

**City of Cincinnati
Independent Monitor's
Special Report**

October 10, 2006

Monitor's Special Report regarding the Amendment to
the Memorandum of Agreement between the United
States Department of Justice and the City of
Cincinnati and the Cincinnati Police Department

Saul A. Green
Monitor

Richard B. Jerome
Deputy Monitor

www.cincinnati-monitor.org

INDEPENDENT MONITOR TEAM

Saul Green
Independent Monitor

Richard Jerome
Deputy Monitor

Joseph Brann

Rana Sampson

Nancy McPherson

John Williams

Timothy Longo

INDEPENDENT MONITOR'S SPECIAL REPORT

On July 25, 2006, the City of Cincinnati and the Department of Justice signed an amendment to the Memorandum of Agreement (MOA) that terminates provisions of the MOA that have been in compliance for over two years. The MOA Amendment called upon the Monitor to issue a special report that identifies which provisions have been in compliance for over two years and therefore will be terminated. This is that Report.

The MOA Amendment recognizes the progress that has been made by the City in implementing many of the MOA provisions. It also allows the City and the CPD to focus their efforts in this final year of the MOA and the final year of the Collaborative Agreement (CA) on those areas where its compliance has not been complete. As the City of Cincinnati stated in announcing the July 25 agreement, this amendment “does not bring the MOA to an end.” The City “will continue the course for full compliance on all items in both the MOA and the Collaborative Agreement.”

I. The Monitor's Process for this Report

Under the terms of the MOA Amendment, the Justice Department and the City of Cincinnati requested that the Monitor identify “all MOA provisions in which the CPD has maintained at least two years of substantial compliance.” The parties then agree to “terminate the MOA in regards to all such paragraphs identified by the Independent Monitor.” In addition, as the April 12, 2007, MOA termination date approaches, if there are additional MOA paragraphs that we identify as reaching two years of substantial compliance, those provisions will also be terminated.

In undertaking our task of identifying MOA provisions in substantial compliance for at least two years, we have reviewed our assessments and findings from our Sixth Quarterly Report of July 1, 2004, through our Fourteenth Report of September 1, 2006. The attached chart lists the Monitor's assessment of compliance for the MOA paragraphs from each of these Reports. We have marked in green those provisions that we have identified as being in compliance for at least two years, and which can now be terminated. We have marked in red those provisions that we identified as not yet having two years of substantial compliance, and thus will continue in effect.

There are several issues which we believe are important to note in making these assessments.

- First, the Monitor did not evaluate every MOA provision in every quarter. Some provisions were evaluated on a more periodic basis. For quarters where we did not evaluate and report on compliance for a particular MOA provision, we use the term “defer” in the attached chart. However, if the City was found to be in compliance in the quarter before and the quarter after that Report, we assess that paragraph as being in compliance during the quarter that we did not monitor. For several provisions, this means that we are finding them in compliance for more than two years. These include MOA ¶¶26, 28, 39, 42, 43, 45, 47, 48, 53, 82 and 84.
- Second, there were some periods for which we did not obtain the necessary information from the CPD to monitor a particular provision. We have labeled those quarters as “Unable to Monitor.” If, however, the information requested was provided to the Monitor in the following quarter, and after reviewing that information we found the provision to be in compliance, we have considered the earlier period to be in compliance. This also means that there are provisions that we are identifying as in compliance for more than two years: MOA ¶20 (canine), 32-34 (Firearms Discharge Board).
- Third, we have applied the principle of MOA ¶111 that temporary failure to comply during a period of otherwise sustained compliance should not bar a finding of substantial compliance: MOA ¶40.
- Fourth, the Monitor’s early Reports did not always include an individual assessment for each and every paragraph. In a number of areas, the Monitor reviewed compliance with a set of MOA provisions, such as use of force investigations (¶¶26-31) and complaint investigations (¶¶39-50]. We did, however, include in those Reports an evaluation and summary of every use of force and complaint investigation that we reviewed. Therefore, in assessing for this Special Report whether the City has been in compliance with individual MOA provisions for at least two years, the Monitor went back through the use of force and complaint investigation summaries from the earlier Reports. This means that in some quarters, we find the CPD to be in compliance with a specific provision, even though our earlier Report found the CPD to be in partial compliance with the more general area. For example, our chart lists the CPD to be in compliance with MOA ¶¶26, 28 and 31 for the Monitor’s Sixth Report and Seventh Report, even though those Reports

