

**City of Cincinnati
Independent Monitor's
Seventh Quarterly Report**

October 1, 2004

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

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**CITY OF CINCINNATI
INDEPENDENT MONITOR'S SEVENTH
QUARTERLY REPORT**

EXECUTIVE SUMMARY

This is the seventh report of the Independent Monitor under the Memorandum of Agreement (MOA) between the City of Cincinnati and the United States Department of Justice, and the Collaborative Agreement (CA) among the City of Cincinnati, the Plaintiff class, and the Fraternal Order of Police (FOP). The period covered is from May 1, 2004, through June 30, 2004, though we also review more recent activities from July 1, 2004, to September 30, 2004.

This report details the implementation of and level of compliance with the MOA and the CA. The MOA calls for police reforms in the areas of police use of force, citizen complaints, risk management, and training. The CA 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 (CCA).

MEMORANDUM OF AGREEMENT

General Policies

The MOA requires the Cincinnati Police Department (CPD) to create a group of specially trained officers to respond to incidents involving persons who are mentally ill. The CPD has trained 110 officers as part of a Mental Health Response Team (MHRT), and revised its policies on dealing with the mentally ill. During this quarter, over 76 percent of MHRT calls resulted in an MHRT officer being dispatched to the call. In-service training of MHRT officers is critical to keep them proficient in dealing with MHRT calls. The CPD scheduled in-service training sessions and recertification to begin on September 20, 2004, and has scheduled MHRT training for 30 new MHRT officers in November 2004.

Our review of investigations of incidents in which there was a foot pursuit showed that supervisors have begun evaluating the tactical soundness of officers' foot pursuits.

Use of Force Policies

This is the second quarter in which CPD officers made widespread use of the new X-26 Tasers. From the CPD's use of force statistics and a review of Taser incidents, it appears that the Tasers are being used by CPD officers instead of other types of force, such as physical confrontations and impact weapons. Using a Taser can eliminate the need for an officer to close the distance between himself or herself and the subject. The CPD and others suggest that this will reduce injuries to both the officers and the subjects involved. Unlike other weapons, there is no lasting impact or injury after Taser use, according to the CPD. Tasers are not risk-free, however. There can be injuries from Taser use, particularly from the fall to the ground. Moreover, officers must be careful not to use Tasers in situations where force is not necessary. We believe that Taser use warrants careful monitoring and evaluation by the CPD, to ensure that officers are properly considering alternatives to force such as de-escalation, verbal commands, or arrest control techniques, and that Tasers are used where officers have probable cause to arrest, or are at risk of harm.

The Monitor Team reviewed a sample of chemical spray reports. As in the prior quarters, there were cases where it appeared that subjects were not warned that chemical spray would be used if they did not comply with the officer's commands. The CPD needs to document if there is a reason why a warning was not used.

The Monitor has found the CPD's Use of Force policy in compliance with the MOA provisions. However, the Monitor, the DOJ and the CPD need to address the issue of whether audiotapes are required for Taser investigations to determine whether the recent change in Procedure 12.545, Use of Force, remains compliant with the MOA.

Incident Documentation, Investigation, and Review

Documenting and reporting officers' use of force allows CPD supervisors to evaluate the appropriateness of the individual use of force and to track and identify any needed changes in tactics, training and policy.

We conclude that the level of documentation and reporting for officers' use of "hard hands" and takedowns without injury does not meet the modified reporting requirements agreed to in 2003. While officers are providing a narrative description of the incident and the events that led to the need for force, supervisors are not providing a written evaluation of the reports. Although supervisors do not need to respond to the scene to investigate, they do need to review the officer's Report of Non-Compliant

Suspect/Arrestee and provide a written evaluation of the officer's tactics, and whether the force was consistent or not with CPD policy. The current practice, while an improvement from prior quarters, still does not comply with this requirement.

The Department of Justice and the CPD have resolved a dispute over the reporting and investigation of "hard hands" and takedowns where the subject was injured. Both sides accepted a proposal submitted by the Monitor that includes a supervisor response and investigation, but does not require audio-taped statements. Supervisors must continue to evaluate the initial stop and seizure, the officer's tactics and the force used.

Citizen Complaint Process

The CPD's complaint intake process is open and accessible and meets the MOA requirements. As in prior quarters, the Monitor reviewed a sample of use of force and complaint investigations. Most were complete and thorough. Also, the CPD needs to ensure that investigators for both complaints and use of force investigations review the initial stop and seizure for compliance with policy.

Management and Supervision

The CPD made significant progress in implementing the Employee Tracking Solution (ETS), its risk management system. The CPD obtained Department of Justice approval for the ETS Protocol and Data Input Plan that meet MOA requirements. The data conversion process has begun, all supervisors, with only a few exceptions, have been trained, and the vendor has almost completed all modifications.

Training

The Monitor Team observed Taser, Firearms and Canine training sessions this quarter. Our observations and our review of training records demonstrate continued compliance with MOA training requirements for Taser and Firearms training. For Canine training, we observed that the handlers and canines were well trained in most aspects of the MOA and CPD policy. As noted in our Report, the issues that remain are (1) whether handlers are sufficiently in control of their dogs to ensure that canines will not bite suspects who have surrendered and are compliant, even if they surrender after they initially attempt to escape; and (2) whether CPD's incidents of apprehensions without bites include situations where the canine bites the suspect's clothes, or holds the suspect's limbs but does not puncture the suspect.

COLLABORATIVE AGREEMENT

CPOP

The Parties have made progress on the following elements of CPOP implementation:

- Developing a joint CPOP curriculum
- Expanding the Community Police Partnering Center and hiring six outreach workers
- Fielding CPOP training in several neighborhoods, conducted jointly by CPD neighborhood officers and Partnering Center outreach workers
- Continuing the work of active CPOP teams in Cincinnati neighborhoods
- Issuing a Request for Proposal (RFP) for a new records management system

The Parties need to make improvements in the following areas of CPOP implementation:

- Researching evaluated “best practices”
- Training CPD officers on problem solving
- Engaging in community dialogue through a coordinated plan
- Improving the quality of the District Commanders’ quarterly problem-solving reports, and ensuring that Commanders of other CPD units and sections write quarterly problem-solving reports
- Reviewing Academy training courses to be consistent with CPOP
- Improving the problem solving tracking on the CPOP website
- Reviewing the CPD’s policies, staffing decisions, performance evaluations, and job descriptions to be consistent with a CPOP approach

Evaluation Protocol

The RAND Corporation has been selected to carry out the Evaluation Protocol. An initial start-up meeting with the City and the Parties was conducted on September 1, 2004.

Fair, Equitable and Courteous Treatment

The CPD continues to collect vehicle stop data on Contact Cards and enter the information into a database, as required by the CA. The data have not yet been analyzed, however, as the RAND Corporation has just begun the Evaluation Protocol. In addition, the CPD does not use Contact Cards for all pedestrian stops. The CPD has stated that it collects sufficient data by other means to analyze pedestrian stops, but this determination has not yet been made by RAND. The CPD has complied with requirements to adopt policies and practices on fair and courteous treatment of citizens.

Citizens Complaint Authority

The Monitor has found the Citizen Complaint Authority (CCA) investigations to be generally thorough and well documented. Officers are responding to the CCA offices to be interviewed, CCA has access to CPD records, and parallel investigations by the CCA and the CPD do not appear to be hampering the effectiveness of either investigation.

CHAPTER ONE. INTRODUCTION

In the Sixth Quarterly Report, the Monitor was critical of the pace of implementation of the CA, and particularly CPOP. The Parties to the CA have met more regularly this past quarter to attempt to flesh out a common vision for CPOP in Cincinnati. There continues to be much work to do on development and implementation of CPOP, as the Parties in their most recent Status Report describe the process as a “work in progress.” However, important progress also needs to be acknowledged:

- The jointly developed CPOP training continues in neighborhoods throughout Cincinnati.
- The CA Parties conducted their first CPOP Forum in September. The Forum trumpeted the success of CPOP by focusing on successful CPOP teams functioning in communities throughout Cincinnati. Additionally, the CPD and the Partnering Center have appeared jointly at many community events.
- In August, Plaintiffs questioned whether the City is appropriately identifying problems suitable for problem solving. During the September 17, 2004, All Parties meeting, the City brought a proposal to the table initiated by Councilman Pepper to identify and eliminate crime hotspots. This exchange of communications has great potential for moving the Parties forward in accomplishing a common perspective on CPOP.
- Perhaps most heartening were recent visits made by the Monitor to CPOP initiatives in Over The Rhine that involved the reclamation of the corner of 12th and Republic through the use of signage, lighting and community events; and the East 13th Street and Reading Street closure that obstructs the route taken by drug purchasers from Northern Kentucky coming into Pendleton to purchase drugs. Both of these initiatives showed real problem solving, being conducted at the community level with excellent input and support from CPD and the Partnering Center.

Better communication of the extent of compliance with and implementation of the MOA has been a major focus of the Monitor, the CPD and the Department of Justice (DOJ) during this past quarter. In response to the City’s request for additional guidance on “deliverables”

related to compliance and implementation of the MOA provisions, the Monitor has begun the process to more precisely define what measures and standards will be used to assess compliance with MOA provisions.

Draft compliance definitions of MOA provisions have been shared with the City and DOJ, and each has provided feedback on the definitions developed so far. During the upcoming quarter, definitive guidance on accomplishing compliance with MOA provisions and the overall MOA goal of substantial compliance will be established.

CHAPTER TWO. MEMORANDUM OF AGREEMENT

I. General Policies

A. Mental Health Response Team [MOA ¶ 10]

1. Requirement

The 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. The 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

The CPD has trained 110 officers as Mental Health Response Team (MHRT) officers. In its August 2004 Status Report, the CPD reported that it was planning four in-service trainings in September 2004, (currently scheduled for the week of September 20) and one new MHRT training class, (currently scheduled for November 8, 2004) of approximately 30 officers.

Statistics for May-July 2004 show that, for the City as a whole, there were MHRT officers working every shift, each day. The CPD also tracks the deployment of MHRT officers to MHRT calls. During the period of May through July 2004 the CPD reported a total of 1,488 MHRT calls for service. Of this total 97 were disregarded without sending a unit, 13 were handled by a different agency, and 219 were initially dispatched as a different kind of incident, and were only changed to an MHRT incident after officers on scene requested MHRT officers. Therefore, 1,159 calls required an MHRT response. Of these 1,159 calls requiring an MHRT response, 885 resulted in an MHRT officer being sent. According to the CPD, during this period, there were 24 calls for which an MHRT officer was not available, 118 calls for which an MHRT was disregarded, and 132 calls for which the MHRT codes were unknown.

3. Assessment

The CPD’s policies have been revised to comply with the requirements of the MOA relating to incidents involving persons

suspected of being mentally ill. As we have noted in previous reports, CPD's training of its MHRT officers also complies with the MOA. The training was multi-disciplinary, emphasized de-escalation, included role-play exercises and "shadowing" of mental health professionals, and provided officers with additional tools for identifying mental illness and responding to incidents involving the mentally ill. This training is now being provided to all new officers in the Police Academy.

The CPD has also developed in-service training for the current MHRT officers. This training is currently scheduled for the week of September 20, 2004.

We have also determined that the CPD has met its requirement to plan and implement a partnership with health care professionals to make those professionals available on-site to assist in handling calls involving mentally ill individuals. In previous Reports, we reported on the Mobile Crisis Unit and its work with the CPD.

With respect to whether MHRT officers are responding to the appropriate incidents, the CPD has maintained a consistent level of MHRT response to MHRT calls of over 75% for the last four quarters, based on the statistics provided by the CPD. The number of calls where it was documented that an MHRT officer was unavailable has been quite low. In March 2004, we conducted an audit of disregarded MHRT calls for service that resulted in no response to the caller. Based on that audit, we determined that those calls were handled appropriately. We therefore found CPD in compliance with the MOA requirement. We will be conducting a similar audit in the next quarter, to ensure that CPD is in continued compliance.

B. Foot Pursuits [MOA ¶ 11]

1. Requirement

The MOA requires the 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

There was no change in policy or procedures during this quarter. In addition, the tactical and risk considerations of foot pursuits were included in the officers' roll call training program, and the supervisory review of foot pursuits was emphasized in management training of supervisors.

3. Assessment

The CPD's foot pursuit policy complies with the MOA. This policy has also been incorporated into CPD training for officers and supervisors. With respect to implementation, we reviewed a number of investigations of Use of Force incidents and citizen complaints in which there was a foot pursuit. Documentation of the supervisor's review of some of these foot pursuits suggests that the policy and training are beginning to become part of CPD's routine reporting and review.

II. Use of Force

In the table below, we provide the statistics for Use of Force incidents for the last eight quarters. As can be seen from the table, the most significant development in the first quarter of 2004 was the widespread introduction of the Taser as a part of CPD's continuum of force. This significant change continued in the second quarter of 2004. The use of the Tasers has proven to be the tool of choice for officers. Use of the Taser and Taser training are discussed below.

USE OF FORCE TABLE

	3 rd Q 2002	4 th Q 2002	1 st Q 2003	2 nd Q 2003	3 rd Q 2003	4 th Q 2003	1 st Q 2004	2 nd Q 2004
Chemical Irritant	93, 24 restrained	117, 15 restrained	122, 26 restrained	155, 15 restrained	103, 19 restrained	105, 15 restrained	86, 10 restrained	39, 9 restrained
Physical Force	52	67	71	79	27, plus 26 takedowns with injury 35 non-compliant suspects	29, plus 12 takedowns with injury 48 non-compliant suspects	17, plus 11 takedowns with injury 40 non-compliant suspects	4, plus 4 takedowns with injury 41 non-compliant suspects
PR 24	9	7	5	3	5	4	0	0
Canine	5	5	2	5	2	2	4	1
Taser	1	1	1	2	0	0	72	177
Beanbag/ Foam rd.	1 (animal)	0	0	4	0	0	1 (foam)	0
Pepperball	1	0	1	1	5	2	0	0
Firearms Discharge	0	0	1	0	0	1	3	2
Total	186	212	229	264	222	218	244	277

A. General Policies [MOA ¶¶ 12-13]

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
- The term “force” must be defined as it is defined in the MOA
- 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
- Whenever possible, individuals should be allowed to submit to arrest before force is used
- Advise against excessive force
- Prohibit choke holds
- The term “restraining force” must be removed from CPD’s policy
- The CPD’s revised Use of Force policy must be published on the CPD’s website and be disseminated to community groups

2. Status

On July 29, 2003, the CPD issued a comprehensive Use of Force policy, Procedure 12.545, and included it in the CPD Staff Notes. In addition, on March 2, 2004, the CPD revised its Use of Force policy to incorporate new provisions relating to the new X-26 Tasers and Taser deployment. On July 1, 2004, CPD changed the Use of Force Policy relating to the investigations of Taser incidents, stating that starting on July 1, 2004, interviews in Taser investigations did not need to be audio-taped. In the next quarter, the Monitor Team will review Taser incidents after July 1, 2004, that do not have audiotaped interviews.

Tasers have been added to the force options in the CPD’s Use of Force Continuum at the same level as chemical irritant. According to the policy, only officers who have undergone Taser training are authorized to

use the Taser. Consistent with the MOA, officers are directed to provide the subject with a verbal warning that the Taser will be deployed, unless doing so would present a danger to the officer.

To avoid injuries due to falls, the policy restricts Taser deployment on obviously pregnant females, persons over 70 and under seven years of age, and individuals situated on an elevated surface. Generally, the Cincinnati Fire Department will be summoned to evaluate and provide the necessary medical treatment for the suspect. Should the Taser darts become embedded in soft body tissue areas or any area above the collar bone, officers will transport the suspect to the hospital for evaluation and dart removal.

In January 2004, the Department initiated the eight hour training course for the X-26 Taser. The training consists of tactical Taser exercises, familiarization and classroom instruction, which includes review of CPD's revised Use of Force Policy. As of June 30, 2004, 981 officers have been trained and equipped with the new Taser. Of the 981 officers, 798 submitted to a voluntary exposure of the five-second Taser cycle. Approximately 15 officers remain untrained and unequipped with the Taser. Most of these officers are currently serving active duty with the military and will be trained upon their return to the Department.

3. Assessment

The Monitor has found the CPD's Use of Force policy in compliance with the MOA provisions. However, the Monitor, the DOJ and the CPD need to address the issue of whether audiotapes are required for Taser investigations, to determine whether the recent change in Procedure 12.545, Use of Force, remains compliant with the MOA. The remainder of the new procedures on the use of Tasers, and all other provisions of Procedure 12.545 are in compliance with the MOA. The CPD's procedures, including its use of force policies, are publicly available on its website, in compliance with paragraph 13 of the MOA.

Taser Implementation

According to the CPD, Tasers were used in 177 incidents in the second quarter of 2004. In addition, the threat of impending Taser use was sufficient to gain compliance in 26 additional incidents.

As we stated in our last Report, the advantage of the Taser is that, if it is effective, it eliminates the need for the officer to close on the subject and engage in a physical confrontation. In this way, it can substitute for other uses of force, such as strikes and impact weapons that may have an increased risk of officer or citizen injury.

Additionally as we previously stated, use of the Taser is not completely without risk. There can be injuries from Taser use, particularly from the subject's fall to the ground after being hit by the Taser. The CPD reports that there were 25 injuries from the 177 Taser incidents in the second quarter. Twenty-four of these injuries involved scrapes and cuts, but one involved a fractured orbital socket.

Although we are cautious about reaching conclusions concerning CPD's Taser use from six months of data, there are some preliminary observations we can make. From the Use of Force Table above, it appears that the introduction of Tasers has resulted in a reduction of other types of force, including chemical spray, physical force such as the PR24 and strikes, and beanbag and pepperball rounds. The total number of use of force incidents, however, has increased. According to the CPD, the Tasers have also resulted in a reduction in the injuries to both officers and subjects.

The Monitor Team reviewed the investigative files of 19 of the 177 Taser incidents. These files generally included the Use of Taser Report, associated arrest reports, a Taser download printout¹ and taped interviews with subjects and officers.

While the CPD has placed the Taser at the low end of its force continuum, officers still need to consider whether any use of force is needed. This is especially true in situations where the subject's non-compliance is limited to "conspicuously ignoring" the officer. Articulating these considerations in the Use of Taser Reports will ensure that reviewing officials will be able to determine whether the Taser was the most appropriate and effective tool for gaining compliance. Supervisors also need to assess whether in Taser incidents, the officer had probable cause to arrest the subject.

¹ The Taser data printout is another advantage of the Taser, as it records the time and date of every use of the Taser and the number of seconds that the Taser cycled for each use.

We still believe that Taser use warrants careful monitoring and evaluation by the CPD, to ensure that officers are properly considering alternatives to force, such as de-escalation, verbal commands, or arrest control techniques. In addition, the CPD should continue to review the effectiveness of Tasers as a result of the number of instances where the barbs either miss or are not effective. The CPD should also monitor the effectiveness of the “drive stun” on the subjects. In a number of the investigations we have reviewed, officers had to use the “drive-stun” multiple times, because it did not incapacitate the subject or result in the subject complying. This ineffectiveness could be attributable to several factors: placing the device on an area of the body where it is not effective; insufficient training on how to properly use the drive stun technique; or a shorter amount of time used for the drive stun than deploying the barbs.

Additionally, we are concerned that officers may not be giving subjects sufficient time to comply with commands prior to using second or subsequent bursts from the Tasers. The CPD also recognized this in its review of Taser incidents and began advising officers to allow sufficient time to comply with their commands. We believe that the CPD should continue to inform officers of this issue.

B. Chemical Spray [MOA ¶¶ 14-19]

1. Requirements

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

- Clearly define terms
- 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
- Provide that chemical spray may be used only when verbal commands would be ineffective
- Require supervisory approval for use of chemical spray against a crowd, absent exigent circumstances

- Require a verbal warning and the opportunity to comply before using a chemical spray, unless doing so would be dangerous
- Require officers to aim at the subject's face and upper torso
- Provide guidance on duration of bursts and recommended distance
- Require officers to offer to decontaminate sprayed individuals
- Request medical response for complaining subjects
- Prohibit keeping sprayed subjects in a face down position any longer than necessary
- Prohibit use of spray on a restrained person, except to protect against harm or escape
- 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 the CPD's Inspections Section
- Provide restraining equipment in CPD squad cars
- Provide in-service training on chemical spray
- Account for chemical spray canisters
- Periodically review research on chemical spray

2. Status

There were 39 incidents in which CPD officers used chemical irritant spray in this quarter.

The CPD notes that of the 39 chemical spray incidents, three subjects were not decontaminated, three refused decontamination, and there was one incident in which decontamination was not reported and could not be documented. We note that police cars are now equipped with moist towelettes for officers to use to decontaminate sprayed individuals, at the recommendation of the CCA Board.

3. Assessment

a. Policy

The CPD's policies regarding the use of chemical spray comply with the MOA.

b. Review of Sample Investigations

i. Warning that force would be used

The CPD's Use of Force Report now contains a check box, "warned that force would be used," in the "verbalization" field of the form. In reviewing the chemical spray reports (and complaints) we sampled this quarter, six documented that a verbal warning was given, while three showed no indication of any verbal warning in either the "verbalization" field or the narrative portion of the report. Exigent circumstances appear to have precluded a verbal warning in at least two of these cases. This issue was well articulated in each of the reports. In the remaining case, the irritant was used to separate two combatants; however, the report fails to indicate whether a warning of impending force was given or why it may not have been practical under those circumstances.

ii. Spray of restrained individuals

As we have noted in prior Reports, the MOA limits the circumstances in which chemical spray can be used on an individual who is already in handcuffs. Because a number of these incidents occur when a prisoner is being transported in a police car, the MOA requires the CPD to have restraining equipment in its vehicles and to train its officers in using that equipment.

The Monitor Team believes that it will be helpful for supervisors, in investigations of such incidents, to determine whether the subject was restrained in any way other than handcuffs. If the subject was not restrained, the investigating supervisor should document the reason why restraining equipment was not used and assess whether the chemical spray was justified. If there are numerous subjects who were able to escape from the restraints of the lap bar or seat belts, the CPD may wish to consider the effectiveness of these restraints, the training of officers, or the availability of other restraints.

