

JOINT MODIFICATION NO. 4 TO THE
June 13, 2001
MEMORANDUM OF AGREEMENT

Between the United States Department of Justice

and

The District of Columbia and
The Metropolitan Police Department

Joint Amendment to the Memorandum of Agreement
Between the United States Department of Justice
and the District of Columbia and
the Metropolitan Police Department

I. INTRODUCTION

- A. On June 13, 2001, the parties resolved the Department of Justice's investigation of an alleged pattern or practice of excessive force throughout the Metropolitan Police Department ("MPD"), commenced pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, through a Memorandum of Agreement ("MOA"), which was the result of a cooperative effort demonstrating a commitment to constitutional policing on the part of the Department of Justice ("DOJ"); the District of Columbia (the "City"); and the MPD.
- B. MOA paragraph 182 indicates that the MOA would terminate five years from its effective date if MPD and the City maintained substantial compliance with each of the provisions of the MOA for at least two years.
- C. The City and MPD have worked diligently to implement the provisions of the MOA. This progress has been reflected in Quarterly Reports issued by the Office of the Independent Monitor ("OIM").
- D. The OIM's 22nd Quarterly Report found that MPD and the City have reached substantial compliance for eight or more quarters with 52 of the MOA's 126 substantive requirements.
- E. In order to focus attention on resolving the MOA provisions not yet in compliance, the parties have resolved to terminate those provisions of the MOA with which the OIM finds MPD and the City have achieved substantial compliance for two years or more, and to the additional modifications described below.

II. Amended Provision

Pursuant to MOA paragraph 194, which allows the parties to modify the MOA in writing, the parties hereby agree to modify the termination provision of MOA paragraph 182, as follows:

The parties have agreed to take the following steps:

- A. The parties hereby recognize that the OIM has identified all provisions in which MPD and the City have maintained at

least two years of substantial compliance. The parties agree that termination with regard to the identified paragraphs will be effective immediately and will allow MPD, the City and the OIM to focus resources on the MOA paragraphs on which MPD and the City have yet to reach substantial compliance.

- B. The parties hereby agree that OIM has discretion to identify for possible termination additional provisions with which MPD has achieved substantial compliance, but for less than eight quarters. The OIM may recommend that such specific provisions be terminated if, in the OIM's opinion, MPD has demonstrated that the goals of the provisions have been achieved and will be sustained. After the OIM makes a recommendation to terminate a provision under this paragraph, the parties shall explain in writing whether they agree with the recommendation that such provision should be terminated. If the parties are unable to agree after good-faith negotiations, the provision will not be terminated, but instead will be subject to the termination requirements of Section II.C. The exercise of discretion by the OIM will be given substantial deference.
- C. Bright Line Termination Date - Any provisions not terminated by paragraphs II.A, II.B or II.D shall terminate on June 13, 2008.
- D. "Early Out Provision" - Provisions not terminated by paragraphs II.A or II.B above may terminate prior to June 13, 2008 (i.e., either on December 31, 2007 or March 31, 2008) if, by these dates, the OIM determines, in its discretion, that MPD and the City have reached substantial compliance with 80 percent of the 126 substantive provisions (even if not for eight quarters), and that MPD and the City have sufficient processes and procedures in place to identify and to address compliance shortfalls in the remaining paragraphs. In this event, the OIM would notify the parties that it is planning to exercise its discretion. Paragraph E is expressly excluded from this provision.

After the OIM gives this notice to the parties, the parties will determine whether they agree that OIM should excise those provisions. If the parties are unable to agree after good-faith negotiations, the provision(s) will not be terminated, but instead will be subject to the termination requirements of Section II.C. The exercise of discretion by the OIM will be given substantial deference.

- E. The parties also agree to modify the existing measurement of compliance with MOA paragraphs 55, 76, 87-92, 94, 107-117 as follows:
1. Paragraph 55 (entry of historical Use of Force Incident Reports into the Personnel Performance Management System ("PPMS")). In satisfaction of this provision, MPD agrees to enter two years of historical data required by this paragraph into the PPMS.
 2. Paragraph 76 (reporting requirements related to civil complaints). In lieu of the existing requirements, MPD agrees to:
 - i. Emphasize MPD's self-reporting requirements to its members during in-service training, including in particular the requirements related to officers' conduct while off-duty.
 - ii. Perform criminal history checks of all members at least annually.
 - iii. QAU (now ORM) will regularly audit the civil claims notification process between the Office of the Attorney General, MPD's General Counsel's office, and Office of Professional Responsibility ("OPR" and now IAB).
 - iv. When an officers' conduct is subject to an internal investigation by the chain of command, OPR (IAB) or FIT and the conduct appears to have given rise to civil claims, investigators and QAU (ORM) auditors will confirm whether the officer has complied with the self-reporting requirements.
 3. Paragraphs 87-92, 94 (citizen complaints and community outreach). In these areas, the parties have agreed to re-align the current substantial compliance measures to reflect other equivalent steps MPD has taken to achieve the results intended by the original provisions. Upon execution of this modification, MPD will identify in writing the steps it routinely takes to satisfy these requirements and will thereafter be evaluated against those criteria by the OIM.
 4. Paragraphs 107-117 (PPMS). See Requirements identified in Sections II.F and II.G.

- F. Paragraphs 107-117 (PPMS) of the MOA shall terminate six months after the DOJ conducts a successful test of the PPMS, if, at that time, the DOJ follow-up audit and survey of users (the specific tool to be jointly negotiated by the parties at the time the system is tested) determines that MPD has achieved compliance with the requisite provisions.
- G. Sustained Compliance - Notwithstanding the Brightline Termination Date of June 13, 2008, the parties agree that, with regard to the provisions listed below, if, in the judgment of the OIM, MPD and the City have not reached substantial compliance by June 13, 2008, MPD and the City will continue to submit bi-monthly reports to DOJ for six months following June 13, 2008. If DOJ determines, based upon its review of MPD ORM issued Reports, that MPD and the City have not reached substantial compliance by December 13, 2008 with these paragraphs, the MOA will be reopened with regard to these paragraphs. Prior to such event, if, at any time, DOJ has concerns respecting MPD's compliance with these paragraphs, DOJ agrees first to consult with MPD in good faith in an effort to remedy identified problems. The paragraphs are: paragraph 55 (entry of historical Use of Force Incident Reports into PPMS); paragraphs 87-92, 94 (citizen complaints and community outreach); paragraphs 107-117 (PPMS provisions); paragraph 121 (Field Training Officer program); paragraphs 150-158 (Specialized Mission Units).

III. Authorization

The signatories below represent by their signatures that they are authorized to enter into this modification and are signing on behalf of their parties and the original signatories to the MOA.

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