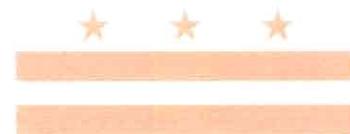


# Third Quarterly Report of the Independent Monitor for the Metropolitan Police Department

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# Executive Summary

## OVERVIEW

This report is the third quarterly report of the Office of the Independent Monitor (“OIM”). The OIM was established at the end of March 2002 to monitor compliance by the District of Columbia (“the City”) and the Metropolitan Police Department (“MPD”) with the Memorandum of Agreement (“MOA”) they entered into with the Department of Justice (“DOJ”) on June 13, 2001. Paragraph 179 of the MOA requires the OIM to “issue quarterly reports detailing the City’s and MPD’s compliance with and implementation of this Agreement” and to issue additional reports at its own discretion.

This report summarizes the OIM’s monitoring activities undertaken during this quarter and MPD’s and the City’s compliance with the MOA. This Third Quarterly Report covers the time period from October 1, 2002 to December 31, 2002, although, at times, we mention activities outside that time period if that information is necessary to place events in proper context.

This report details MPD’s current state of compliance in the following areas:

### **Use of Force and Use of Force Incident Report Policies**

During this quarter, MPD began implementing its Use of Force General Order that was approved by DOJ in September 2002, as well as other related General Orders and policies that were approved at the same time. While MPD made significant strides in implementing the policies, the implementation process was marred by a failure to distribute the policies in accordance with the deadline established by the MOA (as modified on September 30, 2002) and a significant false start in the training area, as detailed below. However, MPD addressed these problems swiftly and effectively once they were brought to its attention. In addition, there still exists significant confusion among MPD officers regarding the Use of Force Incident Report (“UFIR”). As a result, few officers are completing the UFIR when a reportable incident occurs. For example, although there were 69 documented uses of force since October 7, 2002, only 13 UFIRs have been completed. Furthermore, the

UFIRs that have been filled out have in some cases not been completed properly.

### **Use of Firearms Policy**

MPD circulated its newly approved Handling of Service Weapons General Order in conjunction with the Use of Force General Order. We monitored the implementation of this new policy primarily through MPD's training program. During our review of firearms training, we were impressed by the instructors and the quality of their instruction.

On October 1, 2002, a new law became effective that permits MPD's Chief of Police to formulate his own policy as to when off-duty MPD officers are required to carry their service pistols while in the City. As of the end of this quarter, MPD had not yet developed such a policy.

### **Other Use of Force Policies**

MPD also implemented its Canine Teams and Oleoresin Capsicum (OC) Spray General Orders this quarter. We reviewed that implementation as part of our overall review of the implementation of the Use of Force Policy. Although MPD has made some important strides toward meeting the MOA's requirements relating to canine operations, we plan to focus special attention on this issue during the next quarter. We further intend to provide additional substantive analysis on OC spray policy and practices in future quarterly reports.

### **Use of Force Investigations**

During this quarter, we reviewed multiple FIT I and FIT II investigations. We found the investigations to be of high quality and, with minor exceptions, well done. We found also that MPD has improved in notifying FIT about uses of force. There was, however, one notification lapse involving the use of an ASP baton that was very similar to a lapse we noted in our Second Quarterly Report.

Despite their high quality, the FIT investigations still do not contain an inventory of all officers who were involved in responding to the incident leading to the use of force. This has made it difficult to ascertain whether interviews were conducted with all of the appropriate officers. We also noted some issues regarding the prompt completion of the final investigation report that typically must occur within ninety days of the U.S. Attorney's Office ("USAO") decision not to prosecute the officer involved in the use of force. Four of the investigations we reviewed did

not meet that timeline, and there was no information in the file to indicate the reasons for the delay.

Additionally, we reviewed several chain of command investigations of uses of force. We found that most of these investigations were conducted thoroughly and sufficiently. The one investigation we found to be lacking involved many witnesses -- including MPD personnel -- who could have been interviewed about the incident, but were not. There also were a few common deficiencies we noted in the investigations. For example, none of the investigations included an assessment of whether the officer was impaired during the use of force incident.

### **Receipt, Investigation, and Review of Misconduct Allegations**

During this quarter, we reviewed fourteen randomly selected misconduct investigations completed by MPD's Office of Professional Responsibility. These investigations were generally appropriate and contained sufficient documentation. There were some deficiencies, however. The most notable deficiency concerned making appropriate notifications to supervisors and the USAO. In the misconduct investigations involving an alleged use of force, several of the files included no indication that an MPD supervisor had been notified. In addition, in the three files we reviewed that involved an alleged incident where the USAO should have been notified, we found no indication in two of the files that such a notification ever had occurred. There also were serious timeliness issues: Only five of the investigations were completed within the required period.

During this quarter, we reviewed various activities of the Office of Citizen Complaint Review ("OCCR"), explored aspects of its relationship with MPD in dealing with citizen complaints, and assessed its compliance with the requirements set forth in the MOA. The record this quarter was mixed. While OCCR finally brought its toll-free complaint hotline on-line in mid-December, it spent most of the quarter without a hotline, which, pursuant to the MOA, should have been operational by October 11, 2001. Now that the hotline is operational, OCCR still is without certain critical computer hardware and the audit procedure required by the MOA.

### **Discipline and Non-Disciplinary Actions**

As part of the revised deadlines negotiated in the previous quarter's MOA Modification, the due date for MPD's Disciplinary General Order was revised to November 22, 2002. On that day, MPD stated it

was unable to meet the deadline and committed to submitting an order to DOJ by December 31, 2002. No order was submitted on that date either. According to MPD, the delay is due to a desire to engage the Fraternal Order of Police in a dialogue regarding the draft order before it is submitted to DOJ.

### **Personnel Performance Management System (“PPMS”)**

As of the end of this quarter, MPD and DOJ still had not negotiated a new timeline for the development of PPMS. MPD did, however, submit a draft Enhanced Performance Evaluation System protocol to DOJ in early November 2002;<sup>1</sup> and, as part of the negotiations for the PPMS deadline, MPD has submitted a proposed PPMS plan, estimated budget, and technical specification. DOJ has not yet commented on the draft. MPD also has stated its intent to implement a special order designed to enhance its Performance Assessment Management System during the next quarter.

### **Training**

Training its officers in the newly issued use of force policies was a major focus of MPD this quarter. The initial training efforts, however, were seriously flawed. In its rush to begin the process, MPD failed to appropriately train its trainers on the policies. This led to severe problems with the early training courses because the trainers did not have an adequate understanding of the policies and could not adequately respond to officers’ questions. To its substantial credit, when we brought these concerns to MPD’s attention, it took immediate action to correct the deficiencies, including providing the instructors with additional training and requiring that command level officials be available and present to answer questions during training sessions. MPD’s changes resulted in a marked improvement in the training.

### **Monitoring, Reporting, and Implementation**

On January 7, 2003, MPD published its quarterly MOA Progress Report. We continue to be impressed with the useful information

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<sup>1</sup> MPD has stated that it submitted the protocol to DOJ on November 8, 2002, although it acknowledges that it has no documentation to substantiate delivery on that date. DOJ represents that it received the protocol from MPD on November 12, 2002. The difference in dates is material in that the MOA Modification required MPD to submit the protocol by November 8, 2002.

included in the report. We also continue to be very pleased with MPD's consistent responsiveness to our requests for documentation and for access to its facilities.

### **Conclusion**

This has been a very busy quarter for MPD with a major focus on implementing the newly approved use of force policies. Although there were some initial significant problems -- and although there still are some areas to correct -- MPD did an impressive job of responding to our concerns. We found MPD's responsiveness and prompt remedial actions in response to these serious problems to be impressive in its own right and more broadly to reflect favorably on its commitment to achieving the objectives of the MOA.

As this report makes clear, however, there is much MPD, the City, and OCCR need to accomplish in the immediate future and over the long term. The development by MPD of a Disciplinary General Order and the PPMS, for example, is critical to the continued success of the MOA yet MPD is still dramatically behind schedule. We will follow MPD's progress, as well as that of OCCR and the City, in these and all other areas of MOA compliance throughout the next quarter.



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Appendix A: Acronyms

# Introduction

This report is the third quarterly report of the Office of the Independent Monitor (“OIM”). The OIM was established at the end of March 2002 to monitor compliance by the District of Columbia (“the City”) and the Metropolitan Police Department (“MPD”) with the Memorandum of Agreement (“MOA”) they entered into with the Department of Justice (“DOJ”) on June 13, 2001. Paragraph 179 of the MOA requires the OIM to “issue quarterly reports detailing the City’s and MPD’s compliance with and implementation of this Agreement” and to issue additional reports at its own discretion.

This report covers the period October 1, 2002 to December 30, 2002. This quarter saw significant MOA compliance activity by MPD. MPD initiated its implementation efforts with respect to several use of force-related policies approved by DOJ during the previous quarter. These efforts involved, among other things, the reproduction and distribution of more than 575,000 pages of policies and procedures, the development of related roll call presentations, and the initiation of an entirely reconstituted in-service training program. Also during this quarter, MPD submitted thirteen documents to DOJ for input or approval.

The Office of Citizen Complaint Review (“OCCR”) also undertook substantial compliance efforts during this quarter. OCCR investigators attended specialized training conducted by MPD, instituted a working toll-free 24-hour complaint hotline, and finalized and submitted to DOJ a copy of the investigation manual required by paragraph 97 of the MOA.

While the scope and volume of MPD’s and OCCR’s compliance-related activities were substantial, it must be noted that those activities were not always successful. MPD’s initial circulation of new policies and procedures, for example, took longer than expected; its initial training program regarding those new policies, as described in detail in this report, was substantially flawed; and, despite significant efforts, MPD still has not concluded the negotiation of modified deadlines for the development of the Personnel Performance Management System (“PPMS”) required by Section VI of the MOA. For its part, OCCR spent most of this quarter without a working hotline; and, now that the hotline is operational, the agency still is without the audit procedures required by

the MOA. Each of these issues is discussed in detail in the body of this report.

# Compliance Assessment

This report is organized in a manner consistent with the structure of the MOA and with the structure of our prior reports. Within this framework, we first summarize the requirements imposed by each section of the MOA; then we provide the current status of progress toward compliance with those requirements; and, finally, we offer our analysis and assessment of factors that have impeded or advanced MPD's progress toward compliance, along with additional information we believe relevant. Summarizing the requirements imposed by the MOA makes this report, like its predecessors, somewhat lengthy, but we feel the discussion is necessary in order to promote a full understanding of the requirements of the MOA and is consistent with the requirement that we monitor "each substantive provision" of the MOA.<sup>2</sup>

## **I. General Use of Force Policy Requirements (MOA ¶¶ 36-52)**

### **A. General Use of Force Policy (¶¶ 36-40)**

#### **1. Requirements**

MPD is required to complete the development of an overall Use of Force Policy. The policy must comply with applicable law and be consistent with current standards in the policing profession. In particular, the Use of Force Policy must include provisions that:

- Define and describe the different types of force and the circumstances under which the use of each type of force is appropriate;
- Encourage officers to use advisements, warnings, and verbal persuasion when appropriate and in general seek the goal of de-escalation;
- Prohibit officers from unholstering, drawing, or exhibiting a firearm unless the officer reasonably believes that a situation may develop such that the use of deadly force would be authorized;

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<sup>2</sup> MOA at ¶ 169.

- Establish that officers must, wherever feasible, identify themselves as police officers and issue a warning before discharging a firearm;
- Require that, immediately following the use of force, officers must examine persons who have been subjected to the use of force and obtain medical care for them, if necessary; and
- Provide specific advice to officers that the use of excessive force will subject them to MPD disciplinary action and potential civil liability and criminal prosecution.

## **2. Status**

In our Second Quarterly Report, we noted that DOJ approved MPD's revised Use of Force General Order on September 17, 2002.<sup>3</sup> We noted also that MPD had committed "to begin implementing the new policy during the week of October 6, 2002, with intensive training to follow immediately thereafter."<sup>4</sup> We advised that our next report -- *i.e.*, this report -- would "describe MPD's implementation activities, including, among other things, the timeliness of the implementation, the scope of the circulation, the effectiveness of the roll-out, and the quality of the training on its new Use of Force General Order."<sup>5</sup> A discussion of each item follows.

### **a. Timeliness of Implementation**

MPD's implementation activities were untimely in several instances, which are discussed in Section c, below.

### **b. Scope of Circulation**

While we have not conducted a thorough review in this area, it appears that MPD appropriately circulated its new Use of Force General Order throughout the Department. Our conclusion in this regard is supported by a preliminary analysis of the "sign-in" sheets that MPD required its officers to complete upon receiving the new Use of Force General Order.

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<sup>3</sup> Second Quarterly Report at 4.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

### c. Effectiveness of Roll-Out

Based on our review of MPD's use of force training and our interviews with officers in the various districts and special units, we conclude that MPD's roll-out of the Use of Force General Order was not as effective as it could have been primarily because MPD's initial efforts to train its officers were poorly coordinated and executed. MPD officials have conceded this in our many discussions with them during this quarter. While MPD took prompt and effective action to reconstitute its training program in order to remedy these problems, many MPD officers still are confused regarding the Use of Force Incident Report ("UFIR"). This confusion manifested itself during the officer interviews we conducted during this quarter. While this issue is discussed in greater detail in the training section of this report, it is undeniable that there exists significant confusion within MPD regarding (i) when a UFIR must be completed, (ii) how a UFIR is to be completed, (iii) by whom the UFIR must be completed, (iv) how the information in the UFIR will be used by MPD, and (v) the process for obtaining a prosecutive declination from the United States Attorney's Office ("USAO").

Perhaps the most telling indication of the ineffectiveness of MPD's UFIR implementation efforts to date is the fact that, as the table below shows, only 13 UFIRs have been completed since October 7, 2002, in the face of 69 documented<sup>6</sup> use of force incidents.

Total use of force incidents investigated by Force Investigation Team	<b>12</b>
Total use of force incidents investigated by chain of command	<b>57</b>
Total number of UFIRs completed	<b>13</b>

While we recognize that officers may have a legitimate reason to delay completing a UFIR in advance of a decision by the USAO not to prosecute the officer for the use of force (*i.e.*, a "declination"), we believe that the number of UFIRs not being completed goes beyond the declination issue. To its credit, MPD recognizes the problem and is working to identify its causes and, in conjunction with DOJ, devise and implement a remedy.

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<sup>6</sup> This figure does not encompass any use of force incidents about which FIT or MPD chain of command were not made aware.

**d. Quality of Training**

The complete details of our review of MPD's training activities on the revised Use of Force General Order are presented in the training section of this report.

**e. Other**

In addition to our thorough reviews of MPD's in-service training program, we also requested and received a briefing on MPD's preparations for the massive planned demonstrations that surrounded the International Monetary Fund's ("IMF's") 2002 annual meetings in the City. In light of the recent revisions of MPD's use of force policies and the fact that at least some uses of force would have to be anticipated by MPD during the planned demonstrations, we felt that a post-event IMF briefing would provide important insights into the manner in which MPD is implementing its new policies. In addition to the briefing, and to the same end, we reviewed the use of force section of MPD's IMF action report.<sup>7</sup>

The post-event IMF briefing was provided by Assistant Chief Alfred Broadbent, Inspector Joshua Ederheimer, and Captain Matt Klein. It was informative and, coupled with our review of MPD's action report, demonstrated that MPD took steps to reduce the likelihood that force would have to be used by MPD during the IMF event.<sup>8</sup>

**3. Assessment and Analysis**

As noted above, MPD's efforts to implement the new Use of Force General Order approved by DOJ on September 17, 2002 did not go smoothly. When significant problems were brought to MPD's attention, however, MPD adopted an extremely constructive attitude toward addressing and remedying those problems. While we plan to continue monitoring its implementation efforts in the future, we believe that MPD made significant strides during this quarter in implementing its new use of force policies.

