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## I. INTRODUCTION AND EXECUTIVE SUMMARY

The Executive Director of the Milwaukee Fire and Police Commission (“FPC”)<sup>1</sup> retained Modern Policing<sup>2</sup> to assess FPC’s audit capacity relative to the requirements of the Settlement Agreement entered in the matter of *Charles Collins, et al. v. City of Milwaukee, et al.*, 17-CV 00234 (JPS), in which the plaintiffs raised numerous constitutional challenges to the Milwaukee Police Department’s (“MPD”) policies and practices concerning, primarily, its stops, frisks, searches, detentions and reviews thereof.<sup>3</sup>

Included in the Settlement Agreement is an enhanced role for the FPC as a “lead conduit for data to the community” and for more robust oversight of the MPD’s policies and practices<sup>4</sup>. The following assessment provides a comprehensive overview of FPC’s scope of responsibility under the Settlement Agreement and statutory obligations, current auditing capacity, and several recommendations for next steps.

Based on the review of current staffing and systems, Modern Policing recommends the following, all of which are explained in more detail below. For purposes of the Executive Summary, these recommendations have been placed in order of importance; in the body text below they appear in logical order.

1. FPC should obtain and review MPD audit standards, update them for best practices, and mirror those standards internally at FPC.
2. FPC should hire four full-time auditors, supported by an audit supervisor, to directly conduct the auditing work required.

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<sup>1</sup> Throughout this report, FPC refers to the staff that completes the work of the FPC, not the commissioners.

<sup>2</sup> Modern Policing is premised on the belief that policing can be both effective and community-centered, transparent and respectful of privacy, and that the same rigor applied to fighting crime can be directed at the methods, integrity, and management of departments themselves. Strong systems of critical analysis are necessary to promote the legitimacy of police departments and ensure that policing is conducted in a fair, constitutional manner in keeping with the values of the communities they serve.

<sup>3</sup> Specifically, the plaintiffs alleged that:

Defendants’ policies, practices, and customs related to stops and frisks by the Milwaukee Police Department (“MPD”) violate the United States Constitution by: (1) authorizing MPD officers to stop people without individualized, objective, and articulable reasonable suspicion of criminal conduct, in violation of the Fourth Amendment to the U.S. Constitution; (2) authorizing MPD officers to frisk people without individualized, objective, and articulable reasonable suspicion that the person is armed and dangerous, in violation of the Fourth Amendment to the U.S. Constitution; and (3) sustaining stops and frisks of Black and Latino people that involve racial and ethnic profiling, or are otherwise motivated by race and ethnicity, rather than reasonable suspicion of criminal conduct, in violation of the Fourteenth Amendment to the U.S. Constitution and Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 U.S.C. § 2000d *et seq.*

<sup>4</sup> See The Crime and Justice Institute (“CJI”), First Annual Report, at 6.



3. FPC should hire a relatively sophisticated Video Analyst to review and interpret video evidence but should refer critical incident cases for expert forensic review.
4. FPC should consider creating a Legal & Policy unit to be the driving “internal think tank” for the organization.
5. FPC should fill all open Investigator positions.
6. FPC should comprehensively review MPD SOP 450, Personnel Investigations, to ensure it meets national best practices for administrative investigations and recommend/mandate changes to the policy.
7. FPC should coordinate with MPD to provide similar or even contemporaneous training to FPC auditors.
8. FPC should coordinate with MPD to provide similar or even contemporaneous training to FPC investigators.
9. FPC should utilize Tableau to present its required data in a system easily accessible to the public and design dashboards to tabulate the data based on common searches, such as race, district, time of day, etc., to ensure “maximum transparency.”
10. FPC should expand the current media relations contract or hire an internal Public Information Officer to manage the data transparency requirements, tell the FPC and MPD narrative, and coordinate with media about the activities of the Commission and the work of the Executive and Staff.
11. The FPC should pursue a comprehensive hiring strategy and expeditiously on-board the critical staff, either with the direct support of the City of Milwaukee or a private recruiting firm.
12. After additional staff are hired, FPC should plan and hold a facilitated all-staff day planning session to stress organizational goals and priorities, introduce common training topics, and build a sense of common purpose.

We look forward to continuing this conversation and supplementing any of these recommendations as need, and appreciate the opportunity to work with the Fire and Police Commission.

## II. FOUNDATIONAL INTERVIEWS AND MATERIALS REVIEWED

During site visits to Milwaukee on January 29<sup>th</sup> and 30<sup>th</sup>, 2020, Modern Policing conducted informational interviews across a broad range of stakeholders, identified and selected to ensure that all material perspectives of the parties as to FPC’s role and responsibilities under the Settlement Agreement were considered. Interviews included the following key personnel:

Griselda Aldrete, Executive Director, FPC  
 Kari Gibson, Risk Management Manager, FPC  
 David Gelling, Policy & Research Analyst, FPC  
 Mike Doherty, Risk Auditor, FPC  
 Diana Perez, Investigator/Auditor, FPC  
 Jack McNally, Legal Compliance Coordinator, FPC  
 Niko Triggs, Paralegal, FPC

Inspector Alex Ramirez, MPD  
 Sgt. Ruth Fishnick, MPD  
 Karyn Rotker, ACLU  
 Emma Shakeshaft, ACLU  
 Larry DuPuis, ACLU  
 Sgt. Sean Raclaw, MPD  
 Jan Smokowicz, City Attorney’s Office





These stakeholders were included to ensure that the differing perspectives of the parties on the scope of responsibility were represented. Overall, most stakeholders supported a robust engagement by the FPC in fulfilling and even exceeding its required activities.

In addition, Modern Policing reviewed the following documents:

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|---|--|
| Settlement Agreement in <i>Charles Collins, et al. v. City of Milwaukee, et al.</i> , 17-CV 00234 (JPS) | 12/16/2019   |
| Audit Follow-up Log, 2019   | Stop Data Audit and Key Points, 2019   |
| Audit Report, 2019  | Audit Schedule, 2019   |
| Audit Training, 2019  | <a href="#">FPC Citizen Complaint Intake Investigation Guidelines</a> , 2010                 |
| Comparison of Civilian Oversight Structures, 12/3/2019  | <a href="#">FPC website complaint page</a>   |
| Risk Management Memorandum, 2/13/2020   | <a href="#">MPD website complaint page</a>   |
| Job Description, FPC Risk Auditor   | <a href="#">MPD SOP 450 – Personnel Investigations</a> , 6/21/2019                           |
| Job Description, FPC Risk Manager   | <a href="#">MPD Roll Call training for MPD SOP 450 – Personnel Investigations</a> , May 2019 |
| Job Description, FPC Research & Policy Analyst  | <a href="#">Regalis Management, Proposal for Communication Services</a> , October 2019       |
| Job Description, FPC Investigator/Auditor   |  |
| Complaint Data Audit and Key Points,  |  |