Our review this quarter of two use of force investigations involving the use of chemical spray on a restrained person indicates that the officers deployed chemical spray in situations consistent with the MOA. Chemical spray was used to prevent injury to the subject (subjects banging their heads against the car and partition). In both of these investigations, it was noted that the subject had been securely belted into the rear of the patrol car when they somehow managed to remove themselves from the restraints and began kicking and thrashing about. This does raise a question concerning the effectiveness of the restraints.²

iii. Duration of spray, targeting of spray, decontamination

Our review of chemical spray incidents indicates that CPD officers are complying with the MOA provisions relating to the distance and duration of chemical spray, and targeting the subject's face and upper torso. In most cases, the force reports also indicate that the subjects were allowed to decontaminate within 20 minutes. There were at least three instances, however, where the subject was not permitted to decontaminate.

C. Canines [MOA ¶20]

In the second quarter of 2004, there were 163 total canine deployments, 18 canine apprehensions (where a suspect was found and arrested) and 1 canine bite. This is a bite ratio of 5.56 percent.

1. Requirements

The MOA requires the CPD to revise and augment its canine policies, subject to the review and approval of the Department of Justice.

² It also may have been helpful for the officers to turn their MVR cameras around and record the subjects' behavior to further substantiate the behavior and actions. See Section Chapter 2 V.C.

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 an 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.
- The CPD shall track deployments and apprehensions, and calculate bite ratios. These bite ratios shall be included in the Risk Management System.

2. Status

The CPD calculated the bite ratio for the canine unit (the number of bites compared to the number of total apprehensions involving a canine, with and without a bite) for the following six-month periods:

	<u>Bite Ratio</u>
August 1, 2003 – January 31, 2004	6.1% (3 bites in 49 finds)
September 1, 2003 – February 29, 2004	11.9% (5 bites in 42 finds)
July 1, 2003 – December 31, 2003	14.3% (6 bites in 42 finds)

Each of these bite ratios is below the 20% ratio that would trigger a review of the Canine Unit under the MOA.

The CPD also calculated bite ratios for each handler/canine team. There were two individual teams that had a bite ratio exceeding 20% for each of the three six-month periods. According to the CPD, each of the canine bites involved was “consistent with Department policies and procedures. Additionally, Use of Force policies were reviewed with each officer. In each instance, there was minimal injury to the arrested and the control of the canine was exceptional.”

In our Fifth Quarterly Report, we reviewed three investigations of canine bites from the second quarter of 2003. In this quarter, the CPD has not provided the Monitor Team with any completed investigations of the seven canine bites that occurred since September 2003. We did obtain copies, however of deployment forms for cases where suspects were apprehended without a bite, from January through June 2004.

3. Assessment

a. Policy

The CPD’s Canine policy meets the requirements of the MOA. The Monitor Team will continue to examine canine training to assess compliance with the MOA’s requirement that the CPD introduce an “improved handler-controlled alert curriculum” consistent with the CPD’s revised policy.

b. Canine Deployments

The Monitor Team reviewed 26 Canine Deployment Forms for incidents in which suspects were apprehended but not bitten. In the 1st and 2nd quarters of 2004, the CPD Canine Unit was compliant with the MOA requirement that canine searches be authorized by supervisors. It also appears that the unit complied with the MOA requirement that off leash deployments be limited to commercial buildings or for suspects reasonably believed to have a weapon. However, the deployment forms did not require the canine handlers to document whether they provided a loud and clear canine announcement before the deployment. While 12 forms included the handlers’ statements in their narratives that they did provide an announcement, the other 14 forms did not document whether an announcement was given.

We also note that there were apprehensions of suspects who were apprehended either because they surrendered after the announcement, or they surrendered and complied during an on-lead search. Other apprehensions involved suspects hiding and then found by canines in places from which the canine could not bite the suspect. For the incidents involving apprehensions due to suspects giving up during a

canine search, it does not appear that the suspects' clothes were bitten, or that they were "held" by the canine (e.g., where the canine holds onto a suspect's arm or leg, but does not puncture or cut the suspect). However, the documentation is not sufficient to make a definitive assessment of this issue, and the Monitor Team will work with CPD and DOJ on this issue in the next quarter.

c. Review of Investigations

There were no canine investigations reviewed this quarter. Therefore, the Monitor Team is not able to determine whether the Canine Unit has complied with the MOA provisions regarding canine bites, including the requirement that the handler may not allow the canine to bite a nonresistant subject.

D. Beanbag Shotguns [MOA ¶¶ 21-23]

There were no beanbag shotgun deployments in the second quarter of 2004. The CPD is in compliance with the MOA requirements relating to beanbag shotgun deployment.

III. Incident Documentation, Investigation

Documenting and reporting officers' use of force allows CPD supervisors to evaluate the appropriateness of the individual use of force and to track an officer's behavior over time. It also allows CPD to analyze use of force incidents, trends and patterns to evaluate officer tactics and determine whether any changes in procedure or training are needed.

A. Documentation [MOA ¶¶ 24-25]

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.
- The CPD will implement an automated data system allowing supervisors access to all use of force information.

- The 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**

- a. Hard Hands and Takedowns without Injury**

In June 2003, the Justice Department and the CPD reached an agreement modifying how the CPD would report and investigate use of “hard hands” and takedowns, where there was no injury, complaint of injury or allegation of excessive force. In these situations, the officer using force must complete a “Noncompliant Suspect/Arrestee Report” (Form 18NC), which must be reviewed, along with the Arrest Report and any other associated reports, by the officer’s supervisor. The officer must provide a written narrative of the incident and include a description of the subject’s resistance, the defensive tactic used to overcome that resistance, the force used, and the events leading up to the use of force. The supervisor is required to evaluate and provide written comments on the tactics used and the appropriateness of the use of force. The Inspections Section must also review the reports for tactical errors, legal issues, and policy and training issues.

In our earlier Reports, we concluded that the 18NC Forms and Arrest Reports were not providing sufficient information about the incidents. The reports did not contain the required narratives and description of events, so that supervisors reviewing the reports were not able to evaluate the appropriateness of the officer’s tactics and use of force. In addition, the supervisors were not providing written comments on the officers’ tactics and use of force. In response to our concerns, the CPD agreed to require a narrative on the 18NC Form, and require that the report be reviewed by a supervisor before the end of his or her tour of duty.

- b. Hard Hands and Takedowns with Injuries**

In May 2004, both the City of Cincinnati and the Department of Justice accepted a proposal by the Monitor to resolve a dispute about the investigations and reporting of hard hands and takedowns where the suspect was injured. For six months from July 1, 2004, supervisors will be called to the scene to conduct a supervisory investigation. The investigation will include interviews with all witnesses, including the subject(s), officer(s), medical treating personnel (if practicable) and third

party witnesses. However, the interviews do not need to be taped. The Monitor will review a sample of investigations that involve takedown with injury. The Justice Department will also review the sample investigations.

If after the 6 month period, the Monitor determines that the reporting is sufficient and that the uses of force and use of force investigations are consistent with the MOA, the MOA will be amended to reflect the proposal. If the Monitor determines that the force incidents and investigations are not consistent with the MOA, “hard hands” and takedowns that result in injuries will be reported with audio-taped statements from the subject, involved officers and witnesses.

3. Assessment

a. Non-Compliant Suspect Forms (Form 18NC)

This quarter, the Monitor Team reviewed eleven Non-Compliant Suspect/Arrestee Reports. An Arrest and Investigation Report accompanied several, and each contained a narrative that sufficiently described the circumstances that led to the application of force during the arrest or detention of a subject. However, the reports did not include the supervisors’ comments or determinations. Therefore, the CPD is not in compliance with the MOA requirement. In future quarters, we will expect that the review by Inspections will result in returning forms and reports that do not contain the information required.

b. Takedowns with Injury

A new reporting procedure was put in place for takedowns with injury starting July 1, 2004. We will be reviewing this new procedure beginning in the next quarter.

B. Investigation [MOA ¶¶26-31]

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 tactics, including the basis of any stop or seizure.

- 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, beanbags, 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; statements of witness with connection to complainant should not be discounted. The CPD to resolve material inconsistencies. The 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 is not recommended.

2. Status

There were no changes in policies or procedures with respect to the investigation of force incidents during this quarter.

3. Assessment

a. Policy

The CPD’s policies on investigating Use of Force incidents comply with the MOA. However, the Monitor Team will work with CPD to ensure that tapes of interviews by investigating supervisors are made and copied at the correct speed and that they are suitably audible.

b. Review of Sample of Force Investigations

During this quarter, the Monitor Team reviewed 30 investigative files depicting Use of Force incidents (including Taser deployments, but excluding hard hands without injury). We determined:

- Supervisors were notified by officers who were involved in a use of force incident, and the supervisors responded to the scene to conduct a use of force investigation
- Where subjects of force made a complaint of excessive force or other violation, supervisors completed complaint forms and faxed them to IIS
- The investigations documented medical care provided or the refusal of medical care
- The Use of Force Reports (Form 18) were reviewed and signed by a CPD official at the rank of lieutenant or higher. Many of the investigations also had separate written memoranda by Command personnel with an assessment of the force used and the investigation of force
- In at least two incidents, the investigating supervisors did not conduct and then write up an appropriate investigation. We do note, however, that the commanders who reviewed the investigative reports identified these problems, required the sergeants to re-conduct the investigations, and sustained appropriate violations for both the sergeants and officers
- CPD supervisors did not always evaluate the basis for the initial stop or seizure

Based on these observations, the CPD is in partial compliance.

C. Review of Critical Firearms [MOA ¶¶ 32-34]

1. Requirements

- Critical Firearms Discharges. The CPD investigations will account for all shots, and locations of officers discharging their firearm. The 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 and 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

There were two firearms discharges at suspects in the second quarter of 2004. One (police investigation #04-pi-05) is currently being investigated by CIS and the other (which occurred outside the City of Cincinnati) is being reviewed by the FDB.

In regard to the four discharges in the first quarter of 2004, two are still pending criminal trials and the other two are currently in IIS for review. For the firearms discharges that occurred in November of 2003, the FDB completed its review on May 18, 2004. The FDB Report was included in the CPD's August 5, 2004, MOA Status Report.

3. Assessment

The CPD's policy on critical firearms discharges complies with the MOA. The FDB Report for the November 2003 firearms discharge was in compliance with the MOA. Because the Firearms Discharge Board's review has not completed its work on the six discharges in 2004, the Monitor is unable to assess compliance in this quarter.

IV. Citizen Complaint Process

A. Openness of Complaint Process [MOA ¶¶ 35-38]

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 a unique identifier that will be provided to the complainant, and each complaint is tracked by the type of complaint
- Copies of allegations filed with the Citizen’s Police Review Panel (CPRP), the Office of Municipal Investigations (OMI), Citizen Complaint Authority (CCA), Human Relations Commission referred to IIS within five (5) days

2. Status

There were no changes in procedures regarding complaint intake during this quarter.

3. Assessment

As required by the MOA, the CPD accepts complaints in any format, including in person, by mail, from the CCA or stemming from a supervisor’s investigation of a use of force incident. The CPD also accepts third party complaints. Our review of complaint investigations generally did not reveal barriers to filing a complaint, or discouragement by officers of persons seeking to make a complaint against a member of the CPD, other than one CCRP case.

The CPD has also audited the availability of complaint forms in CPD Districts and in police vehicles and found that the forms are available as required. The CPD is in compliance with these provisions of the MOA.

B. Investigation of Complaints [MOA ¶¶ 39-50]

1. Requirements

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

- 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 the chain of command, with report. District or unit commander will evaluate investigation
- For IIS Investigations:
 - Tape all interviews with complainants, involved officers, and witnesses
 - Interviews at convenient times
 - Prohibit group interviews
 - Notify supervisors of complaints
 - Interview all appropriate CPD officers, including supervisors
 - Collect and analyze all appropriate evidence; canvas scene for witnesses; obtain medical records

- 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

A total of 19 out of 63 cases in the second quarter were not completed within 90 days.

3. Assessment

a. IIS investigations

The CPD has not provided information as to whether there were extenuating circumstances causing delays in the cases taking longer than 90 days to complete. The Monitor suggests that for investigations for which more than 90 days are needed due to the complexities of the investigation, the supervisor should request an extension beyond that date and justify the request. In addition, there were two incidents where it appeared that witnesses were not interviewed. [IIS 04-094; IIS 04-04-107]

b. CCRP investigations

Our review of CCRP cases indicates that in 16 of 18 cases the complaints were properly investigated as CCRP cases. Two cases involved use of force complaints, and should have been investigated by IIS. Also, the CCRP cases were resolved in writing, and with one of the four dispositions required by the MOA; assigned a unique identifier and tracked in the complaint system; conducted by a supervisor who was not involved in the conduct that precipitated the complaint; and signed by a District Commander. Most of the CCRP investigations appear to have been completed before the date of the resolution meeting; however, at least one case was concluded because the complainant was no longer willing to attend a resolution meeting. All of the involved officers were interviewed, and the complainants were either interviewed or attempted to be contacted. For each case, a report was written that included a description of the incident and a summary of the evidence.

For the 83 CCRP cases that were completed in the second quarter of 2004, 12 took over 90 days to complete.

C. Adjudication of Complaints [MOA ¶44-45]

1. Requirements

- Every allegation to be resolved with one of four determinations – unfounded, sustained, exonerated, not sustained
- Unit commanders to evaluate each investigation to identify problems and training needs

2. Status

The City has revised the CCRP process so that the MOA complaint closure terms [sustained, not sustained, unfounded, exonerated] are applied to complaints adjudicated through the CCRP process. The investigating supervisor continues to determine whether the officer’s actions “met” or “didn’t meet” CPD standards. However, the Bureau Commander reviewing the CCRP file now determines which of the closure terms is appropriate prior to the file being sent to the Police Chief for final review. Procedure 15.100, Citizen Complaints, was revised to reflect this change, effective July 8, 2003.

The CPD reports that there were 83 CCRP complaints involving 88 allegations that were closed in the second quarter of 2004 with the following results:

Sustained	13
Sustained Other	2
Exonerated	19
Not Sustained	19
Unfounded	33
Case referred to IIS	2

The CPD also reports that there were 61 investigations closed through IIS in the second quarter of 2004. Those cases were closed as follows:

Sustained	37
Sustained Other	0
Exonerated	3
Not Sustained	7
Unfounded	14

3. Assessment

The City is in compliance with the requirement that every complaint be closed with one of four dispositions: sustained, not sustained, unfounded or exonerated.

D. Investigations by the CCA [MOA ¶¶ 51-56]

1. Requirements

- The CCA is to assume all of the responsibilities of the Office of Municipal Investigation (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; the 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

Based on the Monitor's concerns from the last quarter, the City of Cincinnati is developing a mechanism or procedure to ensure that sustained CCA cases are reviewed by the City Manager and, if approved by the City Manager, proper discipline or disposition is undertaken by CPD. In the first quarter of 2004, it appeared that there were some cases that were sustained by CCA, the CCA disposition was agreed to by the City Manager, but no discipline was carried out because the CPD had not sustained a violation. The City has stated that in future cases, the City

Manager will review both the CPD and CCA investigations, and determine which one she agrees with.

3. Assessment

a. General Operations

We are encouraged that the CCA now has a full time executive director who has developed new CCA investigative standards and procedures. The City is in compliance with these provisions of the MOA.

b. Sample Investigations

During this quarter, we reviewed the investigative files in ten CCA investigations. Summaries of those investigations are contained in Chapter Four. What follow are our general observations:

- Officers are responding to the CCA offices to be interviewed
- CCA has access to CPD records
- Parallel investigations by the CCA and the CPD do not appear to be impairing the effectiveness of either investigation
- The CCA investigations include an investigator's report, summaries of interviews, descriptions of evidence, and conclusions
- The investigative files are generally well-organized and thorough

CCA has used various checklists and forms to ensure that the investigations are well managed and thorough. These include: Case Checklist; Scheduling Witness Form; Contacting Witness Form; Case Status Report; Other Evidence Form; and Case Contacts list.

Based on data provided by the CCA, it appears that the City Manager is taking action on completed CCA cases ("agreeing" or "agreeing in part" with CCA recommendations), as required by the MOA and CA. We have requested data regarding the actions then taken by the CPD with respect to discipline to determine whether the City is in compliance with the provision requiring the City to take "appropriate action, including imposing discipline and providing for non-disciplinary action where warranted." Until we review the new procedures and

received the data requested, we are not in a position to make a compliance determination on that requirement. It is anticipated that the ETS system will assist in providing much of this information.

V. Management and Supervision

A. Risk Management [MOA ¶¶ 57-64]

1. Requirements

Under the MOA, the CPD is required to enhance and expand its risk management system by creating a new “computerized, relational database.” The 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 a police officer, and obstruction charges, where a use of force has occurred
 - critical firearms discharges
 - complaints, dispositions
 - criminal and civil proceedings against officers
 - vehicle pursuits
 - pointing of firearms (if added)
 - disciplinary actions
- The CPD must develop a plan for inputting historic data now in existing databases (Data Input Plan)
- The CPD must develop a protocol for using the risk management system, subject to Department of Justice approval
- 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 pattern assessment” of the information in the system
 - intervention options are to 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
- Schedule for system development and implementation:
 - 90 days from April 12, 2002: issuance of RFP, with DOJ approval
 - 210 days from RFP: selection of contractor
 - 12 months from selection of contractor: beta version ready for testing
 - 18 months from selection of contractor: computer program and hardware to be “operational and fully implemented”

2. Status

The CPD has obtained Department of Justice approval for both the ETS Protocol and Data Input Plan. A “beta test” of the system was conducted on June 21, 2004, at which both the Monitor Team and Department of Justice experts were present. The CPD expects the system to be up and running with “live” data in October 2004.

According to Cincinnati’s August 12, 2004, all supervisors have been trained in the ETS system with the exception of four non-sworn and two sworn supervisors. The two sworn supervisors are on extended leave due to Family and Medical Leave Act (FMLA) and military duty. The remaining supervisors will be trained during the training for new supervisors.

The ETS vendor has finished most of the work on requested revisions to some of the data modules. Data conversion has also begun by the vendor.

While the ETS system is being developed, the MOA requires the CPD to use existing databases to monitor officer behavior. As we have

noted in prior reports, the CPD maintains a manual risk management system known as the Department Risk Management System (DRMS). This system uses existing databases and a matrix of risk factors to identify officers who are subject to an administrative review. Officers who accumulate more than a certain number of points within a 12 month period based on this matrix are identified for review.

During the second quarter, six officers exceeded the DRMS threshold for review. The supervisor met with the officers and reviewed the officers' incidents and history.

3. Assessment

a. Protocol and Data Input Plan

There has been a great deal of progress toward implementation of the ETS system. The CPD is now in compliance with the MOA requirements for the ETS protocol and data input plan. The Monitor will assess the CPD's use of the ETS system and implementation of the requirements of the ETS protocol as the system becomes operational in the next quarter.

b. Manual Risk Management System

Based on the data provided by the CPD, the CPD is in compliance with this requirement.

B. Audit Procedures [MOA ¶¶ 67-69]

1. Requirements

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

2. Status

During this quarter, the Monitors met with the Inspections Section sergeant responsible for conducting semi-annual audits of IIS files.

Standard Operating Procedure #1.54, effective July 2002, sets out a requirement that the Assistant Inspections Section Commander conduct a semi-annual review of cases closed by IIS. The procedure specifically sets out that one completed case of each investigator be reviewed from the previous six month period. There must be at least one excessive force case and one criminal complaint allegation.

The review process to be conducted by the Assistant Inspections Commander shall include: assessment of the reliability and completeness of IIS's canvassing of witnesses; assessment of the reliability and completeness of IIS's interviewing of witnesses; preservation of an incident scene; analysis of the incident scene, if applicable; and appropriateness of the IIS conclusions.

The semi-annual audit of eight cases by IIS was completed during this quarter. The audit reviewed cases that were cleared during the period of January 1, 2004 through June 30, 2004. The audit determined that seven of the eight were in compliance with CPD policies, procedures and standards. The eighth case was returned to address the propriety of handcuffing an individual who was stopped for a minor misdemeanor traffic violation and placed in the rear of the police car.

The Inspections Section also conducted its quarterly audit of the CCRP process and found that the investigations were complete, logged into the proper databases, and stored in secure locations. The Inspections Section also began an attempt to contact former complainants to evaluate if the actions and views of the complainants were captured correctly in the CCRP report. The Inspections Section was able to get the opinion of only one complainant.

3. Assessment

The Monitor believes that the CPD is still in only partial compliance with the MOA audit provisions because the process still lacks the following:

- Audit checklists
- Documentation of which CCRP files were reviewed
- Determination by the Inspections Section of which IIS files will be audited, rather than by IIS
- Follow-up with complainants involved in CCRP cases.

The Monitor believes that the audit must have checklists that ensure that the proper documentation and processes have been followed and that a record of those files audited is accessible and available.

C. Video Cameras [MOA ¶¶ 70-72]

1. Requirements

The MOA requires that all patrol cars be equipped with mobile video recorders (MVR). These MVRs are to be used in the following situations:

- 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 are to be conducted

2. Status

Currently, 67 marked units still are not equipped with a MVR. CPD has purchased 62 MVR digital video data units. Thirty-one of these units have been installed in vehicles, with an additional 31 scheduled to be installed before the end of the fourth quarter.

In previous reports, we noted that while the CPD appears to be conducting the required random reviews of videotapes, it was unclear whether these reviews generated any outcomes, in terms of changes in tactics, training, counseling of officers or otherwise. In response, the CPD notes that it does not currently track the nature of interventions resulting from the random supervisory review of MVR tapes. We are still interested in determining any results from these random reviews.

3. Assessment

The CPD is still in partial compliance with these provisions of the MOA.

First, not all vehicles have cameras yet; complete outfitting of police vehicles with MVRs appears to depend on additional digital camera purchases.

Second, there continue to be cases where officers are not activating their MVRs during traffic stops. [IIS 03-296] In addition, as we noted in our last Report, officers are required to activate the MVR “to the extent practical” when transporting violent prisoners. In the two cases we reviewed this quarter where chemical irritant was used on arrested individuals in back of the police car, the incidents were not captured on the MVR tape. We understand that these situations are rapidly evolving. That is why both the MOA and CPD policy state that videotaping is to be done “to the extent practical.” However, we believe that both officers and supervisors can benefit from documentation of these incidents. We encourage the CPD to emphasize in its training the value of the MVR in these situations.

