



City of Philadelphia

**INTEGRITY AND ACCOUNTABILITY OFFICE
PHILADELPHIA POLICE DEPARTMENT**

THIRD REPORT

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I. INTRODUCTION

In September 1996 the City of Philadelphia entered into a Settlement Agreement with the National Association for the Advancement of Colored People, the American Civil Liberties Union, and the Police-Barrio Relations Project, in response to litigation initiated by these groups arising from the investigation of and prosecutions for corruption and misconduct in the 39th Police District. The Agreement sets forth a comprehensive plan for reform in the Philadelphia Police Department. The goal of the Agreement is to minimize and deter police corruption and misconduct to the greatest extent possible, and thereby enhance public confidence in the Philadelphia Police Department.

To assist in meeting this goal, the Agreement called for the creation of a permanent Integrity and Accountability Office (IAO) to analyze and critique accountability and corruption control policies, to identify systemic deficiencies that give rise to or permit corruption and misconduct within the Police Department, and to make recommendations for change. The IAO is responsible for monitoring and auditing departmental policies, practices, and operations as they relate to the detection and control of misconduct or corruption in the Department. In order to effectuate the broad duties of the Office, the IAO has access to virtually all Department records and personnel.

The parties to the Settlement Agreement intended that the IAO would work cooperatively with the Police Commissioner and other City departments. The IAO is also currently answerable to United States District Court Judge Stewart Dalzell, who has jurisdiction over the City's compliance with the terms of the Agreement. However, by

virtue of our essential function to monitor and audit Police Department policies, practices and operations, the IAO must exercise independent judgment in reporting findings and making recommendations. This independence also means that our analyses, critiques and recommendations are solely our own. Our report should not be read as expressing the policies or positions of the government of the City of Philadelphia, or the opinions, views or beliefs of the Mayor, the Police Commissioner, the City Solicitor, or any other official of the City of Philadelphia.

In this report we undertake an assessment of both the nature and scope of the use of force* by members of the Philadelphia Police Department in the performance of their duties, and the methods by which the Department documents, investigates, analyzes, and responds to use of force incidents. The interrelationship of these various components is of critical importance. Without reliable and effective tracking, investigating and analytical systems, the Department cannot assess when, why and how police officers use force in performing their duties, identify potential problems, or develop solutions to those problems.

The Philadelphia Police Department has made important progress in limiting serious abuse of force by officers. Indeed, one of our central findings in this study is that the majority of force incidents by Philadelphia police officers involve low level force

* Due to the complexities in analysis of firearms use, and the investigations into weapons discharges, use of firearms by Philadelphia police will be the subject of a separate report.

resulting in minor or no injury. This informs our recommendation that the Department needs to improve its ability to track, investigate and analyze lower level of force incidents.

In conducting our research and formulating our recommendations, we are committed to acting in the best interests of the Police Department. When we express criticisms, or make suggestions, as we do in this Report, our only intention is to help the Police Department in its continued progressive efforts, and to help create a better Department for the people of this City.

II. STUDY METHODOLOGY AND LIMITATIONS

The findings and recommendations contained in this report are based upon our review and analysis of the following:

- Relevant provisions of the Settlement Agreement (Exhibit A);
- Current Police Department Directives regarding use of force (Exhibit B);
- All use of force incidents, with the exception of use of firearms, reported to the Department's Internal Affairs Bureau (IAB) for the time periods of January - June 1996, January - June 1997, and January - June and September and November 1998, together with the follow-up IAB investigations.
- Detailed review of all IAB investigations that were initiated in 1997 and completed as of June 1, 1998 where excessive use of force or physical abuse is alleged, together with our ongoing review of all IAB investigations since the formation of this Office in January 1997;
- Discipline imposed upon officers against whom allegations of excessive use of force or physical abuse were sustained by IAB for a four year period from 1995 to 1998;
- All civil rights lawsuits and claims settled by the City in 1997 and 1998 alleging improper use of force;
- Departmental use of force databases;
- Recruit and in-service training programs addressing use of force; and

- Interviews with various ranked Police Department personnel on use of force issues.

This study proved to be problematic for several reasons. First, since the appointment of Police Commissioner John Timoney in March 1998, the Philadelphia Police Department has been in the midst of significant reform. We have found the current Police Department Administration receptive to recommendations presented by this Office during the course of this study. Policies, practices and procedures that we examined during the initial stages of this study have undergone changes, many of which we regard as positive and necessary. In fact, since our issuance of this Report in draft form to the Police Commissioner for his review, several reform initiatives related to our findings and recommendations have been undertaken which we will describe in this Report. These changes, however, have impacted on operations and necessitated repeated follow-up reviews to insure accuracy in our reporting.

Second, prior to 1997, the Department's use of force notification and investigating policies and practices were ad hoc and inconsistent; even now they continue to be in a state of evolution. Departmental efforts to standardize, centralize and monitor the accuracy and quality of the information maintained in the Department's use of force databases were significantly improved as recently as January 1999. It is therefore our opinion that the records, databases, and other sources of information generated prior to 1997 cannot be regarded as comprehensive or completely reliable. While these records provide some useful insight into recent use of force trends in the Philadelphia Police

Department, and of necessity must serve as a baseline from which to evaluate and analyze future use of force patterns in the Philadelphia Police Department, their deficiencies must be factored into any historical evaluation of use of force in the Department. For these reasons, this report will focus on the effectiveness and integrity of the Department's policies and practices as they relate to the collection and quality of use of force data, investigations into force incidents, Departmental responses to inappropriate uses of force, and training issues.

Even if the Department's use of force records were reliable and comprehensive, it remains our conviction that police departments cannot be successfully audited and analyzed by methods that rely solely on review of records, policies, and databases. Written departmental policies are not always reflective of the reality of police practices. To fully understand where, why, and to what extent police practices and operations diverge from the official policies and procedures, it is essential to learn from the men and women who daily live the reality of policing. Thus, our extensive and confidential interviews of police personnel with considerable patrol, supervisory and managerial experience are an integral component of this study. We recognize that each interviewee presented his or her own unique experiences and personal viewpoints on use of force; however, similar recollections, outlooks, and opinions repeatedly emerged. These shared experiences and attitudes reflect organizational values which must be recognized, understood and addressed if meaningful reform is to be possible.

The most difficult aspect of this study is the inherently complex nature of retrospective analysis of use of force incidents. While a small number of incidents we

reviewed involved excessive and inappropriate uses of force, and many others were clearly justified and reasonable, the numerous and varied files, records and investigations we studied reflect that the vast majority of force incidents fall between these two extremes. These types of force incidents are also the most difficult to evaluate. Situations in which force is used are typically chaotic and factually unique. There are no set formulas or matrixes that can be applied to simplistically determine whether or not an officer's use of force was necessary, reasonable or appropriate. A complex "totality of the circumstances" analysis must be applied, which includes assessment of the subjective perception of the officer at the time force was used, and the reasonableness of that perception.

We believe that these factors limit the ability of this Office, or indeed of any civilian monitor or reviewer, to accurately evaluate all use of force incidents to determine whether or not they were within Departmental guidelines. That should be the duty and role of the Department itself, and the purpose of the Department's use of force notification and investigation policies. However, the historical failure of police departments to critically examine how force is used has led to the creation of layers of civilian review and oversight. Police leaders who fail to recognize the importance of monitoring, analyzing, and, where possible, reducing the use of force will be subject to external monitors imposed by political will or by court order. While recognizing inherent weaknesses in our effort, our intent in this study is to assess the effectiveness of the Department's existing systems and practices related to use of force tracking, investigating, information analysis, training and discipline; to make recommendations to

improve the weaknesses that we identified in these systems; and to articulate the rationale for the need for continued improvement in these areas.

**PART ONE: ASSESSMENT OF THE NATURE AND SCOPE OF USE OF
FORCE IN THE PHILADELPHIA POLICE DEPARTMENT**

III. OVERVIEW

Use of force by police is an emotionally charged and often misunderstood issue. Law enforcement personnel are the only non-military professionals extensively trained and authorized to use levels of force that range from a firm grip to a fatal shooting. On a daily basis, police officers confront individuals who are intoxicated, drugged, mentally deranged, or who refuse, for whatever reason, to peacefully acquiesce to an inquiry, investigation, interrogation or arrest. The use of force then is an inherent and essential aspect of a police officer's job to control violent and dangerous individuals and to protect the public. Police officers also work in an environment that they often perceive to be hostile and dangerous. These perceptions are heightened by the pervasiveness of deadly automatic weapons on our streets.

Conversely, while recognizing the need for police use of force, many citizens are understandably ambivalent about, or fearful and mistrustful of, this power and authority. There can be no question that these concerns are influenced by past history, and by perception of that history. Some police officers, and some police officials, do not always appear to appreciate that a single incident of abuse can have a devastating impact not only on the individual against whom force was used, but also upon the public's perception of the police.

Keeping these considerations in mind, and within the limitations of this study, we can confidently state that the nature and degree of force used by officers of the Philadelphia Police Department has dramatically decreased over the past three decades.

Sworn personnel we interviewed who were on the force in the 1970s recall this era as the "wild west", "open season" and a "free for all". These perceptions were mirrored in a Justice Department investigation, and in other studies and reports from that era. During this time the existing Departmental policy on use of deadly force was rescinded. Official controls and policies on the use baton, blackjacks, mace or other instruments of force did not exist. Police shootings were not always reported. Firing warning shots, or shooting at fleeing suspects during pursuits, occurred with alarming frequency. Officers recalled the use of plant guns and other weapons as an accepted, albeit unofficial practice. Assaults on handcuffed suspects by officers occurred with disturbing frequency. Several hundred police canines were trained to bite first and bark second, resulting in one of the most feared canine units in the nation.**

**The notorious reputation and conduct of the Police Department's canine unit resulted in the removal of police canines from patrol functions. Today, there are approximately thirty police canines on the force that are primarily utilized to assist in the detection of illegal drugs, explosives, missing persons and cadavers. Canine training techniques and philosophies have evolved to permit canines to attack in defensive situations only. These factors have all but eliminated incidents of canine bites; only one canine bite has been reported in the Department in the last several years.

The police culture at that time was completely intolerant of internal reporting of excessive force. Breaching the "wall of silence" was viewed as a potentially dangerous course of action for the officer who depended on other officers for assistance and protection. During this era, the Department's Homicide Unit, as opposed to the Internal Affairs Bureau, was responsible for investigating police shootings, calling into question the objectivity of the investigations. The lack of records and official guidelines on the reporting and investigating of force precluded objective external review of Departmental investigations into use of force. Officers who used excessive force were invariably found to have acted within departmental guidelines, despite the absence of written policies, and were rarely disciplined, fired or arrested despite the use of force which was gratuitous, brutal, illegal or fatal.

It was not until 1980, when Police Commissioner Morton Solomon instituted and vigorously enforced a policy on the use of deadly force, that the Philadelphia Police Department's reputation for brutality began to abate. Since then, the Department has made significant progress in the training of its officers in the proper use of force, and in reporting, tracking and investigating use of force incidents. Administrative policies, guidelines, and controls on the use of force have been implemented and strengthened. A use of force database has been developed that enables the Department to monitor the use of force by officers and districts and to detect emerging problems and patterns. Officers found to have used inappropriate and excessive force are now subject to discipline, and

the "wall of silence" has eroded to at least some extent. These various factors have resulted in what one commander dubbed a "kinder and gentler" Department.

While improvement has been significant, most of these Departmental reform efforts were not internally initiated, but were the reactive responses to external forces such as a dramatic increase in civil rights litigation and heightened media and citizen scrutiny. These factors have led to increased external/civilian oversight and monitoring of Departmental operations and a more open, responsive civilian complaint process.

This external imposition of use of force reform efforts on the Department has significant implications. Some commanders and supervisors we interviewed regard these administrative controls and external oversight as a necessary curb on abusive and excessive behavior. Others, however, regard these controls with resentment, cynicism and suspicion, viewing them as burdensome and unnecessary chores imposed by meddlesome lawyers and community activists. Some stated that these controls are unduly restrictive, and have resulted in a less productive and proactive force as officers are increasingly unwilling to "get involved" for fear of being subjected to a complaint that could result in imposition of discipline, or being sued for monetary damages, with resultant damage to their careers. Others felt these restrictions have decreased officer safety and resulted in more defensive, less effective, policing. A number of supervisors and commanders we interviewed did not seem to understand the goal or purpose of the use of force reporting and investigation policies and procedures, viewing the process as a waste of time. Throughout the Department, there does not appear to be a uniform or clear understanding of the goal of the use of force notification and investigation requirements.

These organizational attitudes, values, and expectations, especially at the supervisory and managerial levels, contribute to the weaknesses in the Department's current use of force monitoring systems described in this Report. Unless and until the participants of these systems understand the benefits of a policy, unless they have "bought into the process," the possibility of further progress is compromised, and any additional policies regarded as externally imposed risk being ineffectual.

IV. SUMMARY OF DATA

A. Information Sources

To ascertain more precisely the nature and scope of force currently being used by the Philadelphia police, we examined four different, yet overlapping, information sources.

The Department's use of force tracking system starts with the reporting, via teletype to the Internal Affairs Bureau (IAB), of a broad range of police actions involving use of force. While there are flaws in the information collected on these teletypes, which will be analyzed in greater detail in Part Two of this Report, these reports are still a significant source of information about use of force.

The initial tracking information from the teletype reports is then collected onto a computerized use of force database that contains a range of information regarding use of force incidents in a format that permits multi-variable queries. Despite the deficiencies in the data collected, this database does permit some level of analysis by allowing identification of use of force tracking information by a broad range of categories, including race, gender, age and identification of officer(s) and suspect(s) involved, the type of force used, the date, time, location and district of occurrence.

At IAB's request, use of force teletypes may be supplemented with follow-up information from the officer's unit or district to permit IAB to determine whether further investigation is warranted. In certain prescribed cases, IAB will then conduct its own,

more intensive investigation, called a "full" or "internal" investigation, into the force incident. Additionally, citizens can and do file civilian complaints against police (CAPs) alleging improper use of force. Because of the quality and thoroughness of the IAB internal and CAP investigations, these cases provide important information about how and under what circumstances Philadelphia police use force in the performance of their duties.

Finally, citizens can and do file lawsuits against the City alleging excessive use of force and violations of civil rights. Review of cases where the City has settled the lawsuit, or a jury has returned a verdict of liability, provides a further source of information about use of force patterns and issues in the Department.

B. Review of Data

1 Internal Investigations

In addition to our ongoing review of all IAB investigations, for this study we conducted a detailed examination of all internal investigations of use of force incidents filed in 1997 that were completed by June 1, 1998. A statistical breakdown of these investigations is attached as Exhibit C.

In this time frame IAB completed twenty-five internal investigations into use of force incidents, involving twenty-seven subjects. More than one half of the cases (thirteen of twenty-five) involved the use of a baton or blackjack, and the overwhelming majority of those (eleven of thirteen) were strikes to the head. Departmental policy

prohibits intentional striking of the head unless use of deadly force is justified; in each of these cases, the officer claimed that the blow was accidental. In addition, there was one case of a blow to the head with a radio, and one of a blow to the head with a firearm. Thus, thirteen of the twenty-five cases investigated were of blows to the head; nine of those head strikes caused laceration, five of which required sutures. Since current IAB policy requires internal investigation into most head strikes, but seldom orders investigations into incidents of low level force not resulting in injury, the proportion of head strike incidents to other types of force incidents is not as dramatic as it may appear from these investigations.

Of the remaining cases, one was of a victim who suffered permanent quadriplegia while riding in the back of an Emergency Patrol Wagon, and the one death in custody case was due to a self-administered drug overdose. Excluding one nose fracture, the remaining cases involved allegations of low-level force (e.g., pushing, shoving, punching, slapping), which resulted in only minor abrasions or bruises. In nine of the cases, IAB concluded that the involved officers violated Departmental policies on use of force. In seven cases, IAB recommended retraining even though the actions of the officer were found to be within Departmental guidelines. In five cases, IAB found a violation of the Police Department's record-keeping and reporting requirements.

2. Civilian Complaints Against Police (CAPs)

In this same time frame, IAB completed one hundred and sixty-seven investigations (involving 172 complainants) into civilian complaints (CAPs) alleging

improper use of force. Because significant use of force incidents should trigger proactive, internal investigations, CAP investigations should generally involve fewer sustained claims, and lower levels of force. With one exception, that is what we found.

The citizen complaints we reviewed overwhelmingly involved low levels of force, causing either no or minor injuries. In seventy-six cases either no injury was alleged, or the allegation of injury was not proven. Twenty-one cases alleged improper use of a baton or blackjack (in eleven of these cases, sutures were required), one complainant suffered a fractured jaw, one a fractured tooth, and one a nose fracture. The nature of the remaining injuries are set forth in Exhibit D.

In seventeen of the cases, IAB concluded that the officer used improper or excessive force. Thirty-nine complainants failed or refused to cooperate with the IAB investigation, three withdrew or recanted the complaint, and IAB could not locate three complainants.

In fifteen cases, IAB investigators found reporting or record keeping violations, including failure to report use of force to IAB and poor district force investigations. In one very troubling case a serious abuse of force was not reported, and would not have been properly investigated by IAB had the victim not filed a complaint.

3. Litigation Data

We analyzed all cases in which the City incurred financial liability between 1994 and 1998, whether by verdict or settlement of a suit or pre-suit claim, due to use of force by a police officer. For the period 1994 to 1996, we relied upon computerized case

management information from the City's Law Department. We conducted a more detailed review of all settlement recommendations prepared by the Law Department, which set out the facts of the case and the reasons for settlement, for all cases in 1997 and 1998 in which the use of force claim was the exclusive or primary basis for the settlement. A detailed breakdown of the information gained from this review is presented in Exhibit E.

Litigation data must be interpreted with caution. Whether a lawsuit is settled does not necessarily mean that the police action was improper, and various factors impact on the decision to settle a case, including the cost of trial and trial preparation, and in particular the cost implications of federal law which allows recovery of attorney fees if the plaintiff prevails. In addition, the settlements analyzed for this study addressed conduct that occurred two or more years earlier, and do not reflect recent changes in Departmental policies and procedures, such as discontinuance of the use of blackjacks and revised protocols for baton use, which should have a positive impact on future settlement expenditures. In our society, litigation costs are unavoidable. It would be impossible as a practical matter to completely eliminate settlement or verdict costs; the point is to analyze information to try to minimize those costs.

From 1994 through 1998, settlement and verdict costs in use of force cases against the Police Department total \$19,648,711. The number of cases settled, total cost and average cost appear basically consistent year-to-year, although the figures for 1995 reflect an atypical increase in the number of settlements, including one of \$2.2 million. The average cost per case is distorted by those infrequent but catastrophic incidents

where the nature of the injuries warrant payment of a significant settlement even in the face of questionable liability. By contrast, the figures for ranges of payments show that the overwhelming majority of cases are settled for \$50,000 or less; both state and federal court procedures would classify cases of such value as minor.

Analysis of the type of force used, the circumstances in which it was used, and the nature of injuries sustained in these lawsuits and settlements indicate that most injuries sustained by the claimants were minor, and occurred incident to a struggle while being taken into custody. We see no pattern of systemic or serious abuse of force in these litigation records.

4. Use of Force Teletype Notifications

Our review of close to seven hundred teletype force notifications sent to IAB reveal that the vast majority of force incidents between officers and citizens occurred incident to an arrest, and typically involved physical confrontations which included pushing, shoving, grabbing, punching and tackling. In many of these incidents, the suspects sustained what appeared to be relatively minor injuries, including cuts, abrasions and bruises, which required minor medical treatment.

We are mindful of the deficiencies in the information contained in these teletypes. However, the integrity of IAB's investigation processes, and the accessibility both the legal and civilian police complaint systems, provide necessary and important outlets for citizens who attempt to seek redress for serious incidents of force which, for whatever reason, are not reported to the Department by the involved officers and their supervisors.

