reports and Investigations of Sexual Misconduct, Sexual Assault, and Domestic Violence involving LMPD Members

382. LMPD policy will strictly prohibit Sexual Misconduct, Sexual Assault, and Domestic Violence by Members.

383. LMPD policy will identify appropriate LMPD personnel to respond to and investigate reports of Sexual Misconduct, Sexual Assault, and Domestic Violence involving LMPD Members and will assign to the respective personnel all necessary response and investigative duties.

384. LMPD policy will require investigators to conduct timely and thorough investigation of all reports of Sexual Misconduct, Sexual Assault, and Domestic Violence involving LMPD Members.

385. LMPD policy will require investigators of reports of Sexual Misconduct, Sexual Assault, or Domestic Violence involving LMPD Members to follow the requirements of the relevant policies for the applicable requirements for Sexual Assault or Domestic Violence reports set forth in Section IX.A of this Decree.

386. LMPD policy will require that SID or PSD Members assigned to investigate reports of Sexual Misconduct, Sexual Assault, or Domestic Violence involving LMPD Members adhere to the following guidelines:

- a. All reports of criminal Sexual Misconduct, Sexual Assault, or Domestic Violence involving an LMPD Member are referred to SID for a criminal investigation and to PSD for a concurrent administrative investigation consistent with Section XIV.B of this Consent Decree; and
- b. All allegations of Sexual Misconduct, Sexual Assault, or Domestic Violence involving an LMPD Member in violation of LMPD policy are referred to PSD for an administrative investigation consistent with Section XIV.B of this Consent Decree.

387. LMPD policy will require that all SID and PSD investigations of alleged criminal Sexual Misconduct, Sexual Assault, or Domestic Violence involving an LMPD Member are investigated by investigators trained in conducting Sexual Assault and Domestic Violence investigations.

388. LMPD policy will require that its personnel assigned to investigate or supervise the investigation of reports of Sexual Misconduct, Sexual Assault, or Domestic Violence involving an LMPD Member do not have a history of sustained complaints of Sexual Misconduct, Sexual Assault, Domestic Violence, or gender bias.

389. LMPD policy will require SID and PSD investigators investigating allegations of Sexual Misconduct, Sexual Assault, and Domestic Violence involving an LMPD Member to consult with the Special Victims Unit during those investigations.

C. Training

390. LMPD will provide all LMPD officers with initial and ongoing training on responding to reports of Sexual Misconduct, Sexual Assault, and Domestic Violence. The Implementation Plan will include the appropriate duration and cadence of these training programs and the timing of training for new personnel. The initial training will cover at least the following:

- a. LMPD policies and procedures on responding to Sexual Misconduct, Sexual Assault, and Domestic Violence;
- b. The impact of trauma on victims of Sexual Misconduct, Sexual Assault, and Domestic Violence;
- c. The dynamics of coercive control, trauma-related behavior, and the effects of trauma on memory;
- d. Crime scene and evidence preservation;
- e. Injury identification;
- f. Guidance on working with vulnerable populations, including LEP persons, unhoused people, people engaged in sex work, people under the influence of drugs or alcohol, people with disabilities, and LGBTQI+ individuals;
- g. Trauma-informed response to non-stranger Sexual Assault, alcohol and drug-facilitated Sexual Assault, Sexual Assault where the victim is incapacitated or otherwise unwilling or unable to clearly describe the assault, and Sexual Misconduct by law enforcement personnel; and

- h. Instruction on refraining from asking a victim about the victim's desire to see the suspect prosecuted.

391. LMPD will provide, to all Special Victims Unit personnel and all SID and PSD personnel who investigate or supervise the investigation of Sexual Misconduct or Domestic Violence reports, training on conducting Sexual Misconduct, Sexual Assault, and Domestic Violence investigations. The Implementation Plan will include the appropriate duration and cadence of these training programs and the timing of training for new personnel. The initial training will cover at least the following:

- a. LMPD policies and procedures regarding Sexual Misconduct, Sexual Assault, and Domestic Violence investigations;
- b. Trauma-informed interviews of Sexual Misconduct, Sexual Assault, and Domestic Violence victims;
- c. Forensic and investigative steps to be taken in response to Sexual Misconduct, Sexual Assault, and Domestic Violence reports;
- d. Interviewing suspects, including training about interrogating suspects in Domestic Violence, non-stranger or drug/alcohol-facilitated Sexual Assaults, and Sexual Misconduct by law enforcement officers;
- e. Report writing and documentation of the investigation;
- f. Criteria for closing and clearing Sexual Misconduct, Sexual Assault, and Domestic Violence reports; and
- g. The signs and impacts of vicarious trauma on investigators and resources for obtaining support.

392. LMPD will provide supervisors of Sexual Misconduct, Sexual Assault, and Domestic Violence investigations with initial training on case reviews and other mechanisms to detect and prevent investigative gaps and gender bias in the response to and investigations of such crimes.

393. LMPD will consult with the community and governmental stakeholders, such as representatives from Sexual Assault and Domestic Violence crisis service organizations, medical providers, and prosecutors in developing and implementing these trainings.

D. Data Collection and Analysis

394. LMPD will compile and maintain the following Sexual Assault and Domestic Violence data electronically in a manner that will be searchable and allow for aggregate analysis. For each Sexual Assault or Domestic Violence call for service, LMPD will collect:

- a. The category of the originating call for service or complaint;
- b. The responding officers' and investigators' names and code numbers;
- c. The completion of any JC3 reports, Domestic Violence Lethality Screen for First Responders forms, and strangulation forms;
- d. If a post-Domestic Violence Lethality Screen for First Responders form call to an advocate was placed;
- e. Any unit assigned and the investigator assigned, including their names and code numbers;
- f. Any Victim Services Unit personnel assigned to the investigation;
- g. Any charged offenses; and
- h. All clearances.

395. LMPD will analyze its Sexual Misconduct, Sexual Assault, and Domestic Violence data collected annually. This analysis will seek to determine if LMPD's responses to and

investigations of reports of Sexual Misconduct, Sexual Assault, and Domestic Violence comply with LMPD policy. If this analysis indicates that LMPD may be failing to adequately respond to or investigate reports of Sexual Misconduct, Sexual Assault, or Domestic Violence, LMPD will take appropriate Corrective Action.

E. Key Objectives

396. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD personnel provide responses to and investigations of Sexual Assault reports as required by this Consent Decree.

Key Objective 2: LMPD personnel document and provide responses to and investigations of Domestic Violence reports as required by this Consent Decree.

Key Objective 3: LMPD personnel provide responses to and investigations of reports of Sexual Misconduct, Sexual Assault, and Domestic Violence involving LMPD Members as required by this Consent Decree.

Key Objective 4: LMPD re-establishes and operates Louisville's Sexual Assault Response Team (SART) as required by this Consent Decree.

Key Objective 5: LMPD supervisors consistently and sufficiently review investigations of Sexual Assault and Domestic Violence reports as required by this Consent Decree.

Key Objective 6: LMPD regularly conducts the analysis required by this section, takes appropriate Corrective Action in response to any problems identified, and uses such analysis to evaluate practices and improve performance and supervision.

X. COMMUNITY-BASED PUBLIC SAFETY

A. Public Safety Plan

397. Louisville Metro and LMPD will continue to implement Louisville Metro’s Public Safety Plan and will update the Plan regularly in accordance with the Implementation Plan. Updates to the Plan will use reliable sources of data, including the data and analyses required by this Decree, to set forth an evidence-based approach to public safety. Updates to the Plan will be developed in collaboration with the Monitor and the United States through the process established in paragraph 607.

398. Louisville Metro and LMPD will regularly solicit input from the community regarding the Public Safety Plan and consult with at least the following community and stakeholder groups:

(a) community groups with an interest in public safety and civil rights, including groups representing communities of color and low-income neighborhoods; (b) organizations representing LMPD officers; (c) community organizations with particular expertise and/or insight into issues affecting Juveniles; (d) other Louisville Metro agencies, including Resilience and Community Services and the Jefferson County Attorney’s Office; (e) The Kentucky Department of Public Advocacy; (f) the Commonwealth’s Attorney’s Office; (g) community-based mental health providers and substance-use service providers; (h) community-based violence prevention organizations; and (i) stakeholders in Louisville’s immigrant communities.

399. The Public Safety Plan will:

- a. Identify key public safety challenges facing Louisville;
- b. Identify gaps in public safety services provided by Louisville Metro and LMPD, including a comprehensive assessment of Louisville Metro’s violence prevention

services and efforts to decrease Juvenile involvement with the police and the juvenile and criminal legal systems;

- c. Identify solutions to improve coordination and delivery of public safety services across Louisville Metro agencies;
- d. Identify ways to reduce unnecessary enforcement contact with the police and the criminal legal system, including through resources required by other provisions of this Decree such as the Outreach Team and Deflection, and by developing policies and programs to reduce Juvenile contact with the police and the juvenile and criminal legal systems, such as diversion programs, restorative justice programs, community-based alternatives to detention and incarceration, and other programs that promote positive Juvenile development; and
- e. Identify ways to reduce unlawful racial disparities in the enforcement of misdemeanor offenses.

400. Louisville Metro and LMPD will report to the Monitor and the United States on their progress implementing the Public Safety Plan, on a schedule to be determined in the Implementation Plan.

B. Outreach Team

401. Louisville Metro has established an Outreach Team through its Office of Resilience and Community Services, Homeless Services Division to respond to situations involving unhoused individuals that do not warrant a law enforcement or behavioral health crisis response.

Louisville Metro will maintain this Team and will develop policies and protocols regarding:

- a. The circumstances when the Outreach Team responds;

- b. Intake and referral to the Outreach Team, including protocols for warm handoffs between the Outreach Team and Deflection;
- c. Triage of referrals, with reasonable timeframes based on an assessment of urgency, and within 24 hours; and
- d. Coordination between the Outreach Team, MetroSafe, and Deflection.

402. The Outreach Team will:

- a. Be a multidisciplinary team, including outreach specialists and Peer Support Specialists, outside of LMPD; and may be operated by a service provider within Jefferson County;
- b. Be trained in, at a minimum: access to disability benefits; housing navigation; mental illness and substance use disorders; evidence-based practices such as permanent supported housing, Housing First, and harm reduction; community resources; de-escalation; trauma-informed engagement; motivational interviewing; and cultural humility;
- c. Be available at least 6 days a week, 8 hours per day to respond to individuals in the community;
- d. Have the capacity to respond to requests for services by various community stakeholders (including individuals needing services, community members, behavioral health providers, the Crisis Hotline, MetroSafe, Deflection, LMPD, non-emergency lines, and other social and human service agencies);
- e. Maintain a centralized intake and dispatch mechanism to respond to referrals;

- f. When responding, assess the needs of individuals, evaluate existing service connections, and provide short-term case management focused on connecting individuals to services such as housing and benefits;
- g. Coordinate with behavioral health providers to facilitate individuals' access to appropriate services;
- h. Coordinate with other entities providing services to unhoused individuals, and serve as a liaison between LMPD and community agencies to maintain ongoing coordination; and
- i. Not conduct homeless encampment cleanings or relocations.

C. Community Policing

403. To engage the community in public safety efforts and the implementation of this Consent Decree, LMPD will develop a community engagement program that is tailored to and encourages engagement from each patrol division. The program will seek to ensure that patrol officers and supervisors engage in problem-identification and problem-solving activities with community members in the areas they patrol, and that LMPD proactively addresses community concerns in a manner that considers alternatives to Stops, Citations, Arrests, and uses of force. The program will be developed in collaboration with the Monitor and the United States through the process established in paragraph 607 and will include the following elements:

- a. LMPD will continue to hold regularly scheduled meetings in each patrol division, at least quarterly, that are open to the public. During the meetings, LMPD will listen to community members about areas of community concern and inform the community about LMPD's efforts to ensure effective and lawful policing, including the requirements of this Consent Decree and LMPD's progress towards meeting

these requirements. At least one week before each meeting, LMPD will widely publicize the meeting. These meetings may be held together with the Monitor, partially fulfilling the Monitor's public outreach obligations. Divisions will summarize recommendations received from the meetings in a report to command staff. These reports will explain how the division will respond to any concerns expressed by community members at meetings. LMPD will make these reports publicly available through its website.

- b. LMPD will provide to all Members information about non-law enforcement resources available, including but not limited to the Outreach Team and Deflection. LMPD policy will require Members to provide that information to community members as appropriate.
- c. LMPD policy will require officers in at least patrol divisions and other street enforcement units who interact with the public in the regular course of their activities to participate in neighborhood and community meetings, engagement opportunities, or other community events. LMPD policy will require officers to document their attendance and participation in these activities.
- d. LMPD will promote and foster trauma-informed interactions with community members.
- e. LMPD will develop micro-community policing or similar plans that reflect and address the specific needs of particular communities or neighborhoods.

404. Louisville Metro and LMPD will implement the following measures to support crime victims' families, build community trust, and strengthen community engagement in efforts to solve violent crime:

- a. LMPD will ensure that the Victim Services Unit has adequate staff and sufficient resources, consistent with Section XII of this Consent Decree.
- b. Louisville Metro will participate in a Homicide Support Group to provide families with information about the investigative process, victim services, and other relevant Metro services, such as the Office for Safe and Healthy Neighborhoods.
- c. LMPD will plan community engagement efforts taking into account violent crime clearance rates and community cooperation in those investigations.

D. Data Collection and Analysis

405. LMPD policy will require command staff to regularly review and evaluate data about community-based public safety efforts.

406. Louisville Metro and LMPD will develop protocols for regularly, and at least annually, conducting data-driven and qualitative assessments to measure the effectiveness and impact of their community-based public safety initiatives, including the Public Safety Plan and community engagement efforts. These protocols will account for sustained commitment over time that is often necessary before a public safety initiative can be expected to demonstrate effectiveness. On at least an annual basis, Louisville Metro and LMPD will prepare a publicly available report of their community-based public safety efforts. The report will include specific problems addressed and steps taken by LMPD, Louisville Metro, and the community toward their resolution. The report will describe the ways LMPD and Louisville Metro have sought input from the community related to the Consent Decree's implementation. The report will identify any deficiencies and opportunities for improvement of the community-based public safety initiatives. Louisville Metro and LMPD will implement appropriate Corrective Action and improvement measures, and document measures taken.

E. Community Surveys

407. Louisville Metro and LMPD will retain an individual or entity or multiple individuals or entities (“Survey Expert(s)”) to conduct surveys assessing the Louisville community’s experience with and perceptions of LMPD, LMPD’s relationship with the Louisville community, and public safety (“Community Surveys”), as provided in the following paragraphs.

408. Louisville Metro and LMPD will distribute Community Surveys to diverse communities throughout Louisville, including at least the following the groups:

- a. Louisville residents from all geographic areas of the Louisville Metro, including members of racial, ethnic, and language minorities, and individuals with behavioral health disabilities;
- b. Louisville residents experiencing homelessness;
- c. LMPD officers; and
- d. Detained arrestees.

409. The methodology for each Community Survey, including the selection of the Survey Expert, will be developed in collaboration with the Monitor and the United States through the process established in Paragraph 607. Each Community Survey will be designed to measure changes in sentiment over time, and will be conducted on a continuous basis. They will assess public satisfaction with policing, attitudes among police personnel, and the quality of police-citizen encounters. Focus groups may be used to augment surveys.

410. Community Surveys will be conducted in English and Spanish, as necessary, to ensure broad representation of Louisville’s many communities.

411. For each Community Survey, the Survey Expert will provide a report on the results of the survey, which Louisville Metro and LMPD will file with the Court and publicly post on the

Louisville Metro and LMPD websites. Louisville Metro and LMPD will analyze the results of the survey and use this analysis to modify and improve LMPD practices and other Louisville Metro public safety programs. The Parties anticipate that the results of the Community Surveys may demonstrate whether Louisville Metro and LMPD are making progress towards the goals of this Decree.

F. Key Objectives

412. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: Louisville Metro and LMPD are implementing an evidence-based public safety plan and engaging community stakeholders on the plan.

Key Objective 2: LMPD has implemented a community policing program that supports community engagement, collaborative problem solving, and regular assessment of community policing initiatives.

Key Objective 3: Louisville Metro operates an Outreach Team as required by this Consent Decree to respond to situations involving unhoused individuals that do not warrant a law enforcement or behavioral health crisis response.

Key Objective 4: Louisville Metro conducts perception surveys of the groups identified in Paragraph 407 of this Consent Decree and Louisville Metro initiates efforts to modify and improve LMPD practices and other Louisville Metro public safety programs as appropriate.

XI. AGENCY MANAGEMENT AND SUPERVISION

413. To strengthen supervision throughout LMPD and facilitate the implementation of this Consent Decree, this section will cover the concepts for Louisville Metro and LMPD regarding effective management of their agency, which fall into three general categories:

- a. Tools of supervision that apply generally throughout the department (i.e., policy, training, body-worn cameras, early intervention, and performance evaluations);
- b. Adopting policies regarding effective supervision, support, and training for supervisors; and
- c. LMPD units responsible for evaluating and improving performance across the department.

A. Policies

414. Louisville Metro and LMPD will develop and distribute Policies that incorporate the terms of this Consent Decree and comply with applicable law. LMPD Policies will be accurate, clearly written in plain language, presented in a consistent, easy-to-follow format, and will comply with LMPD's operational needs and legal requirements, including the requirements of this Consent Decree. Where appropriate and necessary, LMPD will consult diverse sources, which may include subject matter experts inside and outside LMPD; policies from other police departments; and studies, reports, and model policies prepared by law enforcement professional organizations, academic researchers, or other experts.

415. Louisville Metro and LMPD will continue to solicit and consider public and officer input in developing, distributing, and updating all Policies specifically required by this Decree.

416. The Parties agree to work collaboratively on all Policies related to this Consent Decree pursuant to the process outlined in Paragraph 607.

417. If circumstances demand that a Policy or procedure requires an urgent revision or clarification (e.g., due to a significant change in law), the Chief may issue an appropriate temporary memorandum or directive following notice and submission of such to the Monitor and the United States. Nothing in this provision will exempt a Policy or procedure that relates to the Consent Decree from the collaboration period, comment period, review, or final approval by the Monitor and United States.

418. LMPD will maintain its Policy Development Unit, which will have primary responsibility to draft, revise, maintain, and distribute Policies and procedures. LMPD will require personnel to demonstrate strong writing, analytical, and communication skills.

419. LMPD will have a Policy explaining the process for initiating the review and development of Policies. The Policy will require a review of each new or revised Policy required by this Decree within two years of its implementation and at least every two years thereafter for consistency with this Decree and current law.

420. LMPD will require its Policy Development Unit to review and revise Policies as necessary upon notice of a significant policy deficiency as a result of an audit or review by the Audit Unit or Monitor.

421. To ensure stakeholders inside and outside of LMPD have an opportunity to provide input on LMPD policies, LMPD will:

- a. Maintain an up-to-date version of LMPD's Standard Operating Procedures on LMPD's website, with reasonable exceptions for those Policies that are law enforcement-sensitive, such as procedures regarding undercover officers or operations;

- b. Publish a schedule as part of the Implementation Plan for the review of each new or revised Policy required by this Consent Decree.
- c. Enable anyone to comment on Policies at any time by using a form provided on LMPD's website or by sending an email to the Policy Development Unit;
- d. Retain comments received outside the public comment period to read and consider the next time the Policy is reviewed;
- e. Notify LMPD officers, employees, and the public when a Policy required by this Consent Decree is being revised or created, provide a copy of the policy change, and allow at least 10 business days for written public comment prior to implementation, excluding urgent revisions or clarifications (e.g., due to a significant change in law) that the Chief deems necessary. If policy revisions are implemented due to such urgency, LMPD will post the Policy as soon as practicable and written public comment will be accepted according to subparagraph (c) for future revisions;
- f. Read and consider all input received during the public comment period, incorporate changes when appropriate, and post on LMPD's website a redlined version of the Policy showing revisions made after it was posted for comment.

422. LMPD will internally announce a new or revised Policy 10 days before it will become effective, send the final version to LMPD personnel, and post the final version to LMPD's website. LMPD personnel will electronically sign a statement within 30 days of the posting that acknowledges they received and read the Policy.

423. The Policy Development Unit will update LMPD's Standard Operating Procedures manual when a new or revised Policy becomes effective. The Unit will maintain a record of

previous versions of the Standard Operating Procedures manual subject to the applicable records retention schedule. LMPD will require that personnel have ready access to the manual in a usable electronic format.

