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THE CINCINNATI COLLABORATIVE AGREEMENT PROCESS: DELIBERATIVE DEMOCRACY AS A METHOD OF IMPROVING POLICE-COMMUNITY RELATIONS
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Dissertation Advisor: Patrick G. Coy

Over the past fifteen years across the United States, African-American communities have been protesting and even rioting about discriminatory policing practices and use of police force issues. Governments are seeking new ways to constructively address police-community conflicts and some are turning to deliberative democracy. In 2001, a riot in Cincinnati, Ohio in combination with a federal lawsuit spurred a deliberative democracy experiment that resulted in the Cincinnati Collaborative Agreement Process involving thousands of citizens, the Cincinnati Police Department, the City of Cincinnati and local civil rights groups. This dissertation evaluates the Cincinnati Collaborative Agreement Process as deliberative democratic practice. It also analyzes the success of the Collaborative Agreement Process in terms of improving police-community relations. Findings show that the Cincinnati Collaborative Agreement Process deviates from the deliberative ideal in some ways but that the process also successfully influenced policing policies and practices and provided the public an inclusive and representative deliberative democracy practice. This detailed analysis of the Cincinnati Collaborative Agreement Process contributes to the deliberative democracy literature by evaluating the soundness of the process using criteria from the literature. More important, it also evaluates the complex relationship between community support for the agreement and the long-term sustainability of this deliberative practice. This evaluation is significant because it outlines the areas of the Cincinnati Collaborative Agreement Process that should be used as a model for other communities who wish to improve their police-community relations.
THE CINCINNATI COLLABORATIVE AGREEMENT PROCESS:  
DELIBERATIVE DEMOCRACY AS A METHOD  
OF IMPROVING POLICE-COMMUNITY RELATIONS  

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by  
Amber Thorne-Hamilton  
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Dissertation written by

Amber Thorne-Hamilton

B.A., Mount Vernon Nazarene University, 2005

B.S., Mount Vernon Nazarene University, 2005

Ph.D., Kent State University, 2017

Approved by

Patrick G. Coy, Chair, Dissertation Committee
Landon Hancock, Members, Doctoral Dissertation Committee
Anthony Molina
Kenneth Bindas
Richard Serpe

Accepted by

Andrew Barnes, Chair, Department of Political Science
James L. Blank, Dean College of Arts and Sciences
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DEDICATION

To my daughter, Eleanor Jane Hamilton whose unlimited possibilities inspire me.

And, to the people of Cincinnati, Ohio in their pursuit of a better community.
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CHAPTER 1
INTRODUCTION

“When the end of the world comes, I want to be in Cincinnati because it’s always 20 years behind the times.” This quote, attributed to Mark Twain, is often used to describe Cincinnati as somehow trailing the rest of world (Strickley 2016). However, in 2002, Cincinnati was fifteen years ahead of the times when the Collaborative Agreement was signed by the City of Cincinnati, the Cincinnati Police Department, the American Civil Liberties Union of Cincinnati and the Black United Front.

In the early 2000s, the city of Cincinnati experienced what many communities are currently experiencing. From Ferguson, Missouri in 2014 to Charlotte, North Carolina in 2016, African-American communities are taking to the streets to protest unfair policing practices as African-American men are being shot and killed by the police. These communities, along with many others, are searching for a way to improve police-community relations and address decades of discriminatory policing policies. As these communities seek a solution to deteriorating police-community relations, community leaders in Cincinnati are standing up and telling the story of how, almost fifteen years ago, Cincinnatians deliberated a way forward that improved the relationship between the community and the police.

Tired of discriminatory policing practices, Cincinnatians took to the street to riot in 2001 after a Cincinnati Police Officer shot and killed Timothy Thomas, the fifteenth African-American man killed by the police in a matter of several years (Klepal and Andrews 2001b). The riot, combined with a previously filed lawsuit alleging discriminatory behavior by the
police, provided both the sense of urgency and momentum the city needed to change. In 2002, Cincinnati citizens changed how policing was conducted and arguably improved the relationship between the community and the police as well. Over the course of a few years, thousands of citizens provided their vision of what policing should look like and this input served as a rallying cry for members of the lawsuit to reach an agreement on how the police could better serve the community. The agreement was called the Collaborative Agreement. From 2002 until 2007, the Cincinnati Police Department as well as the city of Cincinnati and several community groups worked to implement this historic Collaborative Agreement.

Now, in 2016, fifteen years after the riot, the Collaborative Agreement is being called a model for other communities. No longer is Cincinnati behind the times, but Cincinnatians are rallying around other communities struggling with police-community relations, pointing them in the direction of the Cincinnati model (Bronson 2014; Keefe 2014). This model, the Cincinnati Model, is an experiment in deliberative democracy that particularly needs to be analyzed, given its historic significance, and its contemporary applications. This dissertation seeks to determine the success and failures of utilizing deliberative democracy as a means of improving police-community relations as well as improving policing policy in a major metropolitan city in the United States. It does this by evaluating the Cincinnati case using evaluative criteria drawn directly from the literature on deliberative democracy.

Citizens all over the United States feel they are becoming increasingly more alienated from their government (Leach et al. 2005). In addition, government, at all levels is struggling to address increasingly complex social issues while citizens capacity to interact with government, or social capital, decreases (Leach et al. 2005). Out of this need, many governmental agencies and governing bodies are turning to a relatively new way of engaging the public—deliberative
democracy as a means to engage the public in creating a solution to socially complex public problems. Developed as a theory and a practice to counteract and address the shortcomings of representative democracy, deliberative democracy seeks to engage citizens by discussing public issues in order to provide decision makers with insight into what the public wants in a way that is not possible through elections (Levine 2003).

The definition of deliberative democracy is not clear or agreed upon. This is, in part, because deliberative democracy has developed in two tracks that have been somewhat separated: scholars and practitioners. Scholars have too often sought an ideal from of deliberation (Benhabib 1996; Cohen 1997), as will be discussed below, while practitioners have sought a way to solve the public problems out of necessity. As the field has developed, both through the theoretical and the applied, no clear definition of deliberative democracy had emerged. In addition, because of a lack of clear definition, those who have researched public deliberation have relied on varying literatures to analyze its effectiveness (Black et al. 2010). Despite these limitations, practices of deliberative democracy continue to become prevalent as a way to address many public sector problems. In the literature review that follows, I clarify the definition of deliberative democracy and the evaluative framework that will be used in this dissertation.

Hartz-Karp presents a practical definition of both deliberation as well as deliberative democracy as defined by the Deliberative Democracy Consortium, a group representing practitioners and scholars working in the field of deliberative democracy(2005). The Deliberative Democracy Consortium defines deliberation as:
an approach to decision-making in which citizens consider relevant facts from multiple points of view, converse with one another to think critically about options before them and enlarge their perspectives, opinions and understandings. (Hartz-Karp 2005, n.p.).

The Deliberative Democracy Consortium then proceeds to define deliberative democracy:

Deliberative democracy strengthens citizen voices in governance by including people of all races, classes, ages, and geographies in deliberations that directly affect public decisions. As a result, citizens can influence — and can see the result of their influence on — the policy and resource decisions that impact their daily lives and their future (2005, n.p.)

There are many benefits of deliberative democracy, especially for citizen participants and policy outcomes. Through deliberation, citizens can better understand their own policy preferences as well as become enlightened about the needs and experiences of other citizens (Mendelberg 2002). Additionally, citizens can become more familiar with how government works and how to interact with government, increasing their social capital, as well as becoming educated on the subject area being deliberated (Nabatchi 2010).

Deliberative democracy theory is built on the understanding that deliberative decisions are inherently more legitimate than decisions not reached deliberatively (Benhabib 1996; Cohen 1997; Habermas 1996). When legitimate decisions are reached through deliberation, they are thought to have more justifiable outcomes (Gutmann and Thompson 2004). Deliberative scholars agree that deliberation creates both better and more legitimate policy outcomes.

In his book *Foundations and Frontiers of Deliberative Governance*, John Dryzek outlines the development of the field of deliberative democracy, labeling substantial shifts in focus as “turns” (Dryzek 2010). He outlines four major turns that have taken place in the study of
deliberative democracy: an institutional turn, a systemic turn, a practical turn, and an empirical turn. In what follows, I use these respective turns to structure my review of the development of the literature and the field.

Around 1990, many scholars began to argue that deliberative democracy was a formidable theory, beyond its infancy. In doing so, they began to theorize about the deliberative ideal. James Bohman argued that deliberative theory had matured in his 1998 “Survey Article: The Coming of Age of Deliberative Democracy” in the *Journal of Political Philosophy*. Bohman argued that scholars moved away from the theorizing about what constitutes good citizenship and what makes up the common good to thinking about how to implement deliberation through a deliberative ideal (Cohen 1997). Thus, the deliberative ideal was created. Cohen developed the following series of criteria that constituted a formal conception of deliberative democracy:

1. A deliberative democracy is an ongoing and independent association, whose members expect it to continue into the indefinite future.

2. The members of the association share (and it is common knowledge that they share) the view that the appropriate terms of association provide a framework for or are the results of their deliberation…For them, deliberation among equals it he basis of legitimacy.

3. A deliberative democracy is a pluralistic association. The members have diverse preferences, convictions, and ideals concerning the conduct of their own lives. While sharing a commitment to the deliberative resolution of problems of collective choice, they also have divergent aims, and do not think that some particular set of preferences, convictions, or ideals is mandatory.
4. Because the members of a democratic association regard deliberative procedures as a source of legitimacy, it is important to them that the terms of their association not merely be the results of their deliberation, but also be manifest to them as such. They prefer institutions in which the connections between deliberation and outcomes are evident to ones in which the connections are less clear.

5. The members recognize one another as having deliberative capacities, i.e., the capacities required for entering into a public exchange of reasons and for acting on the result of such public reasoning (Cohen 1997, 72–73).

Within this ideal conception of deliberative democracy, Cohen also provided criteria for the ideal deliberative procedure:

1. Ideal deliberation is free in that it satisfies two conditions. First, the participants regard themselves as bound to the results of their deliberation and by the preconditions for that deliberations…Second, the participants suppose that they can act from the results, taking the fact that certain decision is arrived at through their deliberation as a sufficient reason for complying with it.

2. Deliberation is reasoned in that the parties to it are required to state their reasons for advancing proposals, supporting them, or criticizing them.

3. In ideal deliberation, parties are both formally and substantively equal.

4. Finally ideal deliberation aims to arrive at a rationally motivated consensus —to find reasons that are persuasive to all who are committed to acting on the results of a free and reasoned assessment of alternatives of equals (Cohen 1997, 74–75).
This deliberative ideal created a lofty virtually unattainable vision of what deliberative practices should look like. Therefore, the next turn in deliberative democracy focused on what deliberative democracy looked like in practice.

According to Dryzek, the next advancement in deliberative theory was in the form of an institutional turn (Dryzek 2010). The institutional turn in deliberative democracy began when Chambers asked “the question of what deliberative democratic theory is doing these days” (Chambers 2003, 307). Chambers argued that deliberative democratic theory was now moving from a “theoretical statement” to a “working theory” (Chambers 2003).

Now deliberative democrats were theorizing about and focusing on the design of deliberative processes. For example, in 2003 Archon Fung published “Recipes for Public Spheres: Eight Institutional Design Choices and Their Consequences,” emphasizing the institutional implications of deliberative design. He argued that smaller deliberative exercises had, up until this point, largely been ignored by scholars, but these exercises promised “actual constructive efforts for civic engagement and public deliberation in contemporary politics” (Fung 2003b, 339). These smaller deliberative exercises were often developed out of necessity by practitioners attempting to come up with some solution to a problem but they were developed without necessarily consulting the deliberative democracy literature. Fung observed three institutional designs: the educative forum where the objective was to create near ideal deliberative; the participatory advisory panel where the objective was to improve the quality of the outcome as well as to “align public policies with considered preferences” (Fung 2003b, 341); and the participatory problem solving collaboration where the objective was building an ongoing deliberative relationship between the public and the state to solve collective problems (Fung 2003b). During the institutional turn, scholars like Fung were identifying deliberative practices
that had taken place and both comparing them to the ideal deliberative practice as well a
developing typologies and theories to better understand what the practices looked like in real-
life. After the institutional turn in democracy came a systemic turn.

