

City of Cincinnati Independent Monitor's First Quarterly Report

April 1, 2003

Quarterly Report regarding compliance with and implementation of the Memorandum of Agreement between the United States Department of Justice and the City of Cincinnati and The Cincinnati Police Department and the Collaborative Agreement between the Plaintiffs, the Fraternal Order of Police and the City of Cincinnati

Saul A. Green,
Monitor

Richard B. Jerome,
Deputy Monitor

www.cincinnati-monitor.org

INDEPENDENT MONITOR TEAM

Saul Green
Independent Monitor

Richard Jerome
Deputy Monitor

Joseph Brann

Rana Sampson

Nancy McPherson

Tim Boyle

Wayne Eveland

John Williams

Kristina Maritzak

David McDonald

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	1
Chapter 1. Introduction.....	8
Chapter 2. Monitor’s Approach.....	11
A. Selection of Monitor.....	11
B. Role of Monitor.....	11
C. Who We Are.....	11
D. Methodology.....	12
E. Monitor’s First Report.....	12
Chapter 3. General Findings.....	13
A. Cincinnati and the Police Department Need to Embrace the Reforms in the Agreements.....	13
B. CPOP Involves a Change in Orientation for the Community and the Police; A Shared Vision is Necessary.....	13
C. Changes in Policy Need to be Incorporated into Training.....	14
D. CPD Needs to Upgrade its Problem Analysis Capabilities, and Enhance its IT Expertise and Planning.....	14
Chapter 4. The Memorandum of Agreement.....	16
I. General Policies.....	16
A. Mental Health Response Team.....	16
B. Foot pursuits.....	18
II. Use of Force.....	20
A. General Policies.....	21
B. Chemical Spray.....	23
C. Canines.....	26
D. Beanbag Shotguns.....	30
III. Incident Documentation, Investigation.....	31
A. Documentation.....	32
B. Investigation.....	34
C. Review of Critical Firearms.....	37

TABLE OF CONTENTS
(continued)

	Page
IV. Citizen Complaint Process.....	38
A. Openness of Complaint Process.....	38
B. Investigation of Complaints	39
C. Adjudication of Complaints	41
D. Creation of CCA.....	42
V. Management and Supervision.....	44
A. Risk Management.....	44
B. Audit procedures.....	48
C. Video Cameras.....	50
D. Police Communications Section.....	51
E. Discipline.....	51
VII. Training.....	52
A. Use of Force—Management Oversight and Curriculum.....	53
B. Handling Citizen Complaints	54
C. Leadership/Command Accountability	55
D. Canine Training.....	55
E. Scenario Based Training.....	56
F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct.....	57
G. Orientation to the MOA	58
H. FTO Program.....	58
I. Firearms Training.....	59
Chapter 5. Collaborative Agreement.....	60
I. CPOP.....	62
II. Evaluation Protocol	76
III. Pointing Firearms Complaints.....	80
IV. Fair, Equitable and Courteous Treatment.....	81
A. Data Collection and Analysis.....	81
B. Training and Dissemination of Information	85
C. Professional Conduct.....	87

TABLE OF CONTENTS
(continued)

	Page
V. CCA.....	88
A. Establishment of CCA, and CCA Board	88
B. Executive Director and Staff	89
C. CCA Investigations and Findings.....	89
VI. Individual Actions.....	92
Chapter 6. Review of Sample Investigations.....	92
I. Sample Chemical Spray Investigations.....	92
A. Spray into Crowds	92
B. Chemical Spray on Restrained Individual.....	95
II. Sample of Canine Investigations	100
III. Sample Force Investigations.....	103
APPENDIX 1.....	106
APPENDIX 2.....	110
APPENDIX 3.....	114
APPENDIX 4.....	116
APPENDIX 5.....	118

CITY OF CINCINNATI INDEPENDENT MONITOR'S FIRST QUARTERLY REPORT

EXECUTIVE SUMMARY

On April 12, 2001, the City of Cincinnati entered into a Memorandum of Agreement (MOA) with the United States Department of Justice resolving allegations of police misconduct. The MOA calls for police reforms in the areas of police use of force, citizen complaints, risk management, and training. On the same date, the City of Cincinnati signed a Collaborative Agreement (CA) with the Cincinnati Black United Front, the American Civil Liberties Union of Ohio Foundation Inc., and the Fraternal Order of Police. The Collaborative Agreement calls for the implementation of Community Problem Oriented Policing ("CPOP"), mutual accountability and evaluation, bias-free policing and the establishment of the Citizen Complaint Authority. The CA was entered by the United States District Court for the Southern District of Ohio after a Fairness Hearing was held on August 5, 2001.

Both of the Agreements call for the appointment of an Independent Monitor to evaluate and report on the City's and the Parties' compliance with the terms of the Agreements, as well as provide technical assistance to the City and the Parties in implementing the Agreements. On December 17, 2002, U.S. District Court Judge Susan Dlott appointed Saul Green as Monitor. Richard Jerome serves as the Deputy Monitor.

While there has been progress in a number of areas, the City and the Parties generally have not met the deadlines of either the MOA or the CA. Implementation and compliance will take a greater commitment of time and resources. We also believe it also will require collaboration among the Parties. The Parties must find sufficient common interest, and demonstrate the needed cooperation and respect, to deliver the essential promises of the Agreements.

MEMORANDUM OF AGREEMENT

For most of the provisions of the MOA, implementation was required within 90 days of the Agreement (July 12, 2002). Between April and July 2002, the Cincinnati Police Department (CPD) made noteworthy efforts to revise its policies and practices and develop the training required by the MOA. In some significant areas, however, particularly on the crucial issue of a new Use of Force policy, the City did not meet the MOA deadlines. Moreover, after the initial flurry of activity to develop new policies in 2002, it appears that progress towards MOA compliance has slowed.

General Policies

The MOA requires the City to develop a Mental Health Response Team (MHRT), consisting of officers specially trained to respond to incidents involving persons who are mentally ill. CPD selected and trained 90 officers to serve on the MHRT, and revised its policy on dealing with the mentally ill to reflect the availability of the MHRT. We believe the MHRT is a very positive development, and will assess its implementation in future reports.

The MOA also requires CPD to develop and adopt a “foot pursuit” policy, requiring officers to weigh various factors in determining whether a foot pursuit is appropriate. CPD has developed a policy that meets the language of the MOA. In future reports we will review training on and implementation of this policy.

Use of Force Policies

Under the MOA, the City is required to revise its Use of Force policies in a number of specific ways. In particular, it must define “force” as that term is defined in the MOA. In addition, the MOA requires CPD to revise its policies regarding chemical spray, canines, and the use of beanbag shotguns and forty-millimeter foam rounds.

CPD proposed a revised Use of Force policy in July 2002. Because of concerns expressed by the Department of Justice that the policy did not meet the requirements of the MOA, CPD adopted a new policy in September, 2002. However, in several important respects, this second policy did not comply with the MOA and the City requested additional time to revise its policy once again. A new deadline of January 24, 2003, was not met.

The September 2002 Use of Force policy is currently in effect. While it does comply with some of the MOA provisions on use of force, it does not define “force” as required by the MOA. Similarly, the chemical spray policies adopted by CPD complies with some of the MOA provisions, such as limiting deployment of chemical spray into crowds, and requiring a verbal warning and an opportunity to comply before officers use chemical spray. However, it does not comply with other MOA requirements. For example, it does not sufficiently limit chemical spray against restrained individuals. In the same vein, the CPD Use of Force policy does not limit the use of beanbag shotguns and forty-millimeter foam round only to subdue or incapacitate subjects to prevent imminent physical harm to officers or to others, as required by the MOA. CPD proposed a new Use of Force policy on March 28, 2003. We will evaluate this policy’s compliance with the MOA in our next report.

After significant discussion between Cincinnati and the Department of Justice, and numerous drafts, CPD has adopted a Canine policy that complies with the MOA requirements. However, our review of CPD's investigations of canine bites leads us to question whether CPD's deployment of canines is consistent with the MOA or its new policy. The MOA requires improved handler control of the canines and a loud and clear warning before a canine is deployed. The dog is only allowed to bite if the suspect is actively resisting or escaping; and, if a suspect is bitten, the handler must call off the dog at the first moment it is safe to do so. In several incidents, it does not appear that these requirements were met.

Incident Documentation, Investigation, and Review

CPD has made some progress in the area of use of force reporting and investigation. CPD has revised and implemented new use of force forms for documenting use of force incidents. It continues to tape record interviews of involved officers and witnesses for most of its force investigations. It has revised its procedures for the Internal Investigation Section (IIS) to comply with the MOA. It also has expanded the role of the Inspections Section in reviewing force investigations. For firearms discharges (except range firings and discharges at animals), CPD has created a Firearms Discharge Board to review investigations for policy compliance, tactics and training implications. There are other aspects of CPD's force investigations, however, that do not comply with the MOA.

Citizen Complaint Process

CPD has revised its citizen complaint process to be more open and accessible, including the creation of a new citizen complaint form (postage free), and allowing complaints to be filed in writing, in person, by mail, fax or phone. It has also revised many of its investigative standards and procedures to comply with the MOA. CPD has not instituted all of the changes required for adjudication of complaints, however, particularly with respect to cases assigned for the Citizen Complaint Resolution Process (CCRP).

One of the significant accomplishments of the City (and the Parties to the CA) has been the creation of the Citizens Complaint Authority (CCA) to investigate citizen complaints and review serious use of force incidents. Although the selection of the CCA executive director and the start of CCA operations were delayed, the Department of Justice (and the Parties to the CA) agreed to the delays. In future quarters, we will examine whether CCA investigations are complying with the MOA investigatory standards.

Management and Supervision

The MOA requires Cincinnati to develop a computerized Risk Management System to track data on police activities and better identify and manage at-risk officer behavior. CPD published a Request for Proposal (RFP) for the system and has identified a preferred vendor, although the contract award is still pending. Development of the protocol for use of the system has been deferred until the selection of the vendor is finalized. We identify in our Report several concerns regarding the City's ability to implement this system with its current IT resources and capabilities.

Training

Our preliminary review of CPD training indicates that a good faith effort is underway to achieve compliance with the MOA. However, because in some areas CPD has not adopted policies and procedures that comply with the MOA (most importantly Use of Force), CPD's training in those areas do not comply with the MOA. In addition, we were not able to fully assess compliance because we need to audit and conduct on-site observation of training activities.

COLLABORATIVE AGREEMENT

CPOP

Although nearly eight months have passed from the Fairness Hearing to this Monitor's Report, the Parties have met few of the CA deadlines that have come due during this time. The Parties appear to hold differing views of what CPOP entails, how it should be implemented, and their respective roles in its implementation. Irrespective of these differences, the CA requires the Parties to take certain concrete steps to research best practices, train community members on problems solving, develop a problem-tracking system, and coordinate the work of other City departments in the delivery of services under CPOP, among other things.

The Parties are not in compliance with their obligations to:

- Coordinate City agencies (predominantly a City responsibility);
- Adopt a systematic approach to problem solving, including an emphasis on problem solving in field and in-service training;
- Establish an ongoing community dialogue, including structured interaction between CPD and youth, among other segments of the community;
- Establish an annual CPOP award program;
- Have CPD District commanders and others prepare quarterly reports detailing problem solving activities (a City responsibility);
- Review and revise training regarding the urban environment in which CPD officers work;

- Develop a problem-tracking system to document problem solving activities and results;
- Review, and where appropriate, revise CPD policies, job descriptions, organizational plans and performance evaluation standards, to be consistent with CPOP.

The Parties are in partial compliance with their obligations to:

- Develop a comprehensive library of best practices related to CPOP;
- Research best practices of other agencies and other professions;
- Inform the public about police policies and procedures;
- Create a Community Relations Unit (a City responsibility).

One area where significant progress has been made is the development of the Community Partnering Center, an organization created by the Parties to undertake CPOP training for community groups. The Center is established, Board members have met on a number of occasions and fundraising for the Center is underway. Still awaited, however, are an agreed-upon curriculum for CPOP training, a training delivery plan, and field testing of the training.

Evaluation Protocol

The CA calls for an evaluation system to track progress towards the goals of the Agreement. As noted in the CA, this ‘mutual accountability plan’ should closely monitor the conduct of the City, CPD, and members of the public “so that favorable and unfavorable conduct of all” is fully documented. The Evaluation Protocol requires periodic surveys of citizens and officers; observations of meetings, problem solving projects and the complaint process; data collection and annual statistical compilations; a review of in-car video and audio recordings; and an annual report on progress. This Protocol was to be developed within 90 days of the Fairness Hearing, and implemented 60 days after that.

The Parties are not in compliance with the Evaluation Protocol provisions of the CA. They plan to issue an RFP for an outside entity to undertake the tasks of the Evaluation Protocol. As noted in our Report, the draft RFP prepared by the Parties does not appear likely to produce a workable Evaluation Protocol.

Pointing Firearms Complaints

As required by the MOA, CPD has established an expedited complaint process for persons alleging that CPD officers improperly pointed their guns. The Parties are in the process of compiling these investigations and reporting them to the Monitor. When we receive the

reports from the Parties, we will evaluate compliance and forward the data to the Conciliator.

Fair, Equitable and Courteous Treatment

The CA provisions relating to fair and equitable treatment for all consist of three components: data collection on all CPD traffic and pedestrian stops, training for all CPD officers on bias-free policing and professional traffic stops, and a requirement that officers explain to citizens why they were stopped, except in exigent circumstances.

The City's data collection efforts have been hampered by the absence of a system to ensure timely and accurate collection and entry of data. Moreover, the Parties have not determined who will analyze the data, beyond the one time analysis that Professors Eck and Liu are doing on 2001 data. CPD hopes to collect the data on mobile terminals in their patrol cars, but this system is still in the planning stage and must be integrated with other CPD systems not yet developed in order to produce the analysis called for in the CA.

The Monitor has been provided with some information indicating that bias-free policing training was included in In-Service training. However, because we have not had an opportunity to observe this training or determine whether all officers were able to attend training, we are unable to assess compliance with this provision of the CA. On the requirement to explain to citizens why they were stopped, implementation has been stalled by disagreement among the Parties over whether to specifically define "exigent circumstances."

Citizens Complaint Authority

As noted above, the City has created an independent entity, the CCA, to investigate citizen complaints and serious use of force incidents. CCA Board members were appointed and trained, an Executive Director was selected, and the CCA took over the functions of the prior Office of Municipal Investigations and the Citizen Police Review Panel.

The Parties are in partial compliance with the provisions of the CA related to the CCA. The CCA is in place and is ready to conduct investigations. It is in the process of hiring new investigators. However, there are ongoing disagreements regarding whether CCA investigators should be allowed to begin their investigations, monitor CPD investigators, and attend CPD interviews, until after CPD investigations have been completed.

Conclusion

The City of Cincinnati and the Parties to the CA are not yet in compliance with the requirements of the MOA and the CA. There is significant work ahead to remedy the deficiencies noted in this Report. We are hopeful, however, that the Parties will devote the energy necessary to accomplish the reforms that the Agreements call for and that the citizens of Cincinnati deserve.

INDEPENDENT MONITOR'S FIRST QUARTERLY REPORT APRIL 1, 2003

Chapter 1. Introduction

The citizens of Cincinnati have pioneered a bold course of action to address police reform and the enhancement of police/community trust. Conflicts between police and community have been on the rise in many American cities. In some cities, where a breakdown of police/community relationships accompanies allegations of excessive use of force and racial profiling, the Department of Justice has initiated a "pattern or practice" investigation to determine if there has been unlawful police conduct. In those instances where corrective actions are deemed necessary, the Department of Justice and the municipality have entered into either a Memorandum of Agreement or a Consent Decree to implement the required police reforms under the oversight of an independent monitor.

Cincinnati faces this precise challenge of implementing police reform and raising police/community trust under the terms of an April 2002 Memorandum of Agreement (MOA) between the City of Cincinnati and the Department of Justice. Mayor Charles Luken requested the federal investigation in the spring of 2001 after the civil unrest that followed the fatal shooting of Timothy Thomas. The April 2002 Memorandum of Agreement that resulted from the Department of Justice investigation is directed at police use of force, citizen complaints, incident documentation, investigation and review, enhancement of risk management, and training.

Unlike other jurisdictions facing police reform through a Justice Department settlement, Cincinnati has taken the historic step of coupling the Memorandum of Agreement with a second agreement developed by significant community stakeholders. This agreement not only identifies police reform issues and required policy changes, but also is designed to change the culture of looking solely to the police as the only entity responsible for preventing and addressing crime. On April 11, 2002, the City of Cincinnati, the Cincinnati Black United Front, the American Civil Liberties Union of Ohio Foundation Inc., and the Fraternal Order of Police entered into a Collaborative Agreement (CA) that envisions the Parties helping the police and community work together to prevent and address crime and disorder. The Collaborative Agreement calls for the implementation of Community Problem Oriented Policing ("CPOP"), mutual accountability and evaluation, bias-free policing and the establishment of the Citizen Complaint Authority. The goals of the CA are:

- Police officers and community members will become proactive partners in community problem solving.
- Build relationships of respect, cooperation and trust within and between police and communities.
- Improve education, oversight, monitoring, hiring practices and accountability of Cincinnati Police Department (CPD).
- Ensure fair, equitable and courteous treatment for all.
- Create methods to establish the public understanding of police policies and procedures and recognition of exceptional service in an effort to foster support for the police.

The Parties have agreed that the implementation of CPOP is the vehicle for accomplishing the change in the culture of public safety and the goals of the Collaborative Agreement. The Collaborative Agreement describes CPOP as:

- The resolution of troublesome circumstances in the community that are framed as problems to solve. These problems need to be carefully defined.
- Problems need to be carefully analyzed prior to developing a solution. There is a high premium placed on data, intelligence, community input, and analysis.
- Police and their partners should engage in a broad search for solutions based on the analysis of information.
- Problem solving efforts are evaluated to determine if the problem has been reduced.

The Collaborative Agreement is historically significant, visionary and risky. It is historically significant because a community facing police reform issues has chosen to make diverse community stakeholders, beyond the police department and city officials, equal participants in formulating and implementing police reform.

It is visionary because it epitomizes the concepts of community oriented policing and problem solving by identifying the important stakeholders, and engaging them to actively participate in problem identification and solution. It envisions a community where the stakeholders work together to reduce friction between the community and police, foster mutual trust and enhance public safety.

It is risky because it assumes, and then announces in a very public way, that the parties to the Agreement are, in fact, ready to collaborate in an open and mutually respectful way to implement CPOP and the required police/community reform efforts. It would be naive to believe that the Collaborative Agreement was developed amidst a backdrop of amicability and trust. In fact, as in any difficult negotiation regarding highly sensitive issues, there were high levels of anger and distrust that had to be overcome for the Parties to reach agreement on

the Collaborative Agreement. It would be even more naive to believe that the anger and distrust have been eliminated since the execution of the Collaborative Agreement. Implementation is going to be more challenging than was the negotiation of the Agreement. It is imperative that the Parties find enough common interest, and demonstrate the requisite cooperation and respect, to deliver to the Cincinnati community the essential promises of the Collaborative.

The Monitoring Team was selected little more than 90 days ago. Our team was built around the specific provisions and requirements of the Agreements, including extensive experience with community and problem-oriented policing. During the short duration we have been in place, difficult growing pains in the collaborative process have been observed. By way of example, on March 19, 2003, the Cincinnati Black United Front, a signatory to the Collaborative Agreement, filed a Motion To Withdraw As Class Representative for the plaintiff class. On March 20, 2003, there were published reports that Cincinnati public officials were questioning the continued participation of the City in the collaborative. The Monitoring Team strongly believes that the collaborative process, built around implementation of the CPOP vision described in the Collaborative Agreement, is the most effective way to accomplish enhanced police/community trust, and the police reforms required by the Agreements.

The growing pains must be overcome for there to be effective implementation of the Agreements. Among the issues that must be addressed are:

- The creation of effective project management of data and document production essential to the production of meaningful status reports required under the Agreements and necessary for the preparation of thorough monitor reports.
- Recognition that the Agreements are the binding obligations of the Parties, the Collaboration Agreement in settlement of litigation, and the Memorandum Of Agreement in avoidance of litigation. Both Agreements are enforceable by the Federal Court, and no Party can unilaterally alter or avoid compliance with the terms of the Agreements.
- A recognition by the Parties that they have set aggressive timelines for compliance, and that a greater commitment of time and resources (i.e., project management) is going to be needed to meet their announced implementation schedule, and community expectations.
- The Parties have to develop a shared vision to accomplish the change in orientation for police and community that the Agreements envision. This will require greater levels of trust and leadership than have been witnessed to date.

It is against this backdrop that we prepare our first Monitor's Report.

Chapter 2. Monitor's Approach

A. Selection of Monitor

The Monitor was appointed on December 17, 2002, by Judge Susan Dlott, after unanimous agreement of the Parties.

The MOA was signed on April 12, 2002, and the CA was entered by Judge Dlott after a fairness hearing on August 5, 2002. As required by the Agreements, the City issued a Request for Proposals for an Independent Monitor in May, 2002. The Agreements called for the Parties to jointly select a Monitor, with the judge appointing a monitor only if the Parties were unable to agree on a selection. The Parties were unable to agree, and Judge Dlott appointed a Monitor on October 10, 2002, who subsequently resigned. Our appointment followed.

B. Role of Monitor

The Monitor's role is not to displace or diminish the authority of the Chief of Police or act to circumscribe the Chief's autonomy and freedom of action. Rather, we expect to deal constructively with the Cincinnati Police Department and, while staying at arm's length, nonetheless work respectfully with the Department.

At the same time, we will not hesitate to state in a frank and deliberate way whether the City, or any other Party, is failing or falling behind in its efforts to implement meaningful reform. We have and will continue to establish benchmarks and baselines from which to measure progress, and we will rigorously assess whether the Department is successfully managing the risk of police misconduct and taking all reasonable steps to assure that officers perform their duties within constitutional and legal bounds. Pursuant to the Agreements, we will examine not only how the Department deals with its patrol officers, but also whether the department deals adequately and fairly with managers and executives who fail in their duties of proactive oversight, hands-on supervision, and, if necessary, speedy intervention. We will also assess the progress in building the mutual trust, respect and cooperation between the community and police that are called for in the Agreements.

C. Who We Are

Our Monitor Team brings together individuals with expertise in law enforcement practices, civil rights, monitoring, community policing and problem solving, information technology, and data management. We also have available the resources of a national, full-service law firm (Miller, Canfield) and a leading public safety consulting firm (PSComm, LLC). Saul Green serves as the Monitor, and Richard Jerome serves as the

Deputy Monitor. Bios of each of the members of the Monitor team are attached in Appendix 1.

By design, the Monitor Team includes team members with extensive experience with community and problem-oriented policing. This expertise is important for two reasons. First, it allows the Monitor Team to support the work of the Parties as they proceed. Second, it allows the Team to fulfill its monitoring obligations with knowledge of CPOP as its guide, recognizing that Cincinnati will define CPOP tailored to fit the needs of the city.

D. Methodology

The Monitor's job is to assess compliance with the Agreements, help facilitate change, and provide technical assistance when appropriate. We will work in a cooperative and transparent fashion. To that end, at the beginning of our engagement, we prepared and provided to the Parties a "Draft Communication Plan" describing the organization of our team and how we proposed to interact with the Parties. The Communications Plan is attached as Appendix 2. In addition, a summary of our activities to date, including the documents and investigations reviewed, meetings held, and training attended, is contained in Appendix 3.

E. Monitor's First Report

This First Quarterly Report of the Monitor covers both Agreements, as will each subsequent report.

Our Report reflects our assessment of the Parties' compliance with their obligations under the Agreements; any progress towards it; and, where progress is lacking, recommendations for next steps. Most of the timelines for compliance in both Agreements have already passed. To the extent that the City has come into compliance by the writing of this report, the fact that it did not do so by an earlier MOA or CA deadline (most of the deadlines fell before January 2003) will not by itself lead us to report non-compliance. However, timelines do have meaning, and if the City or another Party is not in compliance by the date of writing this report, we say so.

A major focus of this first Report is our assessment of the policies and procedures adopted by the CPD and the City to comply with the Agreements. Where possible, we also review the City's and the Parties' efforts to implement the new policies and procedures, and the police training that is required under the Agreements. We also include case summaries on a number of use of force investigations.

There are some pertinent limitations of this first Report:

While this report will be released on April 1, we have had to pick an earlier time by which to assess compliance. We have generally used March 5, 2003, the date of the Parties' Status Report to the Monitor under the CA. We also received the City's First, Second and Third Status Reports under the MOA (dated August 12, 2002, November 12, 2002, and February 19, 2003). As much as possible, we have tried to reflect the progress described in these reports.

Second, since we began our activities, we have asked for a significant volume of documents from the City and CPD. Initially, we received only a small portion of what was requested. In a February 2003 site visit, the City's Compliance Coordinator showed us the files he maintains on compliance, many of which corresponded to our original document requests. The City copied these documents and sent them to the Monitor. We received the material in the first week of March. Again, we have tried to incorporate as much as possible into our Report. We are hoping that future efforts to produce documentation reflecting the City's and the Parties' compliance efforts will go more smoothly.

Chapter 3. General Findings

A. Cincinnati and the Police Department Need to Embrace the Reforms in the Agreements

To be successful in this important endeavor, the City and the Police Department will need to assert leadership and require accountability. The reforms in these Agreements are binding on the Parties and call for changes that are not easily accomplished. These changes will only happen if the Police Department embraces the reforms. We have been told too often that CPD is implementing CPOP without any reference to collaboration or consultation with the other Parties, and without reference to the requirements of the CA. Chief Streicher must put his prestige and authority behind the Agreements, and empower those within the Department who are responsible for implementing them. Similarly, the City Manager and the political leadership of the City must hold the Chief and his command staff accountable for accomplishing the reforms required by the Agreements

B. CPOP Involves a Change in Orientation for the Community and the Police; A Shared Vision is Necessary

CPOP presents a new approach to policing. Police and community partner to address crime problems. Implementing the Agreements presents an opportunity for CPD to improve police services and outcomes, while at same time enhancing community trust. CPOP, if

done well, will increase the effectiveness of the Department in fighting crime.