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<sup>7</sup> Due to the law enforcement sensitive nature of the IMF action report, we requested access to and reviewed only the section of the report dealing with the use of force.

<sup>8</sup> The OIM has not reviewed and makes no statement regarding the propriety or impropriety of any particular use of force by any officer during the IMF event.

**B. Use of Firearms Policy (MOA ¶¶ 41-43)****1. Requirements**

MPD is required to complete its development of a Use of Firearms Policy. The policy must comply with applicable law and be consistent with current standards in the law enforcement field. In particular, the Use of Firearms Policy must:

- Prohibit officers from possessing or using unauthorized ammunition and require officers to obtain service ammunition through official MPD channels;
- Specify the number of rounds that officers are authorized to carry;
- Establish a single, uniform reporting system for all firearms discharges;
- Require that, when a weapon is reported to have malfunctioned during an officer's attempt to fire, it promptly be taken out of service and an MPD armorer evaluate the functioning of the weapon;
- Require that MPD document in writing the cause of a weapon's malfunction -- *i.e.*, whether an inherent malfunction, a malfunction due to poor maintenance, or a malfunction caused by the officer's use of the weapon; and
- Provide that the possession or use of unauthorized firearms or ammunition may subject officers to disciplinary action.

In addition to these specific requirements relating to the Use of Firearms Policy, the MOA requires the Mayor to submit to the Council for the District of Columbia a request to permit MPD's Chief of Police to determine the policy for MPD officers to carry firearms when they are off duty while in the District of Columbia, including any appropriate restrictions applicable to situations in which an officer's performance may be impaired.

## **2. Status**

### **a. Handling of Service Weapons Policy**

DOJ approved MPD's Handling of Service Weapons General Order in September 2002. MPD circulated the new policy throughout MPD in conjunction with the circulation of its new Use of Force General Order during late October and early November. With respect to the implementation of the Handling of Service Weapons General Order, we limited our activities during this quarter to reviewing MPD's firearms training program. Our analysis in this regard is set forth in the training section of this report.

### **b. Off-Duty Service Pistol Authorization Amendment**

On June 4, 2002, the District of Columbia City Council approved an amendment that permits MPD's Chief of Police to designate his own policy as to when off-duty officers are required to carry their service pistols in the City. The amendment, entitled the "Off-Duty Service Pistol Authorization Amendment Act of 2002," was contained in the Fiscal Year 2003 Budget Support Act of 2002.<sup>9</sup> Mayor Anthony Williams signed the bill on July 3, 2002, and it became law on October 1, 2002. As of December 31, 2002, MPD had not issued an order specifying circumstances under which off-duty officers are required to carry their service weapons.

## **3. Assessment and Analysis**

Our assessment and analysis with respect to firearms is set forth in the training section of this report. Now that the legislation authorizing the Chief of Police to formulate policy as to when off-duty officers are required to carry their service weapons has become law, we will monitor MPD's progress in developing an appropriate order.

### **C. Canine Policies and Procedures (§§ 44-46)**

#### **1. Requirements**

The MOA requires MPD to develop a Canine Teams Policy that:

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<sup>9</sup> D.C. Council Legislation Number B14-0609.

- Limits the high-risk deployment of canines -- off-leash deployments, use during searches, and other situations where there is a significant risk of a canine biting a suspect -- to cases where the suspect is either wanted for a serious felony or is wanted for a misdemeanor and is reasonably suspected to be armed;
- Requires supervisory approval for all canine deployments -- either a canine unit supervisor or a field supervisor;<sup>10</sup>
- Ensures that suspects are advised through a loud and clear announcement that a canine will be deployed, that the suspect should surrender, and that the suspect should remain still when approached by a canine; and
- Ensures that, in all circumstances where a canine is permitted to bite or apprehend a suspect,
  - The handler calls the canine off as soon as the canine can be safely released, and
  - MPD ensures that any individual bitten by a canine receives immediate and appropriate medical treatment.

## **2. Status**

DOJ approved MPD's Canine Teams General Order on September 17, 2002, and MPD took steps to implement that General Order in October 2002. The OIM engaged in three primary activities during this quarter to monitor MPD's compliance with the MOA's canine requirements. First, we attended the Institute of Police Science's ("IPS's") in-service canine training. (The conclusions drawn from this activity are discussed in the training section of this report.) Second, we met -- and on one occasion rode along -- with several canine officers and supervisors to discuss the implementation of MPD's new canine policies and procedures. Third, we requested, were given access to, and began analyzing MPD's entire database of canine incidents.

Our meetings with canine personnel proved very productive. While we were unable to observe a canine deployment during our ride-along,

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<sup>10</sup> The MOA makes clear that the approving supervisor cannot serve as the canine handler in the deployment. MOA at ¶ 45.

we did witness a request for canine assistance. The event reflected compliance with the MOA requirement that a supervisor be notified and dispatched to the scene of a request for canine assistance. The procedure seemed very routine. We were able to hear radio communications during which the officer on the scene made the request and the Canine Unit supervisor immediately acknowledged the request and informed the dispatcher that he was proceeding to the scene. In response to the request, a canine team was immediately dispatched.<sup>11</sup> The manner in which all participants behaved strongly suggested that each participant's response was the normal routine in response to a canine service request.

In addition to our opportunity to ride along with a canine officer, our interviews of other canine officers proved extremely informative. The officers with whom we met displayed acceptance of the changes brought about by the MOA as well as a desire to adhere to those changes. This positive attitude toward MOA compliance seems to flow from the attitudes of the canine supervisors with whom we also met and who make it a point to emphasize to all officers the importance of training and reporting. In this regard, we think it is appropriate to recognize the efforts of one canine supervisor in particular, Sergeant Duane Bueth. Based upon our several meetings with him and our interviews of his officers, it appears to us that Sergeant Bueth's constructive, positive, and proactive attitude toward MOA compliance has gone a long way toward helping the Canine Unit ensure that it complies with the MOA.

Finally, while we have not yet conducted a thorough review of the canine statistics that we were provided in December 2002, it is worth noting here that the Canine Unit's revised practices and procedures seem to be bearing fruit. Of the 1,238 canine deployments that occurred from September 2001 through mid-December 2002, only 10 bites occurred (see table). We will include a more thorough and statistically meaningful analysis of these data in a future report.

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<sup>11</sup> The request for canine assistance was made because MPD officers were investigating a building that was unsecured and there was a suspicion that there may have been an unauthorized person in the building. Following the request for canine assistance, MPD officers located the building's superintendent and were able to secure the building without the use of a canine.

Canine Incidents <sup>12</sup> September 2001 - December 2002 <sup>13</sup>	
Deployments	1,238 <sup>14</sup>
Apprehensions	84 <sup>15</sup>
Bites	10

### 3. Assessment and Analysis

Although early indications are that MPD is moving toward meeting the MOA's requirements affecting canine operations, as we have advised DOJ and MPD, we plan to focus special attention on MPD's compliance with those requirements during the next quarter. This special attention will involve a quantitative analysis of the canine incident database as well as a qualitative analysis of the incidents that resulted in a canine bite. Furthermore, we will be examining the Canine Unit's implementation of its Handler-Controlled Alert Methodology as well as its compliance with the handler certification requirements set forth in the MOA. Finally, we also will assess MPD's compliance with its recently-submitted 43-page Canine Operations Manual once that manual has been approved by DOJ.

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<sup>12</sup> These data are derived from MPD's internal canine incident database.

<sup>13</sup> The MPD internal canine incident database reflects canine incidents from September 16, 2001 through December 7, 2002.

<sup>14</sup> The canine incident database does not distinguish between a tactical (off-leash) and a non-tactical (on-leash) deployment. According to MPD, a deployment for purposes of the canine incident database is any occasion when a canine is used for a police purpose, whether tactical or non-tactical. MPD has represented that almost all of the 1,238 deployments reflected in the database were tactical deployments. We will be looking into the matter of tactical versus non-tactical deployments -- and particularly whether the ten identified bites occurred during tactical or non-tactical deployments -- in greater depth in the next quarter.

<sup>15</sup> According to MPD, an "apprehension" occurs whenever a canine locates the subject of the deployment, whether or not the subject is bitten as a result. Thus, all instances in which a canine bites a suspect are counted as apprehensions, but only a fraction of all apprehensions involve a bite.

## **D. Oleoresin Capsicum Spray Policy (§§ 47-50)**

### **1. Requirements**

The MOA requires MPD to develop an Oleoresin Capsicum (“OC”) Spray Policy. The policy must comply with applicable law and be consistent with current standards in the policing profession. In particular, the OC Spray Policy must:

- Prohibit officers from using OC spray unless the officer has legal cause to detain the suspect, take the suspect into custody, or maintain the suspect in custody and unless the suspect is actively resisting the officer;
- Prohibit officers from using OC spray to disperse crowds or smaller groups of people, including its use to prevent property damage, unless the acts being committed endanger public safety and security;
- Prohibit the use of OC spray on children and the elderly, except in exceptional circumstances;
- Require that officers provide a verbal warning prior to the use of OC spray, unless such warning would endanger the officer or others, stating that its use is imminent unless the resistance ends; and, whenever feasible, permit a reasonable period for the warning to be heeded;
- Limit the use of OC spray to a person’s head and torso; prohibit spraying from less than three feet away (except in exceptional circumstances); and limit the spray to two, one-second bursts; and
- Decontaminate persons sprayed with OC spray within twenty minutes after spraying, and transport them to a hospital for treatment if they complain of continuing adverse effects or state that they have a pre-existing medical condition that may be aggravated by the spray.

### **2. Status**

After a lengthy process in which MPD developed and revised drafts of its Oleoresin Capsicum (OC) Spray Policy in response to rounds of comments from DOJ, DOJ approved MPD’s revised Oleoresin Capsicum

(OC) Spray General Order on September 17, 2002. MPD circulated the new policy throughout MPD in conjunction with the circulation of its other new use of force orders and policies during late October and early November. With respect to the implementation of the OC Spray General Order, we limited our activities during this quarter to reviewing MPD's overall use of force training program.

### **3. Assessment and Analysis**

Our analysis regarding MPD's implementation of its OC Spray General Order is set forth in the training section of this report. Future quarterly reports will provide additional substantive analysis on this subject.

#### **E. Implementation Schedule (§§ 51-52)**

MPD's implementation activities were delayed in several instances during this quarter. As an initial matter, MPD committed to implement and disseminate its new use of force-related General Orders throughout MPD during the week of October 6, 2002.<sup>16</sup> While MPD appears to have made the new General Orders available to its officers on Friday, October 11, 2002, in actuality, the orders were not circulated to officers until the following week. Indeed, our review of the sign-in sheets completed by the officers when they received their copies of the new

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<sup>16</sup> There exists some evidence that MPD actually committed to distribute the new orders by October 7, 2002. See Letter from Shanetta Y. Brown Cutlar to Inspector Joshua Ederheimer (Sept. 26, 2002) ("We write to memorialize our agreement from September 19 that the roll-out date for these GOs and form will be the week of October 6, with the distribution date for the GOs and form being October 7."). The revised deadline reflected in Joint Modification No. 1 to the June 13, 2001 Memorandum of Agreement (the "MOA Modification"), however, calls for the issuance of the orders "the week of October 6, 2002." MOA Modification at 2 n.1; see Appendix B to OIM's Second Quarterly Report. Even under the most generous interpretation of the due dates established by these documents, it is clear that MPD did not issue and roll out the Use of Force Policy and related orders in a meaningful way until they were circulated to officers the following week. Thus, MPD's circulation of these materials, whose original due date under the MOA was July 13, 2001, did not occur until the week of October 14.

orders and policies reveals that many officers did not receive their copies until late October or even early November.<sup>17</sup>

In addition to the delay in circulating the General Orders, MPD's efforts to train its personnel in the new policies also were delayed. Initially, MPD advised the OIM that it intended to hold special use of force training for all supervisors (sergeants and above) within 24 days of the circulation of the Use of Force General Order. As of the close of this quarter, MPD still had not conducted that training.

## **II. Incident Documentation, Investigation, and Review (MOA ¶¶ 53-84)**

### **A. Use of Force Reporting Policy and Use of Force Incident Report (¶¶ 53-55)**

#### **1. Requirements**

The MOA requires MPD to develop a Use of Force Reporting Policy and a Use of Force Incident Report. The MOA mandates that the reporting policy require:

- Notification of an officer's supervisor immediately following any use of force or after the lodging of any allegation of excessive use of force;
- An officer to fill out a Use of Force Incident Report immediately after he or she uses force, including the drawing and pointing of a firearm at another person or in such a person's direction;
- An officer's supervisor to respond to the scene upon receiving notification that force has been used or that an allegation of excessive force has been received;
- Immediate notification to the Force Investigation Team ("FIT") in every instance involving deadly force,<sup>18</sup> the serious use of

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<sup>17</sup> While the dissemination of these materials was delayed, it should be recognized that the task of reproducing, organizing, and distributing more than 575,000 pages of new policies and related materials is a massive undertaking.

<sup>18</sup> "Deadly force" is defined in paragraph 15 of the MOA as "any use of force likely to cause death or serious physical injury, including but not limited to the use of a firearm or a strike to the head with a hard object."

force,<sup>19</sup> or any use of force potentially reflecting criminal conduct by an officer;<sup>20</sup>

- Immediate notification to the United States Attorney for the District of Columbia in all such instances; and
- Recording the data captured on Use of Force Incident Reports into MPD's Personnel Performance Management System ("PPMS").

The precise language of the UFIR was the subject of substantial discussion and negotiation between MPD and DOJ subsequent to the execution of the MOA. As a result of this dialogue, the parties agreed upon the following language for inclusion in relevant force-related General Orders:

In all uses of force requiring a Use of Force Incident Report, the member shall immediately notify his/her supervisor of the use of force, intentional or unintentional, exercised by the member, any accusation of excessive force made against the member, or immediately following the drawing of and pointing a firearm at or in the direction of another person, and shall promptly complete the Use of Force Incident Report.<sup>21</sup>

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<sup>19</sup> "Serious use of force" is defined in paragraph 33 of the MOA as "lethal and less-than-lethal actions by MPD officers including: (i) all firearm discharges by an MPD officer with the exception of range and training incidents and discharges at animals; (ii) all uses of force by an MPD officer resulting in a broken bone or an injury requiring hospitalization; (iii) all head strikes with an impact weapon; (iv) all uses of force by an MPD officer resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ; (v) all other uses of force by an MPD officer resulting in a death; and (vi) all incidents where a person receives a bite from an MPD canine."

<sup>20</sup> "Use of force indicating potential criminal conduct by an officer" is defined in paragraph 35 of the MOA to include "strikes, blows, kicks or other similar uses of force against a handcuffed subject."

<sup>21</sup> Memorandum of Agreement Progress Report, dated January 7, 2003 ("MPD January 2003 Progress Report"), at 9.

The parties also agreed upon certain language regarding the process of compelling an officer to complete a UFIR following a declination by the USAO and/or issuance of an authorized Reverse-Garrity warning.<sup>22</sup> A “Reverse-Garrity” warning is a statement given to an officer, typically following a declination to prosecute issued by the USAO, requiring the officer to answer questions relating to his or her official duties.

## 2. Status

### a. Use of Force Incident Report Generally

In September 2002, DOJ approved a new UFIR form for use by MPD. DOJ’s approval followed lengthy negotiations between MPD and DOJ regarding the substance, format, and name of the form as well as the protocol for completing it. As discussed in our Second Quarterly Report, MPD committed to implementing the new UFIR form during the week of October 6, 2002 and to transitioning to an automated on-line UFIR form by the week of December 28, 2002. MPD’s implementation efforts relating to the UFIR have not gone smoothly.