According to Dryzek, “A systemic turn is the antidote to the institutional turn alleged by
Chambers. The focus here is firmly on whole systems, of which any single deliberative forum is
just a part” (Dryzek 2010, 7). Jane Masnbridge, James Bohman, Simone Chambers, Thomas
Christiano, Archon Fung, John Parkinson, Dennis F. Thompson and Mark E. Warren, in
Deliberative Systems, define a deliberative system as “one that encompasses a talk-based
approach to political conflict and problem-solving—through arguing, demonstrating, expressing,
and persuading…Normatively, a systemic approach means that the system should be judged as a
whole in addition to the parts being judged independently” (Mansbridge et al. 2012, 4–5).
Scholars in the systemic turn argued that, when studying deliberation, we should look further
than just the deliberative forum itself and evaluate the entire system. While focusing on the
deliberative system, other actors and institutions are examined to better understand their
influence on the deliberative system. Scholars began to theorize and analyze the role of experts
in the deliberative process. Additionally, scholars began to analyze the influence of protest as
well as the influence of the media within the deliberative system (Mansbridge et al. 2012).

After the systemic turn came the practical turn, or when scholars began to look for ways
to introduce deliberative democracy in real world political situations (Dryzek 2010). Perhaps the
most well known theory to come from this turn is that of Fishkin’s deliberative poll. To conduct
a deliberative poll, a random sample is identified and those who agree to participate in the
random poll are provided informational material outlining the arguments for and against the
policy to be deliberated. Next, participants attend a session in which they deliberate not only
with other participants, but engage with policy experts as well. The deliberative meeting ends with a deliberative poll gathering input from the participants (Fishkin and Luskin 2005). The deliberative poll is just one of many applications of deliberative democracy developed during this turn.

The final development that Dryzek defines is an empirical turn where scholarly emphasis shifted to “systematic empirical work” (Dryzek 2010, 8). Scholars such as Mutz began questioning if deliberative democracy was a falsifiable theory (Mutz 2008). Even with the calls for increased empiricism, there was still no agreed upon understanding of what deliberation looked like in practice. Deliberative democracy can resemble a small group of citizens deliberating outside of the bounds of government, or it can be a large-scale process with thousands of citizens that directly influences policy. Deliberation can take place in person, or as designed more recently, online (Muhlberger 2005). Deliberative practices can take many forms including: “Choice Work Dialogues, Deliberative Polling, Citizen Juries, Consensus Conferences, Study Circles, and Citizen Assemblies” (Cooper, Bryer, and Meek 2006, 83).

Because of the varying process designs as well as inconsistent definitions of deliberation, it is not surprising that there is no widely-agreed upon method for analyzing deliberation. In many cases, scholars evaluate a deliberative process by trying to demonstrate whether it was deliberative or not, like a dichotomous variable that either is or is not present (Burkhalter, Gastil, and Kelshaw 2002). However, this approach has limitations. Black et al. explain the challenge of further analysis,

A challenge for any scholar attempting to measure public deliberation is to translate normative concepts such as analytic rigor, equality, respect, and consideration into
measurable variables that are flexible enough to recognize deliberation in a variety of practical settings (Black et al. 2010, 2).

Therefore, they argue that it is necessary to create high-quality measures of deliberation even though this can be an analytical challenge. In my review of the literature, there were many arguments around what constituted high-quality deliberation, but I chose Levine, Fung and Gastil’s 2005 criteria to represent what I argue is high-quality deliberation. High-quality deliberation is characterized by six factors:

- A realistic expectations of influence (i.e. a link to decision makers)
- An inclusive, representative process that brings key stakeholders and publics together
- Informed, substantive and conscientious discussion with an eye toward finding common ground if not reaching consensus
- A neutral, professional staff that helps participants work through a fair agenda.
- Overtime, it is also hoped that deliberative processes can earn broad public support for their final recommendations.
- Prove sustainable over time (Levine, Fung, and Gastil 2005).

Much more will be said about the selection of these evaluative criteria in Chapter Four that describes methodology. These evaluative criteria are appropriate for this dissertation for several reasons. Levine, Fung and Gastil’s criteria focus on the macro level of deliberation, meaning they are less concerned with the nuances and details of how deliberation occurs than the overall deliberative process. Additionally, these criteria can be usefully applied to a large-scale deliberative process, like the one in Cincinnati. Finally, when considered collectively, these criteria encompass not only issues associated with sound practice (the first four), but also with
degrees of success (the last two criteria). Because these criteria fully address both soundness and success, the evaluation that follows in these pages will be uncommonly thorough, and therefore, more helpful to what is still a developing field of practice.

This dissertation contributes to both the practical and empirical turns in deliberative democracy. Scholars of the practical turn want to determine how deliberative democracy can be applied. The Cincinnati case is an example of how deliberative practices were applied to help improve police-community relations in Cincinnati. Therefore, by describing this case in detail, this dissertation contributes to the literature by analyzing a practical application of deliberative democracy.

This dissertation also contributes to the empirical turn by applying evaluative criteria identified in the literature to analyze this case. By applying criteria of sound and successful high-quality deliberation, it becomes possible to evaluate where this case was successful and where this case fell short according to the literature. This analysis is especially important and timely as other communities, such as Ferguson, Missouri and New York City, look to the Cincinnati case as a possible way of improving their own police-community relations.

The Cincinnati case is complex. To help the reader gain an understanding of both the historical context as well as a general understanding of the case, I begin my analysis by presenting two narrative chapters in order to provide the reader with background information necessary to understand this case. These two chapters come before the chapter detailing methodology because without a general understanding of the case, much of the methods section would not be understandable.

The first narrative chapter is Chapter Two, “Previous Attempts to Improve Police-Community Relations.” In this chapter, I present Cincinnati’s earlier initiatives to improve
police-community relations beginning in the 1940s and the situations surrounding these attempts. These included the Mayor’s Friendly Relations Committee in the 1940s, the 1967 riots that resulted in specific recommendations, the Kerner Commission of the 1960s, and COMSEC or Community Sector Policing in 1977. The relationship between the community and the police continued to become more strained in the 1990s and early 2000s as fifteen African-American men were shot and killed by the police during this time (Klepal and Andrews 2001b).

Additionally, many in the African-American community were tired of discriminatory treatment by the police; as a result, when a lawsuit was filed against the police in 1999 it received support from the Cincinnati ACLU and a local civil rights organization, the Black United Front (BUF). But in 2000-2001, when the Cincinnati Police shot and killed in a matter of weeks Owensby, Irons, and Thomas, three African-American men, portions of the city’s African-American community reacted with riotous rage.

In the next chapter, Chapter Three, “The Collaborative Agreement Process,” I detail how the decision was made to experiment with deliberative democracy in order to improve police-community relations. This is also a narrative chapter, free from analysis for the purpose of giving the reader a background in the case before moving on to analysis. The Cincinnati community was looking for answers as well as a way to proactively respond to the riots that both embarrassed some and empowered others. A combination of three developments, the riot, a federal court case, and the Mayor’s request for a Department of Justice Investigation, provided a unique opportunity for change in Cincinnati. As part of the settlement for the federal lawsuit, a visionary Judge convinced the parties to the lawsuit (the City of Cincinnati, the Cincinnati Fraternal Order of Police, American Civil Liberties Union of Cincinnati and the Black United Front) to attempt a settlement that included reaching out to the public for their goals regarding
police-community relations. As a result of the Collaborative Agreement Process, a deliberative democracy practice aimed at providing public goals to frame the settlement was born. This dissertation focuses on the role of the public in this process and therefore analyzes the phases of the Collaborative Agreement Process focusing on how the public was engaged. Chapter Three provides the reader with a detailed account of this Collaborative Agreement Process.

This project is an embedded single case study (Yin 2012) in which I apply multiple units of analysis. I utilize a variety of sources including interviews with decision makers, interviews with participants, court documents, newspaper articles and an extensive collection of primary documents. A more detailed description of my data and methodology is presented in Chapter Four. Chapters Five through Nine are each structured around applying one of the six evaluative criteria. Each of the analytical chapters is organized similarly with a brief literature review regarding that particular criteria appearing at the beginning of the chapter. This helps to define the evaluative criteria used according to the deliberative democracy literature as well as explain how that particular criterion has been operationalized by other scholars and practitioners.

The first analytical chapter is Chapter Five that is focused on how a successful deliberative process presents a realistic expectation of influence (Levine, Fung and Gastil 2005). To do this, participants’ expectations must be managed. Following the 2001 riots, many in Cincinnati were looking to their elected leaders to provide a path forward as well as an opportunity to heal, not only from the riot, but the opportunity to improve the relationship between African-Americans and Whites in the city. Individuals who participated in the deliberative process in Cincinnati came wanting to deliberate with widely varying expectations of what this process could accomplish. In Chapter Five, I analyze participant expectations as
well as how these expectations were or were not managed as part of the Collaborative Agreement Process.

In addition to evaluating the expectations of influence, Chapter Five also examines how the public input collected through the deliberative process was structured to influence the settlement of the class action lawsuit. The Collaborative Agreement process was made possible due to the confluence of the 2001 riots as well as the filing of a federal court case that was combined by a federal judge to create a class action lawsuit. The federal judge overseeing the class action sought to settle the case using non-traditional techniques and the parties to the lawsuit (ACLU, BUF, City, FOP) agreed. One aspect of this settlement required the deliberative input of Cincinnati Citizens. In Chapter Five, I analyze how the publics’ input was structured, specifically focusing on whether this input was collected and presented to the decision makers, or the parties to the lawsuit, in a way that could positively influence the outcome.

Including the public in large-scale deliberative processes, such as the Collaborative Agreement Process, can prove challenging. Those studying deliberative processes must decide who to include, and if not including everyone, must decide on selection criteria for participation. These decisions are evaluated through the lens of inclusiveness. In Chapter Six, I evaluate the Collaborative Agreement Process to determine if it was inclusive. In addition, if a deliberative process cannot include everyone, which often it cannot, participants are selected to represent some broader group of the population. In the Cincinnati Collaborative Agreement Process, eight Stakeholding Groups were selected to represent the citizens of Cincinnati. In Chapter Six, I evaluate these Stakeholding Groups to determine if and how they represented the Citizens of Cincinnati.
Many deliberative democracy models include consensus as the decision-making method of choice for face-to-face deliberations that takes place. Most models assume that prior to deliberating, with the objective of reaching consensus, participants are provided access to information about the subject at hand. Information is typically created and distributed with the help of experts, and is either given to participants in printed form or in the ability to directly interact with these experts. In Chapter Seven, I evaluate the Cincinnati Collaborative Agreement Process in terms of how information was provided to participants as well as how decisions were made within the deliberations and whether consensus was the goal. To do this, I focus on the stages of the process where citizens participated to gather the publics’ goals.

The unsung hero of many public deliberations are the individuals who guide the participants in their deliberations, or the facilitators. Facilitators serve different roles in a deliberative process, some assist with designing the public input mechanism and others simply assist in facilitation of deliberative dialogue. Facilitators can be either paid professionals or volunteers. In the Cincinnati case, Dr. Jay Rothman was appointed by the court to design the public input process as the main process facilitator. He, and individuals who worked at his ARIA consulting group, as well as volunteer facilitators, facilitated a multi-phase process that included collection of 3,500 surveys, multiple small-group deliberative sessions and resulted in five goals used in the Collaborative Agreement. In Chapter Eight, I evaluate the role of facilitators, including the frame Dr. Rothman used to design the deliberations as well as how volunteer facilitators were used in the Collaborative Agreement Process.