found the CPD to be in partial compliance with the MOA's investigations provisions, MOA ¶¶26-31. Similarly, we have listed the CPD in partial compliance for certain paragraphs based on our review of our Reports and the investigation summaries contained in those Reports, even when we did not list a specific finding for those paragraphs in the earlier Report. For example, MOA ¶¶41 and 49 are listed in our chart as in partial compliance for the Monitor's Sixth, Seventh and Eighth Reports; also MOA ¶12 is listed as in partial compliance for the Monitor's Sixth and Eighth Reports. These determinations are based on our review of the investigations from those quarters.

II. Benchmarks and Standards for Defining MOA Compliance

During the first years of the MOA, the Monitor engaged in discussions with the City and the Department of Justice regarding the definition and standards to be used in determining compliance with the MOA. The Monitor prepared a matrix of compliance standards, with input from the City and the Department of Justice. A draft of the matrix was included in the Monitor's Ninth Quarterly Report.

The purpose behind defining compliance and setting standards for assessing compliance and MOA implementation was to provide the City, the Justice Department and the public with specific expectations for CPD performance and improvement. The CPD would know what steps still needed to be taken, and the public would have a greater understanding of the progress that has been made. We crafted the standards used to assess compliance to be understandable, accessible, and credible. The standards also take into account the capacity of the City and the CPD (i.e., they needed to be achievable), the difficulty of the task, and the importance of the task to the overall goals of the MOA.

Our establishment of compliance standards and definitions took into account considerations of the overall goals of the MOA, and the objectives behind, and reasons for, inclusion of the individual provisions of the MOA. The MOA was entered to resolve the Department of Justice's investigation as to whether there was a "pattern or practice" of police misconduct. Its purpose is to minimize the risk of excessive use of force and to promote police integrity. As stated in the MOA, the settlement reflects the City's willingness to implement "meaningful change."

In assessing the City's compliance with the MOA provisions, we have used the terms "in compliance," "not in compliance," and "partial compliance." We defined those terms in the Monitor's Eighth Quarterly Report. We include those definitions here:

Compliance - the requirement has been adopted as policy, has been incorporated into training, and is being routinely and consistently complied with in actual practice. Compliance with the requirement in individual incidents should be the norm, with any deviations being infrequent, identified by CPD, and corrected. Compliance is an ongoing responsibility. Compliance in one quarter does not necessarily mean that there will be compliance in future quarters.

Partial Compliance - this term is used where: (a) one aspect of a requirement has been met, but another has not; (b) the number of incidents where the requirement has not been followed, or where compliance cannot be documented, is limited, and where improvement is evident; (c) a requirement has been consistently complied with in earlier quarters, but recent incidents suggest there may be some slippage; or conversely (d) recent incidents indicate that the requirement is now being applied, but earlier quarters of non-compliance raise questions regarding whether the compliance will be consistent and continuing.

Not in Compliance - where compliance is not evident or cannot be documented.

As a general matter, a number of provisions of the MOA have multiple requirements and multiple facets of compliance. In reviewing these provisions, we assess:

- whether the CPD has adopted a policy or procedure relating to the provision, requiring its members to comply with the provision's requirements
- whether the CPD has trained its members on the provision and the policy or procedure adopted
- whether officers in the field are actually implementing and complying with the requirements of the provision
- whether the CPD has put in place a supervisory and/or internal audit process to ensure compliance, and whether CPD identifies and corrects non-compliance

As will be noted in the attached chart, the Monitor has identified all of the MOA training provisions as being in compliance for more than two years. Therefore, those provisions will be terminated and we will no longer be making any Monitor determinations on the MOA training

provisions. However, because there are a number of substantive MOA provisions that remain in effect that require the CPD to train its members on the provisions and the policies adopted (such as use of force policies and complaint investigations), we will continue to observe training related to those substantive provisions.