While the new UFIR requirements went into effect in early October 2002, MPD officers (and supervisors) remain confused about whether to complete a UFIR, when to complete a UFIR, how to complete a UFIR, and the consequences, if any, of completing a UFIR.

The effect of this confusion is that officers are not completing UFIRs in circumstances where MPD policy provides that they should. (See chart.) MPD itself concedes this point, noting in its most recent progress report that “the UFIR form continues to be a volatile issue for the Metropolitan Police Department, and most members involved in a force incident . . . have declined to fill

<b>MPD USES OF FORCE</b>	
<u>October 2002</u>	
Reported to FIT:	18
UFIRs Completed:	3
<u>November 2002</u>	
Reported to FIT:	26
UFIRs Completed:	6
<u>December 2002</u>	
Reported to FIT:	26
UFIRs Completed:	4
<p><i>*Note: Data do not reflect uses of force not reported to FIT where a UFIR is not completed.</i></p>	

<sup>22</sup> MPD initially proposed a statement that placed the declination language immediately following the notification and reporting language. DOJ strongly objected to MPD’s placement of the declination language because, while substantially accurate, that placement might well discourage officers from promptly filling out UFIRs. In response, MPD agreed to relocate the declination language to a separate “Supervisor Responsibilities” section of the applicable orders. However, the declination language was not also moved on the MPD Circular introducing the UFIR.

out the form until a declination is issued by the U.S. Attorney's Office . . . ."<sup>23</sup>

We adopted a four-pronged approach to monitoring MPD's compliance with the MOA's UFIR requirements. First, we conducted -- and continue to conduct -- personal and group interviews with officers and supervisors throughout MPD's various districts and units. The purpose of these interviews is to assess the members' understanding of, acceptance of, and compliance with MPD's new use of force and use of force reporting policies.<sup>24</sup> Second, we reviewed all UFIRs completed as of the close of this quarter and intend to continue doing so until the volume becomes unmanageable, at which time we will transition to a sampling technique. Our UFIR review is intended to assess whether the UFIRs are being completed correctly and completely and to give us an appreciation of the types of uses of force that are being reported on a UFIR versus those that are not. Third, we have requested that MPD provide our office with a monthly report that sets forth the following information:

- Number of uses of force, by date, district, and type.
- Number of UFIRs completed, by date, district, and type.

We will be using these monthly reports as a basis to assess whether officers are completing UFIRs and to monitor MPD's compliance with its UFIR requirements in the future. Fourth, we reviewed MPD's various use of force training programs, including in-service training, roll-call training, and FIT training.

As noted above, our interviews of MPD officers and our attendance at MPD's training programs demonstrate the existence of significant confusion regarding the UFIR. Specifically, many officers

- Do not understand when to complete a UFIR.
- Do not understand how to complete a UFIR.
- Do not understand (or do not appreciate) why MPD adopted the UFIR requirement.

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<sup>23</sup> MPD January 2003 Progress Report at 9.

<sup>24</sup> The interviews will also be used also to assess officers' understanding of the MOA generally.

Do not understand how MPD intends to use the data captured on the UFIR.

Our review suggests that these areas of confusion seem to be having a very significant effect on whether officers complete the UFIRs.

One area of particular concern to officers relates to the requirement that officers complete a UFIR “immediately following the drawing and pointing of a firearm . . . .”<sup>25</sup> This concern has been exacerbated by the fact that MPD has informed officers that the drawing and pointing of a firearm is not a use of force, but still must be reported on a UFIR.<sup>26</sup> Officers express concern either that officers (1) will hesitate before drawing their firearms and thereby place themselves and their fellow officers in danger or (2) will be adversely affected simply because they have drawn their firearms on numerous occasions despite the fact that all those occasions may have been justified.

While we make no judgment regarding the reasonableness of the concerns that we have heard from MPD officers, we do note that the concerns have been expressed fairly consistently from district to district and, thus, suggest a shortcoming in MPD’s internal education efforts and, as noted above, an opportunity for improved training.

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<sup>25</sup> Paragraph 53 of the MOA states:

MPD shall complete development of a Use of Force Reporting policy and Use of Force Incident Report. The policy shall require officers to notify their supervisor immediately following any use of force or receipt of an allegation of excessive use of force and to complete a Use of Force Incident Report. Additionally, the policy shall require officers to complete a Use of Force Incident Report immediately following the drawing of and pointing of a firearm at, or in the direction of, another person. . . .

<sup>26</sup> While we recognize that the distinction between the terms “use of force” and a “reportable action” was proposed for incorporation as a means to allay officers’ concerns regarding whether the pointing of a firearm at another person was a use of force, the distinction does not seem to have achieved its intended goal. Moreover, it should be noted that DOJ does not agree that the drawing and pointing of a service weapon is not, in some circumstances, a use of force. According to DOJ, such an incident “is a ‘reportable incident,’ insofar as it requires an officer to complete a UFIR, and may also be a ‘use of force,’ depending on the circumstances surrounding the incident.” Letter from Lisa S. Graybill to Michael R. Bromwich (Jan. 24, 2003) (emphasis in original).

Our review of the few UFIRs that were completed prior to the end of this quarter raises issues relating to the proper completion of the form. Of the nine UFIRs completed during this quarter,

- Four were incomplete (the most common deficiency being a lack of information identifying officer and/or civilian witnesses),
- Two lacked a supervisory review where the nature of the use of force indicated that a review should have been conducted, and
- Four either were not completed by the officer using the force (e.g., were completed by a sergeant) or did not indicate who completed the form.

Despite these significant deficiencies, most of the UFIRs did include information sufficient to identify the time, location, and nature of the event. Additionally, most included a detailed description of the event.

As noted above, we will continue reviewing UFIRs over the course of the coming months. Additionally, during the next quarter, we plan to examine the circumstances surrounding each incident since October 2002 where an officer refused to complete a UFIR following a use of force.

#### **b. Automated UFIR**

In addition to its obligation to implement its Use of Force Investigations General Order, MPD also committed to DOJ to institute an on-line version of the UFIR prior to the end of December. On December 31, 2002, MPD notified DOJ that “an automated version of the UFIR was placed on the Department’s Intranet . . . [which is] available to all officers in all districts.”<sup>27</sup> According to MPD, this automated form allows officers to complete the UFIR on-line, save it to a disk, and print it for approval by a supervisor. The Use of Force Incident Report General Order does not permit the electronic submission of the UFIR. As of the end of this quarter, MPD had not yet communicated the availability of the automated UFIR to its officers.<sup>28</sup>

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<sup>27</sup> Letter from Maureen O’Connell to Shanetta Y. Brown Cutlar (Dec. 31, 2002).

<sup>28</sup> MPD January 2003 Progress Report at 11.

### **c. AUSA Notification Log**

The MPD October 2002 Progress Report described several improvements to the manner in which FIT manages and reports its investigations. One such improvement was the creation of an “AUSA [Assistant United States Attorney] Notification Log.”<sup>29</sup> We reviewed the Notification Log on two occasions during this quarter and found it to be accessible and current.

### **3. Assessment and Analysis**

As suggested above, we believe that the consistency with which certain questions are being raised by MPD officers and supervisors regarding the UFIR highlights the inadequacy of the training provided to date. On a more positive note, however, the need for further training regarding the UFIR presents MPD with a useful opportunity to respond directly to widely-held officer concerns.

We recommend that MPD, in consultation with DOJ, prepare and circulate to all officers a straightforward question-and-answer memorandum focusing on the purpose, use, and importance of the UFIR. While we recognize that MPD has taken steps to respond to frequently asked officer questions through its internal “Dispatch,” we believe that a more comprehensive effort to respond to such questions would serve MPD well. Specifically, we recommend that this memorandum provide answers to the following questions, perhaps among others:

- What is the purpose and rationale for requiring an officer (as opposed to a supervisor) to complete a UFIR?
- When must an officer complete a UFIR?
- When may an officer decline to complete a UFIR?
- What will happen to an officer who inappropriately declines to complete a UFIR?
- What is the purpose of the UFIR?<sup>30</sup>

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<sup>29</sup> MPD October 2002 Progress Report at 11.

<sup>30</sup> MPD should make it clear to its officers that it is not the only police department to require officers to report when they point a firearm at a person.

- How will the data recorded on a UFIR be used by MPD?
- Will the data recorded on a UFIR be entered into MPD's early warning tracking system ("EWTS") and, if so, what effect will it have on the officer?
- Is the drawing and pointing of a firearm a use of force?
- Must the drawing and pointing of a firearm be recorded on a UFIR?
- Will the data recorded on a UFIR following the drawing and pointing of a firearm be entered into MPD's EWTS and, if so, what effect will it have on the officer?

In addition, we recommend that this memorandum attempt to address -- and help counter -- officers' fears regarding the impact of the UFIR by explaining how the UFIR, like the MOA generally, is intended to implement law enforcement best practices from across the country. Only through a continued, frank, and straightforward dialogue between MPD management and its rank and file officers will the confusion and mistrust regarding the UFIR be overcome.

Finally, it should be noted that MPD and DOJ both have recognized that a process must be developed to facilitate MPD's required consultation with the USAO prescribed by paragraph 54 of the MOA. In light of the unwillingness of many officers to complete a UFIR prior to the issuance of a USAO declination, the ability to devise a mutually acceptable consultation process seems to have become a critical element -- and potentially a critical bottleneck -- in creating a workable UFIR process.<sup>31</sup> MPD, DOJ, and the USAO currently are engaged in discussions on this topic. We will monitor those discussions during the next quarter.

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<sup>31</sup> According to MPD, "[t]he USAO had initially agreed to telephone consultations in these cases, but has subsequently declined to incorporate that system." MPD January 2003 Progress Report at 10.

**B. Investigating Use of Force and Misconduct Allegations (MOA ¶¶ 56-84)**

**1. Use of Force Investigations (¶¶ 56-67)**

**a. Requirements**

**(1) FIT Use of Force Investigations**

The provisions of the MOA that address use of force investigations take as their point of departure the January 1999 creation of FIT as the entity within MPD charged with investigating all firearms discharges by MPD. The MOA creates a protocol for handling the investigation of use of force by MPD and the manner in which such investigations are to be coordinated. At the core of the protocol is the requirement to transfer responsibility for MPD criminal investigations involving officer use of force from MPD district violent crime units or other MPD district supervisors to FIT.<sup>32</sup>

MPD is required to notify and consult with the USAO -- and vice versa -- in each instance in which there is an incident involving deadly force, a serious use of force, or any other use of force suggesting potential criminal misconduct by an officer. All such investigations are handled by FIT rather than by any other unit of MPD. Even while the criminal investigation is pending, the MOA requires FIT's investigation of the officer's use of force to proceed in all such cases, although the compelled interview of the subject officers may be delayed in cases where the USAO has not declined prosecution.<sup>33</sup>

FIT is required to respond to the scene of every such incident described above and to conduct all such investigations, whether the investigation results in criminal charges, administrative sanctions, or both. No officers from any unit other than FIT are permitted to participate in the investigation. The MOA requires FIT's administrative (non-criminal) use of force investigations to be completed within ninety

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<sup>32</sup> Consistent with this approach, the MOA requires that MPD train and assign a sufficient number of personnel to FIT to fulfill the duties and responsibilities assigned to it under the MOA. MOA at ¶ 63.

<sup>33</sup> This deferral of the interview of subject officers is designed to avoid the risk that such compelled interviews might taint the criminal investigation. See *Garrity v. State of New Jersey*, 385 U.S. 493, 87 S. Ct. 616 (1967).

days of a decision by the USAO not to prosecute, unless special circumstances prevent their timely completion.<sup>34</sup>

The MOA contains various requirements governing FIT's investigation process and the preparation of an investigation report by FIT. For example, the report prepared by FIT must include:

- A description of the use of force incident and other uses of force identified during the investigation;
- A summary and analysis of all relevant evidence; and
- Proposed findings, which include:
  - A determination of whether the use of force under investigation was consistent with MPD policy and training;
  - A determination of whether proper tactics were used; and
  - A determination of whether alternatives requiring lesser uses of force were reasonably available.

## **(2) Other Use of Force Investigations**

All use of force investigations, other than those specifically assigned to FIT, may be investigated by chain of command supervisors in MPD districts. In the alternative, the Chief of Police or his designee may assign investigations to chain of command supervisors from another district. In the absence of special circumstances, these use of force investigations, like FIT's investigations, must be completed within ninety days and must contain all of the elements prescribed above for FIT investigation reports. Once such investigations are complete, the investigation report must be submitted to the Unit Commander, who will review it to ensure completeness and to ensure that its findings are supported by the evidence. The Unit Commander has the power to order additional investigation if necessary. Once the investigation is complete,

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<sup>34</sup> In such cases, the reasons for failing to observe the ninety-day requirement must be documented.

the investigation file is forwarded to the Use of Force Review Board (“UFRB”).<sup>35</sup>

### **(3) Use of Force Review Board**

Subject to approval by DOJ, MPD is required by the MOA to develop and implement a policy to enhance the UFRB as the review body for use of force investigations. The policy developed by MPD must:

- Ensure that the UFRB conducts prompt reviews of all use of force investigations;<sup>36</sup>
- Establish the membership of the UFRB;
- Establish timeliness rules for the review of investigations;
- Authorize the UFRB to recommend discipline for violations of MPD policies, recommend further training where appropriate, and authorize the UFRB to direct City supervisors to take non-disciplinary action to encourage officers to modify their behavior;
- Require the UFRB to assign to FIT or return to the original investigating unit any incomplete or improperly conducted use of force investigations; and
- Empower the UFRB to recommend to the Chief of Police investigative standards and protocols for all use of force investigations.

In addition to these requirements, the UFRB must conduct annual reviews of all use of force investigations to identify patterns and problems

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<sup>35</sup> In the event there is evidence of criminal misconduct, the Unit Commander must suspend the use of force investigation and notify FIT and the USAO.

<sup>36</sup> Recognizing that the UFRB might be overwhelmed by reviewing all use of force investigations, DOJ and MPD agreed to modify the MOA to require the UFRB to conduct timely reviews only of use of force investigations investigated by FIT I or FIT II. Additionally, according to DOJ, it agreed to allow non-FIT force reviews, with some exceptions, to be conducted by chain of command officers (and conclude at the Assistant Chief level) so long as FIT continues to review all non-FIT use of force incidents in an effort to identify incidents that should be referred to the UFRB.

in such investigations. The UFRB must issue a report summarizing the findings of its review to the Chief of Police.

**b. Status**

**(1) FIT Manual**

MPD initially submitted a draft FIT Manual to DOJ on February 1, 2002. Following DOJ's comments, MPD revised and resubmitted the manual on November 1, 2002. DOJ had not commented on the revised manual as of the end of this quarter.

**(2) FIT Use of Force Investigations**

During this quarter, we reviewed four FIT I and four FIT II investigations involving two uses of firearms, one accidental discharge of a firearm resulting in an injury to an officer, two canine bites, one canine deployment resulting in a bite to a suspect's clothing but no penetration of the skin, one strike with the Armament Systems and Procedures ("ASP") baton, and one in-custody death involving officers from the Prince George's County Police Department. Based on our review of these eight FIT investigations, we believe that the investigations both into the deadly use of force and the serious use of force conducted by FIT I and FIT II once again achieved a high standard in terms of quality and comprehensiveness. With minor exceptions, we found that the FIT investigations were conducted properly and that the investigation reports were prepared consistent with professional standards applicable to such investigations. The details of our review follow.