Our concern is that some in the Department view compliance with the Agreements as an extra burden. In this view, doing the work of the MOA and CA takes officers, supervisors and managers away from the “real job” of policing. This is a false choice. Implementing the changes in the Agreements allows the Department to do the “real job of policing,” only better.

The Agreements also require change from members of the community. No longer are they free to criticize from the outside, without taking a stake on the inside. Community leaders, including the Plaintiffs, must shoulder some of the burden by participating and assisting the police.

C. Changes in Policy Need to be Incorporated into Training

The CPD admirably has made many changes in policy and procedures, especially with respect to complying with the MOA. These policies need to be broadly disseminated to officers and reinforced through training. In some cases, it does not appear that police training has changed to reflect the newly adopted policies and practices.

D. CPD Needs to Upgrade its Problem Analysis Capabilities, and Enhance its IT Expertise and Planning

Information Technology requirements are woven throughout the CA and the MOA. The ability of the Cincinnati Police Department (CPD) to meet these requirements will depend both on the Department’s technological capabilities and its level of understanding of problem detection and problem analysis – including evaluated best practices in impacting specific crime and safety problems.

To assess those capabilities, we interviewed those most knowledgeable in the Department. Our interviews focused on understanding CPD’s technology baseline, understanding the mission as defined in the Agreements, understanding the gap between the baseline and the mission, and identifying how Cincinnati plans to close that gap and achieve its mission. Based on our review, we make the following observations:

- CPD will need additional automation to capture required data elements.
- CPD will need additional integration of existing and proposed systems.

- CPD will need an aggressive IT plan to meet the required timelines.
- CPD will need increased coordination throughout the department and across interagency boundaries.

The process of collecting and analyzing data, evaluating trends, and communicating with the Parties as outlined in these Agreements requires a significant amount of planning to ensure that IT systems emerge in an integrated fashion. It is clear that CPD is undertaking many of the individual tasks required to accomplish this end, through the writing and issuance of several RFP's (Requests for Proposals) and through CPD's participation in several data collection projects, such as the COPS MART project, the Employee Tracking Solution, the collection of contact cards, and the Records Management System purchase. Communications modernization also is taking place, and an old Computer Aided Dispatch system is being evaluated.

What is not as clear is the overall plan. It appears that Cincinnati is depending a great deal on contractors to pull the information technology requirements together into a cohesive system. Because of staff limitations and the aggressive timelines required by the Agreements, the use of consultants in the process is appropriate. However, the high degree of reliance upon outside contractors who do not know the business of CPD could result in systems that lack the "completeness" required by the Agreements, and may not result in the requisite IT expertise and learning within CPD to maintain and implement the systems. CPD IT personnel must develop sufficient expertise in the research requirements of problem-oriented policing so the systems developed contain the capabilities required to detect, analyze, address, and evaluate crime and safety problems.

E. Project Management Concerns

During meetings with Chief Streicher and CPD staff, and at each of our first two joint Party meetings, the Monitor Team has stressed the need for improved project management in the implementation of the Agreements. It has been suggested that CPD create an internal committee to work with the Compliance Coordinator to facilitate implementation of the provisions of the Agreements. This group of CPD officers, reporting directly to Chief Streicher, would be selected based on their relevant CPD responsibilities in relationship to specific provisions and requirements of the Agreements. These officers would facilitate implementation of the provisions of the Agreements within the Department, as well as obtaining and exchanging information with the Monitor Team. The committee would not displace Greg Baker as the Compliance Coordinator; however, based on the breadth of issues covered by the Agreements, and the magnitude of information needed to

monitor the Agreements, it is believed such a committee would be of tremendous value to the Compliance Coordinator and the Monitor. Further, at the January and February joint Parties meetings, the Parties were requested to appoint a single point person for each of the substantive paragraphs and subparagraphs in the CA as a liaison to the Monitor Team for accountability. On March 5, 2003, the Parties announced the point people for these items, and we will look to these individuals to take responsibility for ensuring the substantive requirements of the CA are being met.

Chapter 4. The Memorandum of Agreement

After the signing of the MOA, the City started quickly to begin making the changes required. Between April and July 2002, the City formed a number of committees to review the MOA requirements, revise policies and practices, and develop training.¹ Although the Monitor Team was not in place during the first six months of the MOA, our review of the work done at that time indicates a sincere effort to meet the MOA provisions. In the absence of an Independent Monitor, the City worked with the Department of Justice to resolve a number of MOA issues. In some significant areas, however, particularly on the crucial issue of a new Use of Force policy, the City did not meet the MOA deadlines and there have been substantial disagreements between DOJ and City. Moreover, after the initial flurry of activity to develop new policies in 2002, it appears that progress towards MOA compliance has slowed.

I. General Policies

A. Mental Health Response Team

Interactions between law enforcement officers and persons with mental illness have been at the center of many high profile use of force incidents around the country. As a result, many police departments have developed specialized training and procedures to address and resolve these interactions. Officers are provided needed background on mental health issues and the options available beyond arrest, and are given additional training in de-escalation. The Memphis, Tennessee, Police Department's Crisis Intervention Team (CIT) provides a model for such training, and served as the model for Cincinnati's efforts.

¹ CPD formed an Implementation Committee that met frequently (at times weekly) in the first few months after the signing of the MOA. In addition, there were seven subcommittees formed within CPD: Policy Procedure Revision; Mental Health Response; Police Shooting Review Board; Disciplinary Matrix; CPOP; Risk Management; Citizen Complaint Process.

1. Requirement

CPD is required to create a “cadre of specially trained officers available at all times to respond to incidents involving persons who are mentally ill.” These officers will be called to the scene and assume primary responsibility for responding. Training for these officers shall include multi-disciplinary intervention training, with a particular emphasis on de-escalation strategies, as well as instruction by mental health practitioners and alcohol and substance abuse counselors. CPD also shall implement a plan to partner with mental health care professionals, to make such professionals available to assist CPD officers on-site with interactions with mentally ill persons.

2. Status

CPD has created the Mental Health Response Team (MHRT). Ninety CPD officers were selected in June 2002 and provided a 40 hour training course. The training sessions were conducted June 17-21, 2002, and June 24-28, 2002. According to the City, 27 mental health agencies and organizations, mental health consumers and their families contributed to the design of the training program. Trainers included mental health consumers, psychiatrists, a case management coordinator, the manager of the Mobile Crisis Team, the director of a mental health consumer network, the director of the Mental Health Association, a mediator, a legal aid attorney, social workers and CPD officials.² Topics covered included:

- Review of mental illness
- The mental health system
- Orientation/ shadowing a mental health professional
- Police hotline and state mental hold
- MHRT interface with SWAT and Crisis Negotiation Teams
- Review of non-lethal force options
- Special populations
- Role of Mobil Crisis Team
- Suicide
- Legal issues
- Mediation
- Problem solving and community resources.

Training also included “shadowing” sessions, where officers accompanied mental health professionals in their work, and role-play scenarios.

Pursuant to the MOA, CPD revised its policy on dealing with the mentally ill -- Procedure 12.110 -- to incorporate the availability of the

² The Director of the Memphis CIT program and the Director of the National Alliance for the Mentally Ill (NAMI) also attended one of the training sessions, as it coincided with the national NAMI convention.

MHRT. MHRT officers are assigned to regular patrol, but they are specifically designated in the Police Communications System. When dispatchers get a call involving a mentally ill person (Code 9 or Code 9V), they review the unit roster to determine which MHRT officers are available in that district to respond. Based on CPD's CAD printouts, it appears there were 1,362 Code 9 and Code 9V incidents from October 13, 2002 to January 12, 2003. The Monitor has not reviewed these CAD printouts to determine if MHRT officers were called to the scene and able to respond to the incidents.

3. Assessment

Our initial impression of the MHRT is very positive, although we have some questions on the CPD policy and on MHRT implementation. Procedure 12.110 states that MHRT officers "will be the first responders, when available, on all runs involving suspected mentally ill individuals." The MOA states that CPD will have specially trained officers "available at all times" to respond to incidents involving mentally ill persons. It is our understanding that MHRT officers are assigned on regular patrol during their shifts, but are available to respond to calls from dispatch. One issue we will examine going forward is the extent of MHRT coverage on all shifts and in the various districts.

A second question is the number of supervisors who have undergone MHRT training. Under the CPD procedure, a supervisor is required to respond to any radio run involving violent or potentially violent mentally ill subjects. The supervisor will consult with the MHRT officer on scene "when possible" to decide a course of action. We expect there would be more consensus over the police response if both the supervisors and the officers had MHRT training.

CPD provided the Monitor team with training materials from the June 2002 training. Our preliminary review suggests it covered the required topics and was multidisciplinary. However, we have not had the chance to observe training and to more fully examine the workings of MHRT. In future quarters, we will examine continuing training for MHRT officers, how the MHRT is replenished when officers leave the team, and whether any new training classes have been conducted

Given the information reviewed to date, the City is in compliance with this provision, with the noted concerns. The Monitor will assess implementation and training in future Monitor reports.

B. Foot pursuits

There are inherent risks to a police officer when he or she engages in a pursuit of a fleeing suspect on foot, especially in chasing a suspect into a wooded area, building, or confined space. Often in such

situations, when the officer is faced with a threat from the suspect, he or she feels compelled to use a high level of force. This is an important aspect of the MOA not only because the Timothy Thomas incident began with a foot pursuit, but because this is a significant issue in policing around the country. For example, the 16th Semi-Annual Report of the Special Counsel of the Los Angeles Sheriff's Department (February, 2003) examines officer-involved shootings that might have been avoided; 22% of shootings in the LASD from 1997-2000 involved foot pursuits.³ The Special Counsel noted numerous pursuits that were tactically and strategically unsound, and where officers failed to communicate with their partners and Dispatch.

1. Requirements

The MOA requires CPD to develop and adopt a foot pursuit policy. The policy must require officers to consider particular factors in determining whether a foot pursuit is appropriate.

2. Status

CPD drafted and implemented a foot pursuit policy in September 2002 -- Procedure 12.536. The Department of Justice raised concerns over this policy, however, and Cincinnati asked for an opportunity to revise the policy, along with its Use of Force policy. The Department of Justice agreed to a January 17, 2003, deadline for the new policy; the deadline was then extended at the City's request to January 24, 2003. On January 24, 2003, CPD provided the Department of Justice and the Monitor with a revised foot pursuit policy.

Before initiating a foot pursuit, the new procedure requires officers to make a "quick risk assessment." They must evaluate the risk involved to themselves, other officers, the suspect, and the community, versus what would be gained from pursuing the suspect. Officers are to consider the following factors when initiating pursuits: whether the suspect is armed, the offense committed, the location, the ability to apprehend the suspect at a later date, communications capabilities, and the availability of backup. Officers should also consider area containment, surveillance and calling for backup before beginning a pursuit.

If a pursuit is initiated, the officer must notify the Police Communications Section and coordinate with other officers. Under Procedure 12.536, officers are to terminate the pursuit (and supervisors are to order termination), if the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect.

³ <http://www.Parc.info/pubs/pdf/LAPD16.pdf>

3. Assessment.

The language of CPD's foot pursuit policy complies with the requirements of the MOA. For this provision, however, the important changes must come in training and implementation. It is not easy to change what may be many officers' initial inclination (and one that often springs from a sincere desire to protect the public) to immediately chase a fleeing suspect. Officers' adrenaline levels at that point are high. However, the dangers of foot pursuits, both to the officer and the citizen, necessitate caution, communications, and a consideration of whether there are alternative ways of apprehending the suspect. The report of the LA Sheriff's Department Special Counsel cites the policy adopted by the Collingswood, NJ, Police Department as one that addresses these issues. We recommend that Cincinnati examine that policy for whether additional training or policy revisions are advisable.

In future reports, we will evaluate how the new, January 24, 2003, policy is being disseminated to officers and trained. It is evident, even from the limited sample of cases we reviewed for this Report, that a number of use of force incidents and complaint investigations start with a foot pursuit. The February 2003 officer-involved shooting began with a foot pursuit. The CPD policy does not establish which pursuits officers should or should not initiate. Such precision may not be possible. However, we believe that CPD should evaluate officers' foot pursuits, and then counsel or retrain officers who engage in ill-considered and unsafe pursuits. We expect that this issue is one that CPD will examine when it investigates and assesses future incidents, and our future Reports will assess compliance in this area.

II. Use of Force

A significant focus of the MOA is the development of new policies and training on the use of force by CPD officers. These policies are to govern the definition of force; documentation, review, and investigation of use of force incidents; and use of force training. Given that it was an officer-involved shooting that touched off the disturbances in April 2001, it is appropriate for us to note that for 14 months, from November 2001 to February 2003, there were no officer-involved shootings in Cincinnati. This hiatus was broken by the fatal shooting of a robbery suspect by a CPD officer on February 9, 2003. This incident itself is not a focus of this report. Future reports will, however, examine the shooting, the Department's response and investigation of the shooting, and the Citizen Complaint Authority's (CCA) independent investigation.

Future reports will also have additional statistics on use of force, as required by the Collaborative Agreement. For this Report, Appendix 4

contains summary comparisons of use-of-force statistics from 2001 and 2002 prepared by CPD.

A. General Policies

1. Requirements

Under the MOA, Cincinnati is required to revise its Use of Force policy. The revised policy must do the following:

- It must clearly define the terms used in the policy (para. 12.a)
- The term “force” must be as defined as it is defined in the MOA (12.b)
- It must incorporate a “use of force model” that relates the officer’s responses and use of force options to the actions of the subject, and teaches that disengagement, area containment, or calling for reinforcement may be an appropriate response to a situation (12.c)
- Whenever possible, individuals should be allowed to submit to arrest before force is used (12.d)
- Advise against excessive force (12.e)
- Prohibit choke holds (12.f)
- The term “restraining force” must be removed from CPD’s policy (12.g)
- CPD’s revised Use of Force policy must be published on CPD’s website and be disseminated to community groups (13)

2. Status

CPD first adopted a Use of Force policy in response to the MOA in July of 2002. Because of concerns expressed by the Department of Justice that the policy did not comply with the requirements of the MOA, CPD adopted a new policy on September 9, 2002. It is this policy (Procedure 12.545) that is on the CPD’s website, has been disseminated to CPD officers, is being used for training (at least to some extent), and, presumably, is being implemented in the field. As acknowledged by the City to the Department of Justice on December 12, 2002, however, this Use of Force policy does not meet the MOA requirements in several important respects. Therefore, the City withdrew the September 9, 2002, force policy from consideration by the Department of Justice and requested an opportunity to revise its policy once again to comply with the MOA. The City hired a use-of-force expert to assist the CPD in developing a policy to meet the MOA and accommodate CPD’s concerns and interests. The City did not meet the revised MOA deadline of January 24, 2003.

On January 28, 2003, the Department of Justice wrote the City of Cincinnati notifying it of the Justice Department's determination of non-compliance, and providing the City with 60 days to adopt a use of force policy complying with the MOA, after which the Justice Department stated it might resort to various remedies under the MOA (including suing the city). At the February 20, 2003, "all Parties" meeting, the City agreed to provide a revised Use of Force policy. It also agreed to provide the proposed policy to the Plaintiffs for their comments and input before submitting it to the Monitor and the Department of Justice. On March 28, 2003, the City sent a revised policy to the Monitor and the Department of Justice. We will review this policy and report on its compliance in our next report.

3. Assessment

The City did not meet the deadline for issuing a revised Use of Force policy that meets the MOA. The current Use of Force policy, Procedure 12.545, does not comply with the MOA requirements in several respects. The most significant deviation is in its definition of "force".

There are four differences between the MOA and CPD definitions of "force."

- First, CPD limits force to a strike or instrumental contact "to meet active resistance [which is defined in CPD's policy to include at least 7 different kinds of subject behavior] in the course of an arrest or stop." An officer's use of force, however, is not limited to arrest and stop situations. Force can be used by an officer even when an interaction with an individual began as a consensual encounter. The definition also should not be limited to situations where the individual is actively resisting the officer. Force used on a compliant individual is force nonetheless.
- Second, the MOA definition of force includes "significant physical contact that restricts the movement of a person." This is omitted in the CPD definition.
- Third, the MOA categorizes any canine deployment as force, while CPD includes only canine deployments that lead to a bite.
- Fourth, the MOA definition includes the use of "hard hands" and defines the term "hard hands," while CPD includes "use of a pain compliance hold or technique that causes pain or leaves a mark such as a bruise, abrasion or laceration."

Procedure 12.545 does comply with some of the MOA use of force provisions. It requires officers to allow persons to comply before using

force; it advises officers against excessive force; it removes the term “restraining force” from the policy, and it prohibits choke holds.

The September 2, 2002, use of force policy does not explicitly include a “use of force model” as described in the MOA, but it does reference options and decision making, including disengagement. The revised policy that CPD will be proposing may be more explicit in relating an officer’s force options to the actions of the suspect/subject. To the extent that this kind of use of force model is reflected in the training officers receive on use of force, we will be reviewing CPD’s compliance in future reports.

Finally, we also want to comment on the MOA requirement that CPD’s Use of Force policy “clearly define terms.” The CPD procedure does have a “Definitions” section. We would note, however, that Procedure 12.545 includes definitions, two pages of “Information,” a three page section entitled “Policy,” and then numbered Procedures for 18 more pages. We recommend that the policy be redrafted to better organize it. For example, provisions relating to chemical spray are located in at least three different sections of the policy; this is true also for provisions on the use of bean bag shotguns. We also think the policy would be clearer if substantive directives were all contained in the numbered “Procedures” section rather than woven into the “Information” and “Policy” sections.

B. Chemical Spray

Police Departments are increasingly using chemical irritants as a low-level use of force for defense or to assist in effecting an arrest. The advent of their use in policing has reduced the need for other, more serious types of force. Still, officers need to limit their use of chemical spray to situations where force is needed, and not in situations where individuals are complying with an officer’s commands, or as a threat to gain compliance, or for the dispersal of non-violent persons. For the 3rd quarter of 2002, there were 93 incidents where officers used chemical spray, and there were 117 incidents in the 4th quarter of 2002. For all of 2002, there were 366 instances of use of chemical spray, as compared to 589 instances in 2001.

1. Requirements

CPD must revise and augment its chemical spray policy to do the following:

- Clearly define terms (14.a)
- Limit use of spray, including against crowds, to only those cases where force is necessary to effect the arrest of an

- actively resisting person, protect against harm, or prevent escape (14.b)
- Provide that chemical spray may be used only when verbal commands would be ineffective (14.c)
- Require supervisory approval for use of chemical spray against a crowd, absent exigent circumstances (14.d)
- Require a verbal warning and the opportunity to comply before using a chemical spray, unless doing so would be dangerous (14.e)
- Require officers to aim at the subject's face and upper torso (14.f)
- Provide guidance on duration of bursts and recommended distance (14.g)
- Require officers to offer to decontaminate sprayed individuals (14.h)
- Request medical response for complaining subjects (14.i)
- Prohibit keeping sprayed subjects in a face down position any longer than necessary (14.j)
- Prohibit use of spray on a restrained person, except to protect against harm or escape (14.k)
- Use of spray against restrained persons must be investigated, including tape recorded statements of officers and witnesses. Investigations of these incidents must be reviewed by CPD's Inspections Section. (15)
- Provide restraining equipment in CPD squad cars(16)
- Provide In-service training on chemical spray (17)
- Account for chemical spray canisters (18)
- Periodically review research on chemical spray (19)

2. Status

CPD policies relating to chemical spray are contained in the CPD's general Use of Force policy, Procedure 12.545. As noted above, CPD acknowledges that its current policy does not comply with the MOA, and is in the process of revising it. The following discussion relates to the procedure that is currently in place, adopted on September 2, 2002.

3. Assessment

Procedure 12.545 does comply with some of the MOA chemical spray requirements. For example, it limits the use of chemical spray into crowds and requires supervisor approval, except in exigent circumstances; it requires Inspections to review incidents of chemical spray used on restrained persons; it requires a verbal warning and an opportunity to comply before officers use chemical spray. It also provides guidance on the duration, target and optimal distance for use of chemical spray, and requires officers to offer to decontaminate persons sprayed, and to call for medical response when requested.

However, in some important respects, the CPD policy is not consistent with the MOA requirements. First, it does not limit use of chemical spray to situations where verbal commands would be ineffective. “CPD personnel will use chemical irritant as the primary response to aggressive citizen behavior when verbal commands and other techniques that do not require the use of force would be ineffective.”⁴ While chemical spray may be the preferred option when some force is required, it should be explicitly prohibited in situations when no force is required.

Similarly, the policy does not sufficiently limit chemical spray against restrained individuals. Section F.3 of Procedure 12.545 is a positive grant of authority, not a restriction on authority: “Officers may use chemical irritant on handcuffed or otherwise restrained individuals to prevent injury to the individual or another person or to prevent escape.” The insertion of the word “only” after “may” would place CPD in compliance with the MOA provision. This requirement is important because of the prevalence of use of spray against restrained individuals (see case samples, in Chapter 6). Indeed, Procedure 12.545 provides guidance for spraying prisoners in the back seat of the patrol car. The CPD’s Form 18 Field Manual (for training supervisors on how to fill out use of force forms) uses several examples of the use of chemical spray on restrained individuals.

We anticipate that the new Use of Force policy will address these inconsistencies with the MOA.

In future quarters, the Monitor will review CPD’s training on use of chemical spray, and CPD’s implementation of its policies. There are several issues we note, however:

i. Restraining equipment. The MOA requires CPD to ensure that its cars have sufficient equipment to properly restrain subjects, and to train officers to use that equipment when needed. CPD cars are equipped with shoulder and lap belts, as well as a restraining bar. From our review of chemical spray incidents, however, it appears there were a number of instances where the lap belt was not used, or where prisoners were able to get out from under the restraining bar. CPD should consider additional training on restraining individuals, and consider keeping track of incidents where transported suspects were able to defeat the restraining systems.

⁴ “Aggressive citizen behavior” is defined by CPD’s procedures to include “resistive tension, conspicuously ignoring, exaggerated movement, ... excessive emotional tension, subject ceased all movement ...” We question whether it is appropriate for a CPD officer to spray a subject when they are simply ignoring the officers presence or attempting to leave, and not complying with a verbal command.

ii. CPD has a policy for dealing with persons in custody suspected of swallowing or attempting to swallow evidence or contraband. Section B.5 of Procedure 12.600 (Prisoners: Securing, Handling and Transporting) states that chemical irritant “is the primary response to prevent persons from swallowing evidence or contraband.” Individuals suspected of swallowing contraband should then be taken to the hospital. Under the MOA, chemical irritant is to be used only for apprehension or to protect the officer, the subject, or another party from physical harm. CPD may be justifying its use of chemical spray in these situations as a measure to protect the individuals from the potentially deadly effect of swallowing drugs. However, the Monitor believes this use of chemical spray is inconsistent with best practices in the police profession. Individuals sprayed with chemical agents will often respond by gasping for breath, as the physical and psychological effects of chemical spray include choking. Rather than having the suspect spit out the contraband, use of chemical spray could have the opposite effect. We are not aware of other police agencies that have similar policies. Rather, immediate transportation to the hospital appears to be the preferred policy.

C. Canines

Canines are “finding tools” for the police. Trained law enforcement canines are a valuable supplement to police manpower because of their superior sense of smell and hearing. The use of canines in a search for a potentially armed individual also protects against harm to a police officer who might otherwise be making that search. Because of the potential for injury from a dog bite, however, using canines for apprehension (as opposed to narcotics sniffing dogs, rescue/cadaver dogs, and explosives detection dogs) should be limited to serious crimes or searches for suspects who are potentially armed. The Cincinnati canine unit has 10 officers and 10 dogs. In 2002, there were 732 canine deployments. Of these, there were 89 canine “finds) and 12 persons bitten. In 2001, there were 29 persons bitten.

1. Requirements

The MOA requires the CPD to revise and augment its canine policies, subject to Department of Justice’s review and approval. The CPD is to make continued improvements in its canine operations, including the introduction of an “improved handler-controlled alert curriculum” and the use of new canines. Specifically, the new canine policy must:

- Limit off-leash deployments to searches of commercial buildings or for suspects wanted for a violent offense or reasonably suspected of being armed.

- Require approval of a supervisor before deployment, except for on-leash deployments.
- Provide for a loud and clear announcement, warning of the canine deployment, and require officers to allow the suspect time to surrender.
- Handlers shall not allow their canines to bite a person unless the person poses imminent danger, or is actively resisting or escaping.
- Where the canine does bite a person, the dog shall be called off at the first moment the dog can safely be released. The policy shall prohibit canines from biting nonresistant subjects. Also, immediate medical attention must be sought for all canine related injuries.
- CPD shall track deployments and apprehensions, and calculate bite ratios. These bite ratios shall be included in the Risk Management System.

2. Status

CPD submitted to the Justice Department its first attempt to revise its canine policy in June 2002, but then withdrew the policy and asked for an extension until July 19, 2002. A second policy was submitted to DOJ on July 20, 2002, but CPD informed DOJ that the July 2002 policy was not final, nor complete. A third policy was sent to DOJ on August 9, 2002. Later in August, the Justice Department wrote back to CPD listing what it considered the policies' deficiencies. CPD then requested until October 2002 to cure those issues and provided a new (fourth) policy on October 11, 2002. Disagreement continued between the Justice Department and CPD over several aspects of the policy until a fifth and then sixth version of the policy was proposed on January 30, 2003. The Department of Justice approved this policy in a letter to Cincinnati dated February 7, 2003.