### III. FPC SCOPE OF RESPONSIBILITY

FPC is a diverse organization responsible for policy review and development; recruiting, hiring, and promotions; emergency management and communications; civilian complaint investigations; community engagement; and auditing. The primary authorities for its scope of work comes from WISCONSIN STAT. § 62.50, Chapter 314 of the Milwaukee Code of Ordinances (MCO), and the terms of the Settlement Agreement.<sup>5</sup>

While Modern Policing’s focus in its present work was with specific respect to FPC’s audit function, there is inherent overlap with other bodies of work within the organization. Accordingly, some recommendations presented in this report are applicable to the organization, overall. Similarly, while the impetus for this engagement was the increase in duties and responsibilities established under the Settlement Agreement, a myopic view of these requirements does not serve the organization well. Recommendations are therefore made in the context of the overall scope of work for the FPC, with some directed at future potential audits and reviews the FPC may wish to consider in support of its mission. Finally, recent staff additions to the FPC have been focused at creating a Risk Management Unit, which although primarily responsible for audits, is not functionally designed around these tasks. As discussed below, the FPC being substantially tasked to provide external Enterprise Risk Management for the MPD, its efforts to audit, investigate, provide oversight, and offer policy guidance to ensure best practices should not be siloed in any one section.

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<sup>5</sup> Of note, there are assumptions in the Settlement Agreement concerning FPC’s access to resources and technology that are not explicitly specified in the enabling statutes. The parties should be mindful of reconciling this inconsistency.



#### IV. FPC PLANNING EFFORTS OVER LAST SIX MONTHS

The interviews and documents reviewed make clear that significant progress has occurred organizationally over the past six months. The Risk Management Unit has drafted multiple documents around audit planning for the new responsibilities of the FPC around stops and investigations. Comprehensive documentation of an audit plan, matrices, individual audit forms, and follow-up forms have been generated. Specific audit scoping for the stops and investigations audits has been documented. However, despite this progress, the organization still lacks the foundational policies around auditing processes.

A recently updated chart of the organizational structure clearly divides the bodies of work into discrete units, including Risk Management and Research, Organizational Operations, Emergency Management and Communications, Testing, Hiring, and Recruiting, Legal, Investigations, and Community Engagement. This effort to put some structure around the organization was well spent.

In October 2019, FPC entered into a six-month services contract with Regalis Management to provide media relations; media training; crisis management; stakeholder engagement, alliance building, influencer relations and marketing; copywriting; social media management; speechwriting; public policy; governance; and marketing services. As discussed below in the auditing and transparency sections, a comprehensive communications strategy is an integral part of enhancing FPC's real and perceived legitimacy. This initial contract was a prudent move and leads to several options moving forward.

In December 2019, FPC prepared a comprehensive analysis of Civilian Public Safety Oversight in Wisconsin and Across the United States to help frame the work of FPC. This work identified the three types of civilian oversight models characterized by the National Association for Civilian Oversight of Law Enforcement (NACOLE), including 1) Investigation-focused; 2) Review-focused; and 3) Auditor/Monitor-focused.<sup>6</sup> The report correctly noted that FPC has aspects of all three types of oversight, and adds recruiting, testing, and hiring. This work helped to frame the complexity of the scope of work for the organization.

In early 2019, the FPC led a comprehensive review of MPD SOP 450, Investigations, in collaboration with the ACLU. Significant changes to the policy included defining "citizen" to include all people, regardless of citizenship, updated intake procedures accepting all complaints, removing supervisor discretion as to whether to accept a complaint, updating access to complaint forms, including language translations and locations where available, and setting forth the requirements for how investigations and complainant interviews will be managed.

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<sup>6</sup> *Civilian Public Safety Oversight in Wisconsin and Across the United States*, Dave Gelting, Research & Policy Analyst, FPC, 2019 (citing *Civilian Oversight of Law Enforcement: A Review of the Strengths and Weaknesses of Various Models*, September 2016); see also *Civilian Oversight of Law Enforcement, A Review of the Strengths and Weaknesses of Various Models*, Joseph DeAngelis, Richard Rosenthal, Brian Buchner, NACOLE 2016



These efforts are a good start towards establishing organizational structure around the widely varied scope of operations for the FPC. This report follows-up on these efforts by focusing on the needs of the auditing functions, with some overlap into other FPC priorities.

## V. ENTERPRISE RISK MANAGEMENT<sup>7</sup>

As the FPC moves forward with developing a risk management model, it is important to first frame what risk management encompasses. In that respect, it is worth considering the model of Enterprise Risk Management (ERM) as a foundational framework for so doing.

ERM refers, broadly, to the methods and processes by which an organization assesses, controls, monitors, leverages, and mitigates operational risks, both internally and externally derived, across the spectrum of the organization's business. Rooted in the Basel II Accords, a set of resolutions inaugurated by the banking and financial sectors in 1974, ERM seeks to mitigate against the "risk of loss resulting from inadequate or failed internal processes, people, and systems, or from external events"<sup>8</sup> by establishing a formal risk framework that accounts for potential loss, whether financial, reputational, or regulatory.<sup>9</sup> Long accepted as best practice in the private sector, ERM is gaining increasing traction in the public sector as agencies look to introduce mechanisms to drive greater business efficiencies and operationalize risk control.<sup>10</sup>

An ERM framework for both the internal and external work of any organization covers four general and often interrelated areas: People (human error); Process (inadequate or failed processes and procedures); Systems (inadequate systems or breakdown of automated systems and tools); and Political (external events). The extent of an organization's risk is dependent on the organization's ability to limit its vulnerability to pressures that inevitably arise in each of these areas.

ERM is not dissimilar to the systemic approach for iterative review and monitoring of policies, training, and performance in specific topical areas that are prescribed under typical consent decrees – including the present Settlement Agreement in Milwaukee. Risks associated with the use of force, for example – an activity that without question touches all four risk "buckets" (*see* fn. 7) – are controlled by way of comprehensive processes for the classification, investigation, and review of incidents that in turn informs ongoing development and improvement of policy and

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<sup>7</sup> For more, *see* *ERM as a Model for Post-Consent Decree Risk Management, the Business Case for Establishing a Comprehensive Officer Wellness Program, and the Role of a Re-Envisioned EIS as a Core Component of Both*, Rebecca Boatright, PhD, JD, Executive Director of Legal Affairs, Seattle Police Department. Borrowed with permission.

<sup>8</sup> "[Basel II: Revised international capital framework](#)".

<sup>9</sup> Risks are often categorized (or "bucketed") as a hazard risk (tort liability, personal or property damage), financial risk (budget impact), operational risk (customer satisfaction, or reputational loss), and/or strategic risk (asset availability, social trending). These categories are not mutually exclusive and often overlap.