- Exclusivity of Investigation (MOA ¶¶ 61, 64)

Our review of the eight FIT investigations suggests that MPD is in compliance with this requirement. One case that we reviewed involved an investigation that was transferred to the Prince George's County Police Department because their officers conducted the stop and used the force. MPD officers responded to the scene. After interviewing witnesses at the scene and determining that no MPD officers were involved in the use of force, FIT referred the investigation to Prince George's County officers. Because there was no indication that any MPD officers had used any force, this investigation does not fall under the MOA's requirements.

- Timeliness of Notification (MOA ¶¶ 53, 61)

In our Second Quarterly Report, we identified four out of eleven FIT II investigations in which timely notification to FIT investigators was not made. Our review of FIT investigations this quarter suggests MPD has made improvements in this area. In all but one of the investigations reviewed, it appears that FIT was notified in a timely manner.<sup>37</sup>

The one case in which FIT II was not notified this quarter, however, is strikingly similar to one of the cases noted in our Second Quarterly Report. In both cases, FIT II was not notified of an MPD officer's use of the ASP baton, which delayed the FIT investigators' response to the scenes and its canvass for witnesses for over five hours. Consequently, the scenes were not contained, and potential witnesses and evidence were lost. Such continued failures of timely notification threaten the integrity of the FIT investigation process. FIT is required to respond to the scenes of such incidents and commence its investigation in a timely manner in order to preserve evidence and identify witnesses. We recommend that MPD provide additional roll call training on FIT investigation procedures to field supervisors.

- Participation of Unit Supervisor (MOA ¶ 53)

Paragraph 53 of the MOA provides that the Use of Force Reporting Policy shall require that officers notify their supervisors immediately following any use of force and that the supervisors, upon notification, respond to the scene. In only one of the eight FIT investigations reviewed was there no direct evidence that a supervisor was either notified or responded to the scene.<sup>38</sup> In that case, however, we were able to infer, based on the investigation, that a supervisor was on the scene. This is a significant improvement from the previous quarter.

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<sup>37</sup> The one anomalous incident occurred in June 2002. The sergeant did not notify FIT II of the incident for over three hours. When questioned about this delay, he stated he was not aware that FIT II investigated the use of the ASP baton and only realized this to be the case after a conversation with another officer several hours after the actual incident.

<sup>38</sup> The incident occurred in March 2002.

- USAO Notification (MOA ¶¶ 54, 58)

Based on our review of the eight FIT investigations, it does appear that MPD is making timely notifications to the USAO as required by paragraph 54 of the MOA, as well as consultations as required by paragraph 58 of the MOA. In all but one of the investigations we reviewed, we found evidence that FIT notified and consulted with the USAO. The one case where we did not find any documentation that MPD notified or consulted with the USAO has been transferred to the Prince George's County Police Department for investigation. As discussed previously, that case does not fall within the MOA's requirements for consulting with the USAO.

- Prompt Medical Attention (MOA ¶ 40)

In all of the eight FIT investigations reviewed, prompt medical attention was obtained for injured individuals.

- Officer Impairment (MOA ¶ 42)

In our Second Quarterly Report, we found no indication that FIT II had assessed whether the officers it investigated had been impaired by drugs or alcohol. Our review of the eight FIT investigations this quarter suggests marked improvement in this area. We found documentation in all but one of the investigations that none of the officers investigated by FIT I or FIT II were impaired by drugs or alcohol, although the investigations did not reveal how those determinations were made. The one case where there was no documentation involved an accidental shooting by an off-duty officer.<sup>39</sup>

- Deferring Officer Interviews (MOA ¶ 60)

Paragraph 60 of the MOA requires FIT to defer interviewing officers who are the subject of a criminal investigation resulting from a use of force. The purpose of this requirement is to avoid tainting a criminal investigation with a "compelled" interview.<sup>40</sup> Our review of the eight FIT investigations revealed no instance in which FIT compelled the interview of an officer who was the subject of a criminal investigation.

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<sup>39</sup> The incident occurred in May 2002.

<sup>40</sup> See *Garrity v. State of New Jersey*, 385 U.S. 493, 87 S. Ct. 616 (1967).

- Investigation Techniques (MOA ¶ 81)

The MOA requires that FIT investigators follow certain specific investigative techniques during the investigation, including:

Interviewing complainants and witnesses at sites and times convenient for them, including at their residences or places of business, whenever practical or appropriate;

- Not conducting group interviews;
- Notifying the supervisors of the involved officers of the investigations, as appropriate;
- Interviewing all appropriate MPD officers, including supervisors;
- Collecting, preserving, and analyzing all appropriate evidence, including canvassing the scene to locate witnesses and obtaining complainant medical records, where appropriate; and
- Identifying and reporting, in writing, all inconsistencies in officer and witness interview statements gathered during the investigation.

In our Second Quarterly Report, we noted that documentation with regard to investigative techniques was lacking and in need of improvement, although we did note improvement from our First Quarterly Report. Our review of the eight FIT investigations this quarter revealed further improvement in this area. It appears that FIT investigators generally adhere to these requirements. There was documentation regarding witness statements, involved officers, and canvass results; however, the information is not readily available or easily located in the investigation report. As in our earlier reviews, while FIT obtained numerous statements regarding each use of force, we often had to infer whether all appropriate MPD officers had been interviewed since there existed no complete record of all officers who responded to the incident leading to the use of force. The OIM has discussed this issue with MPD, and MPD has agreed to make this information more readily available in future investigations.

- Scope of Final Investigation Report (MOA ¶ 62)

Paragraph 62 of the MOA requires that the following elements be included in each final investigation report issued by FIT:

- Description of the use of force incident and any other uses of force identified during the investigation;
- Summary and analysis of all relevant evidence gathered during the investigation; and
- Proposed findings and analysis to support the findings, including:
  - A determination of whether the use of force was consistent with policy and training,
  - A determination of whether proper tactics were employed, and
  - A determination of whether lesser force alternatives were reasonably available.

Each of the eight FIT reports we reviewed contained an adequate description of the use of force incident and, if applicable, any other uses of force identified during the investigation. FIT summaries and analyses of relevant information gathered during the investigations generally were complete and clearly presented. The FIT reports we reviewed maintained a neutral and objective tone.

We noted in our Second Quarterly Report that the reports reviewed varied in quality with respect to the proposed findings and analysis section. MPD has made progress in this area. In each of the reports reviewed this quarter, the investigator provided a complete analysis of whether the use of force was consistent with policy and training, whether proper tactics were employed, and/or whether lesser force alternatives were reasonably available. For example, in one FIT case, an MPD officer discharged his service weapon at a moving vehicle. Although the use of force was determined to be justified, as the vehicle did pursue the officer running on foot onto the curb, the analysis identified tactical improvements needed, and the investigator appropriately recommended a finding of “Justified, with Tactical Improvements Needed.”

- Timing (MOA ¶ 62)

The MOA requires FIT to complete its investigation within ninety days of the USAO’s decision not to prosecute the officer involved in the use of force (the USAO’s “declination”) in the absence of documented special circumstances. Four of the eight FIT investigations exceeded the

ninety-day target for completion from the time the USAO declined to prosecute the subject officers, and there was no mention as to why the investigations exceeded the prescribed time period.

### (3) Other Use of Force Investigations

In our Second Quarterly Report, we selected a sampling of Office of Professional Responsibility (“OPR”) investigation reports that encompassed use of force incidents within all MPD districts. Our sample covered the period from June 13, 2001 through August 2002. We reviewed thirty-three reports, including both preliminary and final investigations. In this quarter, we reviewed randomly selected chain of command investigations. Specifically, we evaluated three preliminary investigations and three final investigations. All six cases involved OC spray and/or the ASP baton. Our findings are as follows.

- Notification (MOA ¶ 53)

While five of the six investigations we reviewed indicated that a supervisor had been notified, only three of the investigations included the date the supervisor was notified.<sup>41</sup> As such, we could not evaluate whether supervisors were notified *immediately* as required by the MOA.<sup>42</sup> Also, none of the investigations indicated when the supervisor arrived at the scene of the incident.<sup>43</sup>

- Impairment (MOA ¶ 42)

None of the investigations indicated whether the officer involved in the use of force appeared impaired -- such as by drugs or alcohol -- or even whether the investigating officer made any inquiry as to a possible impairment. In our Second Quarterly Report, we discussed the need to include such an inquiry in FIT investigations. This need also applies to use of force investigations completed by MPD's chain of command.

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<sup>41</sup> One investigation was excellent in that it included both the date and the time the supervisor was notified of the incident.

<sup>42</sup> MOA at ¶ 53.

<sup>43</sup> See also MOA at ¶ 53.

- Conduct Of Investigation (MOA ¶ 81)

Five of the six investigations we reviewed were conducted thoroughly and sufficiently. In one case, however, many possible witnesses were not interviewed, including MPD personnel. Moreover, we noted that investigators continue to omit information relative to supervisor notification and arrival on the scene.

It would be useful to MPD if it developed a checklist that could become a review instrument for supervisors. This document should be located in the front of the investigation folder and should be completed by the investigators. Many of the MOA requirements could be checked internally by MPD prior to our review.

#### **(4) Use of Force Review Board**

The OIM has requested and received a complete list of all cases heard by the MPD UFRB in 2002. In the next quarter, we will review a sample of these cases to assess MPD's compliance with the MOA's requirements relating to the UFRB.

##### **c. Assessment and Analysis**

Overall, we continue to be impressed with the quality of the FIT I, FIT II, OPR, and chain of command investigations that we have reviewed. To ensure that these investigations stay at a high level, we plan to continue reviewing 100 percent of all FIT I and, if possible, FIT II investigations. With respect to MPD chain of command investigations, we have requested and received access to MPD's entire OPR investigation database. From this database, PricewaterhouseCoopers ("PwC") is in the process of selecting a random sample of investigations covering all districts and units. We will review this sample during the next quarter. The sample will be expanded into future quarters to include more recent cases.

## **2. Investigations of Misconduct Allegations (¶¶ 68-84)**

### **a. Requirements**

The MOA establishes a set of procedures for handling the following types of allegations of misconduct against MPD officers:

- Allegations for which an officer has been arrested or charged criminally;
- Allegations where an officer has been named as a party in a civil lawsuit
  - relating to the officer's conduct while on duty or otherwise acting in an official capacity; or
  - relating to the officer's conduct while off duty, and otherwise not acting in an official capacity, where allegations against the officer involve physical violence, threats of physical violence, racial bias, dishonesty, or fraud;
- Allegations of unlawful discrimination;
- Allegations of unlawful searches and stops;
- Allegations of unlawful seizures;
- Allegations of retaliation or retribution against officers or other persons; and
- Allegations of all uses of physical violence -- including but not limited to strikes, blows, and kicks -- that is engaged in for a punitive purpose or that is perpetrated against a subject who is not offering resistance.<sup>44</sup>

With respect to allegations in the above categories that are criminal, MPD's OPR is required to conduct the investigation rather than chain of command supervisors in MPD's districts. In these categories of cases, MPD is required to notify the USAO within twenty-four hours of the receipt of such allegations, and MPD and the USAO are required, in the absence of extraordinary circumstances, to consult with each other following such notification.<sup>45</sup> In addition to criminal allegations, the

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<sup>44</sup> The same procedures apply whatever the source of the information to MPD -- whether by self-referral from the officer, reporting by other MPD personnel, or complaint from a source outside MPD.

<sup>45</sup> The MOA makes clear that a key reason for this consultation requirement is to avoid potential complications for a criminal investigation and potential prosecution posed by administratively-compelled interviews of officers. MOA at ¶ 71.

MOA requires that MPD assign for investigation outside the chain of command allegations involving:

1. Incidents where charges made by an officer for disorderly conduct, resisting arrest, or assault on a police officer are found by a prosecutor or a judge to be without merit; and
2. Incidents where evidence has been suppressed because of a constitutional violation involving potential misconduct by an MPD officer or where a judicial officer either has made a finding of misconduct against an officer or has requested MPD to conduct an investigation into such an allegation.

In addition to establishing protocols for the assignment of such investigations, the MOA establishes procedures that must be followed in the conduct of such investigations. These procedures for MPD internal investigations require that:

- Interviews of complainants, involved officers, and material witnesses be tape-recorded or videotaped whenever the investigation involves the serious use of force or a serious physical injury;
- Complainants and other witnesses be interviewed individually rather than in groups, and at locations and times convenient for them;
- All appropriate MPD officers and supervisors be interviewed;
- All necessary evidence be collected, analyzed, and preserved; and
- Inconsistencies in statements gathered from officers and other witnesses during the investigation be identified and reported.

Furthermore, the MOA sets forth a series of milestones for the implementation of this overhauled system for conducting misconduct investigations. These include the following:

- MPD must develop a plan (subject to approval by DOJ) under which OPR would become responsible for the *criminal misconduct* allegations described in the bulleted points listed at the beginning of this section, which would include provision for

sufficient personnel and adequate procedures to implement this objective;

- MPD must develop a plan (subject to approval by DOJ) to reallocate responsibility for MPD *administrative complaint investigations* from chain of command supervisors to MPD's OPR;<sup>46</sup>
- The District of Columbia is required to provide the funds necessary to provide for the full implementation of these plans and sufficient resources for administrative complaint investigations to be completed within ninety days of the receipt of a complaint by MPD;<sup>47</sup>
- MPD must develop a plan (subject to DOJ approval) to ensure that all MPD officers responsible for conducting investigations receive adequate training in a wide range of subjects;
- Within 180 days of approval of the above plan, the training of MPD officers responsible for conducting investigations must take place; and
- MPD must develop a manual (subject to DOJ approval) for conducting all MPD misconduct investigations.

The foregoing plans must be implemented fully, with all necessary positions filled, by the various deadlines set forth in the MOA Modification.

## **b. Status**

### **(1) Investigation Reviews**

In addition to the FIT I, FIT II, and chain of command investigations discussed above, we reviewed fourteen randomly selected OPR misconduct investigations this quarter. In October 2002, we reviewed five final investigations dealing with allegations of improper

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<sup>46</sup> See paragraph 72 of the MOA for a list of the misconduct allegations covered by this provision.

<sup>47</sup> In cases where the allegations are referred to the USAO, the ninety days is measured from the date of the declination.

towing, harassment and illegal searches, excessive force, trafficking in stolen guns, robbery, and assault. In December 2002, we reviewed nine investigations dealing with allegations of conduct unbecoming, illegal search, theft, assault, temporary protection order, and sex abuse. Three of these fourteen cases had been referred to MPD's OPR by OCCR. The results of our review follow.

- Supervisor Notification (MOA ¶ 53)

In those cases involving an alleged use of force, several of the investigation files included no indication that a supervisor had been contacted as required by paragraph 53 of the MOA.

- USAO Notification (MOA ¶ 69)

Three of the five files we reviewed involved an allegation about which the USAO should have been notified. Two of these three files, however, included no indication that the USAO, in fact, had been notified.

- Timeliness (MOA ¶ 74)

Of the fourteen investigations we reviewed, only five were completed within the required time. Three investigations were more than six months delinquent.

Despite the foregoing, all of the files we reviewed generally were comprehensive and contained appropriate and detailed information. In general, we feel that the investigations conducted by OPR appear to be sufficient and complete. As with the chain of command investigations described earlier in this report, however, timeliness seems to be a significant issue.

## **(2) Personnel Allocation Plan**

Paragraph 68 of the MOA required MPD to develop a Personnel Allocation Plan to ensure that its OPR is adequately staffed. MPD submitted this plan to DOJ on July 31, 2002. DOJ approved the plan on October 17, 2002. As of December 31, 2002, however, MPD had not yet implemented its plan. Specifically, five of the six Office of Internal Affairs ("OIA") agent positions identified in the plan have yet to be filled. According to MPD, "[t]he delay in the transfer of personnel is due, in part, to the recent increase in violent crime in the District and the Department's efforts to balance the need for qualified investigators in

both OPR and in the Violent Crimes and Homicide Investigations Sections.”<sup>48</sup> MPD has not indicated when it intends to implement fully the approved Personnel Allocation Plan.