B. Training Generally

424. LMPD will develop a written Training Plan for training required to be provided by LMPD by this Consent Decree. As part of a written Training Plan, LMPD will advise the United States and the Monitor regarding training that can be delivered in roll-call or online, or in large class formats (classes with more than 25 students per instructor), as opposed to training that will require more intensive delivery. The Training Plan will be developed by LMPD in consultation with the Monitor and the United States and will be consistent with the Implementation Plans developed in this case. The Training Plan will:

- a. Identify training priorities, principles, and broad goals consistent with this Consent Decree and the substantive training requirements it contains;
- b. Include delivery of training as necessary to provide the relevant training required by this Consent Decree;
- c. Coordinate the topics of basic training with field training;
- d. Establish the frequency and subject areas for basic and in-service training, including training required by this Consent Decree;
- e. Establish a method for assessing the content and delivery of the training required to be provided by LMPD under this Consent Decree. The method will include assessing the employee's learning through their demonstration of knowledge or skills applied to situations the employee might encounter, and surveying participants for feedback.

425. LMPD will review the Training Plan, including considering available training delivery and necessary resources, at least annually, and update the Training Plan as necessary. This process will occur in consultation with the Monitor and the United States subject to the process outlined in Paragraph 607. The first annual review will include a needs assessment, taking into consideration: student-to-instructor ratios; recommendations from the Performance Review Board and other LMPD units and supervisors; feedback and evaluations obtained from LMPD trainees and instructors; trends in misconduct complaints; input from officers at all levels of LMPD; feedback received from members of the community; and any changes to state or federal law or LMPD policy. The Parties and Monitor will consider the time, scope, and necessity of the subsequent needs assessment as part of the Implementation Plan.

426. Training required by this Consent Decree will include, where appropriate, proven methods in adult learning, including scenario-based training and problem-solving practices, in addition to traditional lecture formats.

427. All instructors responsible for training will be proficient in their subject matter. All Member instructors will be qualified, including, as applicable, with previous instructor experience, training in instruction and adult learning techniques, or other demonstrated instruction skills. In addition, LMPD will take into consideration an officer's performance evaluations, past performance as a police officer, and complaint and disciplinary history in selecting instructors.

428. LMPD may utilize qualified instructors from outside LMPD to supplement the skills of its Member instructors, as necessary. As appropriate and feasible, LMPD may incorporate experts, community-based instructors, and guest speakers, including mental health service providers and consumers, judges, attorneys, crime victims, academics in the field of criminal

justice, community resource providers, or community members, including Juveniles, to participate in or provide content for relevant courses.

429. Pursuant to the Training Plan, and in consultation with the Monitor and the United States, LMPD will review all training curricula and lesson plans for consistency, quality, and compliance with applicable law, LMPD policy, and this Consent Decree. This includes both initial and ongoing training and trainings conducted by an outside instructor or non-LMPD entity. Any training required under this Consent Decree that is not provided by LMPD must meet the requirements outlined in Paragraph 424(a)-(e).

430. LMPD will continue to use a training data tracking system containing information on trainings attended by each officer. The data tracking system will continue to allow LMPD to determine which officers have satisfied and not satisfied their required trainings. The data tracking system will additionally include performance data and students' results on any tests or scored evaluations.

C. Field Training Program

431. LMPD will review, and where necessary, enhance its existing field training program for new recruits to provide in-the-field training on basic patrol skills that supports the requirements of this Consent Decree. The field training program will incorporate established standards for police training officer programs, including proven methods of adult education, and requirements for field training officers (FTOs) to provide documented feedback to trainees on a regular basis. The program will include eligibility criteria and methodology to select FTOs based on written applications, performance evaluations, previous performance as police officers, and complaint and disciplinary histories. The program will include a mechanism for recruits and lateral hires to provide confidential feedback regarding the quality of their field training, including the extent to

which that training was consistent with what they learned in the academy or prior experience, and suggestions for changes to LMPD's training programs. LMPD will document when it modifies a training as a result of feedback, including the rationale behind any responsive action taken or decision to take no action.

432. LMPD will provide all FTOs initial and ongoing training. The Implementation Plan will include the appropriate duration and cadence of the initial and ongoing training programs. FTOs will receive training on, and be regularly evaluated for their proficiency in, mentoring and coaching trainees, community-oriented policing, effective problem-solving techniques, and field communication. LMPD will maintain current documentation of FTOs' evaluations and training in the training data tracking system, and substitute or remove FTOs as appropriate and necessary.

D. Supervisor Responsibilities and Training

433. Supervisors will model appropriate conduct, including abiding by the highest standards of integrity; strictly adhering to the Constitution and other laws and policy; and consistently demonstrating professionalism, courtesy, and respect towards all people with whom they interact, inside and outside of LMPD.

434. LMPD policy will require supervisors to provide close supervision in the following ways:

- a. Establish an expectation that officers will police in a manner that is consistent with the Constitution and other laws and LMPD policy;
- b. Provide leadership, counseling, direction, and support to officers as needed;
- c. When relevant to their duties, participate in efforts to engage individuals and groups in the community and encourage officers to work actively to engage the community and increase public trust in LMPD;

- d. Identify training and professional development needs and opportunities on an individual, squad, and unit level, and work collaboratively with training academy staff to address them; and
- e. Perform periodic reviews of a sample of incidents involving each patrol officer or sergeant under their supervision, including body-worn camera footage and written documentation, to evaluate performance and identify training needs, performance issues that require Corrective Action, or potential misconduct that should be referred to PSD. This review requirement pertains to patrol sergeants and lieutenants.

435. LMPD's legal advisor will request that the Commonwealth Attorney and Jefferson County Attorney notify the legal advisor when: (1) the court has made a negative credibility determination regarding an officer or granted a motion to suppress evidence on the grounds of a constitutional violation by the officer, or (2) the declination to prosecute any crime or municipal code violation was based upon concerns of the prosecutor about an officer's credibility. Upon receiving such notification, LMPD's legal advisor will notify PSD, who will review the notification, document and track it, determine whether to recommend an administrative investigation into any potential misconduct related to the matter, and notify the officer's supervisor of the negative credibility determination or declination.

436. To the extent such activities are not required to be otherwise documented by this Decree or LMPD policy, LMPD policy will require that supervisors ensure that they document the following:

- a. All disciplinary referrals and Non-Disciplinary Corrective Action and counseling;

- b. All reviews of officer conduct, including use of force investigations and other reviews of reports or body-worn camera footage, as required by policy and this Consent Decree; and
- c. Any training or professional development needs supervisors identify, as well as the specific actions taken in response to those needs.

437. Supervisors will be responsible for the quality of their supervision. LMPD policy will outline appropriate Corrective Action, including demotion and the imposition of discipline, when supervisors fail to fulfill supervisory duties.

438. LMPD will develop initial and at least biennial mandatory supervisory training for all current supervisors. The Implementation Plan will include the appropriate duration and cadence of the initial and ongoing training programs. The initial training will cover at least the following topics:

- a. Techniques for effectively guiding and directing officers and promoting effective and constitutional police practices;
- b. Strategies for effectively directing officers to minimize uses of force, de-escalate conflict, and intervene effectively to prevent or stop objectively unreasonable force;
- c. Supporting officers who report objectively unreasonable force;
- d. Evaluating written reports, including identification of boilerplate or conclusory language that is not accompanied by specific facts;
- e. Investigating officer uses of force;
- f. Community policing principles and guiding officers on these principles;
- g. Understanding supervisory tools such as body-worn cameras and the Early Intervention Program;

- h. Evaluating officer performance;
- i. Responding to allegations of officer Misconduct made against a subordinate, including obligations when called to a scene when a civilian wants to make a complaint;
- j. Handling Non-Disciplinary Corrective Actions; and
- k. Employee wellness and available resources and services;

439. All newly promoted sergeants and lieutenants will attend a field training component to help better understand the requirements of their positions.

440. All new sergeants and lieutenants will undergo supervisory training covering the topics in Paragraphs 438 and 439 prior to the start of a promotional assignment, or as soon as possible thereafter.

E. Body-Worn Cameras

441. To promote transparency and accountability, LMPD policy will continue to require that all officers activate and use body-worn cameras (BWCs) when engaged in Law Enforcement Activity with a member of the public. LMPD policy will require that:

- a. All sworn officers are issued a BWC and ensure it is functioning properly and charged prior to each tour of duty;
- b. All officers activate their BWC when engaging in Law Enforcement Activity with a member of the public, except where privacy or law enforcement needs outweigh the benefits of BWC use;
- c. When BWC use is required, the officer activates the BWC in time to capture the officer's entire Law Enforcement Activity;

- d. Officers document all instances where they failed to activate or delayed the activation of their BWC when activation was required and the reason;
- e. When BWC use is required, officers ensure that the BWC is appropriately positioned on the front of the officer's body and the officer does not intentionally obstruct the view of the camera;
- f. When a BWC is used while engaged in Law Enforcement Activity with a member of the public, officers should notify the person that they are being recorded, as soon as practicable, unless inconsistent with the law enforcement objective.

442. LMPD will continue to maintain a procedure describing the circumstances under which BWC footage of a critical incident will be publicly released and the timing and procedures of such release. The procedure will include taking into account the protection of the integrity of law enforcement investigations, privacy interests of members of the public, safety of witnesses, and identities of confidential sources.

F. Early Intervention

443. LMPD will review its Early Intervention Program (EIP) and implement revisions and upgrades as necessary to ensure it is consistent with the following requirements. LMPD will use the EIP as a flexible management tool to promote supervisory awareness and proactive identification of potentially problematic behavior by officers and ensure the delivery of individualized interventions to correct problematic or potentially problematic officer behavior.

444. The EIP will be:

- a. Customizable to LMPD's particular needs;
- b. Adaptive as new information becomes available;

- c. Able to be audited and validated to improve accuracy, reduce false outcomes, and timeliness of intervention;
- d. Able to prioritize officers for intervention; and
- e. Able to assess the efficacy of the intervention.

445. The EIP will include a computerized relational database that will be used to collect, maintain, integrate, and retrieve department-wide, division-wide, and unit-wide data, as well as data for each officer. In consultation with the Monitor and to be approved by the United States, LMPD will develop and implement policies setting forth procedures regarding:

- a. The specific information the EIP will capture;
- b. Data storage and retrieval;
- c. Access to the system;
- d. Confidentiality of personally identifiable information;
- e. Audit procedures;
- f. Data analysis, pattern identification, and use by supervisors;
- g. Supervisory reviews and interventions;
- h. Documentation of all reviews and interventions;
- i. Levels for supervisory review based on the EIP indicators; and
- j. A consideration of officers with similar assignments and duties.

446. LMPD will ensure that all supervisors are trained on the EIP, how to interpret its outputs, and how to perform appropriate reviews and interventions. LMPD will ensure that all officers receive information regarding the scope and function of the EIP.

447. LMPD will ensure that the unit designated to conduct audits and data analysis, or other unit, regularly reviews EIP data to evaluate the performance of officers across ranks, units, and shifts and assess supervisor, squad, and officer trends.

448. LMPD will indefinitely maintain all EIP data necessary for non-individualized aggregate statistical analyses, unless a shorter timeframe is required by the applicable retention and destruction schedules.

G. Performance Evaluations and Promotions

1. Performance Evaluations

449. LMPD will review its formalized system documenting annual performance evaluations for all Members and implement any changes needed to ensure that it: (1) supports and recognizes officers who police effectively, lawfully, and ethically; and (2) identifies and seeks to rectify poor performance, inappropriate conduct, or conduct that otherwise undermines officer or public safety and community trust. An officer's direct supervisor will prepare a written evaluation of the officer's performance during the rating period that identifies areas of particular growth and achievement and areas needing improvement through further training and supervision, and will meet with officers to discuss their evaluations.

450. LMPD policy will require that, when evaluating officer performance, supervisors consider the following factors:

- a. Demonstrated integrity and ethical decision-making;
- b. Communication skills;
- c. Demonstrated commitment to impartial policing, including conduct of Stops, Searches, and Arrests, if applicable;
- d. Effective use of de-escalation and crisis management techniques;

- e. The quality and accuracy of written documents, such as incident reports, force reports, and search warrants and supporting affidavits or declarations;
- f. Civilian commendations;
- g. Compliance with LMPD policy; and
- h. Creative and innovative work.

451. In performance evaluations for all supervisors (i.e., all officers ranked sergeant and above who have other officers reporting to them), evaluations will include prompts to assess the supervisor's ability and effectiveness in conducting the supervisory duties.

2. Promotions, Awards and Commendations

452. LMPD will ensure that its promotional systems establish clear criteria that prioritize effective, constitutional, and community-oriented policing as factors in promotion.

453. LMPD will consider the following factors when evaluating and selecting candidates for promotion:

- a. Demonstrated integrity and ethical decision-making;
- b. Strong communication and interpersonal skills;
- c. Demonstrated commitment to community engagement and effective use of community-policing and neighborhood problem-solving strategies;
- d. Demonstrated commitment to impartial policing;
- e. Effective use of de-escalation and crisis management techniques; and
- f. Consistently high-quality and accurate written documents, such as incident reports, force reports, and search warrants and supporting affidavits or declarations.

454. LMPD will take into account promotional candidates' performance evaluations and disciplinary histories during the promotions process.

H. Supervisory Professional Development Program

455. Within a timeframe to be set by the Parties and the Monitor during the Implementation Plan process, LMPD will establish programs to support the professional development of sergeants and lieutenants, including opportunities to share information with, and provide and receive support from, other supervisors.

I. Performance Review Board (PRB)

456. The Performance Review Board will provide executive-level review of certain incidents and agency performance.

457. LMPD will establish procedures, outlined in a manual, to govern its operations, which will set forth the goals of fostering a culture of continuous improvement, critical reflection, trend analysis, and self-correction.

458. The PRB will:

- a. Review the Public Safety Plan;
- b. Review and examine all Level 4 Reportable Force incidents and any In-Custody Deaths;
- c. Review LMPD's annual report on Use of Force;
- d. Review LMPD's annual reports on Stops, Searches, and Arrests. As part of its review, the PRB will consider recent crime trends and assess whether officers are enforcing the offenses listed in Paragraph 240 of the Consent Decree in accordance with LMPD policy, and whether LMPD's public safety goals and the community's values could be better served by changes to LMPD policies, training, equipment, or practices;

- e. Review LMPD's audit report concerning residential search warrant executions and any individual high-risk warrant executions and after-action reports related to the executions recommended by the Performance Division;
- f. Review after-action reports from Mass Demonstrations; and
- g. Review reports and recommendations received from the Behavioral Health Coordination and Oversight Council.

459. The composition of the PRB will include a chair appointed by the Chief of Police and Members from LMPD.

460. Each member will receive ongoing training that must include legal updates regarding use of force, Stops, Searches, and Arrests, and warrant executions along with the Training Academy's current use of force, Stops, Searches, Arrests, and warrants curriculum. The Implementation Plan will determine the appropriate duration and cadence of the ongoing training.

461. The PRB will submit a memo to the Chief of Police documenting its recommendations, if any. If applicable, the recommendations may include opportunities for improvements in training, policies, supervision, tactics, equipment and technology, organization, and any other issues that could improve future performance of the Member(s) involved, other Members, or the LMPD as a whole. The PRB Chair, or designee, will bring its recommendations to the attention of the relevant commanding officer for appropriate action.

462. The Chair of the PRB will make a referral to PSD if potential misconduct is discovered in the process of reviewing a particular incident. Any member of the PRB may also refer any potential misconduct to PSD, even if the PRB as a whole does not make such a referral. LMPD

policy will establish that the role of PRB does not include making recommendations concerning discipline.

J. Audits and Data Analytics

463. LMPD will maintain specialized units to conduct audits and data analysis.

464. LMPD will hire and retain a highly qualified director for the unit designated for audit and data analytics. The Parties will work together to identify the qualifications required for the director when filling the position.

465. LMPD agrees to hire and retain a sufficient number of trained and qualified auditors and data analysts to staff the designated audit and data analysis unit, filling positions as quickly as reasonably possible in accordance with applicable civil service provisions.

1. Performance Audits

466. LMPD will continue to conduct Performance Audits of operations with the goal of identifying deficient performance and opportunities for improvement, focusing LMPD's efforts at achieving compliance with this Consent Decree, and building LMPD's capacity to self-correct and continuously improve.

467. LMPD, in consultation with the United States and the Monitor, will continue to use an audit plan that sets forth scheduled audits, and the methodologies under which they will be conducted, which may be revised by LMPD as needed. LMPD will conduct regular, periodic audits using sound methodologies. LMPD will typically review reports and information for completeness, reliance on boilerplate language, inconsistent information, lack of articulation of the legal basis for the officers' actions, and other indicia that the information in the document is not reliable or correct. The Performance Audits will also assess whether the documentation establishes that underlying action was appropriate and in compliance with LMPD policies. To

the extent possible, LMPD will also evaluate the supervisory oversight of the applicable event and any post-event review.

468. LMPD will periodically conduct Performance Audits of the following areas pursuant to an audit plan agreed upon by the Parties:

- a. Uses of force;
- b. Residential search warrant practices;
- c. Street enforcement activities, including Stops, Searches, and Arrests;
- d. Community-based public safety initiatives;
- e. Responses to individuals experiencing behavioral health crises;
- f. Responses to and investigations of Sexual Assault and Domestic Violence;
- g. Investigations of Sexual Misconduct; and
- h. Any other areas identified in the audit plan.

469. LMPD will take appropriate Corrective Action in response to deficiencies identified through audits and document the Corrective Action plan in writing. Appropriate Corrective Action may include command meetings to address insufficient performance; counseling; training; closer supervision or other interventions; changes in policy; plans or strategies designed to modify activity; referrals for administrative or criminal investigations; and alternative enforcement approaches.

470. LMPD will post a report on LMPD's website for each audit required by this Decree that summarizes the audit's methodology, data sources, and conclusions.

2. Data Analytics

471. LMPD will conduct regular analysis of data collected by Louisville Metro and LMPD pursuant to this Consent Decree, where relevant, to support LMPD's efforts at achieving

compliance with the Key Objectives as identified in the Consent Decree, and building LMPD's capacity to self-correct and continuously improve.

472. LMPD, in consultation with the United States and the Monitor, will prepare a data analysis plan to address the data analysis reports required by this Decree, which may be revised by LMPD as necessary. These data analysis reports will include the methodology, data sources, results of the analysis, and any conclusions.

K. Staffing, Resources, Equipment, and Facilities

473. Consistent with its duty to provide police services to the Louisville community, Louisville Metro and LMPD will provide for adequate staffing and resources to satisfy all requirements of this Consent Decree, including:

- a. A sufficient number of supervisors to provide close and effective supervision;
- b. Sufficient, well-trained staff and resources to conduct timely and thorough investigations of uses of force and allegations of misconduct;
- c. Sufficient, well-trained staff and resources to conduct timely and thorough investigations of reports of Sexual Assault, Sexual Misconduct, and Domestic Violence, consistent with Section IX, above;
- d. Sufficient, well-trained staff and resources for the Behavioral Health Coordination and Oversight Council, MetroSafe, the Deflection program, and Advanced Behavioral Health Response Officers necessary to comply with this Decree;
- e. Sufficient, well-trained staff and resources to conduct trainings of LMPD personnel necessary to comply with this Decree; and

- f. Sufficient, well-trained staff and resources to conduct timely and thorough data analysis, audits, policy development, and Consent Decree implementation tasks, as required by this Decree.

474. Louisville Metro and LMPD will evaluate opportunities to improve services, taking into consideration the following measures:

- a. Routing calls for service that do not require an in-person police response to a telephone reporting unit;
- b. Routing calls for service that do not require a response by LMPD officers, such as non-injury vehicle collisions and, consistent with Section VIII.C above, behavioral health crises, to other Louisville Metro agencies; and
- c. Hiring civilian staff at LMPD to perform administrative, investigative, and other duties that could be performed by civilian staff but are currently handled by officers.

475. Louisville Metro and LMPD will develop a process for periodically evaluating the equipment supplied to officers and consider whether updates to equipment are necessary at the departmental level. Supervisors will retain the responsibility for evaluating the safety and functionality of the equipment provided to their subordinates and addressing unsafe or nonfunctional equipment.

476. Louisville Metro and LMPD will develop a comprehensive strategic plan to improve facilities. The Parties and Independent Monitor will determine the timing and scope of this strategic plan during the Annual Implementation Plan process. The Parties recognize that full implementation of the strategic plan to improve facilities may take a number of years and may not be completed before termination of this Decree.

L. Key Objectives

477. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD develops and distributes Policies required by this Consent Decree pursuant to the process set out in this Consent Decree.

Key Objective 2: LMPD solicits and considers public and officer input in developing, distributing, and updating all Policies specifically required by this Consent Decree.

Key Objective 3: LMPD develops a written Training Plan for its training required by this Consent Decree.