After a deliberative agreement is reached using public input, the individuals or organizations who initiated the deliberative process are left to implement the agreement. Many deliberative processes are constructed without enforcement tools and, as such, implementation
rests largely on the extent that both the participants as well as decision makers continue to support the deliberative outcome. Additionally, successful implementation also relies on the sustainability of the deliberative outcome. The Cincinnati Collaborative Agreement Process was a long process that spanned almost ten years from conception to monitored implementation. In Chapter Nine, I evaluate the relationship between support and sustainability in order to determine how this affected implementation.

The final chapter, Chapter Ten, is the conclusion. In it, I highlight and reiterate key findings from the previous chapters. There are many lessons that can be learned from the Cincinnati Case. In Chapter Ten I suggest how these lessons can be applied to other communities seeking to improve police-community conflict through deliberative means.
CHAPTER 2
HISTORY

By all accounts, Cincinnati is no stranger to civil unrest. In the 1860s, the geographic location of the city put residents there in the center of the conflict between the North and the South during the Civil War. As the city grew after the Civil War, an influx of African-Americans resulted in tension between the White and Black inhabitants of the city that, on more than one occasion, led to rioting. This dissertation focuses on more recent events. Although riots were not uncommon in other US cities, what is interesting about Cincinnati is that the riots mostly fall into one of two categories: conflict between the police and community and racial conflict between groups. In some cases, the riots fell into both categories.

An ongoing point of conflict in Cincinnati is the relationship between the African-American inhabitants and the Cincinnati police department. This chapter seeks to outline how the relationship between the Cincinnati Police and the African-American community intensified to the point of rioting in 2001. To do this, a brief history of the city in the 20th century will be presented. Police-community relations in Cincinnati, as well as around the country, worsened in the 1960s and 70s and was the subject of several commissions, initiatives, and reports (Commission on Civil Rights 1981). These reports and their findings will be discussed along with their significance. From 1995 to 2001, fifteen African-American men where shot and killed by Cincinnati police officers (Klepal and Andrews 2001a). Frustrated over the discriminatory treatment, members of the African-American community sued the city. This lawsuit provided an opportunity for change in Cincinnati. The next chapter will detail the public sector input process
that was designed as a mechanism for a negotiated settlement for the class action lawsuit. However, the remainder of this chapter will demonstrate that the need for change was the result of a long history of conflict in the Queen City.

2.1 Failed Attempts and Hollow Recommendations

2.1.1 Mayor’s Friendly Relations Committee

Racial tensions increased as African-Americans continued moving to northern cities during the 1940s (Burnham 1993). These tensions reached a boiling point on June 20, 1943 when Detroit “exploded” and twenty-five African-Americans and nine Whites were killed (Burnham 1993). In response, many cities, including Cincinnati, increased efforts to prevent racial violence. With the driving support of the National Association for the Advancement of Colored People (NAACP) and the Community Chest’s Division of Negro Welfare, Cincinnati’s city council passed a resolution in 1943 that authorized the creation of a committee on race relations, called the Mayor’s Friendly Relations Committee (MFRC), only the second of its kind in the country (Burnham 1993). It is important to understand the MFRC since it was one of the earliest initiatives by the City of Cincinnati that attempted to improve police-community relations.

The authority and director of the MFRC was challenged in 1944 when two African-American families moved into Mt. Adams, a Cincinnati neighborhood, making them the first African-American families on the street. After they had moved in, between fifty and one hundred men threw rocks and stones destroying the front of the two African-American homes. As a result, the police department established a Race Relations Detail that worked in conjunction with the MFRC sharing office space at city hall.
Despite this effort by the city, the NAACP “‘declared war on police brutality’ in August 1946 by issuing a public statement charging Cincinnati law enforcers with ‘anti-Negro attitudes’” (Burnham 1993, 265). The NAACP’s statement alleged that the Police Trial Board, the internal police department responsible for hearing complaints against officers, rarely issued any guilty findings (Burnham 1993). The situation worsened when then city manager Wilbur N. Kellogg did not further investigate the detectives involved in the arrest of Nathan Wright, an African-American ministerial student, despite Wright’s testimony and the testimony of two witnesses on January 6, 1947 detailing the aggressive and abusive language of the detectives. In fact, Kellogg saw “no reason” to censure the two detectives involved in the case (Burnham 1993). This infuriated the African-American community (Burnham 1993).

The direction of the newly created MFRC was questioned during the Wright events. According to Robert Burnham, history professor at Middle Georgia State University, “In its January 1947 board minutes, the MFRC referred to the Wright case as ‘our most publicized headache.’” The MFRC did not want to get involved with the events surrounding the Wright case for fear that it would be a stumbling block to increasing tolerance among groups (Burnham 1993). The MFRC felt that its charge was to represent all groups equally.

The authority of the MFRC was again tested in June of 1947 when Haney Bradley, an African-American man, was beaten by two police officers. Bradley was charged with disorderly conduct (Burnham 1993). Judge William D. Alexander, who heard the case, dropped the disorderly conduct charge. Judge Alexander concluded “that there was no cause for the officers to beat this defendant” (Burnham 1993, 266). Despite the judge dropping Bradley’s disorderly conduct charge and determining that the police officers had no reason to beat Bradley, the police department and the city took no initial action against the officers. Even with this ruling, the
city’s Safety Director concluded that there was “no reason” to take “disciplinary action” against
the officers (Burnham 1993). This lack of response resulted in a joint letter being sent to the city
council on behalf of the Council of Churches, the NAACP, the Woman’s City Club, the Jewish
Community Council, and the West End Civil League (Burnham 1993). This letter criticized the
police “on the grounds that the hearing was ‘held in secret’ and that Bradley’s counsel and ‘other
interested persons’ were not ‘permitted to attend.’ In addition, it charged Safety Director
Hamilton and the chief of police with acting to primarily ‘protect’ the officers while showing
‘little interest in social attitudes and tensions in the community’” (Burnham 1993, 266). With
the support of these other community groups, the MFRC coordinated a one-time event in
October of 1947 for rookie officers to receive “race relations” training from New York
University psychology professor Howard Lane, who had previously worked with the Detroit
Police Department (Burnham 1993). Whatever the good intentions, a one-time event was hardly
enough to make serious changes to policing policies and norms. However, when the Bradley
case came before the city council for review, though the council members cleared the two
policemen of brutality charges, they also called for continuing race relations training.
Specifically, the city council called for public hearings involving citizen complaints against the
officers (Burnham 1993). The MFRC, however, “expressed its willingness to help ‘implement’
the conferences and the training ‘if called upon’ to do so, thus leaving the initiative to the police
department” (Burnham 1993, 267). In September 1948, over one year from the Bradley incident,
the police had taken no action towards the conferences or the training. Burnham attributes this
lack of action to ongoing racism in the police department (267). The lack of effort on the part of
the police department should perhaps not have been surprising given the evidence of racism
among some of its upper echelons. For instance, during the Bradley hearing it was discovered
that Assistant Police Chief William C. Adams had hung on his office wall a cartoon that depicted ‘the body of a gorilla and the head of a Negro Man’ and carried the caption, ‘Us’ns Brutalized (Burnham 1993, 267). Even though there was a public outcry for change, backed by many community groups, change did not come. Although the MFRC increased the communication and coordination among groups, it operated on the assumption that all the groups it represented were equal. However, as Burnham explains, “…treating all groups equally, however, implied that they were in fact equal, yet most of the problems addressed by the MFRC could be attributed to the unequal status of Blacks” (Burnham 1993, p. 273).

What is significant about these events it that for the first time there was a series of what Kingdon (1984) refers to as “focusing events” that turned the public’s attention toward the friction between the African-American community and the police. Also, there was an organization in place, the MFRC, which was attempting to improve the relationship between multiple groups in Cincinnati, including the African-American community and the police. In this instance, there were two things that hindered real change. First, there was not buy-in from members of the police force that acknowledged the unequal status of African-Americans and therefore, the leadership did not change practices and policies to address this disparity. In fact, some of the leadership in the police force openly expressed their disparaging opinions about African-Americans (Burnham 1993). Second, there was no mechanism to enforce compliance or to establish oversight. Although the MFRC presented a suggestion on how to improve police-community relations, the MFRC had no means to enforce compliance with these recommendations. Because there was no oversight, enforcement, or buy-in, the trainings and conferences did not happen. Unfortunately, the environment did not improve, but rather got worse.
Although socially sanctioned racism began to dissipate, unfair practices continued. What became prevalent in Cincinnati was the use of discriminatory housing policies and a “job ceiling” that prevented African-Americans from climbing the economic ladder (Taylor 1993). Twenty years later, frustrations again boiled up to the point of a riot in 1967. The 1967 riots took place across Cincinnati neighborhoods in Avondale, Walnut Hills, Evanston, Corryville, Mt. Auburn, Clifton, Millville and the West End (Taylor 1993). Henry Louis Taylor, Professor of Urban and Regional Planning at the University of Buffalo, when describing this riot, cites a poem by Langston Hughes. “‘Harlem’: What happened to a dream deferred? Does it dry up like a raisin in the sun?...or does it explode?” (Taylor 1993, 19–20). Hughes was not alone in his frustration. Participants in the 1967 riot pointed to “unemployment, bad housing, poor neighborhood conditions, and the lack of political representation” (Taylor 1993, 19–20). Kenneth B. Clark, civil rights advocate and psychologist, testified before the Kerner Commission explaining that he had read the previous report on rioting and concluded: “It is a kind of Alice in Wonderland—with the same moving picture re-shown over and over again, the same analysis, the same recommendations and the same inaction” (Kerner Commission, np). The same moving picture was shown just one year later, in 1968, when the city again erupted following the assassination of Rev. Dr. Martin Luther King. This riot, on April 8, 1968, left two dead, 220 arrested and $3 million in property damage (Klepal and Andrews 2001b). The unsettling events of race relations in Cincinnati soon gained national attention when the Kerner Commission, or The National Advisory Commission on Civil Disorders, investigated the cause of the 1967 riots. The Kerner Commission members were appointed by President Lyndon B Johnson and the commission was led by Illinois Governor Otto Kerner, Jr.

### 2.1.2 Kerner Commission
The purpose of the Kerner Commission was to study civil disorders, specifically, the tumultuous relationship between the African-American community and U.S. police forces, taking place during the summer of 1967. Cincinnati was one of several cities studied (Green and Jerome 2008). The findings reported that the country was going in two very different directions. One direction consisted of individuals who were African-American and poor and lived in the central cities. The other direction consisted of individuals who were White, affluent and lived in the suburbs (Taylor 2000). In a manner that foreshadows the climate of Cincinnati in 2001, the Report stated:

The abrasive relationship between the police and minority communities has been a major – and explosive – source of grievance, tension and disorder. The blame must be shared by the total society. The police are faced with demands for increased protection and service in the ghetto. Yet the aggressive patrol practices thought necessary to meet these demands themselves create tension and hostility. The resulting grievances have been further aggravated by the lack of effective mechanisms for handling complaints against the police (Green and Jerome 2008, 2).

According to the findings of the Kerner Commission, blame for the problem is “shared by the total society.” Blame was not assigned solely to the police force, but the community shared responsibility as well. Any potential path forward required a process of problem definition. If blame were to be only assigned to the police, then the solution to the problem would be only to change the police force. However, simply changing the practices of the police would not create a sustainable change. The Kerner Commission concluded that only by defining the problem in context of society as a whole would change be possible. Acknowledging that the
roots of the problem are deep and complex, the Commission recommended the following actions:

- Review police operations in the ghetto to ensure proper conduct by police officers, and eliminate abrasive practices.
- Provide more adequate police protection to ghetto residents to eliminate their high sense of insecurity and the belief in the existence of a dual standard of law enforcement.
- Establish fair and effective mechanisms for the redress of grievances against the police and other municipal employees.
- Develop and adopt policy guidelines to assist officers in making critical decisions in areas where police conduct can create tension.
- Develop and use innovative programs to insure widespread community support for law enforcement.
- Recruit more Negroes into the regular police force, and review promotion policies to insure fair promotion for Negro officers.
- Establish a ‘Community Service Officer’ program to attract ghetto youths between 17 and 21 to police work (Green and Jerome 2008, 2).