These redundant systems of checks and balances provide some assurances that such occurrences are not commonplace.

C. Observations

Analyzing these various information sources as a whole, the following picture of the nature and scope of force being used by the Philadelphia police emerges.

First, use of force by the Philadelphia police is not widespread or pervasive. In 1998, police radio traffic records reflect nearly 2,045,000 contacts between police and citizens. These 2,045,000 contacts include 75,569 arrests, 296,040 vehicle investigations, 158,437 pedestrian investigations, and 1,980 executed search warrants. This figure does not include the undocumented, incidental contacts not resulting in reportable police action that occur every day. In that same year, the Department received roughly 662 teletype reports of use of force by police officers. Even assuming a degree of underreporting, this baseline data reasonably permits the conclusion that the police use of force incidents, compared to the number of total citizen/police contacts, is low. These statistics are reflective of a force that is able to perform its duties in a relatively non-intrusive and non-violent manner.

Second, the great majority of force incidents involved low levels force which did not cause permanent or serious injuries. [We did not find any pattern of systemic and serious physical abuse which resulted in serious injuries.]

This is not to minimize the critical problems caused by excessive and improper use of force, no matter how infrequently it may occur, nor how minor the force level.

The costs and value of time spent by personnel in the Police and Law Departments in investigating claims of excessive force, including those cases where the city prevails, of litigation expenses, and of injuries sustained by police are considerable. Use of low level force by police, if viewed as persistent and unnecessary, strains citizen/police relations and threatens to deplete any cultivated reservoir of goodwill and trust which should be created by the efforts of the police to improve the quality of life for all citizens in all communities. Finally, low level force that is not consistently, effectively and aggressively monitored, investigated, analyzed and addressed can lead to complacency on the part of police supervisors and negatively impact an officer's perception of Department's values and expectations as it relates to force. When this occurs, the risk of escalating incidents of improper and excessive use of force increases.

**PART TWO: TRACKING USE OF FORCE IN THE PHILADELPHIA
POLICE DEPARTMENT**

V. USE OF FORCE STANDARDS

The following directives, and their original effective dates, govern the use of specified types of force for the Philadelphia Police Department. They have been modified, and generally strengthened, over the years. The current directives are attached as Exhibit B.

- **Directive 10** – Deadly Force/Firearms, effective 10/24/80, and Commissioner’s Memorandum 98-4;
- **Directive 22** – Batons, effective 11/21/86;
- **Directive 43** – Oleoresin Capsicum Spray (OC or “pepper spray), effective 11/30/95;
- **Directive 34** – Handcuffs, effective 7/16/82;
- **Directive 112** - Canines; effective 5/11/84***

On their face, these directives comply with the terms of the Settlement Agreement in that they authorize “only that level of force that is reasonably necessary and which a properly and fully trained officer would use for the protection of the officer, suspect, and the public in given circumstances.” (Settlement Agreement Section VII(A)).

*** Several years ago the reporting and investigation guidelines set forth in this Directive for injuries and damage resulting from police canines were informally modified. This Directive should therefore be revised to accurately reflect the current reporting, investigation and record keeping requirements as they relate to canine incidents.

The directives explicitly state that authorized weapons are to be used defensively, not offensively. These directives require that, circumstances permitting, lower levels of force such as verbal warnings, hands-on techniques, non-lethal control holds, the assistance of other officers, and handcuffs should first be utilized before resorting to more serious levels of force, and that any force used should be necessary, reasonable, limited and monitored.

As of February 2, 1999, Section VII(B) of the Settlement Agreement was implemented when Directive 22 was modified to prohibit the use of blackjacks either on or off duty. Additionally, a modification of Directive 22 as of March 4, 1999 now requires that copies of the joint district/detective investigations into the use of a baton when an injury occurs are to be automatically sent to IAB for review. Prior to this, IAB did not receive a copy of the baton use memorandum unless a specific request for it was made. This precluded independent monitoring of district baton/blackjack investigations for quality or to determine whether an investigation was ever done. Directive 22 was also revised to further restrict the use of the baton by prohibiting the striking of the upper shoulder/collarbone area unless the officer would be justified in using deadly force. Prior to this modification, these areas were acceptable striking areas when deadly force was not justified. As part of his reform efforts, Commissioner Timoney has also directed that all officers be trained in the use of OC spray. These important changes in policy should reduce the incidence of head injuries, with a concomitant reduction in litigation costs.

In 1998, Commissioner's Memorandum 98-4 revised Directive 10 to emphasize the importance of recognizing the "value of all human life," the officer's "primary duty

to . . . preserve human life,” and that “excessive force will not be tolerated.” Language was added emphasizing accountability and obligations to “ensure that the requirements of the law and Department regulations are complied with” and the impositions of criminal sanctions and civil liability for failure to take action or comply with Departmental use of force policies. Commissioner’s Memorandum 98-4 also explicitly recommends, for the first time, avoiding tactics that inhibit a suspect’s ability to breathe, such as sitting or kneeling on a suspect’s back or chest.

The extent to which these organizational statements and values translate into practice is a more difficult analysis. Policies, however good or well intentioned, are meaningless if they are not consistently enforced over the long term, or if they do not take into account the realities of policing. Whether or not this Department encourages a climate and culture that expects and values minimal use of force by ensuring strict and meaningful compliance with these directives will be, directly or indirectly, the focus of the remainder of this report.

VI. USE OF FORCE REPORTING REQUIREMENTS

A. Notification to IAB

Philadelphia police officers use various types of force including, but not limited to, firearms, batons (and until recently blackjacks), OC spray, canines, defensive tactics such as bent wrist come-along holds, the straight arm bar and bent wrist take-down, handcuffs, grips, grabs, punches, pushes, kicks, and tackles. Departmental requirements and guidelines regarding the reporting of force incidents are dependent upon the type of force used and whether or not injuries or death occurred as a result. Notification requirements for the use of firearms are guided by Directive 10, for batons by Directive 22, and for OC spray by Directive 43. Other use of force notifications are governed by Commissioner's Memorandum 88-1 effective January 15, 1988 which provides:

Subject: Notification of Internal Affairs Division

Internal Affairs Division will be notified when any of the following situations occur:

- A. A person is treated at a hospital (whether admitted or not) or dies while in police custody.*
 - B. A person is injured, treated at a hospital (whether admitted or not) or dies as the result of actions taken by police.*
 - C. When an officer, on or off duty, discharges any firearm (except test or target fire at a pistol range)*
 - B. If there is a possibility that an officer, on or off duty, has committed a crime.*
- I. It is the responsibility of the first supervisor on the scene to notify the pertinent Captain or above in accordance with the situations as stated.*

II. The District/Unit Commanding Officer (must be Captain or higher rank) or if applicable the C.I.B. commander must notify the Internal Affairs Division by phone as soon as possible after receiving appropriate information.

III. This order does not relieve any person from the responsibility of conducting a thorough and complete investigation. The decision to enter the investigation will be made at the discretion of personnel from the Internal Affairs Division. All Police Department personnel will render the Internal Affairs investigator whatever assistance is necessary to complete the investigation.

IV. Operation Room Supervisor will ensure that pertinent information is entered on the Sending and Receiving Sheet. He/She will also ensure that a computer message is sent to Internal Affairs. The above notifications will be made in addition to current procedure as outlined in applicable Directives.

On September 18, 1997, a teletype message was sent to all districts and units modifying Commissioner's Memorandum 88-1 with the following pertinent guidelines:

Subject: Notification of Internal Affairs Division

Re: Use of Force

Internal Affairs will be notified in all cases involving the use of force by police as stated in Memorandum 88-1, where the use of force results in injury or where there is a complaint of injury as a result of the use of force.

In addition, the following information regarding reporting the use of force will be added to the policy section of the Directives listed below:

***Internal Affairs will be notified of any incident involving the use of force by police, where an injury or complaint of an injury results from the use of force. Notification will be made via computer Terminal.*

*Insert the information in Paragraph 3** above, into each of the following Directives using the next alphabetical letter in the policy section of each Directive.*

*Directive 10 – Discharge of firearms by
police personnel*

*Directive 22 – Use of police Baton and
Blackjack*

Directive 34 – Handcuffs

Directive 43 – Chemical Mace

Directive 43 – Appendix A – OC/Pepper spray
Directive 112 – Canine Patrol

Both Memorandum 88-1 and the ensuing teletype were formalized by Commissioner's Memorandum 98-3, which became effective March 17, 1998. Memorandum 98-3 reiterates established Departmental use of force reporting guidelines by requiring that "The Internal Affairs Division will be notified of any incident involving the use of force by police (as stated in memorandum 88-1) where the use of force results in an injury or where there is a complaint of an injury as a result of the use of force. Notification will also be made any time a person in police custody is treated at a hospital."

These Departmental policies regarding use of force notification requirements represent substantial and significant improvements from a time when official Departmental notification guidelines did not exist. Furthermore, with a few exceptions that will be highlighted in this section, these guidelines address the proposals in the Settlement Agreement regarding the promulgation of use of force reporting requirements. Despite these improvements, our study revealed certain weaknesses in the current notification policies, practices and procedures.

1. Quality of Use of Force Teletypes

Pursuant to Departmental policy, the operations room supervisor in the district or unit where the force incident, injury, or hospitalization occurred is responsible for notifying IAB of the incident using the Department's computerized IAB teletype notification form, a blank copy of which is attached as Exhibit F. This form has

undergone several modifications since 1996, typically increasing the required data fields. In the nearly seven hundred teletype notifications we reviewed for the twenty month time period which included six months each in 1996 and 1997, and eight months in 1998, the following recurring deficiencies in the substance of the information reported were evident:

- Lack of detail regarding the nature and extent of the subject's injuries. This represented by far the most persistent omission. A subject's injuries were either not indicated or they were routinely uninformative, vague, subjective, and value laden. Examples of this include the frequent use of such words and phrases as "injuries to face", "head injuries", "stitches to head", "pain", "bruises", "small cut", "minor injury". A "head injury" could refer to a scratch, sutures, a concussion, or a broken skull. The subject and the officer's condition was routinely described as "stable", "good", "fair" or "critical". These are medical conclusions which police personnel are not qualified to make and are therefore meaningless. Since descriptions of the subject's injuries were not always included in the medical detainee checklists, arrest reports, memorandums generated by the investigation, or the use of force databases, we were not always able to determine the precise nature of a subject's injuries.
- Details about the use of force incident were routinely sparse, vague, inaccurate, or incomprehensible. The circumstances leading up to or warranting an individual's arrest, or the arrest charges were not always included.
- The type of force used was not always disclosed.
- The names and identities of the involved officers were not always provided.
- While standards and guidelines regarding "force level" were formally articulated for the first time in Commissioner's Memorandum 98-3, if and when this section of the teletype was completed, the force levels indicated were dependent upon the opinion of the person completing the notification form. For example, use of OC spray was designated from a level two to level four. Use of batons,

blackjacks, and other more typical uses of force including tackles and punches ranged from a level one to level five, regardless of the injuries. Prior to the issuance of Memorandum 98-3, our interviews revealed that no standards or guidelines for these force levels had been formally established or communicated to police personnel.

- The "actions taken" portion of the teletype was generally not completed, making it difficult at times to assess whether or not additional investigation or inquiries did in fact occur.

These findings indicate that the Department needs to establish guidelines and standards for the quality and type of information required on all use of force notification teletypes. It is also essential that personnel responsible for completing teletypes be fully trained in the standards and guidelines and that they are held accountable for submission of inaccurate, incomplete, and misleading use of force notification teletypes.

This could be accomplished by redesigning and improving the teletype form and creating a required field system which would prevent the submission of a notification unless and until each required data field is properly and completely entered onto the screen. This would require that the notification forms be taken out of a text based message form and put into a data based message format. These modifications would allow for a more efficient flow of use of force information to the various personnel responsible for processing and using this information and could potentially decrease the repetitive paperwork and reports generated by these incidents. There are currently systems of this type being used by the Department, such as the Preliminary Arraignment System (PARS)

Critics of this recommendation suggest that the relatively low number of force incidents do not warrant the extensive programming that such a reform effort would entail, and that computer programming should not and cannot be used to make someone do their job. The extent to which these concerns override the importance of capturing timely, comprehensive and accurate use of force information, or whether less complicated means of capturing use of force information can be devised, are issues that warrant more thorough consideration.

The defects in the use of force teletypes have important consequences. When a use of force notification teletype is initially received at IAB, and before any additional action is taken, a data processor is responsible for entering the information contained in each teletype into the use of force database. The inaccurate and incomplete information contained on many teletypes then becomes part of the IAB database, which compromises its quality and reliability. Consideration should therefore be given to rethinking the current use of force notification work flow configuration to minimize the risk of entering inaccurate, incomplete data into the database and to allow for timely and efficient amendments of the database when additional pertinent information is obtained, or original data found to be flawed. Personnel who use the use of force information systems should be networked to accommodate timely amendments and updates to the data and to ensure that follow-up suspense dates are met.

As noted, the current teletype form requires reporting of a variety of specific police actions, and includes specific check-off entries for baton, blackjack, OC spray, firearm discharge by officer, bite by police canine, use of other instrument, and injury as

a result of police pursuit. However, these categories do not take into account the types of force used most frequently by Philadelphia police, which include pushing, shoving, punching, kicking, grabbing, and tackling. The current use of force database does not clearly reflect these force incidents, but rather includes them in the category "other," which encompasses other types of force as well. We recommend a reasonable and limited expansion of the force type categories which would result in a use of force database that more clearly reflects the reality and particularities of use of force by the Philadelphia police.

Improving the quality and content of the use of force notifications would benefit the Department in several ways. Providing IAB commanders with more accurate and detailed information about a force incident at the outset will decrease the time and effort spent conducting unnecessary and time consuming inquiries, and will assist them in making quicker determinations as to the necessity of a full investigation, before witnesses, evidence, and memories are lost.

Standardizing and monitoring the content and quality of information on use of force teletypes will also enable the Department to more reliably and accurately identify emerging use of force problems, patterns, and trends as well as training and officer safety issues.

After internal review of a draft of this report by Commissioner Timoney, the Department has undertaken a re-evaluation of the current use of force teletype and is in the process of creating a revised prototype that should require and accommodate more comprehensive and accurate data. We will continue to monitor the progress of this

initiative and will conduct future audits of the Department's compliance with use of force notification Directives and policies.

B. Notification of Use of Baton

Pursuant to Directive 22, if a baton is used with no resulting injuries, the involved officer(s) are required to notify a supervisor and prepare a Police Incident Report (75-48) with District Control numbers, which are then maintained at the districts for one year. In these circumstances, IAD will not be notified of the force incident. We recommend that IAD be notified any time a baton is used to strike an individual, not just when injuries are sustained. This information should be entered into the use of force database and be maintained for longer than one year. Since IAD notification is automatically required whenever OC spray is used, imposing the same notification guidelines on baton use would not pose an undue burden on Department personnel, and would further improve the integrity of the use of force database.

C. Low Level Force Reporting

In Section VII(C)(2) of the Settlement Agreement, the Plaintiff's recommend that "low level" use of force, "e.g., physical force such as that which is used to overcome minor resistance where there is no injury and no complaint of pain or injury by the suspect, would be subject to a check off type of reporting, but not to a separate investigation unless a supervisory official determines that an investigation is necessary under the circumstances."

Current use of force reporting policies do not address the large number of incidents involving lower levels of force, including improper use of handcuffs, grabs, pushes, or shoves where no injuries are sustained. Per Department policy, any incident of this nature is required to be recorded on the 75-48 Incident Form. Even assuming that officers report such force incidents, unless supervisors methodically and consistently review every 75-48 and/or 75-49 generated under their command, these lower level uses of force are not subject to review or monitoring in any efficient or meaningful manner. We were unable to identify a Departmental policy regarding supervisor/commander obligations to review use of force notifications and incidents. Whether or not this occurs is dependent upon the initiative and priorities of the individual commander. In order to be effective, use of force incident reviews must be regular and consistent. Sporadic reviews may cause officers to feel singled out, and create resentment and mistrust in the process.

Tracking low level uses of force can serve as a useful indicator of developing problems in a district or with an officer, where early detection and intervention may be helpful. Consideration should be given to modifying the proposed new Complaint/Incident Report (75-48) and the Vehicle or Pedestrian Investigation Report (75-48A) to include a check off on use of force.

Critics of this recommendation suggest that such reporting requirements are unduly burdensome, since every arrest requires physical restraint and therefore involves some form and level of physical force. It has also been suggested that the potential for improper use and interpretation of such information could be unfairly prejudicial to

police officers who use force reasonably and appropriately. It is certainly not our intention to burden or prejudice the men and women who patrol our streets, and we do not believe that our proposals, which are limited in scope, would do so. Our approach is, in our view, an extension of the important principles of Compstat, which, by requiring timely and accurate reporting of crime information, enhances the Department's ability to fight crime. We advocate nothing more than the timely and accurate reporting of use of force by police to enhance the Department's ability to identify potential problems, minimize abuse, and enhance the public's confidence in the police.

VII. DEPARTMENTAL INVESTIGATIONS INTO USE OF FORCE

A. Internal Affairs Bureau Review and Investigation

When a use of force notification teletype is received at IAB, it is reviewed by assigned IAB personnel, and in certain defined circumstances will trigger a full IAB investigation. In the alternative, the reviewer may determine that no further investigation is warranted, may monitor an investigation being conducted in a detective division, or may order a "threshold" investigation, which is supposed to involve review of additional records and reports generated as a result of the force incident, including Directive 22 Memorandums, OC Spray reports, the 75-48's and 75-49's, and other relevant records. After review of these additional records, the use of force incident is either "approved" or a full investigation may be ordered.

Pursuant to guidelines established in 1997 by the current Deputy Commissioner of the Internal Affairs Bureau, John Norris, who was at that time the Inspector in charge of the Internal Affairs Unit, IAB will conduct a full investigation into a use of force incident under the following circumstances:

1. A citizen files a Complaint Against Police (CAP) alleging excessive force.
2. If after review of the use of force incident notification teletypes one or more of the following is indicated:
 - a. 'serious bodily injury' as defined by the Pennsylvania Crimes Code, 18 Pa.C.S.2301;
 - b. The officer(s) struck the person in the head area and the circumstances would suggest that the officer(s) could have avoided that area;

- c. The officer's record, including IAB and prior use of force incidents, indicates numerous physical abuse complaints or multiple baton, blackjack, firearm, OC uses or where "other factors" exist.
 - d. Whenever an IAB commanding officer has reason to believe that an investigation is warranted after review of the Directive 22 memorandum, or other circumstances;
 - e. There is an obvious violation of departmental policy, unless addressed by the Commanding officer.
3. Information on excessive force received by IAB from other sources such as police department personnel, other law enforcement agencies, and anonymous informants may also result in a full internal investigation at the discretion of IAB command staff.

With the exception of citizen complaints, which are governed by Executive Order 9-93, IAB guidelines for the initiation of investigations into use of force incidents are not formal or official Department policy. For purposes of institutionalizing a consistent policy, we recommend that these standards be analyzed to ensure that they reflect the Department's expectations and goals, and that they be formalized either by Directive or Commissioner's Memorandum, and clearly communicated to all pertinent Department personnel. Commissioner Timoney has advised us that he agrees with and will implement this recommendation.

Based upon our review of all IAB investigations completed since January 1997, and our specific study conducted in preparation for this report, we can state with confidence that when IAB undertakes a "full" investigation into a serious use of force incident, these investigations are thorough, professional and unbiased. IAB investigators

obtained the necessary evidence and records, and conducted interviews with relevant witnesses. The conclusions were reasonable and consistent with the evidence. We reviewed a case in which IAB conducted a proactive targeted integrity test of officers in a unit against which persistent allegations of excessive force had been made. In other instances, investigators went beyond the allegations of excessive force and noted organizational problems and issues regarding the use of force policies, practices, and other training issues.