Key Objective 4: LMPD reviews all training curricula and lessons plans required by this Consent Decree for consistency, quality, and compliance with applicable law, LMPD Policy, and this Consent Decree.

Key Objective 5: Instructors responsible for training will be proficient in their subject matter.

Key Objective 6: LMPD will enhance its existing field training program for new recruits to provide in-the-field training on basic patrol skills.

Key Objective 7: LMPD develops and implements initial and at least biennial mandatory supervisory training for all current supervisors that covers the required elements.

Key Objective 8: LMPD supervisors provide close and effective supervision to subordinate officers.

Key Objective 9: LMPD officers activate their BWC when engaging in Law Enforcement Activity with a member of the public, except where privacy or law enforcement needs outweigh the benefits of BWC use.

Key Objective 10: LMPD maintains its procedure describing the circumstances under which BWC footage of a critical incident will be publicly released and the timing and procedures of such release.

Key Objective 11: LMPD uses the EIP as a flexible management resource to promote supervisory awareness and proactively identify potentially problematic behavior by officers and deliver individualized interventions to address problematic or potentially problematic officer behavior.

Key Objective 12: LMPD has established a performance evaluation policy and form that meet the requirements of this Consent Decree.

Key Objective 13: LMPD establishes criteria that prioritizes effective, constitutional, and community-oriented policing as factors in promotion.

Key Objective 14: LMPD considers candidates' performance evaluations and disciplinary histories during the promotion process.

Key Objective 15: The LMPD Performance Review Board provides executive-level review of agency performance as required by this Consent Decree.

Key Objective 16: The LMPD Performance Review Board identifies opportunities for improvement and makes appropriate recommendations.

Key Objective 17: LMPD conducts Performance Audits of operations with the goal of assessing compliance and opportunities for improvement, as required by this Consent Decree.

Key Objective 18: LMPD will conduct regular analysis of data collected by Louisville Metro and LMPD pursuant to this Consent Decree, where relevant, to support LMPD's capacity to self-correct and continuously improve.

XII. OFFICER AND EMPLOYEE ASSISTANCE AND SUPPORT

478. Louisville Metro and LMPD will provide access to no- or low-cost counseling and mental wellness services to all LMPD employees and to dispatchers, call-takers, and any Deflection personnel employed by Louisville Metro, including: confidential counseling services; crisis counseling; stress management counseling; and mental health evaluations. Louisville Metro and LMPD will provide information about these services in all LMPD facilities and relevant Louisville Metro facilities.

479. LMPD will develop a peer intervention training for all Members based on principles of active bystandership, (1) to safely intervene before a Member engages in unethical behavior; (2) to accept an intervention from another Member when it occurs; and (3) provide emotional, social, and practical support to Members who intervene to prevent or end unethical behavior.

480. Louisville Metro and LMPD will offer to all Members, dispatchers, call-takers, and any Deflection personnel employed by Louisville Metro no-cost, voluntary mental health services before returning an officer or employee to full duty following a traumatic incident (e.g., serious injury, shooting, vehicle accident, or all other uses of force resulting in death or serious injury) that results in leave or a change of duty status.

481. Louisville Metro and LMPD will develop protocols for periodically assessing LMPD's and MetroSafe's officer and employee assistance and support programs to ensure officers and employees receive adequate support to maintain their physical and mental health. As part of this assessment process, Louisville Metro and LMPD will identify any deficiencies and opportunities

for improvement; implement appropriate Corrective Action and improvement measures; and document any measures taken.

A. Data Collection and Analysis

482. On at least an annual basis, LMPD will issue a report, to be filed with the Court, describing its progress toward complying with the requirements of this section.

B. Key Objectives

483. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: Louisville Metro provides sufficient officer and employee support services to LMPD and MetroSafe staff.

Key Objective 2: LMPD provides peer intervention training to all Members.

Key Objective 3: Louisville Metro and LMPD assess support services, identify opportunities for improvement, and initiate appropriate actions to improve services.

XIII. RECRUITMENT AND HIRING

484. LMPD will develop a recruitment and hiring program designed to attract diverse groups of well-qualified individuals.

485. The recruitment and hiring program will include, at a minimum:

- a. Minimum standards for recruits and lateral hires;
- b. Recruitment outreach to a broad spectrum of community stakeholders, aimed at producing a diverse applicant pool;
- c. Broad distribution of recruitment information, including information regarding career opportunities, compensation, the testing and hiring process, and applicable deadlines and requirements, to be readily accessible, at a minimum, on Louisville

Metro and LMPD websites and available upon request to Louisville Metro or LMPD officials; and

- d. Opportunities for officers, civilians, and members of Louisville Metro to assist LMPD's efforts to attract a broad spectrum of qualified applicants.

486. Prior to hiring any officer, LMPD will conduct a background investigation and evaluate the significance of any information learned, which will include the following factors:

- a. Pre-employment screening mechanisms, including of applicants' social media platforms, to ensure their suitability, based on skills, temperament, and goals, for policing, including the community policing principles required in this Consent Decree;
- b. A full in-person psychological screening of candidates who receive conditional offers of employment by an appropriately qualified and trained psychiatrist or psychologist;
- c. A full background investigation that includes an evaluation of police records, search for current and past protective orders, education, employment, military history, credit history, and driving records;
- d. A review of personnel files from candidates' previous employment, unless LMPD is unable to obtain such files after making all reasonable efforts;
- e. LMPD must seek to speak with candidates' recent previous supervisor(s);
- f. A thorough, objective, and timely pre-employment investigation that includes requesting a candidate's history of using Lethal and Less-Lethal force, use-of-force training records, and complaint history if a candidate has previous law enforcement experience;

- g. Contacting the Kentucky Law Enforcement Council to review the license status and any known disciplinary history of potential hires before making an offer of employment;
- h. Checking the National Decertification Index (NDI) administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) and, to the extent it becomes available to local law enforcement agencies, the National Law Enforcement Accountability Database administered by IADLEST; and
- i. Determining whether the candidate has been named in a civil action.

487. LMPD will document and maintain the background investigation and screening information with the candidate's employment application. LMPD will document any decision to exclude an applicant following the background investigation.

A. Data Collection and Analysis

488. On at least an annual basis, LMPD will issue a report, to be filed with the Court, describing its progress toward complying with the requirements of this section.

B. Key Objectives

489. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD implements a recruitment and hiring program designed to attract diverse groups of well-qualified individuals.

Key Objective 2: LMPD conducts background investigations that appropriately evaluate whether candidates should become officers.

XIV. MISCONDUCT INVESTIGATIONS AND DISCIPLINE

A. General Requirements

490. LMPD will set forth in policy detailed definitions of Serious Misconduct, Minor Misconduct, and Minor Infractions, including examples of violations that fall into each category.

491. Louisville Metro and LMPD will continue to vest authority to investigate and review allegations of Misconduct in:

- a. The Special Investigations Division (SID), which includes the Public Integrity Unit (PIU), which conducts criminal investigations of allegations of criminal activity by an LMPD Member;
- b. The Professional Standards Division (PSD), which includes the Professional Standards Unit (PSU), which conducts administrative investigations of allegations of Serious Misconduct and any allegations of Minor Misconduct not investigated by a division commander; and
- c. LMPD's division commanders, who may conduct investigations of allegations of Minor Misconduct or assign such investigations to supervisors under their command.

492. LMPD policy will require its personnel to fully cooperate with administrative investigations, including appearing for an interview when directed, answering an investigator's questions at such an interview unless the Member is the subject of a criminal Misconduct investigation and invokes their right against self-incrimination, and providing all relevant documents and evidence under the person's custody and control. An investigator requesting that a Member appear for an interview will notify the Member's division commander, as necessary, who will facilitate the Member's appearance.

493. LMPD will subject any Member who interferes with an administrative investigation to discipline, up to and including termination. For purposes of this provision, at least the following practices will be considered interference with an administrative investigation: colluding with other individuals to undermine an investigation, intentionally withholding evidence or information from a Misconduct investigator, or knowingly giving false or misleading information to an investigator.

494. LMPD policy will prohibit any Members who are under investigation that could result in a suspension of five or more days, or termination, from receiving a promotion or award, unless the Chief determines, in writing, that such action is merited.

495. LMPD policy will prohibit Members from reviewing any non-public evidence related to an incident for which the Member has been notified they are under investigation, or a witness to, alleged Misconduct, except in the following circumstances:

- a. Reports authored by the Member;
- b. In preparation for a criminal prosecution in which the incident is the subject;
- c. In preparation for a civil litigation proceeding; or
- d. Upon approval of LMPD.

496. LMPD policy will prohibit all forms of retaliation, interference, intimidation, coercion, or adverse action against any person, whether civilian or Member, because that person:

- a. Reported or intends to report Misconduct;
- b. Cooperated with or intends to cooperate with an investigation of Misconduct;
- c. Has knowledge related to Misconduct or an investigation of Misconduct;
- d. Asserted any right protected by law or LMPD policy; or

- e. Is a Member who intervened in an attempt to prevent another Member from violating LMPD policy, consistent with LMPD's peer intervention policy.

497. LMPD will impose appropriate discipline against any Member who engages in such conduct.

498. Louisville Metro and LMPD policy will require that every LMPD Member, regardless of rank, who observes or becomes aware of any act of Misconduct by an LMPD Member promptly reports the incident to the designated reporting entity for appropriate documentation and investigation. In the case of Misconduct involving an act of Sexual Misconduct, Sexual Assault, or Domestic Violence against a Louisville Metro employee, the victim of the Misconduct will be exempt from the duty to report the Misconduct. LMPD will take appropriate discipline or Corrective Action against any LMPD Member who violates the duty to report Misconduct.

499. LMPD policy will prevent actual or perceived conflicts of interest from negatively affecting the investigation or review of any Civilian Complaint or Internal Misconduct Report or any disciplinary decision, by prohibiting:

- a. An LMPD Member who was involved in or a witness to an incident from investigating any allegations of Misconduct arising out of the incident, reviewing such an investigation, or making or participating in any disciplinary decisions arising from it;
- b. An LMPD Member who has an external business relationship or close personal relationship with an involved Member, complainant, or witness in a Misconduct investigation or inquiry from investigating the alleged Misconduct, reviewing the

investigation, or making or participating in any disciplinary decisions arising from it;

- c. An LMPD Member from investigating any allegation of Misconduct involving any persons to whom they directly report in their chain of command, reviewing such an investigation, or making or participating in any disciplinary decisions arising from it; and
- d. SID and PSD investigators from being assigned to any assignments which could create a conflict of interest for their internal investigations, including any assignment in which the investigator would report to or work with the subject of an investigation.

500. In the event LMPD is unable to staff a criminal Misconduct investigation under the requirements of the previous paragraph, LMPD policy will require LMPD to refer the investigation to a qualified outside entity free of any actual or perceived conflict of interest, subject to any state law or collective bargaining requirements.

B. Complaint Intake and Processing, and Communication with Complainants

501. Louisville Metro and LMPD will ensure that people who wish to file complaints about the conduct of LMPD Members are able to do so through an open and accessible complaint intake process that does not impose unnecessary inconvenience on complainants and protects complainants from the possibility of retaliation.

1. Complaint Types

502. Louisville Metro and LMPD will accept, track, and review all Civilian Complaints and Internal Misconduct Reports.

503. Louisville Metro and LMPD will investigate all Criminal Complaints, whether or not they are accompanied by a signed, sworn complaint. If a criminal investigation finds a complaint is substantiated, LMPD will refer the matter to the appropriate authority for prosecution of criminal charges and conduct an administrative investigation to determine appropriate disciplinary action.

504. Louisville Metro and LMPD will investigate all Formal Complaints. If a Formal Complaint is substantiated, LMPD will take appropriate disciplinary action against the Member.

505. Louisville Metro and LMPD will review all Informal Complaints, including those submitted anonymously. If the review indicates a need for further investigation and the Informal Complaint is independently substantiated absent the sworn statement of the complainant, LMPD will take appropriate disciplinary action against the Member.

506. Louisville Metro and LMPD will investigate all Internal Misconduct Reports and take appropriate criminal and/or disciplinary action in response to any substantiated Misconduct.

2. *Complaint Intake*

507. Louisville Metro and LMPD will permit people to submit complaints in multiple ways, including in person or anonymously, by telephone, and online to ensure broad and easy access to its complaint system. To ensure access in multiple ways, Louisville Metro and LMPD will take the following steps:

- a. Make complaint forms widely available, including on the Louisville Metro and LMPD websites, at publicly accessible LMPD facilities, and at public libraries;
- b. Provide a 24-hour telephone number, with a voicemail option, for members of the public to make a Criminal Complaint, receive assistance in making a Formal

Complaint, or make an Informal Complaint if upon request they decline to make a Formal Complaint;

- c. Provide a web-based form for civilians to electronically submit a Criminal Complaint; electronically submit a Formal Complaint with the ability to schedule a notary through LMPD; prepare a Formal Complaint form that can be printed, signed, sworn to, and submitted on paper; or electronically submit an Informal Complaint if upon request they decline to make a Formal Complaint; and
- d. Accept Informal Complaints at all publicly accessible LMPD facilities and make PSD available to accept or initiate a Formal Complaint 24 hours a day.

508. Louisville Metro and LMPD will take the following steps to promote public awareness of the Civilian Complaint and investigation process, including the roles of both LMPD and the Office of Inspector General (OIG):

- a. LMPD will conduct targeted outreach to community groups to inform them of the options for submitting a Civilian Complaint and LMPD's accountability process.
- b. LMPD will post and maintain placards clearly and simply stating the options for submitting a Civilian Complaint in prominent, publicly accessible locations in each LMPD facility accessible to the public, including the publicly accessible areas of LMPD headquarters and each division station. The placards will include relevant contact information for LMPD and OIG, including telephone numbers, email addresses, and websites, and will be in both English and Spanish.
- c. LMPD will provide on its public website a detailed description, in plain language, of the complaint intake, investigation, and discipline process and an informational video explaining the process. The description and video will include an explanation

of the roles of OIG, PSD, and SID and an explanation of the differences between Formal and Informal Complaints.

- d. Louisville Metro and LMPD will prepare a printed flyer or brochure providing a description, in plain language, of the complaint intake, investigation, and discipline process. The description will include an explanation of the roles of OIG, PSD, and SID, and explanation of the differences between Formal and Informal Complaints. LMPD will make the flyers or brochures available at its publicly accessible facilities.

509. LMPD policy will require Members to provide their name and code number upon request, as soon as feasible, and will prohibit Members from discouraging any individual from filing a complaint or act in any way that could reasonably be construed as discouraging the filing of a complaint.

510. If an individual at the scene of an incident or encounter states they would like to make a complaint about a Member present, LMPD policy will require that supervisors respond to the scene to provide information about the complaint filing process. LMPD policy will require supervisors to accept an Informal Complaint if the individual does not choose to make a Formal Complaint. If the individual chooses to make a Formal Complaint, LMPD policy will require the supervisor to contact PSD to respond to the scene to accept the Formal Complaint. This provision does not require a Member to delay taking law enforcement action while waiting for the supervisor to arrive.

511. LMPD policy will require a supervisor to secure and document relevant information and evidence at the scene of an incident or encounter when accepting an Informal Complaint or while waiting on PSD to arrive to take a Formal Complaint, as appropriate.

512. Louisville Metro and LMPD will ensure that their websites and printed materials regarding the submission of complaints and their printed and online complaint forms:

- a. Clearly display information about the telephone hotline, webform, and locations at which complaints may be submitted in person;
- b. Do not contain any language that could reasonably be construed as discouraging the filing of a complaint, including warnings about possible criminal or civil liability for filing false complaints, except to the extent such language is necessary to establish the oath or affirmation needed for submission of a Formal Complaint and is contained in a separate section of the form that clearly indicates that the language only applies to a Formal Complaint and not to a Criminal or Informal Complaint;
- c. Include an explanation of the difference between a Formal and Informal Complaint, including a statement that Louisville Metro and LMPD fully investigate Informal Complaints and take appropriate disciplinary action if an Informal Complaint is independently substantiated, and that a complainant has a right to appeal the Disposition of a Formal Complaint to the Police Merit Board;
- d. Clearly state that no specific piece of information is required for an Informal Complaint to be accepted and investigated; and
- e. Are available in at least English and Spanish.

513. Louisville Metro and LMPD will accept Civilian Complaints regardless of the ability of the complainant to read, write, speak, or understand the English language, make every effort to enable an individual to submit their complaint in their preferred language, and in all cases provide whatever assistance is necessary to enable an individual to submit their complaint and ensure that it can be investigated.

514. Louisville Metro and LMPD will accept Civilian Complaints regardless of whether the complainant is able to identify an involved Member by name or code number.

515. LMPD policy will require that individuals who make complaints in person are offered a copy of their complaint form, with a tracking number, and instructions explaining how the complainant may use the tracking number to obtain information about the status of the complaint. LMPD policy will require that individuals who make complaints online or by telephone, and provide an email or mailing address, are provided a copy of their complaint and a tracking number with instructions explaining how the complainant may use the tracking number to obtain information about the status of the complaint.

516. Any Louisville Metro agency other than LMPD, the Civilian Review and Accountability Board (CR&AB), or OIG that receives an allegation of Misconduct by an LMPD Member will transmit the complaint to LMPD as soon as possible and no later than within three business days. This includes any complaints received by MetroSafe, 311, the Ethics Tip Line, or the Mayor's office.

517. Louisville Metro and LMPD policy will require that any supervisor can transmit an Internal Misconduct Report directly to the PSD commander for handling.

518. Louisville Metro and LMPD policy will require that for each way of submitting a Civilian Complaint, the complainant receives an explanation of the complaint process as set forth in LMPD policy.

519. Louisville Metro and LMPD, in consultation with community organizations, will develop training for non-LMPD employees to learn about LMPD's complaint procedures and investigation process, in order to assist individuals who would like to file complaints about LMPD Members' conduct. Louisville Metro and LMPD will ensure that individuals who

complete the training have access to appropriate forms and other information necessary to provide such assistance.

3. *Processing of Complaints*

520. LMPD policy will require that all Civilian Complaints and Internal Misconduct Reports it receives are documented and entered into an electronic tracking system by the next business day.

521. LMPD will process Informal Complaints as follows:

- a. LMPD may conduct a preliminary inquiry into the Informal Complaint consisting of follow-up contact with the complainant and routine investigative steps other than interviews. If the information in the complaint and any evidence gathered in a preliminary inquiry establish that the allegations cannot be substantiated or do not allege Misconduct by an LMPD Member, the Informal Complaint may, upon the written approval of the PSD commander or their designee, be summarily closed with the appropriate Disposition.
- b. Any Informal Complaint not summarily closed will be referred by the Chief or their designee to PSD or the responsible division commander for investigation.
- c. Each Informal Complaint will be summarily closed or referred for investigation no later than seven days after it is received, absent extenuating circumstances documented in the case file.
- d. If an Informal Complaint is summarily closed, LMPD will document in PSD's electronic case management system the complaint, the Disposition, a description of any steps taken during a preliminary inquiry, copies of any evidence gathered, and an explanation of the reasons for the Disposition.

- e. LMPD will not summarily close any Informal Complaint if it appears that additional material evidence could be uncovered by an investigation.
- f. Prior to summarily closing any Informal Complaint, LMPD will consider each potential policy violation raised by the facts alleged, whether or not the violation was specifically articulated by the complainant.
- g. Prior to summarily closing any Informal Complaint in which the complainant did not identify the involved Member(s), LMPD will make all reasonable efforts to identify the involved Member(s).

522. LMPD policy will require that for all Criminal Complaints or Internal Misconduct Reports that contain allegations of criminal activity by an LMPD Member, SID will conduct a criminal investigation and PSD will conduct an administrative investigation.

523. LMPD policy will require that any administrative investigation involving an allegation of Serious Misconduct is conducted by PSD. Investigations of Minor Misconduct may be conducted by PSD or division commanders.

524. LMPD policy will require that all decisions made in the processing of Civilian Complaints and Internal Misconduct Reports are based on the nature of the facts alleged and consider each potential violation raised by the facts alleged, whether or not it was specifically articulated in the complaint or internal report.

525. If during an investigation of a Civilian Complaint or Internal Misconduct Report, possible Misconduct is identified that was not part of the complaint or report, LMPD policy will require that the possible Misconduct is investigated according to the above requirements regarding the processing of complaints.

4. *Communication with Complainants*

526. LMPD policy will require that no communication with any complainant contains any language that could reasonably be construed as discouraging participation in the investigation, such as a warning against providing false statements. This provision does not prohibit any communication necessary to obtain the oath required for a Formal Complaint.