3. Assessment

A new canine policy has now been agreed upon (Procedure 12.140). The policy limits off-leash deployments to searches of commercial buildings or for suspects wanted for violent offenses or who are reasonably suspected of being armed. It requires approval of a supervisor before deployment, except for on-leash searches, and requires loud and clear canine warnings. It prohibits canines from biting nonresistant subjects.

The specific disagreement that held up Department of Justice approval in the end was how the policy should address persons who did

not surrender to the officers after an announcement, but instead hid from the officers and the dog. The dispute was over whether this action constituted “active resistance” and justified allowing the canine to bite the suspect upon finding him or her. The agreed-upon policy now states:

“In the case of concealment, consistent with the use of force policy, handlers will not allow their canine to engage a suspect by biting if a lower level of force could reasonably be expected to control the suspect or allow for the apprehension.”

Procedure 12.141.A.3.e. Where a bite does occur, the policy requires the handler to call off the dog at the first moment the canine can safely be released. Immediate medical attention must be sought for all canine related injuries.

We believe the policy complies with the MOA requirements.

In addition to reviewing the canine policy, we also reviewed canine training, operations, and CPD’s investigations of canine bites that occurred in the 3rd quarter of 2002. The first occasion the team had to visit with the CPD Canine Supervisor was in January of 2003. At that time, the Canine Supervisor and the command staff of the CPD were still in negotiations with the Justice Department over the canine policy.

The Monitor Team made an on-site visit to the Police Department on February 19 and 20, 2003, and had an opportunity to participate and observe the CPD police canine training. During the training, Monitor team members observed the police canines in an obedience drill, bite exercise, and two recall exercises. The Monitor team also participated and observed a building search of a commercial establishment where a suspect had hidden inside and would not comply with the officer’s commands to surrender.

The Monitor Team had several conversations with both the Canine Supervisor and the Canine trainer about the history of the Canine Unit and the training of both the officers and the dogs. We also discussed the differences in opinion with the Justice Department over the issue of canine techniques or methodology. (Although the MOA does not explicitly require a “find and bark” technique -- versus the “find and bite” technique being used by the CPD -- it does require the handlers to maintain control over their dogs and train them not to bite unless there are no alternatives using less force). During this visit, we asked the canine supervisor what changes he felt needed to be made in his training program to accommodate the new wording in the canine policy that the City and the Justice Department recently agreed upon. His response was that no changes were required to comply with the new language in the policy, because in his view the canine officers and dogs currently comply with the new language.

The Monitor will continue to review canine training, and will review future investigations of canine bites to determine if the CPD is complying with the new policy, as well as meeting the concerns outlined in the MOA. In addition, we will examine CPD's records of deployments and apprehensions, and how they calculate bite ratios. At this time, CPD does not include its canine bite ratios in a risk management system, as they have not yet developed or implemented this system.

4. Concerns from Review of Canine Investigations

A summary of our review of canine bites is contained in Chapter 6. Our review raised several concerns about CPD's compliance with its own policies and with the MOA's canine provisions. In at least two of the five canine bites that occurred during the third quarter of 2002, the CPD handler did not call the dog off "at the first moment the canine could be safely released, taking into account that the average person will struggle if seized or confronted by a canine." As stated in the MOA and CPD policy, struggling alone will not preclude the release of the canine.

Four of the five canine investigations reviewed where tracking was performed made no mention of any warning being given before or during the canine deployment. The only warning that was given in the four cases was after the canine bit the suspect. Section A.4 of the canine policy requires a loud and clear announcement when a canine team is deployed for tracking, unless the supervisor authorizing the deployment reasonably believes that the suspect is armed or the verbal warning will cause unnecessary danger to the officers. In none of the four reports was a reason given for a warning not being used.

In addition, in the four canine bites involving tracking, the suspect is reported to be hiding, rather than engaging in attempts to escape or actively resist the officers. These incidents do not appear to comply with the MOA provisions requiring improved handler control of the canines and limiting canine bites. The handlers lost sight of the dogs while the dogs were on-lead, and the dogs bit the suspects before the handlers reached the scene. Moreover, by not providing a warning, the suspects were not given an opportunity to surrender. Thus, there may have been alternatives using a lower level of force that reasonably could have been expected to lead to apprehension of the suspects.

In one report, the supervisor who approved the use of the canine was also the supervisor who did the on-scene investigative report, in violation of section E.2 of the Canine policy.

The Monitor was also given three initial investigative reports for the 4th quarter of 2002. Because we have not been provided with the complete investigation in these cases, we cannot make a determination of

compliance. However, there are a few areas of concern the CPD should address.

- i. The Monitor was provided the CPD's Canine Deployment Stats At A Glance report covering October 13, 2002 to January 12, 2003. In the report, it does not list a canine bite for which the Monitor has a written report.⁵ Not only is the deployment report inaccurate, but including this bite raises the canine's and canine handler's bite ratio well above the 20% threshold for review.
- ii. The deployment report also lists a bite for which the Monitor has no initial report.

D. Beanbag Shotguns

Beanbag shotguns are weapons that fire a small non-lethal beanbag round.⁶ They offer a non-deadly alternative to assist in apprehending violent individuals while maintaining officer safety. For example, beanbag shotguns are often used in situations where police officers are faced with mentally ill individuals who may have a weapon such as a knife.

1. Requirements

The MOA requires CPD to revise its policies on the use of beanbag shotguns and forty millimeter foam rounds in the following manner:

- Clearly define terms
- Weapons only to be used to subdue or incapacitate subjects to prevent imminent physical harm to officers or others
- Prohibit the use of weapons for prevention of theft or minor vandalism
- Prohibit use of weapons against crowds, absent an ability to target a specific individual who poses an imminent threat of physical harm
- Advise officers that the use of the weapon may be inappropriate even if not using it allows the suspect to escape
- Require supervisory approval, absent exigent circumstances
- Continue CPD policy that limits simultaneous deployment of beanbag shotguns/foam rounds against a single individual
- Use of force reports will include the estimated distance between the officer and the subject
- Require verbal warnings, where feasible

⁵ The bite occurred on 2/15/2002 at 2245 Westknolls Lane.

⁶ To say that the beanbag shotgun is a non-lethal, or less-than-lethal, weapon is not to say that its deployment can never lead to death. A few fatalities have occurred where persons were hit in the head with a beanbag round. However, beanbags are intended as an impact weapon and in the vast majority of cases are not deadly.

2. Status

As noted above, the CPD adopted a new Use of Force policy on September 2, 2002. In that policy, CPD made changes in procedures related to the MOA on beanbag shotguns and foam rounds. However, the City acknowledged to the DOJ that Procedure 12.545 did not comply with MOA. It was therefore withdrawn, with a request for an extension to adopt a revised policy. The CPD has not yet proposed its new policy.

In its 3rd Status Report to the Monitor under the MOA, Cincinnati states that modifications have been requested to paragraph 21(b), which limits the use of beanbag shotguns to incapacitate persons posing an imminent threat of harm, and paragraph 21(e), requiring the City to advise officers that it may be appropriate to allow persons to escape rather than use a beanbag weapon. Other than this reference, neither the Department of Justice nor the Monitor has received any request from Cincinnati to modify these MOA requirements.

3. Assessment

There are two areas where the CPD's policy is inconsistent with the MOA. Procedure 12.545 states that beanbags, foam rounds and pepper ball guns "may be used anytime" officers encounter individuals "actively resisting arrest" or threatening harm to themselves or others. Actively resisting includes making physically evasive movements, verbally signaling an intention to avoid being taken into custody, concealment and ignoring commands to submit to arrest. The use of beanbag shotguns is not limited to subduing or incapacitating subjects to prevent imminent harm to the officers or others. In addition, the policy does not advise officers that use of the beanbag weapon may be inappropriate even in cases where not using it might allow the suspect to escape (MOA Paragraph 21(e)).

There was at least one use of a beanbag round in the 3rd quarter of 2002. There were also several citizen complaints resolved in the 3rd quarter of 2002 that involved beanbag shotgun incidents from the 2nd quarter of 2002. We have requested and are awaiting the investigative files for several of these complaints. Our next report will discuss our observations from these incidents.

III. Incident Documentation, Investigation

Proper management of a police agency involves the documentation, review and investigation of use of force, to ensure that officers are using force appropriately. This review also allows the department to analyze use of force incidents, trends and patterns to determine if any revisions to tactics, training or procedures are advisable.

A. Documentation

1. Requirements

- All uses of force are to be reported. The use of force form shall indicate each use of force and require evaluation of each use of force. Use of force reports will include the supervisor's and officer's narrative description, and the officer's audio taped statement.
- CPD will implement an automated data system allowing supervisors access to all use of force information.
- CPD will implement a Canine deployment form.
- If the gun pointing requirement is triggered under the Collaborative Agreement, data reported shall be included in the risk management system.

2. Status

CPD has revised and implemented new use of force forms (Form 18) for each type of use of force. There is a separate form for physical force (18F); canine (18C); chemical spray (18CI); and beanbag, taser, foam or pepper ball use (18TBFP). The Canine Unit also has developed a canine deployment form for all deployments, whether or not there is a canine bite. CPD also revised the use of force policy (Procedure 12.545) relating to completing forms and obtaining taped statements.

Because of the revised definition of force in Procedure 12.545, a broader category of uses of force is now being documented, compared to before the MOA. For example, takedowns of suspects by officers are now categorized as physical force, and a supervisor's use of force report, complete with Form 18F and taped statements of the officers and witnesses, is prepared. However, because there is a lack of a final definition of force (given the differences between Procedure 12.545 and the MOA definition of force), the exact contours of what kinds of police actions require a use of force report and taped statements is not completely determined. For example, certain actions that might be considered the use of "hard hands" under the MOA definition may not fit under the CPD definition of force. In fact, it is not clear that even incidents meeting the CPD definition of force (such as pain compliance holds) are being captured on use of force forms.⁷

⁷ The MOA is also ambiguous as to whether investigations of use of chemical spray need to include taped statements. Currently, under the force policy now in place in CPD, chemical spray incidents require taped statements only when the person sprayed was restrained. Paragraph 15 of the MOA requires taped statements where spray is used on

The MOA also requires CPD to develop an automated document management system giving supervisors access to all use of force information. CPD plans to use the risk management system discussed in Section V below (to be known as the Employee Tracking Solution), as that automated system. It is not anticipated that this system will come on line for some time. In the meantime, use of force incidents are entered into a Microsoft Access database at CPD's Inspections Section, though supervisors do not have access to this database. CPD also has instituted a filing system improvement that should assist in maintaining use of force investigations intact. All use of force reports, tapes, photographs and other materials will now be placed in a Use of Force Jacket, with a routing label that directs the package as it is reviewed through the chain of command.

3. Assessment

CPD is in partial compliance with these requirements. It appears that CPD has made progress in the area of force reporting. However, as noted below, there remain some matters to review relating to implementation of these provisions.

Section J of Procedure 12.545 (Priority of Forms) states that if there is more than one use of force, only one report needs to be filled out. While some of the forms prompt the individual filling out the form to note additional uses of force, not all of them do. For example, Form 18F (Use of Physical Force) also asks whether chemical spray, impact weapons or firearms were used; on the other hand, 18C (Canine) does not ask if impact weapons or physical force was used. Also, the forms do not appear to require the supervisor to list and describe every use of force and evaluate each one. Rather, the supervisor is asked whether the force used "as described above" was consistent with Police Department policy.⁸

Monitor's Note on Use of Force forms: From our review of a sample of force investigations (see Chapter 6), we have a number of concerns relating to the use of force forms.

a restrained individual, suggesting that taped statements are not needed in other instances of chemical spray use. The MOA states that all uses of force will be "reported in the same manner as the CPD currently reports incidents it classifies as uses of force." While the Justice Department reads this to require taped statement for all uses of force, including all uses of chemical spray (as that was the way force was reported when the MOA was signed), they indicate that they would consider a revision to the MOA in this respect.

⁸ It should be noted that the Form 18 Field Manual states that supervisors and command officers should "[c]onsider each tool or weapon used by the officers (i.e., chemical irritant, PR24, etc.) separately to ensure that each contact with the suspect was consistent with Department policy." This is an issue we will examine in our review of sample investigations.

1. The forms do not appear to contain sufficient information to allow the chain of command to properly assess the incident and whether the use of force was appropriate.
2. The forms do not reflect the requirements of the MOA, so the CPD and the Monitor can't review the form to check MOA compliance. For example, the canine form (18C) does not ask whether there was supervisory approval of the deployment, or a canine announcement; the chemical spray form (18CI) does not address verbal warnings.
3. We also have a concern over the "check boxes" approach for certain information. This approach is helpful as a data collection tool, and a short-hand way of ensuring that certain information is captured. But, checking boxes is counterproductive if it substitutes for a narrative description of the event that is needed for context. It also causes concern if the boxes are labeled in a way that prejudices or shades the actions taken. In particular, the fields under the headings "Subject's Noncompliance" and "Subject's Pre-attack Posture" seem shaded in a way to justify force. We recommend the City reexamine these forms in light of the new use of force policy to be proposed and these issues.

B. Investigation

1. Requirements

- Officers to notify supervisor following any use of force, or allegation of excessive force. Supervisor to respond to scene. Incident not to be investigated by officer who used force or who authorized force.
- CPD supervisors will investigate each use of force incident, with evaluation of compliance with CPD policies and of tactics, including basis of any stop or seizure.
- Internal Investigations Section (IIS) will respond to scene of all "serious uses of force" and all canine bites with serious injuries. Inspections Section will review all investigations of canine bites, bean bags, foam rounds and baton uses.
- Investigators prohibited from asking leading questions. Investigators to consider all relevant evidence and make credibility determinations. No automatic preference for officer's statement over citizen's; nor discount statement of witness with connection to complainant. CPD to resolve material inconsistencies. CPD will train investigators on factors to consider in investigations.

- Investigators to ensure that all witness officers provide statement. Supervisors will ensure that reports list all officers involved or on scene, and document any medical treatment or refusal of medical care.
- Lieutenant or higher will review each investigation conducted by CPD supervisors and identify any deficiency and require corrections. CPD supervisors to be held accountable for quality of investigations. Appropriate non-disciplinary or disciplinary action will be taken if investigations are not thorough, properly adjudicated, or where appropriate corrective action not recommended.

2. Status

CPD's September 2, 2002 Use of Force policy (Procedure 12.545) includes notification of a supervisor of use of force incidents; supervisory investigation; and a prohibition on conflicts of interest. The use of force forms (Form 18) require an assessment of the basis for the initial stop. In addition, Procedure 12.545 requires Inspections to review investigations, and Inspections has begun to do those reviews. CPD also revised its policy on prisoner securing, handling and transportation, Procedure 12.600, to require that all officers witnessing force provide a statement, and to require documentation of medical care or refusal of medical care. In addition, CPD revised the standard operating procedures (SOPs) for the Internal Investigations Section (IIS) and the Inspection Section to comply with the MOA.

The City's 3rd Status Report to the Monitor under the MOA expresses a concern over the time it takes supervisors to audiotape interviews with involved officers and witnesses, in particular for instances of takedowns, which it states occur with some frequency. Cincinnati indicates that this has "adversely impacted on the number of officers and supervisors available to meet field demands." [p. 33] It also suggests that the increased number of incidents for which a force investigation is required "has placed such a strain on the review process that each layer of the process has become backlogged." [*id.*]

3. Assessment

Many of the requirements in MOA Paragraphs 24 to 31 have been adequately addressed in CPD policy. Some concerns remain. For example, Procedure 12.545 requires notification of a supervisor following any use of force, and a supervisor must respond to the scene. The procedure does not include notice to a supervisor, however, upon an "allegation of excessive force." Procedure 12.545 also requires notice to IIS of serious injury or hospitalization of the arrestee, and IIS is directed

to investigate any injury resulting from the use of force. However, CPD's Canine policy states that investigations of canine bites will be conducted by the on-duty canine supervisor or on-duty park supervisor. It appears that only if there is serious injury and hospital admission, will IIS investigate.

More telling than policy will be implementation. Are thorough and unbiased investigations being completed? Are field supervisors being trained to conduct investigations? Are IIS and CCA investigators following proper standards for investigations?

We have reviewed a sample of force investigations this quarter (see Chapter 6) and we requested additional files that have not yet been provided to Monitor. This is an area on which the Monitor will focus significant attention in future quarters. We will also examine CPD's own efforts to improve its investigations and hold supervisors accountable for incomplete or improperly adjudicated investigations.

In this regard, the Inspections Section in particular has undertaken significant additional responsibilities under the MOA. This is a crucial element of the MOA reforms. Over time, we look to the Inspections Section to take on much of the functions of the Monitor as its capabilities increase. We hope to work with the Inspections Section to ensure consistency and care in their reviews, although we share the City's concerns over workload and a potential backlog.

On the issue of taped interviews, the City has not provided much support for its contention that the additional effort of taking taped statements is having a damaging effect on the Department. Obtaining taped interviews makes the investigation more complete and requires the supervisor to be more thorough. Supervisors, even before the MOA, were still supposed to be doing the interviews, so any additional time and effort may be the result of more thorough interviews or interviewing additional witnesses. It is true that reviewing the tapes creates more work and takes additional time for the chain of command and for Inspections. However, it also makes their review and assessment more accurate. It is often difficult to assess the appropriateness of a use of force simply from the Form 18 report, especially when the report contains only short summaries of witness statements, and sometimes only the notation that the witness corroborates the involved officer, and no more.

On the other hand, we do recognize that not all levels of use of force require the same amount of investigation. While we believe the MOA requirement of taped statements for takedowns should remain a requirement, absent agreement by the Department of Justice and additional discussions with the City, we recognize that there may be other areas where clarification of the level of investigation is appropriate.

C. Review of Critical Firearms

Firearm discharges are of specific concern to the community, and their careful review is crucial to the management of any police agency. Thus, the MOA includes special requirements for firearms discharges.

1. Requirements

- Critical Firearms Discharges. CPD investigations will account for all shots, and locations of officers discharging their firearm. CPD will conduct appropriate ballistics or crime scene analysis, including gunshot residue or bullet trajectory tests.
- A Firearms Discharge Board (FDB) shall review all critical firearms discharges; review IIS and CIS investigation for policy compliance, tactical and training implications. The FDB will prepare a report to the Chief of Police. The FDB will determine (a) whether all uses of force during encounter were consistent with CPD policies and training; (b) whether the officer/s used proper tactics; (c) whether lesser force alternatives reasonably were available.
- The policy for the FDB shall include: a review within 90 days from the end of the criminal investigation; FDB to act as quality control; authorize recommendations to the Chief of Police; require annual review for patterns, with findings to the Chief of Police.

2. Status

Chief Streicher established the Firearms Discharge Board for the review of critical firearms discharges. The Board will consist of a CPD Command Staff officer, the Academy Director, the affected Bureau Commander, and an attorney from the Solicitor's office.

In September 2002, CPD adopted a revised policy on Firearms Discharges, Procedure 12.550. A further revision to this policy was proposed by Cincinnati on January 24, 2003, to better track the language of the MOA. The revised policy would require accounting for shots and location, appropriate crime scene analysis, gunshot residue tests and ballistics tests.

Procedure 12.550 defines a "critical firearms discharge" consistent with the MOA, and requires the FDB to evaluate all critical firearms discharges, to be completed within 90 days of commencement. The Board is required to review IIS and CIS files and meet with investigators. Procedure 12.550 also defines the contents of FDB reports, including whether the discharge was consistent with policy, whether proper tactics were used, and whether alternatives to deadly force were available. The

FDB is given the authority to return incomplete investigations for additional work, and to recommend changes in investigatory protocols and standards.

There were no firearms discharges from the signing of the MOA on April 12, 2002 to Feb, 2003. Therefore, the FDB did not convene during the reporting period of this report, and did not prepare the annual report called for in paragraph 34 of the MOA. However, with the officer-involved shooting on Feb 9, 2003, and the closing of the criminal investigation of that case, a Firearms Discharge Board should be convened.

3. Assessment

CPD has created the FDB in compliance with the MOA and provided for its operation. We did raise a question concerning the statement in Procedure 12.550 that “[t]he review [by the FDB] will begin at the Police Chief’s direction.” Under the MOA, the operation of the FDB is mandatory for all critical firearms discharges. The City has informed us that this procedure simply reflects a check to ensure that criminal proceedings have been completed.

IV. Citizen Complaint Process

To ensure that police agency procedures and actions are reasonable and effective, agencies should provide a readily accessible process in which community and agency members can have confidence that complaints will be given prompt and fair attention. Thorough and impartial investigations not only provide for corrective action where appropriate, but also protect against unwarranted criticisms when actions and procedures are proper. These sections of the MOA are designed to open up the complaint process and provide an avenue for citizens to bring allegations to the City without discouragement or fear of retaliation. They also ensure that the CPD tracks and investigates complaints as part of its efforts to manage the Department. Finally, a new entity, the Citizen Complaint Authority (CCA), is created in an effort to provide an alternative forum and investigation, to bolster the confidence of the public that allegations of misconduct will be fairly and objectively investigated and adjudicated.

A. Openness of Complaint Process

1. Requirements

- Publicity program for complaint process
- Availability of complaint forms, informational brochure
- Complaints may be filed in any form; intake officers not to opine on veracity or mental capacity. Complaint form completed for every complaint

- Every complaint to be resolved in writing
- Each complaint gets unique identifier and tracked
- Copies of allegations filed with the Citizen's Police Review Panel (CPRP), the Office of Municipal Investigations (OMI), CCA, Human Relations Commission referred to IIS within 5 days

2. Status

CPD revised its policy regarding Citizen Complaints (Procedure 15.100) to comply with the MOA. Complaints may be filed in writing, verbally, in person, by mail, fax, or phone. Postage free forms have been printed and are available at all districts. The CPD Web site also has the complaint form, which can be filled out and e-mailed. All officers are also required to carry complaint forms in their patrol cars. The CPD policy also authorizes third party and anonymous complaints as required by the MOA.

In addition, Cincinnati conducted a publicity campaign relating to citizen complaints, including a brochure, posters and public service announcements (PSAs). It also developed a "Citizen Feedback Form" that can be used by citizens to provide positive comments on police interactions.⁹

3. Assessment

Based on the policy changes made, the City is in compliance with these provisions. In future reports, the Monitor will review implementation of these provisions, including the availability of forms and the accessibility of the complaint process.

Paragraphs 37 and 46 of the MOA address the IIS (Internal Investigations Section) tracking of complaints. CPD is entering complaint information into a Microsoft Access database at IIS. The expectation is that the interface described in the Employee Tracking Solution will provide the information for analysis as part of a risk management system.

B. Investigation of Complaints

1. Requirements

- Preponderance of evidence standard; City will develop appropriate training
- Officers who used spray or force, or authorized the conduct at issue, may not investigate the incident

⁹ The FOP notes its view that the City has provided many avenues for citizens to complain about officer conduct, but little effort has been put into documenting citizen's reports of favorable officer conduct. See Chapter 5, Section V.A, below.

- All relevant evidence to be considered
- No automatic preference of officer's statements; investigators will attempt to resolve inconsistencies; no leading questions; all officers on the scene are required to provide a statement
- All relevant police activity, including each use of force, will be investigated; searches and seizures will be evaluated; investigations are not to be closed simply because a complaint has been withdrawn
- Conviction of the complainant will not be used as evidence of the appropriateness of the action of the CPD officer
- Complainant to be kept informed
- IIS to investigate complaints of force, pointing firearms, searches, discrimination
- Citizen Complaint Resolution Process (CCRP) complaints will be fully investigated
- CCRP complaints will be investigated by chain of command, with report. District or unit commander will evaluate investigation
- For IIS Investigations:
 - a. tape all interviews with complainants, involved officers, and witnesses
 - b. interviews at convenient times
 - c. prohibit group interviews
 - d. notify supervisors of complaints
 - e. interview all appropriate CPD officers, including supervisors
 - f. collect and analyze all appropriate evidence, canvass scene for witnesses, obtain medical records
 - g. identify material inconsistencies
- Report on investigation to include a summary, proposed findings and analysis
- Investigation to be complete within 90 days, absent exceptional circumstances.

2. Status

Several of the requirements of the MOA are contained in revised CPD policies and procedures. IIS SOP 104.12 states that investigations will be judged using a preponderance of the evidence standard. The CPD policy on Citizen Complaints (Procedure 15.100) provides that an officer who uses or authorizes force cannot also be the officer investigating the incident. Procedure 15.100 also states that all relevant evidence will be considered in an investigation, and prohibits leading questions. This procedure also states that all relevant police activity, including each use of force, will be investigated, and that CPD will not close an investigation just because a complaint is withdrawn or the complainant is unwilling to provide records. The newly proposed Procedure 15.100 also has a requirement to evaluate the initial search and seizure and states that the conviction of complainant will not be a reason to uphold the officer's side of the story.

The City Manager issued a directive to City Departments and the CCA that any complaints received had to be forwarded to the CCA within five days.

3. Assessment

The City is in partial compliance with this requirement. As noted, CPD policies incorporate many of the requirements of the MOA. One issue that arises is how complaints are allocated between IIS and Field Patrol supervisors. Under the MOA, it is contemplated that IIS makes the determination as to whether a complaint should be handled by IIS or handled as a CCRP complaint by the Patrol supervisor. The process as it is set up in CPD procedures indicates that the supervisor in the field determines whether to keep the complaint or send it to IIS. This does not allow for IIS to decide whether a complaint involves serious misconduct.

In addition, neither the complaint procedure nor the IIS SOPs describe the standards to be used for the investigation as laid out in the MOA. Provisions relating to no automatic preference of the officer's statements; investigators will attempt to resolve inconsistencies; and investigators will be trained on evaluating credibility, are not stated in CPD policy. The Monitor will review a sample of complaint investigations to determine if these standards for investigation are being met. We requested complete investigations for 12 complaints from the 3rd quarter of 2002 and we will report on these investigations in the next quarterly report.