Conclusion

As noted in the attached chart, the Monitor finds that the CPD has been in compliance with 49 MOA provisions for more than two years, and those provisions will be terminated. There are also two provisions of the MOA that are no longer applicable to the City (MOA ¶¶25, 65) and will also be terminated. There are 31 provisions that have not been in compliance for more than two years and will remain in effect. In addition, there is one provision that has not taken effect in any of the previous quarters, but which will remain in place (MOA ¶66). It is also important to note that of the 31 MOA provisions that will remain in effect, the Monitor determined that 24 of these provisions were in compliance in our most recent September 1, 2006 Fourteenth Report.

MOA Para.	MOA Requirement	14th	13 th	12th	11 th	10th	9 th	8 th	7 th	6 th
10	Mental Health Response Team (MHRT)	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
11	Foot pursuits	Comp.	Comp.	Comp.	Comp.	Comp.	Defer ¹	Comp.	Partial Comp.	Partial Comp.
12	Use of Force	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Partial Comp. ²	Comp.	Partial Comp ³
12a	Use of Force Policy shall use clear terms									
12b	Define force as in MOA									
12c	Incorporate force model									
12d	Individuals should be allowed to submit to arrest before force is used								Concern Noted	Concern noted
12e	Advise that excessive force will subject officers to discipline									
12f	Prohibit chokeholds									
12g	Remove term “restraining force” from policies and procedures									
13	Make policy revisions publicly available; publish on website	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

¹ In the Monitor’s 9th Report, for MOA ¶¶ 11, 12, 14, 20, and 27-31, the Monitor found the City in compliance with policy requirements, but deferred review of implementation until the next quarter.

² In the Monitor’s 8th Report, the Monitor reviewed one PR24 incident, 30 Taser incidents, seven canine bites, 12 chemical sprays and eight takedowns with injury. Of the Taser incidents, we determined that verbal warnings were not given in four incidents, and we were unable to find compliance with the MOA’s force requirements in four other cases. The Monitor could not conclude compliance in five of the chemical spray incidents, and one of the takedowns with injury.

³ In the Monitor’s 6th Report, the Monitor reviewed 2 canine bites, 22 Taser incidents, 13 chemical sprays and 37 hard hands or takedown incidents. The Monitor was unable to find compliance in two of the Taser incidents, three of the chemical sprays, and eight of the hard hands incidents.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
14	Chemical Spray	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Not in Comp.	Comp.	Not in Comp.
14a	Define terms in chemical spray policy									
14b	Limit spray to cases where force is necessary to protect persons, to effect arrest, or prevent escape									
14c	Spray used only where verbal commands would be ineffective or endanger officer									
14d	Supervisory approval needed for spray on crowd, absent exigency									
14e	Verbal warning and time for Comp. required, unless dangerous					Monitor in future Cases				
14f	Aim at upper torso and face									
14g	Guidance on duration and distance for spray									
14h	Decontamination within 20 minutes								Concern Noted	
14i	Medical attention when needed									
14j	Don't keep subject face down									
14k	Spray on restrained persons used only when subject or other likely to suffer injury or escape									
15	Spray on restrained person investigated with tapes; investigations reviewed by Inspections Section	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
16	Sufficient restraining equipment in cars, and officers to be trained to use	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Partial Comp.
17	In-service training on chemical spray	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
18	Accounting of spray canisters	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
19	Periodic review of research on choice of spray	Comp.	Comp ⁴	Comp.	Comp.	Comp	Comp	Comp.	Comp.	Comp.
20	Canines	Comp.	Comp	Comp.	Comp.	Comp	Defer	Comp.	Unable to Monitor	Unable to Monitor ⁵
20a	Revise canine policy; improve operations, and introduce “improved handler-controlled alert curriculum”									
20b	Policy shall limit off-leash searches to commercial buildings and search for suspect wanted for offense of violence or reasonably suspected of being armed									
20c	Approval of supervisor needed for deployment									
20d	Loud and clear announcement required before deployment, time to surrender							Warnings not reported	Warnings not reported	
20e	Canines not allowed to bite unless subject poses risk of imminent danger, or is actively resisting or escaping									
20f	1. Dog called off at first possible moment 2. Bites of nonresistant suspects prohibited 3. Medical treatment must be sought									
20g	CPD to track deployments, calculate bite ratio monthly									
20h	Bite ratio included in risk management system; 20% ratio triggers review									

⁴ In the 13th Report, the Monitor noted that the CPD reviewed research on chemical spray in 2002 and 2003. Because of the substitution of the Taser for most chemical spray incidents, the Monitor noted that this provision would be the subject of discussion with the City and DOJ.