527. Louisville Metro and LMPD policy will require that individuals who make Civilian Complaints can obtain information about the status of the complaint and contact information for the assigned investigator.

528. LMPD policy will permit a complainant to designate an individual to receive copies of all written communications about the investigation. The complainant may rescind or change their authorization of an individual at any time.

529. When LMPD receives a Civilian Complaint that includes contact information for the complainant, it will send periodic written updates regarding the status of the complaint by the complainant's preferred method of communication. LMPD will include the tracking number and an explanation of how to obtain information about the status of the complaint on all written correspondence with the complainant. Such updates will include at least:

- a. For an Informal Complaint that is summarily closed, a notice of closure sent within seven days of the date of closure;
- b. For an Informal Complaint that results in initiation of an investigation, notice sent within 14 days of initiation, which states the entity investigating the complaint, the name of the assigned investigator, the potential violations under investigation, and the deadline for completion of the investigation pursuant to LMPD policy;

- c. For a Formal Complaint, a notice of receipt of the complaint sent within 14 days of the date the complaint was submitted, which states the entity investigating the complaint, the name of the assigned investigator, the potential violations under investigation, and the deadline for completion of the investigation pursuant to LMPD policy;
- d. A notice to the complainant any time an extension is granted beyond the required time period for the investigation, informing the complainant of the status of the investigation and the new deadline for completion pursuant to LMPD policy;
- e. At the conclusion of the investigation, a notice informing the complainant that the investigation is complete, the final Disposition of the allegations, any discipline imposed, and any right of appeal that the complainant may exercise; and
- f. At least every 60 days, one of the required notices described above or a separate notice informing the complainant of the status of the investigation.

530. LMPD policy will require that at the completion of an investigation of a Civilian Complaint, in addition to the written notice described above, LMPD will attempt to contact the complainant by phone or text message, if a phone number is known, to inform the complainant of the results of the investigation and any rights of appeal the complainant may exercise.

C. Complaint Intake Testing Program

531. LMPD will initiate and administer a testing program designed to assess Civilian Complaint intake by LMPD personnel. The testing program will be carried out by an entity independent from LMPD, under a contract or memorandum of understanding with LMPD, with relevant experience and expertise in designing and implementing testing programs.

532. The testing program will use surreptitious recording of testers' interactions with LMPD personnel to assess whether they provide civilians appropriate, accurate, and complete information about the complaint process, accept and document Informal Complaints as required by LMPD policy, and timely transmit submitted complaints to PSD for classification.

533. The testing program will avoid interfering with Members taking law enforcement action and will not assess in-person complaint intake by Members outside Louisville Metro or LMPD facilities. The program will not cause LMPD Members to waste resources investigating fictitious complaints made by testers.

534. The independent entity will produce regular public reports on the testing program that describe the results, evaluate LMPD's complaint intake practices, and make recommendations for improvements when needed.

D. Misconduct Investigations

535. LMPD will investigate each Civilian Complaint or Internal Misconduct Report, except in the case of an Informal Complaint summarily closed under the process described in section XIV.B, above. All Misconduct investigations and reviews of Informal Complaints that are summarily closed will be objective, comprehensive, and timely. LMPD will make all findings based on the appropriate standard of proof and will clearly delineate these standards in policies, training, and procedures.

1. Staffing and Training

536. Louisville Metro and LMPD will provide SID and PSD with sufficient resources to successfully fulfill their respective missions. LMPD will provide SID and PSD with a sufficient number of qualified investigators to timely complete thorough and high-quality investigations of

all cases, and a sufficient number of qualified supervisors to provide investigators with proper oversight, and to efficiently and thoroughly review all investigations.

537. LMPD will continue to locate SID and PSD in a facility that is in a separate location from other LMPD facilities, is easily accessible to the public, and has space for receiving members of the public and permitting them to file complaints.

538. LMPD will require a documented assessment of investigative experience, performance evaluations, and disciplinary history to select investigators for SID and PSD capable of conducting thorough and objective investigations.

539. LMPD will provide all investigators assigned to SID and PSD with initial and ongoing training on conducting Misconduct investigations. The Implementation Plan will include the appropriate duration and cadence of these training programs and the timing of training for new investigators. These training programs may also fulfill training requirements under state law. The initial training will cover at least the following:

- a. Basic investigative skills, including sound interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;
- b. The particular challenges of law enforcement Misconduct investigations, including identifying alleged Misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation;
- c. Weighing the credibility of witnesses, including properly weighing the credibility of civilian statements against Member statements;
- d. Using corroborative evidence to resolve inconsistent statements;
- e. Relevant state and federal law;

- f. Relevant LMPD policies, including protocols for coordinating with CR&AB/OIG;
and
- g. For PSD investigators, proper application of the standards of proof that apply to administrative proceedings.

540. All LMPD division commanders and other personnel who may be responsible for investigating complaints of Minor Misconduct and do not take the trainings required for PSD investigators will receive initial and ongoing training on conducting investigations of Minor Misconduct. The Implementation Plan will include the appropriate duration and cadence of these training programs. This training may be included in or in addition to the supervisor training required by this Consent Decree.

2. Administrative Investigations

541. LMPD policy will require all administrative Misconduct investigations to be objective, comprehensive, and timely. In each Misconduct investigation, investigators will, at a minimum:

- a. Conduct investigations in a manner designed to determine the facts;
- b. Promptly identify, collect, and consider all relevant evidence, including any audio or video recordings;
- c. Take all reasonable steps to locate and interview all witnesses, including both Member and civilian witnesses, and interview any civilian complainant or witness at a time and place convenient to them, including at a place of their choosing or by phone, as they reasonably prefer;
- d. Audio record all interviews, and video-record all in-person interviews;
- e. Make all reasonable efforts to identify the Member if a complainant could not identify the Member;

- f. Make credibility determinations about civilian, Member, and witness statements based on independent, unbiased, and credible evidence, and:
 - i. Will not assume a Member's statement is independent, unbiased evidence;
 - ii. Will not disregard a witness's statement solely because the witness (including a complainant) has a criminal history or has some connection to the complainant or an involved Member; and
 - iii. When appropriate, will take into account the record of any witness, complainant, or Member who has been determined to have been deceptive or untruthful in any legal proceeding, Misconduct investigation, or other investigation;
- g. Make all reasonable efforts to resolve material inconsistencies between Member, complainant, and witness statements;
- h. Evaluate all relevant Member activity in the incident and any evidence of potential Misconduct uncovered during the course of the investigation, whether or not the potential Misconduct was part of the original Civilian Complaint or Internal Misconduct Report; and
- i. Consider patterns in Member behavior based on Member training and performance records, and disciplinary history as permitted by LMPD policy.

542. LMPD policy will require investigators to maintain a centralized electronic case file for each administrative investigation that includes:

- a. Documentation of all evidence gathered;

- b. Copies of all photographic, documentary, and audio or video evidence, or links to such evidence stored in another electronic repository under the control of LMPD and subject to the same retention protocols as the case file;
- c. Documentation of each witness identified and of efforts made to identify witnesses;
- d. Documentation of each interview conducted and all audio/video recordings and transcripts of interviews;
- e. Copies of all other documents and files relevant to the investigation;
- f. Copies of each relevant policy provision in effect at the time of the conduct under investigation;
- g. If a weapon was used by a Member, documentation of whether the Member's qualification and training for the weapon were current as of the time it was used; and
- h. If a canine was involved, documentation of the canine team's certification as of the time of the incident.

543. LMPD policy will prohibit investigators from:

- a. Asking leading questions in Member interviews that suggest a justification for Member conduct or that otherwise are contrary to sound investigative techniques;
- b. Discouraging any Member or civilian witness from providing a full account of an incident under investigation; or
- c. Closing an investigation solely because the complainant seeks to withdraw the complaint or is unavailable, unwilling, or unable to cooperate with an investigation.

544. In the event LMPD is unable to staff an investigation under the requirements of the previous paragraph, LMPD will refer the investigation to a qualified outside entity free of any

actual or perceived conflict of interest, subject to any state law or collective bargaining requirements.

545. LMPD policy will require investigators to thoroughly investigate each allegation presented in every complaint, and recommend one of the following Dispositions for each allegation:

- a. “Sustained,” if the investigation determines by a preponderance of the evidence that alleged Misconduct occurred;
- b. “Exonerated,” if the investigation determines by a preponderance of the evidence that alleged conduct occurred but did not violate law or policy;
- c. “Unfounded,” if the investigation determines by a preponderance of evidence that alleged conduct did not occur; or
- d. “Not sustained,” if the investigation is unable to determine by a preponderance of the evidence if the alleged Misconduct occurred.

546. LMPD will prohibit use of the “closed by exception” Disposition except in cases in which the involved Member is deceased or a court order or other circumstance beyond LMPD’s control requires an investigation to be closed before completion. LMPD policy will otherwise require any Misconduct investigation to reach a Disposition as to each allegation investigated, including cases in which the involved Member is no longer employed by LMPD.

547. LMPD policy will require, at the conclusion of each PSD investigation, the investigator to prepare a report describing their recommended findings and conclusions, which will include the following:

- a. A narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the conduct investigated, based on the investigator's independent review of the facts and circumstances of the incident;
- b. A summary of investigative actions taken and evidence gathered by PSD, and a reference to any relevant SID file;
- c. A list of allegations of potential Misconduct investigated;
- d. The investigator's recommended Disposition as to each allegation investigated and an explanation of how the evidence supports each recommendation, based on the applicable burden of proof;
- e. A description of each credibility finding made, including a precise explanation of the evidence that supports or detracts from the person's credibility; and
- f. In cases where material inconsistencies can be resolved between complainant, Member, and witness statements, an explicit resolution of each inconsistency, including a precise description of the evidence relied on to resolve it.

548. At the conclusion of each PSD investigation, the PSD commander will meet with the investigator and solicit the investigator's views regarding whether the investigation uncovered any policy, training, tactical, or equipment concerns, including any need for additional training, counseling, or other Non-Disciplinary Corrective Actions for any LMPD Member and any need for LMPD to revise its policies, strategies, tactics, or training. The PSD commander will provide feedback based on the investigator's views to other LMPD commanders, training staff, supervisors, or other personnel, as appropriate, and will document all such feedback provided.

549. LMPD policy will require PSD supervisors to actively monitor the investigations assigned to the investigators they supervise to ensure they are conducted in a manner that is

thorough, timely, comprehensive, and otherwise in compliance with LMPD policy. LMPD policy will state that supervisors are responsible for the quality of investigations conducted under their supervision and subject to appropriate Corrective Action when deficiencies are found.

550. LMPD policy will require PSD to complete all Misconduct investigations within 180 days of receipt of a Formal Complaint or initiation of the investigation if there is no Formal Complaint, unless an extension of time is justified based on the complexity of the investigation or other factors outside of PSD's control and approved in writing by the PSD commander. This 180-day time period excludes any time during which an investigation is held in abeyance pending a decision by the Chief or designee regarding an expansion to its scope.

551. LMPD policy will require that following the completion of a PSD investigation and approval by the PSD commander, the PSD commander will forward the investigative report and file through the chain of command to the Chief or their designee for review. LMPD policy will require that when the Chief or designee is satisfied that the investigation was completed in accordance with LMPD policy, they will render a Disposition as to each allegation, documented in writing in the PSD case file and transmitted to the involved Member(s) and complainant. LMPD policy will require that if the Disposition differs from PSD's recommendation, the Chief or designee will provide a detailed, written explanation of the basis for the Disposition, which will be added to the PSD case file.

552. LMPD policy will require the Chief or designee to base the Disposition solely on information contained in the PSD investigative report and case file, and LMPD policy will prohibit them from considering any evidence in rendering a Disposition that was not available to the PSD investigator during the investigation.

553. LMPD policy will provide that if during the Review Process an investigation is found to be deficient or new evidence is presented by an involved Member at a pre-disciplinary hearing, the case may be referred back to PSD for further investigation, along with a deadline of no more than 60 days. PSD will complete the additional investigation and a revised investigative report by the deadline, unless an extension of time is justified based on the complexity of the investigation or other factors outside of PSD's control and approved in writing by the Chief or their designee.

554. LMPD policy will require the Chief or their designee to complete the Review Process in 60 days or less, excluding any time during which PSD is directed to conduct further investigation, unless an extension of time is justified based on the complexity of the investigation or other factors outside of LMPD's control. LMPD policy will require the Chief or designee to document the length of any such extension and the reasons for it in the PSD case file.

555. Notwithstanding the other provisions in this section, if an investigator can make a determination as to each allegation of Misconduct on the basis of BWC or other video footage of the incident under investigation, this Section does not require further investigative steps unlikely to materially advance the investigation, beyond interviews with the complainant and, in appropriate cases, the Member.

556. LMPD policy will require that when a division commander completes an investigation, they will prepare a report documenting all investigative steps taken and the finding and conclusion of the investigation, including the recommended Disposition of each allegation and a recommendation as to any appropriate discipline and/or Non-Disciplinary Corrective Action. Within 45 days of initiation of the investigation, the division commander will transmit the report and any supporting documentation or evidence, including all evidence gathered and any

correspondence with the complainant and respondent, to PSD to be added to the electronic case file.

557. LMPD policy will provide that at least 10 days in advance of the deadline for completing an investigation, the division commander make a written request for an extension to PSD describing exceptional circumstances that justify the extension, and PSD may grant an extension of up to 30 days.

558. LMPD policy will require that if at any time the PSD commander develops reason to believe that a division commander's investigation will not meet the requirements of LMPD policy, they will reassign the case to a PSD investigator.

559. Following completion of an investigation by a division commander, LMPD policy will require LMPD to conduct a Review Process. If during the Review Process an investigation is found to be deficient, PSD will either return the case to the division commander with instructions to complete the investigation within a specified timeframe or reassign the case to a PSD investigator. The Review Process for an investigation conducted by a division commander will be completed within 21 days, resulting either in a Disposition meeting the same requirements as a PSD investigation or reassignment to PSD.

560. LMPD policy will require that if during an investigation of Minor Misconduct, a division commander or their designee becomes aware of evidence or allegations of Misconduct that warrant investigation by PSD per LMPD policy, they will refer the matter back to PSD.

3. Criminal Investigations

561. LMPD policy will require all criminal Misconduct investigations to be objective, comprehensive, and timely and that, at a minimum, investigators:

- a. Conduct investigations in a manner designed to determine the facts;

- b. Promptly identify, collect, and consider all relevant evidence, including any audio or video recordings;
- c. Make reasonable attempts to locate and interview all witnesses, including both Member and civilian witnesses, and interview any civilian complainant or witness at a time and place convenient to them, including at a place of their choosing or by phone, as they reasonably prefer;
- d. Audio record all interviews, and video-record all in-person interviews;
- e. Make reasonable attempts to identify the Member if a complainant could not identify the Member;
- f. Make credibility determinations about civilian, Member, and witness statements based on independent, unbiased, and credible evidence and:
 - i. Will not assume a Member's statement is independent, unbiased evidence;
 - ii. Will not disregard a witness's statement solely because the witness (including a complainant) has a criminal history or has some connection to the complainant or an involved Member; and
 - iii. When appropriate, will take into account the record of any witness, complainant, or Member who has been determined to have been deceptive or untruthful in any legal proceeding, Misconduct investigation, or other investigation;
- g. Make reasonable attempts to resolve material inconsistencies between Member, complainant, and witness statements;

- h. Evaluate all relevant Member activity in the incident and any evidence of potential criminal conduct uncovered during the course of the investigation, whether or not the potential conduct was part of the original allegation;
- i. Refer any evidence of potential non-criminal Misconduct uncovered during the course of the investigation to PSD for review and investigation, including any potential Misconduct that was not part of the original allegation;
- j. Document all referrals to a prosecuting agency in the case file, including the date of the referral;
- k. Ask the prosecuting agency when they decline prosecution or dismiss a case after initiating criminal charges for feedback regarding the reasons for the decision and document any response in the case file;
- l. Document the reasons for closing any investigation that is not referred to a prosecuting agency in the case file; and
- m. Provide PSD investigators with case files, updates, and any other information helpful to the conduct of related administrative investigations.

562. LMPD policy will require investigators to maintain a centralized electronic case file for each criminal Misconduct investigation that includes:

- a. Documentation of all evidence gathered;
 - b. Copies of all photographic, documentary, and audio or video evidence, or links to such evidence stored in another electronic repository under the control of LMPD and subject to the same retention protocols as the case file;
 - c. Documentation of each witness identified and of efforts made to identify witnesses;
- and

- d. Documentation of each interview conducted and all audio/video recordings and transcripts of interviews.

563. LMPD policy will prohibit investigators from:

- a. Asking leading questions in Member interviews that suggest a justification for Member conduct or that otherwise are contrary to sound investigative techniques;
- b. Discouraging any Member or civilian witness from providing a full account of an incident under investigation; or
- c. Closing an investigation solely because the complainant seeks to withdraw the complaint or is unavailable, unwilling, or unable to cooperate with an investigation.

564. LMPD policy will require that whenever LMPD opens a criminal investigation of conduct by an LMPD Member, PSD will conduct a concurrent administrative investigation, absent specific circumstances that would jeopardize the criminal investigation and the approval of the Chief or their designee. LMPD policy will require the Chief or designee to document in the PSD case file any decision to postpone an administrative investigation, along with the rationale for doing so. Criminal and administrative investigations need not be initiated the same day to be considered concurrent. Criminal and administrative investigators may also coordinate their investigative steps in order to advance the purposes of the concurrent investigations.

565. LMPD policy will require that if a Member refuses to give a voluntary statement to a PSD investigator and LMPD has probable cause to believe the person has committed a crime, LMPD will consult with the prosecuting agency and obtain the approval of the Chief or their designee before taking a compelled statement for the purposes of conducting an administrative investigation. The PSD investigator will document in the PSD case file all decisions regarding

compelling an interview or holding any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority.

566. LMPD policy will require safeguards that prevent criminal investigators from accessing any materials protected by *Garrity v. New Jersey*, 385 U.S. 493 (1967), and shield any compelled interview and its fruits from criminal investigators. To protect Members' rights under the Fifth Amendment, LMPD will develop protocols to ensure that criminal and administrative investigations of LMPD personnel are kept appropriately separate and to ensure that any *Garrity*-compelled statement does not compromise a criminal investigation or criminal prosecution of the same conduct. LMPD policy will require PSD investigators to provide SID investigators with access to relevant evidence gathered prior to the taking of a *Garrity*-compelled statement.

567. Nothing in this Section will alter Members' obligation to provide a public safety briefing regarding a work-related incident or activity, including use of force reports, incident reports, and arrest reports. LMPD policy will make clear that all statements by Members in arrest reports, incident reports, and similar documents, and statements made in interviews such as those conducted in conjunction with LMPD's routine use of force investigation process, are part of each Member's routine professional duties and are not compelled statements. LMPD policy will require that where a Member believes that providing a verbal or written statement will be self-incriminating, the Member will affirmatively state this and will not be compelled to provide a statement without prior consultation with the prosecuting agency and approval by the Chief or their designee.

4. *Misconduct Investigations by Outside Entities*

568. LMPD will develop a policy to govern when to refer allegations of Misconduct by LMPD Members to another law enforcement agency or qualified outside investigator to conduct

a criminal or administrative investigation. The policy will specify the criteria to be considered in making the referral, including how to select the agency or outside investigator to conduct the investigation and any limitations in collective bargaining agreements or state law.

569. LMPD policy will require that LMPD's review of a completed investigation be of sufficient quality and completeness, and that if it appears that there is a need for additional investigation, LMPD will request the investigating entity to conduct additional investigation. LMPD policy will require LMPD to send notifications to the complainant by their preferred method of communication of the referral, including contact information for the investigating entity, and upon completion of the investigation.

E. Final Disposition and Discipline

570. Louisville Metro and LMPD will take appropriate disciplinary action or Non-Disciplinary Corrective Action to address any sustained allegations of Misconduct and will ensure that discipline comports with due process, that it is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented.

571. LMPD policy will require that when an allegation of Misconduct is rendered sustained at the end of the Review Process, the Chief will make a discipline determination along with the Disposition, to be based solely on the investigative findings and the presence of any mitigating or aggravating factors. LMPD policy will require the Chief to document the discipline determination and any mitigating or aggravating factors relied on, to be added to the PSD case file.

572. LMPD policy will prohibit the Chief or their designee from altering the Disposition except to the extent it is reconsidered as part of a pre-disciplinary hearing required by state law.

573. LMPD policy will require that if the Chief or their designee alters any Disposition or discipline determination, they will document the change and the reasons for it in the PSD case file.

