

**MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES
AND THE VILLAGE OF MT. PROSPECT, ILLINOIS**

I. INTRODUCTION

A. General Provisions

1. This Agreement is entered into by the United States and the Village of Mount Prospect, Illinois (“the Village”). The Agreement resolves the investigation being conducted by the Office of United States Attorney for the Northern District of Illinois and the Department of Justice, Civil Rights Division, pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §14141, and the Omnibus Crime Control and Safe Streets Act of 1968 (“Safe Streets Act”), 42 U.S.C. §3789d(c), to determine if Mount Prospect Police Department (“MPPD”) officers are engaging in a pattern or practice of conduct that deprives persons of their rights under the Constitution and laws of the United States.

2. The purpose of this Agreement is to provide for a cooperative effort by the United States, the Village, and the MPPD to implement measures that will promote nondiscriminatory law enforcement by the MPPD and community support for the MPPD and its officers.

3. The Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §14141, prohibits law enforcement agencies from engaging in a pattern or practice of conduct that deprives persons of their rights under the Constitution and laws of the United States. In addition, the Safe Streets Act prohibits discrimination on the basis of race, color, national origin, sex, or religion by law enforcement agencies that receive funds from the Department of Justice. The Village is a recipient of federal financial assistance from the Department of Justice and is subject to the provisions of the Safe Streets Act.

4. Nothing in this Agreement shall be construed as an acknowledgment, an admission, or evidence of liability of the Village or the MPPD under 42 U.S.C. §14141, 42 U.S.C. §3789d(c), or the Constitution, or an acknowledgment, an admission, or evidence of liability of any MPPD officer under federal or state law. The Village and the MPPD hereby affirm their obligation and commitment to carrying out law enforcement responsibilities in a nondiscriminatory manner, in accord with the requirements of 42 U.S.C. §14141, 42 U.S.C. §3789d(c), and the Constitution.

5. The signatures below of officials representing the Office of the United States Attorney for the Northern District of Illinois, the Department of Justice Civil Rights Division, the Village, and the MPPD signify that these parties have given their final approval to this Agreement.

6. This Agreement is enforceable only by the parties and is binding upon the parties, by and through their officials, agents, employees, and successors. No person or entity is intended to be a third party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement in any civil, criminal, or administrative action.

Similarly, this Agreement does not authorize, nor shall it be construed to authorize, access to any MPPD documents by persons or entities not a party to this Agreement.

7. Nothing in this Agreement shall be construed to impair the right of any person or organization to seek relief against the Village for its conduct or the conduct of MPPD officers. Nothing in this Agreement is intended to alter the existing collective bargaining agreements between the Village and MPPD employee bargaining units or impair the collective bargaining rights of employees in those units under state and local law.

8. This Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or any other proceeding.

B. Definitions

The following definitions apply to this Agreement:

9. “Complainant” means any person who files a complaint against an MPPD officer or the MPPD.

10. “Complaint” means an allegation that an MPPD officer has engaged in any form of misconduct or has failed to comply with the documentation and reporting requirements of this Agreement. For purposes of this Agreement, the term does not include any allegations of employment discrimination.

11. “Document” and “record” shall be interpreted to include “writings and recordings” as defined by Federal Rules of Evidence, Rule 1001(1).

12. “Enforcement actions in connection with a traffic stop” are the issuance of a summons or a written warning, the making of an arrest, and the selection of the charges upon which the arrest is based, in connection with a traffic stop.

13. “Police officer” and “officer” mean any sworn law enforcement officer employed by MPPD, including supervisors.

14. “Positive corrective action” refers to a non-disciplinary action taken by a MPPD supervisor to enable or encourage an officer to undertake a willing modification of his or her conduct. It is intended to be a mechanism to promote good police practices for officer conduct. It may include oral counseling; training; mandatory professional assistance/evaluation or referral to stress counseling; or a reassignment.

15. “Procedures in connection with a traffic stop” are the running of a computerized check of information that may relate to a vehicle driver or passengers; ordering or requesting that a driver or passengers exit the vehicle; conducting a protective frisk for weapons of a driver or passengers of a vehicle; asking the driver or passengers for consent to search the vehicle; or conducting a search of the vehicle, the driver, or passengers.

16. “Section 23.101 (16) multifamily building prohibition” means the prohibition implemented by the Village and the MPPD, pursuant to Village Code section 23.101, paragraph 16, regarding the possession of alcoholic beverages in the parking and common areas of multifamily residential structures with four or more dwelling units.

17. “Supervisor” means a police officer with the rank of sergeant or above with oversight responsibility for other officers.