D. Police Communications Section [MOA ¶¶ 73-74]

The CPD is in compliance with these provisions.

E. Discipline Matrix [MOA ¶¶ 75-76]

1. Requirements

- CPD to revise disciplinary matrix to increase penalties for serious misconduct violations, such as excessive use of force and discrimination.
- CPD will revise the matrix to take into account an officer’s violation of different rules, rather than just repeated violations of the same rule.
- Where matrix indicates discipline, it should be imposed absent exceptional circumstances. The CPD shall also consider non-disciplinary corrective action, even where discipline is imposed.

2. Status

In 2002, the CPD adopted a revised discipline matrix. The Department of Justice approved the revised discipline matrix, but stated that compliance would depend on actual implementation of discipline. In its letter to the City of Cincinnati, the Department of Justice stated:

“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.”

In addition, the CPD added language in the Manual of Rules and Regulations that executives using the discipline matrix “must take into account an officer’s violations of different rules within the same section rather than just repeated violations of the same rule.” While this language is consistent with the MOA, several CPD commanders were not familiar with the language, and it is not clear that CPD’s discipline accounts for multiple violations of different rules within the same section.

During this period, the Monitor Team met with the IIS regarding the administration of discipline. The purpose of this meeting (and the subsequent review of files) was to determine whether discipline was being applied in accordance with the Department matrix and consistent with the MOA and just cause standards.

The Monitor Team reviewed 17 sustained disciplinary cases. These cases included allegations of criminal misconduct, excessive force, neglect of duty, and inappropriate comments of a sexual nature. In each of the cases, one or more of the allegations were sustained based on the facts discovered during the course of the IIS investigation. In four cases (involving criminal misconduct and one sexual harassment) the accused officers were dismissed, retired or resigned. Discipline in the remaining cases included ESL entries, written reprimand and Administrative Insight, and suspension.

3. Assessment

From our review of sustained cases, we have determined that the CPD is imposing appropriate discipline for serious violations and criminal conduct. However, it is not clear that discipline imposed for less serious violations is compliant with the MOA provisions. For example, in at least one incident where the Chief did assess a greater discipline than the matrix (apparently due to earlier violations of other rules within the same section) the officer’s discipline was then reduced by the Review Panel to the lower matrix level. While we recognize that CPD has negotiated with the FOP over discipline issues, such as the Peer Review,

CPD needs to ensure that it can comply with the progressive discipline process for repeat violations that are not the exact same rule, even if negotiations with the FOP are needed.

The CPD currently does not have the capabilities to track electronically the disciplinary penalties imposed in each case where a violation of policy has been sustained. Once the ETS system is implemented, however, this data will be available.

In addition, we have raised a concern regarding those cases when the Civilian Complaint Authority sustains an allegation that was dismissed by the CPD. There is no clear and well established process for resolving the conflicting findings.

VI. Training

A. Use of Force—Management Oversight and Curriculum [MOA ¶¶ 77-81]

1. Requirements

This section of the MOA requires the CPD to:

- Coordinate and oversee use of force training to ensure that it complies with applicable laws and CPD policies
- Designate the Academy Director with responsibility for:
 - The quality of training
 - The development of the curriculum
 - The selection and training of instructors and trainers,
 - Establishing evaluation procedures
 - Conducting regular (semi-annual) assessments to ensure that the training remains responsive to the organization's needs
- Provide annual use of force training for all recruits, sworn officers, supervisors and managers
- Have the curriculum and policy committee regularly review use of force training and policies to ensure compliance with laws and policies

2. Status

Use of Force policy and related Use of Force scenarios were the topics of the roll call training program in April, May, and June of 2004. Taser training continued during this quarter, with a total of 981 officers having been trained. Based on input from the various training sessions, the Training Section conducted another needs assessment for training, and reviewed this with the members of CPD's Training Committee at their meeting held on April 15, 2004.

3. Assessment

CPD continues to display substantial compliance with these provisions of the MOA. The Monitor Team must assess the agency's procedures for evaluating training curriculum. The reporting of take downs under the use of force reporting requirements remains at issue and no determination has been made regarding whether training has been provided on alternate safe techniques for extracting subjects from stationary vehicles and disabling such vehicles.

B. Handling Citizen Complaints [MOA ¶82]

1. Requirements

The MOA requires the CPD to provide training on the handling of citizen complaints for all officers charged with accepting these complaints. The training must emphasize interpersonal skills so that citizen concerns and fears are treated seriously and respectfully. This training must address 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, their training must include how to establish appropriate burdens of proof and evaluate factors related to establishing complainant and witness credibility. The objective is to ensure that their recommendations regarding the disposition of complaints are unbiased, uniform, and legally appropriate.

2. Status

A new, three-week supervisors' training held in April, 2004, included training on citizen complaints and the CCA.

3. Assessment

While the supervisory training agenda reflected training as being conducted in this area, the Monitor Team has not observed this training or received a copy of the curriculum used in this supervisory training. Therefore, it is not possible to determine the extent of compliance with this provision at this time.

C. Leadership/Command Accountability [MOA ¶83]

1. Requirements

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 are to 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

New supervisors were trained in April 2004 in a three-week supervisor's training class. In addition, the CPD has stated that it continues to develop command personnel through participation in outside training programs. During the 3rd quarter of 2004, one captain is attending the FBI Academy in Quantico, Virginia. Two other captains attended the Senior Management Institute for Police in Boston, Massachusetts.

3. Assessment

CPD complies with the MOA provision.

D. Canine Training [MOA ¶ 84]

1. Requirements

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

This quarter, representatives of the Department of Justice and the Monitors met with the CPD Canine supervisor and trainer to discuss handler control methodology. Following our discussion, we observed on- and off-leash tracks that resulted in successful suspect identification and apprehension.

During the on-leash track, a canine handler equipped with a protective sleeve took up a position in a deeply wooded area. The track began with the canine partner on a 30-foot lead that he retracted to about 12-15 feet. The track proceeded down a course that went several hundred yards before entering a thickly wooded area with extensive ground cover. The handler and his canine partner proceeded forward with the Monitors several feet behind. About 50-75 yards into the wooded area, the canine reacted to an area thick with bushes and undergrowth. The canine entered and engaged its intended target by biting the target's sleeve. The handler called his canine partner off and ordered the subject out. This training example was not one where the hiding suspect attempted to surrender before being bit. We have not observed whether in those cases, the handler would be able to put the canine down and not allow a bite.

For the off-leash track, a canine handler took up a position in a cage that was concealed along the tree line of an open area. The canine was released about 150 yards out from where the subject handler was hiding. The control handler gave a warning before his canine was taken off leash. The dog proceeded forward with his nose to the ground with the handler a short distance behind. After a short distance, the dog reacted to the tree line and entered the brush. Immediately thereafter, the canine indicated by bark the location of the subject handler. It is not clear whether, if the subject was not in a cage, the canine would have

barked the location or bitten the subject. In both demonstrations the canine partner responded quickly to handler commands.

3. Assessment

In our discussions regarding handler control methodology, the CPD canine supervisor and trainer were forthright about their preferred methodology. A subject who has fled from the police and has taken up a position of concealment in the woods, for example, retains a tactical advantage over those officers who enter the woods to locate and apprehend the subject. CPD argues that by engaging a subject who is concealed under or within the brush, as was demonstrated during the on-leash track, the canine partner neutralizes the tactical advantage and threat to the handler and cover officers, thus allowing the subject to be taken into custody. The only two issues to be further reviewed: Whether the handlers are sufficiently in control (within sight, within voice, or in close proximity) of their canines so that they can order their canine not to bite a suspect, if the suspect surrenders by coming out from hiding. Both the MOA and the CPD policy prohibit canines from biting nonresistant, compliant subjects. Second, whether there are any apprehensions that CPD determines not to be a bite, but where the canine does “hold” a part of the suspect’s body.

E. Scenario Based Training [MOA ¶ 85]

1. Requirements

The CPD is required to ensure that training instructors and supervisors engage recruits and officers in meaningful dialogue regarding particular scenarios, preferably taken from actual incidents involving CPD officers. The goal is to educate the officers regarding legal and tactical issues raised by the scenarios.

2. Status

Scenario-based training updates are regularly developed by Training staff and disseminated for presentation during roll call sessions. The new training updates are submitted by staff each month for review by the Monitor. As noted above, and as required by the MOA, the scenarios are frequently based on actual encounters and incidents experienced by CPD officers. The updates examine and address contemporary policing issues, legal and tactical considerations that are relevant, and provide a foundation for the discussion of options to weigh by the officers. The updates include written guidelines to be followed by the supervisors who are presenting the case to ensure there is consistency in the presentation and ensuing discussion.

3. Assessment

The CPD remains in compliance with this provision. The Monitor Team will continue to periodically observe roll call sessions and other training where the scenarios are used to establish the Department's ongoing compliance with this requirement.

F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct [MOA ¶ 86]

1. Requirements

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

A quarterly meeting between the Solicitor's Office and CPD took place on July 22, 2004.

3. Assessment

The CPD is in compliance with this provision.

G. Orientation to the MOA [MOA ¶ 87]

1. Requirements

The MOA requires the City and the CPD to:

- Provide copies of the MOA and explain it to all CPD and relevant City employees
- Provide training for employees affected by the MOA within 120 days of each provision's implementation
- Continue to provide training to meet this requirement during subsequent in-service training.

2. Status

Based on the Monitor's previous reviews of the training curriculum and ongoing observations of training conducted, the existing and new employees are being provided with the required training. As new policies are developed and adopted, or existing policies are modified, the CPD includes that information in Staff Notes and communicates this through in-service training.

3. Assessment

The City remains in compliance with this provision. The Monitor will continue to review the City's compliance with this provision whenever new policies are adopted or policy revisions take place. We do note in Chapter Three below that there are officers who are unfamiliar with the contents of the MOA and CA, and of the role of the Monitor. We encourage the Department to disseminate more widely information about the Agreements and the Department's efforts to implement them.

H. FTO Program [MOA ¶ 88-89]

1. Requirements

The MOA requires the CPD to develop a protocol to enhance the FTO program to include:

- The criteria and method for selecting FTOs
- Setting standards that require appropriate assessment of an officer's past complaint and disciplinary history prior to selection
- Procedures for reappointment and termination of FTOs at the Training Academy Director's discretion
- Reviewing FTOs at least bi-annually with recertification dependent on satisfactory prior performance and feedback from the Training Academy

2. Status

Consistent with the revisions to Procedure 13.100 (the Field Training Officer Program), the performance of individual FTOs is now being reviewed to establish whether they will be re-certified and continue in that role. This review includes an assessment of the FTO's complaint and disciplinary history, among other things.

3. Assessment

The CPD is in compliance with the MOA provisions.

I. Firearms Training [MOA ¶¶ 90-91]

1. Requirements

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. The CPD is required to revoke the police powers of those officers who fail to satisfactorily complete the re-certification.

The MOA also 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

An on-site review of firearms training occurred during this quarter. Based on discussions with the trainers at the range and observing the training that was being conducted, it is evident staff has tailored the firearms training to the specific roles or assignments of the officers. Different courses are being, or have been, developed for patrol officers, the mounted horse officers, and canine officers. The range and academy staff also noted a decline over the past three years in the number of personnel who are not meeting the qualifying score requirement. Staff noted that implementation of the MOA provisions appears to have been a contributing factor, because there are now clearly articulated consequences attached to the failure to qualify (suspension of police powers and further training required).

3. Assessment

Based on a review of firearms training records and observations of training, the CPD is in compliance with those elements of ¶¶ 90-91 that the Monitor Team has observed to date. Further on-site observations

and audits will be completed to confirm that all requirements are being met.

CHAPTER THREE. COLLABORATIVE AGREEMENT

Through the Collaborative Agreement (CA), the Parties endorsed community problem-oriented policing (CPOP) as the framework for policing in the City of Cincinnati. The Parties are jointly accountable under the CA for implementing CPOP.

I. Implementation of CPOP [CA ¶29]

CPOP is advancing among Cincinnati's neighborhoods. Joint CPD and Partnering Center training have added many new neighborhoods to CPOP's ranks. In addition, the CPD and the Partnering Center have appeared jointly at many community events and we hope to see this continue as part of a strategic approach to trust building. On another positive front, the City received bids for a new police records management system, which should have the capacity to advance CPD's ability to identify repeat, chronic problems in Cincinnati's neighborhoods.

Under the Collaborative Agreement, the CPD has trust building obligations, problem-solving responsibilities, and safety improvement responsibilities (as do others). We believe that the CPD should redouble its efforts to build its own capacity to respond to chronic crime problems with customized, tailored countermeasures, based on analysis, using a variety of opportunity blocking mechanisms, not only the most traditional.

It is clear that the CPD and the Partnering Center wrote most (if not all) of the Parties' most recent CA Status Report. We thank them for their efforts. We do know that the FOP and the Plaintiffs have been involved in CA efforts this last quarter, including CPOP efforts. However, it does not appear that the FOP or the Plaintiffs have included their views, comments and actions, in the issues and events described in the Parties' Status Report. We believe that it is critical that the Plaintiffs and the FOP show their voices in every CA status report, documenting their participation in the CA and including their views on compliance.

1. Requirement 29(a)

The City, in consultation with the Parties, shall develop and implement a plan to coordinate the work of City departments in the delivery of services under CPOP.

2. Status

In the second quarter of 2003, the Parties formally adopted a CPOP coordination plan, entitled the “City of Cincinnati Plan for Community Problem Oriented Policing.” Since then, liaisons from the Departments of Buildings and Inspections, Public Services, Community Development and Planning and Health, Parks and Recreation, Fire, Water Works, and Metropolitan Sewer District received training on their roles and responsibilities as resources to the Problem Coordinators (the CPD member or Partnering Center staff assigned to a CPOP team).

3. Assessment

The City remains in partial compliance of this CA section. As we noted in prior reports, we expect the Parties to report on the quality, timeliness, and results of inter-agency collaboration vis-à-vis the projects undertaken by the pilot CPOP teams (e.g., Are inter-agency liaisons responding in a timely way? How long does it take to board-up a problem property? Has the Health Department been responsive in a timely way to problem properties with health code violations? In what ways have CPD officers relied on the Community Development and Planning Agency? Should the City try to enlist certain County service deliverers, such as Social Services?).

During this quarter, the Cincinnati City Manager appointed an individual in her office to coordinate the involvement and participation of other City departments. She will coordinate the effort and report back on problem-solving projects in future reports. The City states that these efforts will be consistent with and expand upon the City’s CPOP Action Plan. We believe that this is a positive development and that the Assistant City Manager will be able to report on the quality, results, and timeliness of interagency collaboration. She will also be able to assess if the interagency process can be used to address chronic problems identified by the Crime Analysis Unit’s review of addresses repeatedly involved in calls for service.

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

In our last Report, we noted that the CPOP website showed the addition of a “problem-oriented policing best practices” tab, where several reports on crime control practices and evaluations of them were available in PDF format. Currently the Problem-Oriented Policing Best Practices tab shows 12 PDF-formatted publications available, up from seven on the site last quarter.

At the July All-Parties meeting, the Parties agreed to establish a Best Practices Committee to research, identify, post on the CPOP website, and disseminate best practices throughout the Department. The Partnering Center will participate in this Committee.

3. Assessment

The Monitor looks forward to seeing the initial results of this Committee in the upcoming quarter. As we have noted before, we suggest that the Committee consider having a tab within the Best Practices portion of the website for officers to go to that contains evaluated efforts by crime/safety type (e.g., noise complaints, drug houses, open-air drug market, open-air prostitution market, etc.) to facilitate officer/outreach worker/community problem-solving. We also suggest that this Committee consider consulting appropriate experts in the field in identifying problem-oriented policing best practices.

1. Requirement 29(c)

The City, in consultation with the Parties, shall develop a continuous learning process through the CPD. Experiences with problem-solving efforts in the field will be documented and disseminated throughout the CPD and made available to the public. Problem solving will continue to be emphasized in (but not be limited to) academy training, in-service training, and field officer training.

2. Status

The September 2004 Status Report does not include any information on the dissemination of problem-solving experiences throughout the Department, and the Parties state that the Best Practices Committee (mentioned in 29b above) will also report on a dissemination plan.

In ride-alongs that we have done in prior reporting quarters, and again this past July, the Monitor found that CPOP officers, while enthusiastic about working on neighborhood problems, were sometimes

unaware of access on the CPOP website to problem-solving cases from around the country and the Problem-Oriented Policing guidebooks and their potential use in their problem-solving projects.

3. Assessment

As we noted in our last report, we believe there are many ways in which problem solving can be incorporated into CPD training, and disseminated throughout the Department. The Monitor agrees with the Parties that this section of the CA is linked with section 29(b) and hopes to see greater progress in this area in the next quarter. Of the four subparts to this section the Parties are only in compliance with the requirement that experiences with problem-solving in the field will be made available to the public. The Parties are in partial compliance with this section of the CA.

1. Requirement 29(d)

The Parties will research information on how problem-solving is conducted in other police agencies and disseminate research and best practices on successful and unsuccessful methods for tackling problems. The Parties will also disseminate information on analogous problem-solving processes used by other professions.

2. Status

The Parties refer us to Section 29b (the formation of a Best Practices Committee) to address this section of the CA.

3. Assessment

We agree with the Parties that this CA section is linked to sections 29(b) and (c), as each of these require distinguishing between what works and what doesn't in crime control techniques.

The Parties are not yet in compliance with this section of the CA.

1. Requirement 29(e)

The Parties, through the Community Partnering Program, will conduct CPOP training for the community and jointly promote CPOP.

2. Status

The Partnering Center and the CPD jointly trained in a number of neighborhoods this quarter:

- Hartwell/Carthage (District 4) - 12 participants
- St. Anthony Village Residents (Over-the-Rhine–District 1) - 10 participants
- Northside (District 5) - 15 participants
- Columbia Tusculum, East End, California, Linwood (Combined – District 2) - 14 participants
- Evanston (District 2) - 55 participants
- Pleasant Ridge (District 2) - 8 participants
- Saylor Park (District 3) - 10 participants
- Combined neighborhood training (District 3) – 8 participants
- City Department CPOP Training – 11 participants
- East Walnut Hills (District 2) – 11 participants
- Mount Auburn (District 4) – 26 participants
- Winton Hills (District 5) – 6 participants

This is in addition to the 15 neighborhoods to which the Parties provided training in the prior quarter.

In addition, in this quarter the Partnering Center participated in activities to promote CPOP, including:

- Participation in Crime Stoppers Community Outreach Festival at Fountain Square
- Presentation to City Council’s Law & Public Safety Committee
- Booths at different “Community Outreach Festivals and the Black Family Reunion event at Sawyer Point
- Presentation to the Third Annual “Coalition Academy 2004,” presented by the Coalition for a Drug Free Cincinnati.
- Participation in National Night Out Activities in various districts
- Organization of “Empowerment Forum” for African-American males, ages 16-24. Other partners for this event included the Cincinnati Human Relations Commission, the CPD, and the CCA

The Police Department participated in a number of outreach activities in the community, including:

- A third Citizens’ Academy
- Courses in June and July for alarm users to bring down the number of false burglar alarms in Cincinnati as a means of freeing up officer time for such things as problem-solving

- Training of citizen patrol volunteers
- Participation in youth day camps, martial arts training for youth, Police Athletic League (PAL) activities, summer basketball and golf leagues, and Boy Scouts preparation training for youth
- National Night Out

3. Assessment

This quarter involved an ambitious joint CPOP training schedule with new communities brought on line. The joint training is an entry point for both the CPD and the Partnering Center to collaborate together, but also with a wider range of community members than had access to CPD personnel before. Both the Partnering Center and the CPD also attended many events this quarter, participating in different ways across many different communities.

Parties are in compliance with this section of the CA.

1. Requirement 29(f)

The Parties shall coordinate efforts through the Community Police Partnering Center to establish ongoing community dialogue and structured involvement by the 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

CPD, the Cincinnati Human Relations Commission (CHRC), and the Partnering Center collaborated on a number of events this quarter, including a number of outreach festivals held in different Cincinnati neighborhoods, drawing hundreds of community residents.

Another collaboration involved a Youth Solutions Forum at Xavier University with workshops for youth, a number having an emphasis on youth/police relations. In addition, the CHRC and the CPD participated in a teleconference on police use of force. The event was sponsored by the National Urban League and the U.S. Department of Justice COPS Office, and was supported locally with efforts of the Partnering Center and the Cincinnati Urban League. The Parties state that after viewing the video-teleconference, attendees (including Chief Streicher and community activists) openly discussed the subject matter.

An All-Parties community forum the Plaintiffs initially planned for August 2004 to discuss the Collaborative Agreement, use of force, and the car stop study was rescheduled for September 2004.

3. Assessment

Nearly a year ago, the Parties tasked the CPOP Committee with developing a community dialogue/interaction plan, with implementation beginning in June 2004. While this plan has yet to be completed and agreed to, we have seen events and participation by the CPD and the Partnering Center come together. We laud these efforts, but also call for an even more strategic approach to outreach and community trust-building.

The Monitor would like to see a coordinated plan outlining community forums to discuss the issues that brought the Parties initially to the table. These include fair and equitable policing, police use of force, alternatives to use of force, police response to the mentally ill, and police response to those under the influence of drugs or alcohol. Holding these community forums can show Cincinnatians about the commitment of the Parties and the progress made thus far.

As we noted in our last Report, the Collaborative Agreement calls for no less than a historic change in the style of policing for the Cincinnati Police Department. As part of this change, the CA calls for dialogue and community interaction around CPOP, a collaborative approach to crime reduction.

The Parties are in partial compliance with this section of the CA.

1. Requirement 29(g)

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

2. Status

At the CPOP meeting in July, the Partnering Center Executive Director Richard Biehl was appointed to chair the awards committee.

3. Assessment

Currently, the Parties are not in compliance with this section of the CA. However, as we noted in our last report, the rolling out of joint CPOP training needed to take precedence over an awards ceremony so that the

Parties and the communities would have the skills to address problems and begin to use those skills on problems.