Although the report presented straightforward recommendations, many questioned if this was going to be yet another Alice in Wonderland moment resulting in the same inaction? Or was this going to be something different? The architects of COMSEC, or Community Sector Policing, planned to try something different.

2.1.3 Community Sector Policing

The Cincinnati Police Department (CPD) decided to take a new approach to policing in District 1. COMSEC, or Community Sector Policing, was implemented on March 4, 1973.
The project was an experimental program that received $1.9 million in funding from the Police Foundation (Bloch and Specht 1973). This was not the first time community policing was attempted in Cincinnati. It was attempted in 1971, but failed due to implementation issues (Martinez 2013). COMSEC, however, had promise.

The CPD implemented COMSEC, or Community Sector Policing, as an experiment in team policing (Zeh 2009). COMSEC lasted from March 1973 until September 1975 (Martinez 2013). Although this program did not last due to a lack of buy in from leadership as well as a shift in responsibilities from the team officers to special investigators, it is significant to this study to point out that the Cincinnati police did attempt community policing that incorporated the community in planning.

The planning for COMSEC took place in three phases that lasted over two years (Bloch and Specht 1973). The first phase, lasting approximately six months, consisted of conferences, attended by all levels of officers, with the goal of gathering perceptions of current CPD members as well as opinions on what could be done to improve the police force and strengthen police-community relations (Bloch and Specht 1973). The second phase of COMSEC planning took approximately nine months to complete. The purpose of the second phase was to develop a grant proposal, which was subsequently awarded (Bloch and Specht 1973). In this planning phase, the basic theories of COMSEC were developed and goals and objectives were ironed out (Bloch and Specht 1973). Phase 3 consisted of developing an implementation plan. A task force was created with the purpose of implementation. They were tasked with studying manpower allocations, selection of officers and developing operation guidelines (Bloch and Specht 1973). The task force consisted of all levels of officers. Members of the task force were instructed to come up with a plan of “implementing the concepts outlined in the action grant proposals by
ignoring existing department or environmental constraints and writing concrete operational guidelines from their experience and from information they would gather from the community, other policemen and other city or social service agencies” (Bloch and Specht 1973, 35). These guidelines were received with widespread support (Bloch and Specht 1973). Guidelines included: identifying specific impact goals and policy statements, gathering statistical data necessary for efficient operation, creating processes to exchange information, offering specialized training, and allowing a mechanism for citizen complaints (Bloch and Specht 1973).

COMSEC was implemented in District 1, a 3.7 square mile area with a population of 35,000 residents, but with shoppers and tourists, the daily population was around 250,000 (Martinez 2013). Within District 1, the police department created multiple sectors and assigned a team to each sector including a lieutenant and three sergeants (Martinez 2013). Through COMSEC, officers were given authority to plan and coordinate, allowing responsibility for both patrol and investigative duties (Martinez 2013).

According to Uniform Crime Reporting (UCR) and data collected during the COMSEC program, team policing had a positive impact on both police-community relations as well as officer attitudes (Martinez 2013). During this time, the biggest impact was seen in the decrease of burglaries (Martinez 2013). Despite this positive impact, the program lost support from the individuals driving it and was disbanded.

After the first 18 months of implementation, administrative changes transformed the program (Martinez 2013) and led to its demise. The autonomy and centralization of the COMSEC design waned and special investigators were once again utilized, bypassing the COMSEC officer. The lack of commitment to the original model discouraged officers and the program eventually lost buy-in (Martinez 2013), even though several officers expressed
disappointment after the program ended (Zeh 2009). Without strong leadership driving the program, lasting change became impossible. Without a mechanism to ensure program implementation, COMSEC began to unravel. The cessation of COMSEC was unfortunate because data was showing that the program was having promising results.

Nonetheless, COMSEC was an important program for the Cincinnati Police Department in terms of police-community relations. While the Cincinnati police saw a need to better police-community relations and derived a plan of improvement, there was no judicial oversight or external committee monitoring. The architects of COMSEC also understood that policing is not implemented independent of the community. Much along the lines of the Kerner Commission recommendations, COMSEC included the community in planning for the new program. However, the success and potential future success of the program were not realized as leadership in the police department changed and the program structure changed. As promising as COMSEC may have been in the 1970s, a lack of follow-through resulted in another failed attempt at change.

This was not another Alice in Wonderland moment, however. Despite the lack of implementation, the planning and initial implementation of the program was a genuine attempt at change. Judicial oversight or external committee monitoring might have mitigated internal administrative changes that undermined the program. Unfortunately, despite the good intentions demonstrated by COMSEC, the Cincinnati Police force once again drifted into some of its old ways.

2.1.4 Ohio Advisory Committee to the U.S Commission on Civil Rights

The United State Commission on Civil Rights was created by the Civil Rights Act of 1957 and called for the creation of state advisory committees that would advise the U.S
Commission on Civil Rights. In 1981, the Ohio Advisory Committee to the U.S. Commission on Civil Rights investigated complaints against the Cincinnati police department concerning “discriminatory justice” and “use of force.” The report, an eighteen-month study, concluded by saying the Committee “is concerned with how justice is administered to minorities, both racial and cultural, as well as to women and poor people” (1981, n.p.). When the Commission reviewed the data, they determined that the data presented to the Committee “leads inexorably to the conclusion that there existed a serious discrepancy between the official policy of the Cincinnati Police Division in regard to use of force, distribution of services, and nondiscrimination in employment and the experiences of minority civilians and police officers, including members of racial and cultural minorities, as well as poor people” (1981, n.p.). As a result of these findings, the Commission recommended:

- Closing the gap between official policy and actual practice
- Increasing civilian participation in the operation of the Cincinnati Police Division
- Eliminating unnecessary force (1981, n.p.)

Although these exact recommendations are similar to recommendations issued before, in this case the Committee added a new recommendation for federal oversight to ensure compliance. Until the Civil Rights Act, there had been no legal obligation to protect equal rights. The Commission found the lack of compliance with federal law, which called for federal oversight. In its report, the Committee expressed concern over the lack of compliance of the Cincinnati Police Department with the federal Civil Rights Act. In the opening letter of the Commission report, Henrietta H. Looman, Chairperson, specifically described why federal oversight was important as well as why stronger federal oversight was not currently in place. She wrote:
In part, this problem exists because of a paucity of effective remedies available to the Federal funding agencies, in part, because of inadequate staff and data for monitoring the conduct of sub-grantees of Federal funds such as the Cincinnati Police Division, and in part because the Federal funding agencies have no jurisdiction over discrimination against the poor or against White Appalachians (1981, n.p.).

The Committee outlined recommendations for methods of external oversight by local, state and Federal authorities. A particularly notable suggestion was the recommendation that the community be involved in the administrative rule-making progress. The Committee report cited a suggestion from Kenneth Culp Davis, a legal scholar focusing on administrative lawmaking, where the police departments would provide the community the opportunity to comment on and review proposed rules and rule changes encouraging ongoing involvement of the entire community and not select few community leaders (1981, 57). As a result, the Committee Report explained:

Administrative rule-making procedures also permit the continuous and systematic input of outside experts on both technical and policy issues as well as departmental police personnel. To Davis and other scholars, policy decisions should be made by upper echelon personnel only after consultation with community members, including experts, and should be uniformly followed by all police personnel. The alternative is unequal justice which develops when individual officers create different policies through different on-the-spot decisions about the same conduct (1981, 57).

Despite the recommendations of the Ohio Advisory Committee to the U.S. Commission on Civil Rights in 1981, improper use of force continued to be a common complaint against the Cincinnati police force. From the time of the Kerner Commission publication in 1967 until
2001, the Cincinnati Police Department was the subject of no less than 17 different investigative reports, lawsuits, commissions and investigations that resulted in over 200 recommendations (Green and Jerome 2008). Understandably, only some of the report findings have been presented in this chapter. What is evident is that Cincinnati had a deep-seated and recurring problem and despite many previous attempts at addressing this problem, the situation did not change. In fact, the conflict continued to worsen. From 1995 until the 2001 riot, 15 African-American men were killed at the hands of the Cincinnati police (Klepal and Andrews 2001b).

While it is beyond the scope of this paper to discuss all of these incidents in detail here, the three deaths that pushed the African-American community to the point of rioting in 2001 are described below. It is particularly important to also understand a separate event that was put in motion in 1999 by Bomani Tyehimba in conjunction with these events.

### 2.2 A Community Reaching its Boiling Point: Owensby, Irons, Thomas

African-American businessman Bomani Tyehimba filed a civil rights lawsuit in 1999 alleging racial discrimination when the Cincinnati police stopped him. Tyehimba’s account of what happened said he “was ordered out of his van at gunpoint…after which officers kicked his feet apart, rifled through his pockets and asked him about the money he carried. He then sat in the back of a cruiser for 20 minutes. He said his 7-year-old son watched the entire process” (Prendergast 2001, n.p.). Although Tyehimba did not know it at the time, his initial lawsuit would become the cornerstone for the legal action that eventually resulted in the 2002 Collaborative Agreement. However, in 1999, the filing of the lawsuit did not draw much public attention. But when three African-American men died at the hands of police shortly after the filing of the suit, Tyehimba’s case became a rallying point. The first of the three African-American men to die was Roger Owensby, Jr. who was asphyxiated while in police custody.
2.2.1 The Owensby Incident

According to the Cincinnati Enquirer, Owensby died while being arrested on November 7, 2000. He was suffocated while in police custody. The Enquirer reports, “Police spotted Mr. Owensby at a Roselawn gas station where he’d just bought an energy drink. He cooperated with the officers until he saw the handcuffs. The 29-year-old College Hill man broke free and ran, but was tackled almost immediately” (Klepal and Andrews 2001b). Owensby, an Army veteran with no prior police record, was thrown to the ground and beat by the officers and was asphyxiated by Officer Jorg. The officers involved in Owensby’s death, Officers Robert Blaine Jorg and Patrick Canton, were subsequently indicted on January 3, 2001 (Bushee 2001). The day after the officers’ indictment, then mayor Charlie Luken gave the annual State of the City address. In it, he stated that the indictments of two officers in the Owensby death pointed to a racial chasm in the city stating, “You would think we’re not even on the same planet” (Bushee 2001). Following the indictments and straightforward comments of Mayor Luken, Police Chief Tom Streicher stripped both Officers Canton and Jorg of their police powers (Bushee 2001).

When the case came before Judge S. Arthur Spiegel, a U.S. District judge, he determined “Cincinnati and Golf Manor police behaved so egregiously when they arrested Roger Owensby Jr… that a trial by jury is not needed to prove they failed to help him as he lay dying in a police cruiser” (Horn and Korte 2004). Judge Spiegel said that a jury would not decide the medical issues surrounding the case because “the evidence so clearly shows the police officers failed to provide medical assistance, a violation of Owensby’s constitutional rights” (Horn and Korte 2004). Judge Spiegel’s ruling marks a definitive turning point in the history of Cincinnati’s police-community relations. Even though the Cincinnati police had been accused of misconduct over a dozen times before, this was the first judicial order or jury verdict against the city with this type of case (Horn and Korte 2004).
The Judge’s decision was not well received by the police department. Sgt. Harry Roberts, then president of the Fraternal Order of Police, was not happy about the fact that Spiegel did not utilize a jury for part of the decision. He stated, “The entire thing should go before the jury… The judge has not heard any testimony. How can he make a ruling without testimony” (Horn and Korte 2004, n.p.)? Although Judge Spiegel did not hear testimony in court, he did not make his decision without reviewing hundreds of pages of sworn statements from police officers. After this review, Speigel concluded that “officers ignored obvious signs of physical distress and either failed to provide medical help themselves or failed to call someone who could” (Horn and Korte 2004, n.p.). In fact, the judge found that five of the seven officers neglected their duty when they failed to provide medical care to Owensby (Horn and Korte 2004). The Judge’s decision excluded the two most involved officers, Canton and Jorg, who were charged with criminal offenses (Horn and Korte 2004). Even though the accused officers were to be tried by a jury, members of the community were at odds over the result of what happened next.