C. Adjudication of Complaints

1. Requirements

- Every allegation to be resolved with determination – unfounded, sustained, exonerated, not sustained.
- Unit commanders to evaluate each investigation to identify problems and training needs.

2. Status

As stated in its 3rd Status Report to the Monitor, the City has taken the position that CCRP cases do not need to be adjudicated with one of the dispositions required by the MOA (unfounded, sustained, exonerated, not sustained). A list for CCRP cases closed in 2002 lists the outcome of cases as "MET STANDARDS" or "DID NOT MEET." These are not the same dispositions used for IIS investigations.

It is our understanding that the City's concern is that using the dispositions listed in the MOA would trigger formal administrative discipline procedures, which the City believes is not appropriate for CCRP cases. Presently, as we understand CPD procedures, field supervisors can impose counseling and retraining without triggering formal administrative procedures. However, if a written reprimand or suspension is recommended, the supervisor must initiate the formal disciplinary process, and the recommendations need the review and approval of the chain of command.

3. Assessment

The Monitor recognizes the value of the CCRP process and the benefits of mediation and resolution between the officer and the complainant. We also recognize that some police agencies attempt to resolve minor procedure and demeanor violations through less formal corrective actions. Under the MOA, however, the Department must make a determination as to the appropriateness of the officer's behavior, regardless of whether or not the citizen is satisfied in a resolution meeting, or participates or not in the CCRP process. The MOA also sets out the disposition terms for these determinations. Therefore, the City is not in compliance with this provision of the MOA.

The Monitor will review and evaluate how CPD is handling CCRP cases, and what corrective actions, if any, the Department is taking for cases where the field supervisor finds that the officer involved "did not meet" CPD standards.

D. Creation of CCA

A principle mechanism of both the CA and the MOA is the creation of a new entity to investigate police conduct. The mission of the Citizens Complaint Authority (CCA) "is to investigate serious interventions by police officers, including shots fired, deaths in custody, major uses of force, and to review and resolve all citizen complaints in a fair and efficient manner. It is essential that the CCA uniformly be perceived as fair and impartial, and not a vehicle for any individuals or groups to promote their own agendas."

The CCA is an independent city agency directed by a board of citizens and staffed by a professional executive director and a minimum of five professional investigators. CCA investigations would be conducted independent of the police department and the results of its investigations and recommendations are forwarded to the City Manager at the same time as those of the Chief of Police.

1. Requirements

- CCA to assume all of the responsibilities of the OMI within 120 days from the date of the agreement.
- Copies of all complaints, no matter with which office they are filed, will be directed to the CCA. The CCA is to have jurisdiction over complaints of excessive force, pointing firearms, unreasonable search or seizure, or discrimination. CCA shall have sufficient number of investigators, with a minimum of five.
- CPD officers must answer CCA questions. CCA director to have access to CPD files and records.
- City to develop procedures to coordinate parallel investigations.
- City will take appropriate action on CCA completed investigations.
- CCA will complete investigations within 90 days. City Manager to take appropriate action within 30 days of CCA completion of investigation.

2. Status

The Citizen Complaint Authority was created and commenced operations on January 6, 2003, assuming all of the functions of the former Office of Municipal Investigations (OMI). As described in the City's 3rd Status Report to the Monitor, progress towards this milestone was accomplished as follows:

May 13, 2002	City Council approves CCA ordinance
June 26, 2002	City Council confirms seven CCA board members chosen by the Mayor
July 29, 2002	Cincinnati begins public solicitation for CCA executive director applications
August 3, 2002	CCA Board members begin training sessions
August 26, 2002	City hires consultant to assist CCA
Sept. 3, 2002	Selection process for Executive Director extended
Nov. 12, 2002	CCA Board members sworn in; CCA Interim Director appointed
Jan. 6, 2003	CCA commences operations, OMI responsibilities transferred to CCA
Jan. 22, 2003	Permanent Executive Director named

3. Assessment

The City is in compliance with the provisions of the MOA that require the creation of the CCA. Although the selection of the CCA Executive Director and the start of CCA operations were delayed, those delays were agreed upon by the Department of Justice and the Parties to CA. The executive director search was extended so that the Parties to the CA could have more input into the process of selection, and so that the search could be broadened. We commend the Parties for their actions in this matters.

The CCA is now in the process of establishing policies and procedures for its operations. There is some dispute among the Parties to the Collaborative Agreement regarding the 90 day provision for completion of CCA investigations, and when a CCA investigation ought to commence. This and other issues are discussed in more detail in Chapter 5, Section V, of our Report. Future reports will also examine CCA investigations to determine if they comply with the standards set out in the MOA.

V. Management and Supervision

A. Risk Management

The MOA requires Cincinnati to take a variety of measures to better identify and manage at-risk behavior of officers. The principle aspect of the management and supervision section of the MOA is a computerized system (the Risk Management System) to track data on police activities.

1. Requirements

Under the MOA, CPD is required to enhance and expand its risk management system by creating a new “computerized, relational database.” CPD is to use the data in this system “to promote civil rights and best practices, manage risk and liability, and evaluate the performance of CPD officers.”

- The information in the Risk Management System is to include:
 - uses of force
 - canine bite ratio
 - canisters of chemical spray used
 - injuries to prisoners
 - resisting arrest, assault on p.o. and obstruction charges
 - critical firearms discharges
 - complaints, dispositions
 - criminal and civil proceedings against officers
 - vehicle pursuits

pointing of firearms (if added)
disciplinary actions

- The data in the risk management system will also include identifying information, demographics, for officers and civilians
- CPD must develop a plan for inputting historic data now in existing databases, within 90 days (Data Input Plan)
- CPD must develop a protocol for using the risk management system, subject to DOJ approval, within 90 days
- The protocol will include the following elements:
 - data storage, data retrieval, reporting, data analysis, pattern identification, supervisory assessment, supervisory intervention, documentation, and audit
 - the system will generate monthly reports
 - CPD commanders, managers and supervisors must review, at least quarterly, system reports and analyze officer, supervisor, and unit activity
 - CPD commanders and managers must initiate intervention for officers, supervisors or units, based on appropriate “activity and patter assessment” of the information in the RMS
 - intervention options include counseling, training, action plans; all interventions must be documented in writing and entered into the system
 - the data in system must be accessible to CPD commanders, managers and supervisors; they must review records of officers transferred into their units
 - CPD will conduct quarterly reviews of performance citywide
- Schedule for system development and implementation
 - 90 days from April 12, 2002, for RFP, with DOJ approval
 - 120 days from RFP, select contractor
 - 12 months from selection contractor: beta version ready for testing
 - 18 months from selection of contractor: Computer program and hardware to be “operational and fully implemented”

2. Status

CPD provided a draft RFP to the Department of Justice on June 28, 2002. CPD published the RFP on July 10, 2002, without obtaining approval of the RFP from the Justice Department, as required by the MOA. On July 26, the Department of Justice sent the City written notice of failure to comply with the MOA requirements. According to the City's 3rd Quarterly Status Report, as a remedy for this omission, CPD sent vendors additional information on the specifications and operation of the system based on the Justice Department technical assistance.

Three responses to the Employee Tracking Solution RFP were received:

- Management Science Associates, Inc.
6565 Penn Avenue
Pittsburgh, PA 15206
(412) 362-2000
- ABM America, Inc.
2214 Rock Hill Rd.
Suite 501
Herndon, VA 20170
(703) 326-1366
- MEGG Associates, Inc. (dba CRISNet)
756 East Winchester St.
Suite 150
Salt Lake City, Utah 84107
(801) 486-9939

The MEGG Associates CRISNet solution was deemed by Cincinnati to be the best choice. The proposal is pending a contract award. The proposed MEGG Associates CRISNet solution addresses most of the data elements required by the MOA in its "Module 3.1" and "Module 3.5." For certain arrest data that need to be captured (e.g., resisting arrest, obstruction), the CRISNet system could capture the data on a customized form, or through a link to the RMS (Records Management System) arrest report. This process has not been identified. For disciplinary action taken against officers, the CRISNet system will need a link to the IIS database and personnel database.

Paragraph 59 of the MOA requires that the risk management system include appropriate identifying information for officers and civilians. This will require a link to CPD's personnel database, or an alternative input source. Paragraph 60 requires the development of a Data Input Plan for the inclusion of historic data that are contained in

the City's current databases. As of now, CPD and the proposed vendor have not developed a data input plan.

With respect to a protocol for using the risk management system, CPD has determined that the protocol should be developed in conjunction with the risk management system vendor. Thus, the protocol has not been developed and is pending the choice of vendor.

3. Assessment

The City is not yet in compliance with these provisions. Some progress has been made in defining risk management requirements. The RFP for an Employee Tracking Solution has been issued and responses have been evaluated.

Some issues of concern are raised by the lack of communication within CPD regarding IT requirements. The City proposed to use several systems currently under development to satisfy the requirements of a risk management system. There does not appear to be a comprehensive plan for those systems. Detailed design of the system also is lacking. For example, a mobile data computer project, run by RCIC, will put hardware and communication software into approximately 225 marked vehicles for CPD, but there is still a question as to whether all pertinent contact data will be collected. An RMS (records management) system is being planned, and a significant integration requirement will be placed on the vendor writing the RFP for that system. But the integration efforts should probably be separate from the RMS project. Moreover, the front-end data that will be required for the risk management system has yet to be completely defined, and the collection process is not now automated. In addition, different committees appear to be spearheading various IT projects and CPD does not have one person, or a single team, coordinating all of its IT projects.

In February 2003, we met with Lt. Col. Combs, Greg Baker, Vanessa McMillan-Moore and Terry Cosgrove. We raised the concern regarding the number of committees handling IT issues. After reviewing the committee members and responsibilities of each committee, it appeared that several IT-related committees were proceeding down independent paths without a common thread. CPD and City officials acknowledged that there are significant integration issues. They plan to have a third-party contractor, the Gartner Group, assess and identify CPD's integration requirements and use the City's RMS (records management system) purchase to close the integration gap.

The decision to use the MEGG Associates (CRISNet) solution was also discussed at the meeting. We raised a concern about the significant customization of CRISNet's products that MEGG Associates describe in their RFP response in order to meet the requirements of the RFP. While

the vendor's response to the RFP stated that its current solution could satisfy the requirements of the RFP, many of the requirements will require modification to their system.¹⁰

Also of concern is the handling of "feeder" systems currently in place in CPD. In order for the new system to be accurate, the data in the feeder systems must be accurate, and an automated approach to data acquisition must be defined. Any inadequacies in the feed will skew the results in the new system. CPD has identified the following feeder systems:

- CHRIS Interface (PeopleSoft)
- CPD Personnel Database (MS Access)
- Internal Investigation Interface (MS Access)

We have recommended that CPD continue defining "input" and "output" requirements for the risk management system, and whether automated data currently exists or not, and the data location. This would help identify gaps and facilitate closing identified gaps. It would also assist CPD in preparing the Data Input Plan, which also has not been completed, and is pending the selection of the vendor.

The MOA also requires CPD to use its existing databases and resources to the fullest extent possible, prior to the creation of its new risk management system, to identify patterns of conduct by CPD officers or groups of officers. There is no evidence that this is being done to date.

B. Audit procedures

1. Requirements

- CPD to develop a protocol for audits
- Regular audits
 - of the citizen complaint process
 - Integrity audits of IIS investigations
- Meetings with prosecutors

2. Status

CPD has assigned responsibility for audits under the MOA to the Inspections Section. The Inspections Section has adopted new SOPs 1.54 and 2.42, for quarterly audits of the citizen complaint process and semi-annual audits of IIS investigations.

¹⁰ A summary of CRISNet's response, listing the requirements and which ones would require modification of their system, is contained in Appendix 5.

Pursuant to the Inspections SOP, the IIS audit will include the review of one completed case of each investigator from the previous six month period. At least one case will be an excessive force case and one case will be a criminal complaint allegation. The review will include an assessment of the reliability and completeness of IIS's canvassing and interviewing of witnesses; preservation of the incident scene; analysis of the scene, if applicable, and the appropriateness of the IIS conclusions.

The CCRP audits will review: each District's or Section's database; matching the cases in the database with hard copies; random selection from each district, section or unit of 30% of the cases closed through complainant participation and 30% from cases closed without participation. The case review will examine: whether all documents required are in file; whether documents are complete; whether case was appropriate for CCRP process. The auditor also contacts the complainant to determine if the complainant participated, was given an opportunity to express his or her views, was the complainant satisfied with the results of the meeting.

In October, 2002, the Inspections Section completed an audit of the CCRP process for the 3rd quarter of 2002. The audit examined the accuracy of the CCRP database, the notification of complainants regarding the CCRP outcome and action taken, and the availability of complaint forms and informational brochures at police facilities and in police cars. According to this audit, CPD found no problems in the operations of the CCRP process.

In July, 2002, Inspections conducted its first semi-annual audit of IIS investigations. The audit examined five criminal investigations and two administrative investigations. The audit found that all documents, interviews and reports were in compliance with CPD standards, but did raise a concern about one investigation and requested additional investigation. As a result, additional interviews were completed in that case and a sustained finding resulted.

The CPD has also adopted a policy requiring bi-monthly meetings between the Inspections Section and members of the County Prosecutors' office and the City Prosecutor's and Solicitor's offices. No meetings were held pursuant to this requirement in the fourth quarter of 2003.¹¹ However, the City has informed us that a meeting did take place in January 2003 and additional meetings are being scheduled.

¹¹ It does not appear that these meetings occurred during the 2nd or 3rd quarter of 2002, either.

3. Assessment

Cincinnati has partially complied with these requirements. The Inspections Section has established appropriate procedures for conducting audits, and has prepared two so far. From its CCRP audit, it appears that complaint forms are available to the public. However, Inspections did not take note of the fact that CPD supervisors are not adjudicating CCRP cases in accordance with the MOA. With respect to the audits of IIS investigations, the audit identified some apparent problems with one investigation. We believe that Inspections will need to work with IIS on the quality of investigations. In future quarters, we will examine more fully the criteria for Inspections' audits, as well as how they are conducted. Further, we will review the documentation of bi-monthly meetings between CPD and prosecutors.

C. Video Cameras

1. Requirements

The MOA requires that all patrol cars be equipped with mobile video recorders (MVR).

- Mandatory activation of MVR for all traffic stops
- Recording of consent to search, deployment of drug sniffing canines, and vehicle searches
- Recording of violent prisoner transport, where possible
- Supervisors to review all tapes where there are injuries to prisoners, uses of force, vehicle pursuits, citizen complaints
- CPD to retain and preserve tapes for 90 days, or as long as investigation is open
- If stop is not recorded, officer to notify shift supervisor
- Periodic random reviews of videotapes for training and integrity purposes; supervisors are to keep a log book of these reviews
- Random surveys of equipment

2. Status

CPD has made revisions in the following procedures to meet the MVR requirements of the MOA

- Procedure 12.205 -- Traffic Stops
- Procedure 12.535 -- Emergency Operation of Police Vehicles and Pursuit Driving
- Procedure 12.537 -- Mobile Video Recording Equipment

These policies require CPD officers to activate the MVR cameras in all traffic stops and pursuits and, where practical, for incidents in which the prisoner being transported is being violent. These policies also require

supervisors to review tapes in incidents of injuries to prisoners, use of force, vehicle pursuits and citizen complaints.

3. Assessment

The City is in partial compliance with these provisions. The required policies are in place. We understand from CPD that working cameras are in approximately two thirds of CPD cars. The Monitor will review with CPD plans to fully equip the remainder of cars. We will also assess whether supervisors are reviewing MVR tapes as part of pursuit, complaint, and force investigations, and whether the MVR cameras in patrol cars are kept in working order.

D. Police Communications Section

1. Requirements

- City to provide resources for Police Communications Section's technology
- Written protocol or checklists to guide PCS operators

2. Status

As part of its plans to upgrade technology in the CPD, Cincinnati plans to implement a 800 MHz communications System, replace its 911 phone system, and replace its Computer Aided Dispatch (CAD) system. In addition, CPD has developed a Call Takers Response Guide for Communications personnel. The guide describes the proper procedures and protocol for handling various types of reported incidents.

3. Assessment

The city is in compliance with these MOA provisions.

E. Discipline

1. Requirements

- CPD to revise disciplinary matrix to increase penalties for serious misconduct violations, such as excessive use of force and discrimination.
- Where matrix indicates discipline, it should be imposed absent exceptional circumstances. CPD shall also consider non-disciplinary corrective action, even where discipline is imposed.

2. Status

In the 3rd quarter of 2002, CPD adopted a revised discipline matrix. On September 4, 2002, the Department of Justice approved the revised discipline matrix. In its letter to the City of Cincinnati, DOJ states:

“For the CPD to satisfy the increased penalty requirement of the MOA also depends on the exercise of considerable discretion. In response to the requirement to increase penalties for certain types of infractions, the CPD raised the maximum penalty that can be imposed for certain infractions, but has not changed the minimum sanction that can be imposed. Thus, the CPD will not have actually increased the penalty for these offenses if it habitually imposes the minimum disciplinary action allowed under the matrix.”

3. Assessment

The disciplinary matrix adopted by CPD complies with the MOA. In future quarters we will evaluate the discipline actually imposed to assess compliance.

VII. Training

During the first reporting period, members of the Monitor Team began their assessment of CPD's capacity to meet the Training requirements in the MOA. The Monitor Team met with the Training Academy staff, toured the training facilities, discussed training theories and methodologies with Academy leadership, and requested documents that would reflect compliance with Paragraphs 77-91 of the MOA and Paragraphs 29 (c, e, l) of the Collaborative Agreement. The Monitor notes that command staff responsible for training were responsive to requests from the Monitor Team and very helpful.

In this report, we enumerate the requirements for training in the MOA and the Collaborative Agreement (CA) to clarify the Monitor's expectations for compliance in Training in future quarters. The Monitor appreciates the memorandum from Lieutenant Howard Rahtz to Colonel Streicher that detailed the Training Division's response to each Requirement of the MOA. Where possible, the Monitor will note documentation provided by the City that progress is being made to achieve compliance. In the area of Training, the Monitor Team believes that a good faith effort is underway to achieve compliance with the requirements of the MOA. However, we are not able to fully assess compliance in most areas under this section of the MOA during this quarter for the following reasons:

- The City forwarded the majority of requested training documents to the Monitor during the first week of March, which precluded a comprehensive examination of those documents prior to the submission of this report. A more complete review of those training documents will therefore occur in the next quarter.
- It will be necessary for the Monitor to audit and conduct on-site observations of training activities in future quarters in order to verify written documentation submitted to the Monitor.
- In addition, in a number of areas, most importantly Use of Force, the City has not adopted procedures that comply with the MOA. Therefore, CPD's training in those areas cannot be in compliance with the MOA.

A. Use of Force—Management Oversight and Curriculum

1. Requirements

[Paragraphs 77-81] The MOA requires the CPD to provide management oversight over use of force policy and training. The oversight includes ensuring that both policy and training (including the instructors) meet standards of quality, consistency, and compliance with applicable laws and CPD policy. Once these standards are achieved, the MOA requires regular, subsequent reviews, which have been defined as at least semi-annually, to ensure the standards are maintained. In addition to management oversight, annual in-service training for all members in the current use of force policy is required.

2. Status

For the reporting period ending March 5, 2003, the Monitor requested specific documents to conduct a preliminary review of CPD's compliance with the MOA for management oversight of use of force policy and training. Some requested documents pertaining to use of force, mental health response, canine, and less lethal options training were received in the Monitor's office the first week of March and it is evident that some training is underway in the basic academy, roll calls and in-service. Unclear, however, are the standards established and used to ascertain quality, consistency, and compliance as set forth in the MOA. For example, although roll call training is conducted, what expectations have been set for the supervisor (or other designee) who conducts that training? What evaluation is done of the training to ensure the quality of the delivery and content? And what performance measures are used to determine the effectiveness of the training? The Monitor has requested documents describing the CPD training methodology, instructor certification requirements, lesson plan templates, and others, which will

be used to determine the benchmarks CPD is using to evaluate quality, consistency, and compliance with the MOA.

3. Assessment

As of March 5, 2003, the City is in partial compliance with Paragraph 77 in that in-service training on use of force has been undertaken; however, the Use of Force policy that is currently in place is not in full compliance with the MOA. Therefore the Use of Force training cannot be deemed to be in compliance with the MOA until such time as the policy issues have been resolved. The City has not demonstrated compliance with Paragraphs 78-81 of the MOA at this time.

B. Handling Citizen Complaints

1. Requirements

[Paragraph 82] The MOA requires that appropriate training be given to all officers who handle citizen complaints as well as to new recruits. The training required must have an emphasis on interpersonal skills in recognition of the message given to citizens by complaint takers that their concerns and fears are taken seriously and respectfully. This training must also emphasize the roles of the CCRP, IIS, CCA and CPRP so that complaint takers know how and where to make referrals. For the supervisors who investigate and determine outcomes of citizen complaints, training should include appropriate burdens of proof and factors to consider when evaluating complainant or witness credibility to ensure their recommendations regarding the disposition of the complaints are unbiased, uniform, and legally appropriate.

2. Status

For the reporting period ending March 5, 2003, the Monitor requested documents describing the public information campaign for complaint reporting; documentation of the July 2002 efforts to educate the community regarding the citizen complaint process (e.g., PSAs); documentation of the orientation or training given to complaint takers; a description and documentation of roll call training on citizen complaints; and a description and documentation of in-service supervisor training on administrative investigations of citizen complaints. One document we received was the citizen complaint segment of the 2002 In-Service training. In future quarters, the Monitor will observe the training to determine if the elements of the curricula meet the stated requirements.

3. Assessment

As of March 5, 2003, the Monitor was able to determine that some materials have been developed in response to this requirement; however

we are not able to assess compliance with the actual content and training to be provided under Paragraph 82 of the MOA.

C. Leadership/Command Accountability

1. Requirements

[Paragraph 83] The MOA requires that CPD Supervisors will continue to receive training in leadership, command accountability and techniques designed to promote proper police practices. Within 30 days of assuming supervisory responsibilities, all CPD sergeants will receive this training, and it will be made part of the annual in-service training. This requirement acknowledges the important role leaders at all supervisory levels play in ensuring that an appropriate demeanor, behaviors, and tactics are used in the operations of the agency.

2. Status

For the reporting period ending March 5, 2003, the Monitor requested documents that would demonstrate compliance with Paragraph 83, including documents describing and documenting supervisory and management training for 2002. The Monitor intends to examine documents that explicitly state the workplace expectations established for supervisors and managers and which they will be trained in, including previous and revised job descriptions for patrol supervisors, narcotics supervisors, crime analyst supervisor and manager, school police supervisors, dispatch supervisor and manager, and revised personnel evaluations for patrol and narcotics supervisors. Additional documents that will demonstrate compliance with this requirement include personnel transfer orders or promotional lists identifying individuals who have been promoted, the effective date of their promotions, and documentation as to the dates of their subsequent training that reflect that they have received the required training.

3. Assessment

As of March 5, the Monitor is unable to assess the City's compliance with Paragraph 83 since the City has not provided the requested documentation. Once the documentation is provided, the Monitor will conduct site visits and staff interviews to assess the implementation of the strategies suggested by each of the documents.

D. Canine Training

1. Requirements

[Paragraph 84] The MOA requires the CPD to modify and augment its training program. This includes the complete development and

implementation of a canine training curricula and lesson plans that identify goals, objectives and the mission of the Canine Unit specified in the MOA. Formal training on an annual basis for all canines, handlers, and supervisors is also required, as is annual re-certification and periodic refresher training with de-certification resulting when the requirements are not met. Within 180 days of the MOA, the CPD was required to certify all in-house canine trainers.

2. Status

For the reporting period ending March 5, 2003, the Monitor requested various documents to demonstrate CPD's progress in meeting these requirements. These included canine policies, SOPs for the canine unit, training policies and materials for the canine units, new handler orientation plan, canine unit logs, certification standards and validation regarding the meeting of those standards. Most of these materials have been provided to the Monitor, but some materials must still be reviewed and a determination made as to whether all canine trainers have been certified.

3. Assessment

As of March 5, 2003, the City has made progress in this area, but there is insufficient evidence to determine compliance with all provisions in Paragraph 84 – 84 (e). In particular, the City has not demonstrated how its canine training has been or will be adapted and revised to ensure that it is consistent with the new Canine policy.

E. Scenario Based Training

1. Requirements

[Paragraph 85] The MOA requires that the CPD ensure that training instructors engage students in meaningful dialogue regarding scenarios, preferably taken from actual incidents involving CPD officers, so that lessons learned regarding legal and tactical issues are transmitted to the students.

2. Status

For the reporting period ending March 5, 2003, the Monitor requested documents regarding the training methodology used by CPD, documentation of instructor certification and competency, and lesson plans involving current legal and tactical issues. This requirement of the MOA encourages a no-fault learning environment, but this will be a challenge given the administrative and legal processes through which many critical incidents must pass. In initial conversations with the Training Division, it appears that an “adult learning approach” is

preferred over traditional law enforcement training, supporting the likelihood that instructors are comfortable with scenario-based instruction. Documents pertaining to roll call training scenarios were provided to the Monitor the first week of March. Additional information is needed to evaluate compliance with this requirement.

3. Assessment

As of March 5, 2003, the Monitor finds that a good-faith effort is underway by the City to comply with Paragraph 85. However, the Monitor will not be able to assess compliance with this requirement until on-site observations of the training occurs and further discussions can be held with the trainers and legal staff.

F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct

1. Requirements

[Paragraph 86] The MOA requires that the CPD periodically meet with the Solicitor's Office to glean information from the conclusion of civil lawsuits alleging officer misconduct with the purpose of using the information to develop or revise training. This requirement is related to Paragraph 85.