### **(3) Other Misconduct Investigations**

Due to the widespread publicity it has received, the OIM requested and received a special briefing on OPR’s “Mobile Digital Terminal instant-message misconduct investigation.” This MPD investigation focused on the inappropriate use of MPD’s in-squad car e-mail system. The briefing, presented by Inspector Stanley Wigenton and Inspector Joshua Ederheimer, was very informative. While we did not conduct any investigation of our own on this topic or conduct any independent assessment of OPR’s investigation beyond requesting this briefing, our brief review of this matter suggests that MPD has taken significant efforts to conduct a thorough and well-documented investigation into this matter.

#### **c. Assessment and Analysis**

To date, we have reviewed a number of randomly selected OPR misconduct investigations. These reviews not only have enabled us to draw some preliminary conclusions -- and to make constructive recommendations -- regarding the quality of those investigations but also have provided us with essential information that will assist us in developing a much larger statistically valid sample of investigations, which covers an appropriate cross-section of districts and types of investigations, that will be reviewed and analyzed during the next quarter. To facilitate this review, as noted earlier, PwC recently selected a partial sample of misconduct investigations that will be reviewed early in the next quarter. Concurrently, PwC will undertake a statistical analysis that will complete the sample and that will permit a thorough examination of OPR’s misconduct investigation procedures.

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<sup>48</sup> Letter from Maureen O’Connell to Shanetta Y. Brown Cutlar (Dec. 31, 2002), at 2.

### **III. Receipt, Investigation, and Review of Misconduct Allegations (MOA ¶¶ 85-104)**

#### **A. Requirements**

This section of the MOA addresses the procedures designed to help members of the public aggrieved by the actions of MPD officers lodge complaints concerning officer conduct. It relates to MPD's role in facilitating the filing of such complaints and also to MPD's responsibility to coordinate with OCCR to ensure that the respective roles and responsibilities of MPD and OCCR are clearly defined and that the agencies are working properly together.

More specifically, the MOA requires the following:

- The development of a plan, in consultation with DOJ, that defines the roles and responsibilities of -- and the relationship between -- MPD and OCCR with regard to
  - Receiving, recording, investigating, and tracking complaints;
  - Conducting community outreach and education regarding making complaints against officers;
  - Exchanging information between MPD and OCCR; and
  - Defining the responsibilities of the MPD official who serves on the Citizen Complaint Review Board ("CCRB").
- The provision of adequate funding and resources for OCCR to carry out its responsibilities as defined both by the MOA and the law creating OCCR;<sup>49</sup>
- The development of a plan to ensure that the investigative staff of OCCR is adequately trained, including training in a wide range of MPD policies and procedures;
- The development of a manual, in consultation with DOJ, for conducting OCCR complaint investigations, which should include timelines and investigative templates;

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<sup>49</sup> District of Columbia Law 12-208.

- The development and implementation of an effective program to inform citizens of their right to lodge complaints against MPD officers, which must include, among other things, the distribution of complaint forms, facts sheets, informational posters, and public service announcements, in English, Spanish, and any other languages appropriate for particular areas, which describe MPD and OCCR complaint processes;
- The broad availability of complaint forms and informational materials at OCCR, MPD headquarters, and various other MPD locations; through the Internet; and to community groups and community centers; and
- Throughout the term of the MOA, the implementation of an extensive Community Outreach and Public Information campaign.<sup>50</sup>

The MOA also sets forth various methods designed to facilitate the filing of complaints against officers. These methods include:

- Requiring officers to provide their names and identification numbers to any person who requests them;
- Requiring that MPD provide the means for citizens to file complaints by all available methods, including in person, in writing, or by telephone, facsimile, or electronic mail;
- Requiring the establishment of a hotline, operated by OCCR, that will be appropriately publicized by the City and MPD and that will be audited to ensure its proper operation; and

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<sup>50</sup> The program must include at least the following elements: one open meeting per quarter in each of the patrol service areas for the first year of the MOA and one meeting in each patrol service area semi-annually in subsequent years. The purpose of these meetings is to inform the public about the provisions of the MOA and the various methods of filing a complaint against an officer. At least one week before such meetings, the City shall publish notice of the meeting as follows: (i) in public areas, including libraries, schools, grocery stores, and community centers; (ii) taking into account the diversity in language and ethnicity of the area's residents; (iii) on the City and MPD Web sites; and (iv) in the primary languages spoken by the communities located in such areas. In order to enhance interaction between officers and community members in daily policing activities, the open public meetings must include presentations and information on MPD and its operations.

- Ensuring that responsibility for receiving all complaints filed directly with MPD belongs to MPD’s OPR, which must establish filing and tracking systems and coordinate with OCCR.

In addition, the MOA sets forth a series of requirements for evaluating and resolving allegations of misconduct against MPD officers. These include establishing that a preponderance of the evidence standard should be applied in such investigations; that all relevant evidence should be considered and weighed, including the credibility of various witnesses;<sup>51</sup> and that the cases be resolved in one of several prescribed ways. Based on the investigation, the possible dispositions are “unfounded,” “sustained,” “insufficient facts,” or “exonerated.”<sup>52</sup> Misconduct investigations require the preparation of a written report, which should include a description of the alleged misconduct, summary and analysis of all relevant evidence, and proposed findings and analysis. Except in cases of unusual complexity, such investigations must be completed within ninety days after the allegations have been received. Each investigation should be reviewed by Unit Commanders to determine the existence of any underlying problems and training needs, and the Unit Commanders shall implement any appropriate non-disciplinary actions.

## **B. Status**

### **1. Coordination and Cooperation Between MPD and OCCR Generally (¶ 85)**

In our Second Quarterly Report, we reviewed the Memorandum of Understanding (“MOU”) executed by OCCR and MPD on September 28, 2002 and commented upon whether it fulfilled the requirements of paragraph 85 of the MOA. While we noted a few areas where the MOU fell short, we recognized that it generally fulfilled the requirements of the MOA. During this quarter, we began the process of monitoring MPD’s and OCCR’s compliance with the terms of the MOU.

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<sup>51</sup> The MOA makes clear that there should be no presumption that an officer’s statement is entitled to greater weight than the statement of a civilian. MOA at ¶ 99.

<sup>52</sup> Although the meanings of “sustained” and “insufficient facts” are self-evident, the other dispositions may not be. “Unfounded” refers to cases in which the investigation found no facts to support the allegation; “exonerated” refers to cases where the conduct alleged took place but did not violate MPD policies, procedures, or training.

We preliminarily reviewed 153 of 185 OCCR investigation files (see inset box for a breakdown of the files) from August 2002 through early December 2002.<sup>53</sup> Furthermore, we met with the executive director, deputy director, and chief investigator of OCCR as well as with the manager of MPD’s OCCR Liaison Unit. Our review and interviews revealed the following:

OIM Review of OCCR Investigative Files	
<u>Files</u>	
Total:	185
Closed:	72
Open:	113
<u>Origination Method</u>	
Letter:	11
Telephone:	124
MPD Referral:	10
Walk-In:	29
Other:	11

- MPD Ten-Day Notification Requirement. Paragraph 3.B of the MOU requires that MPD notify OCCR “within ten (10) business days of any complaint” falling within OCCR’s jurisdiction. Importantly, this requirement is different and distinct from the MOU two-day “referral” requirement. It appears that MPD is not complying with this notification requirement. In the files we reviewed, we did not identify a single instance of such a timely notification. Moreover, our meeting with MPD’s OCCR Liaison suggests that MPD has not yet instituted a system to ensure that such notification is made.
- MPD Two-Day Referral Requirement. Paragraph 3.B of the MOU requires that MPD “refer” to OCCR any citizen complaint filed on an OCCR complaint form (*i.e.*, an OCCR-1) “within two (2) business days of the complaint being filed with the MPD . . . .” We will assess MPD’s compliance with this requirement in a future quarter.
- OCCR Ten-Day Referral Requirement. Paragraph 3.C of the MOU requires OCCR to refer all complaints received at OCCR that do not fall within OCCR’s statutory authority to MPD “within ten (10) business days of OCCR receiving the complaint . . . .” Our review revealed that OCCR does comply with this requirement. Of the thirty-five citizen complaints lodged with OCCR since August 2002 that were referred to

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<sup>53</sup> The 185 investigation files included both open and closed cases on file at OCCR during the identified time period.

MPD, only one was referred outside the ten-day time period prescribed by paragraph 3.C of the MOU.<sup>54</sup>

- OCCR Prompt Notification Requirement. Paragraph 3.C of the MOU further requires OCCR promptly to notify MPD of complaints brought to its attention, which may require immediate action by MPD, regardless of whether the complaint falls under the jurisdiction of MPD or OCCR. It appears that OCCR does notify MPD of cases that appear to require immediate action by MPD.
- MPD Prompt Disposition Notification Requirement. Paragraph 3.C of the MOU requires MPD to “provide OCCR [promptly] with the final disposition of each complaint that is referred to the MPD from the OCCR . . . .” Our review revealed that MPD does not comply with this MOU requirement. It should be noted, however, that the MOU was signed on September 28, 2002 and that MPD has ninety days to complete an investigation from the date a complaint is received (as prescribed by paragraph 74 of the MOA). Thus, we can draw only a preliminary conclusion in this regard. Furthermore, MPD’s OCCR Liaison is in the process of overhauling that office’s record keeping system and has indicated her expectation that MPD will be able to comply with this requirement in the near future. We will monitor this issue over the course of the next quarter.
- OCCR Weekly Complaint Notification Requirement. Paragraph 3.C of the MOU requires OCCR to “notify MPD of all formal complaints filed with OCCR on a weekly basis.” OCCR currently does not maintain records sufficient to assess its compliance with this MOU requirement. Our review of the records available, however, suggests that OCCR does not comply consistently with this requirement. OCCR has indicated that it intends to modify its record keeping procedures in order to begin tracking all copies of formal complaint forms sent by OCCR to MPD.

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<sup>54</sup> Several cases were referred to MPD more than ten days after the complainant’s initial contact with OCCR -- six were referred within 10-20 days, two were referred within 20-30 days, and two were referred outside of 30 days. In seven cases, the files contains no referral dates so the timeliness of the referrals cannot be determined. The MOU, however, requires the referral to be made within ten business days of a formal complaint. See MOU at ¶ 3.C.

- MPD Witness Attendance Requirement. Paragraph 3.D of the MOU requires that MPD “make subject and witness police officers available for OCCR interviews when necessary to process a citizen complaint” and “ensure that the officer[s] arrive at the requested date and time . . . .” According to OCCR, MPD officers generally do attend OCCR interviews when requested by OCCR. Our review of OCCR’s investigation files gives us no reason to question this representation.

Out of the 153 OCCR cases we reviewed, only eight cases involved the rescheduling of an officer’s interview. In three of these eight cases, the officer “no-showed” on the first appointment with no excuse offered, but later rescheduled and provided a statement. In two of the eight cases, the officer notified OCCR in a timely manner and provided a valid reason for the absence. (One officer was involved in a murder trial, and the other was attending mandatory firearms re-certification training.) The OIM plans to consult with MPD to determine whether or not officers who failed to respond to OCCR’s interview requests were disciplined as required by paragraph 77 of the MOA.

- MPD Document Production Requirement. Paragraph 3.E of the MOU requires MPD to respond to all OCCR document requests “no later than ten (10) days from the date of receipt by the OCCR Liaison Unit of the written request.” OCCR has represented that, over the course of the previous quarter, MPD responded to OCCR document requests in a timely fashion or, in one case at least, advised OCCR as to why the request would require additional time. Our review of OCCR’s investigative files and our interview with the MPD OCCR Liaison give us no reason to question the accuracy of this claim.

In sum, based on our preliminary review, it appears that OCCR is complying with both the MOA and the MOU.<sup>55</sup> It also appears that MPD is interacting with OCCR in a constructive and appropriate manner and is making substantial efforts to comply with the MOU. Additionally, it is worth noting that our interactions with OCCR during this quarter (as in previous quarters) have been extremely positive. We continue to find the

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<sup>55</sup> Problems with the OCCR hotline are described elsewhere in this report.

OCCR staff to be professional and knowledgeable. OCCR's case files are well organized and include detailed investigator notes.

## **2. OCCR Staffing and Funding (§ 86)**

While we did not specifically assess the City's compliance with paragraph 86 of the MOA, our review of other MOA paragraphs suggests that OCCR still may be underfunded. We base this conclusion on (1) the delay in establishing the OCCR toll-free hotline, (2) the continued delay in establishing an internal hotline auditing procedure, and (3) the absence of certain technical equipment (such as back-up power supplies and data storage equipment) that would help ensure OCCR's continued compliance with its hotline obligations. We will assess the City's compliance with paragraph 86 of the MOA more directly and specifically in a future quarterly report.

## **3. Public Information and Outreach (§§ 87-91)**

MPD submitted a revised communications and community outreach plan to DOJ on November 1, 2002. DOJ has not yet provided comments on this plan. In addition to the development of this revised plan, MPD finalized and began distributing a number of printed community outreach materials, including flyers and posters explaining the citizen complaint process. According to MPD, these materials were distributed to MPD's districts in November. As of the end of this quarter, the materials had not yet been distributed to other locations, such as libraries, as required by paragraph 89 of the MOA. MPD has committed, however, to expand the circulation of these materials throughout the City during the next quarter.<sup>56</sup>

## **4. Receipt of Complaints (§§ 92-95)**

While this section of the MOA encompasses several requirements, we focused our attention this quarter on the requirement that citizens be able to initiate complaints against MPD officers by telephone. Specifically, we tracked the status of MPD's and OCCR's toll-free citizen complaint hotlines.<sup>57</sup>

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<sup>56</sup> MPD January 2003 Progress Report at 13.

<sup>57</sup> Paragraph 93 of the MOA requires the City to "institute a 24-hour toll-free telephone hotline . . . operated by OCCR." While a separate toll-free hotline administered by MPD is not explicitly required by the MOA, MPD has

MPD established its toll-free hotline several years ago as a means for citizens to contact MPD's OIA to make complaints or provide information on police misconduct. In late October 2002, however, MPD inadvertently terminated its hotline in the course of terminating other telecommunication services as part of a Department-wide cost-reduction measure. We notified MPD of this situation on or about October 27, 2002, and MPD immediately began investigating the problem. MPD restored the hotline to operational status on November 5, 2002. It should be noted that, during the time period that the hotline was not operational, citizens still could telephone MPD's OPR using the office's standard local number to register complaints against officers.

OCCR's toll-free hotline was required to be operational as of October 11, 2001.<sup>58</sup> Throughout most of this quarter (and throughout all prior quarters), OCCR was not in compliance with this requirement. On or about December 11, 2002, the OCCR hotline became operational.

The OCCR hotline is toll-free and is operational 24 hours per day. During business hours, it is answered by a member of the OCCR investigation staff. During other hours, it is answered by a recording that prompts the caller to leave a message. OCCR reviews hotline messages, if any, each morning; and, according to OCCR, if a number has been provided by the caller, OCCR returns each call promptly. As of the end of this quarter, OCCR had received only one citizen complaint through its hotline.

While OCCR does record calls as required by the MOA, it has not yet developed the necessary auditing procedures to ensure "that callers are being treated with appropriate courtesy and respect, that complainants are not being discouraged from making complaints, and that all necessary information about each complaint is being obtained."<sup>59</sup> Thus, while OCCR has made significant progress in the last month

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**Footnote continued from previous page**

highlighted the existence of such a hotline as evidence of its efforts to facilitate the citizen complaint process and comply with the citizen complaint provisions of the MOA.