<sup>10</sup> See, e.g., Hills, J. and Catanese, S. *ERM and Local Government: King County, Washington*. In Fletcher, K. (ed.) *Public Sector Enterprise Risk Management*. Routledge (2019).



training. Financial, legal, and reputational risks that can be associated with officer performance with respect to stops and detentions, interactions with individuals in crisis, and equitable policing are likewise subject to processes for critical review and assessment, not only for purposes of ensuring transparency and accountability but for similarly informing improvements to policy and training. Expanding this process of and commitment to analysis, evaluation, and reform where appropriate across the scale of an organization's operations through the establishment of a formal ERM is a natural extension of consent decree principles.<sup>11</sup>

Many of the functions of FPC, both under the Settlement Agreement and its statutory obligations, fall into the category of external risk management. FPC's intended role includes (1) **establishing the context** for the risk by recommending and reviewing policies and by setting clear investigative processes for managing complaints; (2) **identifying the risks** of material threats through both investigations of individual complaints as well as systemic audits across high-risk areas of the organization; (3) **analyzing and quantifying risks** by scoring each risk;<sup>12</sup> (4) **evaluating** the contribution of each identified risk to the organization's overall risk profile and prioritizing for management appropriately; (5) **managing risks** by developing strategies to either mitigate/control or leverage/exploit risks; and (6) **monitoring and reviewing** the whole risk management strategy to ensure maximum effectiveness.

The FPC as an organization serves as external risk management for FPC for investigations, recruiting, hiring, stops & detentions, MPD auditing. It should further serve as a backstop for other critical risk areas, including use of force and pursuits. As discussed below, the current placement of risk management functions into a single unit, while well-intentioned, is misplaced. Risk management is an enterprise-wide responsibility and should functionally permeate all activities of the FPC.

## VI. AUDITING PROTOCOLS

The FPC has wide-ranging audit obligations, set forth in Table 1. Primarily, the FPC is required to audit all complaint investigations conducted by MPD or FPC; conduct reviews of *all* complaint investigations; audit traffic stops, field, interviews, no-action encounters, frisks and searches; audit video sources including body and dashboard cameras to validate traffic stops, field, interviews, no-action encounters, frisks and searches; and analyze these audits to identify problematic officer behavior.

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<sup>11</sup> See also Copple, C., and Copple, J. (2018) *Risk Management in Law Enforcement: Discussions on Identifying and Mitigating Risk for Officers, Departments, and the Public*. Washington DC: Office of Community Oriented Policing Services.

<sup>12</sup> This is calculated by multiplying the likelihood of the consequence occurring by an estimate of the consequence of the risk, from minor to catastrophic ( $R = L \times C$ ). AIRMIC, Alarm and IRM white paper. "A structured approach to Enterprise Risk Management (ERM) and the requirements of ISO3100." [https://www.theirm.org/media/886062/ISO3100\\_doc.pdf](https://www.theirm.org/media/886062/ISO3100_doc.pdf)





**Table 1 – Auditing Scope of Work**

| Description of Work  | Authority                      |
|--|--------------------------------|
| Audit data, dashboard camera footage, and body camera footage on traffic stops, field interviews, no-action encounters, frisks, and searches, every six (6) months   | SA at SA at ¶E(1)              |
| Conduct an audit every six (6) months of: (a) complaints submitted by members of the public to the MPD, and (b) complaints from members of the public to the FPC; Audit internal police and fire department investigations to ensure thorough, fair and credible results and timely and objective results. | SA at SA at ¶E(2); MCO 314-5.3 |
| Defendants shall ensure that the appropriate division within MPD audits data, dashboard camera footage, and body camera footage on traffic stops, field interviews, no-action encounters, frisks, and searches   | SA at ¶E(6)                    |
| Use audits to, <i>inter alia</i> , identify officers who need additional training on traffic stop, field interview, no-action encounter, frisk, and search policies and/or discipline for the conduct of unreasonable, unreported, or insufficiently documented encounters.                                | SA at ¶E(4)                    |
| Ensure that data and findings from the FPC audits described in paragraphs IV.E.1. and IV.E.2 shall be incorporated into the MPD’s AIM System, which is a database software program used to identify MPD member performance for the purpose of evaluation.  | SA at ¶E(4)                    |
| Review every internally generated complaint about MPD conduct  | SA at ¶5(b)                    |

While these obligations may seem, on their face, simple and straightforward, the complexity of the processes necessary to ensure the integrity of the final determination should not be understated. In order to complete these audits, FPC must review all complaints submitted to MPD, as well as a robust sample of FPC complaint investigations. FPC will need to sample traffic stops, field, interviews, no-action encounters, frisks and searches, to ensure a statistically valid number of cases for a comprehensive audit. FPC should consider oversampling in problematic areas to ensure they are identifying officers who are not consistently following relevant policy; while a statistically valid sample size can ensure, within a level of certainty, that the sample is representative of the whole, it does not lend itself to identifying, individually, officers who may be exhibiting problematic behavior. FPC will need to review video sources at a sophisticated level, and will need to ensure it has adequate expertise to make legal and policy determinations about traffic stops, field, interviews, no-action encounters, frisks and searches. Should FPC expands its scope to use of force and/or crisis intervention, which



would be prudent, it will need to ensure sufficient expertise in those areas as well.

Determining an auditor staffing level necessarily to comprehensively perform these tasks is rendered difficult by the fact that there is little agreement about the extent of these activities in a given year. The data quality is inherently suspect; by way of glaring example, while the CJI report indicated 35,085 CAD events including 2,490 Field Interviews and 34,389 Contact Summaries in TraCS,<sup>13</sup> a pre-Settlement Agreement examination reported approximately 190,000 traffic stops in 2015.<sup>14</sup> Assuming 150,000 events need to be audited, and assuming a 95% confidence level<sup>15</sup>, a sample of 1060 events would need to be audited, including video review of body camera and dashboard camera information.

In addition, both MPD and FPC each report approximately 200 complaints (an approximate total of 400; it is unknown whether there was overlap or whether MPD and FPC deconflicted complaint potentially made to both) against the Milwaukee Police Department annually. Complaints against members of the Fire Department are empirically rare – only 14 in 2018.<sup>16</sup> However, as every internally generated complaint against MPD must be investigated and because the population size is so small, a relatively large number of complaints will need to be audited. Assuming a population of 400, to reach a 95% confidence interval, 291 of the cases must be reviewed. It may be that a better auditing plan is to examine the entire population.

Auditing procedures should include both quantitative and qualitative approaches. A *quantitative* audit, also fairly characterized as a “procedural’ review, examines – within an objective count of data occurrences – work performed against the policies governing the work to determine substantial compliance. *Qualitative* audits apply a more subjective lens to information to determine whether, based on a review of all facts presented, the officer’s performance was consistent with the standards set by policy and law. Whereas quantitative audits can typically be completed by any person trained in audit protocols, qualitative audits, especially in law enforcement and public safety contexts, require a level of expertise in analyzing legal standards that are “not capable of precise definition or mechanical application.”<sup>17</sup>

By way of example, MPD SOP 085 defines “reasonable suspicion” as:

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<sup>13</sup> CJI at 45.