⁵ The CPD’s investigations of four canine bites from the first quarter of 2004 and two canine bites from the fourth quarter of 2003 were not completed and the Monitor was unable to review those incidents.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
21	Beanbag Weapon	Comp.	Comp	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
21a	Define terms in beanbag weapon policy									
21b	Weapons may only be used to incapacitate subject to prevent physical harm									
21c	Prohibit use to prevent theft or minor vandalism									
21d	Prohibit use against crowd, unless specific target who poses threat of imminent physical harm									
21e	Weapon use can be inappropriate even if only option is to let subject escape									
21f	Supervisor required to approve use against crowd									
22	Enforce provision limiting simultaneous rounds against single individual	Comp.	Comp	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
23	Verbal warning to be given before use of beanbag shotguns, where distance makes it practical	Comp.	Comp	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
24	1. All uses of force reported as CPD reports use of force 2. Report form will indicate each and every type of force 3. Report to contain supervisor's narrative, and taped statement 4. Supervisors shall have access to force reporting database 5. Special form for canine deployments, tracking	Partial Comp.	Partial Comp	Comp.	Comp. <u>Taser</u> Defer	<u>18NC</u> Comp. <u>18I</u> Not in Comp. <u>Taser</u> Not in Comp.	<u>18NC</u> Comp. <u>18I</u> Not in Comp. <u>Taser</u> Defer	<u>18NC</u> Not in Comp. <u>18I</u> Partial Comp. <u>Taser</u> Not in Comp.	<u>18NC</u> Not in Comp <u>18I</u> Defer	<u>18NC</u> Not in Comp. <u>18I</u> Defer

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
25	Gun pointing contingency	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
26	1. Officers to notify supervisors after use of force 2. Supervisors to respond to scene 3. Supervisors involved in incident will not investigate force	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.
27	1. Supervisors will investigate force. Include description of facts 2. Investigation will review basis of stop and seizure	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Partial Comp.	Partial Comp.	Partial Comp.
28	1. IIS will respond and investigate incidents of serious use of force 2. Inspections will review canine bites, beanbags and batons	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.
29	1. Prohibit investigators from asking leading questions 2. Consider all relevant evidence and make credibility determinations 3. No automatic preference for officer 4. Resolve material inconsistencies	Comp.	Partial Comp.	Comp.	Comp.	Partial Comp.	Defer	Partial Comp.	Partial Comp.	Partial Comp.
30	All officers who witness force will provide a statement; be identified on force form; and forms will indicate whether medical care was provided, or refused	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Partial Comp.	Partial Comp.	Partial Comp.
31	1. Lieutenant or higher will review each investigation and identify deficiencies 2. Appropriate corrective action taken for deficient investigations	Comp.	Comp.	Comp.	Partial Comp.	Partial Comp.	Defer	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14th	13 th	12th	11 th	10th	9 th	8 th	7 th	6 th
32	Firearms discharge investigations will account for shots, locations, and include ballistic or crime scene analysis	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.	Unable to Monitor ⁶	Unable to Monitor ⁷
33	1. Create firearms discharge board 2. Board will review all discharges 3. Board's reports will determine whether force was in policy, proper tactics were used, lesser force was available	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.	Unable to Monitor	Unable to Monitor
34	Firearm Board's policy requirements; return incomplete investigations; annually review patterns; 90 days for review	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.	Unable to Monitor	Not in Comp (90 day review)
35	Program to inform public of complaint process	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

⁶ The Firearms Discharge Board (FDB) had not completed its review of the six 2004 firearms discharges, so the Monitor was not able to assess compliance in this quarter.