Since the Internal Affairs Bureau plays a central role in the Police Department's efforts to uncover and prevent misconduct and corruption, ongoing review of all completed IAB investigations continues to be a major function of this Office. The additional completed investigations we have reviewed alleging excessive force continue to be satisfactory. In addition, case review sessions between the IAO and IAB commanders have been initiated to discuss investigations in which important issues and problems are implicated. Issues pertaining to the use of force and reporting requirements have been the subject of some of these reviews. We have found IAB commanders generally open and receptive to these discussions, and we will continue to monitor Departmental responses and follow-up on issues and concerns raised during these review sessions.

Our study also convinces us of the value of the CAP process as a necessary check against failure of police personnel to report use of force incidents. Although in theory all significant incidents of use of force should be handled as an internal investigation, the CAP process provides a valuable, redundant system for monitoring the effectiveness of

the internal reporting and investigation process, and for tracking the extent of use of lower level force that results in no or only minimal injury, or otherwise falls outside the IAD reporting or investigative guidelines. In several of the CAP investigations we have reviewed since 1997, the use of force incident was brought to light by the citizen filing the complaint, and not by the involved officer(s). In these cases, the officers, and in one case a supervisor were found to have violated Departmental directives regarding use of force reporting responsibilities.

While the quality of IAB investigations of serious use of force is of critical importance in detecting and correcting potential abuses, our research and analysis also raises concerns regarding the greater range of use of force incidents that may not necessarily warrant a full investigation, but that require review of timely, accurate information as a safeguard against incipient problems. It is in this level of review by IAB, whether it is by monitoring detective investigations or in conducting a threshold inquiry, that we see the need for improvement.

Until recently, in limited circumstances IAB monitored a use of force incident if the arrest was already being investigated by a detective division. Whether or not, and to what extent, these investigations were in fact actively monitored by IAB is difficult to assess, since the few use of force incidents that we reviewed in which a "monitor" investigation was ordered revealed no additional follow-up, investigation or review by IAB. The lack of monitoring documentation, the fact that use of force is not always fully documented on the 75-48's and 75-49's by either the involved officers or assigned detectives, and the extremely poor quality of district investigations into police use of

force, which is described more fully below, leads us to conclude that IAB oversight in these instances was largely meaningless.

After Departmental review of a draft of this Report, we were advised that IAB no longer passively monitors detective divisions use of force investigation. IAB however will in limited cases monitor a detective divisions investigation of an arrest to ascertain whether additional information regarding the use of force emerges or to insure that use of force issues are properly addressed in the investigation. We have found IAB's "monitoring" policy, as well as its goals, responsibilities and role in the monitoring process, to be ambiguous and confusing. For this reason, we recommend that IAB policy, procedure and guidelines on the "monitoring" of Detective Division investigations where use of force is a component of the investigation be more clearly defined, articulated, formalized and communicated.

More significantly, our audit revealed fundamental weaknesses in the IAB review process where guidelines do not call for a full investigation. As described in Section VI(A)(1) of this report, the use of force teletype notifications sent to IAB from the police districts are frequently devoid of vital information essential to make an informed decision as to whether or not additional investigation into the incident is warranted. Our audit revealed that in 1996, IAB follow-up on use of force notifications was virtually nonexistent, despite grossly deficient notifications, evidence of serious injuries, and questions regarding the legitimacy of the arrest or the officer's actions. Any requests for additional information that were made were informal, and it was often difficult to assess whether or not the information was received before the notification was filed away.

Our review of records for 1997 and 1998 indicated improvement in the IAB use of force notification review process. Requests for additional information about a use of force incident became formalized and information requests are now monitored by assigned IAB personnel. Beginning in 1997, review of an officer's IAB complaint/investigation and use of force history became a routine part of the evaluation process. Our study also indicated a steady increase in the number of follow-up, or "threshold" and full internal investigations initiated by IAB. (See Exhibit G).

Despite these improvements, persistent weaknesses in the review process still exist. We continue to review deficient teletypes where no additional follow-up is requested by IAB and where the use of force was approved despite the fact that follow-up information and records were requested and never received. We found a steadily increasing number of delinquent responses to requests for additional information, some as late as six months as of the date of our reviews. These extensive and needless delays seriously hamper IAB's efforts to conduct an effective and thorough investigation should one be warranted.

The most recent records we audited from September and November 1998 indicated slippage in the review process. For example, consideration of an officer's IAB history was often absent from the review process. Additionally, there was an increase in the number of force notifications which were never subject to review by an IAB commander.

The years included in our study have seen repeated turnover in IAB personnel responsible for reviewing the use of force notifications and assessing the need for

additional investigations. When we first began this study, the IAB Inspector was responsible for the use of force review process. An IAB Captain was then assigned to the task. The current protocol involves five different IAB Captains responsible for reviewing force notifications generated in their geographic area of oversight. During these various personnel transitions, it became difficult to assess the precise nature of the review process. Our interviews with IAB personnel reveal that the standards for review and follow-up of use of force notifications have been and continue to be an intuitive, subjective, "gut" assessment of whether a particular force incident violated Department guidelines.

These frequent personnel changes underscore the need for establishing objective and official standards and protocols for the IAB use of force notification review process. To insure consistency and thoroughness, the review process should not be dependent upon the intuition, gut, or philosophy of whomever is responsible for reviewing the teletypes at any particular time, but on established standards and guidelines. As discussed earlier, improving the quality and content of the use of force notifications would also assist in this process.

Additionally, the Department should strictly enforce compliance with suspense dates for requested reports and records and supervisors must be held accountable for the timeliness and quality of the reports submitted. Finally, consideration should be given to computerizing the use of force information request tasks. Currently these records requests are all paper driven and reviewed by hand, a time consuming, inefficient process which lends itself to mistakes and oversights which we encountered during our audit.

B. District/Unit Use of Force Investigations

District level supervisors and Detective Divisions are responsible for all other investigations in o police use of force which occur under their command. District level force investigations appear limited to those requirements and guidelines established by the Directives pertaining to batons and OC spray. The OC investigation requires completion of a simple check off form, a copy of which is attached as Exhibit H. With the exception of these limited investigation requirements, information regarding police force should be included in any incident (75-48) or investigative (75-49) report generated as a result of the force incident or arrest. Our audit reveals that this does not always occur.

This policy fails to take into account the vast majority of force incidents which do not involve a baton or OC spray, including shoving, punching, grabbing, pushing, kicking, slapping, and tackling, the use of other unauthorized striking objects, and the improper use of handcuffs.

1. Directive 22 Memoranda

When an injury to a person results from the police use of the baton, Directive 22 requires that an immediate joint investigation be conducted by the officer's supervisor and the pertinent detective supervisor. At the conclusion of this investigation, a "Memorandum 12-S-1", hereinafter referred to as the "Directive 22 Memorandum," must be written and maintained at the district for one year. As of March 1999, copies of these memoranda are required to be automatically forwarded to IAB. Prior to the

implementation of this regulation, our limited audit of this process revealed spotty compliance in the completion of Directive 22 memoranda.

Our review of twenty months worth of use of force notifications and investigations reveal that Directive 22 Memoranda are generally poor in quality and are not serious efforts at meaningful investigations. The notion of the "joint investigation" is a myth. In reality, our study indicated that one supervisor types up the officer's bare version of the events, and the Detective simply rubberstamps the memo. The Directive 22 memoranda we reviewed did not indicate any attempts to locate and interview witnesses, identify or preserve evidence, or even to note the nature of the injuries sustained. With the exception of a few rare examples, the vast majority of Directive 22 memoranda are mainly a regurgitation of the use of force teletypes or the language contained in the police investigation report (75-49). Not a single Directive 22 Memorandum reviewed as part of this study concluded that the use of force was not justified or not within guidelines, despite the fact that IAB investigations into these same incidents concluded otherwise. Examples of typical Directive 22 Memoranda are attached as Exhibit I.

A glaring example of this was reflected in the Directive 22 Memoranda we reviewed in which district supervisors investigated baton and blackjack head strikes. Directive 22 authorizes head strikes with a baton (and formerly blackjacks) only if the use of deadly force is justified. In many of the cases we reviewed, baton/blackjack head strikes occurred under circumstances which, on their face, did not warrant the use of deadly force, yet every Directive 22 memorandum of baton/blackjack head strikes we

reviewed were found to be within Department policy. Some memorandums contained inconsistencies between injuries sustained and actions alleged by officer. In most instances, the officer alleged that he was aiming at an area of the suspect's body that fell within Departmental guidelines, but that the suspect "inadvertently" moved. While such a scenario is not far-fetched, the fact that this was the version of events in many of the cases renders those explanations suspect. These use of force incidents clearly warranted more thorough investigation and analysis by responsible district supervisors.

In response to this growing trend of "inadvertent" head strikes, Directive 22 was revised to prohibit the use of batons in the area of the collarbone unless the circumstances warrant the use of deadly force. Additionally, IAB assumed more responsibility for their investigations. While this is a positive indication of IAB's proactive approach to investigating emerging problems in the Department, the fact remains that IAB's caseload is already burgeoning, and extensive delays in the completion of investigations already exists. The issue of whether IAB can and should be responsible for all Departmental improprieties, or whether District supervisors and commanders should abdicate all responsibility for wrongdoing under their command, is an important issue for the Department. The Patrol Bureau, where most force incidents occur, and IAB, where the major responsibility for investigating use of force incidents falls, believe, rightly or wrongly, that the unfair burden of investigating use of force incidents is imposed on them. This inherent tension fosters resentment and misunderstanding between these two essential Bureaus.

Our interviews with supervisors and commanders about Directive 22 investigations reflect organizational attitudes and perceptions that explain why these substandard investigations have not been questioned or rejected even after review through the Department's chain of command. The following represent those factors that impact on the quality of Directive 22 Memoranda and on district/unit investigations into use of force as a whole.

a. Supervisor Accountability

Sergeants are in key positions to identify patterns, trends or problems related to unauthorized use of force in their squads, and are typically responsible for conducting the investigations into use of force incidents which occur under their watch. The poor quality of district use of force investigations is evidence of a failure to properly and effectively supervise, and can be attributed to several factors.

Many sergeants do not make the mental, emotional, and professional break or transition necessary to be effective supervisors. Many fraternize with and identify too closely with officers under their command. The dual roles of cop's buddy and cop's supervisor conflict, and do not allow or encourage the type of objective and professional oversight and review that is necessary to make the hard decisions or ask the tough questions.

Under current city Civil Service Regulations, a police officer can be promoted to sergeant after two years experience on the force. This is simply not an adequate time period in which to thoroughly experience, understand, and absorb the complexities of

policing, let alone police supervision, in a large urban environment. As one commander stated, "We've got recruits supervising and teaching recruits".

The skills and experience necessary to be an effective front line supervisor in the Philadelphia Police Department affect a significantly broader range of critical issues and operations beyond those related to use of force. Sergeants set the tone and standards for their squads and play an integral and critical role in achieving the goals and imparting the values of the Department. If a Sergeant, explicitly or tacitly, permits unacceptable behavior or concurs with untruths instead of correcting problems, then erosion of authority and non-compliance with Departmental policies and values are inevitable.

For these reasons, a minimum of five years patrol experience should be a prerequisite to eligibility to take the sergeant's exam. The nature and scope of the exam itself should be thoroughly assessed for relevance, and there should be a more meaningful and comprehensive evaluation of the officer's experience and qualifications as part of the promotional process. These recommendations reflect our overall view that the current promotional processes in the Police Department are fundamentally flawed and not designed to advance the most qualified and potentially effective leaders and managers in the Department.

Supervisor accountability in the Philadelphia Police Department is further compromised by the reality of a labor union structure in which every member of the Department, from the rank of police officer to Chief Inspector, is part of the same union. This places supervisors and commanders in the untenable position of supervising and possibly disciplining personnel who are in the same bargaining unit.

b. Supervisor Perceptions of Use of Force Monitoring Systems

A related factor contributing to the inferior quality of district use of force investigations is reflected in the conflict and ambivalence expressed by the supervisors and commanders about the impact of this process. Many viewed their role as an untenable balancing act which, on the one hand, requires encouraging officer activity, and on the other, punishing an officer if a force incident occurs. Supervisors and commanders are reluctant to "jam-up" officers who they feel were just doing their jobs. Others expressed concerns that an objective and thorough inquiry into and notification of a use of force incident would alienate their officers and lower morale, which in turn would decrease the motivation and activity level of the squad and ultimately reflect poorly on the district command staff.

What emerges is a significant organizational perception that the use of force investigation process is inherently punitive. This fear of retribution inhibits objective and honest assessment of a use of force incident with officers unwilling to be candid about a force incident, and supervisors unwilling to ask the difficult questions. Departmental responses and resources allocated to inappropriate use of force incidents to some extent fuel these perceptions and fears. For example, in many cases, training and counseling would be more appropriate and productive responses to an officer's inappropriate use of force. Our study has shown that accessible and meaningful in-service use of force training is severely lacking in the Department. We were able to confirm only six documented occasions in which officers received in-service, hands-on tactical training in response to inappropriate uses of force indicating the need for additional training.

Encouraging officer activity and ensuring compliance with Departmental guidelines on use of force need not be mutually exclusive. Reasonable methods of recognizing and rewarding positive behavior in the context of use of force avoidance, as well as productive and meaningful interventions to deal with inappropriate use of force, need to be analyzed and implemented.

c. Resource and time factors

Police personnel we interviewed state that time and resource limitations prevent District supervisors from conducting meaningful investigations into force incidents. We recognize the difficult task of busy district supervisors and commanders, and the conflicts and tensions which arise in fighting crime and supporting officers who confront disrespectful, angry, and difficult individuals. Furthermore, it would be unproductive, and naïve on our part, to suggest that a complete investigation into every incident of force is practical or necessary. However, meaningful, objective, and honest inquiries into force incidents are not impractical and burdensome. Each force incident, even those involving low levels of force, warrants review and in some cases appropriate follow-up measures to prevent force problems from escalating.

More significant and compelling than the perceived time and resource constraints are the organizational attitudes and perceptions that emerged during this study that impact on and perpetuate the notion that lack of time and resources prohibit meaningful inquiries into force incidents.

Force notifications we reviewed suggest that low and moderate levels of force may have been used prematurely, despite clear Departmental policy which requires that physical force be used as a last resort after the exhaustion of a range of alternatives and techniques. In other incidents it appeared that the involved officer(s) may have been responsible for or contributed to the escalation of an incident in which force was used. In these cases, the reason for the initial detention may be vague or suspect, the arrest did not stem from independent criminal activity but occurred as a result of the interaction between the suspect and the officer, and the suspects were typically charged with resisting arrest, disorderly conduct, or assault on an officer. Our interviews and ongoing study of the Department support the observation that some officers, because of their personalities and predilections, believe that the use of force is necessary to establish respect and authority on the street.

In situations involving significant force levels resulting in serious injuries, or when a pattern or problem of excessive force by an officer or a district/unit is evident, IAD will typically conduct a full investigation into the force incident, and in some cases, proactive targeted integrity checks. The problem we identify here reflects more prevalent lower levels of force that accompany what some have dubbed "attitude arrests". In these cases, no further investigation or analysis into these incidents occurred. While informal district level intervention may have occurred in some of these cases, these actions are generally undocumented and thus not subject to review.

The tacit acceptance of low level use of force in these situations reflects organizational attitudes about the use of such force which conflict with the Department's

written policies and stated values. If strict compliance with the Department's stated policies, values and guidelines about the use of force were fully entrenched and institutionalized in the value system and practices of the Department, then the issue of time and resources into meaningful inquiries, and if necessary full investigations, into force incidents would become irrelevant.

It is our concern with this pattern of use of force which in part informs our recommendation that the Department more thoroughly document and analyze the more prevalent lower level force incidents. Since the issuance of a draft of this report, IAB has developed a new unit, the Integrity Control Unit, which will be staffed by ten newly promoted Lieutenants. Their function will be to conduct random audits to ascertain the extent to which districts and special units are adhering to Departmental policies and procedures which affect and impact on the integrity of the Department. We are advised that these audits may include review and analysis of arrests where force was used and the arrest charges included disorderly conduct, resisting arrest, and assault on an officer. This positive initiative, which will require the critical evaluation and analysis of a troubling use of force pattern, addresses some of our concerns regarding more comprehensive reporting and review of lower level force incidents.

Our study further indicates that in some districts and units the Lieutenant is an underutilized resource. Consideration should be given to increasing the Lieutenant's role in the use of force investigation process, especially in the busier districts and units where more force incidents occur. A lieutenant's additional policing experience and

administrative distance from the police officers, compared to that of the sergeant, argues for their suitability to this task.

VIII. DEPARTMENTAL ANALYSIS OF USE OF FORCE INFORMATION

A. Reform Efforts

As the Plaintiff's to the Settlement Agreement noted in their first Monitoring Report: "It should be understood that the Agreement will result in progressive change only if each of the provisions is fully implemented and the Department in fact effectively uses the information that is generated by the reforms. It will do little good to accumulate data concerning use of force, for example, if the Department does not seriously analyze the information and fully address any patterns or practices revealed that are contrary to law or Departmental directives."

Our study of the Department reveals innovative and productive uses of use of force information. We have reviewed several cases in which IAB commanders have ordered more thorough investigations into a use of force incident when the officer's use of force history indicates that a problem or pattern may be emerging. In some cases, this review included analysis of prior use of force incidents as well.

Additionally, IAB has recently implemented a Case Review Program in which three members of IAB arrange and moderate review sessions with officers whose internal affairs/use of force history and duty-related civil suit settlements reveal a pattern or series of allegations which can include use of force. The purpose of this program is to provide officers, in a non-threatening forum, with alternative choices in behavior and recommend

resource options to prevent the recurrence of inappropriate behavior. Since the Case Review Program was only implemented in January 1999, its scope and effectiveness cannot yet be fully assessed; however, initial reviews and responses appear favorable by both officers who undergo these sessions, and by the increasing number of commanders who are referring personnel to the program.

B. Use of Force Information Systems

In 1994, IAB began maintaining a use of force database (use of force statistics from 1993 were retroactively included in the database) which was developed by a police officer with limited direction or guidance from the Department's leadership and other interested police and city personnel. Over the ensuing five years, as Departmental needs and interests regarding use of force information were identified, this database underwent significant revisions in form and content. During this same time period a duplicate use of force database was developed and maintained in another unit in the Department, which represented an inefficient use of Department personnel and resources. Throughout this continual evolution, limited protocols or policies were in place to insure the integrity, quality and comprehensiveness of the data collected and entered into the database. For these reasons the use of force databases we reviewed contained substantial discrepancies between what was entered into the computer and the paper records and documents which back up the data

An example of the limitations of this database in answering specific queries with accuracy arose during our review of the IAB database and teletypes for evidence of any possible pattern or problem regarding the incidence of baton or blackjack head strikes. This query was prompted by our review of IAB investigations and litigation settlements, which indicated an emerging problem with this type and level of force. Out of six hundred and sixteen teletypes reporting use of force that we reviewed, thirty-three specifically reported baton, blackjack, or radio strikes to the head. However, one hundred and nineteen of these teletypes indicated that a person had received medical treatment without describing the nature of the injury. Numerous others indicated baton and blackjack use without indicating where the individual was struck or if injury resulted. Still others reported that a suspect sustained head injury but did not specify the cause of the injury. Furthermore, this data was not captured on the use of force database. Thus, the flawed reporting methods, and the database thereby created, did not permit a thorough assessment of the possible scope of a use of force issue that emerged from our study of the investigation and litigation files.

Since January 1999, there have been significant improvements in the way IAB captures and monitors use of force data. An informational command center for IAB was created, and an experienced technical supervisor was assigned to oversee its operations. Duplicate use of force data bases were consolidated, and the required data fields were further expanded. Data entry technicians assigned to this task are now required to initial and date their entry to track their performance and the accuracy of their entries. There

has also been an improvement in the quality, detail and thoroughness of the data included in the use of force.