<sup>14</sup> Abrams, D. (February 20, 2018). “Report of David Abrams, Ph.D.” Charles Collins, et al. v. City of Milwaukee, et al., (17-CV-00234-JPS) United States District Court Eastern Division of Wisconsin Milwaukee Division, at 7. <https://www.aclu.org/legal-document/expert-report-david-abrams-phd>.

<sup>15</sup> See SA at pg. 49, discussing p-values and confidence interval expectations.

<sup>16</sup> <https://data.milwaukee.gov/dataset/fpc-citizen-complaints>

<sup>17</sup> *Graham v. Connor*, 490 U.S. 386, 109 S. Ct. 1865, 1871 (1989)



Objective, individualized, and articulable facts that, within the totality of the circumstances, lead a police member to reasonably believe that criminal activity has been, is being, or is about to be committed by a specific person or people. This standard is also known as articulable suspicion.

MPD SOP 085.

This one definition subsumes separate, distinct inquiries – each of which must be addressed in structuring a qualitative review. What does “objective” mean, in the context of this policy? What does “individualized” mean? Is the standard set by policy “articulable” or “articulated”? *I.e.*, where an officer fails to articulate clearly articulable circumstances present, would that omission, in and of itself, render the inconsistent with policy? Does the policy extend to all criminal activity – or just categories above a certain level? In evaluating a use of force, what does “objective reasonableness” really mean?

Much of this inquiry, applicable across areas of review, is guided not only by a Constitutional analysis, but also by nuances individual to different states. Engaging in a qualitative review thus inherently requires a different skill set than quantitative auditing; it is an art as well as a science. Clear policy helps distill these concepts for auditors, but anyone lacking the substantive knowledge about policing will be a distinct disadvantage in terms of accuracy, consistency, and reliability. Additionally, qualitative audits may always be challenged on an *ad-hominem* basis, especially when recommendations disagree with those of the reviewed agency. Personnel tasked to conduct these audits is critically important; it is noteworthy that other than the current Executive Director and recently-hired Legal Compliance Coordinator, both of whom are attorneys with backgrounds in public safety, we did not identify other staff with the public safety backgrounds to effectively apply appropriate legal standards to consideration of police practices.

*Primary* audits are original audits intended to better understand a set of occurrences. For example, the obligation for FPC to audit “data, dashboard camera footage, and body camera footage on traffic stops, field interviews, no-action encounters, frisks, and searches” is a primary audit – a video specialist and auditors will examine the videos, based on a sampling of the total number of videos, and draw direct conclusions. *Secondary* audits are essentially quality control audits, or audits of audits. For example, “defendants” obligation to ensure that “the appropriate division within MPD audits data, dashboard camera footage, and body camera footage on traffic stops, field interviews, no-action encounters, frisks, and searches” would be a secondary audit. In other words, MPD conducts the primary audit; the City conducts the secondary. Quantitative and qualitative audits should occur across both primary and secondary reviews.

Finally, dual auditing is a best practice to eliminate bias and ensure consistent results. Using this process, two auditors would review every case in a sample. If the auditors disagreed, then the supervisor would provide the “tie breaking vote” after review. The cases should be randomly distributed among the group of four auditors and supported by the video specialist.



## VII. MPD AUDITING CAPACITY

Although Modern Policing did not review the current capacity of MPD, CJI reports that “[a]s it relates to auditing in police departments, MPD is ahead of the curve.” CJI at 63. Specifically, MPD has “established the foundation for conducting thorough audits.” *Id.* Relying on Generally Accepted Government Auditing Standards (GAGAS), MPD has “invested a great deal of thought into the workflow and tracking of stops and encounters.” *Id.* Interviews with the sergeants responsible for MPD internal audits indicated that the auditors were trained and following a rigorous double audit standards. Modern Policing was not provided a copy of the MPD’s internal auditing standards or its multi-year audit plan; however, assuming such documents exist, FPC should request, and examine, them against best practices.

The Settlement Agreement requires MPD to audit many of the same substantive areas as FPC, including dashboard and body-worn camera footage on stops, field interviews, no-action encounters, frisks, and searches. To be meaningful, FPC and MPD should each employ the same high-quality, rigorous auditing standards. FPC has begun the work of creating audit plans and matrices, but lacks an overall policy and protocol for how its audits should be conducted. Considering FPC’s auditing and oversight functions, FPC should consider beginning its work with a review of MPD’s audit policies.

***Recommendation One: FPC should obtain and review MPD audit standards, update them for best practices, and mirror those standards internally<sup>18</sup> at FPC.*** This will ensure alignment of processes and in those areas where FPC conducts secondary audits of MPD internal audits, promote efficiency of review.

## VIII. CURRENT FPC AUDITING STRUCTURE

FPC’s auditing function is centralized in the Risk Management Unit, which comprises a Risk Manager, a Risk Auditor, and a Research & Policy Analyst. There are also Investigator/Auditor positions, which seem primarily intended to be part of the Investigations Unit.

In its current form, the Risk Manager position reports to the Executive Director and has an extensive span of responsibilities. The Risk Manager “develops an external risk management plan for the Fire and Police Departments that will be incorporated into the city-wide risk management plan,” and “detects, analyzes, and deters risk.”<sup>19</sup> These processes require collaboration with the City Attorney’s

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<sup>18</sup> Throughout this report, there are recommendations that FPC and MPD collaborate on policies, protocols, and even training. Recognizing that there are legitimate concerns that collaboration will impact FPC’s independence, both real and perceived, this report also addresses those tensions. First, we are not recommending that MPD train FPC investigators. Instead, FPC should investigate and validate policies and protocols, and using its authority to set policies, modify MPD policies to meet FPC values and standards. Similarly, FPC should either contract or develop auditor and investigator curriculums with MPD to ensure that both departments are functioning similarly. Consistency of quality, sophistication, and customer experience across departments is critically important, and can be accomplished without compromising FPC independence.