574. If a Member offers new or additional evidence related to a Disposition at a pre-disciplinary hearing that was not part of the case file initially considered by the Chief or designee, LMPD policy will require the new or additional evidence to be added to the case file. LMPD policy will prohibit the Chief or designee from altering the Disposition on the basis of such new evidence without first returning the case to the investigator for consideration and, if necessary, further investigation. If the Chief or designee returns the case to the investigator, LMPD policy will require the investigator to attempt to determine why the new evidence was not originally part of the case file and document the reasons in the case file. If it appears that the Member intentionally withheld the new evidence, LMPD policy will require the investigator to treat the withholding of the information as potential Misconduct in accordance with LMPD policy. After such consideration or further investigation, LMPD policy will require an updated investigative report and recommendations to be forwarded through the chain of command to the Chief or designee and considered before a final Disposition is rendered. This paragraph does not apply to evidence of aggravating or mitigating factors unrelated to the Disposition.

575. In order to ensure consistency in the imposition of discipline, LMPD will review its current disciplinary matrix and related policies and will develop revised versions as necessary that:

- a. Establish a presumptive range of discipline for each type of violation;
- b. Increase the presumptive discipline based on a Member's relevant prior violations within a defined period of time prior to the Misconduct;

- c. Set out defined mitigating and aggravating factors;
- d. Prohibit consideration of the Member's race, gender, gender identity, sexual orientation, national origin, age, ethnicity, or familial relationships;
- e. Prohibit consideration of the high- or low-profile nature of the incident;
- f. Prohibit taking only Non-Disciplinary Corrective Action in cases in which the matrix calls for imposition of discipline unless determined by the Chief;
- g. Require each distinct act or omission that constitutes misconduct to be treated as a separate violation for purposes of determining discipline; and
- h. Require the justification for any departure from the presumptive discipline to be documented in writing by the Chief or designee and added to the PSD case file.

576. LMPD policy will require that any disciplinary suspension of five days or less be served on consecutive regularly scheduled work days and begin no later than the end of the pay period following the pay period during which the discipline became final. LMPD policy will require that suspensions of more than five days be served in intervals of at least five consecutive days. LMPD will monitor the implementation of disciplinary suspensions to ensure they are served in compliance with LMPD policy.

577. If the NDI or National Law Enforcement Accountability Database administered by IADLEST and U.S. Department of Justice is expanded to permit direct participation by local law enforcement agencies, LMPD will participate to the extent permitted and provide any information regarding Misconduct and discipline that is requested.

F. Civilian Review and Accountability Board and Inspector General

578. To ensure that the CR&AB and OIG are able to fulfill their missions and responsibilities, Louisville Metro and LMPD will implement the following requirements.

579. LMPD and OIG will continue to follow their memorandum of understanding and assess and work in good faith to revise it as necessary to ensure, consistent with state and local law, that OIG receives the information and cooperation necessary to carry out its duties and that:

- a. OIG Complaint Investigations and LMPD Misconduct investigations do not interfere with each other and LMPD and OIG investigators are able to communicate and coordinate to the extent appropriate and practical;
- b. OIG, under its authority to conduct Non-Complaint Investigations, is able to review and examine operations within LMPD, including for example, processes for selecting personnel for specialized units and audits of training, observing any LMPD training for in-service Members or recruits, and reviewing training materials such as course descriptions, lesson plans, attendance rosters, student test scores, and instructor/course evaluation forms;
- c. To facilitate OIG's ability to obtain all Formal and Informal Complaints within its authority to investigate, LMPD will provide, every two weeks, copies of all Formal and Informal Complaints it receives. LMPD will also provide any closed investigative files OIG requests;
- d. OIG, to facilitate its ability to conduct OIG Complaint Investigations, receives direct, read-only access to Evidence.com or any equivalent or successor database used to manage and store video footage from body-worn and in-car cameras; and
- e. OIG receives, upon request, data or reports from other information technology systems used to store and manage evidence and records that OIG determines is necessary to carry its duties, unless disclosing the information would compromise or interfere with an ongoing LMPD investigation.

580. When a Civilian Complaint is submitted to OIG, OIG will promptly transmit the complaint to PSD, unless, for a complaint of non-criminal Misconduct, the complainant requests that the complaint remain confidential. If a complaint is to be transmitted to LMPD, OIG will notify the complainant, explain the reasons for doing so, and provide general information about LMPD's discipline process and the availability and role of the Police Ombudsman. For a confidential complaint, OIG may notify PSD about the existence of the complaint if it can do so while maintaining the confidentiality of the complainant, and PSD will treat such notification as a Civilian Complaint.

581. LMPD will, consistent with state and local law and applicable collective bargaining agreements:

- a. Comply in a timely manner with all OIG requests for information that the Inspector General deems necessary to assist OIG in carrying out its duties;
- b. Require Members to promptly appear for interviews requested by OIG that the Inspector General deems necessary to assist OIG in carrying out its duties; this includes taking appropriate disciplinary or other Corrective Action against Members who fail to comply; and
- c. Require Members to answer questions fully and truthfully when appearing for interviews with OIG, including, subject to the requirements of *Garrity v. New Jersey*, any Member accused or suspected of Misconduct; this includes taking appropriate disciplinary or other Corrective Action against Members who fail to comply.

582. The Parties recognize that, to ensure CR&AB and OIG's ability to provide objective and independent oversight, local law gives CR&AB and OIG the authority to:

- a. Operate independently of the Mayor's Office, Metro Council, and LMPD;
- b. Administer their own budget and supervise their own staff; and
- c. Retain or employ independent legal counsel to represent them in the courts and advise them as to any legal matters relating to their duties, responsibilities, and procedures other than personnel matters.

583. Louisville Metro will provide CR&AB and OIG sufficient resources to perform their duties.

584. To further ensure OIG's ability to provide objective and independent oversight, Louisville Metro will ensure that OIG has the authority to carryforward unspent funds from its budget through the annual operating budget ordinance approved by Metro Council for use at such time as the OIG deems necessary. The carryforward may be capped at the level of OIG's annual budget.

585. LMPD will request that OIG, upon completion of an OIG Complaint Investigation, provide the Chief with a detailed report on its investigation, findings, and any recommendations.

586. Within 45 days of receipt of an OIG Complaint Investigation report from OIG, the Chief will provide a written response to OIG explaining whether LMPD agrees with its findings and if not, its reasons, and whether LMPD will accept any recommendations made and if not, its reasons.

587. If CR&AB or OIG transmits recommendations to the Chief designed to improve LMPD's performance, within 45 days of receiving such recommendations, the Chief will provide a written response explaining whether LMPD will accept them, and if not, its reasons.

588. Louisville Metro and LMPD will ensure that any memorandum of understanding or other agreement between LMPD and OIG is consistent with the requirements of this Decree.

G. Community-Centered Mediation of Misconduct Complaints

589. Nothing in this Decree will prohibit Louisville Metro and LMPD from developing and implementing a mediation program to act as an alternative to the investigation process described above for certain allegations of Minor Misconduct impacting civilians. Any community-centered mediation program that may be implemented pursuant to this paragraph will be designed to increase understanding and trust between community members and officers and to prevent future Misconduct and complaints of Misconduct, and will require that:

- a. Complaints will only be resolved through mediation where both the complainant and respondent Member agree to participate in mediation;
- b. Only certain minor allegations, to be specified in a written policy, will be eligible for community-centered mediation;
- c. A screening process for identifying complaints that may be suitable for mediation will be established which will include a review of the respondent Member's disciplinary history, including investigations that resulted in a finding of not sustained, to look for any patterns of problematic conduct or allegations of retaliation; and
- d. If a mediator determines that a Member is not participating in the community-centered mediation program in good faith, the mediation will end, and the complaint will be fully investigated.

590. LMPD policy will require that the decision to refer a complaint to community-centered mediation and the results of the mediation are documented in the PSD case file. The Audit Unit will conduct periodic audits to ensure that complaints are not being inappropriately referred to community-centered mediation.

H. Transparency and Documentation

591. Using an electronic case management system, PSD will:

- a. Track each administrative investigation of Misconduct, including the nature of each allegation, Disposition, and any determination of discipline;
- b. Maintain complete case files for all PSD investigations, including all records of correspondence;
- c. Routinely compile aggregate data regarding the number, nature, and status of Misconduct allegations, from initial intake to final Disposition, including investigation timeliness and notifications to the complainant and respondent;
- d. Maintain appropriate caseloads for Misconduct investigators; and
- e. Monitor supervisory oversight of investigations.

592. Louisville Metro and LMPD will enable complainants and the public to check and track the status of Misconduct investigations by making available on its public website information, updated monthly, about each complaint received, excluding any personally identifiable information, and including at least the:

- a. Date of the investigation initiation;
- b. Investigation status;
- c. Investigating entity if an investigation is ongoing or has been completed;
- d. Nature of each allegation in the investigation;
- e. For completed investigations, within 30 days of completion, Disposition of each allegation and any discipline issued;
- f. For completed investigations, within 60 days of completion, a brief description of the allegations and investigative findings; and

- g. For Informal Complaints summarily closed, within 60 days of closure, a brief description of the allegations and the reasons for closure.

593. Louisville Metro and LMPD will regularly compile and make available to the public aggregate data on Misconduct investigations and discipline, including at least the following:

- a. Aggregate data on complaints received from the public, including breakdowns by at least the following categories:
 - i. Nature of the allegation(s); including those relating to at least the following categories of alleged conduct: use of force; Stop; Search or Weapons Pat-Down; Arrest or Citation; application for or execution of a search warrant; discriminatory or biased policing; interference with constitutionally protected speech; actions involving an individual with a disability; actions involving an individual experiencing homelessness; actions involving Juveniles; Sexual Misconduct; actions responding to a report of a Sexual Assault or Domestic Violence; theft; dishonesty; and retaliation;
 - ii. Complaint type (i.e., criminal, formal, informal);
 - iii. Complaint source (i.e., internal, a member of the public, or anonymous);
 - iv. Entity receiving the Complaint (e.g., LMPD, OIG, etc.);
 - v. Self-reported race, ethnicity, gender, age, and disability status (including type of disability) of the complainant;
 - vi. Assigned unit and rank of the respondent Member(s); and
 - vii. Location by division of the alleged Misconduct.

- b. Aggregate data on the processing and investigation of complaints, including breakdowns by investigating entity (i.e., SID, PSD, or division commander) and complaint type (i.e., criminal, formal, informal) of at least the following:
 - i. For Complaints investigated by SID, average and median times from receipt of a complaint to referral to the prosecutor or closure of the investigation with no referral; and
 - ii. For Complaints investigated by PSD or the supervisory chain of command, average and median times from receipt of a complaint to initial contact with the complainant by the assigned investigator, average and median times from receipt of a complaint to submission of recommended findings by the investigator to their supervisor, average and median times from receipt of a complaint to final Disposition and determination of discipline by the Chief or their designee, and average and median times from receipt of a complaint to completion of discipline.
- c. Aggregate data on the outcomes of Misconduct investigations, including breakdowns by nature of the allegation(s) of at least the following:
 - i. Sustained, not sustained, exonerated, and unfounded allegations;
 - ii. Sustained allegations resulting in a non-disciplinary outcome, written reprimand, suspension, demotion, and termination;
 - iii. Dispositions or disciplinary determinations appealed to the Police Merit Board broken down by the role of the appellant (i.e., respondent or complainant) and the final outcome;

- iv. Dispositions and discipline imposed by allegation, broken down by race, ethnicity, and gender of the complainant and the respondent Member, and whether discipline was agreed to by the Member;
- d. Aggregate data on Members with repeated Misconduct complaints against them, including:
 - i. The number of Members who have been the subject of three or more completed Misconduct investigations in the previous 12 months, broken down by Serious and Minor Misconduct;
 - ii. The number of Members who have been the subject of three or more Complaints of Misconduct in the previous 12 months, broken down by Serious and Minor Misconduct;
 - iii. The number of Members who have had two or more sustained Complaints in the previous 12 months, including the number of sustained Complaints;
 - iv. The number of Members who have had two or more sustained Complaints involving sustained allegations of Serious Misconduct in the previous 12 months, including the number of sustained complaints; and
 - v. The number of criminal prosecutions of Members that arise from SID investigations or of which LMPD is otherwise aware, broken down by criminal charge.

I. Key Objectives

594. The Parties agree that the following objectives will be used to guide the analysis of whether Louisville Metro and LMPD have achieved compliance with this Section of the Decree:

Key Objective 1: LMPD’s complaint intake process does not present unnecessary burdens to civilian complainants.

Key Objective 2: LMPD investigates all Complaints and Internal Misconduct Reports as required by this Consent Decree.

Key Objective 3: LMPD takes appropriate action to address all sustained allegations of Misconduct in accordance with the requirements of this Consent Decree.

Key Objective 4: Louisville Metro and LMPD provide CR&AB and OIG the resources, information, and cooperation according to this Consent Decree that are necessary for them to carry out their duties of providing independent civilian oversight of LMPD.

Key Objective 5: LMPD follows the documentation, data collection, and transparency practices set forth in this section.

XV. IMPLEMENTATION, ENFORCEMENT, AND RESOLUTION

595. This Consent Decree requires Louisville Metro and LMPD to establish policies, training, and systems of accountability to provide the people of Louisville lawful and effective public safety and emergency response services and to remedy the alleged patterns or practices of unconstitutional or unlawful conduct alleged by the United States following its investigation, and to verify that these patterns or practices have been remedied by reliable data and audit tools as specified in this Consent Decree.

596. Louisville Metro and LMPD will implement every policy, procedure, plan, training, system, and other item required by this Decree.

597. Louisville Metro and LMPD agree to collect and maintain all data and records necessary to document implementation of this Consent Decree’s requirements and allow LMPD

and other Louisville Metro entities to perform ongoing quality assurance in each of the areas addressed by this Decree.

A. Implementation

1. *Staffing and Resources to Facilitate Implementation and Compliance*

598. Louisville Metro agrees to hire and retain, or reassign current LMPD employees with necessary skills and abilities, at the discretion of the Chief of Police or their designee, to serve as the inter-disciplinary staff charged with facilitating implementation of and compliance with this Decree.

599. Louisville Metro will designate a member of this inter-disciplinary staff to serve as a liaison between the Parties and the Monitor and coordinator of Louisville Metro and LMPD's implementation of and compliance with this Consent Decree. At a minimum, the coordinator and inter-disciplinary staff will: coordinate development of the Implementation Plans described below; facilitate the provision of data, documents, materials, and access to Louisville Metro and LMPD's personnel to the Monitor and the United States, as required by this Decree; ensure that all data, documents and records are maintained as required in this Decree; ensure that LMPD has processes and personnel in place to regularly assess the Department's information technology needs and make any improvements necessary to enable compliance with LMPD policy and this Decree; coordinate implementation of the change management plan described in Paragraph 7, above, including regularly updating and revising the plan as needed; and assist in assigning implementation and compliance-related tasks to LMPD personnel, as directed by the Chief of Police or their designee.

600. The coordinator and inter-disciplinary staff, in consultation with the Chief of Police or their designee, will ensure that LMPD Command Staff and the Performance Review Board

remain engaged in the work of implementing this Consent Decree, including providing input and support to the coordinator and inter-disciplinary staff as needed.

601. Louisville Metro and LMPD will review and audit its data to ensure that it is valid and reliable. Pursuant to Section XV.C, the United States and the Monitor may evaluate and validate these audits and data.

602. Louisville Metro and LMPD will conduct audits and analysis to assess the extent to which they have implemented the requirements of this Consent Decree, including audits conducted in conjunction with or in addition to the Monitor's Performance Reviews. The methodologies for these audits and analyses will be developed in collaboration with the Monitor and the United States, and, if validated by the Monitor, may serve as a basis for the Monitor's Performance Reviews.

2. Implementation Plans

603. Within two months of the date that the Monitor assumes their duties, Louisville Metro and LMPD, in conjunction with the United States and the Monitor, will develop an Implementation Plan to cover the ensuing 12-month period. This plan will:

- a. Provide an overview for how Louisville Metro and LMPD intend to reach Substantial Compliance with the Consent Decree within five years. This overview will include a specific schedule and deadlines for the upcoming year and a general schedule for successive years;
- b. Set forth a process for Louisville Metro and LMPD to obtain review and approval from the United States and the Monitor, as required by this Decree, including: reasonable deadlines; a period for consultation, collaboration, and the provision of technical assistance by the Monitor and the United States; a mechanism for

extending deadlines when agreed to by the Parties and the Monitor; and provisions describing the consequences for failing to meet the deadlines, including but not limited to notifying the Court and public of missed deadlines;

- c. Identify any Performance Reviews and audits related to the requirements of this Decree to be performed by Louisville Metro and LMPD during the year;
- d. Identify any Performance Reviews to be performed by the Monitor during the year, including whether Performance Reviews will evaluate particular provisions of the Decree collectively or separately, and the extent to which each review will begin with Louisville Metro and LMPD's own audits and include an evaluation or validation of those audits; and
- e. Specify any documents that must be preserved pursuant to the Decree beyond the requirements of applicable retention policies.

604. Louisville Metro and LMPD will submit each Implementation Plan to the Monitor and the United States for review and approval. The Monitor and the United States will have four weeks to either approve or propose changes to the Plan. Prior to approval, the Parties and Monitor will hold at least one meeting to discuss the Plan. The Monitor and the United States may propose changes to the Plan. Louisville Metro and LMPD will have 14 days to accept or object to those changes and provide the Monitor and the United States with a final version of the Plan. The Monitor and the United States will have 14 days to either approve or object to the Plan. Within five days of approval of the Plan by the Monitor and the United States, Louisville Metro or LMPD will file a copy of the Plan and notice of its approval with the Court. If, after good faith attempts, disagreement remains unresolved and the Parties and Monitor have not approved the

Plan, any Party or the Monitor may submit a proposed Plan to the Court, noting the areas of disagreement, and petition the Court to resolve the disagreement and approve a Plan.

605. To promote flexibility in implementing the Consent Decree, the Parties and the Monitor may change a provision in the Implementation Plan at any time, so long as the Parties and the Monitor agree to the change and Louisville Metro or LMPD files a written notice of the change to the Court within five days of the agreement. The notice will include the reasons for the change, when the change was made, and a statement that the Parties and the Monitor agree with the change.

606. As long as this Consent Decree remains in effect, Louisville Metro and LMPD will revise and update the Implementation Plan pursuant to the process described above. No later than 60 days prior to the end of each 12-month Implementation Plan period, Louisville Metro and LMPD will submit a proposed Plan for the ensuing 12-month period to the Monitor and the United States.

3. Collaboration Protocol

607. The Parties agree to work collaboratively on all Policies, procedures, protocols, and trainings related to this Consent Decree, and the Implementation Plan will include timeframes and deadlines that ensure there is sufficient time to collaboratively work on these materials. After this collaboration period, LMPD agrees to formally submit all new Policies, procedures, protocols, and trainings that relate to the requirements of this Decree, or revisions to such existing materials, to the Monitor and the United States for review and approval prior to final publication and implementation. Along with such materials, LMPD will submit any comments it has received from officers or the public. The Implementation Plan will identify the deadline for the United States and the Monitor to complete their review of the new or revised Policy,

procedure, protocol, and training. If upon formal submission, the United States has objections based on inconsistency with requirements of the Decree, the Monitor will have 14 days to resolve the objections. If either Party disagrees with the Monitor's resolution or the Monitor's failure to approve the Policy, procedure, protocol, or training, either Party may ask the Court to resolve the matter. If neither the United States nor the Monitor objects to the new or revised Policy, procedure, protocol, or training within the agreed upon review period set forth in the Implementation Plan, LMPD may implement the Policy, procedure, protocol, and training within one month of it being provided to United States and the Monitor.

B. Independent Monitor

1. Selection and Term

608. The Parties will jointly select an Independent Monitor to serve as an agent of the Court and to assess and report on Louisville Metro's and LMPD's progress toward implementing the requirements of this Consent Decree to resolve the alleged patterns or practices of constitutional and legal violations, including the status of implementation and to provide recommendations and technical assistance to achieve compliance. The "Monitor Team" will include, when necessary to fulfill the functions set forth in this Decree, expertise in policing, civil rights, data analysis and auditing, project management, behavioral health, and emergency dispatch. The Monitor Team will also have competence in writing about complex matters in simple language intended for a general audience, soliciting and obtaining meaningful community participation from varied stakeholder interests, and a demonstrated willingness to engage with the diverse communities of Louisville.