While these improvements are encouraging, further steps are necessary to insure the continued development of a reliable, comprehensive, and useful use of force information system. First, all relevant parties and Department personnel with a stake in the use of force information system should be given the opportunity to thoroughly evaluate information collected to insure that the databases record all the necessary data elements. Our own review of the current use of force database revealed informational fields which are needed but lacking, such as description of injuries sustained, whether the incident occurred while the officer was on or off-duty, and the arrest charges. Second, the stand-alone computer systems that are currently utilized at IAB should be networked to accommodate all workstations and all staff assigned to these tasks should be fully trained in operating the systems. This would allow for the efficient and timely entry of data. The current deteriorated and overcrowded IAB facility precludes any upgrades to the current computer systems; however it is anticipated that such improvements will be feasible when IAB relocates to its new facilities.

A thorough analysis of the use of force information, investigation, and records work flow is necessary to ensure that all amendments and updates to use of force incidents or investigations are captured in the databases. Finally, the recommendations contained in Section V of this report should be considered as part of this overall analysis of the use of force information systems and the current major computer initiative under way in the Department.

C. Ad Hoc Use of Force Review Committee

Consideration should be given to the establishment of an internal Ad Hoc Use of Force Review Committee consisting of personnel from IAB, the Patrol, Training and Special Patrol Bureaus, and the IAO. The function of this review board would not be to review all cases involving use of force or to pass judgement on individual officers or cases, but rather to meet on a periodic, as needed basis, when use of force issues and problems are identified as a result of audits, investigations conducted, or significant force incidents reported by any of the above units and bureaus. The purpose of this Committee would be to enhance officer safety, improve risk management strategies, identify use of force patterns, problems and trends and training issues, monitor the effectiveness of and compliance with Departmental policies, and provide support and resources to the Department on use of force issues. An Ad Hoc Use of Force Review Committee could also serve as a necessary check on the inherent weaknesses in district use of force investigations and oversight identified in Section VII of this report.

PART THREE: ADDITIONAL CONSIDERATIONS

VIII. DISCIPLINE

As part of this study we examined sixty-six disciplinary cases which were sent to the Department's Police Board of Inquiry (PBI) from 1995 to 1998 involving officers against whom IAB sustained allegations of excessive force. The findings and recommendations in this report related to excessive force and the disciplinary system are also drawn from our ongoing review of the PBI, which includes observation of hearings conducted by the PBI, review of several hundred PBI files unrelated to use of force, and interviews with Department personnel with experience in the disciplinary system.

Our audit revealed the following weaknesses in the Police Department's disciplinary system.

1. The Department's Disciplinary Code does not include a provision which specifically addresses inappropriate use of force. Disciplinary actions for this type of misconduct are generally brought under the following two broad sections of the Disciplinary Code:

Article I -- Conduct Unbecoming an Officer; Section 1.45 - Using rude or insulting language or conduct offensive to the public while on duty; and

Article IV -- Neglect of Duty; Section 4.20 - Failure to comply with any Commissioner's Orders, Directives, Regulations, etc., or any oral or written orders of superiors.

Disciplinary actions brought under the two broad sections of the Code can apply to misconduct ranging from a minor infraction warranting a reprimand to extremely serious

allegations of corruption or brutality warranting dismissal. To illustrate, between 1995 and 1998, 1,479 disciplinary actions were brought under Section 4.20 and 118 disciplinary actions were brought under section 1.45. In this same time period only sixty-six of these cases were related to "physical abuse". IAB and PBI tracking numbers for the same case are different and the PBI database does not indicate the conduct underlying the disciplinary actions brought under these sections. While IAB maintains a database which corresponds IAB investigations of physical abuse to the PBI case number, it contained some inaccuracies and did not include data on the PBI outcome. The Department's reliance on these few catch-all disciplinary code provisions precludes efficient analysis and auditing of the disciplinary system as a whole, and has contributed to the overturning or lessening of discipline imposed by labor arbitrators.

Recognizing that attempts to reform the disciplinary code have labor implications which must be analyzed and addressed, we still recommend that the Department work towards adopting disciplinary code sections which specifically address violations of the Departments use of force directives and regulations.

2. PBI files were often vague and lacking in important details, including the officers IAB or use of force history, the nature of the injuries sustained as a result of improper use of force, or the officer's disciplinary history except for basic information such as the section of the disciplinary code preferred and the penalty imposed. In many cases, this lack of relevant details precluded us from determining whether the discipline imposed was reasonable in light of the allegations. Statistical data on the percentage of

guilty and not guilty determinations is therefore of little use in assessing whether the PBI is adequately addressing these cases or whether the Board's penalty recommendations are reasonable.

For these reasons we recommend that as part of the PBI hearing process, panel members should be provided with the officer's relevant employment history in order to make informed penalty determinations, and to state the reasons for the penalty imposed. Such a policy would minimize the potential for and perception of capriciousness and favoritism in the disciplinary process and would strengthen and support the Department's actions in the event that the PBI findings and recommendations are grieved by the officers.

3. In numerous cases we found "not guilty" determinations by PBI panels with no supporting reasons or justifications for these determinations evident in the file. PBI panels should be required to submit a detailed memorandum to support and explain a "not guilty" determination and disciplinary recommendations that are not within Department guidelines. Since the issuance of a draft of this Report to Commissioner Timoney for review, he has modified Departmental policy to require that PBI panels document in writing the basis for not guilty determinations.

4. In numerous files we found seriously misleading and inaccurate letters to complainants regarding the outcome of the PBI hearing and actions taken against the officer(s) accused of using excessive force against them. For example, there were cases

in which the letter stated that the officer was found “guilty” and “suitably disciplined” when the case had been dismissed. A system should be established to insure the accuracy of these notifications to citizens regarding the outcome of their complaints. Since the issuance of a draft of this Report to Commissioner Timoney, we have been assured that this problem has been addressed.

5. There are no tracking mechanisms or follow-up procedures to insure compliance with PBI recommendations. In cases where PBI panels recommended further in-service training, and in one case a psychiatric evaluation, we could find no evidence which indicated follow-up on these recommendations.

6. Inordinate delays between the date of the disciplinary infraction and the final resolution are common. In nearly one-third of the excessive force disciplinary files we reviewed, over a year, and in some cases several years, elapsed between the date of the misconduct and the final resolution of the disciplinary action.

We reviewed IAB investigations in which serious allegations of misconduct and excessive force against particular officers were sustained by IAB, and yet not prosecuted by the PBI because the extensive delays resulted in the loss of witnesses. In these cases the disciplinary charges against the officer(s) were dismissed. This practice allows officers to escape accountability for misconduct and is a waste of limited and valuable resources which are expended on extensive and time consuming IAB investigations.

In light of these findings, we recommend that a thorough analysis of the many factors contributing to these delays be undertaken, with the goal of devising methods and practices which would minimize delays whenever possible. We do note that since the issue was raised during our research for this report, Commissioner Timoney has directed the Department Advocate to prosecute disciplinary actions even though delays have resulted in the loss of witnesses.

With regard to our findings in subsections five and six, we support two proposals currently being considered by the Department. The first would establish suspense dates for bringing disciplinary charges against personnel once internal investigations are completed and disciplinary charges are warranted. The lack of reasonable suspense dates is one important factor contributing to delays in the resolution of disciplinary matters. The second proposal calls for the appointment of a Captain to the Department's Executive Office to monitor disciplinary actions, enforce suspense dates, ensure appropriate follow-up on PBI recommendations, and generally monitor the integrity of the disciplinary process, policies and procedures.

7. In numerous cases we found allegations of physical abuse sustained by IAB which were not included in the disciplinary charges prepared by the offending officer's commander, and thus were not addressed by the PBI. These significant omissions by District/unit commanders, whether intentional or not, were not detected because, until recently, the Department had no effective tracking mechanism to determine whether or

not and to what extent allegations of misconduct sustained by IAB and other investigating units in the Department became the subject of a disciplinary action.

Under current Department policy, a completed IAB investigation is reviewed up through the investigating unit's chain of command, to the Commissioner, and then back down the offending officer's chain of command to the relevant Commanding Officer, who then prepares the disciplinary charges. The completed disciplinary package returns back up through the chain of command for approval by the various ranks, and is then sent to PBI for a hearing, or to the Commissioner for a Commissioner's Direct Action. Despite these multiple layers of review, inaccurate or incomplete disciplinary charges were either ignored or not detected. Additionally, the current labyrinthine review process is inefficient, ineffective, and contributes to the delays in the disciplinary process. Consideration should be given to streamlining the workflow to increase the efficiency of this process.

We brought this weakness in the disciplinary system to the attention of Commissioner Timoney in connection with our prior study of the disciplinary system. In December 1998, Commissioner Timoney established a central Charging Unit as part of the PBI, which is currently staffed by one Lieutenant and monitored by the PBI advocate. The purpose of the Charging Unit is to insure that disciplinary actions brought against a member of the force accurately reflect the allegations of misconduct, and that there is uniformity and consistency in the charging process.

Under the new system, the cumbersome review process still exists, except that now the Lieutenant at PBI reviews the investigations and disciplinary charges. If

amendments to the disciplinary package are required, the Department Advocate is authorized to confer directly with the commanding officer to request the recommended amendments. While the new PBI charging unit represents a positive step in effective oversight and accountability in the disciplinary process, we question whether one Lieutenant is sufficient to properly perform this function in view of the time consuming demands required in reviewing all paperwork and investigations which support the disciplinary allegations.

8. Lack of consistency and uniformity in the PBI hearing process results in inconsistent and illogical outcomes. PBI hearings are conducted before constantly changing panels of sworn personnel who bring to the process a wide range of experiences, training and biases. Panel members do not receive formal training regarding the role and standards of the PBI hearing process. Panel preparation for hearings, which may require careful review of extensive investigation files, is not consistent or monitored. In fact, we observed hearings in which the panel members were not aware of, or did not understand, Departmental policies and issues upon which they were called to render decisions.

Furthermore, the Department's current and former PBI advocates were and are not attorneys with the litigation training, experience, and skills comparable to the attorneys hired by the Fraternal Order of Police to defend officers before the PBI. This observation is not meant to disparage, in any way, the commitment and integrity of the Department advocates that we have observed at hearings who have managed and

continue to manage the PBI in a professional manner. However, it is apparent that these discrepancies in experience and training have put the Department at a disadvantage at these hearings.

For these reasons, we recommend that the Department consider selecting a standing group of panelists who are carefully screened and trained to enhance the consistency and integrity of the process. Panelists should be provided with all pertinent records and investigations in advance of the hearings, and thorough preparation for the hearings should be mandatory. Furthermore, the Department should consider whether it should have an experienced trial lawyer representing the Department at the PBI to ensure equality in representation. These reforms would improve consistency in the hearing process and strengthen the Department's position if and when PBI determinations are appealed by the officer and decided at arbitration.

X. USE OF FORCE TRAINING

A. Recruit Training

Police recruit training in use of force techniques and applications offered at the Police Department's Training Academy comply with the standards and requirements established by the Municipal Police Training Act and the Municipal Police Officer's Education and Training Commission (MPOETC). In the past year Commissioner Timoney has further expanded and improved training in this area by increasing the required instruction for physical training from thirty-two to sixty-four hours, for force applications from twenty-four to forty-eight hours, and for use of handcuffs from eight to ten hours.

The Academy has also recently acquired several "Red Man Suits" which allow for more realistic and effective training in force techniques and applications by providing recruits with a live moving target on which to practice various force techniques. Instructors have advised us that the more practical, hands-on, realistic force training scenarios enable Academy instructors to detect, at the outset, recruits with unduly aggressive traits or violent tendencies that were not detected during the hiring process.

We note that the Police Academy has no dedicated or adequate physical training facilities. The current "gym" also serves several functions, such as an auditorium and meeting facility which can preempt scheduled courses in use of force and physical training and decrease hands-on training opportunities. We recognize that providing and adequately equipping a separate facility for physical and use of force training would

require additional resources and funds. However, improving the quality of the Academy's physical training facilities would demonstrate and reinforce the City's commitment to quality training in use of force and physical conditioning and enhance the Academy's reputation as a top rate, highly respected regional police training facility.

B. In-Service Training

To remain proficient in use of force applications and techniques which recruits are taught at the Academy, continual practice and hands-on training are essential. Experts we interviewed stated that an officer's effectiveness, skill and comfort level in these use of force techniques can deteriorate in as quickly as six months without regular practice and conditioning. Despite this starkly low retention rate, our study revealed that practical hands-on training in use of force techniques and defensive tactics is virtually non-existent once recruits complete their Academy training. The only exception to this is a State requirement that all sworn personnel undergo yearly training and testing at the Department's firearms range to remain certified in the use of firearms.

In 1988, Act 180 was passed by the Pennsylvania legislature, requiring mandatory yearly in-service training for all law enforcement personnel subject to the Municipal Police Training Act, which includes Philadelphia police officers. The requirements of Act 180, which took effect in 1991, are directed and monitored by the Municipal Police Officers' Education and Training Commission (MPOETC), a state agency that develops the yearly course requirements with the input and cooperation of representatives from law enforcement agencies throughout Pennsylvania. Since 1991 several courses relating to

use of force have been offered, including "Conflict Resolution," "Officer Safety Awareness," and "Use of Force." The Philadelphia Police Department has offered supplemental courses such as "Verbal Judo," "Tactical Interpersonal Communications," "Communications for Patrol Supervisors," and "Officer Survival," which address issues related to force. However, both the state and city courses entail classroom lectures which do not provide the type of realistic hands-on training essential for practical and meaningful use of force training.

We recognize that significant resources would be needed to provide this type of regular, intensive, hands-on training to thousands of sworn officers, and that MPOETC has not offered in-service training courses of this nature. However, the significant costs that follow from inadequate training, including the increased risk to police officers themselves, argue for creative solutions to deal with the lack of effective in-service training on use of force applications and techniques.

Consideration should therefore be given to developing a program for identifying sworn personnel currently in the Department who would be appropriate for and interested in becoming use of force training officers assigned to each of the Department's six Patrol Divisions. These officers would need to become state certified force instructors, and possibly receive some augmented training through the FBI National Academy. Since the Department already has on staff a state certified force instructor who is qualified to train and certify other officers, the costs to the Department could be kept to a minimal level. Once state certified and trained, these force instructors could provide regular, hands-on,

closely supervise use of force training to officers at the district level, and in particular to officers identified as specifically in need of retraining.

Such a program could have several benefits. First, it provides incentives to and rewards officers who are skilled in use of force techniques by providing them with the opportunity to serve as role models and instructors. Second, it allows for effective, meaningful, and practical use of force training without removing officers from the street for extended periods of time. Third, these force instructors could be a valuable and easily accessible resource for specific officers identified as having problems with inappropriate or excessive use of force and in need of additional training. This type of training would also allow officers to recognize their limitations and weaknesses in a safe, controlled training environment, not in the midst of a street confrontation, where the stakes and danger are higher. This type of training program would increase officer awareness and understanding of the value and importance of these use of force techniques, and may motivate those who have let themselves deteriorate physically to get back into shape. Finally, a program such as this would reinforce and emphasize the Department's commitment to proper use of force.

C. Physical Fitness

Numerous discussions with sworn officers from a broad range of rank and responsibility have taught us that it is impossible to evaluate use of force techniques and proficiency without addressing the issue of physical fitness. Every incident in which force is used involves a unique set of factors and variables which influence whether or

not, and to what extent, force is used. In some situations, an officer's physical presence and appearance alone can affect the way a person reacts and responds, and may be sufficient to quell any potential violence or resistance. The manner in which an officer presents himself or herself, and takes control of a situation, can be dependent upon physical conditioning. Officers who are in poor physical shape and no longer skilled in use of force techniques may be less able to command respect, and not as able to handle a situation without resort to use of force. Furthermore, poor physical conditioning decreases an officer's strength, endurance, and flexibility, increasing the risk of injury to that officer.

A police officer recruit is required to meet certain physical fitness standards in order to graduate from the Academy. After graduation, however, physical fitness standards are no longer properly monitored. Departmental policy requires that sworn personnel must maintain their ability to fully and effectively carry out the duties for which they were hired. Written Departmental policy states that sworn personnel must meet minimal physical and medical standards in order to qualify for promotions. These policies as they relate to physical fitness are not enforced. Except for officers who want to be part of the bike patrol, which requires passing a rigorous fitness test and maintaining a high standard of fitness that is tested yearly, at no other time does an officer's physical conditioning become an issue.

To encourage sworn personnel to maintain good physical conditioning, Departmental policies regarding promotional qualifications and physical fitness standards should be strictly enforced. Additionally, incentives such as transfers to specialized and

desirable assignments could be offered to encourage officers to remain in good physical shape.

We are mindful that the inherent nature of police work, including rotating shift work, can contribute to an unhealthy lifestyle, and that maintaining good physical conditioning involves ongoing commitment and hard work. We also recognize that efforts to enforce the Department's physical fitness standards will be met with resentment and resistance. However, individuals who decide to become police officers are aware that, like the military, physical conditioning is part of the job and an important aspect of safe and effective policing. It is therefore not unreasonable that such standards can and should be enforced.

**EXHIBIT A—SETTLEMENT AGREEMENT PROVISIONS CONCERNING
USE OF FORCE**

VII. Issues Concerning Use of Force

Proposal:

- A. Review of Current Use of Force Directives and Regulations to ensure that the Department authorizes only that level of force that is reasonably necessary and which a properly and fully trained officer would use for the protection of the officer, suspect, and the public in given circumstances. Consistent with these directives, the Department should adopt specific written disciplinary regulations for the violation of use of force directives and regulations.
- B. Except in extraordinary circumstances (e.g., undercover officers who cannot carry firearms), no legitimate police purpose is served by the practice of authorizing or permitting officers to carry or use blackjacks, slappers, or similar weighted striking devices. Except with specific written authorization of the Police Commissioner, no officer should carry, possess, or store in any department facility or locker any such device.
- C. Promulgation of Use of Force Reporting Requirements.
 1. There should be formal reporting requirements for any use of force beyond verbal commands or the physical hand contact that is used incidental to normal police search, arrest or detention practices. Reporting formalities and the investigation that should follow will depend on the type of force that is at issue. Reportable force includes:
 - Use of chemical sprays or electronic shocking devices;
 - Use of impact devices and techniques, such as batons, nightsticks, fists, and feet;
 - Drawing, display, or pointing of firearms;
 - Use of canines in incidents in which canines come in contact with suspects or other civilians;
 - Use of potentially lethal martial arts techniques and holds, such as carotid control holds, bar arm holds, and other neck grips;
 - Discharge of firearms;
 - Use of any other degree of force resulting in visible or reported injuries to suspects or other persons;
 2. "Low level" use of force, e.g., physical force such as that which is used to overcome minor resistance where there is no injury and no complaint of pain or injury by the suspect, would be subject to a check off type of reporting, but not to a separate investigation unless a supervisory official determines that an investigation is necessary under the circumstances.