<sup>19</sup> City of Milwaukee Job Description, FPC Risk Manager



Office; review of claims, lawsuits, and EEO investigations; analysis of disciplinary actions; statistical reports based on Fire and Police Department data systems; identification of “unusual trends and risk indicators”; reviews of standard operating procedures; and legal trends in “Wisconsin and other states.” *Id.* The individual filling this position is expected to have a significant background in auditing in the private sector and “knowledge of risk management and assessment, internal controls, corporate compliance and governance.” Additionally, this position is responsible for drafting policies, procedures, and control assessments; evaluating risk control measures; and providing training on risk management. *Id.* All of these areas have numerous sub-responsibilities, many of which require data aggregation and analysis. Notably, none of these responsibilities point specifically to a direct auditing function, despite the requirement for a background in auditing. In fact, the only time the term “audit” appears in the Job Description is with respect to the Early Intervention Program, which this position is responsible to “audit and monitor/manage.” *Id.*

The Risk Auditor all of the same areas of responsibility as the Risk Manager, but in an “assisting role.”<sup>20</sup> The Risk Auditor reports to the Risk Manager, although the Job Description identifies the position as a direct report to the Executive Director. Like the Risk Manager, the individual filling this position is expected to have a significant background in auditing in the private sector and “knowledge of risk management and assessment, internal controls, corporate compliance and governance.” And like the Manager position, its functionality, appears to be more administrative than auditor; again, the term “audit” only appears in reference to the Early Intervention Program.

The Research & Policy Analyst, a Master’s level position, reports to the Risk Manager, and is responsible for “extensive and in-depth research and analysis of various public safety issues,” and “review and analy[sis] of rules, regulations, policies, and procedures of the Milwaukee Fire and Police Departments.”<sup>21</sup> Additionally, the position “prepare[s] analyses, summaries, and reports” “in response to critical events” and for “periodic reports.” *Id.* For reasons that were unclear to this reviewer, this high level position is also responsible for maintaining the FPC website. This position was originally designed to report to the Executive Director. *Id.* On its face, this position is intended to be a primary source of information, research, and best practices for the organization; as structured, however, the position is limited within the risk management unit and is not available to the rest of the organization. It is thus unclear how areas of the organization responsible for other aspects of operation, such as recruiting and hiring, research and develop best practices.

The Investigator/Auditor position “investigates complaints of misconduct by obtaining and reviewing documents, interviewing witnesses, collecting, evaluating, and analyzing information from various sources, preparing investigative reports, and making recommendations to the Executive Director.”<sup>22</sup> This position also “assists complaints in filing a complaint” and “works in the field with complainants and witnesses.” Finally, the Investigator/Auditor “audits investigations conducted by the Police and

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<sup>20</sup> City of Milwaukee Job Description, FPC Risk Auditor

<sup>21</sup> City of Milwaukee Job Description, FPC Research & Policy Analyst

<sup>22</sup> City of Milwaukee Job Description, FPC Investigator/Auditor





Fire Departments, recommends additional investigation to be conducted, recommends dispositions.” This position requires knowledge of: “law enforcement methods, procedures, and policies and the laws governing and prescribing the powers and authorities or a law enforcement officer; methods and techniques of civil and criminal investigations; and possess awareness of the cultural diversity of the public safety departments and community.” Moreover, the position requires “basic statistical skills using computer technology and software,” but does not require any knowledge about auditing processes. Although this position does have auditing responsibilities for MPD and MFD investigations, it does not require any auditing related knowledge. It appears that this position is primarily an investigator position, with auditing added as an afterthought. Importantly, these positions are currently not associated with the Risk Management Unit.

These existing positions are critical roles for the FPC but should not be mistaken as an “auditing unit.” The Risk Manager and Research & Policy Analyst positions are more appropriate for high level policy and leadership roles in the organization, rather than focused auditing positions. The one Risk Auditor position, even if redirected specifically to an audit function, is insufficient to meet the numerous auditing requirements of the FPC.

Finally, the current structure is disadvantageous to the current leadership, as it places sole responsibility for reviewing all work on the Executive Director. All units including the Risk Management Unit, report to the Executive Director, with no buffer between them to examine the audits/investigations/reports/task completion that has been accomplished. The result of this direct workflow is that information that is provided to the Executive Director has not necessarily been critically reviewed outside of the individual work unit. Very few civilian oversight entities have as diverse a scope of responsibility as FPC – auditing; investigations; emergency management; testing, hiring, and recruiting, and investigations; as well as policy review and validation. As such, civilian oversight organizations often have a Deputy Director to create that buffer between staff work and executive review as well as legal and policy support. As discussed below, FPC needs to reconsider its reporting structure to ensure that audits (and other work processes) have consistent and thorough evaluation before the work product lands on the Executive Director’s desk.

## **IX. RECOMMENDED FPC AUDITING STRUCTURE**

***Recommendation Two: FPC should add four full-time auditors, supported by an audit supervisor, to directly conduct the auditing work required.*** These hires should have a strong background in auditing and, ideally, some background in public safety. At this level, utilizing dual auditing, each auditor would be responsible for an annual caseload of approximately 500 cases. This is a high, but not unmanageable caseload, and trained auditors working at this level should be able to provide thorough reviews of the cases. As part of this hiring process, the job description for Investigator should be separated from Auditor, with the relevant skills and assignments properly distributed between them.

***Recommendation Three: FPC should hire a relatively sophisticated Video Analyst to review and interpret video evidence but should refer critical incident cases for expert forensic review.***



Auditing dashboard camera and body camera footage poses unique challenges. In most cases, a lay opinion of what video shows will suffice, particularly when the consequences of accuracy are relatively low. Digital video, however, can be more complex. Rather than comprising a series of frames, as like an old film strips, it is a series of pictures (Group of Pictures, or GOP) that are compressed and divided into *I-frames* and *P-frames*. The I-frame is independent and is most similar to a regular picture. The P-frame interprets differences between the I-frame and only captures *presumed* changes<sup>23</sup>. Compression issues, timing issues, predictive issues, capture issues, and other factors require forensic analysis to properly interpret. FPC should identify forensic video experts in the market to provide expert analysis for critical cases.

***Recommendation Four: FPC should consider creating a Legal & Policy unit to be the driving “internal think tank” for the organization.*** As discussed above, some organizations with a smaller scope accomplish executive review by employing a Deputy Director to work with unit managers to drive consistency and values. While such an approach could work at FPC, a better approach might be to bring together the legal and analyst positions and have them serve the whole of the organization. This would help break down silos in the organization. This unit should serve all aspects of the FPC – audits, investigations, recruiting & hiring<sup>24</sup> – to ensure that proper legal standards and best practices are applied consistently throughout the organization. This unit should include three to four staff positions to serve as experts for the FPC and should be staffed with people with sufficient subject matter expertise/backgrounds in public safety. This unit is distinct from auditing, which is a more specialized process-based function. Instead, this unit should be cross-disciplinary and provide high-level critical thinking for the organization to support the goals and vision of the Executive Director. The current positions of Risk Manager (with its wide-ranging responsibility for analyzing risk, developing policy, and ERM for the Fire and Police Departments) and Policy Analyst (with its responsibilities for internal and external policy review and development) could be moved into this core team, as they are higher-level positions. This unit should report directly to the Executive Director.