<sup>58</sup> *Id.* (requiring hotline to be instituted "[w]ithin 120 days from the effective date of this Agreement . . ."). The MOA places the responsibility for establishing the hotline on "the City," but requires that the hotline be "operated by OCCR." *Id.*

<sup>59</sup> *Id.*

toward MOA compliance, it still has not complied with all relevant MOA requirements.

Moreover, as noted above, OCCR has not yet purchased the technology necessary to ensure that the hotline will remain operational for the long term. For example, OCCR has only limited digital storage capacity and has no back-up power supplies for the computer on which hotline complaints and investigator notes are stored. While these limitations may not pose a significant problem now, as the number of complainants taking advantage of OCCR's toll-free hotline grows with the expansion of OCCR's public information and outreach campaign, these limitations may begin to pose a problem in the future. We will be monitoring the City's response to these concerns during the next quarter.

## **5. OCCR Training (§ 96)**

In order to ensure that the investigation staff of the OCCR receives adequate training to carry out its duties, paragraph 3.A of the MOU requires MPD to provide OCCR investigators with training and re-training in MPD policies and procedures. MPD agreed to provide at least two eight-hour blocks of instruction, twice a year, tailored for OCCR investigators. In addition, MPD agreed to provide at least once a year an eight-hour block of instruction focusing on use of force issues.

According to OCCR, all of its investigators, including the executive director and deputy director, attended a 5-day, 39-hour in-service MPD training program either on December 2-6 or December 16-20, 2002. This program included instruction on:

Revised Use of Force Policies and Use of Force Reporting (4 hours)

- Canine Deployment (1 hour)
- Custody and Restraint Procedures (1 hour)
- Administrative and Misconduct Investigations (2 hours)
- Interrogations and Interviews (4 hours)
- Ethics and Integrity (4 hours)
- Crime Scene Preservation (2 hours)
- Defensive Tactics (8 hours)
- Communication and Interpersonal Relationship Skills (2 hours)

- Verbal Judo (3 hours)
- Diversity, Sensitivity, and Hate Crimes (8 hours)

In general, while the program was not designed specifically for OCCR, the training appears to cover most of the topics prescribed in the MOU. OCCR acknowledges, however, that additional instruction is needed on the handcuffing procedures and the use of the ASP baton. OCCR plans to consult with MPD in order to arrange a separate training session on these topics in the near future, as well as to develop a future OCCR training schedule to comply with the biannual training requirement in the MOU.

Over the course of the next two quarters, the OIM plans to audit selected MPD training courses provided to OCCR investigators to determine whether the content of each course complies not only with the letter of the MOU but also with the spirit of that agreement and the specific needs of OCCR. For now, however, we find that OCCR and MPD have made substantial strides in this area. Considering the MOU was formalized as recently as September 28, 2002, we commend MPD for providing the level and amount of training to OCCR within such a short period of time.

## **6. OCCR Complaint Investigation Manual (¶ 97)**

On September 30, 2002, MPD, the City, and DOJ executed a modification to the MOA that significantly revised several of the deadlines set forth in the initial MOA.<sup>60</sup> Among other things, this MOA Modification extended the deadline for the City's development of an OCCR Complaint Investigation Manual from September 11, 2001 to November 8, 2002. On October 25, 2002, OCCR requested an additional extension to November 15, 2002. According to OCCR, the additional extension was due to a "combination of factors -- including staff turnover in our office, work related travel for key staff members, and the interference of other projects in our office . . . ."<sup>61</sup>

OCCR produced a copy of its investigation manual to DOJ on November 15, 2002. It is unclear whether this manual must be approved

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<sup>60</sup> See Joint Modification No. 1 to the June 13, 2001 Memorandum of Agreement (the "MOA Modification") (Appendix B to OIM's Second Quarterly Report).

<sup>61</sup> Letter from Thomas E. Sharp to Shanetta Y. Brown Cutlar (Oct. 25, 2002).

by DOJ because, unlike other MOA “deliverables” that must be submitted to DOJ “for approval,”<sup>62</sup> paragraph 97 of the MOA requires that the manual be developed “in timely consultation with DOJ.” OCCR seems to believe that it has complied with paragraph 97 and already has begun working on a second edition of its manual. DOJ still is reviewing the first edition and, as of the end of this quarter, had not forwarded formal comments to OCCR. The OIM will not comment on the manual until the City and DOJ resolve this ambiguity.

### **C. Assessment and Analysis**

While we did not monitor all elements of the citizen complaint provisions of the MOA this quarter, those elements that we did monitor suggest that MPD and OCCR have made significant progress toward complying with the requirements in this area. OCCR and MPD each now has its toll-free citizen complaint hotline operational. While our review did reveal some lingering communications problems between the two organizations, it also revealed what seems to be a genuine shared effort to solve these problems. MPD’s OCCR Liaison Unit, for example, is in the process of overhauling its record keeping system to ensure better compliance with MOA requirements. Likewise, OCCR has expressed its desire to enhance its internal record keeping procedures to better track the timeliness of its production and receipt of documents and data to and from MPD.

In the next quarter, we intend to initiate a thorough citizen complaint process review that will focus, in the first instance, on the manner in which MPD handles citizen complaints. To facilitate this review, PwC has randomly selected fifty citizen complaint files (PD99s) reflecting citizen complaints received by MPD between June 1, 2001 and December 9, 2002. These files have been made available to the OIM and will be reviewed in the coming weeks. Our review will involve both a quantitative and qualitative analysis. Additionally, our review will involve, where possible, complainant interviews that will focus on the complainant’s experience prior to, during, and following the filing of his/her complaint.

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<sup>62</sup> See, e.g., MOA at ¶ 52.

#### **IV. Discipline and Non-Disciplinary Action (MOA ¶ 105)**

##### **A. Requirements**

The MOA, as modified by the MOA Modification, requires that, by the week of November 17, 2002, subject to approval by DOJ, MPD must revise and update its policy governing officer discipline.<sup>63</sup> Specifically, the policy must:

- Prescribe when non-disciplinary action is appropriate;
- Prescribe when district-level discipline or corrective action is appropriate;
- Establish a formal and centralized system for documenting and tracking discipline and corrective action; and
- Develop a procedure for providing written notice to complainants regarding the most significant aspects of the handling of their complaints, including but not limited to disposition.

##### **B. Status**

As originally negotiated by MPD and DOJ, MPD's Disciplinary General Order was due to be completed by October 11, 2001. On September 30, 2002, as part of a major renegotiation of MOA deadlines, MPD and DOJ revised the due date of this General Order to November 22, 2002.<sup>64</sup> On November 22, 2002, MPD notified DOJ that it would not be able to meet the revised deadline and committed to submit the General Order by December 31, 2002 -- the end of this quarter. On December 31, 2002, however, MPD again notified DOJ that it would not meet that deadline either. MPD indicated that the reason for this missed deadline was its desire to engage the Fraternal Order of Police ("FOP") in a dialogue regarding the draft order before it is submitted to DOJ. As of December 31, 2002, MPD was unable to state when the order would be submitted.

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<sup>63</sup> MPD disciplinary policy is General Order 1202.1 (Disciplinary Procedures and Processes).

<sup>64</sup> See MOA Modification.

### **C. Assessment and Analysis**

The Disciplinary General Order is an important element of the MOA. We intend to begin monitoring MPD's compliance with its terms immediately following its completion by MPD and approval by DOJ.

## **V. Personnel Performance Management System (MOA ¶¶ 106-118)**

### **A. Requirements**

Under the MOA, MPD is committed to developing and implementing a computer database that will facilitate the management and supervision of MPD personnel. The computer database, referred to in the MOA as the Personnel Performance Management System, or PPMS, is intended to:

- Promote civil rights integrity and best professional police practices;
- Manage the risks of police misconduct;
- Evaluate and audit the performance of MPD officers, units, and groups;
- Promote accountability and proactive management; and
- Identify, manage, and control at-risk officers, conduct, and situations.

In addition to describing the objectives PPMS shall achieve, the MOA specifies the information that must be captured to ensure that PPMS achieves these objectives. This information includes the following:

- All uses of force that must be reported on MPD's Use of Force Incident Report forms or that are the subject of an MPD criminal or administrative investigation;
- All police canine deployments;
- All officer-involved shootings and firearms discharge, whether on or off duty, and all other lethal uses of force;
- All reviews of use of force, including all decisions on whether the use of force was within MPD policy;

- All vehicle pursuits and traffic collisions;
- All complaints regarding MPD officers, whether made to MPD or OCCR;
- Chronologies and results of investigations, adjudications, and discipline relating to any of these matters;
- All commendations received by MPD about an officer's performance;
- All criminal, civil, and administrative proceedings initiated on the basis of MPD operations and the actions of MPD personnel; and
- With respect to each MPD officer, that officer's:
  - Educational history,
  - Military service and discharge status,
  - Assignment and rank history,
  - Training history,
  - All management and supervisory actions taken pursuant to review of PPMS information, and
  - All instances in which a prosecution declination or a motion to suppress was based upon concerns about the officer's credibility or on evidence of a Constitutional violation by the officer.

The MOA also requires MPD to develop, subject to DOJ approval, a "Data Input Plan" to facilitate the entry of historical data into PPMS, as well as detailed requirements for how the information -- historical and contemporary -- must be put into the system and the ways in which it must be retrievable. Furthermore, the MOA requires MPD to develop a detailed protocol for the use of the computerized management system.

While PPMS is under development, MPD is required to utilize existing information and databases to achieve the purposes established for PPMS. In addition, OPR is charged with the responsibility of operating PPMS, as well as for developing and overseeing MPD-wide risk assessments.

Related to, but separate from, the development of PPMS, MPD is required to enhance its new Performance Evaluation System. This enhancement must ensure that each sworn MPD employee's performance be evaluated, at a minimum, according to certain specified criteria. These criteria include civil rights integrity and community policing; adherence to law, including civil rights laws and laws designed to protect the rights of suspects; and the performance of supervisors in identifying at-risk behavior among their subordinates.

## **B. Status**

### **1. PPMS**

As we noted in our Second Quarterly Report, while MPD, the City, and DOJ were able to negotiate a number of changes to the due dates set forth in the MOA in the previous quarter, the parties could not agree upon a revised schedule to govern the development and implementation of PPMS. Indeed, the MOA Modification negotiated in the previous quarter explicitly provided that "MPD's compliance with MOA provisions related to the Personnel Performance Management System (MOA paragraphs 106-117) is expressly excepted from this modification."<sup>65</sup> As of the end of this quarter, MPD and DOJ still had not negotiated a new timeline. Thus, MPD remains out of compliance with respect to the PPMS provisions of the MOA.

The absence of a mutually acceptable timeline, however, should not be viewed as a failure of either party to attempt to negotiate such a timeline. As reported by DOJ and MPD during the monthly MOA status meetings hosted by the OIM, the parties have met frequently in an effort to resolve this outstanding issue. As a result of these efforts, MPD submitted a new proposed plan for the development of PPMS to DOJ on December 30, 2002. Obviously, DOJ did not have a chance to respond to the proposal prior to the end of this reporting quarter.

### **2. PAMS**

The Performance Assessment Management System ("PAMS") is MPD's "interim solution" to PPMS.<sup>66</sup> We have reviewed PAMS previously and concluded that "while PAMS represents a significant improvement

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<sup>65</sup> MOA Modification at ¶ 5.

<sup>66</sup> MPD January 2003 Progress Report at 25.

over the paper-based system upon which MPD historically has relied, and while it does meet several of the MOA's requirements, it does not fulfill all the MOA requirements relating to PPMS."<sup>67</sup> We did not review PAMS further this quarter, but note that, in an effort to enhance the system, MPD created and submitted to DOJ a PAMS Special Order. DOJ provided comments to MPD on the Special Order. MPD anticipated that the Special Order will be implemented in the next quarter.<sup>68</sup>

### **3. Performance Evaluation System**

MPD submitted a draft Enhanced Performance Evaluation System protocol to DOJ on November 8, 2002. DOJ has not yet commented on the draft.

#### **C. Assessment and Analysis**

The development of PPMS is a critical element of the MOA. We remain concerned that MPD has not yet offered an acceptable timeline to guide its development efforts in this regard. Our concern is heightened by the inadequacies of the PAMS "interim solution" we identified in the previous quarter. We will continue to follow the progress of this issue and will begin our PPMS monitoring activities once a revised development plan is accepted by DOJ.

## **VI. Training (MOA ¶¶ 119-148)**

### **A. Requirements**

The training provisions in the MOA specifically address management oversight, curriculum development, instructor training, firearms training, and canine training.

#### **1. Management Oversight**

Regarding management oversight, MPD is required to have centrally coordinated the review of all use of force training to ensure quality assurance, consistency, and compliance with applicable law.<sup>69</sup>

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<sup>67</sup> First Quarterly Report at 41.

<sup>68</sup> MPD January 2003 Progress Report at 25.

<sup>69</sup> To ensure compliance with applicable law, training materials are to be reviewed by MPD's General Counsel or some other appropriate legal advisor. MOA at ¶ 120.

MPD's Director of Training is responsible for overseeing the full scope of MPD's training program as it relates to the terms of the MOA, including:

- Ensuring the quality of all use of force training across MPD;
- Developing and implementing appropriate use of force training curricula;
- Selecting and training MPD trainers;
- Developing and implementing all in-service training and roll call curricula;
- Developing tools to evaluate all training;
- Developing a protocol, subject to DOJ approval, to enhance its existing Field Training program;<sup>70</sup> and
- Conducting needs assessments to ensure that use of force training is tailored to the needs of the officers being trained.

In addition, MPD's Curriculum Development Specialist ("CDS") is required to review, revise, and implement, subject to DOJ approval, all use of force-related training material to ensure that the materials are consistent (as to content and format), properly to incorporate applicable law and policy into such training materials, to incorporate specific training objectives and suggestions on how most effectively to present use of force training materials, and to determine whether training aids are being used appropriately. The CDS's responsibilities also extend to reviewing, at least on a quarterly basis, all force-related training for quality assurance and consistency. More generally, MPD is required to keep its updated training materials in a central, commonly accessible file and to maintain updated and complete training records as to every MPD officer.

## **2. Curriculum**

The MOA prescribes various features of MPD's training programs that address the content of MPD training. First, all force-related training must incorporate critical thinking and decision-making skills and must

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<sup>70</sup> The protocol is required to address specific aspects of the Field Training program, which are set forth in paragraph 121 of the MOA.

include training in cultural diversity and community policing. More specifically with respect to use of force training, MPD's use of force training must contain training on the following elements:

- MPD's use of force continuum;
- MPD's use of force reporting requirements;
- The Fourth Amendment and other constitutional requirements applicable to police officers; and
- Examples of use of force and ethical dilemmas, with a preference for interactive exercises for resolving them.

Training on these topics should involve concrete use of force experiences and examples, and dialogue on these issues with trainees is to be encouraged.

Supervisory and leadership training must focus not only on these elements, but also on command accountability and responsibility, interpersonal skills, theories of motivation and leadership, and techniques designed to promote proper police practices and integrity. Priority in supervisory and leadership training must be accorded to MPD's new policies on use of force, use of canines, the UFRB, and the revised policies and practices relating to administrative misconduct investigations. Supervisory and leadership training on these issues is required, with re-training to take place on an annual basis.

The training provisions of the MOA specifically address two aspects of existing MPD training -- Role Play and Range 2000 training. Training materials relating to these aspects of MPD must be reviewed to ensure their consistency with law and MPD policy. In addition to other specific requirements, the MOA requires that a standardized curriculum, lesson plan, and instructional guidelines for these aspects of MPD training be developed. MPD is required to videotape student officers during Role Play training exercises to better focus discussions during the critique portion of the course.

Finally, the MOA sets forth specific requirements regarding training with respect to aspects of the MOA itself. MPD is required to distribute copies of the MOA to all officers and employees and explain its terms. Further, as MPD adopts new policies and procedures mandated by the MOA, it must incorporate them into in-service and new recruit training.