⁷ The FDB reports for the firearms discharge in the fourth quarter of 2003 and three discharges in the first quarter of 2004 were not yet available for the Monitor's review.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
36	1. Complaint forms available at various locations, CPD stations, in police vehicles 2. Officers will not discourage any person from making complaint	Comp.	Comp.	Comp.	Not in Comp.	Comp.	Defer	Partial Comp.	Comp.	Comp.
37	1. Complaints can be made through variety of processes 2. Every complaint will result in written form 3. Every complaint resolved in writing. Complaint will have unique identifier, and be tracked by type	Comp.	Comp.	Comp.	Not in Comp.	Comp.	Defer	Comp.	Comp.	Comp.
38	Allegations filed with CPRP, OMI, CCA will be referred to IIS in 5 days	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
39	Complaints evaluated using preponderance of evidence standard	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.
40 ⁸	Officers involved in incident shall not investigate incident	Comp.	Comp.	Comp.	Partial Comp.	Comp.	Defer	Comp.	Comp.	Comp.
41	1. Investigating agency will consider all relevant evidence 2. No automatic preference 3. Resolve material inconsistencies 4. Consider and train investigators on credibility determinations	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Defer	Partial Comp.	Partial Comp.	Partial Comp.

⁸ Although the Monitor found the CPD in partial compliance in the 11th Report, we are applying the principle of paragraph 111 of the MOA that temporary failure to comply during a period of otherwise sustained compliance should not bar a finding of substantial compliance.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
42	1. All relevant police activity and each use of force will be reviewed 2. Investigation not to be closed if complaint withdrawn 3. Guilty plea not to be used to decide whether force is in policy	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Partial Comp.
43	Complainant will be kept informed	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.
44	Each allegation to be closed with one of four dispositions	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
45	Unit Commanders to evaluate investigations to identify problems and training needs	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.
46	IIS will investigate complaints of force, pointing firearms, searches and seizures and discrimination. IIS will determine which complaints it investigates. Only complaints not in IIS jurisdiction will be eligible for CCRP	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Partial Comp.	Partial Comp.	Comp.
47	CCRP complaints will be fully investigated and adjudicated, prior to resolution meeting. Willingness of complainant to participate in resolution meeting will have no bearing on outcome	Comp.	Comp.	Defer	Comp.	Comp.	Defer	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14th	13th	12th	11 th	10th	9 th	8 th	7 th	6 th
48	CCRP complaints will be handled through chain of command. Investigator will prepare report, with description of incident, summary and analysis of all evidence, findings and analysis. Investigation will be reviewed by District or Unit Commander, who will order additional investigation when appropriate	Comp.	Comp.	Defer	Defer	Comp.	Defer	Comp.	Comp.	Comp.
49	Thoroughness of investigations	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Defer	Partial Comp.	Partial Comp.	Partial Comp.
49a	IIS investigations will have taped interviews of complainant, officers and witnesses									
49b	Interviews of complainant and witnesses will be at times and sites convenient for them when practicable									
49c	Prohibit group interviews									
49d	Notify supervisors of investigation									
49e	Interview all appropriate CPD officers, including supervisors									
49f	Collect and analyze appropriate evidence, including canvassing of scene									
49g	Identify all material inconsistencies in officer and witness statements									