## X. ACCESS TO MPD SYSTEMS

The audit requirements in the SA presuppose that FPC is provided adequate access to MPD systems, including, but not limited to, “digitized data on all traffic stops, field interviews, no-action encounters, frisks, and searches” and explicit identification of primary data keys, service manuals, and relevant data dictionaries. Modern Policing was able to review staff names with access to RMS, TraCS, and CAD, but notes that access logs are in clear needs to be updated.

Specific access and data requirements include as follows:

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<sup>23</sup> A simple explanation can be found at <https://medium.com/@nonuruzun/i-p-b-frames-b6782bcd1460>.

<sup>24</sup> While beyond the scope of this report, there is significant work being done in the area of recruiting and hiring to address the changing needs of police departments and the current national officer shortages. FPC should devote time and energy to ensure its hiring practices meet national best practices. *See, e.g., [The Workforce Crisis, and What Police Agencies Are Doing About It, Police Executive Research Forum, September 2019.](#)*



**Table 2 – Data Access Requirements**

| <b>Data Access Requirement</b>   | <b>Authority</b> |
|--|------------------|
| The FPC shall receive data that “MPD provides, on a quarterly basis: the electronic, digitized data on all traffic stops, field interviews, no- action encounters, frisks, and searches described in paragraph IV.A.3, with the exception of any personally identifiable information...”   | SA at ¶10        |
| The FPC shall receive from MPD, “manuals for police officer and supervisor use of TraCS, RMS, and CAD including examples aimed at clarifying the procedure for inputting into each system all of the information identified in paragraph IV.A.3 about traffic stops, field interviews, no-action encounters, frisks, and searches recorded in the system.” | SA at ¶11        |
| The FPC shall receive from MPD, “the codebooks and data dictionaries for users of TraCS, RMS, and CAD that clearly define every variable captured in records of traffic stops, field interviews, no-action encounters, frisks, and searches, as well as all values that each variable can be assigned.”  | SA at ¶12        |
| The FPC shall “[r]eceive from MPD a twice per year community policing status report.   | SA at ¶6         |

FPC direct access to MPD systems should be reviewed to ensure that FPC has the necessary level of visibility into MPD. If direct access is not provided, reoccurring transmissions of data should be formalized. Additionally, CJI has written extensively about the poor state of data collection and data quality as a barrier to successfully auditing under the Settlement Agreement<sup>25</sup>. We do not duplicate that analysis here, but certainly either data visibility or data transmission requires comprehensive and quality data.

The Settlement Agreement also guarantees adequate funding to FPC to complete the tasks it sets out, including hiring experts or consultants to conduct the audits. The City should ensure that adequate IT services are provided to connect FPC systematically to the information required under the Settlement Agreement and upgrade FPC’s database systems as needed.

Additionally, as additional critical staff are on-boarded, MPD should ensure that necessary backgrounding and CJIS training resources are directed to FPC staff to bring them on-line with the necessary systems as quickly as possible.

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<sup>25</sup> CJI report at 41 *et seq.*

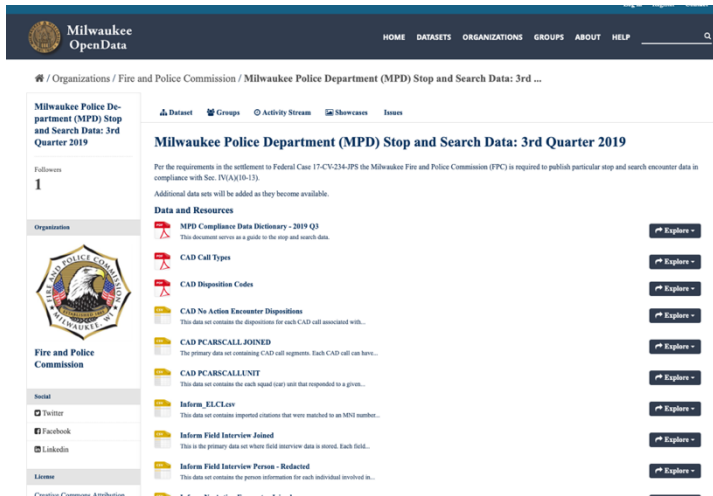


## XI. TRANSPARENCY

In addition to ensuring proper process and constitutional policing, the audits are intended to promote public trust through transparency through on-line data presentation (SA at 38). Specifically,

FPC shall publish on its website, on a quarterly basis, data on civilian complaints received, under investigation, or resolved during the previous quarter, including the number of complaints from members of the public broken down by number relating to traffic stops, field interviews, no-action encounters, frisks, and searches without legal justification and traffic stops, field interviews, no-action encounters, frisks, and searches based on race or ethnicity and whether the complaints remain open or have been closed.

FPC has technically complied to the extent feasible at this point, given that MPD's data collection does not include the requisite fields to digest and present information as required under the Settlement Agreement.<sup>26</sup> Currently, there are three datasets available on the Milwaukee Open Data Portal – Stop and Search Data sets for first and second quarter 2019, third quarter 2019, and Civilian Complaints against Police and Fire Departments 2019. However, the presentation is technical (as is the case with



most open data portals) and allows for downloads in CSV or .pdf standards. While this information is useful to researchers should they chose to analyze the data set, it is cumbersome and unfriendly for public consumption.

MPD and MFD both contribute similar data sets for deployments and crime statistics on the Milwaukee Open Data Portal. However, MPD utilizes Tableau to better present usable data

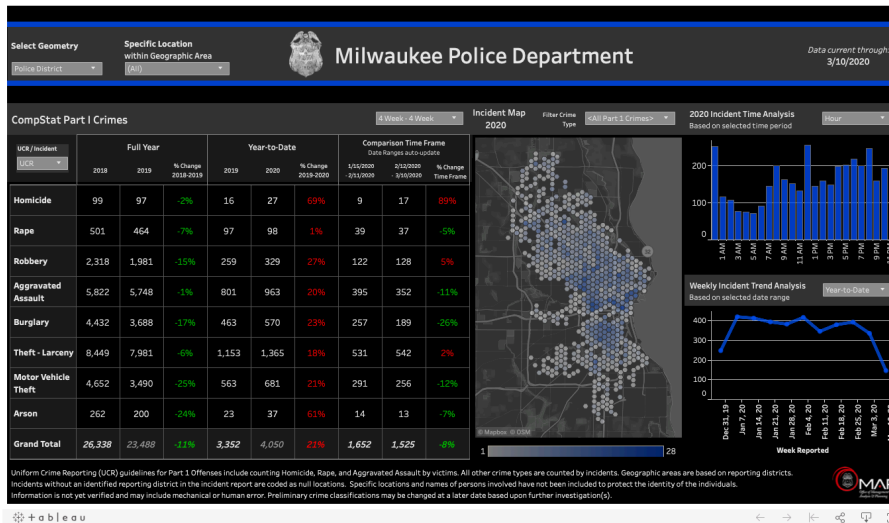
<sup>26</sup> As noted in the CJI report, “FPC has been able to make some headway as it relates to publishing required data. They have successfully published complaint data on the website in the required categorizations; however, it does not currently report aggregate data.” CJI at 66.



visualizations for public use:

Milwaukee Police Department • Crime Maps & Statistics

Crime Maps & Statistics



**Recommendation Five:** FPC should likewise utilize Tableau to present its required data in a system easily accessible to the public and design dashboards to tabulate the data based on common searches, such as race, district, time of day, etc. Additionally, FPC should work with MPD to obtain additional data, such as use of force, to present publicly. *The limits of FPC should not be set by what they have to do, but by what they should do.* Contemporary police departments should thrive on transparency and offer as much data as possible without compromising legitimate law enforcement information.<sup>27</sup> During interviews, MPD leadership consistently stated that the department was committed to “maximum transparency.” FPC should lead this effort to ensure transparency; at minimum, FPC should ensure that the data it is required to present are set forth in an effective, user friendly manner.