The jury was hung. Even after Judge Speigel concluded that, for the other officers involved, the medical needs of Owensby were obviously neglected, the jury could not reach a decision about the guilt of Canton and Jorg. And, on the misdemeanor assault charge, the officers were acquitted. Because the jury had been hung, ten to two, leaning toward acquittal, the county prosecutor announced that he would not retry the case (Singer 2002). Many in the Cincinnati community, especially in the African-American community, questioned how this was

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1 In several ways, Eric Garner’s death at the hands of New York City police on July 17, 2014 mirrors the death of Roger Owensby. While a police officer was arresting Garner, he was placed in a chokehold, which resulted in asphyxiation. Garner’s last statement of “I can’t breathe” has become a rallying cry for many. In both cases, Owensby and Garner did not receive the basic medical care after their encounter with the police. Unlike the Owensby case where the police officers in question went to trial, the charges against the officer involved in Garner’s death were brought before a grand jury, but the grand jury decided not to indict.
possible. Although Canton was initially fired for misconduct, he eventually won his arbitration case and resumed his job. Jorg, however, quit the Cincinnati police force (Horn and Korte 2004).

2.2.2 The Irons Incident

Two days after Owensby was killed by the police, on November 9, 2000, Jeffery Irons was shot and killed by the police. He had been staying in a homeless shelter in the Over-the-Rhine neighborhood at the time, and went in to a nearby supermarket where he allegedly stole deodorant and shaving cream. When officers caught up to him, instead of surrendering, he grabbed the sergeant’s gun and shot officer Tim Pappas. Another officer on the scene, Frederick Gilmer, shot and killed Mr. Irons (Klepal and Andrews 2001b). In the wake of this shooting, and in light of the Owensby case which was by now publicly known, several members of the African-American community began calling for a federal investigation of the Cincinnati Police department (Klepal and Andrews 2001b). Although a Department of Justice investigation did not immediately commence, enraged members of the African-American community decided to try another venue, the Federal Court.

2.2.3 The Lawsuit

On March 15, 2001, a lawsuit on behalf of Bonami Tyehimba was filed claiming that the Cincinnati Police Department (CPD) discriminated against African-American citizens and had been doing so for the past 30 years. The suit claimed that the police had been racially profiling African-American citizens. This lawsuit brought by this African-American businessman alleged violation of his civil rights during a traffic stop and built upon his earlier suit filed in 1999.

The Cincinnati Black United Front (BUF), a group that supports equality of African-Americans in Cincinnati, and the American Civil Liberties Union (ACLU) supported
Tyehimba in the litigation (Rothman and Land 2004). By filing this lawsuit, African-American activists promised to use the opportunity to take a closer look at the operations of the Cincinnati Police Department (Prendergast 2001). The suit included grave allegations such as: “A family stopped—in their brown car—by officers, guns drawn, looking for a silver car; A man shooting dice who was punched, kicked and beaten while witnesses begged officers to stop; A pregnant woman, handcuffed and searched with her husband and plopped into the back of a cruiser, but officers looking instead for two Black men” (Prendergast 2001, n.p.). The filing of the suit was a strategic move and the BUF outlined several goals they hoped to achieve through the process.

2.2.4 The Parties

Juleana Frierson, then chief of staff for the BUF, said that they wanted three things: to obtain the facts, including the number of African-American drivers versus White who were stopped; to win a determination that Cincinnati officers’ behavior violated the rights of African-Americans; and to secure an order that would change the “general attitude of hostility toward African-Americans” (Prendergast 2001, n.p.). Another goal was to expand the Tyehimba suit to a class action lawsuit.

Bomani Tyehimba himself wanted to see the lawsuit expanded to a class action lawsuit. He and others named in the case claimed “the police are at the arm of the White man. Instead of being there for protection, they said that police were seeking them out, harassing them, hurting them, even killing them. Not only was their dignity demeaned, but many feared for their lives” (Rothman 2012a, 192).

The lawsuit received very little attention from the public and even Friends of the Police (Fraternal Order of Police) president Keith Fangman did not appear to be concerned, denying any racial profiling whatsoever by the Cincinnati PD. Referring to the filing of the lawsuit,
Fangman said, “officers would have to be out of their minds to risk their jobs just to single out Black people” (Prendergast 2001, n.p.). According to a newspaper article in the *Enquirer*, there was no official reaction to the filing of this suit. “The lawsuit…brought no public reaction Wednesday from the city, which has a policy against racial profiling” (Prendergast 2001, n.p.). Although the lawsuits did not receive public attention at the time, they played an important role in defining the way the police-community relations would forever be altered in the city because the lawsuit set in motion a vehicle for change. Moreover, it brought together three individuals who eventually designed the 2001 deliberative process and changed the history of Cincinnati: Mr. Alphonse Gerhardstein, Dr. Jay Rothman, and Federal Judge Susan J. Dlott.

Local attorney and civil rights activist, Alphonse Gerhardstein, was a Cincinnati lawyer representing the plaintiffs in this case. With a history of civil rights cases, specifically those involving the police, Gerhardstein wanted lasting change in Cincinnati. He was known as the “gladiator among gladiators” because he had sued the police and the city numerous times (Rothman 2012a, 196). This lawsuit was no less than the seventeenth national lawsuit involving the American Civil Liberties Union, most of which sought and obtained court orders to count the number of drivers stopped by police. However, this lawsuit was different. Gerhardstein said this lawsuit was unique because it suggested a cooperative process. It was his hope that the city officials would embrace the idea (Prendergast 2001). As part of this cooperative process, mediator Jay Rothman, Ph.D., was recommended.

Rothman, a scholar-activist and mediator from Yellow Springs, Ohio founded the ARIA Group as a conflict resolution and collaborative planning firm. Rothman had over twenty-five years experience as an academic and practitioner. He would become the architect of the public input process in Cincinnati. However, at the time of the lawsuit filing, the future settlement
process was unknown and at this point Rothman was merely a recommendation. The lawsuit, however, fortuitously landed on the desk of Judge Susan J. Dlott.

Judge Susan J. Dlott, a United States federal judge, was a firm believer that the courtroom is not the best setting for settling such polarizing issues. Her background as a domestic relations attorney led her to seek alternative dispute resolution approaches for settling cases and she set in motion a series of events that would give Cincinnati its best hope forward. Although the filing of this lawsuit did not initially receive attention from the public, when Timothy Thomas was shot only five months after the previous two shootings, the lawsuit provided a springboard for action.

2.2.5 The Thomas Incident

Timothy Thomas, 19, knew he was a wanted man. Thomas was wanted for over a dozen misdemeanors and police were actively looking for him. On April 7, 2001 he was spotted by two off-duty officers who were working outside the Warehouse nightclub on Vine Street (Klepal and Andrews 2001b). Thomas took off and the officers followed, calling for backup. In all, twelve officers joined the chase. Officers say that Thomas jumped fences and dodged buildings before he turned down an alley off Republic Street, known as one of the city’s most dangerous (Klepal and Andrews 2001b). Cincinnati police officer Steve Roach joined the pursuit.

Steve Roach joined in the chase from the other direction. Roach followed Thomas down the alley. According to Officer Roach when he first reported the incident, Thomas began to reach for something in his waistband. Roach felt that his life was in danger and shot Thomas in the chest, killing him (The Associated Press 2002). No weapon was found on Thomas. Later, however, Officer Roach would tell the police investigators that he had lied. He confessed that he
had been running with his finger on the trigger and the weapon discharged when he was startled by Thomas (Osborne 2011).

During the initial hours and days after the incident, the police did not provide much information surrounding the circumstances of Thomas’ death. This lack of information resulted in rumors throughout the community as people tried to make sense of the events (Osborne 2011). To make matters worse, the police chief was out of town at a conference and, according to the Enquirer, “it seemed to many people like no one was in charge of handling the city’s official response” (Osborne 2011, n.p.).

2.3 The Riot

The Thomas shooting took place on Saturday. By Monday, members of the community were still looking for answers. On Monday afternoon, Thomas’ mother, Angela Leisure attended a city council meeting (Osborne 2011). Leisure was accompanied by a dozen supporters as well as Rev. Damon Lynch III, the leader of the Black United Front (Osborne 2011). City council members were unsure how to proceed and asked for an update from the police, but the police declined to provide any information citing a pending investigation as the reason for not providing details (Osborne 2011). Frustrated with the ongoing lack of information, individuals became visually irritated and the city council members canceled the meeting and left (Osborne 2011). Seeking answers, the rally participants moved to police headquarters that evening.

That same Monday night, protestors arrived at police headquarters in Cincinnati’s West End. Protestors turned the department’s U.S. flag upside down and threw rocks and other items at the building (Osborne 2011). Despite warnings from the police to leave, the protest continued. When the crowd did not disperse, officers fired beanbag bullets and pepper spray canisters into the crowd (Osborne 2011). The violence did not end there.
Over the course of the next two days, protestors marched in the Downtown and Over-the-Rhine neighborhoods. Some of the protestors assaulted unarmed people as well as looted and burned business along their path (Osborne 2011). 837 people were arrested and dozens injured. On the third day of the violence, then Mayor Charlie Luken declared a citywide curfew (Osborne 2011). In total, it is estimated that the riots caused $3.6 million in property damage and overtime for emergency responders. More than 140 businesses suffered some degree of property damage (Anglen, Alltucker, and Horn 2001).

With the protests continuing, Mayor Luken called for support from the Ohio State Patrol to help relieve Cincinnati officers. With this support, the protest subsided. Judge Dlott, who had implemented dispute resolution proceedings in the class action suit, was not the only one who wanted change in Cincinnati. Mayor Luken called the United States Department of Justice (DOJ) and asked them to review the police practices (Osborne 2011). After the riots, many were now focused on the trial of Officer Roach.

Officer Roach was charged in the killing of Timothy Thomas, and a judge acquitted him on September 26th, 2001. However, before an internal police investigation could be completed, Roach quit the Cincinnati police department to work in a suburban department (New York Times January 6, 2002). Although the trial of Officer Roach was felt to be unsatisfactory for many, the shooting itself embarrassed many and outraged many more in the city. Something needed to change.

In the backdrop of the death of sixteen African-American men since the Kerner Commission report of 1967, these events--the filing of the lawsuit, the Owensby, Iron, and Thomas incidents within a five month period, and the riot-- set in motion a series of events that would give Cincinnati their best chance at change so they could leave behind the Alice in
Wonderland like inaction. This chance came in the form of a Collaborative Agreement. In the next chapter, Chapter Three, a description of the Collaborative Agreement process is provided.
CHAPTER 3
THE COLLABORATIVE AGREEMENT PROCESS

With an increased sense of urgency and importance, Judge Dlott began meeting with the parties to the lawsuit, i.e., the plaintiffs, as represented by the ACLU of Ohio, the Black United Front (BUF), the City of Cincinnati, and the Fraternal Order of Police. As a young Judge, Dlott knew she wanted to utilize an innovative approach to address this conflict (Dlott, Susan, interview, January 7, 2014). The long history of conflict between Cincinnati’s African-American community and the police, as outlined in the previous chapter, left many pointing fingers and assigning blame. But Judge Dlott hoped the parties would be able to set aside differences and find a solution to what she called a conflict between the police and the African-Americans in the city, a conflict that had been building for many years. Judge Dlott sought to bring the parties together to deliberate over a settlement. She was successful in this endeavor. As a result, over 3,500 citizens of Cincinnati shared their goals for the city as part of the deliberative process. These goals were then refined in Feedback Sessions before the Final Collaborative Agreement Goals, as deliberated by the community, were presented to the parties of the lawsuit where they incorporated the community goals into their final negotiations. A set of goals and an outline of how police-community relations would change in Cincinnati resulted from this process. This document was called the Collaborative Agreement. This entire process was an experiment in deliberative democracy unlike any other to date. Due to the complexity

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2 Although the parties to the lawsuit did negotiate a settlement, a deliberative process was used to supply the parties with a set of community-deliberated goals. I will discuss the difference between the negotiations and deliberations in the chapter that analyzes consensus.
and depth of this case, it is necessary to provide a descriptive summary of the how the Collaborative Agreement came to life, free from analysis, in order to provide the reader with enough understanding of this complex, multi-staged and multi-stepped process before moving on to the analysis. I aim to do this in the remainder of this chapter. In what follows, I will provide a descriptive summary of my case including a brief summary of the Memorandum of Agreement between the Department of Justice and the Cincinnati Police. Then, I will provide a summary of each of the eight phases of the deliberative process for the purpose of laying the groundwork and providing context for the evaluative chapters.