3. Where "significant" force is used, formal reporting and investigation should be required. Significant force includes situations where injury occurs from the force used, the suspect complains of pain or injury or hospital care is required, regardless of the officer's denial of use of force, the use of any special weapon or device (e.g., taser, mace, pepper spray, firearm or baton), causes or is claimed to cause any injury or pain to the suspect, or death follows contact with the police.
 4. Significant force cases should require detailed reporting by the officer(s) involved and the immediate documentation and investigation of the incident by either an immediate supervisor or by IAD, depending on the nature of the incident. In all such cases, investigating supervisors or assigned IAD personnel should state their conclusions and recommendations concerning the propriety of the force used. When such cases are investigated by immediate supervisors, their reports shall be reviewed and endorse, positively or negatively, by the supervisors' — — — — — commanding officers.
 5. Where formal reporting and investigation is required the investigation shall be contained in a Use of Force Document that includes all of the investigatory materials. There should be specific directives with respect to the type of investigation to be conducted and time frames for completion.
 6. In conjunction with the computerization and integration of police reports and documents outlined in Section IV, the Use of Force documents should be indexed by officer, type of force (e.g., shooting), district, unit and year of occurrence. Further, a review mechanism should be established to determine whether there are trends in the use of force in the Department or in various districts or units.
 7. Use of Force history should be a factor in evaluations, assignments, promotions, psychological counseling, and any early warning system or at risk officer assessments that are established by the Department.
- D. Any special weapon, technique or device should have its own separate training and monitoring. In addition, training and disciplinary programs and directives should be developed in specific areas, detail impermissible uses of force. For example, the proper use of handcuffs should almost never result in injuries to the wrists or nerves in the hands. Specific penalties for violations of use of force directives should be developed.

City Response

The City accepts these proposals in substance and agrees that the Police Department will implement additional reporting requirements or expand existing requirements. The reporting forms, and criteria and procedures for investigation, shall be finalized and implemented within 45 days of the Court's approval of this agreement. The Department is prepared to take every necessary measure to ensure that officers do not abuse their law enforcement privileges by physically abusing the citizens they serve. Indeed, the collective bargaining agreement permits the imposition of appropriate sanctions in cases in which excessive or improper force is employed.

The Police Department intends to use computer technology to track use of force information. The purpose of collecting such information will be to monitor, review and analyze for appropriate response (retraining, discipline, policy revision, etc.). In addition, the information will continue to be reviewed in connection with decisions regarding assignment and promotion.

**EXHIBIT B—POLICE DEPARTMENT DIRECTIVES CONCERNING
USE OF FORCE**

PHILADELPHIA POLICE DEPARTMENT

MEMORANDUM (98-4)

JUNE 19, 1998

SUBJECT: USE OF FORCE

I. POLICY

The Philadelphia Police Department recognizes the value of all human life and is committed to respecting the dignity of every individual. The primary duty of all police officers is to preserve human life.

The most serious act in which a police officer can engage is the use of deadly force. The power to carry and use firearms in the course of public service is an awesome responsibility. Only the minimal amount of force necessary to protect human life should be used by all officers.

- A. All sworn officers of the Police Department are responsible and accountable for the proper use of force under appropriate circumstances. Officers are reminded that the application of force must be consistent with existing law and with the Philadelphia Police Department Mission and Ethical Principles by which we pledge to value human life and respect the dignity of each individual.
 - 1. Deadly physical force will be used **ONLY** as a last resort and then only to protect life, consistent with Department policy and the law.
 - 2. Only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally deranged or emotionally disturbed person into custody.
- B. At the scene of a police incident, many officers may be present and some officers may not be directly involved in taking police actions. However, this does not relieve any officer present of the obligation to ensure that the requirements of the law and Department regulations are complied with.

- C. All officers are required to establish and maintain control if the use of force against a subject is wrongful, improperly applied or clearly becomes excessive. Depending upon the circumstances, both federal and state law provide for criminal sanctions, and civil liability against police officers. Departmental sanctions may also result when officers fail to take appropriate actions.

NOTE: EXCESSIVE FORCE WILL NOT BE TOLERATED.

II. PROCEDURES

- A. All officers of the Philadelphia Police Department at the scene of a police incident must:
 - 1. Immediately establish firearms control. No officer will discharge a firearm unless such force is necessary to prevent imminent death or serious bodily injury to themselves or to another person and there is no other alternative and such discharge is consistent with the policy herein established.
 - 2. Use minimum necessary force.
 - 3. Employ non-lethal alternatives, as appropriate.
 - 4. Where feasible, and consistent with personal safety, some warning, such as "POLICE," "DON'T MOVE," should be given. Above all, the safety of the public and the officers must be the overriding concern whenever the use of firearms is considered.
- B. Whenever it becomes necessary to take a violent or resisting subject into custody, responding officers should utilize appropriate tactics in a coordinated effort to overcome resistance. The patrol supervisor, if present, should direct and control all activity. Whenever possible, officers should make every effort to avoid tactics, such as sitting, kneeling or standing on a subject's chest or back, which may result in chest compression, thereby reducing the subject's ability to breathe.
- C. When, pursuant to existing Department guidelines, it becomes necessary to handcuff an individual, the subject shall be cuffed behind their back, palms out, at the earliest opportunity to reduce the potential for resistance which may cause injuries. In addition, alternate restraining devices shall be used, at the earliest opportunity, to restrain or further restrain a subject whose actions or behavior may cause injury to himself or others.

- D. After an individual has been controlled and placed under custodial restraint using handcuffs and other authorized methods, the person should be positioned so as to promote free breathing. The subject should not be maintained or transported in a face down position. The officer assuming custody of the subject should closely observe him or her for any apparent injuries.
 - I. If the area is dark, a flashlight or other source of illumination should be used to maintain a clear view of the subject at all times.
- E. If a person appears to be having difficulty breathing or is otherwise demonstrating life-threatening symptoms, medical assistance will be sought immediately. The patrol supervisor will direct that alternate means to maintain custody be utilized, if appropriate. The unauthorized use of restraints and the transportation of subjects in a face down position within any vehicle are prohibited.

III. USE OF FIREARMS "PROHIBITED CONDUCT"

- A. Police officers *shall not* use deadly physical force against another person unless they have probable cause to believe they must protect themselves or another person from imminent death or serious bodily injury.
- B. Police officers *shall not* discharge their weapons when doing so will unnecessarily endanger innocent persons.
- C. Police officers *shall not* discharge their firearms in defense of property.
- D. Police officers *shall not* discharge their firearms to subdue a fleeing individual who presents no threat of imminent death or serious bodily injury to themselves or another person present.
- E. Police officers *shall not* fire warning shots.
- F. Police officers *shall not* discharge their firearms to summon assistance except in emergency situations when personal safety is endangered and no other reasonable means is available.
- G. Police officers *shall not* discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the police officer or another person present, by means other than the moving vehicle.

- H. Police officers *shall not* discharge their firearms at a dog or other animal except to protect themselves or another person from physical injury and there is no other reasonable means to eliminate the threat, or when acting consistently with existing Department guidelines authorizing the humane destruction of injured animals.
- I. Police officers *shall not* under any circumstances cock a firearm. Firearms must be fired double action at all times.

JOHN F. TIMONEY
Commissioner

**DIRECTIVE 10
POLICY CHANGE**

I. POLICY

- A. Members of this Department will exhaust all other reasonable means of apprehension and control before resorting to the use of deadly force. It is also the policy of this department that members will not unnecessarily or unreasonably endanger themselves in applying these guidelines to actual situations.
 - 1. Officers will use care when handling all firearms and will adhere to procedures contained in Assist Officer #217, dated 1/29/88.

- B. Police officers shall not use deadly physical force against another person unless they have probable cause to believe they must protect themselves or another person present from imminent death or serious physical injury.
 - 1. Officers should ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive or improper actions.

- C. Police officers shall not discharge their firearms to subdue a fleeing individual who presents no threat of imminent death or serious physical injury to themselves or another person present.

- D. Police officers shall not discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the police officer or another person present, by means other than the moving vehicle.
 - 1. An officer should never place himself/herself or another person in jeopardy in an attempt to stop a vehicle.

- E. Police officers will not fire warning shots under any circumstances.

- F. Police officers shall not under any circumstances cock a firearm. Firearms must be fired double action at all times.

- G. Police officers shall not discharge their firearms at a dog or other animal except to protect themselves or another person from physical injury and there is no other reasonable means to eliminate the threat, or when acting consistently with existing Department guidelines authorizing the humane destruction of injured animals.

H. Firearms should not be used to destroy injured animals when they are not presenting an immediate threat to the officer or another person. Attempt to confine or contain the animal and notify Police Radio to contact the SPCA or the Pennsylvania Game Warden.

1. If the above agencies are unavailable and the severity of the injuries are such that the animal should be destroyed for humane reasons, an officer may do so upon approval of his/her supervisor.

Officers will first request the assistance of the S.W.A.T. Unit personnel who will be responsible for destroying the injured animal. If they are unavailable, the officer may destroy it but only in the presence of a supervisor. Usually one shot between the eyes or behind the ear of the animal should be sufficient to complete the task.

The Streets Department will be notified, via Police Radio, to remove the carcass of any deer found or destroyed by police personnel.

2. Exigent circumstances should be considered before discharging a weapon to destroy an animal (i.e., the close proximity of people and buildings, etc.).
 - I. A firearm will NOT be used as a club.
 - J. A firearm should be drawn only when an officer believes a potential for serious bodily injury or imminent death to himself/herself or another person exists.
 - K. A firearm should be used only as a last resort after all other reasonable means of containment and apprehension have been used.
 - L. Internal Affairs Division will be notified of any incident involving the use of force by police, where an injury or complaint of an injury results from the use of force. Notification will be made via computer terminal. Access the two page "I.A.D. NOTIFICATION" form using the computer code:
SEN D/IABU/901.

RESEARCH AND PLANNING

SUBJECT: DISCHARGES OF FIREARMS BY POLICE PERSONNEL

I. POLICY

- A. Members of this department will exhaust all other reasonable means of apprehension and control before resorting to the use of deadly force. It is also the policy of this department that members will not unnecessarily or unreasonably endanger themselves in applying these guidelines to actual situations.
 - 1. Officers will use care when handling all firearms and will adhere to procedures contained in Assist Officer #217, dated 1/29/88.
- B. A police officer is justified in using deadly force when he/she believes that such force is necessary to prevent death or serious bodily injury to themselves or to another person.
 - 1. Officers should ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive or improper actions.
- C. A police officer is justified in using deadly force to prevent a person fleeing from arrest or police custody when all other reasonable means of apprehension have been exhausted and he/she believes that no other alternative exists to effect the arrest and he/she knows that:
 - 1. The person fleeing possesses a deadly weapon which they have used or indicates they are about to use; OR
 - 2. The person fleeing should be arrested for committing or attempting to commit a forcible felony.
 - a. FORCIBLE FELONY - means a felony involving actual or threatened serious bodily injury.
 - b. The below listed crimes are forcible felonies:
 - 1) Murder
 - 2) Voluntary Manslaughter
 - 3) Arson endangering persons
 - 4) Aggravated Assault causing serious bodily injury

c. The below listed crimes are forcible felonies when their commission involves actual or threatened serious bodily injury:

- (5) Rape
- (6) Involuntary Deviate Sexual Intercourse
- (7) Robbery
- (8) Kidnapping

NOTE: Officers will, when feasible, give verbal warning to the fleeing felon before using deadly force.

D. Shooting at a vehicle or its occupants merely to prevent flight is not justified at any time. Shooting at a vehicle is considered the use of deadly force, and is only justified if the vehicle or its occupants present an immediate threat of death or serious bodily injury to an officer or another person.

1. An officer should never place himself/herself or another person in jeopardy in an attempt to stop a vehicle.

E. Police officers should not shoot from a moving vehicle.

F. Police officers will not fire warning shots under any circumstances.

G. The discharge of a firearm at an animal should be employed only when the animal presents an immediate threat to the officer or another person.

H. Firearms should not be used to destroy injured animals when they are not presenting an immediate threat to the officer or another person. Attempt to confine or contain the animal and notify Police Radio to contact the SPCA or the Pennsylvania Game Warden.

1. If the above agencies are unavailable and the severity of the injuries are such that the animal should be destroyed for humane reasons, an officer may do so upon approval of his/her supervisor.

2. Exigent circumstances should be considered before discharging a weapon to destroy an animal (i.e. the close proximity of people and buildings, etc.).

I. A firearm should not be held or carried in the cocked position because of the hazard of an accidental discharge.

J. A firearm will NOT be used as a club.

K. A firearm should be drawn only when an officer believes a potential for serious bodily injury or death to himself/herself or another person exists, or in the case of a fleeing felon as outlined previously.

- L. A firearm should be used only as a last resort after all other reasonable means of containment and apprehension have been used.

II. REPORTING DISCHARGES OF FIREARMS

- A. The discharge of any firearm, whether accidental or intentional by sworn personnel on duty or off duty (except test or target fire at a bonafide pistol range or lawfully hunting game), will be reported as follows:
 - 1. Officer who fired weapon will:
 - a. Immediately notify Police Radio of the occurrence and provide same with pertinent information regarding the need for supervisory personnel and also emergency equipment if required.
 - b. Inform the first supervisor on the scene of the location(s) of the crime scene(s) and the general circumstances relative to the preservation and collection of physical evidence.
 - c. Make no additional statements to anyone except personnel of the Internal Affairs Division (IAD).
 - 2. Commanding Officer, Police Radio will:
 - a. Ensure that District Supervisor is dispatched to scene.
 - b. Immediately make the following notifications:
 - (1) Duty Commander, Detective Bureau
 - (2) Internal Affairs Division
 - (3) Homicide Division (only when death occurs or is likely to occur)
 - (4) Detective Division of Occurrence
 - (5) District of Occurrence
 - (6) District or Unit to which officer is assigned
 - (7) Command Inspections Bureau, if applicable
 - 3. First Supervisor on scene will be responsible for the following:
 - a. Ensure that Police Radio has been notified of the incident.
 - b. Determine which officer(s) fired their weapon(s) by personally examining each officer's revolver who was present during the discharge.
 - () Any officer having left the scene prior to the supervisor's arrival, will be recalled in order to have his/her weapon inspected.

- 2 (c. Allow involved officer(s) to retain custody of the firearm, absent any exigent circumstances.
- d. Ensure that information concerning the location(s) of the crime scene(s), and the general circumstances relative to the preservation and collection of physical evidence is provided by the involved officer(s).
 - e. Ensure the information in paragraph (d) is provided to the assigned investigator, or a supervisor who will remain at the scene.
 - f. Ensure that the provisions of Directive #2, "Responsibility at the Crime Scene" are carried out.
 - g. Escort the officer, if not incapacitated, directly to IAD. If more than one (1) vehicle is required to transport the officers who discharged their firearms, additional supervisors will transport these officers.
 - h. The first supervisor on the scene, regardless of rank, will not delegate the responsibility of transporting officers to any other supervisor regardless of the district/unit assignment of the officer(s) or supervisor involved.
- B. When injury or death results from a discharged firearm, the Commanding Officer of the involved officer will contact the Police Department's Employee Assistance Program Office, in order to arrange confidential counseling. Telephone 686-8602,04 or 637-0785.

III. INVESTIGATION

- A. The Homicide Unit will investigate all cases involving the discharge of firearms by police personnel resulting in or likely to result in death.
- B. The Detective Division of Occurrence of a shooting will investigate all other cases involving the discharge of firearms by police personnel.
 - 1. The assigned Detective/Homicide Division will conduct an investigation and will be responsible for the preparation of the Investigation Report (75-49).
 - 2. Other investigative units involved will coordinate their efforts with the assigned Detective Division.
- C. The Internal Affairs Division (IAD) will assist in all of these cases.

1. The police officer who fired the weapon will be interviewed by an IAD Shooting Team Member.
 2. A supplemental report will be prepared detailing the results of the IAD investigation.
- D. Copies of all reports pertaining to the investigation of the discharge of firearms by police personnel will be forwarded directly to IAD. If possible, reports will be forwarded within seven (7) calendar days.
1. Upon completion of the supplemental report, the Chief Inspector, Internal Investigations Bureau (IIB), will forward a complete report directly to the Firearms Review Board Chairman.

IV. CUSTODY AND DISPOSITION OF FIREARMS DISCHARGED BY POLICE PERSONNEL

- A. The escort supervisor (first supervisor on scene) will prepare a Property Receipt (75-3) at IAD containing the following: the firearms's make, model, caliber, and serial number. A second Property Receipt (75-3) will be prepared for the fired cartridge(s) and unfired ammunition. The IAD Police Shooting Case Number will be indicated on both property receipts.
- B. In accidental discharges of firearms not resulting in injury, and in any discharge (accidental or intentional) resulting in the shooting of an animal, the discharged firearm will be returned to the police officer in accordance with the following guidelines:
1. When the firearm is to be returned, the assigned IAD investigator will designate, in the description section of the Property Receipt containing the firearm information, "FIREARM IS TO BE TEST FIRED AND RETURNED." The assigned IAD investigator's signature and date will follow. IAD will retain the white (control) copy of the Property Receipt for their records.
 2. The involved officer will transport the firearm, fired cartridge(s), and unfired ammunition and both property receipts directly to the Police Administration Building.
 - a. When the Firearms Identification Unit (FIU) Room 302, is open (Monday thru Friday, 6:00 A.M. to 12:00 Midnight), FIU will test fire and return the firearm to the involved officer. The test shots and firearm-related materials (bullets, specimens, and/or fired cartridge cases) will be retained at FIU.
 - b. When FIU is closed, the Evidence Receiving Clerk-Laboratory Division, will aid the officer in securing his/her firearm and appurtenant material in the mobile firearms storage box. A replacement firearm will immediately be issued to that officer. Subsequently, the FIU will contact the officer for return of his/her original firearm.

- c. The firearm will not be unloaded or cleaned prior to examination.
 - d. Upon completion of the FIU examination, a copy of the findings will be forwarded to IAD and the pertinent Detective Division.
 - C. In all deliberate shootings (not involving animals) whether or not injury/death occurs and all accidental discharges of firearms resulting in injury/death, the following guidelines will be used:
 1. The assigned IAD investigator will interview the involved police officer and determine if the firearm can be returned to the officer.
 2. If the firearm is to be returned to the officer, follow the procedure on page 5, Section IV-B-1 and 2.
 3. If the firearm is not to be returned, the assigned IAD investigator will designate, in the description section of the Property Receipt containing the firearm information, one of the following:
 - a. FIREARM IS TO BE TEST FIRED AND RETAINED - ISSUE A REPLACEMENT WEAPON.
 - b. FIREARM IS TO BE TEST FIRED AND RETAINED - DO NOT ISSUE REPLACEMENT WEAPON.
 4. The assigned IAD investigator's signature and date will follow. IAD will retain the white (control) copy of any Property Receipt generated by that unit.
 5. The assigned IAD investigator will transport the firearm, fired cartridge(s), and unfired ammunition and both property receipts directly to the Police Administration Building.
 - a. When the Firearms Identification Unit (FIU) is open (Monday thru Friday, 6:00 AM to 12:00 Midnight), the FIU Clerk will take possession of the weapon and appurtenant material.
 - b. When FIU is closed, the Evidence Receiving Clerk-Laboratory Division, will aid the IAD investigator in properly securing the weapon and appurtenant material in the mobile firearms storage box.
 - c. If a replacement firearm is to be issued, the involved officer, upon leaving IAD, will proceed to FIU or Evidence Receiving Clerk-Laboratory Division.
 6. FIU will test fire the firearm in question and forward a copy of the findings to IAD and the pertinent Detective Division.

D. City-Owned Firearms

1. IAD will determine the disposition of the city-owned firearm and notify FIU to transport the discharged firearm, fired cartridge(s) and unfired ammunition to one of the following locations:
 - a. The Evidence Custodian will place all police shooting evidence in a special locker marked "CITY-OWNED FIREARMS ONLY!"
 - b. Police Academy, Range Division, will store all related articles until released by IAD.
2. During the second week of January and July, a status review of city-owned firearms being retained under the above conditions will be conducted by the Evidence Custodian, Police Academy, Range Division, and IAD to determine which weapons may be returned to inventory.

NOTE: In discharges of approved privately-owned revolvers carried on duty by personnel, the same procedure will apply.