### **3. Instructors**

The MOA establishes various requirements relating to the training and competence of instructors. First, MPD was to conduct an assessment to determine the sufficiency, competence, and standards for evaluating training personnel and, on the basis of that assessment, to develop a plan for addressing training instructor needs to DOJ for its approval.

Second, subject to DOJ's approval, MPD was to develop and implement eligibility and selection criteria for all training positions, including Academy, Field Training, and formal training. These criteria are equally applicable to existing personnel in training positions and to candidates for training positions. MPD also was required to develop an instructor certification program relating to the competency of its instructors. Further, MPD was required to create and implement a formal instructor training course and to provide regular retraining on subjects including adult learning skills, leadership, and teaching and evaluation, among others. Consistent with its focus, the MOA specifically requires MPD to ensure adequate management supervision of use of force training instructors to ensure the training they provide is consistent with MPD policy, law, and proper police practices.

### **4. Firearms Training**

The MOA requires mandatory semi-annual firearms training and re-qualification, including the successful completion of the Range 2000 and Role Play courses. MPD must revoke the police powers of all officers who do not properly re-qualify. MPD was required to create and implement, subject to DOJ approval, a checklist containing prescribed elements that must be completed for each student officer by a firearms instructor. In addition, firearms training materials must be reviewed and integrated into an overall training curriculum. Finally, MPD must, at least every three months, consult with Glock, the manufacturer of MPD officer service weapons, to obtain the most current information on cleaning, maintenance, and other factors that may affect the proper use of the weapon.

### **5. Canine Training**

The MOA requires MPD to develop and implement a comprehensive canine training curriculum, which includes the identification of the mission, goals, and objectives of the Canine Unit. MPD was required to have all its canines certified in the "new handler controlled alert

methodology” and to ensure that the canines are re-certified on an annual basis and receive refresher training. MPD must monitor and oversee its canine handlers to ensure they are capable of implementing the canine policies that have been adopted by MPD.

## **B. Status**

### **1. Substantive Training Generally**

MPD’s implementation efforts during this quarter primarily involved distributing the new use of force-related policies throughout MPD and conducting associated training. These efforts did not go smoothly. Specifically, our monitoring of MPD’s in-service training revealed:

- A lack of preparation of the instructors;
- A lack of understanding on the part of the instructors of some of the basic principles of the new policies;
- A failure of the instructors to be able to respond to questions asked by the officers;
- A failure of the instructors to clarify that the new policies are primarily dictated by principles of good policing; and
- The unintentional spreading of misinformation, especially about the UFIR, during the training sessions.<sup>71</sup>

Due to the importance of these training sessions and the scope of the problems we identified, the OIM immediately notified the MOA Compliance Coordinator, the director of MPD’s IPS, the Executive Assistant Chief of Police, and the Chief of Police of the issues that had emerged from our monitoring activities. These individuals were very interested in our comments and responded in a prompt and constructive fashion.

Acknowledging its mistake in beginning to train officers without first having gone through a careful process of training its trainers and

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<sup>71</sup> It is important to note that these conclusions were drawn from a number of training sessions. They do not, however, describe all MPD instructors, some of whom did a remarkable job despite insufficient resources.

making sure that those trainers possessed the necessary depth of understanding to do an effective job, MPD immediately took steps to correct those deficiencies once the OIM brought the problems to MPD's attention. As a result of its prompt action -- and its obvious commitment not only to MOA compliance but also to a quality training program for its own sake -- MPD brought itself into substantial compliance (from a training aspect at least) with its recently-approved Use of Force General Order. The following sub-sections provide the details regarding MPD's compliance efforts.

**a. Roll Call Use of Force/UFIR Video**

Both the OIM and DOJ reviewed MPD's roll call use of force/UFIR video just prior to its circulation within MPD. DOJ strongly objected to certain elements on the tape. While MPD chose to show the video despite DOJ's objection, it agreed to prepare a new, more thorough video presentation that would be shown at all roll calls throughout the City. As of the close of this quarter, the new video -- filmed using a script approved by DOJ -- was in the final stages of production. MPD has committed to complete and show the new video during the next quarter.

**b. Sergeants and Above Training**

In an effort to ensure that all MPD supervisors are prepared to respond to questions regarding MPD's new Use of Force and Use of Force Incident Reporting Policies, MPD advised the OIM and DOJ that it would conduct specialized, intensive training for all sworn MPD personnel at or above the rank of sergeant by the week of October 28, 2002. As of the end of this quarter, MPD had not yet conducted this training.

**c. In-Service Training**

We monitored MPD's in-service use of force training on several occasions using our three police practices experts. While we did notice several positive elements of this training and did observe several impressive IPS instructors, our review revealed that, overall, MPD's initial in-service training program was wholly inadequate. Specifically, as initially presented,

- Instructors gave undue emphasis to the existence of the MOA as the reason for the change in MPD's use of force policies and reporting practices. The explanation and rationale for these changes should properly focus on the multitude of benefits that will flow from use of force policy reforms -- for example, MPD's

enhanced ability to identify, among other things, training and equipment needs, policy failures, and officers who are using unnecessary force.

- Instructors were unprepared and frequently either could not answer or provided incorrect answers to students' questions. On some occasions we noted that this was not the fault of the instructors but, rather, the consequence of MPD's failure to articulate a clear policy. For example, in response to a student's question regarding how MPD planned to use the information it captured on the new UFIRs (a question that was asked on numerous occasions throughout in-service training), not one instructor was able to provide a sufficient answer. In fact, the response most often given was "I don't know." This question should have been anticipated and an answer developed before the training commenced.
- Instructors did not employ adult teaching techniques. As a result, many of the officers ceased paying attention to the presentation early in the session. For example, instructors should have made greater use of examples to explain the new concepts being presented, such as by relating them to actual events involving other MPD officers.
- Many of the instructors we monitored seemed to ignore their lesson plans. Without commenting upon the substance of those lesson plans, it is worth noting that well-prepared lesson plans provide instructors with guidance on how to present material and background material that assist instructors elaborate on the subject matter being presented.
- The portion of the in-service training that covered the legal aspects of use of force was poorly presented. The instructors did not engage the students in discussions regarding key legal cases relating to the use of force even though those cases were presented to the students on a PowerPoint overhead slide projector. On several occasions, the instructors were unable to answer students' questions.
- MPD failed to have copies of the Use of Force General Order available to students at the in-service training. It would have been helpful for the training academy to have had extra copies

of all policies available for those officers who indicated they had not yet received copies at their unit of assignment.<sup>72</sup>

As a result of these and other shortcomings, a sizeable number of officers emerged from in-service training with many unanswered questions regarding MPD's new use of force and UFIR requirements. In an effort to assess the scope of the confusion, we conducted a series of personal and group interviews in the various MPD districts (as well as in several specialized units, including the Violent Crimes Unit and the Emergency Response Team). These interviews confirmed our impression that students who attended the early sessions of MPD's new in-service training program emerged with a skewed view of the new requirements, skepticism with respect to MPD's candor regarding those requirements, and a general sense of confusion and frustration regarding the MOA.

As explained above, the OIM promptly brought these problems to the attention of MPD management. To its credit, MPD took our concerns very seriously and initiated corrective action immediately, including providing its instructors with extra training and requiring that command-level officials be present and available to answer force-related and MOA-related questions at future in-service training sessions. While MPD's efforts to correct the identified problems were not flawless, in the end the training was significantly improved.

In an effort to assess the nature and effectiveness of the improvements made to the MPD training program following our several meetings with MPD management, we again had our police practices experts attend IPS in-service use of force/UFIR training later in the quarter. Our re-review revealed that the quality, substance, and tone of the instruction had improved dramatically since our initial monitoring activities. The instructors clearly were better prepared and more knowledgeable about the subject matter. Their delivery improved, they used more examples in their lessons, they engaged their students in more class discussion, and they generally took advantage of more adult teaching techniques.

Additionally, the tone of the instruction was markedly more positive. The instructors, on the whole, displayed positive attitudes toward the new policies and reporting requirements and attempted to

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<sup>72</sup> When brought to its attention, MPD made efforts during in-service training to provide additional copies of the relevant policies and the MOA.

instill those attitudes in their students. Not a single instructor made a negative comment regarding the new policies. To the contrary, the instructors frequently commented on the appropriateness of the new policies and emphasized the fact that they would not adversely affect an officer's job performance or safety.

Despite these improvements, the training sessions were by no means flawless. The presentations, questions, and discussions on the legal aspects of uses of force still lack accuracy and clarity. To remedy this training deficiency, MPD may want to consider involving an attorney in the portion of in-service training relating to legal issues.

Furthermore, MPD still does not adequately respond to students' questions regarding the UFIR. Questions regarding how the UFIR is completed, when it must be completed, and how the information captured will be used continually came up during and following instruction on the use of force reporting requirements. These concerns still are not being sufficiently addressed by the instructors. As discussed elsewhere in this report, it is apparent that this issue is a major impediment to officers' willingly completing the UFIR.

#### **d. Video Roll Call Training**

Relying on an advanced two-way audio/visual communication system that permits live videoconferencing between police headquarters and the several MPD districts, MPD conducted a series of roll call question-and-answer sessions during the first two weeks of December 2002. The sessions were presented either by Assistant Chief Shannon Cockett or Inspector Ederheimer. The purpose of these video training sessions was to supplement (and in some cases correct) the information presented to officers during in-service training.

While the initial video sessions were marred by several unanticipated technical problems involving the videoconferencing equipment, MPD quickly solved those problems and the sessions proceeded as planned. We monitored multiple sessions involving a wide range of police districts. Further, we monitored the sessions from MPD Headquarters and district perspectives.

Assistant Chief Cockett and Inspector Ederheimer varied their presentations from session to session. Generally, they opened with a brief introduction of the subject matter. Their view was appropriately positive, on several occasions noting that MPD is "collaborating with the Department of Justice with the goal of making the MPD a model for law

enforcement across the country.” The following points, among others, were covered during these sessions:

- Most of the reporting requirements of the new General Orders are not new. The MPD has long required officers to report use of OC spray, use of the ASP baton, or any use of force with injury.
- Officers are now required to report the drawing and pointing of their firearms on the newly created UFIR.
- The UFIR will also be prepared for all use of force incidents.
- Drawing and pointing of a firearm is not considered a use of force but, rather, a “reportable action.”<sup>73</sup>
- Drawing and pointing of a firearm requires completion of a UFIR but does not trigger a use of force investigation.
- Officers, who use force, and not their supervisors, are required to prepare the UFIR.
- An officer who feels he is the target of a criminal investigation can delay preparing the UFIR until he is informed of a declination from the USAO or receives a Reverse-Garrity from a captain or above.

While most of the sessions were short and involved few questions, one particular session is worth describing in greater detail. During the first Third District roll call session, a representative of the FOP, who was present in the roll call room at the district, stepped forward to participate in a discussion with Assistant Chief Cockett. The officer apparently was not assigned to the Third District. He challenged Assistant Chief Cockett on several of her statements. For example, he (incorrectly) stated that MPD considers the drawing and pointing of a firearm as a use of force. He argued that the proof of that is that MPD requires an officer to prepare a UFIR when he or she draws and points a firearm.

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<sup>73</sup> As noted earlier in this report, DOJ takes the position that “the drawing and pointing of a service weapon is a ‘reportable incident,’ insofar as it requires an officer to complete a UFIR, and may also be a ‘use of force,’ depending on the circumstances surrounding the incident.” Letter from Lisa S. Graybill to Michael R. Bromwich (Jan. 24, 2003) (emphasis in original).

Assistant Chief Cockett ordered the FOP representative to “stand down,” advising him that he had no right to be present at the session nor to be challenging her during her presentation. In our judgment, Assistant Chief Cockett handled the situation professionally.

We describe this event not to take a position in the current dispute between the FOP and MPD or to opine as to the propriety or impropriety of the FOP’s participation in the Third District’s roll call videoconference but, rather, simply to highlight the tension that exists between MPD and the FOP with respect to the MOA and particularly its use of force and UFIR provisions.<sup>74</sup> The tension is particularly relevant because, in our opinion, it is affecting negatively MPD’s ability to comply with the MOA. For example, the FOP has taken a position with respect to MPD’s new UFIR form that is at odds with the position taken by MPD. Our discussions with officers at various levels within the districts confirm that the FOP’s vocal opposition on these issues has exacerbated the confusion.

The other video roll call sessions we observed were less eventful, but seemingly useful. Officers who stepped forward to ask questions did so in a respectful manner and expressed what appeared to be real concerns, based, in our judgment, on reasonable misunderstandings of both the purpose of the UFIR and the requirements relating to the UFIR. In summary fashion, we observed the following during our video roll call monitoring:<sup>75</sup>

- Many officers still are confused about the purpose of completing a UFIR following the drawing and pointing of a firearm.
- Many officers are concerned about how MPD will use information gathered through the UFIR reporting requirements and whether the EWTS will target officers who have three or more drawing and pointing reportable events.

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<sup>74</sup> On March 7, 2002, the FOP filed an Unfair Labor Practice Complaint against MPD with the District of Columbia Public Employees Relations Board challenging the legality of the MOA. A hearing was held in the matter on September 24, 2002. No decision has yet been rendered.

<sup>75</sup> Most of these observations also were noted during our interviews with officers in the various districts.

- Officers expressed concern that the new reporting requirements will cause them to not have their firearms at the ready when needed to protect themselves from peril.
- One officer asked if MPD had plans to record instances where an officer displayed commendable restraint in the use of force. In other words, when an officer is able effectively to handle a situation with a lesser level of force than is allowed by law and policy in light of the known facts of the case, will the incident and the officer's behavior be recorded for future reference?

Additionally, the following questions were asked on multiple occasions:

- Is the data gathered on UFIRs available through a Freedom of Information Act request?
- Is the data gathered on UFIRs obtainable by subpoena?
- Will data gathered on UFIRs be used against officers in criminal and civil proceedings by documenting how often they draw and point their firearms?

Technical difficulties aside, MPD's videoconferencing capacities are an effective means of informing officers of policy and procedure revisions implemented in response to MOA requirements.<sup>76</sup> We encourage MPD to continue to make use of this technology as one means of meeting the training requirements of the MOA.

#### **e. FIT Training**

On November 7, 2002, the OIM attended FIT's use of force training held at MPD's Harbor Patrol office. The first part of the training focused on assisting FIT investigators understand the emotions experienced by

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<sup>76</sup> We did observe on a number of occasions during these sessions a seeming reluctance on the part of officers to ask questions and address concerns regarding the new use of force policies and the UFIR. In some cases, the officials conducting the training let the sessions end somewhat quickly. We would encourage those MPD officials responsible for conducting such training to prepare a somewhat longer affirmative presentation so that, even if the officers have no questions in the first instance, they will hear some of the most significant points about the new policies and the UFIR. Moreover, we think that a somewhat more extended presentation that highlights some of the most significant points may stimulate questions from the officers.

officers involved in police shootings. An understanding of this type assists the investigators in developing different approaches to interview officers and other witnesses more effectively following a shooting. The training included a presentation by an officer who was shot in the chest and subsequently shot and killed his assailant. The presentation was informative and well done.

The remainder of the training focused on six of the recently issued General Orders -- Handling of Service Weapons, Carrying Weapons and Transporting Prisoners Abroad Aircraft, Force Related Duty Status Determination, Canine Teams, Oleoresin Capsicum (OC) Spray, and Use of Force Investigations. Five FIT investigators were assigned the task of preparing and presenting the requirements of these orders. Generally, the presenters were well prepared and covered the orders adequately. Several of the presenters used PowerPoint presentations. The presenters took advantage of adult learning principles by generating class discussion and using actual events as examples. This discussion was useful and even identified a discrepancy between two of the orders.<sup>77</sup>

## **2. Management Oversight (MOA ¶¶ 119-125)**

On December 6, 2002, MPD submitted to DOJ a draft Enhanced Field Training Officer Program protocol.<sup>78</sup> We will discuss MPD's compliance with this program, once it has been approved by DOJ, in a future report.