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
50	1. IIS report will include description of allegation, summary of all evidence, proposed findings and analysis 2. IIS will complete investigations within 90 days absent exceptional circumstances	Defer	Not in Comp.	Not in Comp.	Not in Comp.	Not in Comp.	Not in Comp.	Not in Comp.	Not in Comp.	Not in Comp.
51	CCA will assume all responsibilities from OMI	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
52	1. All complaints will be directed to CCA 2. CCA will have jurisdiction over, and will investigate itself, excessive force, improper pointing of firearms, unreasonable searches and discrimination complaints 3. CCA will accept third party complaints 4. CCA will have sufficient investigators	Comp.	Comp.	Comp.	Not in Comp.	Not in Comp.	Defer	Comp.	Comp.	Comp.
53	CPD officers will answer CCA questions. CCA will have access to CPD records and personnel	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Comp.	Comp.	Comp.
54	City to develop procedures re timing, notification, and interviewing of witnesses so parallel investigations are effective	Comp.	Comp.	Comp.	Not in Comp.	Not in Comp.	Defer	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14th	13 th	12 th	11 th	10th	9 th	8 th	7 th	6 th
55	City will take appropriate action, including imposing discipline or non-corrective action where warranted, regarding CCA investigations	Comp.	Comp.	Partial Comp.	Not in Comp.	Not in Comp.	Unable to Mon.	Not in Comp.	Unable to Monitor	Unable to Monitor ⁹
56	1. CCA will complete investigations within 90 days 2. City Manager to take action within 30 days of completion of CCA investigation	Comp.	Defer	Partial Comp.	Defer	Partial Comp.	Unable to Mon.	Not in Comp.	Comp.	Comp.
57	CPD to expand risk management system. Use system to promote civil rights and manage risk and liability	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Not in Comp.	Unable to Monitor ¹⁰	Defer	Defer ¹¹
58	System will collect 10 data elements	Comp.	Comp.	Comp.	Comp.	Not in Comp.	Not in Comp.	Unable to Monitor	Defer	Defer
59	System will include appropriate identifying information for each officer	Comp.	Comp.	Comp.	Comp.	Comp.	Not in Comp.	Unable to Monitor	Defer	Defer
60	CPD will prepare for review and approval of DOJ a Data Input Plan	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

⁹ The Monitor could not make a compliance determination on this provision without information regarding whether the CPD took disciplinary action in cases where the CCA sustained a citizen complaint and the City Manager agreed with that determination. This data was not available to the Monitor.

¹⁰ The Monitor was unable to monitor compliance with these provisions in this quarter because the ETS demonstration was cancelled by the CPD.

¹¹ In our 6th Report, the Monitor notes that the CPD is in compliance with the requirements for DOJ approval of the ETS protocol and data input plan, but that 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.” The system did not become operational until October 2004.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
61	CPD will prepare for review and approval of DOJ a protocol for using the risk management system	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
62	Use of Risk Management System	Partial Comp.	Partial Comp.	Partial Comp.	Not in Comp.	Not in Comp.	Not in Comp.	Unable to Monitor	Defer	Defer
62a	Protocol will contain data storage, retrieval, reporting, analysis, pattern identification, supervisory assessment									
62b	Protocol will require system to analyze data on individual officer, average activity, patterns by officers, and by all officers within unit									
62c	Protocol will require system to generate monthly reports describing data, data analysis, identifying individual and unit patterns									
62d	CPD commanders, managers, and supervisors to review system reports (at least quarterly) and evaluate individual officer, supervisor and unit activity									
62e	CPD commanders, managers, and supervisors initiate interventions for officers, supervisors or units based on activity and pattern assessment									
62f	Intervention options include discussion, counseling, training, monitored action plans. All interventions to be documented in writing									

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
62g	Actions taken will be based on all relevant information, not just numbers									
62h	Data to be accessible to commanders, supervisors and managers, and supervisors will promptly review data on officers transferred into their units									
62i	Commanders, managers and supervisors will be evaluated on their use of system									
62j	System to be managed by Inspections. Inspections will do quarterly audits									
62k	Protocol will require regular reviews (not less than quarterly) of all relevant risk management system information to evaluate officer performance citywide, and make appropriate comparisons regarding performance of units to identify patterns or series of incidents									
63	City will maintain officer data in system during officer's employment and five years after. Aggregate statistical data will be kept indefinitely	Comp.	Comp.	Comp.	Defer	Comp.	Not in Comp.	Unable to Monitor	Defer	Defer
64	System to be developed on specified schedule	Comp.	Comp.	Comp.	Comp.	Partial Comp.	Not in Comp.	Unable to Monitor	Defer	Defer