1. Requirement 29(h)

The City, in consultation with the Parties, 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

This section has two parts: (1) informing the public about CPD policies and procedures, and (2) acting on an approved plan of improving external communications. With respect to the first, CPD policies and procedures are accessible from the City website and will be available on the CPOP website. On the second, the Parties were expected to develop a communications plan this past spring through their CPOP Committee, however this did not occur. In July, the CPD provided the Monitor and the Plaintiffs with a communications audit of the CPD, funded by the National Conference for Community and Justice (NCCJ). Holitster and Trubow, Associates (HT&A) conducted the audit.

The audit resulted in nine conclusions. We recount several of the most significant of the audit's conclusions here so that they can help inform the new communications plan that the CPD will need to develop under the CA.

- Cincinnati should embrace CPOP by seeking collaboration with the community, with the motivation to become a more harmonious community and to accomplish a better quality of living. The importance and value of CPOP should permeate the Department.
- Improved race relations should be aggressively addressed. This is not just a "black/white" issue. Cincinnati is host to growing populations of other minorities such as Latinos, Asians and people from the Pacific Rim. Part of community policing will require an understanding of the cultures of many people.
- CPD leaders and officers shouldn't be resistant to change.
- There should be a stronger connection in the messages between CPD leadership and officers.

- The CPD should do more to recognize and celebrate good work.
- Community support is better than the CPD appreciates.

The 120-page audit makes numerous recommendations for improvement. Chief Streicher, despite expressing reservations about the audit, in a June 1, 2004 letter to the City Manager commented:

“...the Cincinnati Police Department recognizes the effort and commitment of the team and finds the report offers good information for the Department to consider as it continually strives to improve internal and external communications.”

3. Assessment

Concerning the first part of this section, accessibility to policies and procedures, they are available to the public on CPD’s new website, <http://www.cincinnati-oh.gov/cpd>. The City is in compliance with this part of paragraph 29(h). The Monitor believes it would also be helpful to have a link in the City’s CPOP website (<http://cagisperm.hamilton-co.org/cpop/>) to the policies and procedures, so that those community members most engaged with the police and who have access to the internet can easily review any policy or procedure right on the CPOP website.

Concerning the second part of this CA section, the City has a communications audit of the CPD (described above). The City must now develop an external communications plan based on the audit for the CPD. In the Parties’ Status Report the City states that the CPD is working with the NCCJ to implement some of the audit’s recommendations. The City has not made clear in the Status Report which audit recommendations the CPD will be implementing. The City will need to make available its communications plan.

The Parties at this point are not yet in compliance with this component of paragraph 29(h).

1. Requirement 29(i)

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

2. Status

The CPD established and staffed a Community Relations Unit (CRU) in 2003. The CRU is a division of the Police Relations Section. Initially, the CRU Manager reported to the Executive Manager of Police Relations and assisted in coordinating the implementation of the CA. Earlier in the year, the CRU Manager was transferred to the Records Division to achieve a budget savings. The CPD states that the CRU manager will be allocating half her time to assisting Rand (the CA evaluator) by providing documentation and records needed to conduct its evaluation of the Parties progress with the CA.

3. Assessment

Since the Rand evaluation will begin soon, the Monitor will wait to determine if there is continued compliance with this section of the CA by watching whether the CRU Manager's half-time status is sufficient to meet timeframes and document needs of the evaluator.

1. Requirement 29(j)

The Parties shall describe the current status of problem solving throughout the CPD through an annual report. Each Party shall provide information detailing its contribution to CPOP implementation.

2. Status

The CPD submitted its CPOP Annual Report for 2003 in September 2003. The Parties submitted their 2004 CPOP Annual Report in September 2004.

The Annual Report describes milestones achieved during the year. The Parties will be able to distribute hard copies of the report to interested Cincinnatians. The Monitor hopes that the Annual Report will be prominently displayed on the City and CPD's website as well. Milestones noted in the Report, covering the period from August 2003 through August 2004 include:

- The establishment of the Community Police Partnering Center (CPPC)
- Development of joint CPOP training delivered by CPD and the CPPC outreach staff
- Delivery of joint training to numerous Cincinnati communities

The list below outlines those communities (by district) that have received SARA training, have formal CPOP Teams supported jointly by CPD and CPPC staff, or are developing CPOP teams supported by the CPPC staff until a problem is defined and a project coordinator (usually the neighborhood officer) is assigned by the CPD to co-facilitate the team's application of the SARA process.

District 1:

- West End active team
- Pendleton active team
- Over the Rhine 1 active team; 1 developing team

District 2:

- Oakley developing team
- Hyde Park
- East End
- Kennedy Heights active team
- Columbia Tusculum
- Mt. Lookout
- Linwood
- California active team
- Evanston active team
- East Walnut Hills developing team
- Pleasant Ridge developing team
- Madisonville 1 active team; 1 developing team

District 3:

- East & West Price Hill
- Sedamsville active team
- Sayler Park
- South Cumminsville developing team
- Lower Price Hill active team
- North & South Fairmount developing team

District 4:

- Roselawn developing team
- Bond Hill developing team
- Mt. Auburn active team
- Paddock Hills developing team

activity rather than outcomes. The CPD has disagreed with our observations and has suggested that whether something is problem-solving is to be determined by the neighborhood and the department engaged in it.

3. Assessment

The Monitor believes that the Collaborative Agreement is clear in outlining elements of the type of problem-solving required.

“First, problems need to be carefully defined. A useable problem definition requires a description of harmful behaviors and the environments where these behaviors occur...The second principle guiding community problem oriented policing is that problems are carefully analyzed prior to developing a solution. Community problem oriented policing is an information intensive strategy designed to reveal critical aspects of the problem that can be altered to effect a reduction in the problem... The third principle is that the police and their partners engage in a broad search for solutions based on the analysis of the information. A law enforcement response is always a possibility, but may not be required. Rather, a range of options is explored, often drawing from the field of “situational crime prevention” that block opportunities to commit crimes and disorder. Effective solutions to problems may require the active participation of and partnership with other City agencies, community members, and the private sector. This implies that for a community problem oriented policing strategy to be effective there must be close police-community relations and the City must support this approach...The fourth principle is that problem-solving efforts are evaluated to determine if the problem has been reduced. Here again, the use of information technology and analysis is critical to assure continuous improvement. If the problem has been successfully addressed, the police can move on to other problems. If it has not, then more work needs to be done, including a re-analysis of the problem or a search for alternative solutions.” (Collaborative Agreement, paragraphs 20, 21, 22, and 23.)

The Monitor Team has also addressed our views regarding whether the use of sweeps (or police crackdowns) should be the principal remedy to community-identified drug markets. The CPD states that police sweeps are problem-solving, rather than a traditional and oftentimes ineffective tool in closing drug markets, as the Monitor suggests. The CPD cites in support of its position an article that excerpts some of a POP guide entitled the Benefits and Consequences of Police Crackdowns. In the current Status Report, as in previous ones, the CPD lists the

numbers of arrests and amounts of drug seizures gained during these one-and two-day sweeps.

Problem-solving, as an approach, first looks at the details of a problem, then decides upon a counter approach based on what is learned about that specific problem. The counter approach (or response) is not decided upon first, then the community contacted and asked for input, and then the approach implemented whether it has long-term impact or not. Herman Goldstein, the father of Problem-Oriented Policing, felt the need to describe POP as he called it, in a “nutshell,” in a way that was more resilient to misunderstanding. In this “nutshell,” he strongly emphasizes those aspects most important to the concept. He cites 10 elements that are present for problem-oriented policing. We share “POP in a Nutshell” below.

Problem-Oriented Policing (POP) is an approach to policing in which **(1) Discrete Pieces Of Police Business** (each consisting of a cluster of similar incidents, whether crimes or acts of disorder, that the police are expected to handle) are subject to **(2) Microscopic Examination** (drawing on the especially honed skills of crime analysts and the accumulated experience of operating field personnel) in hopes that what is freshly learned about each problem will lead to discovering a **(3) New And More Effective Strategy** for dealing with it. POP places a high value on new responses that are **(4) Preventive** in nature, that are **(5) Not Dependent On The Use Of The Criminal Justice System**, and that **(6) Engage Other Public Agencies, The Community And The Private Sector** when their involvement has the potential for significantly contributing to the reduction of the problem. POP carries a commitment to **(7) Implementing The New Strategy**, **(8) Rigorously Evaluating Its Effectiveness**, and, subsequently, **(9) Reporting The Results** in ways that will benefit other police agencies and that will ultimately contribute to **(10) Building A Body Of Knowledge** that supports the further professionalization of the police. (no emphasis added)

We do share this piece from Herman Goldstein as a way of reinforcing the importance of analysis in determining the customized, flexible solutions to individual problems, such as an individual drug market. The Monitor agrees that there are times when - to give a community relief - the police might include a concerted arrest of offenders if it is part of a larger, more coordinated plan that is explicit, discussed, and shared beforehand. The Monitor believes that a more robust approach to drug market reduction would be consistent with the CA. Typically after a sweep, the drug market remains, and if the market remains entrenched, it is still a problem. A sweep is one of dozens of

responses the police could have to reduce drug markets. We suggest that the CPD consider other approaches as well, to the numerous open-air drug markets in its communities. The Collaborative Agreement calls for analysis of problem clusters (such as a drug markets) and that a “broad search of solutions” should be considered.

As we mentioned earlier, the CPD quotes from a Mike Scott article on police crackdowns (sweeps). In addition to the information the CPD discussed regarding crackdowns and sweeps, there is additional information provided by Scott that describes the impact of crackdowns and sweeps:

Most crackdown studies have found that any positive impact they have in reducing crime and disorder tends to disappear (or decay) rather quickly, and occasionally even before the crackdown ends. The effect can wear off for various reasons, including the tendency for police implementation to become less rigorous over time and for offenders to adapt to the crackdown.

Whatever short-term reductions in crime and disorder they might provide, crackdowns do not address any of the physical or social conditions that often contribute to crime and disorder, either in general or at particular locations. *Broader situational crime prevention and problem-solving approaches are better suited to address these underlying conditions.* (Emphasis added.)

It is important to underscore here the use by the author of the term “situational crime prevention,” not just “problem-solving.” Over the last ten years, Problem-Oriented Policing has virtually married with situational crime prevention since both suggest that analysis is key to understanding and impacting a problem. Situational crime prevention also suggests that to reduce a crime problem, opportunity blocking should occur. The matrix on the next page shows 25 different opportunity-reducing approaches³ (as well as examples under each). These are used in various combinations to reduce crime and disorder problems using a problem-oriented policing approach. As we noted above, the Collaborative Agreement suggests that problem solvers explore situational crime prevention, opportunity-blocking measures in their search for solutions to reduce specific crime and safety problems.

³ Sources: R.V. Clarke, (1997). *Situational Crime Prevention: Successful Case Studies* (2nd Edition). Albany, NY: Harrow and Heston; Clarke, R. and J. Eck (2003). *Become a Problem Solving Crime Analyst*: In 55 Small Steps; POP Center Website (2004), www.popcenter.org.

**SITUATIONAL CRIME PREVENTION –
25 Opportunity-Reducing Techniques**

Increasing Perceived Effort	Increasing Perceived Risks	Reducing Anticipated Rewards	Reducing Temptations and Provocations	Removing Excuses
<p>1. Harden Targets</p> <p>Slug rejecter devices Kill switches/immobilizers Anti-robbery barriers</p>	<p>6. Extend Guardianship</p> <p>Leave signs of occupancy Carry cell phone</p>	<p>11. Conceal Targets</p> <p>Off street parking Gender neutral phone books</p>	<p>16. Reduce Frustrations and Stress</p> <p>Efficient lines, polite service Soothing music/lights</p>	<p>21. Set Rules</p> <p>Rental agreement Anti-harassment codes Hotel registration</p>
<p>2. Control Access</p> <p>Parking lot entry barriers Fenced yards Phones at entryways</p>	<p>7. Assist Natural Surveillance</p> <p>Defensible space design Street lighting Support whistleblowers</p>	<p>12. Remove Targets</p> <p>Removable car radio Women's shelters Prepaid phone card</p>	<p>17. Avoid Disputes</p> <p>Separate side seating for rival soccer fans Reduced crowding in bars Fixed cab fares to downtown from airport</p>	<p>22. Post Instructions</p> <p>"No Parking" "No Trespassing" "Extinguish Campfires Upon Leaving"</p>
<p>3. Deflect Offenders</p> <p>Bus stop placement Bar locations Street closure</p>	<p>8. Reduce Anonymity</p> <p>Taxi driver I.D. "How's My Driving" decal Caller I.D.</p>	<p>13. Identify Property</p> <p>Property marking Vehicle licensing Cattle branding</p>	<p>18. Reduce Emotional Arousal</p> <p>Enforce good behavior at soccer games Prohibit racial slurs</p>	<p>23. Alert Conscience</p> <p>Roadside Speedometers "Shoplifting is Stealing"</p>
<p>4. Screen Exits</p> <p>Ticket required to exit Electronic</p>	<p>9 Utilize Place Managers</p> <p>CCTV 2 clerks in</p>	<p>14. Disrupt Markets</p> <p>Monitor pawn shops Controls on classified ads</p>	<p>19. Neutralize Peer Pressure</p> <p>"Idiots Drink and Drive" "It's Okay to Say</p>	<p>24. Assist Compliance</p> <p>Easy Library Checkout Public</p>

merchandise tags Buzz to Exit	convenience stores	License street vendors	No” Disperse troublemakers at school	Lavatories Litter receptacles
5. Control Facilitators (tools and weapons) “Smart” guns Disabling stolen cell phones Restricting spray paint sales to juveniles	10. Strengthen Formal Surveillance Red light cameras Security guards Reward vigilance	15. Denying Benefits Ink merchandise tags Graffiti Cleaning Speed humps	20. Discourage Imitation Rapid repair of vandalism V-Chips in TV’s Censor details of modus operandi	25. Control Drugs and Alcohol Breathalyzer in bars Bartender refuses to over serve Alcohol-free events

Sources: R.V. Clarke, (1997). Situational Crime Prevention: Successful Case Studies (2nd Edition). Albany, NY: Harrow and Heston; Clarke, R. and J. Eck (2003). Become a Problem Solving Crime Analyst: In 55 Small Steps; POP Center Website (2004), www.popcenter.org.

What these opportunity-blocking measures offer is insight into additional routes to crime reduction, one of the explicit points of problem-solving described by Herman Goldstein. We recommend that the CPD explore these options. The CPD is in partial compliance with this section of the Agreement.

1. Requirement 29(1)

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

2. Status

In March 2004, the Parties proposed a timeline beginning in May 2004 for review of Academy courses and implementation of additional courses. Plaintiffs and the FOP agreed to meet with District Commanders and audit CPD training to recommend changes or additions. In the June 2004 Status Report, the Plaintiffs and the FOP reported that they have not yet done this. In the current quarter, the City reports that it is waiting for participation from the plaintiffs and the FOP.

3. Assessment

The Parties are not in compliance with this section of the CA.

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 CPD developed a tracking system that has been in partial use now for a year. There are 44 CPOP cases in the CPOP tracking system, up from 18 last quarter.

Police District	CPOP Cases in system as of Sept. 2003	CPOP Cases added between Sept. 2003 and Jan. 2004	CPOP Cases added between Jan. 2004 and Mar. 2004	CPOP Cases added Between Mar. 2004 and June 2004	CPOP cases added between June 2004 and August 2004	Total # of CPOP Cases From Aug. 2003 through August 2004
Dist. 1	1	1	2	0	8	12
Dist. 2	2	0	0	0	6	8
Dist. 3	1	0	0	0	2	3
Dist. 4	3	2	3	0	9	17
Dist. 5	1	2	0	0	1	4
	8	5	5	0	26	44 total CPOP cases

The Partnering Center, perhaps due to firewall issues, remains unable to enter projects into the system. In addition, the Monitor understands that the CPD tracking system may have had technological problems, as well as technical support issues, and that for part of the past year has not been fully accessible to CPOP officers. The Parties' Status Report states that at a July CPOP meeting, the Partnering Center made a presentation regarding the entry of information into and accessibility of the CPOP website. Specifically, the Partnering Center presented a form to facilitate entry into the system. The CPD will have a future meeting with the Regional Computer Center to discuss integration of this proposed entry plan.

3. Assessment

As we have noted since our September 2003 Monitor Report, the tracking system requires substantial improvements. At the July All-Parties meeting the CPD also expressed some frustration with the system and suggested that it should not have to have one.

A tracking system is critical to assess the quality of the work CPOP teams are doing and as a way of keeping the rest of the CPD and Cincinnatians informed about progress on projects. However, a different system, if well designed, can be an improvement to what is now in place. Most of the officers use only pull down menus in the current system containing generic descriptions of aspects of problems (avoidance of area, negative image of community/city, reduction of quality of life) rather than specific details about a problem (over a one-hour period 30 drug sales were observed, it is a walk-up drug market on the sidewalk right outside a convenience store, the dealers run into the store whenever they see the police coming, interviewed 4 of the drug dealers, none live on the block, etc.). We believe it is possible for the CPD to adopt a simpler system that captures the actual details of a CPOP project and could be easier to use as both a tracking and monitoring tool.

The less generic and the more specific the information contained in a project tracking system the more likely it is to be of value to other readers seeking to learn how specific problems were analyzed and ultimately addressed. As the Parties proceed to adopt a new tracking system, we recommend that the Parties review the Monitor's comments under 29(m) in the September 2003, January 2004, and April 2004 reports in preparation for developing a new system.

The Parties are in partial compliance with this section of the CA.

1. Requirement 29(n)

The City shall periodically review staffing in light of CPOP. The CA requires ongoing review of staffing rather than a review by a certain deadline.

2. Status

The CPD has stated that it regularly reviews staffing to match workload requirements with resources. However, until the Parties' current Status Report the CPD had not provided the Monitor with the details of how it does these reviews and the results of these reviews.

3. Assessment

The Monitor will review the CPD's submitted material and report back in the following quarter.

The City is not yet in compliance with this section of the CA.

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

In March 2004, the Parties stated that the CPOP Human Resources Workgroup would review CPD policies, job descriptions and performance evaluations, and would make changes in support of problem solving. The Parties' June 2004 Status Report stated that the City is still in the process of developing these. The current September Status Report states that job descriptions and performance evaluations are currently in draft form and finalization is anticipated by the end of the year. The Parties also report that:

Due to the disagreement between the Parties on the philosophical definition of CPOP, work has been delayed in this area. Once the deliverables for the CPOP portion of the Agreement are finalized, job descriptions and performance evaluations will again be reviewed and necessary modifications will be made.

The Monitor is unsure about the exact nature of the disagreement and how, and what parts of 29(o) it is affecting: CPD policies, job descriptions or performance evaluation.

3. Assessment

We suggest that the Parties meet again to discuss these issues using the text of the CA as guidance, although we realize the document does not explain every aspect of CPOP. If the Parties remain in disagreement it will be important for each to document their position in writing and submit it to the Monitor for review.

The Parties are not in compliance with this section of the CA.

1. Requirement 29(p)

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

2. Status

As noted in our prior Reports, the City expects to meet this requirement through the acquisition of a new Records Management System (RMS) and Computer Aided Dispatch (CAD) system. The City contracted with Gartner Consulting and in late 2003 began reviewing design specifications for a Request for Proposal (RFP). A draft RFP has been issued by the City's Purchasing Department. The RFP was released June 22, 2004 and five vendors submitted proposals by the August 20, 2004 due date. Between August 23 and December 31, 2004, the City will evaluate, select, and expects to enter into contract negotiations with the vendor.

3. Assessment

The City is not yet in compliance with this CA provision.

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. 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.

2. Status

The Parties believe that the new RMS system will also meet the requirements of this section of the CA.

3. Assessment

The City has not met the deadlines in the CA for compliance with this requirement.

II. Evaluation Protocol [CA ¶¶ 30-46]

1. Requirements

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 Protocol must include the following components:

- Surveys
 - of citizens, for satisfaction and attitudes
 - of citizens with police encounters (neighborhood meetings, stops, arrests, problem-solving interactions), for responsiveness, effectiveness, demeanor
 - of officers and families, for perceptions and attitudes
 - of officers and citizens in complaint process, on 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. The data, to be compiled by the City’s 52 neighborhoods, are to include arrests; crimes; citations; stops; use of force; positive interactions; reports of unfavorable interactions; injuries to citizens; complaints

- 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 that answer a number of questions, including:
 - 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?
 - Is safety improving?

2. Status

In February 2004, the Parties selected RAND as the preferred vendor for the Evaluation Protocol. Because the initial RAND bid exceeded the available budget for the Evaluation contract, the Parties agreed to work with RAND to develop a revised scope of services consistent with the amount of funding available.

The revised scope of services proposed collection of data through seven areas of evaluation:

Survey Generated Data Traffic Stop Analysis
 Periodic Observations and Problem-solving Processes
 Statistical Compilations
 Evaluation of Video and Audio Records
 Evaluation of Staffing
 Evaluation of Reports

This last quarter, RAND and the City finalized the evaluation contract.

3. Assessment

We congratulate the City on signing the contract, as the evaluation is a key ingredient to Cincinnati's success in CPOP. What is learned from the evaluation will help the City to examine more closely what has so far occurred and make adjustments as needed. It is important that RAND now be able to begin work under the Evaluation Protocol, and in keeping with this, the Parties scheduled their first post-contract signing meeting with RAND. The Parties expect to discuss City, Plaintiff and FOP expectations, data sets, and methods of transmittals of requests for information.

III. Pointing Firearms Complaints [CA ¶48]

The investigations of complaints of improper pointing of firearms from March 2000 to November 2002 were forwarded to the Conciliator, Judge Michael Merz in July 2003. The Parties also submitted supplementary materials to Judge Merz for his review in making his decision under Paragraph 48. On November 14, 2003, Judge Merz issued his decision. Judge Merz determined that there has not been a pattern of improper pointing of firearms by CPD officers. Therefore, CPD officers will not be required to complete a report when they point their weapon at a person. The Parties are in compliance with the provisions of Paragraph 48.

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 the 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.