2. Status

For the reporting period ending March 5, 2003, the Monitor requested information on training for legal updates from the Solicitor's Office, Staff Notes from meetings with the Solicitor, and corresponding lesson plans. The Monitor will expect documentation from the Solicitor regarding consultation and guidance provided to the CPD training staff to address this requirement, and verification of a system in place to ensure that the CPD obtains information on civil lawsuits that can be used in training regularly. This documentation has not yet been provided. The City has informed us that quarterly meetings are now scheduled for the first Friday of April, July, October and January.

3. Assessment

As of March 5, 2003, the Monitor has insufficient evidence that the City is in compliance with this requirement.

G. Orientation to the MOA

1. Requirements

[Paragraph 87] The MOA requires the City and the CPD to provide copies of the MOA and explain it to all CPD and all relevant City employees. This training was to be accomplished within 120 days of each provision's implementation. The CPD will continue to provide training to meet this requirement during subsequent in-service training.

2. Status

For the reporting period ending March 5, 2003, the City provided a document describing the initial training on the MOA that was provided to all supervisors in July 2002. Other employees received training in structured roll call sessions.

3. Assessment

As of March 5, 2003, the City appears to be in compliance with the provision that required immediate training. The determination as to meeting the ongoing training requirements will be made as a result of further reviews that must be conducted.

H. FTO Program

1. Requirements

[Paragraphs 88-89] In recognition of the critical role that FTOs play in reinforcing or undermining the standards set for new officers in basic training, the MOA requires the CPD to develop a protocol to enhance the FTO program to include: the criteria and method for selecting FTOs, standards that require appropriate assessment of an officer's past complaint and disciplinary history prior to selection, and procedures for reappointment and termination of FTOs at the Training Academy Director's discretion, although District Commanders may also have discretion after consulting with Training Staff. Further requirements are that FTOs will be reviewed at least bi-annually with recertification dependent on satisfactory prior performance and feedback from the Training Academy.

2. Status

For the reporting period ending March 5, 2003, the City provided documents regarding the FTO program including FTO policies and a description of the FTO program. The CPD Training Committee did evaluate the FTO Program and made recommendations affecting

Procedure 13.100 (FTO Program) but those proposed recommendations have not all been approved or implemented by CPD command staff.

In future quarters, the Monitor will also be examining training records and personnel files for current FTOs, their evaluations and other documentation regarding their performance, as well as that of any FTOs terminated from the program.

3. Assessment

Although developmental work has been undertaken, the command staff has not completed its review and approval process. Some progress is evident, but the City is not yet in compliance with this requirement.

I. Firearms Training

1. Requirements

[Paragraph 90] The MOA requires all CPD sworn personnel to complete mandatory annual re-qualification firearms training to include: satisfactorily completing all re-qualification courses plus achieving a passing score on the target shooting trials, professional night training and stress training to prepare for real-life scenarios. CPD is required to revoke the police powers of those officers who fail to satisfactorily complete the re-certification.

[Paragraph 91] The MOA requires firearms instructors to critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling procedures at all times. CPD is required to create and implement an evaluation criteria checklist to determine satisfactory completion of recruit and in-service firearms training. For each student, the firearms instructors will complete and sign a checklist verifying satisfactory review of the evaluation criteria.

2. Status

For the reporting period ending March 5, 2003, the CPD provided six documents describing the firearms courses offered. The Monitor will also require staff notes or memorandums documenting the results of these re-qualification training sessions, noting officers who failed to qualify, remedial training provided and any subsequent administrative actions taken. The Monitor will review the City's implementation of these requirements by observing and evaluating firearms training, records, students, and instructors in future quarters.

CPD also provided a firearms training instructor review checklist. Still missing is information regarding assessment of deficiencies noted in firearms techniques.

3. Assessment

As of March 5, 2003, the City is making a good faith effort to critically observe students in firearms training and provide corrective instruction. The Monitor, pending a review of all documentation available, will determine the level of compliance once audits and evaluations have been conducted of the activities listed above.

The City is also making a good faith effort to comply with the annual requalification requirement. The Monitor is unable to assess compliance, though, until all documents can be reviewed and implementation efforts can be audited.

Chapter 5. Collaborative Agreement

In the Collaborative Agreement (CA) the Parties endorsed community problem-oriented policing (CPOP) as the framework for future policing in the city of Cincinnati. The CA is the joint covenant of the Plaintiffs, the FOP, and The City. The inclusion of the FOP in the agreement is groundbreaking, as it recognizes the key role police labor groups play in making community and problem-oriented policing work.

The Parties are jointly accountable under the CA for implementing CPOP. CPOP is not police-driven, although the police (as well as the FOP, the City and all its agencies) are critical components to effective CPOP.

Under the CA, the Parties agreed to specific deadlines for progress and implementation of the various elements that ensure the five goals detailed above. These deadlines commenced on the date of the Fairness Hearing, August 5, 2002. The deadlines are *ambitious*. However, as a way to ensure continued momentum, they provide accountability among the Parties for meeting, planning, collaborating, developing, and ultimately implementing the Parties' vision of CPOP with deliberate speed.

Paragraph 29, Subparagraphs 29(a) through 29(q), and Paragraphs 30 through 46 comprise the substantive provisions for designing, implementing, and evaluating CPOP in Cincinnati; each of the subparagraphs contain individual deadlines. In terms of progress on the CA through March 5, 2003, this section of the Monitor Report outlines general compliance issues, then provides greater detail on each of the items in the CA related to CPOP.

During the Monitor Team's initial site visit to Cincinnati, it became clear that Cincinnati had mainly focused on the MOA rather than both the MOA and the Collaborative Agreement. As a result, the Monitor, during a joint "all-Parties" meeting on January 30, 2003, requested that the Parties identify a single point person for each of the paragraphs and subparagraphs in the CA relating to CPOP, as each of these represented a distinct element in the implementation of CPOP. The point person for Subparagraph 29(e) might well be different than for 29(f). The Monitor Team believes that this form of accountability is the surest way to further progress towards compliance with the CA. On March 5, 2003, the Parties announced the point persons for these items. The Monitor Team hopes that these individuals will now take responsibility for ensuring that the requirements in the CA related to CPOP will be met. We do raise questions, however, as to whether two individuals can be responsible for all of the CPOP tasks assigned to them, and whether more attention from the sworn command staff is needed (see below at 29(i)).

Although nearly eight months will have passed from the Fairness Hearing to this first quarterly Monitor Report, the Parties have met few of the CA deadlines that have come due during that time. Some of the delay is the result of predictable differences in vision related to CPOP. While the CA aspires to clarity on the issue of CPOP, there is still room for differing interpretations in terms of process and product as to the role of the community, the police, the FOP and the City.

From the beginning of our work as Monitor, it has become clear that the Parties held a range of differing views about CPOP. This is not a criticism. The complexity of community and problem-oriented policing is often underestimated and terms such as community engagement and problem solving, unless more fully explored and researched, are easily agreed upon but the devil is always in the details.

Thus far, individual CA Parties have circulated several draft documents, none of which entirely represent the views of the Parties as a whole. The Parties have met to discuss different aspects of CPOP and have formed teams to explore some of the most challenging issues. In addition, at the request of one of the Parties (the Plaintiffs) and the Cincinnati Partnering Center (the point place for the delivery of future CPOP training to the community) three members of the Monitor Team with expertise in community and problem-oriented policing presented information to the Parties and their invitees (police officials and community members) on the lay of the land in community and problem-oriented policing in other parts of the country. During this presentation, the Monitor Team shared documents from other cities and community organizations, as well as from the U.S. Department of Justice COPS Office. It is not the Monitor's role to define Cincinnati's vision of CPOP, but it was hoped, through the presentation, that the information shared will spur further reflection and progress among the Parties in defining

and implementing Cincinnati's CPOP. The Monitor Team believes that resolution by the Parties in defining a vision of CPOP is a requisite for successful implementation of CPOP as outlined in the CA.

I. CPOP

Outlined below is a description of the progress on each of the CA items related to CPOP.

1. Requirement 29(a)

City shall develop and implement a plan to coordinate the work of City departments in the delivery of services under CPOP.

2. Status

The CA established October 5, 2002, as the deadline for plan development and November 5, 2002, for plan implementation. In the Parties' March 5, 2003, Status Report, the Parties suggest that the City will use quarterly meetings as the vehicle for engaging city agencies on crime and safety issues. As of March 5, 2003, these meetings have not yet occurred. It appears that the City and the other Parties are still in the planning stages.

The Monitor Team recommends that the City, and the Parties, research what other cities have done. Inter-agency collaboration has become key to successfully resolving some of the crime and safety problems community members experience. In at least one city, performance measures related to crime and safety are in place for individual city department heads, in recognition of the role agencies other than the police, such as Parks, Buildings, Traffic Engineering, etc. can play in safety issues.

The Monitor Team would like to see a written plan from the City (agreed to by the Parties) outlining guidelines for the inter-agency committee. The written plan should include information on who will chair the meetings, how services will be coordinated, and how community safety problems will be brought before the meetings (i.e., how will it be decided which problems will come before the inter-agency meeting group; who gets to nominate problems for consideration - community members, community groups, police, city officials, all of these); the types of problems that will take priority; whether problem identification and analysis will be the first step prior to bringing the problem before the group; whether individual police officers will be able to contact other agencies directly when their services are needed or only through the inter-agency group; whether the problems brought before the group will be documented and the solutions applied assessed.

3. Assessment

As of March 5, 2003, the City is out of compliance with this CA requirement.

1. Requirement 29(b)

The Parties will develop a system for regularly researching and making publicly available a comprehensive library of best practices related to CPOP.

2. Status

The CA established October 5, 2002, as the deadline for plan development and November 5, 2002, for plan implementation. The Parties' Status Report indicates that the City intends to include access to the Police Executive Research Forum's POPNet system as part of a best practices library. While this may be a good idea, POPNet has a number of limitations. POPNet is a searchable list of problem-solving projects from a variety of police agencies, but it does not represent best practices. There is no review of what is entered into POPNet, so viewers will not know whether the agency projects listed on POPNet actually worked or whether they represent best practice based on research. As stated in the Parties' Status Report, plaintiffs have not yet had an opportunity to provide input on the City's plans for a researchable database.

Separately, members of the Monitor Team were shown materials on problem solving collected at the Police Academy. The materials at the Academy house some of what should be contained in a best practices library, although CPD would need to examine how to provide public access to these materials. In addition, the City of Cincinnati website, which provides access to CPD's web pages, now includes linkages to the U.S. Department of Justice problem-oriented guide series.¹²

We recommend that the Parties coordinate additional research on a best practices library with the University of Cincinnati's Criminal Justice Department, as the faculty there is particularly well-regarded nationally on best practices.

¹² These guides, 19 so far, represent research-based best practices for the following common crime and safety problems: acquaintance rape of college students, assaults in and around bars, bullying in schools, burglary of retail establishments, burglary of single-family homes, clandestine drug labs, disorderly youth in public places, drug dealing in privately owned apartment complexes, false burglar alarms, graffiti, loud car stereos, misuse and abuse of 911, panhandling, rave parties, robberies at automated teller machines, shoplifting, speeding in residential areas, street prostitution, and theft of and from cars in parking facilities.

3. Assessment

As of March 5, 2003, the Parties are in partial compliance with this CA requirement

1. Requirement 29(c)

City development of a continuous learning process concerning problem solving, made public, and also a continued emphasis on problem solving in field and in-service training.

2. Status

The CA established October 5, 2002, as the deadline for plan development and November 5, 2002, for plan implementation. As of March 5, 2003, the date of the Parties status report, there does not appear to be a written plan or draft for this requirement. It is anticipated that the Regional Computer Center will be developing a web site containing information on problem solving efforts, as well as City and community resource information, but this is not yet in place, other than the problem solving guides discussed in 29(b).

In addition, the Parties' status report does not specifically address a continued emphasis on problem solving in field and in-service training. Adopting a systematic and analytical approach to problem solving requires on-going reinforcement of problem solving principles and methods, introduction of the preferred problem solving model to new employees, supervisory and management reinforcement of problem solving through coaching and evaluation training, and the development of more advanced systems in crime analysis and records management to facilitate and support problem solving activities. Once initial training is accomplished, more advanced training should be put in place to further lift the level of quality of problem solving in the Department.

3. Assessment

As of March 5, 2003, the City is out of compliance with this CA requirement.

1. Requirement 29(d)

The Parties will research best practices related to problem solving from other police agencies, and other professions engaged in analogous processes.

2. Status

The CA established October 5, 2002, as the deadline for plan development and November 5, 2002, for plan implementation. In the March 5, 2003, status report, the Parties suggest that the CPD and the Partnering Center will conduct best practices research in the coming months. Thorough research on best practices will be critical to the success of Cincinnati CPOP. The Monitor Team can better assess these efforts, as well as assist the Parties, when we are provided with the results of this research, including a list of the agencies contacted, the professions (aside from policing) researched and the product and application of that research to Cincinnati CPOP. The linkage on the CPD web pages to the Department of Justice's problem-oriented policing guides is progress in this direction; however, further research, and documentation of the results of that research is required.

3. Assessment

As of March 5, 2003, the Parties are in partial compliance with this CA requirement.

1. Requirement 29(e)

The Parties, consistent with the Community Partnering Center, will conduct CPOP training for the community and jointly promote CPOP.

2. Status

The CA established October 5, 2002, as the deadline for plan development and November 5, 2002, for plan implementation. As of March 5, 2003 the Parties have not yet agreed upon a training curriculum, but there is progress related to the Community Partnering Center. The Partnering Center is established, Board members have met on a number of occasions, fundraising for the Partnering Center is underway, and the Urban League has agreed to house the Partnering Center. In addition, a search firm will be engaged to find suitable executive director candidates. It is anticipated that once there is consensus on a CPOP curriculum, community advocates recruited and employed by the Partnering Center will deliver the training first to those neighborhoods most in need (as defined by the Parties). As well, the Partnering Center's Board members arranged for and attended the Monitor Team presentation on community and problem-oriented policing.

We are aware that questions have been raised concerning how the Partnering Center will operate, and how the work of the Partnering Center will be coordinated with the work of CPD. We believe that the Partnering Center is an important element in the reforms called for by

the CA. Therefore, we urge the Parties to address these questions directly and resolve them to the extent possible.

3. Assessment

Considerable progress has been made towards compliance. Major hurdles remain, however, including adoption of a curriculum and a training delivery plan, and commencement of training and its field-testing. As of March 5, 2003, the Parties are in partial compliance with this CA requirement.

1. Requirement 29(f)

The Parties shall establish on-going community dialogue and structured involvement by CPD with segments of the community, including youth, property owners, businesses, tenants, community and faith-based organizations, motorists, low income residents, and other city residents on the purposes and practices of CPOP.

2. Status

The CA established October 5, 2002, as the deadline for training and informational materials related to the dialogue and structured involvement and November 5, 2002, for plan implementation. As of March 5, 2003, the Parties have not yet developed agreed-upon training or informational materials specific to this item and specific to the segments of the community outlined in this requirement.

3. Assessment

As of March 5, 2003, the Parties are out of compliance with this CA requirement.

1. Requirement 29(g)

The Parties shall establish an annual award recognizing CPOP efforts of citizens, police, and other public officials.

2. Status

The CA established December 5, 2002, as the deadline for completion of the award(s) design and February 5, 2003, for implementation. As of March 5, 2003, the Parties have not yet completed the award design, nor implemented or publicized the award system. In the March 5, 2003, Status Report, the Parties state that award system planning “will begin six months after formal initiation of CPOP.” We encourage the Parties to begin research on similar award systems in

other cities and counties. If desired, the Parties might consider enlisting student interns to accomplish this in a timely manner.

3. Assessment

As of March 5, 2003, the Parties are out of compliance with this CA requirement.

1. Requirement 29(h)

The City shall develop and implement a communications system for informing the public about police policies and procedures. In addition, the City will conduct a communications audit and a plan for improved external communications. The communications strategy must be consistent with Ohio Law.

2. Status

The CA established October 5, 2002, as the deadline for developing a communications system and December 5, 2002, for implementation of the system, along with a communications audit. As of March 5, 2003, CPD policies and procedures are accessible from the City website.

The CPD contracted with consultants for a communications audit, and it is anticipated that the findings will be available to the Monitor within the next three months. The Parties also anticipate that they will, in that time, select methods to enhance internal and external communications based on the audit and input from the Parties.

3. Assessment

As of March 5, 2003, the City is in partial compliance with these CA requirements. The Monitor recognizes that the City has made significant progress in making CPD policies and procedures publicly available, but it has not completed the communications audit and improvements based on the audit's recommendations.

1. Requirement 29(i)

The CPD will create and staff a Community Relations Office to coordinate CPD's CA implementation.

2. Status

The CA established October 5, 2002, as the deadline for creation of the office. The City established a Community Relations Unit (CRU) in the CPD in January 2003. Vanessa McMillan Moore is the Community Relations Manager. As part of the March 5 Status Report, the Parties

submitted a draft proposal for the portfolio of the CRU. However, the scope and duties of the CRU are still unsettled, especially as the draft proposal has not been approved by the Parties. Under the CA requirement, the Community Relations Office “is responsible” for coordinating implementation of the CA within the CPD. At the same time, Greg Baker is the Compliance Coordinator, as well as holding the title of Executive Manager of Police Relations.

The Monitor has requested a job description for the Community Relations Manager, job descriptions for her staff, and a description of their work product to date. We also request additional clarification on the CRU's reporting authority, its current and proposed budget, and its accountability in achieving implementation of specific aspects of the CA within the CPD. We are unclear as to the relation between the Community Relations Unit and the Compliance Coordinator.

3. Assessment

Thus far, there is insufficient evidence that the Community Relations Unit will be adequate in coordinating implementation of the CA. As mentioned earlier, it appears that little attention has been paid to the individual CPOP requirements in the CA. In our monthly meetings with the Parties in both January and again in February, we requested that the Parties appoint individual coordinators for each specific requirement within the CA to spur progress. In their March 5 Status Report, the Parties identify three individuals between whom all of the requirements of the CA are divided. In addition, the CRU working proposal the Parties provided on March 5, 2003, does not reflect the coordination of the approximately 20 provisions of the CA related to CPOP. We are concerned that coordination and actual implementation of the CA within CPD may be delayed, if not jeopardized, without more attention within CPD by those in sworn authority to the individual requirements of the CA.

1. Requirement 29(j)

The Parties shall describe the current status of problem solving throughout the CPD through an annual report. They shall also detail their role in CPOP and information on efforts to improve it.

2. Status

The CA established August 5, 2003, as the deadline for completion of the annual report. In anticipation of this deadline, the Monitor Team requested that CPD provide a narrative report on the status of CPOP up to August 5, 2002. This will be used as baseline documentation to compare the extent of efforts begun after the Fairness Hearing. The Parties in their March 5, 2003, status report state that they will provide

the Monitor with a report “when the data is available, approximately six months after the formal initiation of CPOP.”

3. Assessment

The Monitor is unable to assess compliance with this provision of the CA, as the annual report is not due until August 5, 2003. The Monitor Team believes it is important to establish a baseline from which the Parties and the Monitor can evaluate the progress made since the Fairness Hearing. We encourage the CPD to complete a narrative describing efforts up through August 5, 2002. In addition, the Monitor Team expects the Parties to meet the required deadline of August 2003, rather than the contingent deadline they propose, even though the report may document less than they hoped would be achieved.

1. Requirement 29(k)

CPD district commanders and special unit commanders or officials at comparable levels shall prepare quarterly reports detailing problem solving activities.

2. Status

The CA established November 5, 2002, as the deadline for completion of these reports. In January 2003, the Monitor Team advised the City that it would expect quarterly problem solving reports from special unit officials in Street Corner Narcotics, Vice, Planning, Crime Analysis, and Criminal Investigations Section (covering activities of homicide, personal crimes, major offenders, financial crimes units), Youth Services, Downtown Services Unit, Special Services Section (covering park unit, traffic unit), as well as the District Commanders. The CPD has not prepared these reports.

The Monitor Team believes that as the CPD plans a department-wide adoption of CPOP, those units that are integral to a department-wide implementation strategy should report on their problem solving efforts. For instance, homicide detectives should not just be involved in the investigation of homicide but also its prevention, based on analysis of homicides; financial crimes detectives should widen their scope to prevention of financial crimes based on an analysis of how financial crimes cluster by type of business; the Planning Section should be strategically engaged in the department-wide adoption of CPOP and should report on its role in it.¹³ Prevention based on predictable patterns, using an analytic problem solving approach, may already be

¹³ In a memo (dated April 30, 2002) from Chief Streicher to City Manager Valerie Lemmie, outlining consistencies between the Collaborative Agreement and the CPD's strategic plan, both Patrol Bureau and Investigations Bureau units and commanders are listed as providing quarterly reports on problem solving successes and failures.

occurring in these units. Without documentation, however, the Monitor will be unaware of efforts that should be lauded. These reports, as per 29(k) should include, to the extent practicable, specific problems addressed and steps taken by the City and the community towards resolution, as well as obstacles faced and recommendations for future improvement.

In the Parties' March 5, 2003, Status Report, it states,

"The CPOP website will be the vehicle for documenting, tracking and reporting on problem solving activities. CPD will work with the Collaborative Partners to design a format that is informative. Reports will be made available to the Community via the CPOP website."

The website, when it comes online, will provide a good vehicle for the publication of each of these quarterly reports. In the meantime, the reports still need to be prepared.

3. Assessment

As of March 5, 2003, the Parties are out of compliance with this CA requirement.

1. Requirement 29(l)

The Parties will review and identify additional courses for recruits, officers and supervisors about the urban environment in which they are working.

2. Status

The CA established November 5, 2002, as the deadline for completion of the review and design, and December 5, 2002, for implementation. As of March 5, 2003, the Parties have not provided any information regarding a review of Academy courses, or designs and implementation of new courses. In addition, the Monitor is unaware of efforts by the Academy to include the FOP and Plaintiffs in a review of courses provided to CPD officers.

The Parties state in their Status Report that they anticipate coming to consensus in the coming months on a CPOP training module. The Monitor reads Paragraph 29(l) as a review, design and implementation of additional courses, especially with respect to the urban environment in which officers work, and not just a CPOP curriculum, as the CPOP training curriculum is separately required and discussed in CA 29(e).

3. Assessment

As of March 5, 2003, the Parties are not in compliance with this requirement.

1. Requirement 29(m)

The Parties, in conjunction with the Monitor, shall develop and implement a problem tracking system for problem solving efforts.

2. Status

The CA established February 5, 2003, as the deadline for system development and April 5, 2003, for implementation of the system. The Monitor Team requested a copy of any forms currently being used for problem tracking. In many police agencies, the department has an internal form that officers/staff use to document a problem for purposes of beginning a problem-oriented policing project. The Monitor Team is in receipt of a Community Priority Request Form, but this form is not a problem tracking form. Rather, it is a form that Community Councils complete and relay to CPD with a request, such as extra police or foot patrol, which is unrelated to analytic problem solving. The form does not provide room for a detailed description of the problem or analysis of whether the problem actually exists and whether the request from the Community Council is an effective countermeasure.

The Monitor Team also requested a description of how CPD's problem tracking form (if there is one) is recorded in CPD systems (computerized, kept by the records section, hand filed by address, centrally-kept or kept by unit, etc.). The Monitor Team awaits receipt of this information.¹⁴

In the March 5, 2003 status report, the Parties state that the website and database will be in place in the coming months and available to the public. It is unclear, however, how the website proposed will address the requirements of this CA provision.

3. Assessment

As of March 5, 2003, the Parties have not shared enough details of the problem-tracking system to determine if it will meet the requirements of this provision, although it appears clear that the system development deadline in the CA has passed without compliance. As per the CA, the

¹⁴ The Monitor Team also suggested that CPD collect problem tracking documents and information on problem-tracking systems of other police agencies already engaged in problem-oriented policing, to begin comparing forms and systems. We are unsure whether this has been done.

Monitor has a role in aspects of system development; however, the Parties have not sought the involvement of the Monitor.

The Monitor will report on compliance with implementation of this provision in our next quarterly report. In the interim, we request additional information on the planned capacity (system specifications) and the parameters of the system the Parties seek to develop, including:

- Who will be able to enter information into the system?
- How often will it be updated?
- What information will be entered?
- What should be excluded to conform to Ohio law?
- Will it be a searchable problem tracking database?
- Will there also be a CPD internal problem solving tracking form/system that would capture details that may not be kept in a public database – for instance, if the problem solving project is on a repeat domestic violence victim?
- How up-to-date will the inputted data on the problem-tracking system be?
- What other systems in other cities did the Parties explore before deciding upon a model tracking system?
- Who will have access to the problem tracking system?
- Who will monitor the system and ascertain progress on each of the problems tracked?
- Who will be responsible for quality control?
- How will the system interface with any case management and records management systems in CPD?

1. Requirement 29(n)

The City shall periodically review staffing in light of CPOP.

2. Status

The CA requires *ongoing* review of staffing rather than a review by a certain deadline. The Monitor Team sought baseline information on patrol officer time by requesting workload studies from CPD on committed, non-committed, and self-initiated time for patrol officers. Generally, when police agencies do this as a means of assessing staffing needs for increased problem solving, they most often find that officers have more free time than initially thought. Officers often gauge their free time based on their busiest nights, discounting the fact that some days are not as busy. At present, CPD systems are unable to produce this type of workload analysis unless it is done by hand counts.

The Monitor Team is open to examining alternative measures for this provision, including alternative suggestions for conducting workload

analyses. Under similar circumstances, a number of police agencies have conducted hand counts, although this is clearly labor intensive.¹⁵

3. Assessment

The Monitor Team looks forward to hearing from CPD as to its suggestions and immediate steps it will take to determine officer time.