609. The Monitor will be selected pursuant to a process jointly established by the Parties, further explained in a Request for Applications (RFA) that will be mutually developed by the

Parties. The RFA will specify the criteria for selecting the Monitor, including the experience and qualifications Monitor Teams need to perform the tasks outlined in this Consent Decree, and the ability to do so in a cost-effective manner and in accordance with the Parties' Performance Review methodologies. As part of the RFA, applicants will be required to submit a proposed budget for the work to be performed under this Decree. Applicants should identify the subject matter expertise for each individual team member and identify any subject areas that the applicant would need to hire subsequent to the RFA process.

610. The Parties agree that it is important to allow for public input during the Monitor selection process. As further explained in the RFA, the Parties will seek information from all qualified people or groups who are interested in being considered for the Monitor. The Parties will announce a time period during which candidates can submit information for consideration, and the Parties will review all relevant information provided. Information submitted by candidates will be posted on Louisville Metro's website.

611. After the deadline for Monitor candidates to submit information, the Parties will allow for a 30-day public comment period, during which members of the public can review candidate submissions and provide input to the Parties about the candidates.

612. The Parties will evaluate the candidates, consider public input, and agree on a subset of candidate Monitor Teams to interview. In selecting whom to interview, the Parties may jointly request additional information from the candidates. The Parties will conduct the preliminary interviews in-person and in Louisville, if practicable under the circumstances.

613. After preliminary interviews, the Parties will agree on the teams that are finalists for the position of Independent Monitor. In selecting the finalists, the Parties may jointly request additional information from the candidates. If the Parties cannot agree on finalists, Louisville

Metro and the United States may each add up to two candidates to the finalist list. Each Party may strike one candidate from the other Party's finalist list. After selecting finalists, the Parties may conduct a second in-person interview of the candidate teams. The Parties will provide an opportunity for candidates to respond to questions and concerns from the Louisville community, including at least one public meeting at a location in Louisville agreed on by the Parties at which candidates may respond to questions from members of the public. Prior to finalist selection, the Parties may agree to a third party to facilitate the public meeting and will agree to a format for the public meeting and the means of advertising the meeting to the community. Louisville Metro will pay any costs associated with holding the public meeting.

614. After the finalists have been interviewed and responded to questions submitted by the public, the Parties will agree on a Monitor to propose to the Court in a joint motion. If the Parties cannot agree on an Independent Monitor, the Parties may jointly designate additional finalists to be considered under the processes described in the previous paragraph or initiate a second RFA process prior to proposing candidates to the Court. If a second RFA is issued, prior applicant Monitor Teams may reapply, including revising applications based on feedback they received from the Parties and public input from the first RFA process. If the Parties cannot agree on an Independent Monitor, Louisville Metro and the United States may each submit up to two proposed candidates from the finalist list to the Court. The Court will select the Independent Monitor from the candidates submitted by the Parties, after considering the Parties' views on all of the candidates submitted.

615. Independent Monitor candidates will be responsible for their own expenses incurred as a result of the application process to become the Monitor.

616. The Monitor will be an agent of the Court and subject to the Court's supervision and orders, consistent with this Consent Decree. The Monitor will have only the duties, responsibilities, and authority conferred by this Decree. The Monitor may not create additional requirements for the Parties beyond those established by this Consent Decree. The Monitor will not, and is not intended to, replace or assume the role or duties of the Parties, their members, or employees.

617. The Monitor will be appointed for a period of two years from the Effective Date, subject to an evaluation by the Court to determine whether to renew the Monitor's appointment for another two years or until the Consent Decree is terminated, whichever happens first. In deciding whether to reappoint the Independent Monitor, the Court will consider the Monitor's overall performance and demonstrated ability to fulfill its duties within the budget cap set in Paragraph 619 for the previous two years, including whether the Monitor is providing effective technical assistance toward building Louisville Metro and LMPD's self-monitoring capabilities; conducting timely and fair assessments of compliance and implementation; adequately engaging the community; completing its work in a cost-effective manner, on time and on budget; and working effectively with the Parties to facilitate Louisville Metro and LMPD's efforts to timely implement the requirements of this Decree to address, in the manner specified by this Decree, the alleged patterns or practices of constitutional and legal violations this Decree seeks to remedy. The Court will also consider if Louisville Metro and LMPD have demonstrated the capability to self-monitor Discrete Sections of this Consent Decree in accordance with Section XV.E.1, based on the Monitor's assessments and any input offered by the Parties. The Court may remove the Monitor for cause at any time, on motion by either of the Parties or the Court's own determination.

618. If the Consent Decree continues more than five years pursuant to Paragraphs 652 and 701, the Court will evaluate the Monitor's performance, Louisville Metro and LMPD's implementation of the requirements of this Decree, and Louisville Metro and LMPD's ability to self-monitor the provisions of the Consent Decree that remain in effect, and determine whether there is a continued need for a Monitor.

2. *Fees and Costs*

619. Once the Monitor is appointed, Louisville Metro will pay the Monitor a maximum of \$1.475 million per year for the initial two-year term of the monitorship for performing all of the Monitor's duties as identified within this Consent Decree, subject to the provisions of this subsection. The Parties recognize the importance of ensuring that monitoring fees and costs are reasonable. Accordingly, fees and costs will be a factor to consider in selecting the Monitor, including the ability to offer pro bono time or reduced rates, affiliation with academic institutions or non-profit organizations, and willingness to enter an "alternative fee" arrangement that reduces costs and promotes efficiency by, for example, decreasing fees as provisions of this Agreement become subject to self-monitoring and partial termination.

620. The Monitor will submit a proposed budget annually to the Court for approval, including an accounting of the previous year's actual budget. At least 30 days prior to submission of the proposed budget to the Court, the Monitor will share the proposed budget with the Parties, who may review it to ensure it meets the Monitor's duties under the Consent Decree in a timely, reasonable, and cost-effective manner. Any objection to the proposed budget will be shared with the other Parties and the Monitor within 14 days, and if any dispute arises regarding the proposed budget or payment of the Monitor's fees and costs, Louisville Metro, the United States, and the Monitor will attempt to resolve such dispute cooperatively prior to seeking the

Court's assistance. Louisville Metro will provide the Monitor with office space and reasonable office support such as office furniture, telephones, internet access, secure document storage, and photocopying as needed for on-site visits. Louisville Metro will not be responsible for paying for non-working travel time.

621. The Monitor may, at any time after its initial selection, request to hire or retain additional persons or entities that are reasonably necessary to perform the monitoring tasks in this Consent Decree, or to replace any persons who leave the Monitor Team. The Monitor will notify the Parties in writing of its request. The notice will include the qualifications of the person or entity to be hired or retained and the monitoring task to be performed. If the Parties agree to the request, the Monitor may hire or retain such additional persons or entities, and will file a notice of the hiring or retention with the Court. The Parties will have 14 days to disagree with the Monitor's request. If the Parties and the Monitor are unable to reach agreement within 14 days of receiving notice of the disagreement, then either Party or the Monitor may seek the Court's approval of the request. Any fees or costs charged by this additional person or entity will count toward the Monitor's annual budget cap. Any person or entity hired or otherwise retained as part of the Monitor Team will be subject to the provisions of this Decree.

622. If any key Monitor Team members, as designated jointly by the Parties prior to the appointment of the Monitor, resign, are removed, or are replaced, either Party may petition the Court for a replacement Monitor to be appointed, as provided by paragraph 626.

623. The Court has discretion to increase the Monitor's cap by a specific amount for a specific year at the Monitor's request. The Monitor must meet and confer with the Parties about any proposed increase to the budget cap before requesting an increase with the Court. The Monitor must publicly file any such request with the Court. If the Monitor requests to increase

the cap, the Parties will have 14 days to respond. To grant the request, the Court must find that the increase is necessary for the Monitor to fulfill its duties under the Consent Decree and is not due to a failure in planning, budgeting, or performance by the Monitor.

624. The Monitor will submit monthly statements to the Court, with copies to the Parties, detailing all expenses the Monitor incurred during the prior month. The Monitor will post its monthly statements to the Monitor's public website. The Court will order Louisville Metro to make payments to the Monitor. Upon receipt of an Order from the Court directing payment, Louisville Metro will remit timely payment of all approved statements received from the Monitor.

625. Before submitting a monthly statement to the Court, the Monitor will provide the statement to the Parties. The Parties will review such statements for accuracy and reasonableness. The Parties will have 14 days to object to the Monitor's monthly statements. If neither Party objects, the Monitor may submit the statement to the Court for payment and will indicate that neither Party objected to the statement. If either Party objects to a monthly statement, the Parties will attempt to resolve such dispute cooperatively before seeking the Court's assistance to resolve the dispute.

626. If the Monitor is no longer able to perform its functions, is removed, or is not extended, within 60 days thereof, the United States and Louisville Metro will together select a replacement Monitor acceptable to both and advise the Court of the recommended selection. The Parties will select a replacement Monitor pursuant to a method the Parties jointly establish, which will include opportunity for public input. If the Parties cannot agree on a replacement Monitor or the selection method within 90 days of the Monitor becoming unable to perform its functions, removal, or non-extension, each Party will submit to the Court up to two candidates, or two

groups of candidates, along with resumes and cost proposals. The Court will select the new Monitor.

627. If either Party determines that the Monitor has exceeded its authority or failed to satisfactorily perform the duties required by this Consent Decree, the Party will notify the Monitor and the other Party in writing. The Monitor will have 14 days to respond to the concerns in writing. Thereafter, the Parties and the Monitor will attempt to resolve any concerns amicably. If concerns remain, either Party may petition the Court for appropriate relief, including removal of the Monitor or any member of the Monitor Team. In addition, the Court, on its own initiative and its sole discretion, may remove the Monitor or any member of the Monitor Team for failing to perform the duties required by this Decree.

3. Compliance Assessments

628. The Parties agree that Louisville Metro and LMPD's progress toward compliance with each section of this Consent Decree will be determined through Compliance Assessments. Compliance Assessments will consist of a Policy Review, a Training Review, and a Performance Review for Sections II (Use of Force), III (Residential Search Warrant Applications), IV (Residential Search Warrant Executions), V (Street Enforcement), VI (Fair and Impartial Enforcement), VII (Protests and Demonstrations), VIII (Individuals with Behavioral Health Disabilities), XI (Agency Management and Supervision), and XIV (Misconduct Investigations and Discipline). The Implementation Plan will specifically identify the Compliance Assessments that the Monitor, Louisville Metro and LMPD will conduct each 12-month period this Consent Decree remains in effect.

629. For Sections IX (Sexual Misconduct, Sexual Assault, and Domestic Violence), X (Community-Based Public Safety), XII (Officer and Employee Assistance and Support), and

XIII (Recruitment and Hiring), Compliance Assessments will consist of a Policy Review, a Training Review, and a review of data compiled and reported by Louisville Metro and LMPD as required by the Data Collection and Analysis subsection in the relevant section.

630. Within six months of the Effective Date, the Parties will develop methodologies on which the Performance Reviews will be based. Louisville Metro and LMPD will provide the United States for review and approval a proposed methodology for each section of the Decree where required. The United States will review each proposed methodology within 60 days of receipt. The Parties will consult the Monitor when developing these methodologies. When the Parties reach agreement on any methodology, they will file it with the Court.

631. Compliance Assessments must be conducted in a reliable manner based on accepted and trustworthy means and methods. Any statistical analyses used as part of a Compliance Assessment must conform to statistical techniques that are accepted in the relevant field. In conducting a Compliance Assessment, the Monitor will consider the conclusions of Louisville Metro and LMPD's own audits and may rely on such conclusions if the Monitor validates their accuracy and reliability using accepted and trustworthy means and methods.

632. A "Policy Review" is an assessment by the Monitor of whether Louisville Metro and LMPD have incorporated into policy the relevant requirements of a section of the Decree. In conducting a Policy Review, the Monitor will evaluate whether policies incorporate the terms of this Consent Decree and comply with applicable law. In doing so, the Monitor will evaluate whether policies are accurate, clearly written in plain language, and presented in a consistent, easy-to-follow format.

633. A "Training Review" is an assessment by the Monitor of whether curricula reflect the relevant requirements of a section of the Decree and whether Louisville Metro and LMPD have

trained relevant personnel on those requirements. In conducting a Training Review, the Monitor will evaluate, for each relevant training, (1) whether the curriculum accurately incorporate the terms of the Consent Decree; (2) the training delivery, including the adherence to the approved curricula, the qualification of instructors, and the use of adult-learning principles and scenario based training; and (3) whether participants gained the necessary knowledge and information as indicated by a post-training testing component.

634. A “Performance Review” is an assessment of whether Louisville Metro and LMPD have achieved the Key Objectives in a section of the Decree by demonstrating that personnel act in accord with the requirements of a section of this Decree. “Key Objectives” are specific measurable and achievable goals identified for each section of the Decree. The Parties agree that establishing appropriate methodologies for Performance Reviews is necessary to demonstrate compliance with the terms set forth in this Decree. To that end, the Parties agree that no portion of this Decree subject to a Performance Review will be enforceable on its terms, until a Performance Review methodology for that portion has been filed with the Court or six months after the Effective Date, whichever happens first.

635. If the Parties are unable to reach agreement on a Performance Review methodology within one year of the Effective Date and believe that further negotiations are unlikely to result in an agreement, the Monitor will assume responsibility for creating a methodology for the areas of disagreement. The Monitor will present the draft methodology for review and comment by the Parties. If the Parties and the Monitor cannot agree upon the methodology within a timeframe identified in the Implementation Plan, the Parties may ask the Court to resolve the matter.

4. Compliance Assessments Conducted by the Monitor

636. The Monitor will conduct Compliance Assessments in an efficient and timely manner. Compliance Assessments may require no more than basic document review to assess compliance for various requirements or may require more in-depth analysis. The Monitor should use relevant and reliable data already collected and maintained by Louisville Metro and LMPD, to the extent practicable, before collecting separate data. If Louisville Metro and LMPD do not already collect such data, the Monitor may rely on data collected by the Monitor, provided that the Monitor has determined, and the Parties agree, that this information is reasonably reliable and complete. Compliance Assessments will be conducted to the extent practicable even if Louisville Metro and LMPD do not have the fully functioning electronic data systems required by this Consent Decree.

637. With the Parties' consent, the Monitor may make reasonable changes to a methodology during the course of a Compliance Assessment. If the Monitor determines during the course of an assessment that a change to a methodology is necessary to evaluate whether Louisville Metro or LMPD have achieved a Key Objective and the Parties do not consent to the change, the Monitor may ask the Court to resolve the matter.

638. The Monitor will identify a process for sharing the results of each Compliance Assessment it conducts with the Parties, including the underlying analysis, data, methods, and sources of information relied upon and a detailed explanation of any conclusions.

5. Performance Reviews Conducted by Louisville Metro and LMPD

639. Louisville Metro and LMPD will work with the Monitor and the United States to develop the capacity to conduct Performance Reviews. If the Monitor and the United States determine that Louisville Metro and LMPD have demonstrated the capacity to conduct a

Performance Review, the responsibility for conducting that Performance Review will lie with Louisville Metro and LMPD.

640. Louisville Metro and LMPD will report self-assessment results to the Monitor and the United States, and the Monitor will evaluate their accuracy and reliability. Such self-assessments will not serve as a basis for determining compliance with this Decree unless their accuracy and reliability have been validated by the Monitor using accepted and trustworthy means and methods. The Monitor will conduct all other Compliance Assessments. Louisville Metro and LMPD will develop a plan, in consultation with the Monitor and the United States, to conduct Compliance Assessments following the partial termination of sections of this Consent Decree and final termination. Louisville Metro and LMPD will publish the plan for continuing assessments on LMPD's website.

641. In conducting Compliance Assessments, the Monitor will consider whether Louisville Metro and LMPD's self-assessment and auditing activities are (1) well-designed to detect and prevent violations of law and policy, (2) adequately resourced and empowered to function effectively, and (3) work in practice to enable root cause analyses of misconduct and remediation of the root causes.

6. Monitoring Protocols

642. Within two months of assuming duties as Monitor, the Monitor, in conjunction with the Parties, will develop Monitoring Protocols that:

- a. Delineate the roles and responsibilities of the Monitor Team members, including identifying a Deputy Monitor with authority to act in the Monitor's absence, identifying lead members with primary authority for monitoring each section of this Decree with the goal of moving Louisville Metro and LMPD toward Substantial

Compliance as efficiently as possible, and specifying whether they or any Monitor Team member (besides the Monitor and Deputy Monitor) has authority to act on behalf of the Monitor;

- b. Describe a protocol for communication, engagement, and problem-solving with Louisville Metro, LMPD, and the United States; and
- c. Describe a protocol for communication, engagement, and problem-solving with the public, and for receiving public input, which will include at least one quarterly in-person meeting in different areas of Louisville.

643. The Monitor will submit proposed Monitoring Protocols to the Parties for review and approval. The Parties will have four weeks to either approve or propose changes to the Protocols. Prior to approval, the Parties will hold at least one in-person meeting with the Monitor to discuss the Protocols. Either Party may propose changes to the Protocols. The Monitor will have 14 days to accept or object to those changes and provide the Parties with a final version of the Protocols. The Parties will have 14 days to either approve the Protocols or, if the Monitor objects to a proposed change, either Party may petition the Court for appropriate relief. Within five days of approval of the Protocols by the Parties, the Monitor will file a copy of the Protocols and notice of their approval with the Court.

644. The Parties and the Monitor will adhere to the Monitoring Protocols as long as this Decree remains in effect. The Parties and the Monitor may change a provision in the Monitoring Protocols at any time, so long as the Parties and the Monitor all agree to the change and the Monitor files a written notice of the change to the Court within five days.

7. Recommendations and Technical Assistance

645. The Monitor may make recommendations to the Parties regarding measures necessary to ensure timely Substantial Compliance with this Consent Decree. For example, the Monitor may recommend additional training in any area related to this Decree; seeking technical assistance; or changing, modifying, or amending a provision of the Decree. Any such recommendation to change, modify, or amend a provision of the Decree must be in writing and must comply with the requirements to modify the Decree as described in Paragraph 679.

646. The Monitor may, at the request of Louisville Metro or LMPD, provide technical assistance consistent with the Monitor's expertise and responsibilities under this Consent Decree. If the Monitor declines such a request, it will explain its reasons for doing so in writing.

647. With the agreement of the Parties, the Monitor may at any time conduct informal reviews of Louisville Metro or LMPD activities related to implementation of this Consent Decree in order to fulfill its responsibilities under this Decree, including making recommendations, providing technical assistance, and reviewing and approving Implementation Plans.

648. Louisville Metro and LMPD's acceptance of recommendations and technical assistance from the Monitor will be voluntary. Its compliance with this Decree will be based on the terms of the Decree itself and not whether it adheres to the Monitor's recommendations or technical assistance.

8. Comprehensive Reassessment and Five-Year Hearing

649. Two-and-a-half years (30 months) after the Monitor's appointment, the Monitor will conduct a Comprehensive Reassessment to determine whether and to what extent Louisville Metro and LMPD have achieved compliance and implementation with this Consent Decree, and

to identify any modifications to the Decree that are necessary for achieving compliance in light of changed circumstances or unanticipated impact (or lack of impact) of a requirement. This Reassessment will also address areas of greatest achievement and the requirements that have contributed to this success, as well as areas of greatest concern, including recommendations and technical assistance for accelerating Substantial Compliance.

650. The Monitor will prepare a written report with its Comprehensive Reassessment findings and file the report with the Court no later than 33 months after the Monitor's appointment. At least one month prior to filing the Comprehensive Reassessment report, the Monitor will provide the Parties with a draft report for review and comment. The Parties will have two weeks from receiving the draft report to provide comments and objections. The Monitor will have two weeks to revise the report as it deems appropriate. The Monitor will file the final Comprehensive Reassessment report with the Court. The Monitor will post the report on the Monitor's website. Based upon this Comprehensive Reassessment, the Monitor will also recommend any modifications to the Consent Decree that are necessary to achieve the Decree's purposes. These recommendations will be filed with the Court and posted on the Monitor's website when the Comprehensive Reassessment is filed. Where the Parties agree with the Monitor's recommendations, the Parties will file stipulations to the modifications and request Court approval. The Court may, at the Court's discretion, allow public comment regarding suggested modifications. This provision in no way diminishes the Parties' ability to modify this Decree, subject to Court approval, as set out in Paragraph 679. Nothing in this Decree will empower the Monitor to unilaterally modify the Decree's terms.

651. The Monitor will conduct Comprehensive Reassessments every subsequent two years while the Consent Decree is in effect.

652. Five years after the appointment of the Monitor, the Court will hold a hearing regarding the progress made by Louisville Metro and LMPD towards Substantial Compliance with this Consent Decree. At the hearing, Louisville Metro and LMPD may also seek to demonstrate that Sections of this Decree are eligible for Self-Monitoring or Partial Termination pursuant to Section XV.E. The Parties may also present a plan and timeline for achieving Substantial Compliance with the Decree at the hearing.