To better understand how two separate processes – the conflict resolution process as part of the class action suit, and the Department of Justice investigation --took place on similar yet parallel paths, I have created a flowchart that depicts important events in the Cincinnati case (Figure 3-1 below). As seen in the bottom half of the flowchart, the lawsuit, alleging over 30 years of racial discrimination by the police, was already filed and initial discussions were taking place between the parties when the April 9th, 2001 riots broke out. The parties, the ACLU of Ohio, the Black United Front (BUF), The City of Cincinnati, and the Fraternal Order of Police (FOP), were already having discussions with Judge Dlott before the riot, but the riot accelerated the conversations. As a result, two important things happened. First, after the riots, the lawsuit received public attention creating an increased sense of urgency among the decision makers to make discernible and meaningful progress. Second, after the riots Mayor Luken requested support from the Department of Justice and an investigation ensued, as shown in the top half of the flowchart (Dlott, Susan, interview, January 7, 2014).
Figure 3-1 Flowchart of Cincinnati Case

Before 2001
- Timothy Thomas
  Killed April 7, 2001

2001
- DOJ called by Mayor
- Riots- April 9, 2001

2002
- MOA Signed
  April 12, 2002

2003- 2008
- Implementation
  April 2002- 2007

Collaborative Agreement Process
- Lawsuits

Memorandum of Agreement
- Design
  March - May 2001
- Cincinnati Sings
  (Awareness) May-July 1, 2001

Integration
- November- December 2001
- Shared Visions
  (Feedback Sessions) July-November
- Negotiation/Approval
  Nov-April 2002

Getting out the Voice
- (Surveys) June 1-August 31, 2001
3.1 Design

Mayor Luken reached out to the Department of Justice for assistance, requesting they conduct a “pattern or practice” investigation pursuant to 42 U.S.C. 14141. The DOJ became involved and conducted an investigation of policing practices. As part of the investigation, the DOJ reviewed “all firearms investigations completed between 1995 and June 2001, every complaint filed and reduced to writing against the CPD between January 1998 and June 2001 alleging excessive force, and all uses of force from June 2000 to June 2001” (Memorandum of Agreement Between the United States Department of Justice and the City of Cincinnati, Ohio and the Cincinnati Police Department 2002, 6). As a result of the investigation, the city and the DOJ signed a Memorandum of Agreement (MOA) in 2002 that changed the CPD’s general procedures that cover use of force, including chemical spray, canines and beanbags, as well as how complaints against the police were filed and investigated. The importance of the MOA as it pertains to this case is in its implementation, which will be discussed later in this chapter and in greater detail later. A Citizen’s Complaint Authority was established to provide an independent citizen review process. Also, policies regarding oversight and management, including the use of cameras were addressed. Although the Memorandum of Agreement and the Collaborative Agreement were two separate documents, the process that resulted in the two agreements overlapped, especially given that some of the key players in each agreement were the same and there was joint implementation of both agreements.

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3 Following the investigation of the police brutality after the beating of Rodney King, Congress enacted 42 U.S.C. § 14141 that allows the Attorney General to take civil action against a police department who have demonstrated a pattern or practice of discriminatory use-or-force practices (Schatmeier 2013).
At the same time the DOJ was negotiating a Memorandum of Agreement, Judge Dlott was overseeing the negotiations of the Collaborative Agreement. In her attempt to structure a settlement among the parties, Judge Dlott outlined the need for a “written agreement including a plan for action, ongoing collaboration, and reconciliation regarding the alleged social conflicts” in Cincinnati (Order Establishing the Collaborative Procedure 2001). Although Judge Dlott outlined the need for a collaborative process, she did not specify how this process would take place, only that “to the extent possible, the collaborative will include an opportunity to receive the viewpoints of all persons in the Cincinnati community regarding police-community relations” (Order Establishing the Collaborative Procedure 2001). The court left the design and facilitation of collecting community viewpoints up to Jay Rothman, Ph.D. and his ARIA Group, a consulting group. Rothman, a mediator from Yellow Springs, Ohio, was named Special Master by Judge Dlott and was charged with gathering and analyzing community input about the future of police-community relations over eight months from March until November 2001. To gather community input, Rothman used a combination of surveys and Feedback Sessions. Utilizing what he calls an Action Evaluation approach, he asked Cincinnati citizens “What, Why, and How” (WWH) questions about their goals for police-community relations (Rothman and Olson 2001). Just as participants were asked to provide their “What, Why, and How” (WWH) goals, Rothman provided his own WWH goals for the process in Cincinnati. Rothman’s project goals were:

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4 Although Judge Dlott, as well as others, refers to this process as a collaborative problem solving process, or even conflict resolution, I argue that it was an experiment in deliberative democracy, as evidenced by the charge to take into account the viewpoints of a Cincinnati’s citizens.

5 The selection of Rothman and the ARIA Group is further discussed in the chapter that evaluates “A neutral, professional staff that helps participants work through a fair agenda.”
What: to create broad-based ownership in a collaborative process of defining and implementing shared goals for police-community relations in Cincinnati.

Why: Because this process will provide opportunities for broad-based and bottom-up ‘voice’ and ‘recognition’. And because dialogue and collaboration are more appropriate than litigation for contributing to understanding and coordinated efforts.

How: By building a strong and unified core group to guide and champion process
By gathering a wide range of goals from a broad cross-section of people
By reaching agreement on major goals through Feedback Sessions
By simultaneously gathering and integrating information on local efforts to date, as well As best practices from Cincinnati and elsewhere and by implementing and monitoring shared ideas for police-community relations (Rothman n.d.)

These process goals were submitted to the parties of the lawsuit for review and Rothman’s focus shifted from designing the process to collecting the public’s goals. The collaborative process in Cincinnati can be broken down into eight phases spanning from design to implementation. In what follows, a description of each of the eight phases is provided. Table 1 below, provides a high level summary of each phase, the corresponding timeframe, a description of the participants and a list of accomplishments.

To develop the community goals collaboratively, Rothman used a series of statements, or goals, that were added to or changed during each phase where the community was involved. To understand how these goals were changed, I have named each phase, which are listed in the table. The importance of the process goals and how they were constructed is discussed later in this chapter and in detail in the chapter that analyzes consensus.

6 Much more will be said in subsequent chapters about the structure of the public input process, as it relates to impacting the decision makers and how it was or was not inclusive.
These events, aimed at reaching a negotiated settlement to the lawsuit, are what I refer to as the Collaborative Agreement Process. The process in turn produced an agreement, the Collaborative Agreement. At times, the process by which the Collaborative Agreement was negotiated is referred to by some people as “The Collaborative Agreement” or “Collaborative.” To avoid confusion, if a reference is made by others to the process by which the agreement was reached and the reference states Collaborative Agreement, but is really referring to the process itself, I will note this by writing “Collaborative Agreement [Process].” This confusion is especially prevalent in the newspaper articles and reports to and from the court. Although newspapers may have perpetuated this confusion, newspapers were heavily utilized in the second phase of the process. In the discussion below, each stage is identified in Table 3.1 below.
### Table 3.1 The Eight Phases of the Collaborative Agreement Process

<table>
<thead>
<tr>
<th>Phase</th>
<th>Date</th>
<th>Action/Goals</th>
<th>Participants</th>
<th>Accomplishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Design</td>
<td>March – May 2001</td>
<td>Design</td>
<td>Parties and ARIA</td>
<td>Negotiated the design and structure of the upcoming phases</td>
</tr>
<tr>
<td>2 Cincinnati Sings</td>
<td>May 1 - July 1, 2001</td>
<td>Awareness</td>
<td>Media and local authorities including governmental officials and community leaders</td>
<td>Awareness raised about the process of gathering visions and goals</td>
</tr>
<tr>
<td>3 Getting out the Voice</td>
<td>June 1 - August 31, 2001</td>
<td>Individual Goals</td>
<td>Eight groups: African-American; Social Service and Religious Organizations; Business and Philanthropic; Police Officer and Spouses; City Officials; White Citizens; Other Minorities; Youth</td>
<td>Over 3,500 surveys were collected</td>
</tr>
<tr>
<td>4 Shared Visions</td>
<td>July - November 2001</td>
<td>Preliminary/Final Group Goals</td>
<td>Representatives from eight Stakeholding Groups - small group sessions Volunteer facilitator training</td>
<td>Deliberated a set of goals that represented each Stakeholding Group</td>
</tr>
<tr>
<td>5 Integration</td>
<td>November - December 2001</td>
<td>Integration Goals</td>
<td>Integration Group consisting of 5-10 members of each of the eight Stakeholding Groups</td>
<td>Five project goals were formulated based on integration of prior goals of Stakeholding Groups</td>
</tr>
<tr>
<td>6 Negotiation</td>
<td>January - April 2002</td>
<td>Final CA Goals</td>
<td>Jay Rothman and the Parties</td>
<td>The details of the Collaborative Agreement were negotiated</td>
</tr>
<tr>
<td>7 Approval</td>
<td>April 2002 - August 2002</td>
<td>Submission for court approval</td>
<td>The parties Judge Susan Dlott DOJ</td>
<td>The parties submitted proposed plan for court approval</td>
</tr>
<tr>
<td>8 Implementation</td>
<td>April 2002 - 2007</td>
<td>Implementation of Agreement</td>
<td>The Settlement Group Citizens of Cincinnati</td>
<td>The Collaborative Agreement was implemented in Cincinnati</td>
</tr>
</tbody>
</table>
3.2 Cincinnati Sings: May 1, 2001-July 1, 2001

Following the initial design phase, the second phase called Cincinnati Sings lasted from May 1, 2001 to July 1, 2001. Here the ARIA Group canvassed the city, attempting to excite and engage potential participants. The ARIA Group and community volunteers raised awareness by visiting churches, street corners and clubs where they asked individuals to participate. Rothman met with newspaper reporters and other media outlets to excite listeners and readers in hopes that they would participate in the next phase. To help prepare for the upcoming phase, the ARIA Group began to identify and train facilitators who would run the Feedback Sessions. Once a community was notified and hopefully encouraged, the ARIA Group began collecting surveys.

3.3 Getting out the Voice: June 1 2001- August 31, 2001

The citizens of Cincinnati were primed for participation. In this third phase, Getting out the Voice, the ARIA Group began collecting citizen surveys that asked “what, why and how” questions concerning police-community relations. I will refer to these goals as the Individual Goals. Of all the phases, this one involved the largest number of people, with the ARIA Group gathering and analyzing surveys from more than 3,500 citizens about how to better police-community relations. Surveys were completed online, in-person, and in-person with the help of a volunteer. If the response was provided via the online website, the data was immediately captured in an electronic database. Responses given on paper were entered into the electronic database by ARIA staff.