As a CALEA (Commission on Accreditation of Law Enforcement Agencies) member, the CPD understands the value and need of workload analysis, although the type of workload analysis the Monitor Team is advocating is distinct from a typical police agency workload analysis, in that this workload analysis has one mission: finding out the amount of time officers have to engage in problem solving.

The value of this type of officer workload analysis (as opposed to workload analysis by calls and crime in an area) is important in advancing problem solving in a police department. In agencies that have adopted community and problem-oriented policing, when patrol officers are first asked to regularly and consistently engage in problem solving, officers often suggest that they “don’t have time.” Yet, officers often believe they have less time than they do, since it is spaced intermittently. It is important for an agency to have a handle on how officer time is currently spent, otherwise an agency constantly battles against the “I don’t have time” argument.

In a CPOP agency, it becomes the role of a patrol supervisor to help officers build small blocks of time and to manage those with productive and effective problem solving. However, supervisors must also have knowledge about the amount of time available if they are to assist in this process. Without a relevant workload analysis, a police agency may erroneously believe that increased staffing is required, which is costly to a community and comes at the expense of other city needs.¹⁶ On the other hand, the workload analysis may also reveal that officers are indeed running from call to call and only increased staffing will allow the police routinely to problem solve. Nevertheless, additional reliance on

¹⁵ Since it is unclear when the IT solutions will be in place and operable in CPD, which would enable the CPD to do this easily, the CPD may want to consider engaging student interns in the hand-count process. The workload analysis could cover two or three months of the year (including two of the busiest months in the analysis).

¹⁶ The Parties provided the Monitor Team with a report on community policing conducted in the early 1990s under Chief Snowden. In it, researchers James Frank and R.C. Watkins conducted workload analyses of community policing officers and patrol officers and found that almost one-third of a patrol officer’s time was spent performing routine vehicle patrol, a strategy that police research suggests has little or no significant impact on crime or fear of crime. This is not to say that this proportion of time is available now to do problem solving, as circumstances and call-load in 2003 may be markedly different. Yet it does underscore the value of workload analysis in making staffing and strategy decisions.

the use of citizen volunteers for specific types of tasks within a police agency sometimes can offer relief even to this problem.

1. Requirement 29(o)

The City shall review, and where appropriate, revise police department policies, procedures, organizational plans, job descriptions, and performance evaluation standards consistent with CPOP.

2. Status

The CA established October 5, 2002, as the deadline to complete the review and November 5, 2002, for revision. It is clear that CPD has undertaken policy review and revision pursuant to the MOA; however, this particular requirement in the CA focuses on a review in light of CPOP. Some common policies and procedures that are subject to review and revision in police agencies engaged in community and problem-oriented policing include: police vehicle pursuits; response to the mentally ill; domestic violence response; false alarm policies; and personnel policies related to evaluation, reward, advancement, promotion, and transfer.

In the Parties' March 5, 2003, Status Report, it states,

“Reviews will be conducted when necessary, as determined by success and failures of problem solving efforts, community input, problem response evaluations and changes in the law (statutory and case law).”

To meet the requirements of the CA, we encourage the CPD to begin CPOP-related review of its policies, procedures, and performance evaluation systems (acknowledging that further changes may take place as a result of additional experience with CPOP in Cincinnati). For example, the performance evaluation standards the CPD currently uses were developed in 1978, and are less suited to a problem solving, CPOP-aspiring agency. In addition, job descriptions that accurately portray the expected work (in this case analytic problem solving, in addition to other important responsibilities) can become useful anchor points for shifting personnel to effective proactive approaches.

In the Parties' March 5, 2003, Status Report, it also states,

“Plaintiffs contend that the Collaborative requires fundamental changes to the job descriptions at every rank. Plaintiffs further contend that the 1978 performance evaluation system is outdated and needs a complete overall in order to measure and reward effective problem solving. Finally, specific written policies and

procedures should be drafted and implemented to insure implementation of the collaborative agreement.”

3. Assessment

As of March 5, 2003, the City has not demonstrated compliance with this requirement.

1. Requirement 29(p)

Design and implement a system to easily retrieve and routinely search (consistent with Ohio law) information on repeat victims, repeat specific locations, and repeat offenders. The system shall also include information necessary to comply with nondiscrimination in policing and early warning requirements.

2. Status

The CA established February 5, 2003, to complete the request for proposal for the system. The implementation deadline is to be determined by the Monitor. According to the Parties' March 5, 2003, Status Report, the City has identified a vendor who will develop the RFP. The report states that the RFP will be completed by May, which is after the deadline in the CA.

It appears that the City contemplates meeting this provision through the acquisition of a new Records Management System (as distinct from the risk management system in the MOA). If so, the system would need to include linking mechanisms for the data stored in the system.

3. Assessment

As of March 5, 2003, the City is not in compliance on the RFP requirement.

The Monitor makes two requests with respect to this requirement. First, since system implementation will take time, the Monitor requests that CPD provide a detailed description of the capabilities of the present system, as some problem analysis is going to be dependent upon it in the interim. Second, the Monitor Team recommends that the City research systems in place in police agencies already engaged in fuller forms of problem solving. We believe that researching and documenting what is learned from other agencies will benefit the City, as it will help guide it in its systems decisions. If requested, the Monitor will provide a list of police agencies it might be profitable to contact.

1. Requirement 29(q)

The City shall secure appropriate information technology so that police and city personnel can access timely, useful information to problem-solve (detect, analyze, respond, and assess) effectively.

2. Status

The CA established February 5, 2003, as the deadline for development of a procurement plan, April 5, 2003, to secure funding, August 5, 2003, to procure systems, and August 2004 to implement any new purchases. As the City and the CPD move forward with problem solving, linkages to other systems, not just the RMS system, will be required so that staff will be able to analyze data in different forms. In addition, the problem analysis function in CPD will require adequate staffing. To help meet this requirement, we recommend that the City and the CPD make inquiries to other police agencies about the systems they use to support problem solving detection, analysis, response and assessment and provide the Monitor with written descriptions of the capabilities of and uses of these systems. As in requirement 29(p), we believe that the process of researching and documenting what is learned from other agencies will benefit the City, as it will help guide it in its systems decisions.

3. Assessment

As of March 5, 2003, the Monitor is unable to assess compliance with this CA requirement. We would suggest, however, that as the City moves forward with data collection systems, it should at the same time address the need for adequate problem analysis systems, and staff to assist in conducting analyses.

II. Evaluation Protocol

The CA calls for a system of evaluation to track attainment of CA goals. This tracking serves as a “mutual accountability plan.” According to the CA, “[t]he term ‘mutual accountability plan’ is defined as a plan that ensures that the conduct of the City, the police administration, members of the Cincinnati Police Department and members of the general public [is] closely monitored so that the favorable and unfavorable conduct of all is fully documented and thereby available as a tool for improving police-community relations under the Agreement.” The evaluation system is to be developed “in consultation with the advice of expert consultants and under the supervision of the Monitor.” The Parties also must plan to shift portions of the evaluation oversight from the Monitor’s supervision to a “successor agency” before the end of Agreement so that ongoing evaluation efforts can continue.

1. Requirements

The Collaborative Agreement sets out the following components of the Evaluation Protocol:

- Protocol will include: schedule; costs; who is responsible; data collection methods, forms and procedures; guidelines for analysis and reporting; levels of statistical confidence and power
- Protocol to include: periodic surveys; periodic observations of programs; and annual statistical compilations of police interactions
- Probability samples surveys, with response rate of 70%
 - a. of citizens, for satisfaction and attitudes
 - b. of citizens with police encounters (neighborhood meetings, stops, arrests, problem solving interactions), for responsiveness, effectiveness, demeanor
 - c. of officers and families, for perceptions and attitudes
 - d. of officers and citizens in complaint process, re fairness and satisfaction with complaint process
- Periodic observations of meetings, problem solving projects, complaint process; with description of activity and effectiveness
- Periodic reporting of data to public, without individual ID, but by age, race, gender, rank, assignment and other characteristics
- Compilations by 52 neighborhoods, for arrests; crimes; citations; stops; use of force; positive interactions; reports of unfavorable interactions; injuries to citizens; complaints
- Data recording for problem solving projects
- Sampling of in-car camera and audio recordings; database of sampled recordings; study of how people are treated by police
- Examination of hiring, promotion and transfer process
- Periodic reports with data from above (broken down by age, race, gender, area, rank, assignment). These reports should answer a number of questions, including
 - Is safety improving?
 - Is use of force declining, and is it distributed equally?
 - Is the complaint process fair?
 - Do officers feel supported?
 - Is problem solving successful?
 - Are police-community relations improving?

Is progress being made on issues of respect, equity and safety?

2. Status

The CA partners have established an Evaluation Committee with representative members of the various Parties. The City has contracted with a consultant to prepare a draft RFP for an outside entity to assist the Parties in designing and implementing the Evaluation Protocol, and to develop a scoring matrix to facilitate the RFP review. The Evaluation Committee is currently reviewing and revising the draft RFP. The Parties expect to distribute the RFP, review and select a vendor, and establish a contract with a vendor within the next reporting period. According to the Parties' March 5 Status Report, the Parties set a March 7, 2003, meeting to produce the final RFP and "determine the distribution list of proposed vendors." The Parties now estimate they will select a vendor by May 2003.

According to the Parties' Status Report, the City has allocated and budgeted \$350,000 to design and develop the survey instruments and methodology, as well as begin preliminary data collection. The draft RFP states that the total costs of the evaluation should not exceed \$280,000. In their December 19, 2002 Status Report, the Parties stated their intention to hire the outside entity by January 2003, publish a report by April 1, 2003, on progress in implementing the Evaluation Protocol, and publish by August 5, 2003, the first annual report to the community summarizing the data gathered. In their March 5 Status Report, the Parties state that the Evaluation Committee "has agreed to attempt to secure baseline findings by April 30, 2003, with annual results available April 30th of succeeding years." The Parties acknowledge that they will not meet the April 30, 2003, schedule.

3. Assessment

The Parties are not in compliance with these provisions of the CA. We have several concerns relating to the development of a workable Evaluation Protocol to implement the provisions of the CA.

First, the Parties appear to be putting all their reliance on a single outside entity to accomplish the entire Evaluation Protocol. This entity will be responsible not only for designing and conducting the required surveys, but also for observations, data collection and analysis, review of mobile video recorders, and even on drafting the required annual reports evaluating progress. This may be asking too much of an outside entity. Some of these functions (e.g., drafting the annual report) are ones that may be better for the Parties to undertake.

Second, we are not confident that the RFP sufficiently explains what the City needs and will succeed in securing an appropriate evaluator for Cincinnati. For the most part, the RFP simply repeats the CA provisions. For example, on data collection, the Parties cannot expect a vendor actually to collect the data; that has to be done by CPD as it undertakes police activities. But there is no description of the kinds of data collection systems being contemplated, and the how the data that will be gathered will be presented and available to the evaluator.

We are also not confident that simply putting out an RFP to bid is the best way to accomplish the goals of these provisions. The Parties need an entity (or multiple entities for various aspects of the job) that has expertise in survey research, criminal justice, and data analysis. There are a number of entities that come to mind (universities, research organizations), and we believe the Parties should make initial contacts with these institutions if they have not already done so. One suggestion would be to issue a solicitation of interest or a “request for qualifications,” whereby the Parties ask institutions to suggest research strategies in terms of time, cost, depth of analysis, etc. While we recognize that this would delay the award of a contract, we believe it is more important to get the right research plan and the right evaluator.

We are also unsure of whether the Parties will be able to secure an evaluator to do all of what is being asked of that entity for the amount of funding that is listed in the RFP.

Third, the Parties should consider how they will interact with the entity chosen as evaluator. How will disputes or questions regarding research methodology or other aspects of the evaluation be resolved? Will there be one contact point for the evaluator to serve as the “client” or will the evaluator be responsible to each Party? If there is not a clear way for questions to be answered in a timely and definite manner, the evaluator’s cost and difficulty will be increased significantly. Also, if the evaluator is required to prepare a draft annual report, will that entity be responsible for revisions requested by each Party? Again, to do so would increase the cost to the evaluator and hamper its ability to prepare timely reports.

Fourth, the Evaluation Protocol includes within it significant IT requirements related to data collection and analysis. Without the Evaluation Protocol definition, it is difficult to anticipate many IT components that will be required and to envision their place within CPD’s IT arena. Once the parameters of the protocol have been defined, a concerted effort by CPD should take place to ensure that systems being built will be able to work together in an automated fashion to enhance their effectiveness.

For example, paragraph 39 identifies the data elements that are

sought for analysis. This is currently data that is collected without automation, but should be automated through processes discussed throughout the Agreement. Several new systems will be required to “feed” this information to allow for a more automated approach than is currently being done. It is expected that the bulk of this data will be captured in the CRISNet system.

Paragraph 40 further defines the data elements in paragraph 39 relative to providing the Monitor with incident-based data. In order to do trend analysis from an incident-based model, significant integration will be required. CPD is planning on contracting this scope of work to Gartner Group and rolling it into the RFP for a new Records Management System.

The Monitor anticipates further discussion with the Parties regarding these issues, as well as the role that the Monitor will play in “supervising” the development of the Evaluation Protocol.

III. Pointing Firearms Complaints

The Parties to the Agreement were unable to agree on whether CPD officers should have to report when they draw their firearm.

1. Requirement

CPD will develop an expedited process for handling citizen complaints based on pointed firearms:

- Persons can file complaints with Plaintiffs’ organizations or with CPD or other civilian complaint processes.
- These complaints will be immediately investigated by a select team of CPD officers selected by the Chief.
- The investigators will make their determinations within 30 days and file the determinations with the Parties, the complainant and the Monitor.
- The Monitor shall compile complaints about pointed firearms and forward the data to the Conciliator.
- The Conciliator shall review the information, and if he determines that a pattern exists of improper pointing of firearms at citizens, the CPD will require officers to report all instances in which they point their weapons at or in the direction of a citizen.

2. Status

The CPD has established an expedited complaint process for complaints involving allegations of improper pointing of firearms. (IIS SOP 104.03) Two IIS investigators have been selected to investigate these complaints, and their investigations are forwarded to a Review

Group consisting of two members of the City Solicitor's office, a lieutenant in Tactical Planning, and a sergeant from the Training Section. The findings of this team are forwarded to the Police Chief for his approval.

According to the Parties' March 5 Status Report, these investigations have been forwarded to the Parties for their review. The Monitor has received a number of complaint investigations relating to pointed firearms from CPD, but has not received the report and investigations required from the Parties.

3. Assessment

The Parties are in partial compliance with this requirement. CPD has established an expedited process for handling these complaints, but we have not received all of the investigative reports and complaints that resulted from that process. For this reason, the Monitor cannot forward to the Conciliator the data required by the CA, nor can we make any assessment or recommendation for the Conciliator at this time.

IV. Fair, Equitable and Courteous Treatment

The CA requires the Parties to collaborate in ensuring fair, equitable and courteous treatment for all, and the implementation of bias-free policing. Data collection and analysis are pivotal to tracking compliance, and training is essential to inculcate bias-free policing throughout the ranks of CPD. The Monitor, in consultation with the Parties, is required to include detailed information regarding bias-free policing in all public reports. The collection and analysis of data to allow reporting on bias-free policing is to be part of an Evaluation Protocol developed with the advice of expert consultants. The RFP for selection of the consultant ("Evaluator") has not yet been published.

A. Data Collection and Analysis

1. Requirements

As part of the Evaluation Protocol, CPD is required to compile the following data to be analyzed, by percentage attributable to each of the City's fifty-two neighborhoods:

- Arrests;
- Reported crimes and drug complaints;
- Citations of vehicles and pedestrians;
- Stops of vehicles and pedestrians without arrest or issuance of citation;
- Use of force;

- Citizen reports of positive interaction with members of the CPD by assignments, location, and nature of circumstance;
- Reports by members of the CPD of unfavorable conduct by citizens in encounters with the police;
- Injuries to officers during police interventions;
- Injuries to citizens during arrests and while in police custody;
- Citizen complaints against members of the CPD.

Paragraph 40 requires that the City provide to the Monitor incident-based data so that the nature, circumstances and results of the events can be examined.

Paragraph 51 references Ordinance 88-2001, which identifies required data to be reported and analyzed to measure whether there is any racial disparity present in motor vehicle stops by CPD. The local ordinance requires the following information be gathered:

- the number of vehicle occupants;
- characteristics of race, color, ethnicity, gender and age of such persons (based on the officer's perception)
- nature of the stop;
- location of the stop;
- if an arrest was made and crime charged;
- search, consent to search, probable cause for the search; if property was searched, the duration of search;
- contraband and type found; and
- any additional information.

Paragraph 53 of the Collaborative Agreement requires the Monitor, in consultation with the Parties, to include in all public reports, detailed information of the following:

- racial composition of those persons stopped (whether in a motor vehicle or not);
- whether the person stopped was detained, searched or arrested;
- whether the person stopped was involved in a use of force with a member of the CPD; and
- the race of the officer stopping the person.

2. Status

The City's data collection effort is hampered by the absence of a system to ensure timely and accurate data entry. There is thus no available data analysis to include in this first report.

Professors John Eck and Lin Liu of the University of Cincinnati were selected in August 2001 to analyze traffic-stop data for the period May 1, 2001 – December 1, 2001 (“2001 Period”). Most of their time and effort so far has gone into checking the accuracy of the data, and correcting errors made during the data entry. Data error correction should be completed by April 17, 2003. The analysis and report on the 2001 Period is not expected to be complete until September 30, 2003.

The City has not selected any entity or individual to analyze data collected after December 2001. This will likely result in a further significant delay in providing meaningful data analysis for December 2001 forward.

CPD had developed a contact card, Form 534, to comply with Ordinance 88-2001. The first version of the Contact Card was used as the basis for the data analysis being performed by Professors Eck and Liu. The card has since been revised three times. The most recent revision was noted in CPD’s October 14, 2002, Staff Notes. New procedures requiring officers to fill out a Contact Card for every traffic stop and every field investigative stop were announced in the May 8, 2001, Staff Notes and are contained in Procedure 12.554, Investigatory Stops, and Procedure 12.205, Traffic Enforcement. These policies reflect the data collection requirements of Ordinance 88-2001 for all motor vehicle stops. The procedures and the Contact Card do not require collection of information as to whether force was used during the stop, or the race of the officer.

In addition, an “explanation sheet” was developed for officers to explain how to fill out the card. It requires that the card be completed in its entirety for every motor vehicle stop. When a traffic stop is made, the instructions indicate the officer must complete the first side of the form. If an investigatory stop is made on an individual, then the backside is to be completed for the CPD’s Criminal Intelligence Database, which was developed to assist beat officers and investigators in solving cases and compiling intelligence information.

Procedure 12.554 specifically prohibits illegal profiling and defines it as stops based on race or ethnicity. Procedure 12.205 specifically prohibits illegal profiling in traffic enforcement. If an officer violates this policy he or she may be disciplined, up to termination. Officers are required to activate their in-car video and audio equipment for every stop and continue recording until the stop is completed.

Members of the Monitor Team met with Lt. Col. Combs and Peggy O’Neill, IT Manager at RCIC, to discuss CPD’s data collection efforts. RCIC, a component of RCC, has a staff of 13 IT professionals (17 positions with 4 vacancies), serving Cincinnati, among others. RCC has approximately 100 IT professionals serving the region’s needs.

Discussions at this meeting covered the plans to collect data elements that would be expected for the analysis of bias-free policing and the establishment of an employee tracking solution. The front-line data collection component of an automated system would be the Mobile Data Computer system, known as COP-SMART. This system, *Community Oriented Policing Strengthened through Management And Reporting Technology* was discussed; however, references to specific vendor details and vendor-specific software components were withheld due to a perceived restriction based on city contractual issues. Potential automation obstacles identified in the meeting were:

- Changing badge numbers and use of employee ID number
- Lack of a common dataset
- Location and access to data
- Custom data collection for CPD
- New applications for Cincinnati patrol vehicles and maintenance
- Mobile Data Computer Server location

In addition to data collection on traffic and pedestrian stops, Paragraph 39 of the CA requires CPD to collect data from citizen reports of positive interactions with police officers. As noted in Chapter 4, CPD has developed a feedback form for citizens to report favorable police conduct. It is not clear, however, how CPD is compiling information received on these feedback forms and how CPD is utilizing the information obtained. Moreover, the CA states that all City employees and police supervisors, among others, shall be encouraged to report positive police activity "to ensure that a complete record of all such favorable and positive actions are made a permanent part of any data base relating to the CPD's dealings with the community." The Monitor will examine this issue in future reports and requests information from the City regarding the steps it has taken in addressing this requirement.

There is also a requirement under Paragraph 39 that the statistical compilations from official records include an analysis of "[r]eports by members of the CPD of unfavorable conduct by citizens in encounters with the police." The FOP has suggested a separate form that could be submitted by police officers and supervisors, and submitted a draft form to the Parties on October 22, 2002. Plaintiffs objected to the FOP draft, and submitted their own draft on November 19, 2002, suggesting that the form not contain any identifying information. The Parties have not resolved this issue, or developed any alternative for reporting "unfavorable" conduct by citizens.

3. Assessment

The City's data collection efforts have focused on only the six-month 2001 Period, and will not be brought forward until the City selects

an entity or individual to analyze additional data. Moreover, while the data being analyzed for the 2001 Period includes motor vehicle stops and some pedestrian stops, officers during that time period were not required to complete the forms for pedestrian stops. Thus, those data are not complete. The Collaborative Agreement requires the analysis of all stops, both traffic and pedestrian stops. Even with respect to the 2001 Period, the collection and analysis of data has been severely hindered because:

- the information on the Contact Card was not entered into a database until nine (9) months to one year after it was gathered;
- there were discrepancies between the information entered into the database and the information on the Contact Cards;
- the Contact Cards required a complicated data entry program, which often resulted in data entry errors, including duplicate records;
- the Contact Cards were not submitted when required (for example, data from the Traffic Division and Parks Division had been missing; once located, the data had to be entered, causing further delay).

The current Contact Card does not meet the requirements of Paragraph 53 of the Collaborative Agreement because it does not include whether force was used. Also, there are insufficient policies and procedures for ensuring that Contact Cards are filled out accurately, that they are reviewed by a supervisor, and that the data from them is entered into a database and analyzed as required by the CA.¹⁷ An additional concern is whether CPD has sufficient staff resources, and IT capability to efficiently input the required data. These are issues that will be examined in more detail in future reports.

B. Training and Dissemination of Information

1. Requirement

The Collaborative Agreement requires that all Parties cooperate in the ongoing training and dissemination of information regarding the Professional Traffic Stops/Bias-Free Policing Training Program.

2. Status

In 2001, CPD approved a proposal to include a four hour class on Professional Traffic Stops as part of the Police Academy basic training course. The proposed class would address the concept of illegal profiling

¹⁷ We also note that the “explanation sheet” wrongly specifies that all of the fields on the Contact Cards are only to be filled out when there is a traffic stop.

in traffic stops and would present a review of basic search and seizure requirements that apply to traffic enforcement. It would give the student a greater understanding of the dynamics of the relationship between a police officer and a motorist or pedestrian who is stopped on reasonable suspicion or probable cause. The training also would provide suggestions for turning what could be a confrontational encounter into an opportunity to change the motorist's future driving behavior and build a better relationship. It is unclear whether this training class was included in new recruit training at the Police Academy.

CPD did include training on bias-free policing in its 2002 In-service Training for Police Officers and Specialists, which included a four-hour session on professional traffic stops. CPD provided the Monitor with a power-point program entitled "Effective Traffic Stops & Preventing Bias-Based Profiling." Segments of the training contain information regarding bias-based policing and preventing racial profiling. Portions of the training also address police professionalism.

3. Assessment

Given the information we have to date, we are unable to determine compliance with these provisions of the Collaborative Agreement. In-service Training on bias-free policing was provided in 2002 for CPD officers. We have not had the opportunity to observe the training, however, nor do we have information regarding how often the training was conducted, and whether all CPD officers were able to attend training.

The 2002 Cincinnati Police Management Training manual does not reflect bias-free policing training and there is no additional information as to whether supervisors obtained any additional training. The New Supervisor's Training Curriculum does not include bias-free policing training. The information provided to the Monitor regarding new recruit training also does not include training on bias-free policing. The Monitor was provided with approximately 75 roll call training scenarios and none of them include training on bias-free policing. There is no additional information regarding roll call training on this issue.

A memorandum dated October 2, 2002, of the Fairness Committee refers to videotapes that serve as training materials for Professional Traffic Stops. The Committee was to view the tapes and participate in training for the recruit class. No such tapes have been provided to the Monitor. Also, no information regarding recruit class training related to bias-free policing has been provided.

C. Professional Conduct

1. Requirement

Paragraph 54 of the CA requires that when providing police services, officers conduct themselves in a professional, courteous manner, consistent with professional standards. Except in exigent circumstances, when a citizen is stopped or detained and then released as a part of an investigation, the officer must explain to the citizen in a professional, courteous manner why he or she was stopped or detained. An officer must always display his/her badge on request and must never retaliate or express disapproval if a citizen seeks to record an officer's badge number. These provisions are to be incorporated into written CPD policies.

2. Status

The Monitor has been provided excerpts from CPD's Manual of Rules and Regulations generally mandating courteous, fair treatment of all. CPD also provided the Monitor with a power-point program entitled "Effective Traffic Stops & Preventing Bias-Based Profiling." Segments of the training contain information regarding professionalism. The Monitor was provided with an "Agreed Order Interpreting Collaborative Agreement ¶ 54" that is unsigned by the Judge and the Parties. Within this order, the Parties agree that the word "exigent" means that "except when public safety demands are so great that at that time there is no time to explain." Even so, the status report indicates that there is still a disagreement concerning the circumstance in which a police officer must explain to a citizen the reason for the stop. The FOP objects to a specific definition of "exigent circumstances," while other Parties do want such a definition. The Plaintiffs and the City have agreed to define the word "exigent" and accordingly the CPD has written proposed Policy 12.205 (Traffic Enforcement) and 12.554 (Investigatory Stops).