A. Data Collection and Analysis [CA ¶¶38-41, 51, 53]

1. Requirements

As part of the Evaluation Protocol, the 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), detained, searched, arrested, or involved in a use of force with a member of the CPD
- Racial composition of the officers stopping these persons

2. Status

a. Traffic Stop Data

CPD officers continue to collect traffic stop data on Contact Cards. The CPD reports that it has prioritized the entry of data from the Contact Cards submitted in 2003. Once RAND begins work, the 2003 data will be available for analysis.

b. Pedestrian Stop Data

The CPD has revised its Investigatory Stops Policy, Procedure 12.554, to require a contact card be filled out for (1) all vehicle stops, and for (2) any vehicle passenger detention that meets the definition of a Terry stop.⁴ For consensual citizen contacts, the policy states that an officer **may** complete a contact card, if the officer believes the card will provide intelligence information and the information is provided voluntarily. However, the procedure is silent on whether officers are required to complete contact cards for Terry stops stemming from pedestrian encounters. Current practice leaves this up to the discretion of the officer.

The City states that the CPD and the Plaintiffs view officer completion of contact cards after pedestrian stops as problematic – they believe there are legal constraints, and collection may cause community relations problems. The City believes that data collection on pedestrian stops can be gathered from other sources, including existing CPD reports:

- FIR Cards
- Form 527 Arrest Reports
- Adult and Juvenile Notice to Appear Citations
- Adult and Juvenile MUTT Citations
- Form 316 Aided Case Reports
- Warning Citations for Pedestrian Violations

The City states that the CPD and RAND will work together to extract this information.

The Monitor will check with RAND in early October to determine if extractions of data from these alternate sources is possible, sufficiently comprehensive, and achievable in a timely fashion.

c. Use of Force Racial Data

The CPD has not provided use of force data, broken down by race, for the first or second quarter of 2004.

⁴ A Terry stop is one where the officer has reasonable suspicion to believe the person is committing or has committed a crime.

d. Data on Positive Police-Citizen Interactions

The Parties have agreed to a Report of Favorable Police Conduct form, which has been printed and disseminated. As reported in the CPD's May 2004 MOA Status Report, 50 reports were processed by CPD during the first quarter of 2004. During this quarter, the CPD processed 42 positive reports, along with 121 letters of commendation. The reports are widely available to citizens, they are at all CPD and public facilities, on the CPD website, and each CPD vehicle contains a supply. CPD has initiated inspection of some of these places to ensure an adequate supply of reports, including:

- CPD facilities
- CPD neighborhood stations
- Designated public facilities (libraries, recreation centers, etc.)
- Designated CPD vehicles

The inspections are completed either monthly or quarterly.

e. Data on Unfavorable Citizen Interactions

The Parties have as yet been unable to agree on a final version of a form for reporting unfavorable citizen interactions. The FOP has taken the lead responsibility on this matter but no progress was made this quarter. The FOP has now also agreed to research the costs of lockboxes for CPD facilities to ensure security of reports once they are deposited by citizens.

3. Assessment

a. Traffic-Stop Data Collection

The CPD is collecting traffic stop data on its contact cards, but the data is not being analyzed. The Parties are not yet fully in compliance with this requirement.

b. Data Collection on Pedestrian Stops

The Parties are not yet in compliance with this requirement of the CA.

c. Use of Force Racial Data

This data will be reported in the Monitor's Reports once RAND is able to assess and analyze the data.

d. Favorable Interactions

The Parties are in compliance with this CA requirement.

e. Unfavorable Interactions

The Parties are not in compliance with this CA requirement. In our last report we said, "Given the minimal amount of disagreement among the Parties and the time that has been taken to resolve this issue, we believe that any remaining disputes should be submitted to the Monitor for resolution." Over the next month, we again request that the Parties either resolve any remaining disagreements, or submit them in writing to the Monitor, as we believe these can be resolved before the end of 2004, and in advance of the next Monitor Report.

B. Training and Dissemination of Information [CA ¶ 52]

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

The Parties again report this quarter that the CPD's Training Section is exploring the possibility of ongoing Professional Traffic Stop/Bias-Free Policing training. However, there appears to be no progress in this quarter in efforts to identify a suitable curriculum and vendor.

3. Assessment

As we noted in our last Report, the Monitor has not seen evidence that the Parties are cooperating in ongoing bias-free policing training. Therefore, we cannot find compliance at this time.

C. Professional Conduct [CA ¶54]

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

This provision has now been incorporated into procedures 12.205 and 12.554, and put into effect. The CPD's Manual of Rules and Regulations also generally mandates courteous, fair treatment of all.

3. Assessment

Based on the information we have to date, the City is in compliance with this provision. Additional information will be available when the Evaluation Protocol gets underway.

V. Citizen Complaint Authority

A. Establishment of CCA and CCA Board [CA ¶55-64]

1. Requirements

- The City will establish the Citizen Complaint Authority
- The CCA will replace the CPRP and investigative functions of the OMI. The CCA will investigate serious interventions by police including shots fired, deaths in custody, major uses of force; and will review and resolve citizen complaints
- The CCA Board will consist of seven citizens; the CCA will be run by an Executive Director and have a minimum of five professional investigators; the Board must be diverse

- The Board and Executive Director to develop standards for board members, and training program, including Academy session and ride-along
- The Board and Executive Director will develop procedures for the CCA
- The CCA to examine complaint patterns
- The CCA to develop a complaint brochure, as well as information plan to explain CCA workings to officers and public
- The CCA to issue annual reports
- The City Council to allocate sufficient funds for the CCA

2. Status

The CCA has been operating and investigating complaints since January 6, 2003. A CCA board of seven members is in place, having undergone a training program before beginning work and reviewing complaints. The CCA has also established procedures for its board meetings, appeal hearings, and its investigations. The CCA Board has chosen Board member Richard Siegel as the new chairperson of the CCA.

3. Assessment

The City is in compliance with the provisions relating to establishing the CCA and CCA board.

B. Executive Director and Staff [CA ¶¶ 65-67]

1. Status

a. Executive Director

As noted in Chapter Two, Mr. Wendell France was selected to be the new Executive Director of CCA and started in April 2004. The Monitor had the opportunity in the last quarter to meet with Mr. France.

b. Investigator Position

The CCA hired a fifth investigator who started work in the First Quarter of 2004. The City now has the minimum number of investigators required by the Agreements.

The CPD invited the CCA investigators to participate in the IPTM Internal Affairs School. This 40-hour block of instruction, attended jointly with CPD, should enhance CCA investigator skills and keep them abreast of relevant court decisions.

2. Assessment

The Parties are now in compliance with these provisions of the CA.

C. CCA Investigations and Findings [CA ¶¶ 68-89]

Our review of CCA investigations is discussed in Chapter Two, Section IV.D.

In addition to the review of individual complaints, paragraph 83 of the CA calls on the CCA to examine complaint patterns that might provide opportunities for the CPD and the community to reduce complaints. Following the identification of such patterns, the CCA and the CPD are to jointly undertake a problem-solving project to address the issues raised. To date, most of the CCA's activities have been limited to complaint investigation and review. The CCA Board has made some policy recommendations to the CPD, based on its review of complaints. Now that the CCA has a full-time executive director and five investigators, we expect that the CCA can devote greater attention to the analysis of complaint patterns and trends. CCA can also now turn its attention to drafting and finalizing an annual report for 2003.

Also, paragraph 80 requires the CCA and CPD to develop a shared database to track all citizen complaints, the manner in which they are handled and their disposition. Currently, the CCA does not have access to a shared database, and the City is not in compliance with this provision. However, the City has stated that CCA will have access to the ETS system. In this quarter, CCA solicited bids to develop a database that is capable of interfacing with CPD's ETS to obtain limited officer information and read-only access to IIS case files. In addition, CCA and CPD revisited the timely exchange of information and have conceptually agreed to an improved process.

The CCA has also updated a citizen informational brochure describing CCA accessibility and procedures. The brochure will include a citizen complaint form and have distribution to public places, such as libraries and police facilities.

The NAACP, Cincinnati Chapter leadership requested that it serve as a site where citizens could file complaints. A CCA investigator will be available at the NAACP Branch Office bi-monthly to receive citizen complaints after regular business hours.

At the July All Parties meeting, the Monitor requested data on CPD's actions resulting from completed investigations. The City Manager has asked CCA to provide her with a complete list of 2004 sustained cases. She will compare it to a list of IIS completed investigations to determine if appropriate action was taken.

CHAPTER FOUR. INVESTIGATIONS

I. Use of Force

A. Taser

The monitor reviewed 19 Use of Taser reports this quarter. Each was accompanied by audio taped interviews and subject/scene photographs. The Monitor's assessment is based on the review of these materials.

In at least nine of the cases reviewed, the Taser either missed its intended target or was determined to be ineffective because at least one of the barbs failed to contact the subject. In four of the nine situations, the Taser was redeployed a second time and had its desired effect.

1. Tracking Number: 2004-0288
Date and Time: 4/1/04 0207 hours

Summary: Officers recognized a subject who they knew had an outstanding warrant for his arrest. When they approached him he tried to flee and a short foot pursuit ensued. One of the officers quickly deployed his Taser to stop the subject from fleeing. This caused the subject to immediately fall to the ground, at which time he struck his head on the concrete pavement (causing a one inch laceration that required 10 stitches to close).

When the officers attempted to handcuff him he resisted and kept trying to get to his feet. Despite orders to quit resisting and comply with the officers or be subjected to the Taser again, he continued fighting them. Additional officers arrived on scene and when the subject still failed to comply, a Taser was again deployed. The Taser was then used in the drive-stun mode until he eventually complied and was handcuffed.

CPD Review: The officers who initially contacted the subject said he fled as soon as they approached him. To stop the foot pursuit one of the officers fired his Taser as the subject ran. The Taser barbs struck the subject's back and lodged in the jacket he was wearing. As soon as he was hit by the Taser he fell to the ground, striking his head on the concrete pavement.

The officers attempted to handcuff him but he pulled away and tried to get to his feet. The Taser was then deployed repeatedly in the drive-stun mode because the subject would not comply with the officers' commands and he actively resisted being handcuffed. Additional officers

arrived on scene to help, but the officers were still unsuccessful in their efforts to subdue and handcuff the complainant. One of the assisting officers then deployed his Taser, with the barbs striking the complainant in the back and arm. He continued to resist but stopped after the third activation of this Taser, which was applied directly to his hand.

A review of the two Tasers that were used during this encounter showed one was activated 13 times over a 2 minute and 6 second timeframe with the activations lasting from 2 to 5 seconds. There were breaks in between that activations ranging from 1 to 15 seconds. The other Taser was activated 3 times, twice for 10 seconds and once for five seconds. The breaks in between activations were for 3 seconds and 1 second. None of the barbs entered the complainant's skin and all were found embedded in his jacket.

The complainant's interview revealed several contradictions in his taped statement as well as with an earlier oral statement he made but did not want taped. He acknowledged running when initially contacted by the officers but said he stopped of his own volition. He alleged that one officer grabbed him from behind and body-slammed him to the ground and that this was what caused his head injury. When asked about being hit by the initial Taser, he said that occurred while he was running but that it did not affect him or cause him to stop. He maintained that he was repeatedly subjected to shocks from the Tasers even though he never resisted.

The investigation included taped interviews with all five officers who were present at various stages of this incident and the complainant. No independent witnesses were identified. All forms and reports were complete and included in the materials reviewed. A copy of a video recording made by one of the responding units with an MVR was provided for review. The video supported the statements of the officers. Photographs of the injuries sustained by the complainant were also included.

Following their review of the investigation, command staff determined that the use of the Tasers in this case was consistent with policy, training and state law. No issues or concerns were identified.

Monitor's Assessment: The Monitor concurs with the findings and conclusion that the Taser was appropriately deployed and used consistent with policy, training and state law.

Note: This incident was also investigated as an IIS complaint under tracking number 04107 (see Section II A below).

2. Tracking Number: 2004-0312
Date and Time: 5/5/04 2047 hours

Summary: While on patrol CPD officers observed some individuals involved in what they believed was either a drug transaction or gambling activities. As they exited their vehicle one of the subjects fled on foot so they pursued him. Eventually they lost visual contact with the suspect. Thinking he may have entered a pool hall in the area where he last saw the suspect, the officer knocked on the door to gain entrance.

The officer said the subject who answered the door appeared to be surprised when he saw the officer. He immediately stated "No" and tried to push the officer away from the entrance. They became involved in a physical altercation and the officer told this subject to get on the ground or he would be Tased. When he did not comply the officer used his Taser. It did not deploy properly and was not effective so the officer then had to physically engage the subject again. At that time he used his Taser in the drive stun mode. The second officer arrived about that time and assisted in restraining the subject.

CPD Review: The review by Command staff indicated that the use of the Taser in this case was consistent with policy, training and state law. No issues of concerns were identified.

Monitor's Assessment: The Monitor concurs with the Command staff. The reason the Taser was not effective when it was initially deployed was cited as being the result of a barb missing the target. However, the officer described the engagement as being in very close quarters, so the reason for a miss under those circumstances wasn't clear. This could be the result of a possible malfunction or a training issue and should be pursued to avoid a similar incident.

3. Tracking Number: 2004-0337
Date and Time: 4/17/04 0210 hours

Summary: This Taser deployment stemmed from several fights and the discharge of a firearm that occurred in a parking lot at the rear of a bar. The fights were taking place simultaneously and officers were encountering considerable difficulty in getting the participants to comply with their orders to cease fighting. Some members of the crowd were interfering and obstructing the officers as they attempted to gain control of the area and deal with the suspects. There were several deployments of Tasers that took place at this location during this time.

This particular Taser deployment involved a subject who ignored commands from the officers to stay back. After several warnings and while ignoring the effort of a relative to restrain him, he continued to advance on the officers and obstructed/interfered with them while they were dealing with the situation at hand. He was simultaneously Tased by two officers. At that time he complied with the officers instructions and was handcuffed and transported from the scene.

CPD Review: The supervisory evaluation and assessment was upheld by Command Staff who determined that the use of the Tasers during this incident was consistent with Department training and policy.

Monitor's Assessment: The Monitor concurs with Command's assessment and findings in this matter.

4. Tracking Number: 2004-0360
Date and Time: 5/25/04 0344 hours

Summary: An officer observed a subject whom he knew was wanted for an outstanding misdemeanor warrant. He initiated contact with the subject and twice told him to approach him but the subject turned away and fled on foot. The officer pursued him and deployed his Taser in an effort to stop the pursuit and take the subject into custody.

The barbs from the Taser failed to strike the subject and he managed to elude capture. One barb struck a doorway the subject fled through and the other barb fell to the ground. It was determined that the Taser did cycle properly when it was deployed.

CPD Review: Command's finding was that the initial contact and actions taken by the officer were consistent with policy, procedures and law.

Monitor's Assessment: The Monitor concurs with the command findings. However, there was no indication in the report or during the taped interview that the subject was ever advised by the officer that the Taser would be deployed if he failed to comply.

5. Tracking Number: 2004-0391
Date and Time: 5/8/04 1946 hours

Summary: An officer was dispatched to an intersection regarding a garbage can in the roadway that posed a traffic hazard. Upon his arrival he observed a subject who was acting and speaking irrationally. The officer, who is MHRT trained, determined the subject was in need of

psychiatric evaluation and assistance and called for a follow up officer. When informed that he was going to be transported to hospital, the subject became even more agitated and initially appeared as though he was going to resist.

The subject then suddenly placed his hands behind his back in response to the officer's instructions. While in the process of being handcuffed the subject suddenly became combative and pushed the officers away. A physical altercation ensued with one of the officers being knocked to the ground by the subject. Repeated commands to comply were ignored by the subject. The officer then used his Taser in the drive stun mode in an effort to gain his compliance.

The drive stun initially had a minimal effect on the subject and he refused to put his hands behind his back. The drive stun was used a total of 5 times with a five second cycle each time before the subject eventually chose to submit to the officers. He was then secured without further incident and transported to the hospital.

CPD Review: Command review found the actions leading up to the use of the Taser and the manner in which it was deployed were all consistent with Department training and policy.

Monitor's Assessment: The review of the arrest report, taped interviews, investigation and related documents showed that the use of the Taser in this case was completely consistent with policy and training.

6. Tracking Number: 2004-0420
Date and Time: 6/9/04 0008 hours

Summary: A traffic stop was made on a vehicle wanted in relation to an aggravated auto robbery. The subject who had been in the car fled on foot. The officers pursued him for a lengthy distance and told him several times the Taser would be used if he did not submit to their commands and get on the ground. He continued to run but was eventually struck by one of the barbs when the Taser was deployed. Although both barbs did not strike the subject, he did fall to the ground when the one barb made contact. The subject acknowledged that the Taser did shock him.

The barb that struck the subject hit him in the left shoulder area. The Taser was activated for one full 5 second cycle.

CPD Review: The Command review determined that the deployment of the Taser in this situation conformed to CPD policy, procedures and state law. No issues or concerns were identified in the staff review.

Monitor's Assessment: The Monitor concurs with the Command findings and conclusions. The quality of this investigation was excellent and the documentation was thorough.

7. Tracking Number: 2004-0433
Date and Time: 6/16/04 1730 hours

Summary: A CPD officer observed three subjects who began acting suspiciously when they observed him. Prior to contacting them he observed behavior that was consistent with drug activity. Two of the subjects walked away so he approached them to determine who they were and their business in the area. During this contact he learned one of the subjects had given him a false name. He advised that person he was going to be held for further investigation and instructed him to turn around so he could be handcuffed.

This suspect acted as though he was going to run so the officer drew his Taser and told him to not move. At that time the suspect pulled his companion between himself and the officer to avoid the Taser being deployed on him. He then fled with the officer in foot pursuit. During the pursuit the officer deployed his Taser, but only one barb struck the subject. This did have a partial effect on the suspect, causing him to drop to the ground. He told the officer he would comply but instead of doing so he tried to rise and flee once again. The officer then used his Taser in the drive stun mode and that caused the suspect to fall back to the ground.

The suspect rose again and, when the officer attempted to drive stun him a third time, managed to avoid contact with the Taser and roll down the hill. He successfully avoided being apprehended by the officer or other units that responded to assist.

CPD Review: The Command finding was that the use of the Taser was in accordance with policy, procedures and law. The investigation did result in some concerns being identified about officer safety tactics and the need to reinforce maintenance of leverage when applying a drive stun.

Monitor's Assessment: The Monitor concurs with the Command findings and conclusions.

8. Tracking Number: 2004 0322
Date and Time: 5/14/04 1522 hours

Summary: Officers responded to a call for service for a disorderly subject in the Guidance office at the McCauley High School. Once the officer arrived in the office, he was told that the disruptive female subject was located in a room with the door locked. The officer responded to the room and saw that the door was partially open and that the subject was on the telephone. As the officer attempted to enter the room, the female subject tried to close the door. However, the officer was able to prevent her from doing so. The officer directed the subject to calm down and to sit so that he could talk to her. The female subject cursed and yelled at the officer and continued to talk on the phone. The officer directed her several times to calm down and sit down so that they could talk. The subject refused these commands. The officer indicated that he then pulled out his Taser and again directed the subject to sit down and to calm down. The subject then clenched her fist and the officer fearing that she was going to strike him shot her with the Taser. The subject fell to the ground, and the officer directed her to roll onto her stomach so that he could arrest her. The subject refused to comply with these commands. The officer fired a second burst into the subject, and she still refused to comply. After a third burst, the subject rolled onto her stomach, and the officer was able to place her in handcuffs and place her under arrest. As the subject rolled onto her stomach, the barbs were pulled out of her torso. Medical personnel responded and treated the female subject. There were no visible injuries. According to the report, a total of three bursts were used on the subject.

CPD Review: Command found that the use of the Taser was consistent with departmental policy. The review included all required forms and interviews with the officers involved and the subject.

After reviewing information in the Taser data log, Command determined that a total of 4 bursts were actually used on the subject, with the first lasting 22 seconds. The officer indicated in his statement that his Taser malfunctioned, and he had to turn off the power. The data log indicated that this had occurred previously during training with this device. The officer was referred to the Tactical Planning Section to have his weapon inspected.

Monitor's Assessment: The Monitor concurs with the findings of the CPD that the use of the Taser was within the guidelines of the CPD. All of the statements from school personnel indicate that the officer showed excellent judgment and tried to talk with the subject prior to the use of the Taser. The reports and the statements indicate that the officer

gave several verbal commands that the Taser would be used if she did not comply.

9. Tracking Number: 2004 0401
Date and Time: June 14, 2004 2118 hours

Summary: Officer responded to a radio call for service for an unauthorized use of a vehicle report. The subject – the son of the vehicle’s owner - refused to tell officers where the car was located or return the keys to his mother. The subject did not have permission to use the vehicle. The subject fled from the officers after refusing to return the keys. The reporting officer began canvassing the area and was able to locate the vehicle and the subject. As the officer approached the subject, the subject turned towards him and clenched both of his fists. The officer instructed the subject to lie on the ground. However, the subject refused to comply and continued to curse at and approach the officer with clenched fists. The officer warned that he would use his Taser if the subject refused to lie on the ground. The subject again refused. The officer then fired his Taser striking the subject in the right side of his torso. The subject immediately fell to the ground. The subject refused to comply with the officer’s instruction to place his hands behind his back. The subject attempted to stand up and continued yelling at and threatening the officer. The officer fired a second burst from the Taser, causing the subject to comply with his demands. The subject was handcuffed and placed under arrest.

Fire Department personnel responded and removed the barbs from the subject. There were no injuries as a result of the use of the Taser.

CPD Review: Command found that the use of the Taser was consistent with CPD policy. Statements obtained from the subject and his mother corroborated the statement of the officer. The mother indicated that her son continually yelled at, cursed at, and threatened to harm the officer.

Monitor Assessment: The Monitor concurs with Command’s assessment that the use of the Taser is consistent with the policy of the CPD.