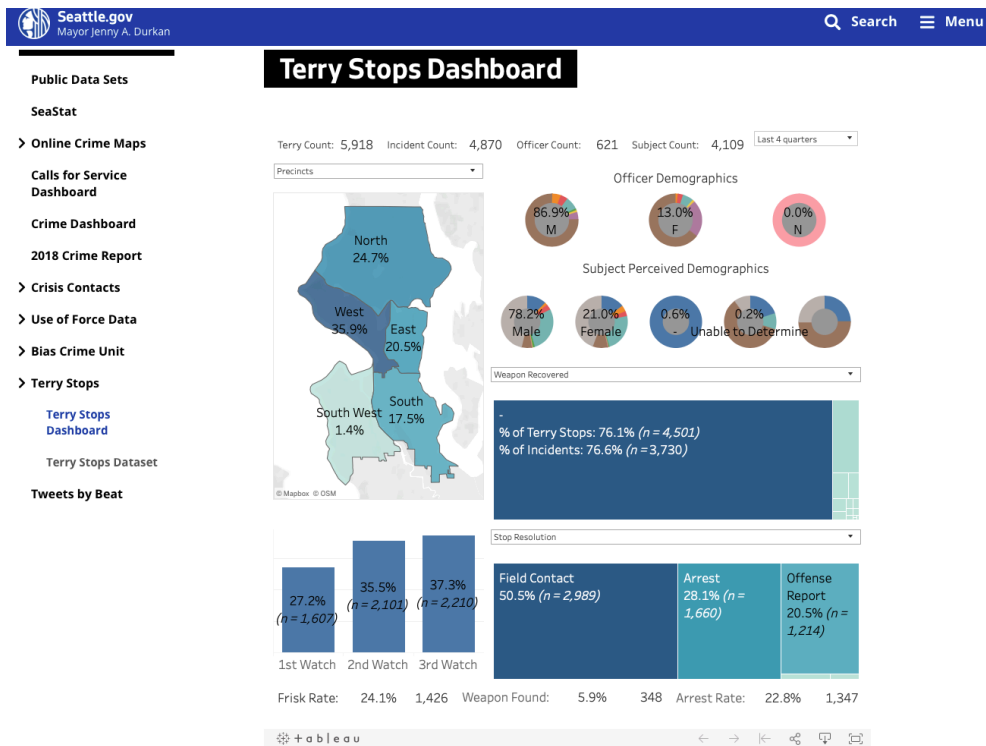
For example, Seattle Police offers a comprehensive data set of crisis contacts, use of force data, bias crime information, crime statistics, and Terry stop data in both raw format and Tableau visualizations<sup>28</sup>. The Terry stop dashboard allows public users to sort by precinct, watch, officer demographics, subject demographics, and result of the stop, whether arrest, field contact, or simple report.

<sup>27</sup> See e.g., <https://nopdnews.com/transparency/policing-data/>

<sup>28</sup> <https://www.seattle.gov/police/information-and-data/terry-stops/terry-stops-dashboard>







However, providing comprehensive public information about complaint investigations, stops and data, and maintaining the website is not a part time position. Currently, the Policy Analyst and Risk Auditor positions have secondary expectations that they will maintain the website. This work is substantive, and not technical, as it requires telling the organization’s story – what FPC is doing and why. As FPC’s scope increases, the need to present information publicly increases as well. There is also a need for coordination of all internal and external messaging: to the media, to the public, and to employees.

FPC’s engagement with Regalis Management to provide media relation services is a good first step. Clearly, FPC recognized that it needed support navigating the increasing complex world of public safety media engagement, especially as it increased its scope of responsibility greatly under the Settlement Agreement. Modern Policing did not review the quality of the work under the contract with Regalis, nor did we explore FPC’s level of satisfaction with the performance with Regalis.

Moving forward, FPC should expand its comprehensive approach to media relations to ensure that information and data is presented in an accessible and useful manner and that all of the wide-ranging scope of FPC work is presented consistently to all stakeholders. While the FPC’s work is inherently important, there is high value to showing the work publicly to increase legitimacy.

***Recommendation Six: FPC should either expand the range of media engagements services under contract or other hire an internal Public Information Officer to manage the data transparency requirements, tell the FPC and MPD narrative, and coordinate with media about the activities of the Commission and the work of the Executive and Staff.***



## XII. FPC COMPLAINT INVESTIGATIONS

Currently, FPC employs one investigator, who fills the roles of both investigations lead and investigator. This investigator is responsible for, overall, a caseload of 187 cases annually, with 14 cases estimated to be active at the time of interview. The time to complete a case varies, depending on the allegations, the number of witnesses, and the overall complexity of the case. Cases are internally designated for “formal” or “informal” investigation, based apparently on the complexity of the case, as these are not defined terms in FPC’s Intake Investigation Guidelines. The open case list provided shows seven open cases with allegations ranging from uses of force, unlawful search, racial comments, motor vehicle accidents, pursuit, and dereliction of duty. Five were formal investigations; two informal. The one investigator works more than full time and reports that the current caseload is not sustainable.

Based on the interviews and the complexity of public safety investigations, FPC needs additional investigations resources.

***Recommendation Seven: FPC should fill all open Investigator positions.*** Based on the current caseload, the existing positions comprising two investigators and one supervisor appears adequate, as long as the investigators are properly trained in police practices, investigation techniques, and supported by the video specialist and external video expert review as needed. It may be that an additional investigator position is warranted based on the overhaul of FPC’s internal investigations process. *See Recommendation Eight.*

There are also specific investigatory requirements in the Settlement Agreement for MPD investigations that are not also required of FPC. For example, SA at ¶D(1)(h) requires that

MPD shall: (1) develop a protocol specifying an appropriate time frame for investigations of complaints by members of the public to be completed, and hold investigators and supervisors accountable for that time frame; (2) require supervisory review and approval for investigations open beyond ninety (90)days and every thirty (30)days thereafter; (3) develop specific guidelines and a checklist of requirements, including requirements for case file contents and the components of the investigative process.