3. Assessment

There remains a disagreement concerning the circumstances under which a police officer must explain the reason for a stop of a citizen. The CA does not require an explanation in "exigent circumstances." The City and the Plaintiffs believe that any adopted procedure should contain the CA language, with a definition of "exigent circumstances." The FOP objects to including a definition of "exigent circumstances."

The Monitor requests that CPD provide any training material or other written explanations relating to how officers making traffic stops (in other than "felony stop" situation) are supposed to approach the car and initiate the interaction with the driver. For example, many agencies have

implemented SOPs directing officers when first addressing the motorist to introduce themselves and explain why the vehicle was stopped. Officers then ask for the motorist's driver's license and registration. [See NHTSA, Traffic Law Enforcement Division, "Conducting Complete Traffic Stops," Module 5, Professionalism at the Traffic Stop, August 2000.]

V. CCA

A. Establishment of CCA, and CCA Board

1. Requirements

- City will establish Citizen Complaint Authority
- CA will replace CPRP and investigative functions of OMI. CCA will investigate serious interventions by police including shots fired, deaths in custody, major uses of force; and will review and resolve citizen complaints.
- Board of seven citizens; Executive Director; and professional investigators. Board to be diverse.
- Board and Executive Director to develop standards for board members, and training program, including Academy session and ride-along
- Board and Executive Director will develop procedures for CCA
- CCA to examine complaint patterns
- CCA to develop a complaint brochure, as well as information plan to explain CCA workings to officers and public
- CCA to issue annual reports
- City Council to allocate sufficient funds for CCA

2. Status

As noted in Chapter 4, the CCA was created by City Ordinance on May 13, 2002 and came into operation on January 6, 2003. CCA Board members were selected by the Mayor and approved by the City Council. The CA requires that the Board members undergo a training program before they can begin their duties. The City developed a 40 hour training program for Board members, coordinated by Dan Baker a consultant to the City who later became interim Executive Director of the CCA. Each Board member also went on at least 20 hours of ride-alongs with police officers. According to the Parties December 19, 2002 Status Report, the

Plaintiffs sat in on the legal training for CCA Board members regarding use of force, search and seizure and Miranda rights. In addition, after representatives of the Plaintiffs previewed the Firearms Simulator Training (FATS) to be presented to CCA Board members, a role playing component was added allowing the Board members “to be in the shoes of the civilian.” The CCA Board completed their training in November 2002.

The budget of the CCA is \$670,000 for 2003 and \$690,000 for 2004. The Solicitor’s Office has assigned an assistant Solicitor to the CCA to provide legal advice.

3. Assessment

The Parties have complied with these provisions of the CA.

B. Executive Director and Staff

1. Requirements

- City Manager shall appoint Executive Director; the Executive Director is responsible for the operations of the CCA
- City Manager and other city officials are prohibited from interfering with individual investigations.

2. Status

Nathaniel Ford appointed as Executive Director on January 22, 2003. All of the Parties participated in the executive director search and interviews for the position. The Parties agreed to his selection.

3. Assessment

The Parties have complied with these provisions of the CA.

C. CCA Investigations and Findings

1. Requirements

- Officers must give compelled statements to CCA. Board has power to subpoena other witnesses.
- At least 5 professional investigators.
- All citizen complaints referred to CCA. CCA to notify CPD of any complaints received. CCA to open its own investigation upon complaint of serious misconduct or allegations of serious police intervention.

- CCA will assign investigator within 48 hours. CPD to notify CCA of serious police intervention and CCA investigator to go to scene to monitor work of CPD at scene.
- CPD may conduct its own parallel investigation, and will conduct all internal investigations.
- CPD officers to submit to CCA questions; CCA to have access to CPD records.
- The Chief of Police and the CCA Executive Director shall develop written procedures for coordination of their respective investigations.
- CCA investigations are to be completed within 90 days, with extensions possible.
- CCA investigative reports, with proposed findings and recommendations, will be forwarded to the CCA Board; the Board may hold a hearing or make a summary disposition.
- The purpose of a CCA Board hearing on an individual complaint is review, not reinvestigation; the Board hearings are to be non-adversarial. Hearings can be in closed sessions, with written record kept.
- Board to approve or disapprove Executive Director's findings; Board's decision to be submitted to the Chief of Police and City Manager. The City Manager shall agree or not; if not, with reasons.
- CCA and CPD shall create a shared electronic database to track citizen complaints. This database shall be integrated into the Risk Management System.

2. Status

The CCA Ordinance requires officers to provide statements to the CCA. A Policy and Procedures Manual for the CCA has been drafted and approved by the CCA Board. This manual establishes procedures for CCA meetings, the obligations of the Executive Director and CCA Board members, and complaint intake and review. The CCA is in the process of developing hearing procedures and investigative standards. The CCA has inherited from OMI its Microsoft Access database for tracking complaints. It is also working with CPD on developing a shared database.

Currently, the CCA is operating with carry-over staff from the OMI. The executive director is in the process of hiring new investigators (although some of the OMI investigators have also reapplied for the positions), and the Parties are participating in the hiring process. At least 125 resumes have been considered.

A number of investigations were pending before OMI when the CCA came into operation. Those investigations are now the responsibility of the CCA. A small number of investigations were essentially completed by OMI, but no decision on them had been made prior to January 6, 2003. Those cases are being reviewed by the CCA, and being prepared for CCA Board action. So far, there have not been any CCA appeals hearings, but CCA is taking and investigating new complaints.

The CCA Executive Director has begun discussions with the Chief of Police regarding dual investigations, but those discussions have not been completed, and there is as yet no written plan for coordination. As noted in the Parties March 5 Status Report, a significant dispute had developed relating to when CCA investigations should begin, and what CCA investigators may do when there is an ongoing criminal investigation, or a parallel IIS administrative investigation.

The CA states that the CCA will complete its investigation within 90 days of its receipt of the complaint from a complaining citizen. It also states that the CCA shall "open its own investigation" when the CCA Executive Director learns of allegations of "serious police intervention," defined in the CA as including major use of force, shots fired, or deaths in custody. Separately, the CA requires CPD to notify CCA when a serious police intervention occurs and requires CCA to dispatch a CCA investigator to the scene. That investigator shall not enter the crime scene or impede a criminal investigation, but the CPD may not interfere with the CCA investigator's ability to monitor the work of the CPD at the scene and monitor interviews conducted.

Because the CCA is a City entity, and its investigations are administrative in nature, it is subject to the disclosure requirements of the Ohio public records law. The Parties' Status Report states that for this reason, the CPD is taking the position that CCA investigators should not document their investigation pending the completion of a criminal investigation. The City's Law Department is researching the issue, but it does appear that Ohio's public records law does allow disclosure of any City record, even if the investigation is still ongoing, so long as it is an administrative and not criminal investigation. Because disclosure of any information resulting from a compelled statement by a CPD officer could jeopardize a criminal prosecution, this is an issue that must be resolved carefully. Our understanding from the Parties to the CA is that the investigator's personal notes may not be subject to disclosure. One resolution, therefore, could be allowing CCA investigators to monitor the

scene and the CPD investigation, but without preparing memoranda until the criminal investigation is complete.

3. Assessment

The Parties are in partial compliance with these requirements. The CCA is in place and ready to conduct its investigations. It is in the process of hiring new investigators. Moreover, its jurisdiction is clear regarding which cases it will take as mandatory investigations. However, there are ongoing issues relating to whether CCA investigators are being allowed to begin their investigation, and monitor CPD work and interviews, until after the CPD investigations (both criminal and administrative) have been completed. While the CA is clear that investigations beginning with a complaint should be complete within 90 days, absent an extension, that provision is not clear regarding how it applies to investigations started with notice of a serious police intervention, and how it should apply to incidents where there is also a criminal investigation.

The Parties are in the process of working through these issues, and we will work with them in addressing them. In future reports, we will also assess the completeness and quality of CCA investigations through a review of a sample of CCA investigative files.

VI. Individual Actions

Paragraph 116 of the CA states that the Parties agree to develop, within 30 days of approval of the Agreement, an expedited arbitration process for the individual litigation matters listed in the CA. While the parties did not develop that process within 30 days of the Fairness Hearing, there have been ongoing discussions between representatives of the Plaintiffs, the City and the FOP on resolving these matters. As of yet, however, the Parties have not determined what process will be used to resolve the individual claims.

Chapter 6. Review of Sample Investigations

I. Sample Chemical Spray Investigations

A. Spray into Crowds

Tracking Number	Date	Time
20020510	8/17/02	0310 hrs

Investigation: Officer sprayed chemical irritant into crowd.

Review: the officer was clearing a parking lot at the Ritz Club when a large crowd started to form and a fight broke out. The officer gave several commands for the crowd to disperse. The crowd did not comply. The

officer sprayed chemical irritant into the crowd. The crowd fled in several directions.

Areas of concern:

- (1) The use of chemical irritant report in this case was not detailed. We cannot assess whether the situation was so exigent that supervisory approval was not able to be obtained. There also is no information about whether the spray was deployed at the correct distance, in the correct amount. We recommend that the force forms be revised to identify MOA requirements.

Tracking Number	Date	Time
20020505	8/17/02	2250 hrs

Investigation: Officer sprayed chemical irritant into crowd.

Review: The officer observed a juvenile being assaulted in front of a restaurant by five suspects. The officer issued several warnings to stop fighting to no avail. The officer sprayed a three to five second burst of chemical irritant into the crowd. The group, including the victim in the assault fled on foot.

Areas of concern:

- (1) The report covered most of what was needed to assess compliance with MOA provisions; however it did not address whether supervisory approval was possible. The Monitor is left to assume that there was not enough time to obtain the approval.

Tracking Number	Date	Time
20020459	7/27/02	0213 hrs

Investigation: Officer sprayed chemical irritant into crowd.

Review: The officer was clearing a parking lot at a local Club when a large crowd started to form and a fight broke out. The officer gave several commands for the crowd to disperse. The crowd did not comply. The officer sprayed chemical irritant into the crowd. The crowd fled in several directions.

Areas of concern:

- (1) The use of chemical irritant report in this case was not detailed. It is not possible to assess whether spray was necessary, whether supervisory approval was impractical, and whether the spray was properly deployed. Given that, it is also not possible for the supervisors in the chain of command to make these assessments.

Tracking Number	Date	Time
20020459	7/27/02	0213 hrs

Investigation: Officer deployed chemical irritant at suspect who was fighting.

Review: The officer observed a “big fight” break out while on patrol. The officer ordered a suspect to stop fighting. The suspect refused. The officer deployed his chemical irritant at the suspect. The suspect was arrested without further incident.

Areas of concern:

- (1) This report was categorized as a use of chemical irritant deployed in a crowd. However, the report does not describe the crowd or what the officer refers to as a “big fight.” If this was a crowd situation, there is very little information to determine whether the officer followed the MOA requirements.
- (2) The report does not identify with whom the suspect was fighting. Nor is there a statement from the officer who is listed as a witness. The only information contained in the report is that the witnessing officer corroborates the involved officer’s statement.

Tracking Number	Date	Time
20020463	7/30/02	2101 hrs
20020464	7/30/02	2101 hrs
20020465	7/30/02	2101 hrs

Investigation: Officer deployed chemical irritant at a subject resisting arrest and at two subjects pulling the suspect away from the officer while attempting to arrest the suspect.

Review: The officer observed a large crowd of people fighting on the street. The officer called for assistance. The officer confronted a woman who was part of the crowd holding a baseball bat in her hand. The officer ordered the women to put down the bat; an unknown woman in the crowd took the bat from the first woman. The officer took the bat from this second woman. The officer advised the first woman that she was under arrest for disorderly conduct. The woman actively resisted by swinging her arms away from the officer. The officer deployed a one second burst of chemical irritant to the woman’s face. While the officer was attempting to arrest the first woman, a man and another woman grabbed the first woman and tried to pull her away from the officer. The officer also sprayed both subjects with one second bursts of chemical irritant, which caused them to flee from the scene.

Areas of concern:

- (1) The officer reacted well in limiting his use of chemical irritant to the individuals involved in the resisting arrest incident.

- (2) There are, however some confusing issues about the report. In one report it states that the woman fled the scene, but the box is also checked for "allowed person to wash face."
- (3) In report 0465, there is no interview with the father who brought his son to the officer to turn himself in.

B. Chemical Spray on Restrained Individual

CPD notes 24 uses of chemical spray on restrained individuals in the 3rd quarter of 2002, and 15 in the 4th quarter of 2002. The Monitor team reviewed a sample of these cases.

Tracking Number	Date	Time
20020576	9/22/02	0028 hrs

Investigation: Officer sprayed chemical irritant on a suspect who was restrained in the rear of the officer's car. A citizen complaint was filed as a result.

Review: The officer caught the fleeing suspect after engaging in a short foot pursuit. The suspect was handcuffed and placed in the rear of the police car with the lap bar in place. While the suspect was in the rear of the car, he started to hit his head on the Plexiglas partition. The officer advised the suspect several times to stop hitting his head on the partition. The suspect continued to hit his head on the partition. The officer opened the rear window of the police car and sprayed the suspect with chemical irritant. The suspect stopped hitting his head on partition.

Areas of concern:

- (1) The officer said a lap belt was not used because the suspect was being disorderly when he was put in the rear seat. There is a very good chance that the suspect would not have been able to hit his head against the partition if he was restrained by a seat belt.
- (2) The MVR tape was not included in the package sent to the monitor. (Another one of the reports indicated that the MVR system malfunctioned while the suspect was hitting his head on the partition. This is unfortunate, as the tape would have been helpful in determining whether the officer followed proper procedure.) Officers are supposed to activate their MVR cameras when transporting violent prisoners (MOA Paragraph 70).

Tracking Number	Date	Time
20020579	9/13/02	2234
20020566	9/13/02	2350
20020580	9/13/02	2305

Investigation: Officer sprayed chemical irritant at a suspect who was restrained in the rear seat of a police car.

Review: The suspect, accused of a drugstore theft, was placed under arrest. The officer placed the suspect in the rear of the police car and took him back to the store to get a positive ID from the store employees. Once the employees gave the officer positive ID on the suspect, the suspect started yelling and kicking at the rear window of the police car. The officer warned the suspect several times to stop his behavior, then sprayed the suspect with a three-second burst of chemical irritant. After the suspect was sprayed, the officers secured him in the rear seat with a restraining bar and a lap/shoulder belt. When the officers arrived at the Justice Center, the suspect once again freed himself from the restraining bar and the seatbelt and started kicking the windows of the police car. The officer warned the suspect again to stop kicking the windows. The suspect refused and the officer sprayed the suspect with a three second burst of chemical irritant. Once at the Justice Center and sometime during processing, the corrections staff noticed that the suspect received a laceration to his hand. The suspect was transferred to the hospital for treatment.

Areas of concern:

- (1) There was an interview with an officer who is not listed on the use of force report.
- (2) The person listed as a "stranger" in the witness block, is one of the complainants who identified the suspect as the person who stole items from the drugstore. She probably should be listed as a "victim" so that her statements can be objectively assessed.
- (3) There are no interviews with the persons at the Justice Center who first noticed the suspect's injuries, regarding how the injury might have occurred.
- (4) This is one of several reports reviewed where the suspect has defeated the restraining system in the rear of the police vehicle. The CPD should consider examining these incidents and research other alternatives.

Tracking Number	Date	Time
20020552	9/4/02	1310 hrs

Investigation: The officer sprayed the suspect twice with chemical irritant while the suspect was handcuffed.

Review: The officer placed the suspect under arrest for trespassing in an apartment house. The officer was escorting the suspect out of the building when the suspect went limp and pressed against a door jam, refusing to move. The officer ordered the suspect to cooperate and continue to walk forward. The suspect refused. The officer warned the suspect that he would be sprayed with chemical irritant if he did not cooperate. The suspect told the officer to spray him. The suspect then stuck his face out, closed his eyes and took a deep breath. The officer sprayed the suspect. The suspect then cooperated until he got to the officer's car. As the officer was placing the suspect in the car, the

suspect locked arms with the officer and stepped into the door area of the police car, locking his leg. The action taken by the suspect kept the officer from putting the suspect in the car. It also kept the officer from being able to control the suspect. The officer warned the suspect to stop his actions. The suspect refused, so the officer sprayed him a second time. There were no further incidents.

Areas of concern:

There were no concerns with this incident. The investigative tapes corroborate the officer's statements.

Tracking Number	Date	Time
20020551	9/02/02	0515 hrs

Investigation: The suspect was sprayed with chemical irritant while secured in the rear of a police car.

Review: The suspect was arrested for interfering with an arrest. The suspect was placed in the rear of a police car for transport. While in the police car, the suspect freed himself from the lap bar four times and started kicking the Plexiglas partition. The suspect continued to kick at the partition and the windows of the police car. The officer warned the suspect that he would be sprayed with chemical irritant if he did not stop kicking. The suspect refused. The officer sprayed the suspect. The suspect stopped kicking but screamed and yelled during the remainder of the transport.

Areas of concerns

There were no concerns with this case. In the taped interview, the suspect indicated that he told the officers to go ahead and spray him.

Tracking Number	Date	Time
20020740	11/9/02	0308 hrs

Investigation: The officer sprayed the handcuffed suspect with chemical irritant while the suspect was in the rear of the police car.

Review: The suspect was handcuffed with her hands behind her back and secured by seat belt and lap restraint in the police car. While she was being transported for processing, the suspect was able to get her hands in front of her and began punching the transport partition. The suspect then began kicking the rear of the officer's seat and striking her head against the transport partition. The officer ordered her to stop her disorderly conduct. The suspect refused. The officer arrived at the justice center and started filling out the required paper work in the sally port. While the officer filled out the paper work, the suspect again started hitting her head against the transport partition. The officer, fearing that the suspect would injure herself, sprayed the suspect with chemical irritant. The suspect ceased the disorderly behavior.

Areas of concern [We note that the CPD in its investigation identified the same areas of concern as did the Monitor]:

- (1) The officer used poor judgment and put the suspect in danger of causing harm to herself by not stopping and calling for assistance as soon as the suspect started hitting her head on the transport screen.
- (2) The officer should have secured the suspect after entering the sally port and before filling out his paper work.
- (3) The officer used poor judgment when he stated he did not want to use chemical irritant on the suspect during transport, because he wanted to spare the supervisor from having to write a report.
- (4) The report indicated that the officer was counseled for this incident. The Monitor would like to confirm this was completed.

Tracking Number	Date	Time
20020732	11/05/02	1155 hrs

Investigation: The officer sprayed the suspect with chemical irritant as the suspect was being handcuffed.

Review: The officer told the suspect he was under arrest. "The suspect attempted to flee when handcuffs were applied." The officer deployed a two-second burst of chemical irritant to immobilize the suspect. The suspect was transported to the Justice Center.

Areas of concern:

- 1) There was no taped interview with this report. There is a note that the supervisor felt that the suspect was not handcuffed, therefore not restrained, so no interview was needed. However, the report indicates that handcuffs were indeed applied.

Tracking Number	Date	Time
20020729	10/31/02	1500 hrs

Investigation: Suspect was sprayed with chemical irritant while handcuffed.

Review: The officer was placing the handcuffed suspect in the rear of his police vehicle, when the suspect started struggling with the officer and refused to get in the car. The officer sprayed the suspect with a two-second burst of chemical irritant. The suspect complied and was put in the rear of the police car. The suspect then started kicking the rear windows of the vehicle. The suspect was told to stop kicking. He would not comply with the officer's demands, so the officer sprayed him again

with the chemical irritant. The rear safety bar was put across the lap of the suspect, and he was transported without further incident.

Areas of concern:

The taped interviews were consistent with the investigation. The Monitor has no concerns on the handling of this incident.

Tracking Number	Date	Time
20020779	11/29/02	0045 hrs

Investigation: The suspect refused to be handcuffed, then refused to be placed in the police vehicle.

Review: The suspect was told he was being arrested for disorderly conduct. The suspect refused to be handcuffed. The suspect was sprayed with a two-second burst of chemical irritant. The suspect was handcuffed, and the officer attempted to place the suspect in the rear of the police car. The suspect refused to get in the car, so the officer sprayed him a second time. The suspect was transported without further incident.

Areas of concern:

- 1) There is no indication in the report that the suspect was warned prior to being sprayed with the chemical irritant.
- 2) The supervisor who did both the taped interview and the investigation was involved in handcuffing of the suspect. An on-scene supervisor who participates in a use of force incident or authorizes use of force should not then be the investigating officer (see MOA Paragraph 26).

Tracking Number	Date	Time
20020748	11/23/02	2157 hrs

Investigation: The suspect was handcuffed in the rear of the police car and was sprayed with chemical irritant.

Review: The suspect was handcuffed and placed in the rear of the officer's car. The suspect started kicking the rear windows of the police car. The officer ordered the suspect to stop kicking the windows. The suspect refused and the officer sprayed him with chemical irritant. The suspect was transported without further incident.

Areas of concern:

- 1) The report indicates that the officer ordered the suspect to stop kicking the window, but there was no warning that the suspect would be sprayed if he did not stop.
- 2) The witness listed in the report is referred to as a stranger. The taped interview indicates that she is the victim of the drunken

driving accident. Clearly she is a witness to the suspect's behavior. However, her involvement in the incident should be accurately reflected so that CPD (and the Monitor) can weigh the witness' objectivity as it relates to the incident.

II. Sample of Canine Investigations

The following is a review of the CPD police Canine bites for both the second and third quarter of 2002.

Tracking Number	Date	Time
20020625	9/14/02	0542 hrs

Review: The officer was tracking on a 30-foot lead for robbery suspects. As the track proceeded the dog came upon a subject hiding in the tall grass and bit the subject inflicting minor injuries.

Areas of concern:

- (1) The subject who was bitten was not involved in the robbery. He was a juvenile who had a warrant out for underage drinking. Neither the investigation by the Canine Unit nor Inspections notes this issue. In fact, this bite should be characterized as an accidental bite, since the individual bitten was not the person for whom the officers were searching.
- (2) The investigative reports do not mention any warnings being given by the Canine officer that the dog was going to be deployed.

Tracking Number	Date	Time
20020624	9/12/02	0114 hrs

Review: The officer was tracking on a 30-foot lead for three suspects who had just fled from a stolen car while possibly armed. The canine rounded a corner of a shed, out of site of the canine officer, and bit one of the suspects it was tracking. When the officer observed the canine engaged with the suspect the officer had the canine disengage. After the suspect was placed under arrest, the officer and canine tracked the other two suspects and effected an arrest without a bite.

Areas of concern:

- (1) The officer lost site of his canine while the canine was on lead; this was the time the bite took place.
- (2) The inspections summary of what occurred states that the officer immediately ordered the canine to disengage. The on-scene supervisor's report suggests that the order to disengage was not immediate; rather the report states the officer observed no weapon in the suspect's hand and then issued a command to disengage. This is a slight discrepancy, but the issue of

when the canines are called off appears to be an issue that CPD should examine.

- (3) There is no mention of a canine warning given before the canine was deployed.

Tracking Number	Date	Time
20020623	9/08/02	0046 hrs

Review: The canine officer responded to a call for a commercial burglary. When on the scene at the rear of the building, the officer observed the suspect in possession of a crow-bar and a bag later to be found to contain proceeds from the burglary. When the suspect observed the officer, he ran from the scene. The officer ordered the suspect to stop, but the suspect continued to run. As the suspect approached a wooded area, the officer released the dog from its lead and the dog pursued the suspect. The canine bit the suspect, and the suspect started punching the canine and “vigorously squeezing his muzzle in an attempt to escape apprehension.” After multiple warnings to the suspect to cease, the officer sprayed the suspect with a chemical irritant “which had the desired effect.” The officer then recalled the canine back to heel. The suspect was arrested.

Areas of concern:

- (1) The officer allowed the canine to continue to bite the suspect while the suspect attempted to get the canine to release him. The officer viewed the suspect’s actions as attempting to avoid apprehension. However, this action does not recognize the importance of the provision in CPD’s canine policy stating that the handler will call off the dog at the first safe moment, “taking into account that the average person will struggle if seized or confronted by a canine. Struggling alone will not preclude the release of the canine.” (Procedure 12.140.A.3.f)
- (2) The Inspections Section sent the investigation back to the on-scene supervisor with recommendations to add additional information justifying the actions of the officer. The Inspections reviewer does not identify any concerns over the failure to recall the dog.
- (3) The Inspections Section report states that the officer’s tactics “were excellent.” The reviewer goes on to say that the officer’s use of chemical irritant was justified to “overcome violent behavior that presented an ongoing risk of injury to both the suspect, the officers in the area, and the canine.” However, it appears from the investigation that ordering the canine to disengage would likely have allowed for apprehension and avoided the need for chemical spray.
- (4) The Inspections report recommends training for the supervisor who did the investigation, but does not address any type of review or retraining for the canine officer.

Tracking Number	Date	Time
20020546	8/29/02	0010 hrs

Review: The officer responded to a call for a canine deployment for an armed robbery suspect. The officer deployed the canine using a 30-foot lead. The officer tracked the suspect to an area behind some homes. As the officer was tracking along a cement wall, the canine went around the end of the wall and “immediately located the suspect who was lying on his stomach on the back side of the cement wall surrounded by high grass.” The officer turned the corner and observed the canine biting the suspect’s right upper torso area. The canine was ordered to disengage and the suspect was placed under arrest.

Areas of concern:

- (1) There was no mention in any of the reports that the officer issued a warning that the canine was being deployed.
- (2) The officer lost sight of the canine when the bite took place.
- (3) There is no review of “tactics” in the Inspection’s report, which has been included in other canine bite reviews.