9. *Semiannual Progress Reports*

653. The Monitor will file with the Court and post to the Monitor's website semiannual written reports covering each reporting period that will include:

- a. The progress made by Louisville Metro and LMPD under the Implementation Plan, as well as an overall assessment of Louisville Metro and LMPD's progress to date in complying with the Decree's terms;
- b. The methodology and specific findings for each Compliance Assessment conducted, redacted as necessary for privacy concerns and legal compliance. An unredacted version will be filed under seal with the Court and provided to the Parties;
- c. The extent to which Louisville Metro and LMPD have demonstrated the capacity to conduct their own audits and Performance Reviews;
- d. A projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementing the Decree;
- e. The extent to which the Decree has been: (1) incorporated into implemented policy; (2) trained at the levels set forth in this Decree for all relevant LMPD officers and Louisville Metro employees; (3) reviewed by the Monitor, including the date of the

review and the data and materials relied upon; and (4) found by the Monitor to be in compliance, and the date of this finding;

- f. The Monitor's recommendations regarding necessary steps to achieve Substantial Compliance with the Decree; and
- g. The extent to which the Monitor has provided technical assistance.

654. The Monitor will provide the Parties with a copy of semiannual reports in draft form at least five weeks prior to Court filing and public release. The Parties will have three weeks to provide comments on a draft semiannual report. The Monitor will have two weeks to consider and make any revisions based on the Parties' comments. The Monitor will post the final reports to its website. The Monitor will also establish an electronic mechanism for receiving public feedback on the reports.

655. The Parties agree to the admissibility of any final reports by the Monitor in any Court hearing in the above-captioned case, including any hearing on a motion to enforce or a motion to terminate this Consent Decree.

10. Communications with the Parties, the Court, and the Public

656. The Monitor will maintain regular contact with the Parties to ensure effective and timely communication regarding the implementation of and compliance with this Consent Decree. To facilitate this communication, the Monitor will hold regular calls and meetings with the Parties on a schedule agreed to by the Parties and the Monitor.

657. The Monitor will meet interested community stakeholders in an efficient manner on a regular basis, by means that reach a broad range of community members, to discuss Louisville Metro and LMPD's progress under the Consent Decree; to explain the Monitor's reports; to inform the public about the Decree implementation process; and to hear community questions,

concerns, suggestions regarding implementation, and perspectives regarding police interactions. The Monitor will designate a member of the team as a community liaison, who will serve as a point of contact for community members.

658. The Monitor will designate a member of the team as an officer liaison, who will serve as a point of contact for officers, including any union or other association that represents LMPD officers. LMPD officers may report Misconduct, including retaliation, to the Monitor. The Monitor will accept anonymous reports. The Monitor will not investigate officers' reports of misconduct, but will convey information regarding the complaint to SID, PSD, or OIG, as appropriate, without revealing the officer's identity if anonymity has been requested. If requested by the Monitor, LMPD will provide the Monitor updates regarding the status of the investigation of the complaint.

659. The Monitor Team will use available means, including modern tools of communication such as social media, to ensure that it obtains feedback from and communicates with a broad range of people in Louisville, including impacted communities, law enforcement, and victims of official misconduct.

660. Except as required or authorized by the terms of this Consent Decree, by the Parties acting together, or by authorization of the Court, the Monitor will not make any public statements with regard to any act or omission of the Parties or their agents, representatives, or employees; or disclose non-public information provided to the Monitor pursuant to the Decree.

11. Testimony, Records, and Conflicts of Interest

661. Monitor Team members may testify before the Court in the above-styled case as to the observations, findings, recommendations, and performance of the Monitor's duties but will not testify in any other litigation or proceeding with regard to any policy or practice; act or omission

of Louisville Metro, LMPD, or any of their current or former officials, officers, agents, or employees related to this Decree; or any matter or subject that the Monitor Team members received knowledge of as a result of this Decree. All notes, reports, analysis, databases, recordings, or other documents produced, received, or maintained by the Monitor Team members, as well as all information gathered in the course of producing said items is information that is possessed by Monitor Team members as a result of the Decree. Monitor Team members will not disclose this information to any individual who is not a Party to this Consent Decree, including without limitation, any person who seeks this information through the discovery process in other judicial or administrative proceedings. Monitor Team member testimony and documents will not be subject to civil process. The Independent Monitor will timely notify the Parties if any Monitor Team member receives a subpoena in any other litigation or proceeding for testimony or documents related to this Decree so that a Party may move to quash the subpoena. This Paragraph does not apply to any proceeding before the Court related to performance of contracts or subcontracts for monitoring this Decree.

662. Unless such conflict is waived by the Parties, Monitor Team members will not accept employment or provide consulting services that would present a conflict of interest with the Monitor's responsibilities under this Consent Decree, including future retention (on a paid or unpaid basis) by any current or future private litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against Louisville Metro, LMPD, or their current or former officials, officers, agents, or employees. The Monitor Team members will not enter into any contract with, nor enter a relationship with anyone who has a contract with, Louisville Metro, LMPD, or the United States unless the Monitor Team member first discloses the potential contract or relationship to the Parties and the Parties agree in writing to waive any conflict. The

Monitor will file a notice of any such waiver with the Court. The Independent Monitor will not serve on any other monitoring team in an active case involving the United States; however, a member of the Monitor's team may serve as a member of another monitoring team. If the Monitor resigns from its position as Monitor, the former Monitor may not enter into any contract with Louisville Metro, LMPD, or the United States on a matter related to the Decree while the Decree remains in effect, without the written consent of the Parties. The former Monitor will file a notice of any such consent with the Court. If the United States wishes to hire a Monitor Team member to assist in a separate investigation or matter that does not involve Louisville Metro or LMPD, or their departments, officials, officers, agents, or employees, it will notify the Monitor, Louisville Metro, and LMPD at least 30 days in advance of the hiring and discuss any concerns. If the Monitor, Louisville Metro, or LMPD object to the United States hiring a Monitor Team member in a separate investigation or matter, and the United States elects to move forward with hiring the Monitor Team member over the objection, either Party or the Monitor may bring the matter to the Court for resolution.

663. Monitor Team members will not be permitted to represent or work for any individual or organization in any criminal, civil, or administrative matter adverse to Louisville Metro, LMPD, or the United States Department of Justice Civil Rights Division, including any individual or organization designated as a witness, consultant, victim, defendant, subject, target, or person of interest, for the duration of the monitorship.

664. The Monitor is an agent of the Court, *see* Paragraph 608, and not a state or local agency, or an agent thereof, and accordingly the records maintained by the Monitor will not be deemed public records subject to public inspection under state or local law. Records otherwise subject to public inspection under state or local law will not be shielded from disclosure because

they were provided to the Monitor. Monitor Team members will not be liable for any claim, lawsuit, or demand arising out of and substantively related to their performance pursuant to this Consent Decree brought by non-parties to this Decree.

C. Data Maintenance, Access and Confidentiality

665. As specified in this Consent Decree, LMPD will collect and maintain all data and records identified to document implementation and assess compliance. These data and records include Body-Worn Camera footage; documentation of uses of force, search warrant applications and executions, Stops, Searches, Arrests, Citations, training records, Sexual Assault and Domestic Violence investigations, Complaints and Internal Misconduct Reports, Complaint investigations; and other documentation identified by this Decree or the Implementation Plan. To the extent that these data and records are routinely purged according to a document retention schedule, LMPD will notify the Monitor and the United States of the schedule for all relevant data and records. The Monitor and the Parties will develop a protocol for maintaining the data and records that balances the burden of maintaining the data and records on LMPD with the need to maintain the data and records to adequately assess compliance and enforce this Decree.

666. Louisville Metro and LMPD will provide the Monitor and the United States with timely, full, and direct access to Louisville Metro and LMPD staff and facilities for the purpose of making observations and gathering information that the Monitor or the United States reasonably deems necessary to carry out their duties under this Consent Decree. The Monitor and the United States will cooperate with LMPD to access people and facilities in a reasonable manner that minimizes interference with daily operations, including by providing at least one week prior notice whenever possible. LMPD will not be required to direct an officer, sergeant, or lieutenant to speak with the Monitor or the United States against that Member's wishes.

667. Louisville Metro and LMPD will provide the Monitor and the United States with access to all documents and data that the Monitor or the United States reasonably deems necessary to carry out their duties under this Consent Decree. Louisville Metro and LMPD will provide the Monitor and the United States with direct, read-only access to the Evidence.com, IAPro, Mark43, I/Leads, NICE, DIMS, eWarrants, and KYOps systems used by LMPD to maintain such documents and data, and to any successor information technology systems that may be used to maintain such documents and data in the future. For all such documents and data to which the Monitor and the United States do not have access through these systems, the Monitor or the United States will provide LMPD with reasonable notice of their request, and LMPD will provide electronic copies of the requested documents to the Monitor and the United States.

668. The previous paragraph does not apply to any documents or data protected by the attorney-client or other recognized privileges, or when Louisville Metro or LMPD reasonably determine access to documents or data will harm an ongoing criminal or administrative investigation. Should Louisville Metro or LMPD decline to provide the Monitor or the United States access to documents or data based on privilege or risk of harm to an ongoing investigation, Louisville Metro or LMPD will inform the Monitor and the United States that they are withholding documents or data on this basis and will provide the Monitor and the United States with a log describing the documents or data and the basis for withholding. If Louisville Metro or LMPD declines to provide the Monitor or the United States with access to any documents or data based on ongoing investigations, Louisville Metro or LMPD will provide access when the risk of harm to the investigation ceases or the investigation is closed, whichever happens first. If the Monitor or the United States disagrees with the basis for withholding, the

Monitor or the United States may request that the Court, or the Court may *sua sponte*, order an *in camera* review of the protected material to make a determination on disclosure.

669. To the extent permitted by law, including law regarding the secrecy of grand jury proceedings, the Monitor and the United States will have access to: (a) all records and information in the possession of LMPD relating to criminal investigations of LMPD Members; (b) all documents in criminal investigation files that have been closed by LMPD after the Effective Date; and (c) all arrest reports, warrants, and warrant applications initiated after the Effective Date whether or not contained in open criminal investigation files.

670. The Monitor and the United States will maintain all non-public information provided by Louisville Metro and LMPD in a confidential manner. Other than as expressly provided in this Consent Decree, this Decree will not be deemed a waiver of any privilege or right LMPD or Louisville Metro may assert, including those recognized at common law or created by statute, rule, or regulation, against any other person or entity with respect to the disclosure of any document.

671. The Parties agree that, as of the Effective Date of this Decree, litigation is not “reasonably foreseeable” concerning the matters described in this Decree. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Decree, the Party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Decree, including the document creation and retention requirements described herein.

D. Court Jurisdiction, Decree Modifications, and Enforcement

672. This Consent Decree will become effective upon approval and entry as an order of the Court.

673. The Complaint was initiated pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and the authority granted to the Attorney General under 34 U.S.C. § 12601 to seek declaratory or equitable relief to remedy an alleged pattern or practice of conduct by law enforcement officers that deprives individuals of rights, privileges, or immunities secured by the Constitution or federal law.

674. This Court has jurisdiction of this action. 28 U.S.C. §§ 1331, 1345. The United States is authorized to initiate this action. 34 U.S.C. § 12601; 42 U.S.C. § 12188. Venue is proper because LMPD is located in and the claims arose in the Western District of Kentucky. 28 U.S.C. § 1391.

675. The Consent Decree will constitute the entire integrated agreement of the Parties. No prior drafts or prior or contemporaneous communications, oral or written, will be relevant or admissible to determine the meaning of the Decree's provisions in any litigation or other proceeding.

676. To ensure that the requirements of this Consent Decree are properly and timely implemented, the Court will retain jurisdiction of this action for all purposes until the Court issues an order terminating the Decree. At all times, Louisville Metro and LMPD will bear the burden of demonstrating by a preponderance of the evidence its Substantial Compliance with this Decree.

677. The United States may seek enforcement of the provisions of this Consent Decree. The United States agrees to consult with Louisville Metro and LMPD before instituting enforcement proceedings and will make a good faith attempt to resolve any disputes before seeking

enforcement. If a dispute cannot be resolved informally, the United States may apply to the Court for appropriate relief, up to and including the imposition of contempt sanctions.

678. Unless stated otherwise in this Consent Decree, if any Party disagrees with any aspect of the implementation of the Consent Decree, that Party will make a good faith attempt to resolve the dispute informally. If the parties are unable to resolve the dispute within 10 days of the apparent impasse, that Party may inform the other parties and the Monitor in writing of the dispute. Within 5 days thereafter, the Parties will meet and confer on the dispute at a mutually agreed time. If necessary, any Party may petition the Court thereafter to resolve the dispute pursuant to the provisions above.

679. The Parties may jointly stipulate to make changes, modifications, and amendments to this Consent Decree, which will be subject to Court approval. Such changes, modifications, and amendments will be encouraged when the Parties agree, where the Monitor's Compliance Assessments or Comprehensive Reassessments demonstrate that a provision as written is not furthering the purpose of the Decree, or where a preferable alternative will achieve the same purpose. Where the Parties or the Monitor are uncertain whether a change to the Decree is advisable, the Parties, with Court approval, may agree to suspend the current requirement for a time period agreed upon at the outset of the suspension. During such suspension, the Parties, with Court approval, may agree to temporarily implement an alternative requirement. The Monitor will assess and report to the Court whether the suspension of the requirement and any implementation of an alternative provision is as, or more, effective at achieving the purpose as was the suspended requirement, and the Parties will consider this assessment in determining whether to request that the Court approve the suggested change, modification, or amendment.

The Court may, at its discretion, allow public comment on the proposed changes, modifications, and amendments.

680. In the event of ambiguity or inconsistency in any of the Consent Decree's terms, the Decree will be interpreted in a flexible, practical, and cost-effective manner to achieve its remedial purposes.

681. Subject to the confidentiality protections for collective bargaining negotiations, Louisville Metro and LMPD agree to notify the Monitor and the United States when and if any collective bargaining entity takes a position that any provision of this Consent Decree is not valid or enforceable.

682. The Parties will defend the provisions of this Consent Decree. The Parties will notify each other and the Court of any court, union, or administrative challenge to the Decree. In the event any provision of the Decree is challenged in any court other than this Court, the Parties will seek removal, transfer, or consolidation with this case in this Court.

683. This Consent Decree is not intended to alter or affect any collective bargaining agreements or rights, state law, or local ordinance in effect as of the date the Decree is signed by the Parties. To the extent any current or future state law, local ordinance, or collective bargaining provision conflicts with any provision of this Decree or impedes its effective implementation, either Party or the Monitor may seek the Court's intervention or modification to the Consent Decree to ensure that Louisville Metro and LMPD can comply with the Decree and the law.

684. Louisville Metro and LMPD will require compliance with this Consent Decree by their respective officials, officers, employees, agents, or assigns.

685. Louisville Metro is responsible for allocating to relevant Louisville Metro agencies necessary and reasonable resources to fulfill the obligations of this Consent Decree. To the

extent that Louisville Metro engages private entities to satisfy any requirements of this Decree, Louisville Metro will establish sufficient monitoring and enforcement mechanisms to ensure sufficient capacity to meet the Decree's requirements and to ensure compliance with the Decree.

686. Nothing in this Consent Decree is intended to be used by third parties to create liability by or against Louisville Metro or any of its entities, officials, officers, agents, or employees under any federal, state, or municipal law, including 42 U.S.C. § 1983. Louisville Metro and LMPD deny the allegations contained in the United States' Complaint. This Decree (including the United States' findings report, Complaint, the Agreement in Principle between the Parties, and any assessments and reports the Decree requires to be produced) is not intended to confer any right on any third-person or entity seeking relief against Louisville Metro, LMPD, MetroSafe, or any officer or employee thereof, for their conduct. This Decree (including the assessments and reports produced by the Monitor pursuant to the Decree) will not be construed or used as an admission or evidence of liability by or against Louisville Metro under any federal, state, or municipal law including 42 U.S.C. § 1983.

687. This Consent Decree is enforceable only by the Parties. No person or entity is or is intended to be a third-party beneficiary of this Consent Decree for the purposes of any civil, criminal, or administrative action. Accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Decree.

E. Self-Monitoring, Partial Termination, and Final Termination

688. Self-monitoring is a transition phase designed to allow Louisville Metro and LMPD to demonstrate their ability to sustain compliance by preparing methodologies and conducting assessments, subject to the United States' and the Monitor's review, the Monitor's evaluation, and Louisville Metro's presentation to the Court for its approval. Partial termination is a process

designed to acknowledge Louisville Metro and LMPD reaching Substantial Compliance with Discrete Sections of the Consent Decree.

689. As used herein a “Discrete Section” of this Consent Decree is a group of paragraphs that is designated by a separate primary heading. This Decree has 13 Discrete Sections, denoted with roman numerals II to XIV.

690. A Discrete Section of this Consent Decree is in “Substantial Compliance” when Louisville Metro and LMPD demonstrate they have:

- a. fulfilled all requirements of that Section by:
 - i. incorporating into policy the requirements of the Discrete Section;
 - ii. training relevant personnel as necessary to implement the requirements in accord with policy; and
 - iii. demonstrating that relevant personnel consistently and substantially perform in accordance with the Key Objectives of the Discrete Section; or
- b. accomplished sustained improvement in constitutional and lawful public safety and emergency response services, as demonstrated by the data collection and analysis provisions of that section.

1. Self-Monitoring

691. A Discrete Section may be subject to self-monitoring if the Monitor’s Compliance Assessments and/or Reports find that Louisville Metro and LMPD are demonstrating a proficiency and the capacity to collect and analyze reliable data and to conduct high-quality audits relating to the requirements of that Discrete Section, in compliance with Subsection XI.J – Audits and Data Analytics.

692. Louisville Metro and LMPD may seek approval from the United States and the Monitor to self-monitor a Discrete Section that may be subject to self-monitoring. Louisville Metro and LMPD's proposal must include a Self-Monitoring and Implementation Plan, which may be designed in consultation with the Monitor and the United States, that emphasizes data collection, data analysis, audits, and assessments to reliably evaluate continued compliance with the requirements of the Discrete Section. The Parties will notify the Court of any self-monitoring agreements. Louisville Metro and LMPD will prepare semi-annual self-assessment reports in accordance with the Self-Monitoring and Implementation Plan. Louisville Metro and LMPD will present each self-assessment report at public meetings held by the Monitor, and will file each final self-assessment report with the Court.

693. Within one month of receipt, the Monitor will evaluate the self-assessment report to determine whether Louisville Metro and LMPD have successfully self-monitored their continued compliance by (a) appropriately executing the Self-Monitoring and Implementation Plan using reliable data and acceptable audit techniques; and (b) maintaining Substantial Compliance with the Discrete Section. The Monitor may assess the underlying data used to prepare the report and may reasonably request more time for its evaluation, which the Parties will not unreasonably deny.

694. If the Monitor determines that Louisville Metro and LMPD are no longer demonstrating a proficiency or the capacity to collect and analyze reliable data or to conduct high-quality audits, the Monitor will re-assume responsibility to conduct Compliance Assessments and audits until Louisville Metro and LMPD re-establish eligibility for self-monitoring pursuant to Paragraph 691.

695. Notwithstanding any other provision of this Consent Decree, in consultation with the Monitor, the Parties may agree to allow Louisville Metro and LMPD to self-monitor individual Paragraphs, provided that Louisville Metro and LMPD are demonstrating a proficiency and the capacity to collect and analyze reliable data and to conduct high-quality audits, in compliance with Subsection XI.J – Audits and Data Analytics.

2. *Partial Termination*

696. A Discrete Section is subject to partial termination if Louisville Metro and LMPD have achieved and then maintained Substantial Compliance with all of the requirements of the Discrete Section for two (2) consecutive years, except in the case of Sections X (Community-Based Public Safety), XII (Officer and Employee Assistance and Support), and XIII (Recruitment and Hiring), the section is subject to partial termination after maintaining Substantial Compliance for one (1) year.