18. “Traffic stop” means every instance in which a MPPD officer for any reason directs a person who is operating a motor vehicle of any type, that is traveling on any highway or street or other public way, to stop and the driver and/or passenger(s) are detained for any period of time. The term “traffic stop” includes stops based on motor vehicle violations, local ordinance violations, and criminal suspicion stops.

19. All references to collecting or reporting information by “race/ethnicity” means collecting or reporting information using the following categories: White, African American, Hispanic, Asian, and Native American.

II. POLICY REQUIREMENTS AND RELATED PROCEDURES

20. The Village and the MPPD shall prohibit police officers from exercising their police powers in a manner that unlawfully discriminates against individuals based on race, color, national origin, or ethnicity.

21. The Village and the MPPD shall implement a written policy against discrimination in policing, which shall be distributed to all MPPD officers and employees. The policy shall be subject to the approval of the United States, which approval shall not be unreasonably withheld. The policy shall be submitted for approval to the United States within 60 days of the effective date of this Agreement. The policy shall include: a) the prohibition set forth in paragraph 20; b) provisions that specifically address the use of race, color, or national or ethnic origin by MPPD officers in deciding which vehicles to subject to a traffic stop, and in deciding upon the scope or substance of any enforcement action or procedure in connection with a traffic stop; c) provisions to ensure the nondiscriminatory enforcement of Village Code section 23.101, paragraph 16 and, in particular, the section 23.101 (16) multifamily building prohibition; and d) provisions addressing the circumstances in which officers may issue “C” or “Y” tickets for those offenses for which either “C” or “Y” tickets may be given, unless the MPPD determines and notifies the United States in writing that it will no longer issue “C” tickets.

III. DOCUMENTATION

22. The United States recognizes that the MPPD has developed and, since May 2000, implemented a protocol requiring police officers to document certain traffic stops . The MPPD agrees to continue to collect certain of the data it has already been collecting but for all traffic stops, and further agrees that it will collect additional data also for all traffic stops. In sum, the MPPD will collect the following data for each traffic stop:

- a. the star number of the officer who initiated the stop;
- b. the star number(s) of any additional officer(s) who participated in the stop;
- c. the date, time, and location by beat of the stop;
- d. the race/ethnicity (White, African American, Hispanic, Asian, or Native American), and gender of the driver, as observed by the officer, and the driver's date of birth;
- e. whether the driver is licensed in Illinois or another jurisdiction, and whether the driver is a resident of Mount Prospect, as reflected by the driver's license;
- f. the reason for the stop, including but not limited to whether it was based on radar/laser or a "be on the lookout advisory;"
- g. whether the driver was issued a ticket or warning, and the specific citation(s) charged;
- h. whether the driver or any other vehicle occupant was arrested, and the offense(s) charged;
- i. the approximate duration of the stop;
- j. whether the stopped vehicle is registered in Illinois or another jurisdiction;
- k. whether the driver or any other vehicle occupant(s) was requested to exit the vehicle and, if so, whether either or both were frisked and/or searched;
- l. whether consent to search the vehicle was requested and, if so, whether consent was granted;
- m. whether a nonconsensual search of the vehicle was conducted and, if so, the basis for the nonconsensual search; and
- n. whether any contraband or other property was seized and if so, the type of contraband or other property seized.

23. a. The MPPD shall collect the following information regarding each instance in which a MPPD officer investigates a violation of section 23.101 (16) multifamily building prohibition (regardless of whether an arrest is made, a citation issued, and/or a search, frisk, or property seizure occurs):

- i. the number, race/ethnicity and gender of the alleged violators; and
- ii. the location where the alleged violations occurred.

b. The MPPD shall collect the following additional information whenever a MPPD officer enforces the section 23.101(16) multifamily building prohibition and an arrest is made, a citation issued, and/or a search, frisk, or property seizure occurs:

- i. whether any person(s) (by name) were arrested and/or issued a citation and for what offense;
- ii. whether any person(s) (by name) were frisked or searched, and the basis for the frisk or search; and
- iii. whether any contraband or other property was seized, the name of the person from whom it was seized, and a description of the type and quantity of contraband or other property seized.

Where no arrest, citation, search, frisk, or property seizure is made, the names of the alleged violators shall not be requested.

24. The MPPD shall continue to require that a supervisor review and sign each traffic stop collection form and shall in addition require that a supervisor review and sign each form that collects the information required by paragraph 23.

25. The MPPD, in consultation with the United States, shall develop a written procedure to implement the documentation requirements of paragraphs 22 and 23. The written procedure shall address, *inter alia*, the method officers shall use to collect the required information. Prior to implementation, the written procedure shall be approved by the United States, which approval shall not be unreasonably withheld.