Tracking Number	Date	Time
20020571	9/02/02	0155 hrs

Review: The officer responded to a call to deploy his canine for a burglary suspect. The canine was deployed on a 30-foot lead; the canine tracked the suspect to a location where the suspect was partially under a vehicle and between some bushes. Before the officer realized the canine found the suspect, the canine had bitten the suspect on the right bicep in an attempt to pull the suspect from under the vehicle. The suspect tried to run from the dog and was bitten on the back side of his left leg near his buttocks. The suspect grabbed the canine’s head and mouth, the canine disengaged and bit the suspect on his left foot. The suspect grabbed the canine again by the head and mouth. The officer verbally warned the suspect several times to release the canine but he did not comply with the order. The officer placed the bottom of his left foot on the suspect’s upper thigh and pushed the suspect away in order to separate the suspect from the canine. The suspect was placed under arrest.

Areas of concern:

- (1) The supervisor who approved the use of the canine also completed the use of force report.
- (2) The report stated that the canine was on lead. If so, the officer should have been close enough to the canine to order it to disengage.
- (3) Instead of ordering the canine to disengage, the officer ordered the suspect to disengage.

- (4) The report from Inspections does not review tactics.
- (5) There is no reference to any canine warning being given.

III. Sample Force Investigations

Tracking Number	Date	Time
20020494	7/23/02	0935 hrs

Investigation: Officer struck suspect in head with PR24 baton.

Review: Two officers in the downtown area were following a suspect who was wanted on a warrant for an aggravated robbery. As one officer approached the suspect, the suspect started to run away from the officer. The officer observed the suspect glance over his shoulder several times, which the officer interpreted as being hostile actions and feared that the suspect was preparing to shoot him. The officer pursued the suspect on foot giving verbal commands to stop running. The officer caught up to the suspect; fearing the suspect was armed. The officer raised his PR24 to strike the suspect from behind on the shoulder. According to the officer, the suspect suddenly stopped and the officer missed his intended target and struck the suspect's head. The officer then used a leg sweep taking the suspect to the ground where the officer then applied a single knee strike to gain control of the suspect's hands after two verbal demands had been ignored.

Areas of concern:

- (1) The investigative reports do not identify any retraining needs to be discussed with the officer in this case. A baton strike to the head is inappropriate, and can be fatal. In this particular case, it appears not to have been intentional; however, reinforcement of the proper use of the PR24 is strongly recommended.
- (2) There is also a discrepancy in the investigative reports and the witness statements. The investigative reports indicate the suspect abruptly stopped and turned, when he was struck by the officer. The witness statements, from at least three witnesses who observed the officer striking the suspect, indicated that both the officer and the suspect were still running when the officer struck the suspect. Tapes of the witness interviews were not included in the investigative file sent to the Monitor, but we have requested those tapes for further review.
- (3) There is a discrepancy between the 18F Form and the CIS memo regarding the suspect's injuries (critical injury versus slight head wound). In addition, both "ceased all movement" as well as "exaggerated movement" were checked on the Form 18F, as was "target glance."

Tracking Number	Date	Time
20020547	8/16/02	1215 hrs

Investigation: Officer deployed three Taser devices to subdue suspect.

Review: A CPD officer attempted to arrest a suspect for aggravated burglary; the suspected resisted the officer and fled on foot. As the suspect fled he ran through a restaurant, picked up a large knife and ran into a parking lot. While in the parking lot, the suspect was confronted by several officers who issued several commands to drop the knife and surrender. The suspect refused to comply. One officer attempted to spray the suspect with a chemical irritant but was unable to make contact with the suspect. At this point the suspect started stabbing himself with the knife in the stomach and chest, advising the officers that they would have to kill him. The officer deployed three Taser darts, two which missed and the third which hit the suspect on the right side of his body. The suspect dropped the knife and fell to the ground without further incident.

Areas of concern:

The Monitor has no concerns about how this incident or investigation was handled.

Tracking Number	Date	Time
20020493	7/20/02	1908 hrs

Investigation: Officers deployed several beanbag rounds, several pepper-ball rounds, and chemical irritant to subdue a violent suspect.

Review: Officers responded to a call for domestic violence. When the officers arrived, they confronted the suspect in the front yard of the address. The officers approached the suspect, at which time the suspect ran to the rear yard of the address, picked up a two-foot long board and assumed a fighting stance. The officers ordered the suspect to drop the board, but the suspect threw the board at one of the officers striking him on the left leg. The suspect then ran into the house.

The officers waited for the arrival of additional officers and a supervisor. The supervisor arrived and issued several verbal commands to the suspect to come out of the house. The suspect refused. The supervisor broke a window and deployed a chemical irritant into the house. When the irritant was deployed, the mother of the suspect (who was the victim of the domestic violence) exited the home. She then gave permission for the CPD to enter the home. Once inside, the officers confronted the suspect again. The suspect threw another board with a nail in it at the officers and ran into a shower stall.

As the officers were attempting to follow the suspect, two large German Shepherd dogs aggressively approached the officers. The officer deployed two beanbag rounds striking each dog. The beanbags caused the dogs to retreat.

The officers issued several commands for the suspect to exit the shower stall. The suspect refused. The supervisor then fired twenty pepper-ball rounds against a wall behind the shower stall in an attempt to force the suspect out of the stall. The pepper-balls had little effect. The supervisor ordered an officer to deploy a canister of Clear Out gas into the shower stall. The suspect threw the canister of Clear Out back into the room. The officers were affected by the Clear Out and had to exit the house. The suspect then ran out of the house into the rear yard.

As the suspect entered the rear yard, he was confronted by two officers who ordered the suspect to the ground. The suspect refused to comply and charged the officers. One of the officers fired a beanbag round at the suspect striking him in the stomach. The suspect fell to the ground and then started to get back up. Another officer, seeing that the suspect was still not complying, fired another beanbag round at the suspect striking him in the left side of his back. The suspect remained on the ground while the officers attempted to handcuff him. While being handcuffed, the suspect became violent and resistant, and an officer attempting to handcuff the suspect struck him twice with his fist in the arm to get the suspect to comply with the handcuffing. The suspect did not comply.

The supervisor verbally warned the suspect that if he did not comply, he would deploy the pepper-ball gun. The suspect still resisted. The supervisor fired seven rounds into the suspect's back, which had little effect. The supervisor warned the suspect again to comply or additional pepper-ball rounds would be fired. The suspect ignored the orders. The supervisor fired seven additional pepper-ball rounds to the right side of the suspect's back. Again the rounds had little effect.

The supervisor warned the suspect to submit to the handcuffing or he would be shot with a beanbag round. The suspect refused to comply and the supervisor fired one beanbag round striking the suspect in the right shoulder. The suspect was taken into custody without further incident.

Areas of concern:

- (1) The use of the pepper-ball gun as a pain compliance tool while the suspect was on the ground is not the intended use of the pepper ball gun. In particular, after the first volley of pepper ball rounds had no effect, a second round seems questionable.
- (2) The Monitor would note that the review by the District Commander in this case was particularly thoughtful and addressed each use of force, tactics and training issues.

APPENDIX 1

Monitor Team

Saul Green, Primary Monitor. Saul Green is Senior Counsel of Miller, Canfield, Paddock and Stone, and is the director of its Minority Business Practice Group. From March 1994 to May 2001, he served as the United States Attorney for the Eastern District of Michigan. Prior to that, he was Corporation Counsel for Wayne County, Michigan from 1989 to 1993. Mr. Green was the Chair of Advocates and Leaders for Police and Community Trust (ALPACT), a coalition of more than 30 law enforcement, civil rights, and community organizations in Michigan working together to address racial profiling, and he was co-chair of the Michigan Alliance against Hate Crimes (MIAAHC) from 1988 to 2001. As U.S. Attorney, Mr. Green initiated and supervised “pattern or practice” investigations for his office of the Detroit Police Department and the East Pointe, MI, Police Department. In 2002, he also served as the co-chair of the Mayor’s transition team for the Detroit Police Department. He is an adjunct professor at the University of Michigan Law School where he teaches a seminar on racial profiling.

Richard Jerome, Deputy Monitor. From 1995 to January, 2001, Richard Jerome coordinated the Department of Justice’s efforts to promote police reform, including the Department’s publication of “Principles for Promoting Police Integrity.” He served as Deputy Associate Attorney General from 1997-2001, during which time he oversaw the work of the Civil Rights Division and the Community Relations Service. As Counsel to the Assistant Attorney General for Civil Rights, he coordinated the efforts of the National Church Arson Task Force. Mr. Jerome is currently a consulting expert to the cities of Oakland and Detroit, and has recently completed a review of the City of Albuquerque’s police oversight system. Mr. Jerome has an extensive background in civil rights litigation and law enforcement practices.

Joseph Brann (Training). Joseph Brann is the founder and President of Joseph Brann & Associates, LLC – a consulting firm specializing in public safety issues, organizational development and improving police managerial performance and accountability. Among other activities, Mr. Brann serves as the Monitor providing oversight of the Riverside, CA, police reform efforts on behalf of the California Attorney General. From 1994 to 1999, Mr. Brann served as the Director of the Office of Community Oriented Policing Services (COPS Office) with the U. S. Department of Justice. Mr. Brann built the new federal agency with the needs of local law enforcement in mind, resulting in a national reputation for delivering quality customer service in federal government. From 1989 to 1995, Mr. Brann was Chief of Police in Hayward, CA, where he successfully integrated community policing and problem

solving concepts into police operations. He also served with the Santa Ana, CA, Police Department for 21 years

Rana Sampson (CPOP) is the founder of Community Policing Associates, a consulting company which has provided technical assistance and training in implementing community and problem-oriented policing to several hundred police departments and communities in the United States, Canada and the UK. Ms. Sampson is the former director of public safety for the University of San Diego. She was previously a White House Fellow; National Institute of Justice Fellow; senior researcher and trainer at the Police Executive Research Forum; attorney; and patrol officer, undercover narcotics officer and patrol sergeant with the New York City Police Department, where she was awarded several commendations of merit and won the National Improvement of Justice Award. She is the author of problem solving guides for police in the area of drug dealing in privately owned apartment complexes, false burglar alarms, school bullying, acquaintance rape of college students, and 911 abuse and misuse. She is the coauthor (with Michael Scott) of *Tackling Crime and Other Public-Safety Problems: Case Studies in Problem Solving*, which documents high-quality crime control efforts from around the United States, Canada and Europe. She is a judge for the Herman Goldstein Award for Excellence in Problem-Oriented Policing, and for the James Q. Wilson Community Policing Award. She is also a commissioner with California's Commission on Peace Officer Standards and Training.

Nancy McPherson is the Director of Services for the Portland Police Bureau, serving as a civilian executive at the assistant chief level. Her portfolio in Portland includes Training, Police Corp, Personnel, Information Technology, Records, Fiscal, Alarm Administration, and Management Services. In 1988, Ms. McPherson was hired by the Police Executive Research Forum (PERF) to develop and implement a new approach to policing, Problem Oriented Policing, in the San Diego Police Department. In 1990, she was asked to continue this work as the Manager of Neighborhood Policing for the San Diego Police Department, reporting directly to the City Manager and the Police Chief. In 1994, she was hired by the Seattle Police Department as the first civilian assistant chief. She worked in Seattle until 2000, when she began her work for Portland. Ms. McPherson is a nationally recognized expert in community policing and problem oriented policing, who consults nationally with cities and police executives.

Tim Boyle (Use of Force). Tim Boyle is a Vice President at PSComm, LLC. Mr. Boyle is a nationally recognized authority on information and communications technology. He is the Chairman of the Washington Metropolitan Council of Government's Police Technology Committee and a member of the Montgomery County (MD) Criminal Justice Coordinating Commission. Mr. Boyle was a founding principal of Mobile Data

Technologies, LLC. Mr. Boyle retired from the Maryland-National Capital Park Police (MNCPP) Department, where he most recently was the Acting Assistant Chief for the Management and Technology Services Branch. Prior to that role, Mr. Boyle served as the MNCPP's Acting Assistant Chief for the Field Operations Branch, (Lieutenant) Commander of Patrol and Special Operations, (Lieutenant) Region Commander, and (Sergeant) Community Relations Section staff. Mr. Boyle was also a member of the Baltimore Police Department.

Wayne Eveland (Risk Management System) is Vice President and Chief Information Officer of PSComm, LLC. He oversees all information technology initiatives relative to corporate infrastructure, technology partnerships, product development, and consultation with corporate and public sector clients. Since January 2003, he has been involved in strategic development and homeland security in major cities such as Los Angeles and Detroit. Prior to joining PSComm, Mr. Eveland was a sworn member of the New Jersey State Police, retiring after 25 years of service at the rank of Captain. He held the positions of Chief Information Officer and Chief Technology Officer and served for over 16 years in the information technology arena. He was responsible for all information technology initiatives within the New Jersey State Police. As an active member of the FBI's Security and Access Committee, Mr. Eveland helped develop national policy for the CJIS system through the FBI's Advisory Policy Board. He has been actively involved in U.S. Justice Department sponsored Global Justice Information System projects while serving as a member of the New Jersey CJIS Policy Board. He also was a member of the State of New Jersey's Executive Committee in response to the Justice Department consent decree on racial profiling. He attended the Northwestern University School of Police Staff and Command and was the recipient of the Franklin M. Kreml Leadership Award.

John Williams (Local Counsel). John Williams is the managing partner of the Cincinnati office of Gonzalez, Saggio & Harlan, LLP. Gonzalez, Saggio & Harlan is the fifth largest minority-owned law firm in the country and has offices in Cincinnati, Milwaukee, Chicago, Indianapolis and West Des Moines. From 1989 to 1992, John served as an Assistant Prosecutor for the Solicitors Office City of Cincinnati. From 1992 until 2000, he served as an Assistant City Solicitor. He is actively involved in the community, serving as a board member of the Alcohol and Drug Addiction Services Board of Hamilton County, chair of the community service committee of the Cincinnati Bar Foundation, and a trustee of the Cincinnati Bar Association. He also serves on the advisory board of the University of Cincinnati College of Law.

Kristina Maritzak is an associate with Miller, Canfield, Paddock and Stone. From September 1995 to October 2000, she was an Assistant Prosecuting Attorney with the Oakland County Prosecutor's Office. While at the prosecutor's office, she served as an instructor to many of the

police agencies in Oakland County. Also, Kristina served as a consultant to the government of Ukraine and worked with their law enforcement and police agencies, amongst others, in their democratization efforts.

David McDonald is the Director of Consulting Services for PSComm, LLC and is responsible for managing all of the various projects and contracts of the company. Mr. McDonald retired as a Commander from the Metropolitan Police Department, Washington, D.C. (MPDC) after more than 20 years of service. While working with the MPDC, Mr. McDonald was responsible for implementing and overseeing many technology projects, including: computer assisted dispatch systems, records management systems, wireless communications and mobile computers, automated fingerprint systems, wide-area computer networks, and voice and data communications systems. Mr. McDonald also was responsible for implementing community policing initiatives in various patrol areas for which he was responsible.

APPENDIX 2

Cincinnati Monitoring Project Saul Green – Monitor

Communications Plan

The purpose of this draft communications plan is to help establish effective and smooth working relationships between the Monitor team and the Parties to the Agreements. The team is committed to an inclusive and open process, with regular communications between the monitor team and the Parties to discuss progress in meeting the objectives and provisions of the Agreements.

1. Organization of team. Saul Green is the Monitor for the Agreements and Richard Jerome is the Deputy Monitor. In addition, we will designate certain team members as the lead individuals for the following aspects of the project: training, use of force, misconduct/CCA, CPOP, risk management system, racial profiling/community relations. The team leaders will make assignments for the team in coordination with the Monitor and Deputy Monitor. A contact list for the members of the Monitor team is attached.

2. Contacting the Parties. Prior to the first on-site visit at the end of January, contacts with the Parties will be made by Saul Green and Richard Jerome. After the site visit, follow-up contacts may be made by the team leaders, but all contacts will be documented and forwarded to the Monitor and Deputy Monitor.

As stated in the Collaborative Agreement, each party shall designate a liaison, or point person, for communications with the Monitor team. At the initial stages of implementing and monitoring the Agreements, contacts with the Parties will principally be through the designated liaison. We anticipate, however, that as implementation moves forward, the Parties will designate additional individuals with whom Monitor team members will interact. This will be especially true with the CPD. For example, the team leader responsible for monitoring training will establish a relationship with the Director of the Police Academy, to coordinate site visits and training review. Similarly, the team member responsible for monitoring provisions relating to misconduct investigations and the CCA will communicate with the Executive Director of the CCA and the head of IIS. However, these communications and relationships will initially be coordinated through the City's liaison, the Compliance Coordinator, and through the Chief of Police.

In several agencies that have implemented significant reforms (through both settlements and otherwise), the Chief has designated an

internal task force or team, reporting directly to Chief, to manage and ensure implementation. This task force would work in conjunction with the city's Compliance Coordinator. We recommend that Chief Streicher consider this approach, if he has not already done so. Such a team can also serve as a liaison with the monitor team.

The Monitor commits to courteous and respectful communications with all stakeholders in Cincinnati. As noted in our bid, we anticipate communicating and gathering information in a variety of ways, including monthly meetings, on-site visits, document reviews, audits, correspondence and e-mails, and telephone calls. Communications with the Monitor may at times be shared with other Parties, unless there is a specific need or request for confidentiality. The monthly meetings will give the Monitor team an opportunity to share with the Parties our observations from our previous activities and provide the Parties with notice of the anticipated activities for the next month.

3. Requests for Documents and other Information. We recognize that the amount of file review and document copying and production in an effort such as this monitoring project can be extensive. We will endeavor to undertake our review and our document requests in a way that will effectively accomplish our responsibilities, but will minimize to the extent possible the burden on the CPD and the Parties. For this reason we will coordinate our information requests among the team members, including the timing of our requests. Wherever possible, electronic versions of documents (on disk, or sent by e-mail) are preferred, and will allow the monitor team to share documents easily among team members.

Prior to our first site visit at the end of January, all information requests will come from the Monitor. After January, the team leaders will coordinate with and provide notice to the Monitor of any information requests they make to the Parties. Monitor team members will keep a log of all documents and other information they receive from the Parties. When we request documents, we will also request that the documents be provided within a specified, reasonable time period.

We will also work with the City to establish an efficient process for copying and sending to the Monitor team investigative files for review off-site. This is especially important in light of paragraph 102 of the MOA which provides for reopening certain investigations for further investigation.

Under the Agreements, the Monitor team shall have full and unrestricted access to City and CPD staff, facilities and documents. We look forward to working with CPD personnel and anticipate an open and cooperative relationship. To the extent that the city claims a privilege for

any document, the provisions of the Agreements governing such claims shall apply.

4. Protocol for Site Visits. The Monitor team will provide the Parties with the earliest practicable notice of on-site visits to Cincinnati, and a list of the team members coming to Cincinnati. We will also provide a request for any materials we believe would be useful to review in advance of the visit. For example, prior to a visit during which we will be observing training, we may request that the CPD provide us with curricula and lesson plans before we come out to Cincinnati. In addition, prior to each visit, we will provide the affected party's liaison with a list of the individuals with whom we would like to meet, the files to be reviewed, the documents we wish to have copied, and the activities we would like to observe. It should be noted, however, that during a site visit, the team may identify additional information it needs or additional individuals with whom to meet.

5. Press Contacts. As stated in the Agreements, the Monitor "shall not issue statements or make findings" regarding the actions of any party except as required by the Agreements, such as through the Monitor's quarterly reports. Therefore, the Monitor team's contacts with the media will be minimal. Team members will refer media requests to the Monitor, who will respond as appropriate.

6. Communications with the Community. There are several ways the Monitor team will communicate with members of the public. To start, our quarterly reports will be public documents. We would request that the City post the reports on its website, as well as on the CPD's website. During the course of our duties, we also anticipate meeting with representatives of community groups, neighborhood associations, faith organizations and others in gathering information for our monitoring, and in obtaining input from the community.

In addition, we believe it advisable for the Parties to include information about the Monitor in information it disseminates pursuant to the communications plan required by paragraph 29(h). We will include an address, phone number and e-mail address in that information, as well as information for filing a citizen complaint. We shall state that the Monitor does not handle citizen complaints regarding allegations of specific police misconduct, but that they will be referred to the CCA and the CPD.

We also request that CPD consider providing an office for the Monitor. In addition, the Monitor team will establish a dedicated phone line for the public. This will enhance communications with the public and with CPD.

7. Feedback. The Monitor team would like to establish an ongoing dialogue regarding the work under the Agreements and the evolving blueprint for implementing positive change in Cincinnati. Feedback from the Parties on their views of the outcomes of this effort will be helpful. Therefore, we welcome your input on our monitoring efforts and look forward to working with you on this important endeavor.

APPENDIX 3

MONITOR ACTIVITIES

The following is an outline of the Monitor Team activities from January 1, 2003, through April 1, 2003. This outline is not comprehensive, but it does provide an overview of our work so far.

Organizational meeting of Monitor Team: January 2-3, 2003

Introduction of Monitor Team, and initial meetings with Parties:

January 9-10, 2003

Site Visits to Cincinnati: January 28-31, 2003; February 19-20, 2003

All Party Meetings - January, February, March

Meetings with City Officials

Mayor

City Manager

City Solicitor

Meetings with Cincinnati Police Department:

Chief of Police

Command Staff

Compliance Coordinator

Internal Investigations Section

Inspections Section

Canine Unit

Police Academy

Police Communications Section

Information Technology

Crime Analysis Section

Planning Section

Vice Unit

Criminal Investigations Section

Street Narcotics Unit

Meetings With:

CCA

CCAN

Police Partnering Center

FOP Executive Committee

Plaintiffs and representatives

Business Leaders

Community Leaders

RCPI

Reviewed Documents and Other Materials:

CPD Procedures, SOPs, Staff Notes, Memoranda

Complaint Investigation Files

Use of Force Investigation Files
chemical sprays, canine bites, beanbag shotgun, baton and
taser use, physical force
RFP's and RFP responses for information technology systems
Training curricula, lesson plans, presentations
Performance evaluations
CPD strategic plan
Community Council request form
CPD community policing evaluation
CPD and City of Cincinnati websites
Crime analysis documents
Crime clearance rates
CCAN documents
CCA Materials

Observed training in Canine Unit, Cadet Graduation

APPENDIX 4

City of Cincinnati

Date 1-23-03

To Colonel Thomas H. Streicher, Jr., Police Chief

From Captain Gene A. Hamann, Inspections Section Commander

Copies to _____

Subject **Use of Force Comparative Analysis**

Inspections Section conducted a comparative analysis of the Department's Use of Force incidents during the year 2001 and 2002. For the purpose of this analysis, Use of Force incidents include the Department's reporting of the following categories: Use of Force, Injury to Prisoner, Chemical Irritant, Canine Bites, and Taser, Beanbag, 40MM, and Pepperball (T/B/40MM/P) deployment

	<u>2001*</u>	<u>2002</u>	<u>Increase/Decrease</u>
Use of Force Incidents:			
Use of Force	55	144	+161.8%
Injury to Prisoner	300	266	-11.3%
Chemical Irritant	589	366	-37.9%
Canine Bites	29	12	-58.6%
T/B/40MM/P	142	23	-83.8%
Total	1,115	811	-27.3%
Arrests	41,922	42,478	+1.3%
Service Calls	299,544	304,530	+1.7%
Citizen Complaints	609	781	+28.2%
Excessive Force Complaints	50	782	+44%

* Includes incidents from the civil unrest of April 2001.

Comparison	<u>2001</u>	<u>2002</u>
Use of Force v. Service Calls	1115/299,554 (.3%)	811/304,530 (.2%)
Use of Force v. Arrest	1115/41,922 (2.6/%)	811/42,478 (1.9%)
Citizen Complaint v. Service Calls	609/299,554 (.2%)	781/304,530 (.2%)
Excessive Force Complaints v. Arrests	50/41,922 (.12%)	74/42,478 (.16%)

Analysis:

The Cincinnati Police Department has experienced a decrease in Use of Force incidents as it relates to service calls and arrests.

The 2001 data was negatively affected by the civil unrest of April 2001. The 2002 data reflects four months (September - December) of revised criteria for reporting Use of Force incidents as indicated in the Collaborative Agreement.

Information utilized in the analysis was obtained from the annual Executive Information Summary.

GAH/tat

APPENDIX 5

Response to Risk Management System RFP

CRISNet response

“Requirements marked “Satisfied” indicate existing functionality found in the CRISNet Administrative module or CRISNet NetRMS – which are to be used in the proposed solution.

Requirements marked “Satisfied with Modification” indicate items to be furnished with custom programming using the same components, methods and approach as used in CRISNet Administrative Modules, NetRMS and other CRISNet products.”

The CRISNet solution response calculates as follows:

- 3.1 Data Collection
 - 65 items satisfied with modification
 - 7 satisfied
- 3.2 Activities and Events
 - 15 items satisfied with modification
 - 7 satisfied
- 3.3 Training
 - 18 items satisfied with modification
 - 4 satisfied
- 3.4 Chemical Spray Canister Utilization
 - 5 items satisfied with modification
 - 0 satisfied
- 3.5 Performance Analysis
 - 9 items satisfied with modification
 - 2 satisfied
- 3.6 General Requirements
 - 5 items satisfied with modification
 - 22 satisfied
- 3.7 Work Flow Management
 - 5 items satisfied with modification
 - 3 satisfied
- 3.8 Document Management
 - 1 items satisfied with modification
 - 8 satisfied
- 3.9 System Interfaces and Conversions
 - 8 items satisfied with modification
 - 0 satisfied
 - Data conversion costs not covered - \$200.00 hourly rate
- 3.10 Technical Requirements
 - 0 items satisfied with modification
 - 10 satisfied