10. Tracking Number: 2004 0353
Date and Time: May 19, 2004 1644 hours

Summary: Officers attempted to arrest a subject for domestic violence and violation of a temporary restraining order. As one of the officers told the subject that he was under arrest, the subject swung at the officer striking him on the chin. The officer grabbed the subject and

was attempting to restrain him. As the two were struggling, another officer yelled, "Taser, Taser, Taser," and the initial officer released the subject. The second officer fired her Taser into the back of the subject. However, only one of the barbs stuck in the subject, and it had no affect. The subject continued struggling and attempting to run into his house. The second officer reloaded her Taser and fired a second round into the subject. This time the barbs stuck into the subject's back, and he fell to his knees. The subject indicated that he was finished fighting, and the officers placed him under arrest.

CPR Review: Command determined that the officer's use of the Taser was consistent with the policies of the CPD.

Monitor's Assessment: The Monitor concurs with the decision of the CPD. All of the officers on the scene and the subject gave statements. All of the statements were consistent.

11. Tracking Number: 2004 0429
Date and Time: June 12, 2004 1953 hours

Summary: Officers responded to a domestic violence call. Upon arrival, the officers determined that a domestic violence incident had occurred and that the suspect was still on the scene. One of the officers advised the subject that he was under arrest and directed him emerge from the fenced yard and put his arms behind his back. The subject refused to comply with these instructions. The officer ordered the subject numerous times to comply or face being shocked by a Taser. The subject continued to refuse to cooperate. The officer fired a 5 second burst of his Taser, striking the subject in the chest and stomach area, the subject complied with the instructions and was placed under arrest.

CPD Review: The CPD Command reviewed and determined that officers complied with all policies and procedures in this Taser incident. All proper interviews and statements were taken from all involved persons. Command's review was thorough and complete.

Monitor's Assessment: The use of the Taser was within the policy of the CPD. The officer used the Taser to arrest the subject and was able to do so without causing any injuries to himself or the subject.

12. Tracking Number: 2004 0385
Date and Time: June 5, 2004 1143 hours

Summary: Officers observed a subject, who they knew had outstanding warrants, operating a motor vehicle. The officers attempted to stop the vehicle, but the subject refused to stop and attempted to

elude the officers. After a brief vehicular pursuit, the subject's car became disabled, and he fled on foot with officers in pursuit. The officers yelled at the subject numerous times to stop. As the subject was attempting to run into the front door of his house, one officer fired a cartridge from his Taser. As the officer fired the weapon, the subject turned sideways to enter his house, causing the barbs to miss him entirely. The subject then escaped.

CPD Review: The CPD obtained all of the required statements and interviews from all involved parties. Command found that the officer used the Taser in compliance with all policies and procedures of the CPD.

Monitor's Assessment: The Monitor concurs with the finding of the CPD. The officer did not warn the subject that the Taser would be used, as there was insufficient time and exigent circumstances.

13. Tracking Number: 2004-0294
Date and Time: 5/5/04 1323 hours

Summary: Plainclothes officers were conducting a pre-raid surveillance when they observed a wanted subject leave the location and walk behind a nearby laundry. One of the officers observed the subject engaged in a hand-to-hand drug transaction and approached to conduct an arrest. The subject had one hand down into his waistband and was "fumbling" with something as he backed away. The officer ordered the subject to remove his hand or he would deploy his Taser. As the subject began to run, the officer deployed his Taser from approximately five feet away, striking the subject on the right upper shoulder and right lower back. The Taser had no apparent effect, and the subject continued to run. A second officer deployed his Taser from a distance of 15 feet, striking the subject in the center of the neck and left back. The Taser was effective, and the subject fell forward to the ground injuring his face. He was ordered to remove his hands from under his body, but he continued to fumble within his waistband with one of his hands. The Taser was cycled for a second time, after which the subject complied by bringing both hands into view. As one of the officers applied one handcuff, the subject began to struggle. The Taser was cycled a third time, and the subject came into compliance.

CPD Review: The review was conducted by the Central Vice Control Captain. He found the use of the Taser in this case to be within departmental policy and state law. Notwithstanding, the captain noted two issues deemed relevant to the investigative review. The first involved the sergeant's failure to end her interview with the subject when he invoked his right to counsel. The captain noted the sergeant's desire to

discern all the facts, which eventually led to the Taser deployment. The lieutenant subsequently advised the sergeant about proper interview procedures and documented this counseling in the sergeant's Evaluation Supplement Log.

The second issue involved the failure of the first Taser to effectively resolve the situation. An inspection of the Taser revealed that one of the wires had detached itself from the cartridge, thus preventing the circuit from completing. The Taser was taken the Tactical Planning Unit for repair or replacement.

Monitor's Assessment: CPD's review was thorough and complete. As noted in CPD's review, the investigating sergeant attempted to interview the subject, but the subject invoked his right to counsel. The supervisor advised that this administrative investigation would not be used in the criminal case so the subject gave a statement.

The Use of Taser report (Verbalization Category) does not indicate that the officer gave a warning of impending force. However, in interviews, the officer clearly confirms that she gave several warnings that the Taser would be deployed if the subject did not comply with their directives. The narrative part of the Use of Taser report also confirms a warning of impending force.

The officer interview regarding the effect of the Taser painted a clear and accurate picture as to how the subject's injuries occurred. When he was first struck by the Taser, the subject became immobilized, hit the ground and skidded forward, thus causing injury to his face.

The Monitor concurs with the finding. The use of the Taser was proper and in accordance with CPD policy.

14. Tracking Number: 2004-0317
Date and Time: 5/9/04 1720 hours

Summary: A citizen flagged down uniformed officers and reported observing a subject who was acting "weird." Officers located the subject as he was walking down the street, threatening to "kill white people." As the officers approached, the subject threatened to kill them and began to rapidly advance in their direction. One of the officers ordered him to stop or be shot with the Taser. The subject continued forward, and the Taser was deployed without effect as one of the barbs struck a cigarette pack in the subject's shirt pocket. The second officer deployed her Taser, hitting the subject in the chest and causing him to fall backward to the ground striking his head. He resisted efforts to be handcuffed, and the officer attempted to cycle her Taser for a second time. This proved ineffective as

one of the barbs had disengaged from the subject when he fell to the ground. The first officer successfully redeployed her Taser, striking the subject in the back and immobilizing him. He was taken into custody without further incident.

CPD Review: The District Captain concluded the use of the Taser to be consistent with departmental policy and state law.

Monitor's Assessment: The Monitor's review of this incident included a review of the relevant documentation and a review of audiotapes of independent witness, subject, and officers' statements. The interview of the subject confirmed the information received by the officers prior to the deployment of the Taser (i.e. the subject indicated that he would kill everyone he sees, white people, etc.). The subject also admitted to the use of drugs and alcohol.

The taped interview of a civilian witness confirms the disorderly, threatening, and offensive behavior of the subject and supports the statements of the involved officers.

The interviews of the officers clearly articulate the violent demeanor of the subject and the reason for the Taser deployment. Their statements are consistent with the statement of the civilian witness.

The use of the Taser was proper and consistent with CPD policy.

15. Tracking Number: 2004-0348
Date and Time: 5/18/04 0108 hours

Summary: A subject fled from a vehicle incident. An officer gave chase, pointed his Taser at the subject, and ordered him to stop. The officer warned the subject of an impending use of force and deployed the Taser from an estimated distance of 10 feet, striking the subject in the right leg. The subject fell to the ground and was taken into custody without further incident. One barb was removed from the subject's pant leg. According to the subject, the Taser had no effect.

CPD Review: The District Captain found the deployment of the Taser and the foot pursuit to be consistent with departmental policy and state law.

Monitor's Assessment: The Monitor's review of this incident was limited to a review of the relevant documentation and a review of audiotapes of the subject and officer's statements. The interview of the subject, conducted by the investigating supervisor, was somewhat difficult to hear. The interview of the involved officer, however, was clear

and covered all the relevant issues (actions of the subject, target placement, distance, barb removal, etc.).

Based on our review, the Monitor finds the use of the Taser to be proper and consistent with CPD policy.

16. Tracking Number: 2004-0366
Date and Time: 5/30/04 1405 hours

Summary: Uniformed officers were detaining a subject for a narcotic violation when he began to walk away from one of the officers. The officer grabbed the subject's wrist, and the subject began to resist. The second officer managed to get one handcuff secured on the subject's wrist as he continued to resist. One of the officers introduced the Taser and gave a warning of impending force. The subject attempted to take the Taser from the officer's hand. Due to the close proximity, the officer removed the cartridge and drive stunned the subject on the right upper leg bringing him into immediate compliance. The handcuffing was completed without incident.

CPD Review: The District Captain found the deployment of the Taser to be consistent with departmental policy and state law.

Monitor's Assessment: The Monitor's review of this incident was limited to a review of the relevant documentation and a review of audiotapes of the subject and officer's statements. The taped statement of the subject and the civilian witness was recorded at the wrong speed and, thus, could not be discerned by the Monitor. The taped statement of the involved officer was clear and audible. It also provided a good account of what led to the use of the Taser and the subject's resistant actions. The Taser deployment was effective in bringing the subject into compliance.

The Monitor finds the deployment of the Taser to be proper and consistent with CPD policy.

17. Tracking Number: 2004-0397
Date and Time: 6/7/04 1231 hours

Summary: Officers were pursuing a subject for disorderly conduct when the subject ran into an apartment building and proceeded up a flight of stairs. The subject tripped and fell at which time the officer gave a warning of impending use of the Taser. The subject attempted to get up and continue flight. The officer deployed the Taser from a distance of 5 feet, striking the subject in the chest and hip. The Taser was fired through the banister of the next flight of steps while the officer maintained her position of cover. The subject complied without further

incident. The subject did, however, file a citizen complaint alleging that he surrendered before the Taser was deployed and thus should not have been hit by the Taser.

CPD Review: A District One Supervisor reviewed the circumstances that led to the deployment of the Taser and conducted a preliminary investigation of the citizen complaint. Both officers involved in the case strongly disagree with the subject's account that he had been lying on the steps awaiting the police and surrendered prior to being struck by the Taser. The officers indicate that the subject was getting up to continue his flight despite the warning of impending force. Further, the CAD records indicate that the entire incident only lasted two minutes from start to finish, thus it would seem impossible that the subject had been lying still for a period of one minute awaiting the officers. Based on these factors, the sergeant deemed the use of the Taser and the foot pursuit consistent with departmental policy and state law. Further, he concluded the citizen complaint to be unfounded.

Monitor's Assessment: Upon review of all relevant materials, the monitor concurs with CPD's finding.

18. Tracking Number: 2004-0425
Date and Time: 6/9/04 2215

Summary: An officer was pursuing a subject for a narcotic violation. During the pursuit, the subject discarded a baggie containing suspected cocaine. The officer deployed his Taser but missed his target. He reloaded his Taser and deployed it a second time from a distance of 10 feet, striking the subject in the back. The subject became compliant and was taken into custody without further incident.

CPD Review: A District Two Supervisor investigated the deployment and deemed it (and the foot pursuit) to be consistent with departmental policy and state law. The sergeant also noted that in his review of the Taser Download report, he found that the time noted was approximately one hour off the actual deployment time. During the download, he changed the time on the Taser to prevent the discrepancy from occurring again.

Monitor's Assessment: The reporting reflects that a demand was verbalized, but it is unclear whether the officer gave a demand for the subject to stop or a warning of impending force. Neither of the involved officer's statements indicates a warning of impending force or circumstances that would preclude or make impractical the use of a verbal warning. The absence of a warning of impending force or circumstances that would make such a warning impractical is

inconsistent with CPD policy. Notwithstanding, this does not make use of the Taser unreasonable or improper under the circumstances. This is a training issue that can be the subject of the CPD's follow up with the involved officers and department wide.

The taped statement of the subject was void of any verbal responses by the subject. The investigating sergeant did, however, describe that the subject was indicating by non-verbal action his intention not to provide any detail with respect to the circumstances that led up to the police encounter and the deployment of the Taser.

The CPD investigation into this matter raised and resolved all other relevant issues.

19. Tracking Number: 2004-0438
Date and Time: 6/18/04 0055 hours

Summary: An officer located one of three subjects that had fled from a vehicle accident. While the officer attempted to handcuff the subject, the subject broke free and fled on foot. The officer gave chase, provided a warning of impending force, and deployed his Taser from a distance of 15 feet. The barbs failed to connect with the intended target, and the subject continued to flee. He was apprehended by another officer a short time later.

CPD Review: A district lieutenant deemed the use of the Taser and the foot pursuit to be consistent with departmental policy and state law.

Monitor's Assessment: In an interview, the involved officer says he believes he may have been too far away from the subject, which may be why the barbs did not make contact. However, the Use of Taser Report and the officer's own statement indicate that the Taser was deployed from a distance of 15 feet, which is within the range of effectiveness (21 feet). The supervisor follow-up questions regarding whether the Taser was properly cycling, etc., were appropriate in an effort to determine the basis for why the barbs may not have contacted the subject. It is more likely than not that the distance was beyond the Taser's effective range. In any case, the use of the Taser under these circumstances was proper and consistent with CPD policy.

B. Use of Chemical Irritant on Restrained Person

- 1) Tracking Number: 2004-0220
Date and Time: 4/10/04 0539 hours

Summary: Officers responded to a domestic disturbance and encountered a wanted female subject. She was placed under arrest without incident. Shortly after she was placed in the rear of the patrol vehicle, she began to strike her head against the Plexiglas partition, managed to slip from under the lap belt, and began kicking and thrashing about. Fearing that the subject would cause injury to herself due to her violent and disorderly behavior, the transporting officer gave a directive for the subject to cease her behavior or be sprayed with chemical irritant. The subject failed to comply with at least six warnings, and chemical irritant was deployed with a two second burst into the face from a distance of two feet. The subject complied and was decontaminated about forty minutes later. The time lapse was due to the drive time between the location of arrest and the Justice Center.

CPD Review: A district supervisor reviewed the incident and found it to be consistent with departmental policy and state law. The subject and the involved officers were interviewed on tape, and their accounts were found to be consistent. The supervisor did discuss with the involved officers the option of calling a scout car from another district to do the transport in future incidents.

Monitor's Assessment: The Monitor concurs with the CPD's assessment and findings. The use of chemical irritant was appropriate and had the desired effect. The subject was properly secured in the vehicle but somehow managed to slip under the lap belt, perhaps due to her size and dexterity.

The audio-taped interviews were inaudible and not useful in the evaluation of this incident.

- 2) Tracking Number: 2004-0223
Date and Time: 4/17/04 0658 hours

Summary: Subject was being transported in a scout car after his arrest. The subject was handcuffed and properly secured by a seat belt. Somehow, he managed to get out of the seat belt and began kicking the rear door and rear window. Fearing that the subject would cause injury to himself, the officer warned of an impending use of chemical irritant if the subject did not cease his violent and disorderly actions. The subject failed to comply, and the officer deployed a two second burst of chemical

irritant to the subject's facial area. The subject then complied and the transport was completed without further incident.

CPD Review: A district sergeant reviewed the use of chemical irritant and deemed it to be consistent with departmental policy and state law. He further noted that while the officer did have the option of deploying a Taser, he chose not to because he did not want to deploy the Taser through the metal screen of the scout car.

Monitor's Assessment: The Monitor concurs. The use of chemical irritant was appropriate and had the desired effect. The fact that the officer considered both tools (i.e., the chemical irritant and the Taser) reflects the use of the force continuum and sound tactical judgment.

The audiotapes were recorded on the wrong speed and thus not useful in the evaluations of this incident.

C. Use of Chemical Irritant

The Monitor reviewed eight incidents in which a chemical irritant was used to subdue a subject. In each incident, proper target area, duration, and decontamination was demonstrated, and the use of the chemical irritant was consistent with departmental policy and state law. In six of the eight cases, a warning of impending force was provided before a chemical irritant was deployed. In one of the remaining two cases, a warning was not provided because the escalation of events was so rapid that it was not practical. This issue was well articulated in the reporting. In the remaining case, irritant was deployed to separate combatants. The reporting fails to indicate whether a warning of impending force was given or why it may not have been practical under these circumstances.

II. Complaint Investigations

A. IIS Investigations

1. Tracking Number: 03296
Date: 12/8/03

Summary: Two CPD officers made a traffic stop on a subject who was driving a vehicle with mechanical violations. After the stop was made the subject exited the vehicle. The first officer directed the subject to remain within the vehicle. He did so but became argumentative, suddenly stood up and then struck that officer in the face with his closed fist. In the ensuing physical altercation, the subject was forcibly taken to the ground where he was warned Mace would be used if he did not quit

resisting. He continued fighting and resisting so chemical irritant was applied to his face. He then stopped resisting and was taken into custody.

The complaint that led to this investigation was originally filed with the CCA by the subject's common law wife. She did not witness the original contact but did arrive on the scene after the officers had her husband on the ground and were attempting to subdue him. She alleged the officers involved did not have to use Mace because her husband was not resisting when she saw him.

CPD Review: Through his attorney, the subject involved in this incident acknowledged that he did strike the officer with a closed fist and this was what led to the struggle. He pled guilty to assault on a police officer and possession of drugs. His attorney indicated that he did not file a complaint against the officers and did not desire to do so.

IIS recommended the complainant's allegation regarding the improper use of force by the officer be "unfounded". Following the administrative review the original allegation was closed with this finding.

During this investigation, IIS did determine that the subject officers had failed to activate their MVR equipment at the time of the stop and did not follow procedures relating to conducting searches or prisoner transport. As a result, there was an additional finding of "Sustained-Other" for their failure to adhere to CPD Rules and Regulations governing these matters. This resulted in administrative action.

Monitor's Assessment: The investigation of the original complaint was thorough and the allegation fully probed. The arrestee's statement to the investigator (through his attorney) supports the finding of "unfounded" in this matter.

IIS staff did identify and address three additional policy issues that came to light during this investigation and made recommendations for administrative action that were acted on. However, only one of these issues was discussed in the documentation of the investigation and that involved the failure of the officers to activate the MVR equipment. The two additional policy issues, concerning an improper search and transporting of a prisoner, were not explained in the investigation nor were the grounds for the administrative action fully discussed. It is not clear to the Monitor what the specific actions were that constituted the finding that violations had occurred in these two additional areas. Further, since multiple policy violations were sustained there is a question as to whether the administrative action taken (reprimands and counseling) was reasonable or sufficient. The failure to clarify what these

additional violations involved and whether the totality of the violations warranted a stronger administrative response should be addressed.

2. Tracking Number: 04094
Date: 5/28/04

Summary: Complainant alleged an act of racial discrimination (use of a racial slur) by an officer during an encounter. He said the officer, someone he has previously seen and who knows him by name, pulled up next to him while he was parking his vehicle and spoke to him. He asked the officer why he was “always messing with me.” The officer then said “you’re just another nigger to me” and pulled away. Immediately afterwards, the officer entered a nearby store. The complainant followed him into the store to pursue the interaction and find out why the officer made the statement.

Inside the store, the officer told the complainant to leave the premises because he was interfering with an investigation that was being conducted. The complainant then went across the street where he was contacted a few minutes later by the original officer and two other uniformed officers. At that time he was asked for his identification and a warrant check was conducted. After this revealed there were no outstanding warrants for him, he was issued a citation by the original officer for playing loud music in his vehicle at the time of the original contact.

The complainant then went to the district office to register a complaint. The day after this he also filed a complaint with the CCA.

CPD Review: IIS interviewed the complainant, the subject officer and the two additional officers present at the time of the citation. The subject officer said his attention was drawn to the complainant’s vehicle by the sound of loud music coming from it. He said he did know the complainant from previous contact with him. He denied there was any exchange of words at the time of the initial contact and said he merely smiled and waved to the complainant when he pulled up next to him. He said he did this because he knows the complainant isn’t a very nice person and he knows this bothers him. When asked if he used any racial slurs at any time during his encounter with the complainant, he said “absolutely not.”

There were two additional officers who were present at the time of the citation. They were requested by the first officer to stand by when he re-contacted the complainant. They both stated they did not observe the initial interaction, nor did they ever hear the first officer use or acknowledge the complainant’s allegation that a racial slur was used.

IIS recommended this complaint be closed as “not sustained” because there were not any witnesses to the conversation when the racial comment was allegedly made. Therefore, it is not possible to determine whether this did or did not occur.

Monitor’s Assessment: Because there were no independent witnesses identified in the initial encounter, the finding of “not sustained” appears consistent with CPD policy and the Agreements. However, the Monitor is troubled by several issues here. During his interview by IIS staff, the officer acknowledged that his initial contact with the complainant was prompted by his desire to irritate or aggravate him. Also, no effort was made by the investigator to determine why the officer did not mention the loud music to the complainant during his initial contact and then did not elect to issue a citation for this until after the encounter in the store that was initiated by the complainant. Finally, there was no effort made by IIS to follow up on possible witnesses who were mentioned by the complainant during his interview.

The Monitor believes these issues are relevant and should have been identified and pursued during this investigation.

3. Tracking Number: 04107
Date: 4/16/04

Summary: The complainant was recognized by officers who knew he had an outstanding warrant for his arrest. When they approached him, he tried to flee and a short foot pursuit ensued. A Taser was quickly deployed to stop him, causing him to immediately fall to the ground, striking his head on the concrete pavement and resulting in a wound requiring 10 stitches. The officers attempted to handcuff him, but he aggressively resisted and tried to get to his feet. In spite of orders to quit resisting and comply with the officers or be subject to the Taser again, he continued fighting them. Additional officers arrived on scene and when the subject continued to resist, a Taser was again deployed. When he continued to struggle, the Taser was used to drive stun him until he eventually complied and was handcuffed.

The statements of all the officers present were consistent. Their statements reflected the complainant fled when he was contacted and the Taser was initially deployed as he was running. When he was hit by the Taser he fell to the ground and struck his head. As the officers attempted to handcuff him, he pulled away and tried to stand. The Taser was then deployed repeatedly in the drive stun mode while he was resisting. After other officers arrived on scene and they were all unsuccessful in their efforts to subdue the complainant, one of the

officers deployed his Taser, with the barbs striking the complainant in the back and arm. He continued to resist but stopped after the third activation of this Taser, which was applied directly to his hand.

A review of the two Tasers that were used showed one was activated 13 times over a 2 minute and 6 second timeframe with the activations lasting from 2 to 5 seconds. There were breaks in between that activations ranging from 1 to 15 seconds. The other Taser was activated 3 times, twice for 10 seconds and once for five seconds. The breaks in between activations were for 3 seconds and 1 second. None of the barbs entered the complainant's skin; they were all found embedded in his jacket.