26. The United States recognizes that as of the date of this Agreement, the MPPD has completed installation of mobile video/audio (“MVR”) equipment in all of its patrol vehicles. The MPPD shall operate all patrol vehicles engaged in law enforcement activities with MVR equipment. All traffic stops conducted by MPPD vehicles with MVR equipment shall be recorded using both the video and audio MVR functions. The recording shall begin no later than when an officer first signals the vehicle to stop, or arrives at the scene of an ongoing traffic stop begun by another officer; and the recording shall continue until the traffic stop is completed and the stopped vehicle departs, or until the officer’s participation in the traffic stop ends (the recording shall include any requests for persons to exit the vehicle, for consent to search a vehicle, and searches/frisks.). The MPPD shall train all officers on the manner in which the MVR equipment shall be tested, maintained, and used. The MPPD shall ensure that all MVR equipment is regularly inspected, maintained, and repaired when necessary.

IV. SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. Computerized System

27. The MPPD shall, in consultation with the United States, develop and implement a computerized system for recording, maintaining, and retrieving all information collected pursuant to paragraphs 22 and 23. Each traffic stop, and each instance in which the section 23.101 (16) multifamily building prohibition is enforced, shall be identified in the system by a unique incident number generated by the computer, and shall include for each a separate data field for each item of

information identified in paragraphs 22 and 23. For all information included in the system and to the extent technologically feasible, the system shall have the capability to search and retrieve numerical counts and percentages for any combination of the information and to run reports for different time periods, and for individual officers and shifts. Prior to implementation, the design for the computer system shall be approved by the United States, which approval shall not be unreasonably withheld.

B. Management Review and Analysis

28. The MPPD, in consultation with the United States, shall develop and implement a written procedure for conducting analyses of the data collected pursuant to paragraphs 22 and 23 (the “data analysis protocol”) to assure nondiscriminatory law enforcement. Prior to implementation, the written procedure shall be approved by the United States, which approval shall not be unreasonably withheld. The data analysis protocol will require periodic management and supervisory analyses of the data, and the development of standardized reporting formats to ensure that individual officers and shifts are performing their duties in accord with the provisions of this Agreement and associated written procedures. The data analysis protocol will specify the information to be included in such reports.

29. The MPPD, in consultation with the United States, shall develop and implement a written procedure regarding the use of MVR equipment and the review of MVR tapes (“the MVR protocol”). Prior to implementation, the written procedure shall be approved by the United States, which approval shall not be unreasonably withheld. The MVR protocol shall specify that MPPD supervisors regularly review MVR tapes of traffic stops, including a random review of stops where there was a procedure in connection with a traffic stop, and a random review of stops that did not include such a procedure, and also shall specify the circumstances in which a supervisor may or shall review additional MVR tapes (pursuant to the occurrence of a specific event or incident and/or in order to more closely monitor the performance of a particular officer). The MVR protocol also shall specify the procedures governing the MVR tape review (including the preparation of a written report), and the length of time that MVR tapes shall be maintained by the MPPD.

30. Based on the analyses and reviews described in paragraphs 28 and 29, each supervisor shall, consistent with his or her authority, (1) implement appropriate changes, remedial measures, or positive corrective actions; and (2) conduct or recommend appropriate additional assessment or investigation regarding particular officers or groups of officers, including a misconduct investigation.

31. The United States recognizes that the MPPD no longer employs quotas or their functional equivalent regarding the number of traffic citations officers should issue in a specified period of time. The MPPD agrees that it will not reinstitute such quotas or their functional equivalent for any purpose and, in particular, that the analysis of the data described above shall not be used to implement any type of quotas or their functional equivalent with regard to the number of traffic stops conducted, or the number of citations issued or arrests made. Nothing in this Agreement

shall prevent the MPPD from considering an officer's failure to appropriately enforce the traffic laws as part of the officer's evaluation or in a disciplinary proceeding.

V. COMMUNITY RELATIONSHIPS

32. The MPPD shall require officers to provide their names and an explanation of the reason for the traffic stop at the beginning of each traffic stop, unless, based on the specific circumstances of an individual traffic stop, providing this information would compromise officer safety. The MPPD also shall require that all officers acting in an official capacity provide their name and police identification number at any time requested by a member of the public. The MPPD shall require all officers to inform members of the public who object to an officer's conduct that they have the right to make a complaint. The Spanish fact sheet and complaint form described in paragraph 34 shall be given to any Spanish-speaking person, and the English fact sheet and complaint form described in paragraph 34 shall be given to any English-speaking person, who so objects.