MOA Para.	MOA Requirement	14th	13 th	12th	11 th	10th	9 th	8 th	7 th	6 th
65 ¹²	CPD to use existing databases for risk management until new system implemented	N/A	N/A	N/A	Not in Comp.	Not in Comp.	Not in Comp.	Comp.	Comp.	Comp.
66 ¹³	CPD may propose future changes, subject to review and approval of DOJ	No change	No change	No change	No change	No change	No change	No change	No change	No change
67	CPD to develop protocol for audits, with regular fixed schedule for audits	Comp.	Comp.	Comp.	Comp.	Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.
68	1. CPD will conduct quarterly audits of CCRP complaints 2. CPD will conduct semi-annual audit if IIS investigations	Comp.	Comp.	Comp.	Comp.	Defer	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.
69	Regular meetings with local prosecutors to identify issues in officer, shift or unit performance	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
70	MVRs	Comp.	Comp.	Comp/Defer	Defer	Partial Comp.	Not in Comp.	Not in Comp.	Partial Comp.	Partial Comp.
70a	Mandatory activation of video cameras for all traffic stops, pursuits									

¹² Although there were several quarters where the CPD was not in compliance with this provision, now that the computerized risk management system (ETS system) is in place and operational, this provision is no longer applicable. For this reason, the provision can be terminated.

¹³ The CPD has not proposed any changes to the ETS protocol since it was approved by the DOJ. Because provisions relating to the ETS system are still in place, if the CPD seeks to change the ETS protocol, we believe those changes should be subject to review and approval of the DOJ. Therefore this provision will remain in place as well.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
70b	To the extent practical, recording of requests for consent to search, vehicle searches, drug detection canines									
70c	To the extent practical, manual activation for incidents in which the prisoner being transported is violent									
70d	Supervisors to review tapes from incidents involving force, injuries to prisoners, vehicle pursuits, complaints									
70e	CPD to retain and preserve tapes for at least 90 days, or longer when incident is subject to investigation									
71	If officer knows camera is not working, officer will notify shift supervisor	Comp.	Comp.	Comp.	Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.
72	1. CPD will conduct periodic random reviews of MVR tapes for training and integrity purposes. Reviews will be documented in a log book 2. CPD to conduct random reviews of equipment	Comp.	Comp.	Comp.	Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.	Partial Comp.
73	CPD will upgrade its Police Communications Section technology	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
74	CPD will maintain a written protocol or checklist to guide PCS operators on responding to situations	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
75	1. CPD will revise its disciplinary matrix to take account of violations of different rules rather than just repeated violation of same rule 2. CPD will revise matrix to increase penalties for excessive force, improper searches and seizures, discrimination, or dishonesty. Revised matrix will allow CPD to impose appropriate punishment when misconduct exhibits lack of fitness for duty	Defer	Partial Comp.	Comp.	Defer	Not in Comp.	Not in Comp.	Not in Comp.	Partial Comp.	Unable to Monitor
76	CPD will take disciplinary action when matrix calls for disciplinary action. CPD will consider non-disciplinary, corrective action (in addition to discipline) even where discipline is imposed	Comp.	Comp.	Comp.	Defer	Not in Comp.	Not in Comp.	Not in Comp.	Partial Comp.	Unable to Monitor
77.	1. CPD will coordinate use of force training to ensure quality, consistency and Comp. with policy 2. CPD will conduct regular reviews, at least semi-annually	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
78	Director of training academy will (a) ensure quality of training (b) develop and implement use of force training curricula (c) select and train CPD officer trainers (d) develop and oversee in-service training and roll-call curricula (e) establish evaluation procedures (f) conduct needs-assessments	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
79	CPD will provide training consistent with CPD policy, law and proper police practices; ensure that only mandated objectives and approved lesson plans are taught	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
80	CPD curriculum and policy committee will review all use of force training and use of force policies on regular basis. The committee will include academy staff, command staff, cross section of field personnel, and representative of City Solicitor's office	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
81	Use of Force Training	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
81a	Use of force training will include CPD's use of force model									
81b	Proper use of force decision making									
81c	CPD's use of force reporting requirements									
81d	Fourth Amendment and other constitutional requirements									
81e	Examples of scenarios on force decision making									
81f	Interactive exercises emphasizing proper force decision making									
81g	Proper amount of chemical spray, proper targets and procedure									
81h	De-escalation techniques to allow arrest without force, disengagement, area containment, surveillance, waiting out subject, summoning reinforcements, or letting subject temporarily evade arrest may be appropriate response, even when force is legally justified									
81i	Additional training on extracting subjects from stationary cars and disabling cars									
81j	Threat assessment									
81e	Examples of scenarios on force decision making									