V. FIREARMS REVIEW BOARD

- A. The Firearms Review Board will function as an administrative tool to provide the Police Commissioner with information and recommendations regarding the use of deadly force by police personnel.
- B. The Firearms Review Board will be composed of:
 1. Designated Deputy Commissioner, who will act as Chairperson
 2. Chief Inspector, Training Bureau
 3. Chief Inspector, Detective Bureau
 4. Chief Inspector, Internal Investigations Bureau
- C. The Chairperson of the Firearms Review Board will receive copies of all investigative reports on all discharges of firearms by police personnel.
- D. The Firearms Review Board will examine the facts of every case in which a police officer discharges a firearm (excluding training, target practice on a bona fide firing range or lawful hunting of game).

- E. The Chairperson will convene the Board for the purpose of reviewing the investigative reports on each case.
1. If the review indicates that the officer's action was in accordance with departmental policy, the review will be terminated and the Chairperson will so notify the Police Commissioner in writing.
 2. When the findings of the Board indicate a need for additional training, the Chairperson will direct the Training Bureau to schedule the officer(s) for in-service training.
 - a. A debriefing of all officers will be conducted by Commanding Officer, Advanced Training Unit, Training Bureau, or his/her designee to aid in future training programs.
 3. If the review indicates that further information is required, the Chairperson will schedule a hearing and summon the involved officer(s) and any witnesses necessary to enable the Board to complete its review.
 4. If the Board determines as a result of the hearing that the officer's action was in accordance with departmental policy, the review will be terminated and the Chairperson will so notify the Police Commissioner in writing.
 5. If the Board determines as a result of the hearing that the officer's action was not in accordance with departmental policy, the Chairperson will so notify the Police Commissioner and recommend a full hearing before the Police Board of Inquiry.
 - a. The findings of the Firearms Review Board will in no way be determinative of the final disposition of any further hearing before the Police Board of Inquiry.

BY COMMAND OF THE POLICE COMMISSIONER

SUBJECT: USE OF THE POLICE BATON

I. PURPOSE

- A. The principal use of the baton is for defense. Officers must ensure that their use of force is reasonable and necessary. The baton may be needed for blocking and parrying or for counter-striking techniques for self defense. It may also be used to control an aggressively resisting subject. However, like any weapon, its use must be limited and monitored.
-

II. POLICY

- A. The baton should not be used as an offensive weapon. It will not be used to strike an individual with force intended to cause serious bodily injury or death, unless the officer would be justified in using deadly force.
1. The **preferred striking** locations are the areas of muscle in the legs (thigh and calf) and the arms (forearms and biceps), as these areas are most vulnerable to an effective strike.
 2. The **intermediate** areas include the elbows, knees, and ankles. These areas are secondary strike zones which may cause pain or injury, but are not intended to cause permanent damage.
 3. Personnel will not strike the following **restricted areas** of the body, unless the officer would be justified in using deadly force:
 - * head * face * throat * collarbone (including the upper shoulder area)
 - * chest * abdomen * groin area
- B. Before resorting to a baton strike, the officer should attempt alternate forms of control, such as physical presence, verbal persuasion/warnings, hands-on techniques/control holds, OC pepper spray, the assistance of other officers, and/or handcuffs.

- C. Police officers may not use any more force than is necessary to overcome the resistance that is met. An officer must use the minimum amount of force necessary to safely bring a situation under control and/or effect an arrest. Once the aggressive or resistant offender is under control the officer should de-escalate the situation.
 - D. The use of any object in place of the issued baton is prohibited. Should an unusual circumstance arise in which another object is used in place of the issued baton in applying necessary force to an individual, the involved officer will follow the same procedure for reporting the incident as outlined in Section V of this directive.
 - E. Uniformed police officers and supervisors will carry the baton with them whenever they leave their vehicle. It will be worn in the belt loop on the opposite side of the gun holster.
 - F. Personnel will not unnecessarily or unreasonably endanger themselves in applying these guidelines to actual situations.
-

III. BATON DESCRIPTION

- A. Police officers may carry only the baton type issued by the Police Department, which shall have an overall length of 22-24 inches and a diameter of one and one-quarter inches. The baton shall be made of wood or fiberglass.
 - 1. Exception: Mounted Unit personnel are issued a 30-inch baton.
 - B. There shall be no modifications of, substitutions for, or additions to the issued baton.
-

IV. USING THE BATON

- A. An officer may need to use the baton to overcome resistance to an arrest; to protect himself/herself or another person(s) from bodily injury; or to prevent an individual from injuring themselves, or to prevent a suicide.
- B. Situations may require that the baton be held in a non-aggressive manner (e. g., tucked under the arm) during vehicle stops, investigations of persons, disturbances, crowds, removing or subduing hostile persons, or other potentially dangerous situations.

DIRECTIVE 22

C. After an officer has used a baton to subdue an individual and the situation is under control, the suspect will be checked for injuries. If it is obvious an injury has occurred, or the subject complains of an injury, or requests medical treatment, he/she will be transported immediately to the nearest hospital for medical evaluation. A Complaint or Incident Report (75-48) will be prepared as outlined in Directive 82, Appendix C, "Prisoner Safety".

1. If the individual refuses medical treatment note the refusal on the 75-48 and request that he/she sign the 75-48. If the subject refuses to sign, also note this refusal. If witnesses are present have them sign the 75-48, if possible.

V. REPORTING

- A. If an officer(s) has used a baton upon a person, the involved officer(s) will notify a supervisor and prepare a 75-48 with District Control (DC) numbers. The supervisor will ensure the 75-48 is completed and includes the circumstances of its use. If more than one officer has struck an individual during a single incident, only one 75-48 is required listing all of the officers names.
- B. When an injury to a person results from the use of the baton, the Operations Room Supervisor (ORS) will be responsible for ensuring that the IAD Incident Notification screen is filled in completely and accurately. This screen can be accessed using the computer code: Send/IABU/901.
- C. When an injury resulting from the use of the baton occurs to a person, a joint investigation conducted by the officer's supervisor and the pertinent detective division supervisor will immediately commence. The pertinent detective division supervisor will notify the Internal Affairs Bureau. An Investigation Report (75-49) will be prepared by the pertinent detective division noting circumstances of the incident. The 75-49 will then be forwarded to the commanding officer of the involved officer.
- D. A copy of the 75-48 submitted by the involved officer and the results of the joint investigation will be submitted on a Memorandum (82-S-1). This memo will be signed by each supervisor and submitted to the commanding officer of the involved officer. A separate file will be maintained for one year in the district/unit for these reports.

1. A copy of the 75-49, the 75-48, and the joint investigation report will be sent to the Commanding Officer, Internal Affairs Division by the involved officer's commanding officer.
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VI. DAMAGED/LOST/STOLEN BATONS

- A. Damaged, lost, or stolen batons shall be immediately reported by memorandum in triplicate to the pertinent district/unit commanding officer.
 - B. The memorandum must include a full explanation of the circumstances which shall be investigated by the commanding officer. When the commanding officer determines negligence or carelessness has occurred, the officer will be subject to disciplinary action and/or be required to pay for its replacement.
 - C. The memorandum shall be distributed as follows:
 1. Pertinent Chief Inspector
 2. Finance Officer
 3. Retain in district/unit file.
-

BY COMMAND OF THE POLICE COMMISSIONER

DIRECTIVE 22

PHILADELPHIA POLICE DEPARTMENT

DIRECTIVE 34
(10/23/97)

SUBJECT: PRISONER CONSTRAINTS: HANDCUFFS AND FLEX CUFFS

I. PURPOSE

- A. Handcuffs and flex cuffs provide an arresting/trans-
porting officer greater control over a situation and
an individual. However, this can only be achieved if
they are properly utilized. All prisoners must be
carefully watched even though they may be in constraints.

II. POLICY

- A. Handcuffs and flex cuffs are to be used by police
personnel to temporarily restrain and secure persons
in police custody only. THEY ARE NEVER TO BE USED AS
WEAPONS.
- B. All persons arrested for any violation will be hand-
cuffed or placed in flex cuffs. There will be no
exceptions with regard to the offense.
- C. All uniformed and investigatory personnel up to and in-
cluding the rank of lieutenant will be issued a pair
of serial-numbered handcuffs and a key and are required
to carry their issued handcuffs and key while on duty.
They will also be responsible for the care and
maintenance of them.
- D. Internal Affairs Division will be notified of any
incident involving the use of force by police, where
an injury or a complaint of an injury results from the
use of force. Notification will be made via computer
terminal. Access the two page "I.A.D. NOTIFICATION"
form using the computer code: SEND/IABU/901.

III. USAGE

- A. All suspects and prisoners will be handcuffed or flex
cuffed behind their backs, palm out. Handcuffs will be
double-locked. (Double-locking prevents the cuffs from
tightening through the movement of the prisoner.)

EXCEPTION: The only exceptions to paragraph "A" above
will be for medically-sound reasons or when
it is impractical.

- B. Issued handcuffs have a universal-type key that can be
used to open other City-issued handcuffs.
- C. All emergency patrol wagons (EPWs) will be equipped with

three (3) sets of handcuffs. They shall not be used as the personal property of any officer.

- D. Constraints will be removed to facilitate searching and processing only after the prisoner is safely inside the pertinent facility.
- E. Flex cuffs are generally utilized during mass arrest situations such as narcotics arrests. Personnel will not replace their handcuffs with flex cuffs or utilize flex cuffs when handcuffs are available.

IV. ISSUANCE, REPAIR, AND RETURN OF HANDCUFFS

- A. The Materials and Supplies supervisor, located in Room B-10, PAB shall be responsible for the issuance and maintenance of City-owned handcuffs. In addition, he/she shall maintain a record of all City-owned handcuffs.
- B. Damaged, defective, lost or stolen handcuffs and keys shall be immediately reported by memorandum to the pertinent district/unit commanding officer.
- C. Those lost or stolen must include a full explanation of the circumstances which shall be investigated by the commanding officer. When the investigation reveals negligence or carelessness, the officer will be subject to disciplinary action and/or be required to pay for their replacement.
- D. The memorandum shall be distributed as follows:
 - 1. Original - Materials and Supplies supervisor
 - 2. 1st copy - retained in district files
 - 3. 2nd copy - Finance Office
- E. Personnel leaving the employment of the Police Department will return City-owned handcuffs to the Materials and Supplies Inventory Control Office. A representative will furnish a handcuff clearance receipt to the officer.

V. INSPECTION

- A. The lieutenant or subordinate supervisor shall inspect officers for possession of handcuffs daily at roll call. Over the course of a tour of duty, they will be checked for proper operation.
- B. Commanding officers shall make monthly inspections of all handcuffs to ensure they are being carried and are working properly.

BY COMMAND OF THE POLICE COMMISSIONER

FOOTNOTE

GENERAL

DATE

REVISION

THERE ARE NO REVISIONS TO THIS DIRECTIVE

GENERAL:0816 03/11/99 15:11:19 FROM RSPL TO BT RECEIPT NO.734. PAGE 1 OF 1.
ALL COMMANDING OFFICERS

SUBJECT: CHANGE TO DIRECTIVE #43 ENTITLED CHEMICAL MACE

1. CHEMICAL MACE IS NO LONGER AUTHORIZED EQUIPMENT OF THE PHILADELPHIA POLICE DEPARTMENT.
2. CHEMICAL MACE HAS BEEN REPLACED BY PEPPER SPRAY - OLEORESIN CAPSICUM (OC) SPRAY.
3. EFFECTIVE IMMEDIATELY, DIRECTIVE #43, ENTITLED CHEMICAL MACE IS DELETED.
4. DIRECTIVE #43, APPENDIX A, ENTITLED PEPPER SPRAY - OLEORESIN CAPSICUM (OC) SPRAY WILL NOW BECOME DIRECTIVE #43, ENTITLED PEPPER SPRAY - OLEORESIN CAPSICUM (OC) SPRAY.
5. COMMANDING OFFICERS WILL ENSURE THAT ALL PERSONNEL UNDER THEIR COMMAND RECEIVE A COPY OF THIS CHANGE BY HAVING THE OFFICER SIGN THEIR TRAINING MATERIAL RECEIPT RECORD, FORM 75-578.

JOHN TIMONEY
POLICE COMMISSIONER

APPENDIX "A"

SUBJECT: PEPPEE SPRAY - OLEORESIN CAPSICUM (O.C.) SPRAY

I. POLICY

- A. The use of O.C Spray constitutes a "police use of force". Police personnel are justified in the use of O.C. Spray, a less-than-lethal weapon, when they reasonably believe it to be necessary:
1. To defend themselves or another from bodily injury.
 2. To safely subdue an individual who is actively resisting an officer's efforts to arrest or take him/her into custody, when successful apprehension would require the officer to increase the level of necessary force (beyond just verbalization and escort/control holds) in order to safely arrest or take the individual into custody.
 3. To safely effect any police action in which the use of physical force is justified in accordance with Title 18 Pa. C.S.; Chapter 5 of the Pennsylvania Crimes Code, such as: involuntary commitment, prevention of escape, prevention of suicide, dispersing riotous persons, etc., and other applicable state and federal statutes.
- B. In all cases, the officers' actions must be based solely in response to the actions of the subject(s), along with the attending facts and circumstances, which would cause the officer to reasonably believe he/she has been placed in fear of imminent bodily injury in carrying out those police actions.

NOTE: It is also the policy of this Department that personnel will not unnecessarily or unreasonably endanger themselves in applying these guidelines. Furthermore, it is the policy of this Department that O.C. Spray is not intended to be used as a substitute when the officer is justified in the use of deadly force in accordance with the policy outlined in Directive #10, "Discharge of Firearms by Police Personnel".

- C. Prior to its issuance and authorization to carry O.C. Spray, all sworn Police Department personnel will satisfactorily complete the O.C. Spray training course given by the Training Bureau, Firearms Training Unit.

- D. Personnel will carry only the approved-type O.C. Spray equipment. Presently, the Def-Tec First Defense MK-III projector and holster are authorized.
- E. Once a violent person has been safely taken into custody and is under control, there is no further justification for the continued use of O.C. Spray. O.C. Spray will not be used at random or as a threat of its intended use to gain compliance or information.

II. PROCEDURE

- A. This weapon produces a high-pressure stream of liquid with an approximate effective maximum range of 10-12 feet. This weapon can be used against subjects that are acting in a violent manner, intoxicated, mentally deranged, or in a drug-induced state.
- B. In delivering the spray, the point of aim will be DIRECTLY INTO THE FACE (EYES, NOSE AND MOUTH). It is recommended that delivery be in two (2) one-half (1/2) second bursts.

CAUTIONARY NOTE: Due to the force of the liquid stream, spraying O.C. Spray directly into the eyes from a distance of less than three (3) feet could cause permanent eye injury.

III. EFFECT OF O. C. SPRAY

- A. Oleoresin Capsicum (O.C.) is an inflammatory agent and is naturally derived from oils and resins of the cayenne pepper plant. O.C. is considered a less-than-lethal weapon system. O.C. Spray causes an intense burning sensation of the skin and mucous membranes.
- B. O.C. Spray has a near-immediate effect on the individual sprayed. Once sprayed, an individual's eyes will reflexively close because of the burning, tearing and swelling of the eyes due to dilation of the capillaries. Subject usually becomes disoriented and is likely to lose their balance. When inhaled, the respiratory tract is inflamed, resulting in a swelling of the mucous membranes lining the breathing passages and temporarily restricting breathing to short, shallow breaths. The subject may experience choking, gagging and gasping for breath. Other effects include burning sensation of the skin. While temporary incapacitation occurs rapidly, the effects of O.C. Spray subside after about 30 minutes.
- C. Because of its debilitating effects, officers should never spray O.C. into the wind where they could be sprayed by blowback.

- D. Because of O.C.'s effects on their respiratory systems and their susceptibility to breathing difficulties, care should be taken to ensure infants, children and the elderly are not sprayed.

IV. OFFICER'S RESPONSIBILITIES WHEN UTILIZING O.C. SPRAY

A. First Aid Care and Decontamination of Subjects Sprayed by O.C.

1. Before attempting to administer any first aid assistance or initiating decontamination to a subject sprayed with O.C. who is to be arrested or taken into custody, officers will ensure that the subject is safely secured by use of handcuffs in accordance with procedures outlined in Directive #34.
2. Calm the subject down; reassure him/her that the effects of the spray are temporary.
3. Expose the subject to fresh air and if available at the scene of the arrest, flush the contaminated area with large amounts of water.
4. Transport the subject to the nearest hospital for evaluation and treatment. Take the O.C. canister used during the arrest along with the subject to the hospital.
 - a. Monitor subject during transportation to hospital for any sign of respiratory distress.
 - b. If the subject is or becomes unconscious, transport as an emergency hospital case in accordance with the procedures outlined in Directive #63. The subject should be transported lying on his/her side.
 - c. Prepare a separate 75-48 for a hospital case in accordance with Directive #63. For "description of injury", list O.C. contamination in addition to any other injuries. Also, list any decontamination treatment administered by hospital staff. After arrival at the hospital, if the subject refuses medical treatment, note "refused medical treatment" on the 75-48 and have treating physician sign.
5. After arrival at the hospital, have subject wash contaminated area with soap and water to remove any resin remaining on the skin.

6. Where applicable, after arrival at the hospital, have subject remove contact lenses and properly wash them.

NOTE: Serious/permanent eye damage can result if contacts are not removed within four-six (4-6) hours after exposure. Do not replace contact lenses back into the eyes until they have been properly cleaned.

7. To decontaminate a premises indoors, ventilate by opening doors and windows. O.C. Spray should dissipate in about 15 to 45 minutes.

B. Reporting the Use of O.C. Spray

1. When this weapon is used, an additional 75-48 will be submitted for the incident noting the use of O.C. Spray in the "details" section.
2. Prepare the "O.C. Spray Usage Report".
 - a. complete all pertinent sections
 - b. sign and date
 - c. submit completed report to the commanding officer of assigned district/unit after it has been approved by the officer's immediate supervisor.
 - d. Commanding officers of districts/units will ensure that the original signed and approved copy of the "Report" is sent to the Commanding Officer, Firearms Training Unit no later than five (5) days after use of the weapon.
3. Ranking supervisor of the district/unit will notify IAB whenever O.C. Spray is utilized. Notification will be made via computer message utilizing the IAD Incident Notification Form. Refer to Commissioner's Memorandum 88-1, dated 01/15/88.

V. TRAINING

A. Certification to Carry O.C. Spray

1. Prior to being issued and authorized to carry O.C. Spray, personnel must attend the O. C. Spray Training Course given by the Training Bureau, Firearms Training Unit.

2. Personnel not trained and certified to carry O.C. Spray WILL NOT be authorized to carry/use O.C. Spray while on duty.
3. Arrangement for training will be made by the Firearms Training Unit.

VI. ISSUANCE, STORAGE AND REPLACEMENT PROCEDURE

A. Initial Equipment Issue

1. All O.C. Spray equipment will be issued by the Firearms Training Unit.
2. All sworn personnel that have successfully completed O.C. Spray training will be issued a MK-III O.C. Spray projector and carrying case.
3. All sworn personnel receiving O.C. Spray equipment will be required to fill out an O.C. Spray projector inventory control card. Inventory control cards will be kept on file by the Firearms Training Unit.

B. Safe Storage of O.C. Spray

1. Always treat O.C. Spray equipment as a weapon and store in a secure place when not on duty. As with city-owned firearms, O.C. Spray projectors will not be kept in vehicles.
2. Do not store in temperatures above 120 degrees Fahrenheit.

C. Replacement of Issued O.C. Spray Projectors

1. Officers authorized to carry O.C. Spray will periodically check the manufacturers date on the side of their projector/canister to ensure that it has not expired. Expiration dates can be determined by adding four (4) years to the manufacture date printed on the projector/canister. If the projector/canister is expired or they are damaged, leak, or are empty from usage, they will be replaced by reporting with the expired canister to the Firearms Training Unit.
2. The hours for replacement of O.C. Spray canisters are Monday through Friday, 8:00 a.m. to 4:00 p.m. Prior to reissue, all sworn personnel will be required to update their O.C. Spray equipment inventory control card.

