

SUMMARY OF MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF JUSTICE AND THE DISTRICT OF COLUMBIA AND THE DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT

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6/12/01

Summary of Memorandum of Agreement between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department (MPD)

The Memorandum of Agreement (MOA) addresses the following matters: policy requirements and limitations on the use of force by officers, including the use of firearms, ASP batons, Oleoresin Capsicum spray, canines and physical force; procedures regarding the reporting and documentation of use of force; procedures to ensure thorough investigation of all uses of force; procedures for receiving, investigating, and resolving misconduct complaints; supervisory measures to reduce use of force and promote police integrity; training; public reporting by MPD about its use of force incidents, investigations and outcome; and the establishment of an independent monitor to review and analyze implementation of the MOA by MPD and the District of Columbia.

The MOA includes the following specific provisions:

- *Use of Force Policy Requirements:* MPD officers may not use any degree of force that is more than is objectively reasonable. MPD will complete development of a Use of Force Policy addressing both lethal and non-lethal use of force that complies with applicable law and current professional standards. With respect to its Canine Unit, MPD will continue to retrain its canines in the "find and bark" methodology, which minimizes unjustified bites because the canines will be trained to bark, rather than bite upon locating a suspect. The Use of Force Policy will emphasize the goal of de-escalation and will encourage officers to use advisements, warnings, and verbal persuasion when appropriate. Also, the Policy will define and describe the types of force and the circumstances under which use of such force is appropriate. The Policy also will advise that the use of excessive force will subject officer to discipline and possible criminal prosecution and/or civil liability.
- *Use of Force Documentation and Supervisory Review:* MPD will require officers to notify their supervisors immediately following any use of force or receipt of an allegation of excessive use of force. Supervisors will then respond to the scene and will ensure that the officer documents the use of force. In every incident involving a serious use of force, a specialized use of force investigatory team will be notified and will conduct the investigation. All investigations will be conducted in a timely manner by qualified investigators. Supervisors regularly will review MPD use of force reports to ensure that officers are employing appropriate amounts of force and are engaging in de-escalation techniques. Where concerns arise, supervisors may require that an officer be counseled, receive additional training, or that some other non-disciplinary action be taken. Supervisors also can refer specific incidents for further investigation, where appropriate.
- *Supervisory Review of Patterns of Conduct:* MPD will develop and implement an early warning system, called the "Personnel Performance Management System," that uses computerized information on use of force incidents, misconduct investigations, and other matters to assist MPD supervisors to identify and modify potentially problematic behavior. At least quarterly, MPD supervisors will conduct reviews and analyses of computerized data and other information, including data on uses of force, weapons used, and type of law enforcement activity. These reviews and analyses, as appropriate, may result in supervisors implementing changes in training, policies and practices, implementing non-disciplinary interventions for particular officers (such as supervisory counseling or additional training), and/or requiring further assessment or investigation.
- *Misconduct Allegations:* MPD will implement a variety of changes in its procedures for receiving, investigating, and resolving misconduct allegations. MPD will develop a plan to coordinate activities with the new Office of Citizen Complaint Review. MPD will make complaint forms and informational materials available at a variety of locations and will institute a 24-hour toll-free telephone hotline for persons to call to make a complaint regarding officer conduct. MPD also will institute procedures for ensuring that MPD is notified of criminal cases and civil lawsuits involving the conduct of officers on-duty and, as appropriate, off-duty as well, so that consideration may be given to whether an officer's conduct warrants disciplinary action. Allegations of excessive force involving a serious use of force, unlawful searches and stops, and other significant misconduct allegations will be investigated by the Office of Professional Responsibility. All investigations will be properly documented. Disciplinary and non-disciplinary supervisory steps will be taken in a timely manner.
- *Training:* MPD will implement measures to improve training for recruits and current officers. The training will address such matters as critical thinking and decision making skills to reduce the use of force and ensure officer safety, compliance with Fourth

Amendment and other constitutional requirements and MPD policy on use of force, safe gun handling procedures and supervisory issues. MPD will also take steps to improve its field training program for new officers.

- *MPD Public Reports:* MPD will issue quarterly public reports containing aggregate statistics of MPD use of force incidents broken down by districts covering each of the geographic areas of the City, indicating race/ethnicity of the subject of force, the weapon used and the enforcement actions taken in connection with the use of force. The report shall include statistical information regarding use of force investigations conducted, including the outcome. Also, the report shall include the total number of complaints of excessive force received and the resolution.
- *Independent Monitor:* An Independent Monitor will be selected by the Justice Department, MPD and the District of Columbia to review and report on MPD's implementation of, and assist with MPD's compliance with the MOA. The responsibilities of the Monitor will include evaluating use of force reports and investigations; analyzing data concerning uses of force and any actions taken by MPD to address deficiencies; assessing supervisory reviews of use of force incidents, misconduct investigations and supervisors' use of the Personnel Performance Management System, and the use of non-disciplinary procedures to address at-risk conduct.
- *MOA Term:* The basic term of the MOA will be five years, based on MPD and the District of Columbia's substantial compliance with each of the provisions of the MOA and maintaining such compliance for at least two years.

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