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7 I named the different types of goals for clarity.
8 Much more is said about this in Chapter Seven.
At the same time that the “Getting out the Voice” phase began, a research project lead by
University of Cincinnati Professor John Eck (ARIA n.d.) also began. Eck headed up the Police
Practices and Model Programs Research Group, or the Expert Panel, and examined racial
profiling allegations on a national level. Additionally, he looked into the practices of the
Cincinnati Police Department. His analysis and recommendations were submitted to the ARIA
Group in a later phase.

After the initial round of surveys was completed and the data entered into the database,
the ARIA Group analyzed the goals expressed by the individuals. The findings were grouped
according to eight groups of stakeholders.

- African-American
- Social Service and Religious Organizations
- Business and Philanthropic
- Police Officers and Spouses
- City Officials
- White Citizens
- Other Minorities
- Youth

The goals expressed in each individual survey were aggregated with those of others of the
same group of stakeholders and synthesized to arrive at one set of Preliminary Group Goals for
each of the eight Stakeholding Groups.

3.4 Shared Visions: July-November 2001
In the fourth phase of the Collaborative Agreement Process, Shared Visions, these results, the Preliminary Group Goals, were reflected back to representatives from each of the eight Stakeholding Groups who were asked to participate in separate Feedback Sessions. Each group was presented with the findings of Preliminary Group Goals and worked to refine their stakeholding group’s goals into Final Group Goals. There was at least one feedback session for each of the eight Stakeholding Groups. Representatives from each of the eight Stakeholding Groups met and spent time in face-to-face deliberations. These meetings took place from July through November 2001 at multiple locations throughout the city of Cincinnati (Chapter Six, which analyzes inclusiveness provides more detail about the process and participants).

3.5 Integration: November–December 2001

The fifth phase of the Collaborative Agreement Process, Integration, took place in November and December of 2001. In this phase, the Final Group Goals, consisting of one set of goals for each of the eight Stakeholding Groups were presented to what was called the Integration Group. The Integration Group consisted of the 58 elected representatives from the eight Stakeholding Groups. Taking the information gathered from the previous Feedback Sessions of the eight Stakeholding Groups, the ARIA Group compiled a list of shared goals and summaries of value statements and motivations for each of the eight groups. The Integration Group met in early December 2001, with 58 representatives, to deliberate comment on, and vote on those goals from the previous phase (ARIA n.d.). As a result, Integration Goals were finalized. (This process is further explained in the Chapter 7 on consensus.)

The Integration Goals were:

- Police officers and community members will become proactive partners in community problem solving
- Build relationships of respect, cooperation and trust within and between police and communities
- Improve education, oversight, monitoring, hiring practices and accountability of CPD
- Ensure fair, equitable treatment for all
- Create methods to establish the public’s understanding of police procedures and recognition of exceptional service in an effort to foster support for the police

3.6 Negotiation: January-April 2002

In Phase 6, “Negotiation,” the Integration Goals were submitted to the parties of the lawsuit and the settlement group to deliberate and finalize the Collaborative Agreement. These parties consisted of the ACLU of Ohio, the BUF, the City of Cincinnati and the FOP. The group negotiated the final Collaborative Agreement based on the previous phases of information gathering and goal formulation. The Final Collaborative Agreement Goals, as listed in the Collaborative Agreement, were the same as the Integration Goals, with the exception of an additional goal, as follows: “The ultimate goal of this agreement is to reduce friction and foster a safer community where mutual trust and respect is enhanced among citizens and police” (Collaborative Agreement 2002).

3.7 Approval: April 2002

In Phase 7, the parties reached a final Collaborative Agreement (CA), overcoming many obstacles along the way. This exercise in deliberative democracy utilized a large-scale public input process in consort with gathering expert research to forge the Collaborative Agreement between parties who were ready for a change in police-community relations. Combining the
public input and the research of Professor Eck, the resulting Collaborative Agreement outlined the goals and an implementation plan.

After months of preparation and planning, months of gathering citizen points of view, and weeks of negotiations, the Collaborative Agreement was drafted and presented to Judge Dlott for approval. All sides were able to come to an agreement on the document that was signed by Judge Dlott on April 5, 2002, with the city of Cincinnati, the Fraternal Order of Police (FOP) and the Plaintiff Class. (For a complete text of the Collaborative Agreement, see the Appendix)

Problem-oriented policing was identified as the mechanism proposed to implement the negotiated agreement. The creation of A Citizen Complaint Authority as part of ongoing evaluation was spelled out in the Collaborative Agreement.

The Parties shall implement a policing strategy of Community Problem Oriented Policing (CPOP); Parties’ mutual accountability and responsibility for evaluation of the implementation of the Agreement; Use of force and Status of Terms of the Department of Justice Agreement; The Parties shall collaborate to ensure fair, equitable, and courteous treatment for all Civilian Review. The City will establish a Citizen Complaint Authority (Collaborative Agreement 2002, 1).

3.8 The Final Phase: Joint Implementation of MOA and the Collaborative Agreement

At the same time, the city of Cincinnati entered into a Memorandum of Agreement (MOA) with the Department of Justice (DOJ) as described earlier in this chapter. Although both agreements focused on policing, there are distinct differences between the two. The MOA focused on use-of-force and police accountability whereas the CA focused on policing styles and improving overall police-community relations (Green and Jerome 2008).
By combining two agreements, the DOJ’s MOA and the CA, the City of Cincinnati was in a unique position to change police-community relations in a way not possible before here, or likely elsewhere. One important feature of the MOA as well as the CA was the use of court oversight. Both the CA and the MOA were binding and enforceable by the Federal Court (Final Independent Monitor Report).

Despite the differences between each agreement, they were to be implemented together. This implementation resulted in an additional layer of complexity due to the number of parties involved and the requirements of each agreement. Understanding the stakes, many were cautiously optimistic. The signing of the Collaborative Agreement was a demonstration of a community coming together to create change with police-community relations; however, the collaborative effort among the parties needed to extend to implementation if there were to be any lasting effects.

The City of Cincinnati and the Cincinnati Police Department were each tasked with implementing two complex agreements quickly and comprehensively. These two parties, the city, and the FOP, began to implement the CA and the MOA in April 2002 with the understanding that this implementation was to be rapid as well as exhaustive.

Originally, implementation was to take place in five years. As will be further discussed in subsequent chapters, the City of Cincinnati quickly reached compliance with the MOA, but struggled to meet the implementation requirements of the CA. As a result, the CA was extended for another year in 2007 so that the parties could focus solely on its implementation.

Despite some of the known challenges and complexities, the agreements were significant, visionary, yet risky. Saul Green, who was appointed by the court to oversee the agreements, described the Collaborative Agreement as significant because it allowed a diverse community to
become equal participants with the police and city officials in designing and implementing police reform. The Collaborative Agreement was visionary according to Green because it epitomized the concepts of community-oriented policing and problem solving by identifying the important stakeholders, and engaging them to actively participate in problem identification and solution. Moreover, it envisioned a community where the stakeholders work together to reduce friction between the community and police, foster mutual trust and enhance public safety. However, despite the significant and visionary nature of the agreement, it was also risky. It was perilous because it assumed, and then announced in a very public way, that the parties to the Agreement were, in fact, ready to collaborate in an open and mutually respectful way to implement CPOP [Community Problem Oriented Policing] and the required police/community reform efforts (Green and Jerome 2008).

This dissertation will analyze in greater depth the creation and implementation of the Collaborative Agreement. However, it is important to recognize that the MOA that resulted from the lawsuit influenced the implementation of both agreements. The driving force behind the Collaborative Agreement was not solely the class action lawsuit but rather the involvement of the Department of Justice in Cincinnati. The next chapter will discuss methods used to analyze the material, and the following chapters will go into additional description and a deeper analysis of the Collaborative Agreement Process.
CHAPTER 4
METHODOLOGY

In many places around the United States, communities are struggling to make sense of a tense relationship with the police that has, in some instances, turned violent. Distrust of the police is at an all-time high (Jones 2015). The Justice Department continues to investigate police departments finding problematic and discriminatory policies. Both the members of the community and the police are frustrated but are unsure how to improve this relationship. One way to improve this strained relationship is through deliberative democracy, by both the community and the police coming together and agreeing on the way forward. I am studying an experiment in deliberative democracy that resulted in the Collaborative Agreement between the Cincinnati Police Department and the African-American community following the conflict in 2001 because I want to identify and evaluate successes and failures in the process to help the reader understand the utility of deliberative democracy as a means of improving community relations and policy. The following research questions, derived from Levine, Fung and Gastil’s (2005) characteristics of successful deliberative processes, are used to evaluate the Collaborative Agreement Process:

1. Was there a realistic expectation of influence (i.e., a link to decision makers)?
2. Was the process inclusive, representative and did it bring key stakeholders and publics together?
3. Was discussion informed, substantive, and conscientious, with an eye toward finding common ground if not reaching consensus?
4. Was staff neutral and professional in helping participants work through a fair agenda?

5. Over time, did deliberative processes earn broad public support of the final recommendations?

6. Did process prove sustainable over time?

The practical application of this qualitative case study is to determine which, if any, criteria of this model can be replicated successfully elsewhere.

4.1 Methodology

This examination of the Cincinnati Case is an embedded single case study (Yin 2012), meaning that there is more than one unit of analysis applied to a single case, as will be discussed in depth in the analysis section. The Cincinnati case merits a single case study for several reasons. According to Yin (2003), a single case study is appropriate under several circumstances. The first is if the case is critical, extreme or unique, representative or typical, revelatory, or if it is longitudinal (Yin 2010, 40-42). The Cincinnati case meets Yin’s criteria of being critical and extreme or unique. The Cincinnati Case is referred to as a model for other communities wanting to improve police-community relations and analyzing it is critical to understanding if the Cincinnati model should be applied to other cases. Second, according to Yin, a single case study is warranted if a case is critical in “testing a well-formulated theory” (Yin 2010, 40). This case study seeks to test the theory of deliberative democracy as a means of improving police-community relations. Within the field of deliberative democracy case studies are frequent methods of analysis.

This case analyzes how the combination of a riot and a lawsuit spurred citizen input that ultimately resulted in changing police policies and practices. The Cincinnati case focuses on a conflict between the African-American community and the police and the method Cincinnati
employed to improve this relationship. The conflict between the African-American community and the police began years before the 2001 riots; however, for this dissertation the Cincinnati case started when two events took place. For this analysis, I have defined the beginning of the case as when a lawsuit alleging years of discriminatory police behavior was filed in 2001 and when the citizens rioted in protest over the police shooting death of an African-American teen, also in 2001. The Cincinnati case then follows the Cincinnati Collaborative Agreement Process, from its inception through implementation. I have set the ending of the case as 2015, when my research ended. Most analysis of this case focuses on the period between 2001 and 2011, but to evaluate continued support and sustainability, analysis also included specific events in 2014 and 2015, when other communities around the country looked to the Cincinnati case as an answer to their struggle with police-community relations.

4.2 Role of Case study research in Deliberative Democracy

The analysis and findings of this case contributes to the field of deliberative democracy in three ways. First, this dissertation seeks to add to the empirical analysis of deliberative democracy practices, which several scholars have declared as important in the development of the field (Deli Caprini, Lowmax and Jacobs, 2004, Fung 2007, Gastil 2008, Levine, Fung and Gastil 2005). Second, this dissertation is a macro-level evaluation that adds to the literature by detailing and evaluating a deliberative system. Black and Burkhalter (2010) describe two main methods of inquiry in the field of deliberative democracy, micro-level and macro-level. The micro-level analysis focuses on the content and quality of the deliberative exchange. The macro-level analysis, according to Black and Burkhalter (2010), does not provide the detailed information about deliberation that is available through micro-level discussion analysis. However, it gives researchers more of a birds’ eye view of the interaction, and may be able to
capture important aspects of the interaction that are not evident by studying each component separately (Black Burkhalter, Gastil and Stomer-Galley, 14). This dissertation analyzes, from a macro-level, the deliberative system and how multiple complex parts and functions work together to create a deliberative event. Third, this analysis contributes to the field of deliberative democracy by evaluating a model, the Cincinnati Model, that has not been analyzed but that some communities are seeking to emulate and implement. As such, this analysis is particularly timely, important, and relevant.