D. Replacement of Lost or Stolen O.C. Spray Equipment

1. Lost or stolen O.C. Spray equipment will be reported to the district of occurrence. Normal reporting procedures are to be followed and a 75-48 and 75-49 will be submitted.
2. Sworn Personnel will:
 - a. prepare a memorandum, in triplicate, to their commanding officer, fully explaining the circumstances surrounding the loss or theft.
 - b. along with the approved memorandum, report to the Commanding Officer, Firearms Training Unit, for issue of a replacement projector/canister.
3. Commanding Officer will:
 - a. review and approve the memorandum and permit the officer to obtain replacement O.C. Spray equipment.
 - b. obtain from the detective division of occurrence a copy of the investigative report concerning the loss or theft of the O.C. Spray equipment and conduct a full investigation.
4. Distribution of Memorandum:
 - a. Original - Commanding Officer, Firearms Training Unit
 - b. First copy - retained in district file
 - c. Second copy - Finance Office
5. When the commanding officer's investigation reveals that the loss or theft was due to negligence or carelessness on the part of the officer, he/she will be subject to disciplinary action and/or be required to pay for all lost/stolen equipment.

D. Return of Issued O.C. Spray Equipment

1. Upon retirement or termination of employment, all sworn personnel issued O.C. Spray will return projector and holster to the Firearms Training Unit.
2. The Firearms Training Unit will ensure the return of equipment is noted on the O.C. Spray Inventory Control Card.

COMMANDING OFFICER'S RESPONSIBILITIES

- A. Those outlined in Section III,B and V,C.
- B. Commanding officers will ensure that all sworn personnel under their command are trained and certified in the use of O.C. Spray before they carry it while on duty.
- C. Commanding officers will ensure that sworn personnel under their command, who have been issued O.C. Spray equipment, periodically check their projector/canisters for damage, leaks or expiration dates.

BY COMMAND OF THE POLICE COMMISSIONER

SUBJECT: CANINE PATROL.

I. POLICY

- A. Use of a canine in effecting an arrest constitutes either an actual or implied use of force. Therefore, police canine handlers and their supervisors will be fully aware of all facts and circumstances surrounding an incident before the decision is made to use a canine for other than deterrent or control purposes.
- B. Police dogs are tools that canine officers may use to effect an arrest when physical resistance to that arrest is met by the officer. Police officers may not use any more force than is necessary to overcome the resistance that is met.
- C. All dogs will be kept on lead, per City Ordinance, except in the course of building or field searches, or when warranted and justified for the apprehension of a fleeing criminal suspect or to prevent injury to the officer or another person.

II. USE OF CANINES

- A. The use of canine patrol is authorized for the following:
 - 1. To deter criminal activity and to assist in the prevention and detection of crime.
 - 2. To effect the arrest or prevent the escape of a person whom the police officer has probable cause to believe has committed a felony.
 - 3. To protect the officer or another person(s) from bodily injury.
- B. Canine teams will be used for the following:
 - 1. To search buildings where a possible unlawful entry is indicated or detected, or where a suspect may be hiding when such buildings are reasonably believed to be clear of innocent persons, and after clear warning by police is given prior to deployment of the dog. When the services of a K-9 team are anticipated for a search, every effort will be made by the first police officers on the scene to avoid contamination of the area with human scent by preventing any unnecessary persons from entering the area, including police officers.

- a. District Supervisors will respond to assignments of this nature. In the event a canine team is not available, and will not be available in a reasonable amount of time, the supervisor on the scene will ensure a building search is conducted by district patrol personnel.
2. To track suspects, lost or missing persons, hidden implements of crime(s) or other contraband, explosive devices, or narcotics.
- C. Use of canine patrol for deterrent purposes at specified events for crowd control or to control access to any facility will only be upon approval of Captain and above.
- D. Any use of canine teams not specifically authorized above will be effected only upon the approval of the Police Commissioner or designee.

III. RESPONSIBILITIES

A. Canine Officer will:

1. Utilize his/her assigned dog in accordance with section II of this directive.
2. Be fully responsible and accountable for all actions of the assigned dog while in the performance of duty and during off-duty hours.
3. When receiving an order from a superior to use the dog in a manner which would conflict with departmental policy or in a manner which would be unsafe for the dog, call such conflict to the attention of the superior and notify his/her canine supervisor. A Form 75-48 will be prepared and submitted through channels to the Commanding Officer, Canine Unit, describing the incident.
4. Maintain his/her assigned canine at a high level of proficiency and peak physical condition.
5. Immediately notify canine supervisor when his/her dog is involved in any incident on or off duty, and follow the procedures outlined in section IV.
6. Under the direction of the Canine Supervisor or Commanding Officer, Canine Unit, return his/her dog to the Canine Unit when becoming ill or injured.
 - a. Until certified capable of handling the dog by a competent authority, the handler will not be permitted to perform with the dog as a team.
 - b. Upon returning to duty and being certified capable of handling the dog, the team will be re-evaluated by a canine trainer and supervisor.

- c. Should a determination be made that the officer cannot perform the duties of a handler without aggravating a past injury or illness, he/she will be excluded from the position of canine handler.
7. Report all injuries and illnesses suffered by the canine dog to the Commanding Officer, Canine Unit, and the departmental veterinarian as soon as possible.
 - a. All illnesses or injuries of an emergency nature will be immediately reported to the departmental veterinarian at the Canine Unit.
8. On foot patrol, the canine officer will not leave his/her dog unattended in a public place.
9. Whenever a canine officer leaves his/her dog alone in a vehicle, the dog will be secured to ensure he is not able to exit the vehicle without the assistance of his handler.
10. While on foot patrol, the canine officer will request Police Radio to send a non-canine officer to enforce minor offenses unless immediate action is necessary. For example: intoxication, smoking on the transit system, fare-jumping, sleeping in the concourse or on the transit system, or other similar offenses.

B. Canine Supervisor will:

1. Supervise and deploy canine teams.
2. Be available to respond to serious situations involving canine teams to ensure that no directive procedures are violated and to instruct the individual handler.
3. Make recommendations to the Commanding Officer, Canine Unit, of any discrepancies.
4. Upon responding to a canine incident, confer with the district patrol supervisor, if one is present.
5. Be responsible for evaluating the performance of canine teams in the field.
6. Ensure that required canine incident reports are submitted to the Commanding Officer, Canine Unit.
7. When a canine handler becomes injured or ill, follow directions in Section III-A-6.
8. Canine Sergeant will not be accompanied by a dog.

C. The first supervisor (canine or non-canine) on the scene of an incident where a building search will be conducted and where a canine team has been requested will:

1. Inform canine handler as to point of entry, known hazards within the building, etc.
2. Ensure that possible routes of escape from building are covered until search is completed.
3. Ensure that no persons, including police, enter the building during the search.
4. Resume all unnecessary manpower and equipment.

D. Commanding Officer, Canine Unit, will:

1. Evaluate each incident and submit recommendations to Commanding Officer, Advanced Training Unit, Police Academy. (See Section IV, page 5.)
2. Ensure that assigned canine teams are properly supervised, deployed, and utilized.
3. Ensure that all canine incident reports are forwarded through the chain of command to the Training Bureau, Advanced Training Unit, within 48 hours of the incident.
4. Ensure that all ACTIVE canine teams receive a minimum of three (3) days in-service training four (4) times each year. Evaluation of the officer and the canine as to performance, dependability, stability, and expertise will be made during each session.
5. Ensure that all dogs are inspected on a regular basis to maintain fitness, health, and capability to function in a patrol status.
6. Evaluate the fitness of handler and/or canine, and evaluate the need for training, if any.
7. Direct the canine officer to return his/her dog to the Canine Unit when he/she becomes ill or injured and cannot perform with the dog as a team.

E. All canine incidents involving a bite or damage to property will be investigated by the Detective Division of Occurrence. The assigned investigator will:

1. Conduct a complete investigation and prepare all required reports.
2. Forward a copy of the Investigation Report (75-49) to the Commanding Officer, Advanced Training.

3. Include in the 75-49 a description of the use of the canine and circumstances surrounding such use. The 75-49 will be specific and detailed, with all facts relative to the incident included in the report.
 4. Include photographs of the damage/injury which will remain a part of the investigative record.
- F. The investigating division supervisor will ensure compliance with provisions outlined in Section III-E.

IV. REPORTING OF INCIDENTS

- A. Anytime, on or off-duty, that a city-owned dog is involved in any incident resulting in an injury or damage to property (including the handler and/or members of the handler's family), the handler must submit City Solicitor's Report 75-213 and a Complaint or Incident Report (75-48). (District Control Number must be on all reports.) The 75-213 report will be submitted by the Commanding Officer, Canine Unit, and a copy forwarded by that commander to the Commanding Officer, Advanced Training Unit, Police Academy, to arrive no later than 48 hours after the incident. Contents of the report must be specific. If the action of the bitten individual caused the reaction of the dog, so state, and describe.
1. Personnel of the district of occurrence will refer to Directive #83, "Reporting Non-Vehicular Accidents When City May Be Liable," and comply with its contents.
- B. All incidents involving a bite or damage to property will be investigated by the Detective Division of occurrence, and an Investigation Report (75-49) will be submitted, with a copy of the 75-49 forwarded to the Commanding Officer, Advanced Training. Investigation will include photographs of the damage/injury, which will remain part of the investigative record.
- C. Further, on all assignments when the canine is used or has had any effect on a specific situation, the handler must submit a separate 75-48, with the same district control number, through channels, to Commanding Officer, Advanced Training Unit, Police Academy. The 75-48 must be complete, thorough, and describe in as much detail as possible the nature of the assignment, to what use the dog was put, and the results. (Those situations which demand reports include, but are not limited to: arrests, apprehensions, building searches, field searches, article searches, alley searches, tracking, disorderly crowds, disturbances, pursuits, narcotics detection, exit/entrance control, explosive device detection.)

D. Operations Room Supervisor will notify the Canine Unit by telephone as soon as the facts are available regarding any canine incident. This information will be noted on the 75-67 (Daily Complaint Summary) [Sending and Receiving Sheet], both at the District/Unit and at the Canine Unit.

V. EVALUATION OF CANINE INCIDENTS

- A. The Commanding Officer, Advanced Training Unit, will:
1. Maintain records of all incidents involving canine teams.
 2. Evaluate all incidents to ensure compliance with departmental policies and procedures, and submit a monthly report to the Police Commissioner, through channels, regarding any such violations.
- B. These reports will be reviewed by a panel appointed by the Police Commissioner, who will recommend to him appropriate action, if necessary.

VI. REQUEST FOR USE OF CANINES BY OUTSIDE POLICE DEPARTMENTS OR AGENCIES

- A. Outside requests by other police departments or agencies for canine services will be upon the authorization of the Police Commissioner or designee.

VII. RESPONSIBILITY

- A. It will be the responsibility of all canine patrol officers as well as their Unit Supervisors and Commanders, to be familiar with this directive, and to comply with its provisions.

BY COMMAND OF THE POLICE COMMISSIONER

EXHIBIT C—IAB INTERNAL INVESTIGATIONS 1997-1998

EXHIBIT C

Use of Force—IAB Internal Investigations 1997

Review of 25 IAB Internal investigations into use of force initiated in 1997 and completed by June 1, 1998; because investigations can involve more than one civilian, officer, and/or type of force used, totals will exceed 25.

Nature of force alleged:

Use of blackjack:	9 (7 head strikes)
Use of baton:	4 (4 head strikes)
Punch/Slap:	5
Handcuff too tight:	3
Fall:	2
Injury inside EFW:	2
Kick:	1
Slamming into ground, car, etc.:	1
Choking:	1
Head strike with firearm:	1
Head strike with radio:	1

Nature of Injury Alleged (excluding claims disproven by investigation)

Minor abrasion/contusion:	10
Laceration to head/scalp:	9 (sutures required in 5 cases)
Wrist injury (from handcuffs):	3
Nose fracture:	1
Paralysis:	1
Death in custody (drug overdose):	1
Self-inflicted laceration:	1

IAB Findings:

Exonerated:	7 (Retraining recommended in 3 cases)
Use of force within policy:	6 (Retraining recommended in 4 cases)
Sustained:	9 (2 cases resulted in arrest and dismissal of officer)
Not sustained:	4
Unfounded:	2

EXHIBIT D—LAB CAP INVESTIGATIONS 1997-1998

EXHIBIT D

Use of Force—LAB CAP Investigations 1997

Review of investigations of 167 citizen complaints, involving 172 complainants, filed in 1997 and completed by June 1, 1998 in which excessive or improper use of force by an officer against a civilian was alleged. Because investigation can involve more than one civilian, officer, and/or type of force used, totals will vary.

Nature of force alleged:

Touch/Shove/Push/Pull/Grab:	59
Punch/Slap:	34
Slamming into ground, car, etc.:	24
Fight/Scuffle:	18
Use of Baton:	15
Handcuff too tight:	14
Kick:	10
Choke:	7
Use of Blackjacks:	6
Tackle:	5
Other restraint:	4
Frisk (injury to groin):	4
Weapon pointed at civilian:	3
Struck with radio:	1
Struck with fire arm:	1
Fall:	1
Other:	3

Underlying Circumstances

Arrest:	58
Car stop:	23
Pedestrian stop:	9
In custody:	3

Nature of Injury Alleged (excluding claims disproven by investigation):

None:	76
Minor abrasion/contusion:	43
Pain (as only complaint):	11
Laceration to head/scalp:	11
Wrist injury/pain caused by handcuffs:	10
Laceration (other than to head):	2
Fractured jaw:	1
Fractured tooth:	1
Fractured nose:	1

IAB Findings:

Sustained:	17
Exonerated:	31
Unfounded:	37
Not sustained:	75
Withdrawn:	9
Frivolous:	2

(39 Complainants failed to cooperate in the investigation, 3 complainants recanted their claims, and 3 could not be located by IAB).

EXHIBIT E—LITIGATION DATA, USE OF FORCE CLAIMS 1994-1998

EXHIBIT E—LITIGATION DATA, USE OF FORCE CLAIMS 1994-1998

LITIGATION DATA—USE OF FORCE CLAIMS 1994-1996

YEAR OF SETTLEMENT	<u>1994</u>	<u>1995</u>	<u>1996</u>
NUMBER OF CLAIMS SETTLED	63	80	66
TOTAL COST	\$3,873,925	6,505,123	2,948,650
AVERAGE COST PER CASE	\$60,919	81,314	44,677

LITIGATION DATA—USE OF FORCE CLAIMS 1997-1998

YEAR OF SETTLEMENT	1997	1998
NUMBER OF CLAIMS SETTLED	72 (1 trial verdict)	60 (2 trial verdicts)
TOTAL COST	\$2,980,200	\$3,340,813
AVERAGE COST PER CASE	\$41,392	\$55,680

YEAR OF INCIDENT GIVING RISE TO LIABILITY

1997	---	15
1996	16	15
1995	30	19
1994	15	4
1993	6	2
1992	3	1
1991	2	0

LITIGATION DATA 1997-1998 (continued from previous page)

SETTLEMENT RANGES	1997	1998
Less than \$5,000	9	5
\$5,000-10,000	14	11
\$10,001-25,000	24	21
\$25,001-50,000	17	11
\$50,001-100,000	4	7
\$150,000	1	2
\$225,000	0	1
\$250,000	2	0
\$325,000	0	1
\$750,000	1	0
\$1,235,000	0	1

LITIGATION DATA – 1997-1998 (continued)

NATURE OF FORCE USED (Note - Based on analysis of claim in settlement recommendation; some cases include more than one plaintiff or more than one type of force):

	1997	1998
Struggle while claimant being Restrained or taken into custody	19	22
Striking with fist or kicking	18	17
Pushing or shoving	5	0
Use of Baton	20	11
Use of Blackjack	3	3
Use of flashlight	4	1
Use of Handcuffs	5	8
Use of OC Spray	1	0
Use of Battering Ram	1	0
EPW Transport*	0	1
Firearm - Pointing	2	0
Firearm – Used as club	4	1
Firearm - Discharge	6	3

*Claimant suffered severe spinal cord injury when propelled into side of EPW at sudden stop.

LITIGATION DATA -- 1997-1998 (Continued)

NATURE OF INJURIES SUSTAINED BY CLAIMANT

	1997	1998
Non-permanent lacerations, contusions, Abrasions, or pain (only injury alleged or proven)	45	20
Head/scalp injury from use of Baton/Blackjack	11	11
Wrist injury/pain from use of handcuffs	5	8
Fracture		
Ankle	1	0
Arm	1	3
Elbow	1	0
Finger	0	2
Hand/wrist	3	0
Jaw	1	1
Leg	1	2
Nose	0	1
Orbital Area	1	2
Rib	1	1
Tooth	2	1
Shoulder, Neck, back, disc injury (including sprain and strain)	2	5
Knee injury (ligament tear or similar injury requiring surgical repair)	1	2
Leg or foot -- permanent injury	1	1
Loss of hearing	1	0
Concussion	0	3

LITIGATION DATA 1997-1998 (Continued)

NATURE OF INJURIES SUSTAINED BY CLAIMANT (Continued)

	1997	1998
Other significant trauma, i.e., joint dislocation, sever laceration, severe soft tissue injury	1	6
Spinal cord injury resulting in paralysis	0	1
Gunshot wound - Animal	1	0
Gunshot wound - nonfatal	3	2
Gunshot wound - fatal	2	1
Other fatal injury	2	0

EXHIBIT F—POLICE DEPARTMENT TELETYPE NOTIFICATION FORM

NOTIFIED BY: _____ DIST/UNIT _____
PAYROLL NUM _____ DATE _____ TIME _____

- ___ PERSON HOSPITALIZED _____ DIED WHILE IN POLICE CUSTODY
- ___ DIED AS A RESULT OF POLICE ACTION
- ___ POSSIBILITY OF A CRIME COMMITTED BY POLICE OFFICER
- ___ USE OF BATON
- ___ USE OF BLACKJACK _____ FIREARM DISCHARGE BY OFFICER(S)
- ___ USE OF OC _____ BITTEN BY POLICE CANINE
- ___ USE OF OTHER INSTRUMENT _____ INJURED AS A RESULT OF POLICE PURSUIT

OCCURENCE LOCATION _____
 DATE _____ TIME _____ DC NUMBER _____
 DEFENDANT NAME _____ AGE _____ SEX _____ RACE _____
 DEFENDANT ADDRESS _____ ARRESTED _____ (YES OR NO)
 DEFENDANT HOSPITAL _____ DR. _____
 DEFENDANT ADMITTED _____ (YES OR NO) CONDITION _____
 OFFICER INJURED _____ (YES OR NO) ADMITTED _____ (YES OR NO)
 OFFICER HOSPITAL _____ DR. _____
 OFFICER CONDITION _____ INJURIES _____
 P/O NAME(S) _____ PAYROLL NUM _____ DIST/UNIT _____

DETAILS _____

DISCHARGE OF FIREARMS _____ (YES OR NO)
ACTIONS OF DEFENDANT _____

FORCE LEVEL (0 THROUGH 5) _____
INVESTIGATING UNIT(S) _____ CONTROL NUM _____ ASSIGNED _____

ARREST CHARGES: _____
SENT BY: NAME _____ PAYROLL _____ DIST/UNIT _____

 COMMANDING OFFICER - IAD - ACTION: DATE: _____ OR _____ INITIALS _____
 ___ OBTAIN 75-49 - DATE RECEIVED _____ IAD INVESTIGATION REQUIRED _____
 ___ DIRECTIVE 22 MEMO - DATE RECEIVED _____ TYPE OF INVESTIGATION _____
 ___ OC SPRAY REPORT - DATE RECEIVED _____ TEAM ASSIGNED _____
 IAD TRACKING# _____ IAD TRACKING# _____ DATE ASSIGNED _____