697. Either Party may move the Court at any time to terminate a Discrete Section from this Consent Decree. The moving Party will have the burden of showing by a preponderance of the evidence that Louisville Metro and LMPD have achieved and maintained Substantial Compliance and successfully self-monitored compliance. If the Parties disagree about whether a Discrete Section of this Consent Decree is subject to partial termination, prior to filing a contested motion for partial termination, Louisville Metro will notify the United States and the Monitor in writing of the grounds for the motion and provide supporting documentation. Within one month of receipt of the notice from Louisville Metro, the Parties will confer as to the status of compliance and, if agreement is not reached, the United States and the Monitor may conduct reasonable assessments of the grounds for the motion, including on-site observations, document reviews, or interviews with Louisville Metro and LMPD personnel. If consultation and

assessment does not resolve the dispute within two months of the Parties' conferral, Louisville Metro and LMPD may file a motion to terminate Discrete Sections. If Louisville Metro and LMPD move to terminate Discrete Sections of this Decree, the United States will have six weeks after the receipt of the motion to respond to the motion, and Louisville Metro and LMPD will have one month to file a reply. If the United States objects to the motion, Louisville Metro and LMPD will have the burden to demonstrate that partial termination is appropriate under the terms of this Decree.

698. A Discrete Section that is terminated is no longer subject to enforcement, monitoring, or self-monitoring, and the requirements of the Discrete Section are no longer part of this Consent Decree.

3. *Final Termination*

699. Upon the Court's determination that Louisville Metro and LMPD have achieved Substantial Compliance with this Consent Decree and maintained such compliance for the periods specified in paragraph 696, the Court will terminate the Consent Decree and dismiss the case.

700. Five years from the Effective Date, upon the motion of either Party, the Court will hold a hearing to assess the status of Louisville Metro's and LMPD's compliance with the Consent Decree.

701. Five years after the Effective Date, the Consent Decree will terminate unless the United States demonstrates by a preponderance of the evidence that Louisville Metro and LMPD have failed to attain Substantial Compliance with any Discrete Section in the Consent Decree or failed to maintain that compliance as specified in Paragraph 696. Absent such demonstration as to a Discrete Section, such Discrete Section shall be deemed terminated.

702. Should Louisville Metro and LMPD file a motion to terminate this Consent Decree, the Court will hold a hearing and the burden will be on Louisville Metro and LMPD to demonstrate by a preponderance of the evidence that they have reached Substantial Compliance with the requirements of this Decree, maintained that compliance for the time period set forth in Paragraph 696, and successfully self-monitored continued compliance in accord with Subsection XV.E.1.

703. If the Parties disagree about whether final termination is appropriate, prior to filing a contested motion for final termination, Louisville Metro will notify the United States and the Independent Monitor in writing of the grounds for the motion and provide supporting documentation. Within one month, the Parties will confer as to the status of compliance. If agreement is not reached, the United States and the Monitor will have at least two months to conduct reasonable assessments of the grounds for the motion, including on-site observations, document reviews, and interviews with Louisville Metro and LMPD personnel. If consultation and assessment do not resolve the dispute, Louisville Metro may file a motion for final termination. If Louisville Metro moves for termination of this Consent Decree, the United States will have two months after the receipt of the motion to respond to the motion, and Louisville Metro and LMPD will have one month to file a reply. If the United States does not object, the Court may grant Louisville Metro's motion. If the United States objects to the motion, the Court will hold a hearing on the motion, and Louisville Metro will have the burden to demonstrate that final termination is appropriate under the terms of this Decree.

XVI. DEFINITIONS

704. “Advanced Behavioral Health Response Officer” is an LMPD officer who has received additional training to respond to individuals in behavioral health crises and has been selected to be a priority responder to individuals experiencing behavioral health crises.

705. “Arrest” is the seizure or forcible restraining of a person by taking or keeping that person in custody by legal authority.

706. “Behavioral Health Response Program” is LMPD’s program for responding to behavioral health emergencies that require a police response, in a manner required by and consistent with the goals set forth in this Decree. The Behavioral Health Response Program includes basic and ongoing training for all officers and a cadre of specialized Advanced Behavioral Health Response Officers.

707. “Body-worn camera” or “BWC” means audio or video recording equipment that is affixed to an officer’s person, uniform, or equipment.

708. “Chief” and “Chief of Police” mean the Chief of LMPD.

709. “Citation” is official documentation from a law enforcement officer providing notice to an individual of a violation of law.

710. A “Civilian Complaint” is a report made anonymously or by anyone who is not an LMPD Member alleging a violation of LMPD policy by an LMPD Member. A Civilian Complaint may be a Formal Complaint or an Informal Complaint.

711. A “Compliance Assessment” is an assessment of Louisville Metro and LMPD’s progress toward compliance with a section of this Consent Decree, consisting of a Policy Review, a Training Review, and a Performance Review.

712. “Conducted Electrical Weapon” or “CEW” is a weapon, including those manufactured by TASER International, designed to discharge electrical charges into a subject that will cause involuntary muscle contractions and override the subject’s voluntary motor responses.

713. “Confidential Informant” means a confidential source who provides information to law enforcement regarding criminal activities and from whom the law enforcement officer may obtain additional information regarding criminal activities in the future.

714. “Corrective Action” is the process for implementing discipline or referring suspected misconduct for investigation and/or Non-Disciplinary Corrective Action.

715. A “Criminal Complaint” is a Civilian Complaint that alleges criminal activity by an LMPD Member.

716. “Crisis Triage Worker” is a MetroSafe employee or contractor who provides telephonic behavioral health triage for 911 calls and determines the appropriate response for calls related to behavioral health.

717. “Crowd Control Force Tools” are tools deployed in a manner intended to physically affect multiple people at one time for the purposes of dispersing a group. When used during a protest or demonstration for the purposes of dispersing a group, Crowd Control Force Tools may include tear gas, aerial flash bang grenades, pepper balls, and long-range acoustic devices (LRADs).

718. “Deadly Force” means force that creates a substantial risk of causing death or serious physical injury. KRS 503.010.

719. “Deconfliction” is the process of determining when law enforcement personnel are conducting operations in close proximity to one another at the same time.

720. “De-escalation Techniques” are actions used by officers, when safe and feasible without compromising law-enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of gaining voluntary compliance from a Subject.

721. “Deflection” is a program within MetroSafe that dispatches trained, non-law enforcement, behavioral health responders to 911 calls about behavioral health crises when there is not an immediate threat to life or physical safety. Deflection includes: (a) Crisis Triage Workers; and (b) Mobile Crisis Response Teams.

722. “Discharge CEWs” or “Discharging a CEW” means an officer’s firing of a CEW at a person, whether or not the CEW probes make contact with a person.

723. “Discrete Section” of this Consent Decree is a group of paragraphs that is designated by a separate primary heading.

724. “Discriminatory Policing” is the selective enforcement or nonenforcement of the law, including use of particular policing tactics or strategies based on membership in a demographic group.

725. “Disparities” are noticeable and significant differences in outcomes or conditions between demographic groups based on quantitative data. A disparity, alone, does not constitute proof of discriminatory actions or behaviors.

726. A “Disposition” is a finding regarding an allegation of Misconduct, which does not include any determination of discipline. A Disposition may be either sustained, not sustained, unfounded, exonerated, or in the limited circumstances set forth below, closed by exception.

727. “Domestic Violence” is the offense defined by § 403.720(2) of the Kentucky Revised Statutes, extended to persons who are, or have been, in a dating relationship.

728. “Dynamic Entry” is the rapid, forceful initial entry and clearing of a Non-Secured area or structure.

729. “Effective Date” means the day this Consent Decree is entered by the Court.

730. A “Formal Complaint” is a Civilian Complaint that alleges a violation of LMPD policy by an LMPD Member, and is accompanied by an affidavit, signed and sworn to by the complainant.

731. “Impact Weapon” refers collectively to any hard object used to strike or hit an individual to achieve pain compliance (including standard and expandable batons).

732. “Including” means “including, but not limited to.”

733. An “Informal Complaint” is a Civilian Complaint that alleges a violation of LMPD policy by an LMPD Member, for which the complainant, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to.

734. An “Internal Misconduct Report” is an internal report or communication made by any LMPD Member alleging a violation of LMPD policy.

735. “Juvenile” is an individual who is younger than 18 years old.

736. “Key Objectives” are specific measurable and achievable goals identified for each section of the Decree.

737. “Law Enforcement Activity” means any activity performed by a Member in an official capacity for the purposes of maintaining public order and enforcing the law, particularly the activities of prevention, detection, and investigation of crime and the apprehension of criminals.

738. “Less-Lethal Force” refers to weapons and tactics that are designed to temporarily disable or stop a suspect with a reduced risk of causing death or serious physical injury, thereby providing law enforcement with an alternative to Deadly Force.

739. “LMPD Member(s)” or “Member(s)” means any or all LMPD staff, including officers, professional staff, and others.

740. “MetroSafe Call-Taker” is a MetroSafe employee who receives, answers, and classifies 911 calls.

741. “Minimal Force” is physical interaction meant to escort, handcuff, separate, guide, and/or control subjects that is not intended, or is not reasonably likely, to cause pain or injury. Pain that does not rise to the level of injury associated with the application of handcuffs and control or escort techniques do not constitute a Use of Reportable Force. Minimal Force does not constitute Use of Reportable Force. However, if a Minimal Force technique is used but results in an injury, it is a Use of Reportable Force.

742. “Minor Infraction” means a violation of LMPD policy that has a minimal negative impact on the operations or professional image of the Department, is not the subject of a Civilian Complaint, does not relate to the unlawful or unauthorized use of force or other exercise of law enforcement authority, and is sufficiently minor that it can be addressed by a supervisor through Non-Disciplinary Corrective Action. Repeated Minor Infractions may be considered Misconduct and addressed through discipline.

743. “Misconduct” means criminal activity or a violation of LMPD policy by an LMPD Member. Misconduct is generally addressed through discipline and does not include Minor Infractions. Misconduct falls into two categories—Serious Misconduct and Minor Misconduct. “Serious Misconduct” means criminal Misconduct, use of force in violation of law or policy, discriminatory policing including use of discriminatory language, unlawful Arrest, unlawful search, planting evidence, untruthfulness or false statements, retaliation, violations of policy that inhibit First Amendment protected activity, Sexual Misconduct, Domestic Violence, theft,

intentional violations of policy, and other types of Misconduct as defined by LMPD policy.

“Minor Misconduct” means any Misconduct that is not Serious Misconduct. Repeated Minor Misconduct may be considered Serious Misconduct.

744. “Mobile Crisis Response Teams” are teams of at least two people dispatched by Crisis Triage Workers to respond in person to 911 calls about behavioral health crises.

745. “Monitor” or “Independent Monitor” means the Court-appointed independent monitor selected by the parties, as described in Section XV.B.

746. “Neck Restraint” means any action that involves the placement of any part of an officer’s body on or around a person’s neck, other than brief or incidental contact, including (a) arm-bar control holds, which inhibit breathing by compression of the airway in the neck; (b) carotid restraint holds, which inhibit blood flow by compression of the blood vessels in the neck; (c) lateral vascular neck constraints that inhibit air or blood flow; and (d) placing weight to the back or side of a prone Subject’s neck in a way, or for a period of time, that creates a significant risk of positional asphyxiation or spinal injury.

747. “Non-Disciplinary Corrective Action” is a response that falls outside of, or as a supplement to, the disciplinary process which may include, *inter alia*, counseling, retraining, command meetings to address insufficient performance, closer supervision or other interventions, changes in policy, plans or strategies designed to modify activity, referrals for administrative or criminal investigations, and alternative enforcement approaches.

748. “Non-Secured” is an area or structure not under the control of law enforcement.

749. “Officer” and/or “officer” means a sworn Member of LMPD, of any rank.

750. “OIG Complaint Investigation” means an investigation of a complaint by the Office of Inspector General (OIG) which has been authorized by the Civilian Review & Accountability Board (CR&AB).

751. “OIG Non-Complaint Investigation” means an OIG examination or review of LMPD operations of which the CR&AB has been notified.

752. “Oleoresin Capsicum Spray” or “OC Spray” is a natural inflammatory agent derived from the pepper plant. As an inflammatory agent, aerosol OC Spray causes a near immediate inflammation of the eyes and breathing passages. There is an intense burning sensation of the eyes, throat, and other exposed areas of the skin. When OC Spray is inhaled, in rare circumstances, the respiratory tract becomes inflamed and breathing may become restricted.

753. “Operation Plan” is a written plan that seeks to achieve an acceptable resolution by allocating resources and affixing responsibility to members of the organization and assessing known risks.

754. “Patrol Division” means an LMPD division that serves one of LMPD’s eight geographically-defined police service areas.

755. “Peer Support Specialist” is a person with lived experience with mental illness or substance use disorder who is in recovery and meets the requirements for an adult peer support specialist in the Commonwealth of Kentucky pursuant to 908 KAR 2:220.

756. “Performance Audit” is an internal review of Member conduct and work product assessing LMPD’s compliance with the Key Objectives of this Consent Decree.

757. A “Performance Review” is an assessment of whether Louisville Metro and LMPD have achieved the Key Objectives in a section of the Decree by demonstrating that personnel act in accord with the requirements of a section of this Decree.

758. “Permanent-Rank Supervisor” is a law enforcement officer of LMPD occupying the rank of Sergeant or above.

759. “Police Action” means detaining, issuing an order to move or disperse, searching, investigating, arresting, issuing a citation, or using force.

760. “Policy” and/or “policy” means any regulation, regardless of its official title, describing the duties, functions, and obligations of LMPD officers or other LMPD or Louisville Metro personnel or specifically directing how to fulfill those duties, functions, or obligations. The terms “protocol” and “procedures” have the same meaning as “policy.”

761. A “Policy Review” is an assessment by the Monitor of whether Louisville Metro and LMPD have incorporated into policy the relevant requirements of a section of the Decree. In conducting a Policy Review, the Monitor will evaluate whether policies incorporate the terms of this Consent Decree and comply with applicable law. In doing so, the Monitor will evaluate whether policies are accurate, clearly written in plain language, and presented in a consistent, easy-to-follow format.

762. “Pretextual Stop” is one for which officers use evidence that a person has committed an offense as a pretext to investigate another separate offense.

763. “Quality Service Review (QSR)” is a review of Louisville Metro’s response to calls related to behavioral health issues using a reliable and valid sampling methodology.

764. “Residential Search Warrant” means a court order issued for the purposes of authorizing law enforcement to conduct a search of a Non-Secured residential premise. Residential Search Warrants do not include warrants obtained for the purpose of bringing barricaded individuals into custody.

765. The “Review Process” is a process conducted by LMPD commanders intended to ensure that a Misconduct investigation was completed in accordance with LMPD policy. The “Review Process” begins with receipt of a completed investigation by the PSD commander and ends with the rendering of a Disposition and discipline determination by the Chief or their designee. The Review Process does not include a pre-disciplinary hearing.

766. “Risk Assessment” is the process of evaluating and determining the presence of any potential hazards or dangerous conditions to law enforcement personnel and the public that may be present or may occur during an operation. This assessment is used to determine the appropriate risk level of that pending action.

767. “Risk Matrix” is a tool for documenting the elements of the Risk Assessment.

768. “Safety Priorities” is part of a decision-making process that provides the framework for making tactically sound decisions, utilizing objective criteria based on an individual’s current or likely risk of suffering serious bodily injury or death and their direct ability to remove themselves from that danger. Those exposed to the greatest potential of injury with the least ability to escape or control the situation are placed at the top of the priorities. The safety priorities value all life, and its sole intent is to assist law enforcement in making tactical decisions to assist in saving lives.

769. “Search” is an exploration or inspection of a person’s house, body, clothing, vehicle, or property or other intrusion where a person has a reasonable expectation of privacy by a law enforcement officer for the purpose of discovering evidence of a crime or a person who is suspected of a crime.

770. “Self-Initiated Pedestrian Stop” is a Pedestrian Stop that is not in direct response to any call for service.

771. “Serious Physical Injury” is bodily injury that creates a substantial risk of death to the Subject, prolonged impairment of health or prolonged disfigurement, or prolonged loss or impairment of any bodily organ or eye damage or visual impairment. KRS § 500.080(18).

772. “Sexual Assault” includes attempted or completed rape and sexual offenses as defined by Chapter 510 of the Kentucky Revised Statutes.

773. “Sexual Contact” is an intentional touching of a person’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

774. “Sexual Misconduct” includes any behavior by an LMPD Member that takes advantage of the Member’s position in law enforcement to: (1) misuse authority and power (including force) in order to commit a sexual act; (2) initiate Sexual Contact with another person; or (3) any sexual communication or behavior by a Member that would likely be construed as lewd, lascivious, or conduct unbecoming a Member.

775. “Stop” is a brief, involuntary detention of a person for investigative or enforcement purposes. It may be a detention of any person in any location, whether on foot, in a vehicle, riding a bicycle or other conveyance, or otherwise. A Stop occurs when a person is not taken into custody but reasonably believes that they are not free to leave based on the circumstances, including officers’ conduct, regardless of the officers’ intent. For purposes of this Consent Decree, every Stop is either a Traffic Stop or a Pedestrian Stop, defined as follows:

- a. “Traffic Stop” is a Stop of a person or persons in a vehicle.
- b. “Pedestrian Stop” is a Stop of a person or persons who are not in a vehicle.

776. “Subject” is the person against whom force was used.

777. “SWAT Team” means LMPD’s Special Weapons and Tactics Team.

778. “Tactical Method of Execution” means the specific tactic utilized to execute a Residential Search Warrant, including but not limited to, the methods listed in this Section.

779. “*Terry* Stop” is a Stop based upon reasonable suspicion that criminal activity is afoot.

780. A “Training Review” is an assessment by the Monitor of whether curricula reflect the relevant requirements of a section of the Decree and whether Louisville Metro and LMPD have trained relevant personnel on those requirements.

781. “Uninvolved Permanent-Rank Supervisor” is a Permanent-Rank Supervisor that did not participate in the application of, or direct, the use of force.

782. “Use of Force Review” is all the documentation and evidence required by this Decree relating to a Use of Reportable Force investigation.

783. “Use of Reportable Force” is any use of force that falls within Level 1, Level 2, Level 3, or Level 4 Force, as defined in this Consent Decree.

784. “Voluntary Interaction” is an interaction with a member of the public during which the individual is free to end the interaction by leaving the location or declining to engage in conversation.

785. “Weapons Pat-Down” or “Pat-Down” (sometimes referred to as a “frisk”) is a brief, non-invasive inspection of the outer layers of a person’s clothing for concealed weapons during a Stop when an officer has a reasonable belief the person is armed and dangerous. Any inspection more intrusive than the outer layers of a person’s clothing or to look for contraband other than a weapon constitutes a Search and may not be considered part of a Pat-Down.

786. “Witness” is anyone who may have information relevant to an investigation.

SO ORDERED, this ____ day of _____, 2024.

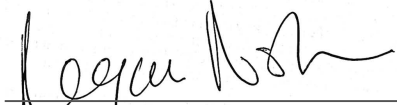
United States District Judge

For the United States of America:


Kristen Clarke

Assistant Attorney General
Civil Rights Division

Date: 12/4/24



Regan L. Rush, Chief
Special Litigation Section

Date: December 4, 2024



Paul Killebrew, Deputy Chief
Special Litigation Section

Date: December 4, 2024



S. Mehveen Kaz
David G. Cooper
Suraj Kumar
Lily Sawyer-Kaplan
Amy Senier
Haley Van Erem
Trial Attorneys
Special Litigation Section

Date: December 4, 2024



Jessica R. C. Malloy
Calesia Henson
Assistant United States Attorneys
Western District of Kentucky


Date: December 4, 2024

For Louisville Metro/Jefferson County Government, including the Louisville Metro Police Department:



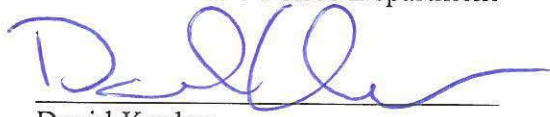
Craig Greenberg
Mayor
Louisville Metro/Jefferson County Government

Date: December 9, 2024



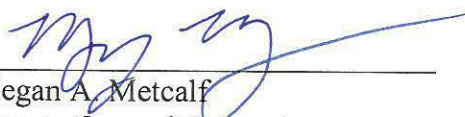
Paul L. Humphrey
Chief of Police
Louisville Metro Police Department

Date: December 9, 2024



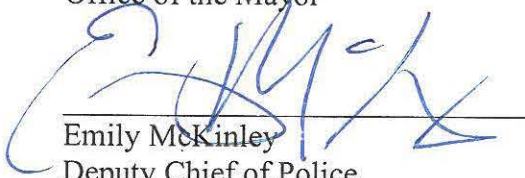
David Kaplan
Chief of Staff/General Counsel
Office of the Mayor

Date: December 9, 2024



Megan A. Metcalf
Deputy General Counsel
Office of the Mayor

Date: December 9, 2024



Emily McKinley
Deputy Chief of Police
Louisville Metro Police Department

Date: December 9, 2024

APPROVED AS TO LEGALITY AND FORM:



Anna R. Taylor
Assistant Jefferson County Attorney

Date: December 9, 2024