33. The Village shall develop a community outreach program to explain the duties and responsibilities of police officers, the dangers of the job, the rationale for practices designed to promote officer safety (but which might be misunderstood by the public), other issues involving traffic stops, issues regarding the enforcement of the section 23.101 (16) multifamily building prohibition, and the methods a member of the public has available to acknowledge the good work of an officer or to file a complaint.

34. The MPPD shall develop informational materials (including fact sheets and informational posters) in English and in Spanish describing the complaint process, and make both complaint forms and informational materials available at the Mount Prospect Police Station, Village Hall, and other public locations, and to community organizations. The fact sheet and complaint form shall state that complaints can be filed with the MPPD or at Village Hall. All complaints and internal referrals for a misconduct investigation involving allegations of discrimination, racial profiling, an improper procedure in connection with a traffic stop, or an attempt to circumvent the terms of this Agreement shall be the subject of a formal investigation by the Office of the Chief of Police. The MPPD shall require all officers to carry fact sheets and complaint forms in English and Spanish in their vehicles, at all times while on duty.

35. The Village shall prepare semi-annual public reports that provide statistical and summary information on the MPPD, including: the number of external, internal, and total complaints received and sustained, by category of allegation and by the race/ethnicity of the complainant; the number of traffic stops and the number and type of enforcement actions and procedures taken in connection with such stops, each by race and ethnicity of the driver; and the number of incidents involving the enforcement of the section 23.101 (16) multifamily building prohibition and the number of citations, arrests, searches, frisks, and property seizures in connection with the enforcement of that prohibition, each by race and ethnicity of the alleged violators.

VI. TRAINING

36. The MPPD shall, in consultation with the United States, supplement its training program for new officers; and develop and implement an in-service training program, in which each MPPD officer must participate. The training shall include instruction in the nondiscrimination policy implemented pursuant to paragraph 21; the incident documentation requirements implemented pursuant to paragraphs 22, 23, and 25; cultural diversity; communications and interpersonal skills; integrity and ethics, including the duties to be truthful and to report misconduct by fellow officers; the importance of avoiding misconduct; and the duty to follow complaint procedures and cooperate in misconduct investigations. The training shall instruct that any deliberate attempt to circumvent the terms of this Agreement shall be serious misconduct and shall be handled pursuant to the MPPD's formal complaint procedures under the direction of the Office of the Chief of Police. Prior to implementation, the new training programs must be approved by the United States, which approval shall not be unreasonably withheld.

VII. OVERSIGHT, REPORTING AND RECORD KEEPING, IMPLEMENTATION, AND ENFORCEMENT

A. Reports and Records

37. Within 180 days following the effective date of this Agreement, and every six months thereafter until this Agreement is terminated, the MPPD shall file with the United States a status report delineating all steps taken during the reporting period to comply with each provision of this Agreement.

38. The Village and the MPPD shall retain all records documenting compliance with the terms of this Agreement, and all documents required by or developed pursuant to this Agreement (except as otherwise provided pursuant to this Agreement).

39. The United States shall have access to any MPPD documents (including but not limited to data, databases, and MVR tapes), staff, and facilities that are appropriate to evaluate compliance with this Agreement. The United States shall provide the MPPD with reasonable advance notice of its intent to access data, documents, staff, and facilities.

B. Implementation

40. The parties shall work together to develop an implementation schedule for the provisions of this Agreement. The schedule shall include the following provisions: the MPPD shall begin documenting incidents pursuant to paragraphs 22, 23, and 25 within 150 days of the effective date of this Agreement; shall operationalize the paragraph 27 computer system within 240 days of the effective date of this Agreement; shall submit the data analysis protocol to the United States within 240 days of the effective date of this Agreement; and shall submit the MVR protocol to the United States for approval within 180 days of the effective date of this Agreement.

41. The parties agree to defend the provisions of this Agreement. The parties shall notify each other of any court or administrative challenge to this Agreement. In the event any provision of this Agreement is challenged in any local or state court, removal to a federal court shall be sought.

42. In the event any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreement.

C. Enforcement

43. This Agreement is enforceable through an action for specific performance in federal court. Failure of any party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of its right to enforce other deadlines and provisions of this Agreement.

44. The effective date of this Agreement shall be the date of its signing by all parties. This Agreement shall terminate five years from that date provided that the Village has maintained substantial compliance with this Agreement for at least two years. However, the Agreement may terminate at any time following three years from that date if the Village has maintained substantial compliance with this Agreement for at least two years and the United States consents to the termination, which consent shall not be unreasonably withheld.

For the Village of Mount Prospect:

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