EXHIBIT G—LAB RESPONSES TO TELETYPE NOTIFICATIONS 1996-1998

Month/ Year	Total Notifications	No Investigation Conducted	Threshold Investigation	Full Investigation	Monitor Only	Investigation Ordered/Not Completed	Review Pending at Audit	Not Clear From File
Jan-96	28	28	0	0	0	0	0	0
Feb-96	22	20	1	0	1	0	0	0
Mar-96	21	19	2	0	0	0	0	0
Apr-96	19	14	4	1	0	0	0	0
May-96	39	35	3	0	1	0	0	0
Jun-96	31	27	3	0	1	0	0	0
Totals	160	143	13	1	3	0	0	0
Jan-97	33	21	2	1	1	8	0	0
Feb-97	17	15	0	0	0	0	0	2
Mar-97	24	12	8	2	0	0	0	2
Apr-97	29	17	9	3	0	0	0	0
May-97	23	14	9	0	0	0	0	0
Jun-97	28	17	11	0	0	0	0	0
Totals	154	96	39	6	1	8	0	4
Jan-98	44	13	16	5	0	2	6	2
Feb-98	42	15	23	2	0	2	0	0
Mar-98	66	16	28	8	0	3	9	2
Apr-98	44	17	17	7	0	2	0	1
May-98	58	21	20	3	0	1	10	3
Jun-98	59	18	25	2	0	0	13	1
Totals	313	100	129	27	0	10	38	9

EXHIBIT H—POLICE DEPARTMENT OC SPRAY NOTIFICATION FORM

PHILADELPHIA POLICE DEPARTMENT
OC SPRAY USAGE REPORT

[Complete ALL pertinent sections; PRINT or TYPE all information]

RANK LAST NAME FIRST NAME BADGE PAYROLL DIST./UNIT PLATOON

INCIDENT INFORMATION

1. a) DATE OF INCIDENT: _____ b) TIME: _____ AM / PM c) D.C. # _____
d) NATURE OF ASSIGNMENT/CONTACT: _____ e) ARREST(S) (circle): Y N
2. a) OC USE (circle one): INDOORS OUTDOORS IN VEHICLE b) NUMBER OF SPRAYS ADMINISTERED: _____
c) WEATHER CONDITIONS (circle all that apply): CLEAR CLOUDY WINDY RAIN SNOW FOG OTHER _____
3. a) SUBJECTS BEHAVIOR/CONDITION AT ENCOUNTER (circle all that apply):
CALM/PASSIVE INTOXICATED DRUGGED MENTALLY ILL HOSTILE OTHER _____
b) FORCE OR THREAT OF FORCE AGAINST OFFICER (circle): ACTIVE RESISTANCE KICKS/PUNCHES KNIFE FIREARM OTHER _____
c) EFFECT ON SUBJECT (circle): NONE MILD MODERATE SUBSTANTIAL INCAPACITATING
d) WAS OC EFFECTIVE IN OVERCOMING FORCE/THREAT? (circle): Y N
IF "NO", EXPLAIN SUBSEQUENT ACTION TAKEN: _____
4. a) WAS OC USED ON ANIMAL? (circle): Y N | IF "YES", ANIMAL TYPE: _____
b) ANIMAL BEHAVIOR (circle): ATTACKING THREATENING c) EFFECTIVE (circle): Y N

TREATMENT/DECONTAMINATION INFORMATION

1. INJURY OTHER THAN EFFECTS OF OC CONTAMINATION (circle): OFFICER: Y N | SUBJECT: Y N
IF "YES" TO EITHER, DESCRIBE: _____
2. OFFICER CONTAMINATION EXPERIENCED? (circle): SELF: Y N | BACK-UP: Y N | TRANSPORTING: Y N
IF "YES", DESCRIBE HOW, WHAT EFFECTS EXPERIENCED: _____
3. SUBJECT FIRST AID/MEDICAL EVALUATION ADMINISTERED (circle): ACCEPTED REFUSED
a) FACILITY: _____ b) TIME: _____ AM / PM c) PHYSICIAN: _____
d) WAS SUSPECT WEARING CONTACT LENSES? (circle): Y N IF "YES", DESCRIBE ACTION TAKEN: _____

SIGNATURE / SUPERVISORY REVIEW & ENDORSEMENT

1. ADDITIONAL INFORMATION/COMMENTS: _____
2. OFFICER'S SIGNATURE: _____ DATE PREPARED: _____
3. REVIEWED BY SUPERVISOR: SIGNATURE: _____ PAYROLL # _____
DATE REVIEWED: _____
4. IAD NOTIFIED: GENERAL # _____
5. COMMANDING OFFICER'S SIGNATURE: _____ DATE: _____
6. RECEIVED BY FTU DATE: _____ PAYROLL # _____

EXHIBIT I—SAMPLE DIRECTIVE 22 MEMORANDA

Memorandum

Police
City of Philadelphia
Date: [REDACTED]

To : Commanding Officer, [REDACTED]

From : Sgt.

Subject : USE OF BLACKJACK DC# [REDACTED]

1. On Sat. 9/5/98 P/O [REDACTED] struck a defendend one time with his blackjack on the shoulder. This male was struggling with police and had been sprayed with pepper spray which had no effect on him.
2. As a result of an investigation by my self and P/O [REDACTED] supervisor we both agreed that the officer used his blackjack in accordance with Directive #22.
3. P/O [REDACTED] should continue to receive training from his supervisor on Directive #22 which covers the use of verbal persuasion, verbal warnings, presence and assistance of additional officers, hands on techniques,, learned control holds, prior to using his baton or blackjack.

[REDACTED]
Sgt. [REDACTED]
SWDD

MEMORANDUM

POLICE
CITY OF PHILADELPHIA

DATE: [REDACTED]

TO : Commanding Officer, [REDACTED] District

FROM : Sgt. [REDACTED] District, 2-Platoon

SUBJECT : USE OF BLACKJACK DO [REDACTED]

1. On 01-01-98, at 3:55am, on the [REDACTED] of Germantown Ave, while working the 12x8am tour of duty as [REDACTED] EPW, P/O [REDACTED] and P/O [REDACTED] observed a 1986 Pontiac operating in a reckless manner. The police officers stopped the vehicle and the operator, [REDACTED] 21 years old of [REDACTED] St. immediately exited the vehicle and approached the officers. P/O [REDACTED] repeatedly asked the operator to get back in the car and he would not comply. Both officer exited the vehicle and escorted the defendant back to his vehicle and told him to put his hands on the trunk of his car. The male pushed both officers and started to hit and kick them. P/O [REDACTED] called for additional back-up while P/O [REDACTED] continued to struggle with the male. Both officers preceded by taking out their blackjacks and hitting the defendant on his upper torso and as a result the defendant was hit in the head by P/O [REDACTED]'s blackjack. The defendant received injuries to the back of his head and was then transported to Germantown Hospital for treatment. The defendant received several stitches to the back of his head and was later transported to the [REDACTED] District for processing.
2. After conducting an investigation it was determined that the Officers were in compliance with Directive #22 - "Use of Baton and Blackjacks".

[REDACTED]
Sgt. [REDACTED]
[REDACTED] Dist.
2 Platoon

[REDACTED]
Lt. [REDACTED]
[REDACTED] Detective Division

MEMORANDUM

POLICE

CITY OF PHILADELPHIA

DATE [REDACTED]

Should did head injuries occur. Never explained
(R)

TO : Commanding Officer, [REDACTED] district

FROM : Sergeant [REDACTED]

SUBJECT : USE OF BLACKJACKS BY [REDACTED] DISTRICT PERSONNEL:

1. On [REDACTED] at 2:00hrs, [REDACTED] district officers [REDACTED] # [REDACTED] & [REDACTED] responded to R/C Disturbance house at [REDACTED]. The officers were assigned to EPW# [REDACTED] in uniform. Upon arrival the officers were met by compl: [REDACTED] h/f [REDACTED] who stated to the officers that she wanted the defendant: [REDACTED] res: same, to be removed from the house. She stated that he is the father of her daughter and that she kicked him out of the house 3 weeks ago. In the presence of the officers, [REDACTED] tried to grab the compl. at which time the officers tried to intervene. [REDACTED] was yelling and "acting high". [REDACTED] punched [REDACTED] in his chest and then threw [REDACTED] onto a glass table and punched [REDACTED] several times in his face. Pol [REDACTED] stepped in to restrain and was punched by [REDACTED]. The officers together subdued [REDACTED] by using their blackjacks. [REDACTED] was struck several times in his arms, torso and legs.
2. [REDACTED] was taken to Parkview Hosp and treated and released by Dr [REDACTED]. [REDACTED] received 5 stitches on the right side of his face. He had a small cut over his left eye lid, bruises on his left and right hand. He had a bandage on his rt. hand. The defendant was personally viewed by Sgt [REDACTED] in the cell block, but he was asleep and could not be stirred.
3. The officers did not receive treatment for any injuries. However Pol [REDACTED] complained of back pain and Pol [REDACTED] had an injured rt. hand. Swelling was plainly seen.
4. [REDACTED] was arrested and charged with agg. asslt, simple asslt., Terr Threats, disorderly conduct, resist arrest etc. Det [REDACTED] assn. Refer to [REDACTED] [REDACTED]
5. The undersigned concur in the opinion that the use of force employed on [REDACTED] was justified and in accordance with Police policy.

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[Signature]
Sergeant De [REDACTED]
[REDACTED] Detective Division # [REDACTED]

[Signature]
Sgt F [REDACTED] # [REDACTED]
[REDACTED] Police District

APPROVED

OK
[REDACTED] 1997
[REDACTED] OFFICER

MEMORANDUM

POLICE
CITY OF PHILADELPHIA

DATE: [REDACTED]

Commanding Officer, [REDACTED] Police District

Lt. [REDACTED]
Sgt. [REDACTED] Police District

SUBJECT: USE OF FORCE

- On [REDACTED] P/O [REDACTED] was working with his partner, P/O [REDACTED], assigned to [REDACTED]. At approximately 7:35 P.M. they responded to a burglary call at [REDACTED] St. P/O [REDACTED] states while searching the basement of [REDACTED], he observed a male hiding in the corner of the basement. P/O [REDACTED] ordered this male out of the dark corner of the basement. The male approached the officers holding what appeared to be a screwdriver in his hand. The officers ordered the male to drop what he was holding. The male refused to drop it and rushed at the police. P/O [REDACTED] struck the male once with his blackjack and was able to arrest the male. The defendant was identified as [REDACTED]. The defendant was transported to St. Joseph's Hospital and treated by Doctor Powell. The defendant received five stitches to his forehead and was released. The officers did not violate any Police Department Directives.

[REDACTED]
Sgt. E. [REDACTED]
[REDACTED] Police District

[REDACTED]
Lt. [REDACTED]
[REDACTED] Detective Division

DATE [REDACTED]

MEMORANDUM

TO : Commanding Officer, [REDACTED]
FROM : Sgt. [REDACTED] Detective Division
SUBJECT: USE OF BLACKJACKS BY [REDACTED] DISTRICT OFFICERS:

1. On [REDACTED] at approx. 340PM, Pol. [REDACTED] and Pol. [REDACTED] of [REDACTED] dist were on patrol in uniform and marked vehicle when they arrived at [REDACTED] St. At that time they saw the defendant: [REDACTED] H/M [REDACTED] involved in a drug transaction. Pol [REDACTED] attempted to arrest [REDACTED] and a struggle ensued. [REDACTED] punched [REDACTED] in an attempt to elude the officer. [REDACTED] & [REDACTED] fell to the ground and [REDACTED]'s face hit the ground. [REDACTED] got up and tried to flee, but Pol [REDACTED] was on the scene to assist [REDACTED]. [REDACTED] punched [REDACTED] above the right eye causing an abrasion & swelling. Both officers used their blackjacks to subdue [REDACTED] by striking him on his legs and arms.
2. [REDACTED] was arrested for assault on Police and narcotic violations as the officers recovered white powder from [REDACTED]. See DC [REDACTED] [REDACTED]. Det [REDACTED] assn.
3. [REDACTED] was taken to Parkview hosp. and treated and released by Dr. [REDACTED]. The officers did not require medical attention, but Pol [REDACTED] rt. eye was photographed by the Ident Unit.
4. Sgt G [REDACTED] and Det M [REDACTED] viewed [REDACTED] in the [REDACTED] dist. cell block. [REDACTED] had 5 stitches to his right ear. He also had bruises and scrape marks on his face, consistent with his head striking the ground.
5. The undersigned concur in their opinion that the officers were justified in the use of force against GARCIA.

[REDACTED]
[REDACTED]
East Detective Division

[REDACTED]
[REDACTED]
25th District

MEMORANDUM

POLICE
CITY OF PHILADELPHIA

DATE: [REDACTED]

TO : Commanding Officer [REDACTED] district
FROM : Lt. [REDACTED] District, Two Platoon
SUBJECT : INVESTIGATION: USE OF BLACKJACK; DC# [REDACTED]

1. On [REDACTED] 2 30am, Pol. [REDACTED] District, 2-A, while in the process of arresting [REDACTED] 35, [REDACTED] St. for burglary and related offenses, did forcefully subdue the defendant by the use of his city owned blackjack. A joint investigation was conducted by Lt. [REDACTED] District, 2-C and Sgt. [REDACTED] Detective Division, 2-A.
2. A review of the 75-49 by Lt. [REDACTED] shows the defendant did forcefully enter the premises at [REDACTED] St. Upon the arrival of Police, the defendant did assault several officers while fleeing the scene to avoid apprehension. The defendant assaulted three Police Officers before Pol. [REDACTED] had any contact with the defendant. Pol. [REDACTED] attempted to place the defendant under arrest and was punched in the face dislodging his eyeglasses. At this time Pol. [REDACTED] struck the defendant several times before Sgt. [REDACTED] used pepper mace to subdue the defendant. It took several police officers to subdue the defendant after he was struck by Pol. [REDACTED] and Sgt. [REDACTED]'s use of the pepper spray.
3. A review of Police Procedural Directive# 22 by both Lt. [REDACTED] and Sgt. [REDACTED] shows Pol. [REDACTED] acted properly and within the guidelines of Police Department Policy set forth in Directive 22. Pol. [REDACTED] was at the time attempting to apprehend a burglary suspect who did assault several police officers before being placed into custody. It is clear by this defendant's actions that he was intent on avoiding apprehension at all costs.

[REDACTED]
[REDACTED] Lia
Lieutenant [REDACTED]
[REDACTED] District, Two Platoon

APPROVED
COMMANDING OFFICER
POLICE DISTRICT

MEMORANDUM

POLICE
CITY OF PHILADELPHIA

Commanding Officer [redacted] District

DATE [redacted]

FROM : Sgt. [redacted] #2 Platoon

SUBJECT : USE OF BATON/BLACKJACK

1. On [redacted], P/O [redacted], assigned to RPC [redacted] did observed a B/M carrying 4 boxes of bullets at 7th and Race Streets at 12:55am. P/O [redacted] was aware of Theft from Auto incident at [redacted] the night before at D.E.A. lot where ammo was taken.
2. P/O [redacted] did attempt to stop this male, he punched [redacted] in the jaw and continued to fight and did swing hands and feet at officer.
3. At this point P/O [redacted] did use his blackjack to effect the arrest. This action was within the guidelines of Directive #22.
4. Defendant: [redacted] - 5'7, 135lbs.
5. Defendant was transported to Allegheny Hospital by [redacted], minor injuries to head.

[redacted signature]
Sgt. [redacted] 9/16

[redacted signature]
Sgt. [redacted] District

[redacted signature]
COMMANDING OFFICER
INTERNAL AFFAIRS DIVISION

REVIEWED BY
[redacted signature]
COMMANDING OFFICER
POLICE DISTRICT

*file
in appropriate
location*

[redacted signature in circle]

MEMORANDUM

POLICE
CITY OF PHILADELPHIA

P.O. INTERNAL AFFAIRS DIV.

DATE [REDACTED]

SGT. [REDACTED]

SUBJECT: USE OF BLACKJACK

On [REDACTED] Officer's [REDACTED] and [REDACTED] were involved with the arrest of a male in a stolen auto. This male struggled with the officers and as a result of this struggle Officer [REDACTED] was injured and she struck the defendant 2 or 3 times in the legs with her blackjack.

This defendant injured his head when he crashed his stolen vehicle into [REDACTED]. There were no known injuries to the defendant from the use of the blackjack.

Officer [REDACTED] suffered an injury to her foot and hand, and has been IOB from that night till being activated on [REDACTED].

[REDACTED SIGNATURE]

SGT.
[REDACTED]

P O L I C E
CITY OF PHILADELPHIA

DATE: [REDACTED]

MEMORANDUM

TO : Commanding Officer, Internal Affairs Division

FROM : Commanding Officer, [REDACTED]

SUBJECT: USE OF FORCE: DC # [REDACTED]

1. On Friday, [REDACTED], at approximately 11:05PM Lieutenant [REDACTED] did assist [REDACTED], P/O [REDACTED] and Vernon [REDACTED] in the arrest of [REDACTED], Dob, [REDACTED] for Agg Assault of Police, Simple Assault, REAP, DUI and Eluding Police. The defendant was arrested [REDACTED] St. after a short vehicle pursuit.
2. While effecting this arrest, the defendant struggled and fought with officers. During this struggle the male was taken to the ground and did grab Lieutenant [REDACTED] nightstick with both hands and attempt to take it from him. The Lieutenant retained control of his nightstick and as the defendant continued to struggle with him the Lieutenant did fall over the defendant and strike him with his nightstick in the area of his head and neck.
3. The defendant was transported to Episcopal Hospital for medical treatment. The nature of the injury was a cut over the defendants left eye. The defendant was treated and released.
4. Thank you for your consideration in this matter.

[REDACTED]
[REDACTED]
Captain [REDACTED]
Commanding Officer
[REDACTED]

MEMORANDUM

POLICE
CITY OF PHILADELPHIA

DATE: [REDACTED]

TO : Commanding Officer, [REDACTED] District

FROM : Sgt. [REDACTED] - 2C

SUBJECT : USE OF BATON BLACKJACK

1. On [REDACTED] P/O [REDACTED] responded to back up RPC # [REDACTED] P/O [REDACTED] on a vehicle investigation at [REDACTED] Ave. and [REDACTED] Ave. During the vehicle investigation the Def. [REDACTED] became loud and boisterous. The Officers attempted to calm the defendant through the use of verbalization. The def. continued to argue and refused to cooperate with the Officers investigation. P/O [REDACTED] informed the defendant that he was placing him under arrest for Disorderly Conduct - at this time the Officer attempted to place the defendant under arrest by the use of firm grip holds. The defendant resisted and attempted to strike Officer [REDACTED] with his right hand. Officer [REDACTED] elevated his use of force to gain control of the defendant and prevent injury to himself by employing his blackjack and attempting to strike the defendant on the right collarbone when the def. turned suddenly resulting in his being struck on the back side of his head.
2. P/O [REDACTED] attempted to arrest the defendant through the use of verbalization the defendant refused to obey verbal commands. The Officer attempted to utilize firm grip control holds when the def. raised his level of resistance by attempting to strike P/O [REDACTED] who then attempted to strike the defendant in a defensive posture on the collarbone.
3. The use of Blackjack was reasonable in that it was used to prevent injury to the Officer and gain control of the actively combative defendant. This pain compliance technique was authorized by Training Bulletin #1.
4. When the Prisoner accepted Police control, the Officer terminated the use of his Blackjack - (Dir. 23-1-D).
5. The Prisoner was treated at Frankford South Division for his injuries by [REDACTED].
6. It is my belief that the use of Blackjack was reasonable and within departmental policy in that it was used to gain control of an actively resisting prisoner after he had attempted to strike the Officer, once the Officer had gained control of the prisoner and have him accept arrest the objective was reached the use of Blackjack was terminated.
7. I.A.B. message sent - Gen [REDACTED] - Receipt [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] District

2-C