MOA Para.	MOA Requirement	14 th	13 th	12 th	11 th	10 th	9 th	8 th	7 th	6 th
81f	Interactive exercises emphasizing proper force decision making									
81g	Proper amount of chemical spray, proper targets and procedure									
81h	De-escalation techniques to allow arrest without force, disengagement, area containment, surveillance, waiting out subject, summoning reinforcements, or letting subject temporarily evade arrest may be appropriate response, even when force is legally justified									
81i	Additional training on extracting subjects from stationary cars and disabling cars									
81j	Threat assessment									
81k	Additional training on interacting with persons who are mentally ill									
81l	Factors to consider in limiting or continuing a pursuit									
82	1. CPD will provide all officers charged with accepting complaints training on handling complaints. Training on role of CCA, IIS, CCRP to new recruits and as part of annual in service training 2. Training on burden of proof, factors to consider in assessing credibility, to supervisors responsible for investigating complaints	Comp.	Comp.	Comp.	Comp.	Comp.	Defer	Defer	Defer	Defer
83	Leadership training for CPD supervisors. Provided to sergeants within 30 days of their assuming supervisory responsibilities	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14th	13th	12th	11 th	10th	9 th	8 th	7 th	6 th
84	Canine Training	Comp.	Comp.	Defer	Defer	Defer	Comp.	Comp.	Defer	Defer
84a	Canine training will be modified: development and implementation of comprehensive training curriculum and lesson plan identifying the goals, objectives and mission of Canine Unit, consistent with canine policy as amended by MOA.									
84b	1. CPD shall purchase only professionally bred dogs 2. CPD to ensure that all canines, handlers and supervisors shall be formally trained in the canine policy and can carry it out									
84c	Canines to receive annual recertification and periodic refresher training									
84d	CPD to ensure that handlers are capable of implementing policy; able to maintain control of, and contact with, the canine to ensure that the canine is not allowed to bite a suspect without legal justification									
84e	Canine trainers shall be certified canine instructors									
85	Training instructors engage students in meaningful dialogue regarding scenarios	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
86	CPD to periodically meet with Solicitor's office concerning conclusion of lawsuits involving allegations of misconduct; to be incorporated into training	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
87	Copies of the agreement to be provided to all CPD and relevant City employees. Initial training within 120 days of implementation. Training thereafter to be part of in-service training	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

MOA Para.	MOA Requirement	14th	13th	12th	11 th	10th	9 th	8 th	7 th	6 th
88	FTOs: 1. The CPD to enhance program. Protocol to address criteria and selection of FTOs, and set standards requiring assessment of officer's past complaint and disciplinary history 2. FTO appointment subject to review for reappointment at Training Director's discretion 3. District Commanders also will have discretion to remove FTO officer, in consultation with Training Director	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Defer
89	FTOs will be reviewed at least bi-annually, with recertification dependent on satisfactory performance and feedback from Training Academy	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Defer
90	1. CPD to ensure that all officers complete mandatory annual re-qualification firearms training 2. Increased in-service firearms training consisting of completion of re-qualification courses and a passing score on target shooting trials 3. Professional night training and stress training in annual in-service 4. CPD will revoke powers of officers failing recertification	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.
91	1. Firearms instructors will critically observe students 2. CPD will create and implement a checklist identifying evaluation criteria. Checklists to be completed for each student by instructor; to include: a. maintains finger off trigger; b. maintains proper hold and stance; c. uses proper force decision making	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.	Comp.

PROVISIONS THAT WILL BE TERMINATED:

10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 28, 32, 33, 34, 35, 38, 39, 40, 42, 43, 44, 45, 47, 48, 51, 53, 60, 61, 65, 69, 73, 74, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91

PROVISIONS THAT WILL REMAIN IN EFFECT

11, 12, 14, 24, 27, 29, 30, 31, 36, 37, 41, 46, 49, 50, 52, 54, 55, 56, 57, 58, 59, 62, 63, 64, 66, 67, 68, 70, 71, 72, 75, 76

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