There is no reciprocal obligation for the FPC to develop protocols for timelines or other internal systems of accountability. There are reasons why complainants may bring concerns to FPC as opposed to MPD, and the perceived and actual independence of FPC is important. That said, inconsistency is not helpful. No matter which path a community member selects to file their complaint, the expectations should be the same. The timelines, courtesy, responsiveness, analysis, and level of competency should be consistent across departments.

***Recommendation Eight: FPC should holistically review SOP 450, Personnel Investigations, to ensure it meets national best practices for administrative investigations and recommend/mandate changes to the policy.*** FPC conducted an update of SOP 450 in



collaboration with MPD in 2019, focusing on the requirements of the Settlement Agreement. FPC should re-review the policy to ensure it meets national best practices beyond the Settlement Agreement, again in collaboration with MPD. Once final agreement is reached on the policy, FPC should adopt a mirror policy that ensures inter-departmental consistency and a common experience for all complainants. [FPC Citizen Complaint Intake Investigation Guidelines](#), 2010, should be repealed. This consistency will streamline FPC's obligation to audit both MPD and FPC investigations. Again, the recommendation is not that FPC abdicate their oversight role and adopt MPD policy; instead, FPC should utilize its oversight function to ensure that FPC and MPD policies are based on best practices, consistent, and provide equal competencies and customer experiences.

### **XIII. COMPREHENSIVE HIRING PLAN**

This report recommends hiring four Auditors, an Auditor Supervisor, a Video Specialist, filling three investigator positions, and hiring a Public Information Officer. Additionally, several other positions are in flux and may require filling by the time of this report. As such, there is a significant number of FTEs that need to be on-boarded simultaneously. Public hiring processes are typically inflexible, siloed, and do not account for the holistic needs of the organization. Here, there is a significant opportunity to bring on a team, rather than just filling positions. This will require City support, a coordinated hiring campaign, and extensive recruiting efforts. Candidates should be considered based on skills, as well as how their individual skills complement, expand, and diversify the team. As discussed throughout this report, there are technical skills as well as substantive knowledge for each position that could benefit the organization. As such, job descriptions for existing positions should be reconsidered, and the new positions should be carefully crafted.

If the City of Milwaukee hiring processes are flexible enough to engage with the FPC on a holistic approach to hiring a new team, such efforts should commence immediately. If not, the City should support FPC's engagement with a recruiting firm to drive the hiring processes.

***Recommendation Nine: The FPC should pursue a comprehensive hiring strategy and expeditiously on-board the critical staff, either with the direct support of the City of Milwaukee or a private recruiting firm.***

### **XIV. TRAINING/STAFF DEVELOPMENT**

A frequent concern heard from FPC staff members was the perceived lack of training opportunities. Both the auditing and investigatory staff need a foundational understanding of police practices to enhance their legitimacy. This can be achieved through training in public-safety specific trainings on auditing and investigations, but should also be supported by general legal overviews on emerging standards. In general, auditors and investigators should apply MPD policy (and FPC should ensure those policies reflect best practices), but the policies exist in the overall developing legal context around public safety actions. As FPC develops a comprehensive training program, it should work collaboratively with MPD as there is significant work overlap between the two organizations. While FPC must vigorously protect its independence and perceived legitimacy, there are many efficiencies that can be gained from cooperative training.



As outlined above, auditing according to GAAPS standards requires training as to process and adherence to protocol. The audit unit must not only be trained in auditing standards, but also have exposure to the training of FPC investigators (at minimum, training materials) in order to understand the internal processes. As MPD appears to have trained its auditors to high standards, there is value in cross-training with MPD auditors.

***Recommendation Ten: FPC should coordinate with MPD to provide similar or even contemporaneous training to FPC auditors.*** Good public safety investigator courses are held nationally<sup>29</sup>. A cost-effective alternative could be bringing an instructor to Milwaukee to train both FPC and MPD staff.

The Settlement Agreement further includes training requirements that apply to MPD, but not to FPC. For example, SA ¶D(2) requires that MPD internal affairs investigators:

[S]hall receive special training conducted within one year from the execution of this Agreement in the investigation of complaints by members of the public, including training on the amendments to SOP 450 required by this Agreement. The training shall be conducted by a supervisor of Internal Affairs with expertise in complaint investigation and shall be consistent with those provisions of this Agreement that relate to this subject.

Again, the independence of FPC is critically important, but providing adequate training on a variety of subjects will ensure that FPC investigators have the same foundation as MPD investigators. Such training will help bridge any gaps in experience or background of FPC investigators. Consistency of training for both FPC and MPD auditors will help ensure consistent reviews.

***Recommendation Eleven: FPC should coordinate with MPD to provide similar or even contemporaneous training to FPC investigators.*** There are many good internal affairs investigator courses nationally, some of which are relatively inexpensive<sup>30</sup>. Bringing an instructor to Milwaukee to train both FPC and MPD staff would again be a cost-effective alternative. And, as previously highlighted, FPC should review all trainings for FPC and MPD comprehensively to ensure that the values, methodologies, and thoroughness meets FPC expectations. Collaboration does not imply that FPC compromises its oversight function.

As there are so many unfilled positions at FPC and the requirements of the organization have increased substantially under the Settlement Agreement, there is a need to have effective change management as new staff are brought on and existing staff adjust to the changing organization. The

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<sup>29</sup> [LAPD Basic Law Enforcement Auditors Course](#) (three day); [Certified Law Enforcement Auditor](#), International Law Enforcement Auditors Association (ILEAA).

<sup>30</sup> See e.g., <https://www.fletc.gov/training-program/internal-affairs-investigations-training-program>; [http://www.patc.com/courses/internal\\_affairs\\_5day.shtml](http://www.patc.com/courses/internal_affairs_5day.shtml); <https://daiglelawgroup.com/internal-affairs-training/>



clear policies in the different substantive areas and the regular internal communication facilitated by the Public Information Officer or contract media relations will help, but it would be prudent to bring all staff together in an annual planning session to discuss priorities, issues, and future goals. This planning session should include some of the common substantive training and should be facilitated to ensure the day is productive. Building a sense of common purpose will be very important moving forward for organizational change management.

***Recommendation Twelve: After additional staff are brought on board, FPC should plan and hold a facilitated all-staff day planning session to stress organizational goals and priorities, introduce common training topics, and build a sense of common purpose.***

## **XV. CONCLUSION**

The recommendations this report are designed to enhance the capacity and efficiency of the auditing function of FPC, as well as to support other efforts required by the Settlement Agreement, based on available information. As progress continues, it may be that new information or updated preferences modify the specifics of these recommendations. Modern Policing is available to provide explanation and support as required.