The complainant's interview revealed several contradictions in his own taped statement as well as an earlier version he did not want taped. He acknowledged running initially but said he stopped of his own volition. He alleged that an officer grabbed him from behind and body-slammed him to the ground and that was what caused his head injury. When asked about being hit by the initial Taser, he said that occurred while he was running but that it did not affect him or cause him to stop. He maintains that he was repeatedly subjected to the Tasers even though he was not resisting.

CPD Review: The investigation included taped interviews of all five officers present and the complainant. No independent witnesses were identified. All forms and reports were complete and included in the materials reviewed. A copy of a video recording made by one of the units with an MVR was provided for review; however, this copy was of such poor quality that nothing was distinguishable. Photographs of the injuries sustained by the complainant were also included.

IIS recommended this case be "unfounded" and that recommendation was approved.

Monitor's Assessment: The complainant's allegations of excessive force were thoroughly investigated, consistent with the MOA and CPD policy.

4. Tracking Number: 04102
Date: 03/26/04 0150 hours

Summary: Officers were attempting to make an arrest of a subject for aggravated menacing when the subject began running from them. One officer pursued the subject on foot, chasing him for several blocks, while other officers drove around the block to get ahead of the subject. The officer on foot continued to yell at the subject to stop. The subject

refused to comply and continued to run away. After several blocks, the officer was able to get close enough to the subject and fire his Taser in an attempt to stop the subject. However, only one of the barbs stuck into the subject, and the device was not able to complete its electrical circuit. In an attempt to complete the circuit, the officer tried to drive stun the subject. He was unsuccessful, and both he and the subject fell down into a grassy area and slid down a hill. The officer then began struggling with the subject who continued to resist and refuse to cooperate. In a further attempt to gain control of the subject, the officer again used his Taser to drive stun the subject. But the officer was unable to make a sufficient impact, as the subject continued to struggle. The officer continued unsuccessfully to instruct the subject to comply with his orders. The officer attempted to drive stun the subject two more times without success. As they continued to struggle, additional officers arrived on the scene. They were able to gain control of the subject and place him under arrest.

The subject filed a complaint alleging that the use of the Taser was not necessary and that officers had choked and beat him while placing him under arrest.

CPD Review: The CPD interviewed the subject and all of the officers involved in the incident. Command found that the use of the Taser was within the guidelines of the CPD. The excessive use of force allegations were not sustained. In its review of the Taser data log, Command determined that the officer had given the subject three consecutive drive stuns without providing the subject any time to comply. Command instructed their personnel to allow subjects sufficient time to comply with instructions before using Tasers.

Monitor's Assessment: The Monitor determines that the force and investigation were consistent with the Agreements. The Monitor recommends that Command continue to advise its officers to provide the subjects time to comply with directions before or after deployment of a Taser.

5. Tracking Number: 04065
Date : 01/21/04 1445 hours

Summary: Officers were assisting members of the Mobile Crisis Team (MCT) attempt to take a subject in for treatment of his psychosis. The subject refused to let the MCT into his apartment or cooperate. The supervisor on the scene directed officers to engage the subject from an outside window in an attempt to convince him to open the door. The subject continued to refuse to let anyone in the door. The supervisor then decided to have the officers at the window strike the subject with a

pepperball gun in an attempt to get the subject away from the door so that officers could enter and put the subject in handcuffs. One officer then fired four to five rounds from the pepperball gun at the subject, striking him in the chest. The rounds did not appear to have any effect on the subject who was still able to block the door and keep anyone from entering the room. The officer then fired an additional three to four rounds striking the subject in the hand and arm. This caused the subject to release his hold on the door, and officers were able to open the door and engage the subject. As soon as other officers entered the room, the subject punched two of them in the face. A scuffle then ensued, and the subject and officers fell onto the floor of the kitchen. The subject lay on his hands and refused to place them behind his back so handcuffs could be used. Officers were able to control his arms after a struggle, and the subject was arrested for assault.

The subject filed a complaint alleging that officers used excessive force, kicking him in the teeth and head while placing him under arrest.

CPD Review: The CPD interviewed the subject, the MCT Team, and all of the officers involved in the incident. Command found that the use of force was not excessive. There was no evidence of the subject being kicked while being arrested. Command also counseled the supervisor on developing and using better tactics in the future for similar situations so that officers and potential subjects would not be in jeopardy of sustaining injuries.

Monitor's Assessment: The Monitor concurs with the finding of the CPD.

6. Tracking Number: 03235
Date: 9/24/03 1909 hours

Summary: A uniformed officer stopped a vehicle for a license plate violation. The motorist drove away fearing that he would be taken to jail. After a short distance, the vehicle struck a utility pole and the driver fled from the vehicle on foot. Numerous officers pursued the subject. One officer came at the subject from the side and was able to knock him down, but the subject got back up and fled. The officers eventually caught up with him on the front steps of his girlfriend's house. The subject alleges that during his encounter with the officers on the porch, he was punched in the head and face. His account is supported, in part, by his girlfriend and her mother who claimed to have witnessed the encounter that led to the subject's arrest. An administrative investigation followed, and the matter was forwarded to the Internal Investigation Section for further investigation.

CPD Review: The initial investigation was first conducted by a District Three Sergeant, and then reviewed by the District Three Lieutenant. The Lieutenant identified several discrepancies in the sergeant's review and report, including conducting an Injury to Prisoner Report rather than a Use of Force Report and investigation, and the failure to report a use of force by the involved officers. The lieutenant recommended, and the District Three Captain concurred, that the matter be forwarded to IIS for further investigation.

The IIS investigation included interviews with the sergeant, two civilian witnesses, the arrestee, a number of sworn members, and a review of relevant reports and an MVR tape that included the initial pursuit and a discussion between two involved officers. IIS determined that the statements of the girlfriend and her mother, who purported seeing the encounter on the porch, were inconsistent. One claimed to have seen several plainclothes officers strike the subject's head and face. The other reported seeing both plainclothes and uniformed officers striking the subject's back and side.

While the subject alleged he was struck on the head and face, resulting in an injury to the nose, hospital records do not indicate injuries to his head or face. Injuries to his chest are consistent with the subject striking the steering wheel during the collision with the utility pole. IIS determined that the subject's injury to his nose occurred either during the course of the automobile collision or when one of the plainclothes officers knocked him down during the foot pursuit. IIS made a "Non-Sustained" finding of the excessive force complaint.

However, IIS sustained violations against three officers who witnessed the use of force against the subject by the officers who knocked him down, but failed to report the action to a supervisor, as required by CPD policy. IIS also found that two sergeants responsible for investigating the incident failed to conduct a thorough and complete investigation into the allegation of excessive force. Last, the IIS investigator found that the sergeant, in conducting his investigation, failed to review the MVR tape. This prevented the timely discovery of evidence in the use of force investigation.

A Departmental Hearing was convened (relative to the charges of failure to investigate, report use of force), and disciplinary action resulted. The Chief of Police concurred with the action.

Monitor's Assessment: The Monitor's assessment included a review of all relevant reporting, investigative files, and statements.

The statements of the girlfriend and the girlfriend's mother are inconsistent regarding the level of force used by the arresting officers. However, the reviewing lieutenant noted that their description of the number of officers present on the porch were more consistent with what is depicted on the MVR, than was reflected on the sergeant's Injury to Prisoner report. Despite this discrepancy, the officer interviews state that no strikes to the head, face, or body were initiated during the struggle with the subject on the porch.

During his interviews, the subject indicated that he fled from police because he did not want to return to jail. In his initial interview with the sergeant, the subject acknowledged that the blood on his nose came from injuries sustained in the auto crash. However, when interviewed by IIS, the subject indicated that he did not strike his face during the crash and attributed his injury to the arresting officers striking him in his face during the course of his arrest.

Given these inconsistencies, and the statements of the officers, a "not sustained" finding on use of force was consistent with the MOA and CPD policy.

7. Tracking Number: 03-271
Date: 11/12/03 1934 hours

Summary: Plainclothes police officers were conducting surveillance of a location for suspected drug activity. During the course of their surveillance, they left their fixed position to go to a nearby corner. Three subjects emerged from a wooded area and began to approach the officers. One of the officers identified himself as a police officer and two of the subjects turned and fled back into the woods. The other started to flee but turned and displayed a handgun after being ordered to show his hands. One of the officers ordered the subject to drop the weapon, at which time the subject fired two shots. Both officers returned fire and took separate defensive positions. The subject remained standing with his weapon pointed in the direction of the officers. One of the officers returned fire twice more, and the subject fled into the woods. All three of the subjects remain at large.

CPD Review: Homicide investigators responded to the scene and conducted a preliminary investigation. Physical evidence -- including a possible suspect weapon and cell phone as well as the shell casings from the officer's weapons -- was recovered from the scene.

Internal Investigation Section investigators also responded and viewed the crime scene and monitored the interviews of police personnel.

A re-canvass of the area the next day yielded discovery of an additional weapon that investigators believe may have been left behind by a witness who had been taken in for questioning. It was processed for latent prints with negative results.

The officers' statements were consistent with each other, and the statements of civilian personnel were consistent with the reported chronology of the events. The physical evidence and the manner in which the crime scene was found were also consistent with the statements provided.

The Homicide Unit submitted its reports to the Prosecutor's office for review. No criminal liability was found, and the matter was returned to the Department for administrative action.

The IIS and the Firearms Discharge Board reviewed the facts and circumstances that led to the discharge of the officers' firearms, the tactics used during the course of the incident, and the consideration or relevance of less than lethal options in lieu of deadly force. The Department concluded that the officers' actions were consistent with Department policy and state law.

Monitor's Assessment: The Monitor concurs with the Department's assessment and conclusions. The incident and subsequent inquiry is in compliance with the Agreement.

8. Tracking Number: 04-066
Date: 09/24/03 2253 hours

Summary: Plainclothes officers observed a subject engaged in what appeared to be a narcotics violation. They approached the subject in an effort to place him under arrest. The suspect fled on foot through yards and over a metal fence. He was arrested on the front porch of a home without further incident.

The subject filed a citizen complaint against the arresting officers alleging that during the arrest, one of the officers used a wrist lock. The suspect said his wrist bent towards his palm, and his fingernails cut him. The subject also alleged that one of the officers grabbed him by the throat and advised him that he better never run again. The injury was noted at the time the subject was being processed at the jail, at which time a supervisor responded and initiated an investigation.

CPD Review: IIS followed up on the citizen complaint and identified two civilian witnesses who discredited the subject's version of events. The witness and officer statements revealed that the subject may have injured his hand as he climbed over the metal fence attempting to elude apprehension. Neither of the two witnesses observed either officer grab the subject by the throat. Last, neither witness observed the subject being thrown to the ground. However, both of the witnesses did indicate that one of the officers grabbed the subject by his t-shirt, dragged him off the porch, brought him to the rear of a nearby pick-up truck, and "slammed" the subject down on the truck. They did not, however, describe the officer's force as excessive. The accused officer acknowledges picking the subject up off of the porch, but denies grabbing his Adam's apple, slamming him down, or telling him that if he ran again, he would kill him. The complaint was deemed "unfounded."

Monitor's Assessment: The witness statements fail to support the subject's version of the incident, as recorded in the IIS summary. The audio taped statements of the subject and two witness officers were recorded on the wrong speed and thus were inaudible.

The Monitor determines that both the incident and subsequent investigation are consistent with the Agreement.

III. CCA Investigations

1. CCA Tracking Number: 04102
Date: 3/05/04

Summary: While traveling home on a city school bus, two juvenile boys were observed by the driver holding a plastic bottle outside a window. She requested they stop, and shortly thereafter she observed one of them throw pizza crust out the window. She stopped the bus and called her supervisor. A police sergeant who was nearby responded to handle the matter.

The police sergeant told the two boys to exit the bus, but one of them was verbally resistant. One boy kept delaying and was not responsive to his instructions or those of the driver. The boy said he was going to call his mother first and was on his cell phone with her while still on the bus. The officer again approached the boy at that time and words were exchanged. Because he encountered more delays from the boy, he eventually physically pushed the boy out the door. He said he did this because the boy held on to the rails and wasn't exiting the bus. Once they were outside the bus, the sergeant said the boy walked toward him in a threatening manner, so he pushed him away.

At about this time, some of the other juveniles got off the bus and approached the sergeant to question him about his behavior. He told them to get back on the bus and then placed a hand on one of them, led him to a car where he bent him over the car and threatened to “lock him up.” Some of the witnesses to this encounter stated the sergeant made threats such as “I’m going to break your fucking neck” and challenged him to fight. The sergeant did state that he told the boy “OK, you’re a man, make me move my hands.” After releasing the boy and telling him he could lock him up, he then told all the students to go home. No arrests were made, but later that day the sergeant did complete a report of non-compliance by a suspect or arrestee (Form 18NC) which is to be used when hard hands force is used.

Shortly after the original incident, the sergeant was advised that two of the students’ parents were present at the original location and were upset about the contact. He returned to speak with the parents and words were exchanged about the appropriateness of his actions. One of the mothers advised that she was talking to her son on his cell phone when she heard him tell someone to “get off me, I didn’t do anything.” At that time she heard an unknown voice respond “If you are a man, get me off of you.”

A complaint was later filed with the CCA by the parents of two of the boys involved in this incident.

CCA Investigation: CCA Investigators interviewed the complainants, the officer, several student witnesses who were on the bus, the bus driver and the parents who filed the complaints. It was determined that there were a total of five allegations involving the sergeant, four of which were sustained.

Two of the allegations involved excessive force and both were sustained by the CCA. One involved the student who was pushed off the bus by the sergeant and then later pushed into some bushes when he approached the sergeant. The other involved the student the sergeant took by the arm, placed over the car and challenged to “make me move my hands.”

The CCA investigators determined there were also three allegations of discourtesy involved. The first involved the student on the bus who was told “If you are a man, get me off you” (or words to that effect). The second involved the boy who allegedly was held over the car and taunted to react. The third allegation involved the interaction with the parents. The first two of these allegations were “sustained” and the last one was found to be “not sustained.”

Monitor's Assessment: All of the allegations in this case were extensively investigated and an effort was made to contact and interview uninvolved individuals as well as the actual parties. The investigators sought out and included information that was objective and supported the perceptions or statements of all involved parties.

The Monitor finds that the investigation was consistent with both Agreements. We do note, however, that there complex issues regarding the second finding of excessive force. In that particular matter, there are certain statements made by the sergeant and some witnesses whose observations may justify or support the actions of the sergeant. Specifically, some witnesses noted that the boy chose to get off the bus (even though he was not directly involved in the incident) and walked up between the sergeant and the boy the sergeant was dealing with at that moment. This boy was described by some witnesses and the sergeant as getting hostile and verbally involved. One witness stated he saw the boy push the sergeant away.

The sergeant did not cite being pushed by the boy as the reason to justify the use of physical force with him, and he failed to describe exactly why he used a hard hands approach in escorting the boy to the car. Nonetheless, the sergeant did respond to the investigator's question as to whether he felt this subject was interfering with him: "absolutely, he totally takes my attention...and stops me from what I'm doing." The investigator did not pose any questions to the sergeant whether or not the boy pushed him. However, there may be some legal basis and explanation for the sergeant's actions based on the description of the incident offered by other independent witnesses.

2. CCA Tracking Number: 04146
Date: 5/28/04

Summary: This complaint was also investigated as an IIS investigation (see #04094 under Section A, IIS Complaints). The complaining party filed complaints with both the CPD and the CCA.

The complainant alleges an act of racial discrimination (use of a racial slur) by an officer. The officer is someone he has previously seen and who knows him by name. The complainant said he was pulling into a parking space on the street when the officer pulled up parallel to him and spoke to him. He asked the officer why he was "always messing with me." The officer said "you're just another nigger to me" and then pulled away. Immediately afterwards, he saw the officer enter a nearby store so he followed him into the store to confront him and find out why the officer made the statement.

When he contacted the officer inside the store he was told by the officer to leave the premises because he was interfering with an investigation that was being conducted. The complainant left and went back across the street where he was contacted a few minutes later by the original officer and two other uniformed officers. At that time he was asked for his identification and a warrant check was conducted. After this revealed there were no outstanding warrants for him, he was issued a citation by the original officer for playing loud music in his vehicle at the time of the original contact.

The complainant then went to the district office to register a complaint. The day after this he also filed a complaint with the CCA.

CCA Investigation: In addition to interviewing the complainant, the officer and the two other uniformed officers who were present at the time the citation was issued, CCA staff interviewed two additional witnesses identified by the complainant.

During his interview, the subject officer said his attention was drawn to the complainant's vehicle by the sound of loud music coming from it. He said he knew the complainant from previous contact with him. He pulled his vehicle alongside the complainant's, smiled and waved and then drove away. He denied there was any exchange of words at the time of the initial contact because his window was only partially open, the complainant's window was closed and the music was too loud to carry on any conversation. He went on to say he goes to extra lengths to be courteous with the complainant because the complainant isn't a very nice person and he knows he has a personal dislike for him. Further, it upsets the complainant when he acknowledges him. When asked if he used any racial slurs at any time during his encounter with the complainant, he said "No, sir."

The two additional officers who were present at the time of the citation were requested by the first officer to stand by when he re-contacted the complainant. Both of them said they did not observe the initial interaction so they did not hear any loud music nor did they ever hear the first officer use any racial slur. They did hear the complainant loudly proclaiming the first officer had used a slur but felt this was being used to incite other pedestrians who were in the area.

CCA investigators contacted two additional witnesses who were identified by the complainant. Neither was present during the initial contact but both heard the complainant alleging he was called a "nigger" by the officer. Both witnesses said the officer was professional throughout the interaction while the complainant was yelling and using profanity. One of the witnesses said he heard the officer say "All I said was hello to you."

The CCA recommended this complaint be closed as “not sustained.” It was their opinion that there was not sufficient evidence to establish or refute the allegation of discrimination.

Monitor’s Assessment: The Monitor concurs with the finding based on the lack of independent witnesses who can corroborate either party’s statements.

As noted in the related IIS investigation, the Monitor believes some relevant issues were not adequately probed. During his interviews with both IIS and CCA staff, the officer made similar statements acknowledging that his initiation of contact with the complainant was prompted in part by his desire to irritate or aggravate him. During the interview of the officer, the CCA investigator attempted to determine whether the officer intended to take any action regarding the loud music at the time of the initial contact. The officer stated he had not made a determination to take any action at that time, but did so during their contact inside the store. He described this as being “appropriate” in light of the fact the complainant made himself “available” to him in the store. However, there was no discussion regarding why the officer did not pursue this in the store or why the complainant was not advised some action was going to be taken until their third encounter on the street.

3. CCA Tracking Number: 04184
Date: 1/2/04

Summary: Complainant was with his two brothers and cousins at a night club when a large fight broke out in the bar and spilled out to the rear of the bar. The complainant, along with one of his brothers, had decided to leave when the fight initially broke out and they were outside when they heard shots fired in the area behind the bar. Concerned for the safety of their other family members, they went back to check on them. At the rear of the bar they found two of their cousins had been handcuffed by officers and were kneeling on the ground. They then observed another subject lying on the ground who looked like he could be their brother (it was later determined that this individual was not anyone who was with them).

The complainant stated he tried to make contact with the subject on the ground and was told by officers to stay back. He persisted in his efforts to make contact with the subject and admitted he became emotional. He was warned repeatedly to stay back and was told he would be Tased if he did not. His brother tried to hold him back but he eventually managed to break free from his grip.

A supervisor on the scene had ordered the complainant to stay back, as did other officers. Several fights were simultaneously taking place and the officers were having difficulty getting the participants who were fighting to comply with their orders to cease fighting. Others in the crowd were also milling about and making it difficult for officers to gain control of the area. Several deployments of Tasers occurred during this time and the complainant's cousin was among the subjects who were Tased.

The supervisor told the officers who were dealing with the complainant and his brother to use their Taser if the complainant kept advancing. When the complainant broke free he was simultaneously Tased by two officers. His brother was also Tased during this deployment. Based on conflicting statements provided by the complainant (over the space of about one month) and a differing statement from his brother a few weeks after the incident, it was unclear whether the complainant's brother was Tased while trying to restrain the complainant or during a possible effort to shield his brother from further Taser rounds immediately following the initial deployment.

Both subjects were then attended to by officers and/or fire personnel who were on the scene. The complainant was arrested and later transported to the Justice Center. His brother was transported to a hospital and subsequently arrested for a probation violation.

Complainant also alleges he requested to be transported to the hospital so that it could be determined how deep the barb from the Taser penetrated his skin. He said he made this request of a white male sergeant who was present.

CCA Investigation: The CCA determined that the allegations in this case involve (1) the use of excessive force and (2) a lack of service for failing to respond to the complainant's request to be transported to the hospital.

The interviews resulted in several discrepancies being identified in the statements obtained from the complainant and his brother. In the complainant's first interview (five days after the incident) he said he did not know how many times he was Tased because it happened so fast. He knew he was Tased once but wasn't sure if he was Tased again. He also said his brother grabbed him but he broke away and was then Tased. He also said his brother was Tased at the same time he was because his brother was trying to cover him with his body. He also said he asked a white male sergeant if he could go to the hospital and was refused by that individual.

In his second interview (approximately six weeks after the incident) he said he raised his hands above his head after he was Tased twice. He also claimed to be walking away from the officers when he was Tased but the Taser barbs struck him in the chest and front area of his body. In this interview he denied that his brother grabbed him until he was Tased and already on the ground and that his brother was Tased while trying to shield him from additional Taser activations.

The officers' statements were more consistent with the complainant's original statement. The one discrepancy noted by the CCA had to do with the download of data from their Taser activations. It showed a 38 second discrepancy between the activation times of the two officers involved in the deployment of Tasers that were used on the complainant. This appears to possibly contradict their statements (and that of other officers) that they deployed their Tasers almost simultaneously.

The CCA determined that a preponderance of evidence showed force was used by the officers on the complainant but this was within the guidelines of CPD procedures. The complainant's second rendition of the events was not supported by the facts. His initial statement and those of the officers show he was verbally warned to get back but continued to advance when the Tasers were deployed. The CCA concluded that this use of force was justifiable and the officers were exonerated.