## **3. Diversity Training (MOA ¶ 128)**

Paragraph 128 of the MOA requires that cultural diversity training be provided to officers on a continual basis. In order to assess the quality of the instruction given on this subject, we attended one of MPD's diversity training courses during this quarter.<sup>79</sup> The class we reviewed

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<sup>77</sup> A conflict was discovered in the reporting requirements set forth in the Use of Force Investigations General Order, which provides that the supervisor shall complete and submit a preliminary report of a use of force incident to the element commander or director within twenty-four hours, and the OC Spray General Order, which has a different timing requirement.

<sup>78</sup> MPD January 2003 Progress Report at 23.

<sup>79</sup> While the course we attended did not, in itself, meet all of the conditions outlined in paragraph 128 of the MOA, MPD has represented that, in combination with other related classes, it does cover all necessary topics. We will evaluate these additional diversity training classes in the future.

was excellent both in content and presentation. The instructor was extremely knowledgeable and utilized various adult learning techniques, including group discussions, breakout sessions, and the use of “real-life” scenarios as outlined in paragraph 130 of the MOA. The instructor ensured that training time was used in an efficient and productive manner, with little or no downtime, as outlined in paragraph 131 of the MOA.

#### **4. Instructor Certification (MOA ¶¶ 136 & 138)**

While we did not monitor MPD’s compliance with this element of the MOA this quarter, MPD has advised DOJ that it plans to certify its instructors through the State of Maryland Police and Corrections Training Commission Enhanced Instructor Certification Course, which has been in existence since 1966 and is vested by Maryland law with the authority to set standards of initial selection and training for all governmental law enforcement, correctional, and parole and probation officers in the State of Maryland. We will review MPD’s participation in this program in a future quarter.

#### **5. Firearms Training (MOA ¶¶ 140-144)**

Along with other elements of MPD’s in-service training program, we reviewed MPD’s pistol re-certification training program this quarter. In general, we were impressed by the instructors and the instruction. Additionally, as of November 4, 2002, MPD began “videotaping students during role-plays” as required by paragraph 132.b of the MOA.<sup>80</sup> We found that MPD used this technology properly and constructively and that it materially contributed to the quality of the training program.

#### **6. Canine Training (MOA ¶¶ 145-148)**

MPD’s canine training that we reviewed was very competently and professionally presented. The instructor was energetic and quickly established his expertise and credibility. He appeared to know the subject matter well. His presentation was informative, interesting, attention-getting, and positive in tone. He used PowerPoint slides as anchors for his presentation. With few exceptions, he did not read the slides to the class.

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<sup>80</sup> Letter from Maureen O’Connell to Shanetta Y. Brown Cutlar (Dec. 31, 2002), at 3.

### C. Assessment and Analysis

As noted above, we are impressed with MPD's ability to respond to our identification of training shortcomings and to remedy those shortcomings in a timely fashion. Nonetheless, MPD's training program still has room for improvement. To this end, we recommend the following modifications in addition to those mentioned above:

- Modify the in-service week's training schedule so that the use of force instruction is held on a day other than the first day. During our monitoring, we noticed that several officers arrived after the in-service training class already had begun. Some officers were as much as twenty minutes late. The excuse generally given was that the officers had gotten caught in traffic or could not find the location. In light of the importance of the use of force instruction, we believe that MPD would benefit from this proposed modification to its schedule.
- IPS instructors should be made aware of how other police departments across the country are benefiting from the best practices incorporated into the MOA. All instructors should be made aware that MPD's new policies are the product not only of the MOA but also, more importantly, of the best practices developed over the course of many years by police departments across the country. Instructors should come to training armed with examples highlighting the success stories from these other departments. We believe that this information would go a long way toward debunking what appears to be a myth held by many MPD officers that MPD is being forced by DOJ to implement policies and practices that will lead to less effective policing and put officers at greater risk of being seriously injured.
- The presentation on the legal aspects and case law on use of force should be presented by an attorney. A thorough understanding of relevant constitutional, statutory, and case law is necessary both to present the subject matter and to respond to officers' questions. We believe that MPD would benefit significantly from adopting this recommendation.

Additionally, it is worth reiterating here that there continues to be confusion about the purpose and requirements of the new Use of Force Reporting Policy. Some of this is due to the nature of the requirements themselves, and some is a result of misinformation provided by parties opposed to the enhanced accountability brought about by the new

reporting requirements. Whatever the source of the confusion, it needs to be promptly addressed, with clarity and directness. The roll call training is a good effort to do so, but it can be improved. In our continued commitment to provide MPD with constructive feedback on the effectiveness of its actions toward compliance with the MOA, we offer the following observations and suggestions:

1. The roll call training sessions in which the presenter gave a brief overview of the key requirements of the new Use of Force Reporting Policy and of the prior expressed concerns of officers generated more questions and discussion. We recommend, therefore, that all sessions begin with an explanation of the key requirements followed by questions and answers.

The presenter should ensure, through clear articulation and repetition, that the key requirements of the new policy and the requirements that have been generating the most confusion and controversy (e.g., drawing and pointing of a firearm is not viewed as a use of force) are clearly explained during the training session. The presenter should avoid using contractions such as “isn’t” and “aren’t” which can be misheard as a result of the quality of the videoconferencing technology.

2. There is apparent confusion whether the drawing and pointing of a firearm is considered by MPD to be a use of force. This confusion has been created by the requirement that a UFIR be prepared by an officer who draws and points his firearm. We believe this confusion might be significantly dispelled by adding to the top of the UFIR two check boxes -- one that indicates the event is a “reportable event” and the other that indicates the event is a “use of force.”
3. MPD should explore the suggestion made by an officer in the First District that a mechanism be developed to capture events where officers displayed commendable and appropriate restraint in the use of force.
4. Once MPD completes training officials on the new Use of Force Reporting Policy, it should mandate continued roll call discussions on the new requirements in order to allay any continued concerns of officers brought about by any misunderstanding of the new requirements.

Because significant confusion and misunderstanding still exist, and because persons opposed to the enhanced accountability brought about by the new reporting requirements have spread and may continue to spread misinformation, we recommend that MPD continue to use the Daily Dispatch as a vehicle for timely communication of accurate and concise information to overcome any lingering misunderstanding and misinformation.

## **VII. Specialized Mission Units (MOA ¶¶ 149-159)**

### **A. Requirements**

The MOA recognizes that, from time to time, MPD may use both temporary and permanent specialized mission units to achieve various legitimate law enforcement objectives. As to such specialized mission units, the MOA establishes the following requirements:

- Pre-screening procedures must be employed to ensure that only officers suited to participate in such units are permitted to participate. Participating officers must
  - o be current on firearms certification and training, and
  - o have a satisfactory record relating to the use of force, be adequately trained, be generally fit for service in a patrol unit, and match the needs of the specialized unit.
- MPD must disqualify from participation in such units (i) officers against whom there have been filed numerous credible complaints for excessive use of force and (ii) officers who are otherwise known to have used questionable force frequently in the past;
- Advance notice of which officers will be participating in such units must be provided to unit supervisors to permit enhanced supervision or tailoring of activities;
- MPD must establish adequate supervision and clear lines of supervision and accountability for such units and must ensure that supervisory officers who volunteer for such units maintain their other supervisory responsibilities;

- Adequate specialized training (including training in relevant legal issues) must be provided to officers serving in such units; and
- All specialized mission unit participants must be closely and continually monitored. Such monitoring must encompass a review of any complaints filed against officers participating in special mission unit activities.

Further, the MOA requires that MPD develop a plan, subject to approval of DOJ, to limit the total number of hours that may be worked by a participating officer during any twenty-four-hour period and during any seven-day period. These limitations are designed to prevent officer fatigue.

#### **B. Status**

MPD submitted its Specialized Mission Unit (“SMU”) General Order to DOJ on October 4, 2002. As of the end of this quarter, DOJ had not responded with comments. To facilitate our review of MPD’s compliance with this General Order (as well as with the totality of the SMU requirements spelled out in the MOA), we have requested that MPD provide us with a list of all officers assigned to an SMU within one week of DOJ’s final approval of the SMU General Order. This list will be extremely useful in facilitating our review of MPD’s compliance with paragraphs 149 through 159 of the MOA when the time comes.

#### **C. Assessment and Analysis**

See above.

### **VIII. Public Information (MOA ¶ 160)**

#### **A. Requirements**

The MOA requires MPD to prepare quarterly reports, to be issued publicly, that include statistics relating to the use of force by MPD officers. The aggregate statistics must be broken down:

- By geographic areas of the City;
- By race-ethnicity of the subject of the use of force;
- By weapon used; and

- By enforcement action taken in conjunction with the use of force.

In addition, these public reports must include information about use of force investigations that have been conducted and information regarding the disposition of excessive use of force allegations.

## **B. Status**

In our First Quarterly Report, we recognized the positive step MPD had taken by posting its use of force statistics on its official Web site. We recognized also, however, room for continued improvement. For example, we noted that

the data posted currently do not include information about the number of use of force investigations that have been conducted, the outcomes of the investigations, the number of complaints that have been received regarding excessive force, or the disposition of those complaints -- all information required by paragraph 160 of the MOA.<sup>81</sup>

MPD's most recent Use of Force Report, posted on its Web site in October 2002, cures most, but not all, of these deficiencies. The report includes data regarding use of force investigations that were conducted following the discharge of a firearm by an MPD officer. There is no data, however, regarding the investigations of other uses of force -- such as ASP baton, OC spray, or canine deployment -- and the outcomes of those investigations. While the report includes statistics indicating the number of excessive force complaints MPD has received and the disposition of those complaints, there is no exact correlation between that required data and the MOA's requirement for MPD to provide information regarding "use of force investigations conducted, including the outcome."

Moreover, the report's classification of the types of force that were used is confusing. In a table entitled "MPD Less Lethal Uses of Force Statistical Table Summary as of October 22, 2002," MPD uses the following classifications: ASP, OC Spray, K-9, Other Criminal, Administrative/Allegation, OCCR/AUSA Referral, and Civil Action. MPD

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<sup>81</sup> First Quarterly Report at 57-58.

does not indicate what types of force fall within the last four classifications listed in the table.

### **C. Assessment and Analysis**

MPD is continuing to show improvement in supplying its use of force statistics but has not yet met all the requirements of paragraph 160 of the MOA.

## **IX. Monitoring, Reporting, and Implementation (MOA ¶¶ 161-193)**

### **A. Requirements**

The MOA requires MPD to designate an MPD Compliance Coordinator whose responsibility is to serve as the liaison among MPD, the Independent Monitor, and DOJ. The Compliance Coordinator's responsibilities include:

- Coordinating MPD compliance and implementation activities relating to the MOA;
- Facilitating the provision of data, documents and access to other MPD personnel for both the Independent Monitor and DOJ;
- Ensuring the proper maintenance of relevant documents and records relating to the MOA; and
- Working with the leadership of MPD to delegate compliance tasks to appropriate MPD personnel.

In addition to fulfilling these functions, the City and MPD are required to file with DOJ and the Independent Monitor a status report describing all steps taken during the reporting period designed to comply with each provision of the MOA.

### **B. Status**

#### **1. Compliance Monitoring Team**

As in the past, we remain impressed by the professionalism, efficiency, and responsiveness of MPD's Compliance Monitoring Team ("CMT").

## **2. Full and Unrestricted Access to Staff, Facilities, and Documents**

During a quarter that saw a multitude of OIM document requests and site visits, we are pleased to report that MPD continues to provide us with full and unrestricted access to MPD staff, facilities, and documents. Among other groups, MPD's CMT, FIT, Canine Unit, IPS, and OPR deserve particular recognition in this regard.

## **3. MPD Quarterly MOA Progress Reports**

MPD published its quarterly MOA Progress Report on January 7, 2003. As in the past, the report is well written, well organized, and generally informative. Once again, we found MPD's Progress Report to be extremely useful in preparing this quarterly report.

### **C. Assessment and Analysis**

As noted above, we continue to be extremely impressed by the efforts of MPD's CMT and the quality of its quarterly reports. Additionally, we continue to be impressed by the transparency of MPD's compliance efforts generally. These efforts have gone a long way toward fostering a constructive and productive relationship among MPD, DOJ, and the OIM. We look forward to this relationship continuing in the future.

## Conclusion

During this quarter, MPD engaged in a broad range of activities addressing some of the most central issues contained in the MOA. These efforts were focused on disseminating and implementing MPD's new Use of Force General Order, as well as related MPD orders and policies. As this report has illustrated, MPD's compliance efforts this quarter saw continued hard work and numerous achievements but some important deficiencies and weaknesses.

On the positive side, MPD initiated the implementation of the several use of force-related policies approved by DOJ in the previous quarter, submitted thirteen additional documents to DOJ for approval this quarter, and continued to enhance its already first-rate use of force investigation process. Concurrent with these compliance activities, MPD's CMT worked diligently to gather and provide documents responsive to OIM requests, respond to OIM questions, and arrange meetings for the OIM with MPD officers and supervisors. MPD should be commended for these (and other) achievements.

At the same time, however, we have discussed in detail some of the significant shortcomings we observed during this quarter. As documented in this report, MPD's initial efforts to train its officers in the new use of force-related policies not only were ineffective but also, in many ways, counter-productive. To its credit, MPD responded quickly and effectively when the OIM pointed out serious problems in the in-service training program, but, as MPD has acknowledged, the problem could have been avoided in the first instance with more careful planning and coordination. Additionally, despite clear and pervasive confusion among the rank and file members of the force, MPD still has not taken adequate steps to explain the purpose of, importance of, and guidelines for completing the UFIR.

Like MPD, the City and OCCR also had a mixed record this quarter. While OCCR finally brought its toll-free complaint hotline on-line in mid-December, it spent most of the quarter without a hotline, which, pursuant to the MOA, should have been operational by October 11, 2001. Now that the hotline is operational, OCCR still is without certain critical computer hardware and the audit procedure required by the MOA.

Despite the various delays, disruptions, and false starts that marked this quarter for both MPD and OCCR, the most enduring accomplishment has been the sustained level of effort and commitment by MPD and OCCR to satisfy the numerous requirements of the MOA. That is an absolute prerequisite to compliance; and, in that regard, we continue to be impressed with the commitment of all of the agencies involved, but particularly MPD's CMT. We look forward to working with all parties during the next quarter to see that the momentum generated over the past three quarters continues.



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January 30, 2003

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# Appendix A

## (Acronyms)

ASP	Armament Systems and Procedures
AUSA	Assistant United States Attorney
CCRB	Citizen Complaint Review Board
CDS	Curriculum Development Specialist
CMT	Compliance Monitoring Team
DOJ	Department of Justice
EWTS	early warning tracking system
FIT	Force Investigation Team
FOP	Fraternal Order of Police
IMF	International Monetary Fund
IPS	Institute of Police Science
MOA	Memorandum of Agreement among the District of Columbia, MPD, and DOJ
MOU	Memorandum of Understanding
MPD	Metropolitan Police Department
OC	Oleoresin Capsicum
OCCR	Office of Citizen Complaint Review
OIA	Office of Internal Affairs
OIM	Office of the Independent Monitor
OPR	Office of Professional Responsibility
PAMS	Performance Assessment Management System
PPMS	Personnel Performance Management System
PwC	PricewaterhouseCoopers
SMU	Specialized Mission Unit
UFIR	Use of Force Incident Report
UFRB	Use of Force Review Board
USAO	United States Attorney's Office