The lack of service allegation was unfounded because the facts do not support that allegation. Per the policy governing the use of Tasers, officers are not obligated to take a person to the hospital under the circumstances involved in this case. The subject did receive attention from officers, Fire personnel and a nurse at the Justice Center prior to being booked.

A collateral issue was identified involving the use of force. The CCA noted that the complainant's brother did not pose a threat to the officers, nor did he fail to comply with commands issued by the officers. Instead, he was Tased while attempting to restrain his brother. The CCA investigator stated that an officer has an obligation to protect the public and not act unless he/she has exhausted all options. He stated the officer whose Taser struck the complainant's brother should not have fired his Taser until he had a clear shot to deploy the device. Therefore, it was recommended that a charge of excessive use of force by this officer should be sustained.

Monitor's Assessment: The CCA was diligent in its efforts to examine the facts in this case and arrive at appropriate conclusions. The

Monitor finds that the investigation and conclusions are consistent with the Agreements.

We do note that the rationale for sustaining an allegation of excessive force in the collateral matter is difficult. CPD's Use of Force Procedure (12.545) states officers may use force reasonably necessary to effect an arrest, when they have a right to make an arrest. In this case, the justification for exonerating the officers for the force used on the complainant could also justify the force used against the brother. The intended subject of the force was the complainant and not the brother who intervened. Both officers deployed their Tasers attempting to strike the complainant. While one can question the judgment or discretion exercised by the officer whose Taser accidentally struck the complainant's brother, an accidental strike might not justify a finding of excessive force. There may, however, be other policy considerations the CCA could explore.

4. CCA Tracking Number: 04034
Date: 10/01/03

Summary: Officer arrested a 12-year old student for allegedly grabbing his crotch and verbally taunting a female student. This occurred in a stairwell of the school while a teacher was walking the students to lunch. The female student complained to the teacher about the incident, and the teacher took the boy to the principal's office. The officer, who is assigned as a School Resource Officer, interviewed the victim and the boy and ultimately charged the boy with "importuning." This charge was changed in court to disorderly conduct and subsequently dismissed.

The complainant, the boy's grandfather, stated that the officer had incorrectly arrested his grandson based on racial and sexual discrimination.

IIS Review: IIS conducted a review of the incident and obtained statements from the officer, the principal, and a special education teacher. Neither the principal nor the special education teacher observed the incident leading to the boy being interviewed and arrested. Their statements concerned the officer's interview with the boy. Both witnesses indicated that the officer never showed bias towards boys or African-Americans in her dealings with the students. They spoke highly of the officer as being a good resource for all students and stated that she has always shown equal conduct towards the students. The IIS recommended that the allegation be unfounded.

CCA Review: The CCA reviewed the investigation and statements that were obtained by the IIS. The CCA was unable to contact the grandfather for an interview or a further interview of the boy. The grandfather failed to acknowledge several letters mailed to him asking him to contact the CCA investigator. The CCA concurred with the IIS recommendation that the allegation of racial and sexual discrimination by the officer be unfounded.

Monitor Assessment: The Monitor concurs with the IIS and CCA recommendation that the allegation be unfounded as to the charge of racial and sexual discrimination.

However, the Monitor has some questions concerning the initial investigation conducted by the arresting officer:

1. The officer's statement indicated that while the group of students was walking down the stairs the accused boy stated, "Take this bitch" and grabbed the girl's crotch. The officer indicated twice in her statement that the boy grabbed the girl's crotch, while the arresting documents indicated that the boy grabbed his crotch and made a completely different verbally abusive statement. The Monitor understands that the officer's statement was taken six months after the incident and may be confused with a separate incident between the same parties, but the investigating officer should have addressed the conflict.
2. There was no indication that any other students were interviewed to verify either the alleged victim's statement or the boy's statement.
3. In the Resource Officer's statement, she indicated that the same girl had made an allegation against the same boy for inappropriate touching on a school bus. The officer reviewed the bus videotapes and was unable to sustain that complaint. This should have been examined and addressed as part of the investigation.

5. CCA Tracking Number: 04144
Date: 03/31/04 0630 hours

Summary: Complainant was leaving a United Dairy Farmer store when he observed a uniformed CPD officer and a civilian staring at his pit bull that he had left tied up to a pole. The complainant asked the civilian if he had a problem with his dog and the civilian, later identified as a retired CPD Sergeant, stated that he had killed a dog like that. The officer then advised the complainant that the pit bull was not in compliance with the regulations concerning pit bulls and that he would

have to get the dog into compliance or be cited. The officer told the complainant that he could leave after supplying him with copies of the pit bull regulations.

As the complainant was walking away, a uniformed patrol sergeant pulled into the parking lot and spoke with the officer and the retired sergeant. The patrol sergeant instructed the officer to stop the complainant and to cite him with the violations concerning the pit bull. The officer attempted to stop the subject who refused to return to the parking lot. The patrol sergeant then walked with the officer and approached the complainant in an attempt to get him to stop and return to the parking lot. As they approached the subject, they both had their Tasers drawn and available in case the dog became aggressive. The complainant was told to stop by both officers, and he complied. The sergeant placed the complainant in the rear of his vehicle and instructed the officer to place the dog into the rear of his vehicle and to contact the SPCA to seize the animal. The officer then began to determine the correct violations and request that another officer respond to his location with the appropriate paperwork. The officer remained in his vehicle while the sergeant remained nearby, talking with the retired sergeant.

At approximately 0730 (about one hour later), a second officer arrived with the paperwork for the animal complaint. However, it was the incorrect paperwork. The sergeant then had the second officer place the complainant into her vehicle while he returned to the station to retrieve the correct paperwork. Once the complainant was in the female officer's vehicle, he told her that the sergeant had called him a "nigger" while speaking to the retired sergeant.

At approximately 0930 hours, three hours after the initial stop, the SPCA arrived and seized the pit bull. The complainant was then given various citations and released.

The female officer told the initial officer about the allegation by the complainant, but she did not inform a supervisor. The initial officer informed the sergeant about the allegation so that he would have a "head's up" when the complaint was made.

The complainant filed a complaint with the CCA alleging discrimination (racial slur) and improper procedure (unreasonable detention) against the patrol sergeant and officer.

CCA Review: The CCA conducted interviews with all of the various parties involved in the incident. The CCA investigator recommended that the allegation of discrimination (racial slur) be not sustained, as it could not be proven. The allegation of improper

procedure (unreasonable detention) against the initial officer was sustained by the investigator due to the three hours that the subject was held in the back of the patrol car. The investigator also found the sergeant and the female officer in violation of CPD policy for not taking a complaint from the complainant and not notifying a supervisor of the complainant's allegation.

CPD Review: There is no indication of the final review by the CPD in the package reviewed by the Monitor.

Monitors Assessment: The Monitor concurs with the CCA recommendations. The investigation was complete and thorough on the part of the CCA investigator.

6. CCA Tracking Number: 04054
Date: 11/28/03 0243 hours

The Monitor previously reviewed this incident in our last quarterly Report.

Summary: Officers responded to a call for service for a missing person returned. Prior to arrival, the officers checked the name of the subject and found that there were outstanding arrest warrants for the subject. Once on the scene, the officers told the subject (who was with her Mother) that she was under arrest for outstanding warrants. The subject immediately fell to the ground and lay on her hands so that she could not be handcuffed. Officers ordered her to place her hands behind her back, but she refused to comply. One officer then attempted to grab the subject's hand and force it behind her. As he reached for her hand, the subject bit his arm. As a result of the bite, the officer fired a burst of chemical irritant onto her face and ordered her to place her hands behind her back. The subject complied.

The fire department responded and washed the irritant off the subject's face, and she was placed into the rear of the police vehicle for transport. While in route to the hospital, the subject was able to remove one of her hands from the handcuffs and reach out through an open car window and opened the door. She then jumped from the moving vehicle. The officer immediately pursued her and was able to re-cuff her and place her back into the vehicle after a brief struggle.

Once at the hospital, the subject complained of being kicked, punched and having her ponytail pulled.

CPD Review: The CPD interviewed the subject and all of the officers involved in the incident. Command found that the use of the

chemical irritant was within the guidelines of the CPD. The allegations of excessive use of force were not sustained. Command, however, did issue official reprimands to the officers for failing to properly secure the prisoner.

CCA Review: The CCA dismissed the excessive force allegation related to the punching and kicking of the subject and the pulling of her ponytail. As for the allegation of excessive use of force related to the use of chemical spray, the CCA recommended that the officers be exonerated.

Monitor Assessment: The Monitor concurs with the CCA recommendations.

7. CCA Tracking Number: 04020
Date: 01/14/04

Summary: The complainant stated that her 16-year-old son had arrived home from school at approximately 1605 hours on January 14, 2004. After being home for a few minutes, he answered a knock on the door and observed two CPD officers standing on the porch. The officers indicated to the boy that they had received a 9-1-1 hang-up call from that address. The complainant indicated that her son told the officers that he had not called 9-1-1 and, in fact, he was on the phone when they knocked on the door. The son indicated that the officers then entered the house to check around and make sure that there were no "dead bodies" lying around. The officers then walked throughout the house looking in each of the various rooms. According to the son, the male officer also opened several drawers in young man's bedroom and turned on the computer. After the officers checked the house, they left the premises.

The complainant stated that at no time did her son give the officers permission to enter the house or to check the house. The complainant filed a complaint alleging unreasonable search by both officers.

CCA Review: The CCA review consisted of taped statements from the son and both officers involved. CCA also obtained copies of the computer assisted dispatch (CAD) printout for the incident. In the taped statement of the male officer, he indicated that the son gave consent to search the house, while the female officer indicated that the son "invited" them into the house to determine that no one else was home. Neither officer asked the son to sign a consent-to-search form, as is required by CPD policy.

The CCA investigator recommended that the allegation of unreasonable search be sustained against both officers. The investigator

also recommended that the collateral allegation of improper procedures for failing to obtain a consent-to-search form be sustained.

City Review: The City reviewed the CCA investigation and concurred with the recommendation.

Monitor's Assessment: The Monitor concurs with the recommendation of the CCA.

8. CCA Tracking Number: 04036
Date: 01/27/04

Summary: Officers responded to a call for service for people possibly selling drugs, drinking, and hanging out in the hallways of an apartment building. Upon arrival, officers observed the complainant walking around the halls. The officers asked the complainant if he lived in the building, and the complainant stated that he did. When asked which apartment, the complainant stated "109." This apartment number does not exist in that building complex. The officers further asked the complainant if he had any weapons on him. The complainant voluntarily gave the officers an exacto knife. The officers then attempted to arrest the subject for trespassing in violation of the posted signs. Search incidental to the arrest revealed crack cocaine hidden in a bottle of Tylenol in the complainant's pants pockets. As the officers began to handcuff the complainant, he attempted to flee and to struggle with the subject. All three then fell to the ground with the complainant keeping his hands and arms tucked underneath his body and away from the officers. The complainant was advised to release his arms, or he would be sprayed with chemical irritant. The complainant refused to comply with this command. One officer then sprayed the complainant in the face with a 2-3 second burst of chemical irritant. This had no effect on the complainant. As the complainant continued to struggle with the officers, a second burst of chemical irritant was sprayed onto his face, again without having any effect on the complainant. One of the officers then delivered two palm heel strikes to the complainant's right ribcage and was able to gain control of his arms and place him in handcuffs.

The complainant filed a complaint of excessive use of force, stating that he was beaten on the head by the officers and sprayed with the chemical irritant.

CCA Review: The CCA conducted a thorough review of the incident and obtained statements from all of the involved parties. The CCA investigator also conducted a canvass of the building where the incident occurred and was unable to locate any non-involved witnesses.

Based on the CCA investigation, a recommendation was made that the allegation of excessive use of force be unfounded.

The full CCA and the City Manager concurred with the recommendation.

Monitor's Assessment: The Monitor reviewed the complete investigative package, including audio tapes from the witnesses, and concurs with the recommendation of the CCA.

9. CCA Tracking Number: 04085
Date; 02/14/04

Summary: Subject was removed from a nightclub by the club's security for fighting. As the subject and a second person left the club, they again started fighting outside in front of uniformed police officers. These officers instructed the subjects to stop fighting. Both subjects ignored these commands. As the subjects continued to fight, the officers stated that they would use their Tasers if the subjects did not stop fighting. Again the subjects refused. One of the officers then fired his Taser at the closest subject, but was only able to hit him with one of the barbs. This subject then ran around the officer's patrol car to get away from him, but the officer was able to stop his flight. As the officer attempted to arrest the subject, the subject clenched both of his fists and approached the officer. The officer then used his Taser to drive stun the subject who dropped to the ground. The subject kicked the officer attempting to handcuff him. The officer then applied a second drive stun to the subject who immediately stopped kicking. A second officer then assisted the officer in handcuffing the subject. The subject was then placed under arrest and placed into the rear of the patrol car.

While in the patrol car, the subject appeared to be having seizures, so the fire department was called for assistance. The medical personnel determined that the subject was faking the seizures and was not injured.

The subject filed a formal complaint with the CPD and the CCA, alleging that the officer used excessive force in placing him under arrest.

CCA Review: CCA reviewed the complainant's audio statement taken by the CPD and conducted interviews with each of the officers involved as well as an employee of the establishment that threw the complainant out. The complainant failed to respond to any of the requests for interviews that the CCA forwarded to him.

The CCA investigator recommended that the excessive force complaint be deemed unfounded. However, the full CCA voted to change the classification to “exonerated.” The complete investigative package was forwarded to the City and CPD for review.

CPD Review: Command obtained statements from the officer involved and those present at the location of the incident. The subject also gave a statement. Command determined that the use of Taser was justified and within the guidelines of the CPD.

Monitor’s Assessment: The Monitor concurs with the findings of Command and CCA and determines that the CCA investigation was consistent with the Agreements.

IV. CCRP Investigations

The Monitor Team reviewed 18 CCRP investigations this quarter. For all of the investigations:

- 16 of the 18 complaints were properly investigated as CCRP cases. Two of the complaints involved allegations of improper use of force which falls outside of the scope of discourtesy or police service.
- The complaint was resolved in writing, and resolved with one of the four dispositions required by the MOA.
- The complaint was assigned a unique identifier and tracked in the complaint system.
- The investigation was conducted by a supervisor who was not involved in the conduct that precipitated the complaint.
- Most of the investigations appeared to be completed before a resolution meeting was scheduled, although at least one CCRP investigation was determined unfounded because the investigator could not contact the complainant to schedule a resolution meeting, and determined that the complainant had a “lack of interest.”
- Involved officers and witnesses were interviewed, and relevant police activity was investigated. In several of the cases, the complainant would not return the calls of the police investigator and did not participate in the CCRP process.

- For each case, a report was written that included a description of the incident, a summary of the evidence, and findings and analysis.
- The investigative report was signed by the District Commander.

For most of the complaints, the complaint process was open, and there was no indication that officers discouraged the complaint. Third party complaints were accepted. There was however, one CCRP investigation (Tracking Number 04035) that resulted in the issuance of an ESL for not taking a citizen's complaint, and for discouraging a citizen from filing. A sample of the CCRP cases are summarized below.

1. Tracking Number: 03286
Date: 9/17/03

Summary: Complainant alleges that the CPD officer threw Complainant's food in garbage. Complainant alleges that specialist advised him to get off a vehicle that he was sitting on. Complainant alleges that when he did not respond, the specialist grabbed the food that he was eating and tossed the food in the garbage. The specialist denies the allegations completely. The specialist acknowledged during his interview that he did question the complainant about whose vehicle he was sitting on while he was investigating possible drug activity.

Supervising investigator contacted complainant to determine if he was interested in a resolution meeting. Complainant indicated that he was interested in participating in the resolution meeting. The supervisor chose not to set a meeting date until he could interview a witness who was with complainant during his interaction with the specialist. Attempts to contact the witness failed. After not being able to contact the witness, the investigator tried to contact complainant to set up the resolution meeting, but could not successfully contact him by telephone. The investigator interviewed specialist and another officer who was present at the incident, who both denied the allegations.

Therefore, the investigator based on his interview of the CPD members and the "lack of interest" on the part of the complainant recommended that the case be closed "Unfounded." The recommendation was approved by the Department.

2. Tracking Number: 04035
Date: 1/26/04

Summary: Complainant alleged she was the recipient of poor service and subjected to discourteous treatment by a member of the CPD. Initially, complainant went to the district to fill out a Citizen Complaint Form in reference to inadequate service in relation to warrants for arrest, associated with an assault where the complainant was the victim. The sergeant who supervised the officer, asked the complainant to let him speak with the officer prior to the complainant filing the form. As a result of a conversation between the officer and sergeant, the officer contacted the complainant at work by telephone and chastised him for complaining about the service. The officer denies that he treated the complainant in a discourteous manner.

There was no face to face resolution meeting because the complainant was satisfied with the resolution of the matter. He eventually received the service he initially sought. The sergeant in this matter was issued an ESL for not taking a citizen's complaint and for encouraging the complainant not to file. The officer was exonerated on the allegations of failure to deliver service and not sustained on the discourtesy allegation.

3. Tracking Number: 04039
Date: 02/9/04

Summary: Complainants allege discourteous treatment by CPD officer. According to complainants, the officer used profanity while questioning complainants regarding tinted windows. Another CPD officer who observed the incident stated that the officer did not use profanity during the course of his interview with the complainants.

The resolution meeting took place where all parties completely disagreed about what had occurred. Complainants got upset during meeting, started to use profanity and walked out of the meeting. The supervisor recommended no further action because the officer complied with policy and procedure. The case was closed as "not sustained."

4. Tracking Number: 04051
Date: 02/23/04

Summary: Complainant alleged discourteous treatment and an unprofessional attitude on the part of a CPD member. The officer, upon doing a vehicle check to determine the driving status of the complainant, discovered open warrants. Therefore, the office handcuffed the complainant and placed her in custody. Complainant states that the

handcuffs were put on too tight and she was not the person wanted by the police. Complainant alleged she informed the officer that her handcuffs were too tight and that she had no open warrants.

The officer indicated she asked the complainant if the cuffs were too tight, and the complainant said no. The officer does acknowledge, however, the complainant later did say the cuffs were too tight. The officer chose not to loosen the cuffs because she was in the process of verifying the nature of the warrants and felt it would be only another six or seven minutes. The officer subsequently determined the complainant had no outstanding warrants and released her from custody.

The complainant agreed to participate in a resolution meeting. The investigator had earlier found the officer's conduct to be within CPD standards. The complaint was closed as "unfounded."

5. Tracking Number.: 04063
Date: 03/03/04

Summary: Complainant alleged discourtesy and unprofessional attitude. Complainant and her boyfriend were trying to donate clothes to the FreeStore on Liberty. Complainant was not familiar with the neighborhood. She drove around the neighborhood attempting to find the FreeStore and noticed a police cruiser following her. As complainant was driving on McMicken, she came up behind an officer in the process of a traffic stop. Complainant drove left to go around the stopped police cruiser. In the process, she crossed the double yellow lines. The officer behind her pulled the complainant over for the driving infraction. The officer also did not recognize her as someone who lived in the neighborhood. Upon questioning complainant, the officer told her she should just have gone to Goodwill, instead of trying to find the FreeStore. The investigating supervisor tried to conduct a resolution meeting, but the complainant did not want to participate. Therefore, the complaint was closed as "not sustained" because the Complainant did commit a minor traffic violation and was stopped under suspicious circumstances.

6. Tracking Number. 04072
Date: 03/15/04

Summary: Allegations are of discourtesy and unprofessional attitude. Complainant alleges CPD officer stopped him for expired license plate and told him he was driving under suspension. The complainant alleges the officer was rude and told him to "Shut the fuck up" several times and made other rude statements. No resolution meeting was held. Complaint was closed as "unfounded" because the

officer the complainant identified was not working the day the incident allegedly occurred.

7. Tracking Number. 04079
Date: 03/20/04

Summary: Allegations of discourteous treatment. Complainant alleges the CPD officer who was working a detail at United Dairy Farm (UDF) was very rude to him. Complainant tried to open the door to UDF prior to its closing time, but the door was already locked. The officer did not allow complainant to enter the UDF prior to its closing. The officer said he had approached the complainant in the parking lot of UDF to tell him the UDF was closing soon. The officer acknowledges confronting the complainant about the need for him to make his purchases, but denies he was rude. No resolution meeting was held because the supervisor was unable to contact the complainant regarding the facts. Therefore, it was determined the officer was in compliance with CPD rules and regulations. Complaint was closed as "not sustained" because the investigator had only the officer's account.

8. Tracking Number: 04158
Date: 05/19/04

Summary: Allegation is discourtesy and unprofessional attitude. Complainant alleges CPD officer "Tased" her after saying "Fuck You." Officer says complainant was actively resisting arrest. Officer says the complainant first said, "Fuck You." He responded by saying, "Fuck me? You're going to be "Tased" if you don't submit." When complainant did not comply with the officer's directives, he Tased her. At issue was the officer's use of profanity, not the use of the Taser. There is no indication there was any attempt to conduct a resolution meeting. The District Commander reviewed the training bulletin regarding "Verbal Stunning" and concluded the officer's conduct was legitimate in response to the complainant's use of profanity. Therefore, it was recommended the officer be exonerated and the Complaint closed.

9. Tracking Number: 04116
Date: 04/04/04

Summary: Complainant was a victim of a crime. Upon seeing the perpetrator some days after the crime, she called the police. The complainant was afraid of the perpetrator. When the police arrived, there was a problem locating the complainant and the suspect had disappeared. The officer found the complainant in a friend's car, who was visibly shaken and who refused to go with the police officer to find and identify the suspect. The complainant alleges the officer told her it

was her responsibility to help identify the suspect regardless of her fear. The complainant stated that the officer kept insisting that she get out of the car and accompany him on a search of the streets. The supervising investigator concluded the officer could not appreciate the victim's fear and was somewhat insensitive to helping the complainant cope. Therefore, the case was determined "sustained." CPD sent the officer to the Police Academy for training on issues relating to victims. The complainant was satisfied with the recommendation to send the officer for training. Therefore, she did not see a need for a resolution meeting.