According to Yin, there are six sources of evidence used to analyze a qualitative case study and they are: “documentation, archival records, interviews, direct observations, participant-observation, and physical artifacts” (Yin 2003, p. 85). This dissertation utilized interviews, documents and archival records as detailed below. I began researching the Cincinnati Case in 2007, after the monitored implementation process was coming to an end. Because of when my research began, direct observation and participant observation were not possible; therefore I utilized participant interviews.

4.3 Participant Interviews

4.3.1 Interview Schedule

An interview protocol with semi-structured questions was designed to understand how individuals understood their sense of self as well as their perceptions of the deliberative process. See the Appendix for the interview schedule. Two interview protocols were developed, one for the participants and one for the key decision makers. A key decision maker was defined as those who had a role in the design or influence over the direction of the Collaborative Agreement Process or outcome. The questions for each group were similar but had several notable differences. First, the interview questions for the key decision makers focused on their aims and
objectives in designing and implementing the process. Second, the questions for the key
decision makers were designed to clarify the construction and operationalization of each of the
eight Stakeholding Groups.

4.3.2 Informed Consent

All interviewees, except one, agreed to be recorded and signed an IRB approved consent
form. Interviews ranged in time from twenty minutes to well over an hour. Even though one
individual elected not to be recorded, I proceeded with the interview with the goal of
understanding more about the case. The interviews were recorded in order to minimize
distractions and to allow for increased focus and attention. During the interviews, I made notes
to help with the flow of the interview. After the interview, any notes were typed and the
interviews were transcribed verbatim using a transcription service.

4.3.3 Interviewees

Participant interviews helped to explain what happened (Rubin and Rubin 2005),
especially during the Feedback Sessions. As part of the public input process, representatives
from eight Stakeholding Groups (African-American, Social Service and Religious Organizations,
Business and Philanthropic, Police Officers and Spouses, City Officials, White Citizens, Other
Minorities, Youth) were asked to deliberate the goals they had for improving police-community
relations in Cincinnati. This deliberation took place in Feedback Sessions. It was my initial
objective to interview two to three people from each stakeholding group because I wanted to
help better understand the dynamic of the Stakeholding Groups. As will be discussed in Chapter
Six and Seven, the Stakeholding Groups served to organize and guide the deliberative process.
Therefore, I wanted to interview multiple participants from each group in attempt to understand
the following: was there solidarity in group thinking, did different group members evaluate the
efficacy of the process more positively than others, and did group members have differing experiences depending on what group they were in? Ultimately, I identified and interviewed fourteen participants.

As part of my research, I obtained six boxes of documents collected by Dr. Rothman, the Collaborative Agreement Process mediator. The contents of these boxes will be discussed later in this chapter; however, these boxes contained a list of participants from the Stakeholding Groups broken down by the Feedback Sessions. I utilized these lists to identify potential interviewees; however, these lists are not representative of all the feedback session participants as there were far fewer feedback session lists in the documents than what was reported as taking place. Therefore, the selection of interviewees could have been skewed due to selecting from an incomplete list; however, if there was an impact I believe it was negligible because I was not targeting a representative sample from each of the eight Stakeholding Groups, but rather I was targeting only several members from each group. Using these lists, I called or emailed fifty individuals. The biggest obstacle I encountered in reaching participants was wrong telephone numbers. This is not surprising because I was attempting to reach participants almost ten years later. In some cases, participants listed both a phone number and an email address and if I could not reach them by phone I tried email. In several instances, people declined to participate but gave me the name of someone whom they thought would be willing to be interviewed.

In total, I interviewed fourteen participants, as listed in the Table 4.1 below. This table identifies several key factors and associations for the interviewees as they pertain to the case. In the table, the participant’s name and primary stakeholding group and their frequency of

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9 Stakeholding Groups were constructed to refine the publics’ goals gathered through surveys. The participants of the Stakeholding Groups were divided according to their membership in the eight Stakeholding Groups.
participation is presented. Additionally, the table reports the interviewee’s residence at the time of the interview. Finally, if a participant was a facilitator, this is noted in the table as well. This table provides summary of the participants who were interviewed for this dissertation as well as important contextual factors that should be used to understand the interviewees in this dissertation’s analysis. As part of my research I wanted to not only understand citizen participants but I also wanted to understand key decision makers.

10 More will be said about how individuals were assigned to what stakeholding group in Chapters Six and Seven.
<table>
<thead>
<tr>
<th>Name</th>
<th>Stakeholding Group</th>
<th>Gender</th>
<th>Frequency of Participation</th>
<th>Cincinnatian</th>
<th>Resident</th>
<th>Facilitator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al Ball</td>
<td>Other Minorities</td>
<td>Male</td>
<td>4-6 Times</td>
<td>Cincinnati Native</td>
<td>Lives in Cincinnati</td>
<td>No</td>
</tr>
<tr>
<td>Craig Richmond</td>
<td>Business Leaders</td>
<td>Male</td>
<td>1-3 Times</td>
<td>Non Native</td>
<td>Lives in Suburb</td>
<td>No</td>
</tr>
<tr>
<td>Diane Jordan</td>
<td>African-American</td>
<td>Female</td>
<td>7+ Times</td>
<td>Cincinnati Native</td>
<td>Lives in Cincinnati</td>
<td>Yes</td>
</tr>
<tr>
<td>Jan Seymour</td>
<td>Business Leader</td>
<td>Female</td>
<td>1-3 Times</td>
<td>Non Native</td>
<td>Lives in Cincinnati</td>
<td>No</td>
</tr>
<tr>
<td>Julie Johnson</td>
<td>African-American</td>
<td>Female</td>
<td>7+ Times</td>
<td>Cincinnati Native</td>
<td>Lives in Cincinnati</td>
<td>No</td>
</tr>
<tr>
<td>Ken Cecil</td>
<td>White</td>
<td>Male</td>
<td>4-6 Times</td>
<td>Non Native</td>
<td>Lives in Suburb</td>
<td>Yes</td>
</tr>
<tr>
<td>Margaret Singer</td>
<td>Other Minorities</td>
<td>Female</td>
<td>4-6 Times</td>
<td>Cincinnati Native</td>
<td>Lives in Suburb</td>
<td>No</td>
</tr>
<tr>
<td>Meghan Clarke</td>
<td>White</td>
<td>Female</td>
<td>7+ Times</td>
<td>Cincinnati Native</td>
<td>Lives in Cincinnati</td>
<td>Yes</td>
</tr>
<tr>
<td>Melva Gwyn</td>
<td>White</td>
<td>Female</td>
<td>1-3 Times</td>
<td>Cincinnati Native</td>
<td>Lives in Suburb</td>
<td>No</td>
</tr>
<tr>
<td>Pam Dixon</td>
<td>White</td>
<td>Female</td>
<td>1-3 Times</td>
<td>Unknown</td>
<td>Lives in Cincinnati</td>
<td>No</td>
</tr>
<tr>
<td>Pete Ridder</td>
<td>Police</td>
<td>Male</td>
<td>4-6 Times</td>
<td>Cincinnati Native</td>
<td>Lives in Cincinnati</td>
<td>No</td>
</tr>
<tr>
<td>Terry Murray</td>
<td>White</td>
<td>Male</td>
<td>7+ Times</td>
<td>Unknown</td>
<td>Lives in Cincinnati</td>
<td>No</td>
</tr>
<tr>
<td>Wesley Hinton</td>
<td>Social Service and Religious</td>
<td>Male</td>
<td>1-3 Times</td>
<td>Non Native</td>
<td>Lives in Suburb</td>
<td>No</td>
</tr>
<tr>
<td>Anonymous</td>
<td>African-American</td>
<td>Female</td>
<td>4-6 Times</td>
<td>Cincinnati Native</td>
<td>Lives in Suburb</td>
<td>No</td>
</tr>
</tbody>
</table>
4.3.4 Key Decision Maker Interviews

To better understand strategic decisions regarding the structure of the process, I conducted and assisted in conducting interviews with key decision makers, Dr. Jay Rothman, Dr. John Eck, and Judge Susan Dlott. Two of these interviews were conducted along with Dr. Candace McCoy, who was also conducting research on the issue of political elites and the role of the court in Cincinnati. Because Dr. McCoy had previously worked and studied in Cincinnati and knew both Judge Dlott, the Federal Judge responsible for pursuing a deliberative solution in Cincinnati, and Dr. Eck, an expert community policing who was called upon to help guide the Collaborative Agreement Process, she had already scheduled interviews with Judge Dlott and Dr. John Eck and invited me to attend. We met prior to the interviews to prepare a strategy and interview schedule so that it was mutually beneficial to our research.

Both interviews were semi structured, recorded, and transcribed. Because of the joint interview, some of the questions that were asked were relevant only to provide context to my dissertation as they were focused on Dr. McCoy’s research agenda. Both of these interviews were conducted several years into my research. Therefore, questions were posed that addressed areas in my research that required additional clarification that only key decision makers could provide (See Appendix for Interview Schedule).

I also interviewed Dr. Jay Rothman, who was responsible for designing the deliberative process in Cincinnati that utilized public input and who was the main facilitator for the Collaborative Agreement Process. I conducted one formal interview with Dr. Jay Rothman and I exchanged multiple emails, had several phone conversations, and met with Dr. Rothman on multiple occasions. The formal interview was conducted and recorded via Skype and, with his
permission, was recorded and subsequently transcribed. Questions were developed for this interview to address gaps in the case that had developed in my previous analysis (See Appendix for Interview Schedule). Specifically, this interview focused on how the Stakeholding Groups were created and how they functioned within the process as well as how the experts, or individual’s with specific knowledge and expertise on policing, were used in the process in addition to this interview. Results from the interview I conducted were analyzed along with a transcript of an interview from Dr. Rothman conducted by Julian Portilla in 2003 published on Beyond Intractability’s website along with the full audio of the interview. In this interview, Rothman talked specifically about his experiences with the Cincinnati case.

In addition to these interviews, I analyzed interviews conducted by Dr. McCoy who had also interviewed Dr. Eck, Alphonse Gerhardstein, a civil rights attorney and key decision maker, Dr. Jay Rothman, Iris Roley, a community activist and organizer, and Don Hardin, counsel to the Fraternal Order of Police (FOP) and a key decision maker for her research. Although these interviews were not recorded and transcribed, Dr. McCoy took notes during the interview and shared these notes with me for my analysis, enabling me to triangulate the interview data.

A list of all the data sources analyzed associated with key decision makers is presented in Table 4.2 below. Interviews that I personally conducted or co-conducted are listed as bold in the Data Source column. In addition to interviews, I analyzed archival and other document sources from key decision makers. These sources are also listed in the Table 4.2 below.

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11 Beyond Intractability, is an online community of scholars seeking to build a community of best practices for conflict resolution approaches.
<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Data Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Susan Dlott</td>
<td>Federal Judge</td>
<td><strong>Co-conducted interview</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Jay Rothman</td>
<td>Facilitator and Process Architect</td>
<td><strong>Interview</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Beyond Intractability interview</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dr. McCoy interview</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Publications</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Personal communications</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>John Eck</td>
<td>Scholar and Expert on Community-Policing</td>
<td><strong>Co-conducted interview</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dr. McCoy interview</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Publications</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Alphonse Gerhardstein</td>
<td>Civil Rights Attorney</td>
<td>Dr. McCoy interview</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Publications</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Community presentations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Charlie Luken</td>
<td>Cincinnati Mayor</td>
<td>Community presentations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Tom Streicher</td>
<td>Police Chief</td>
<td>Community presentations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Alan Kalmanoff</td>
<td>1st Independent Monitor</td>
<td>Publications</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Saul Green</td>
<td>Final Independent Monitor</td>
<td>Court Reports</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
<tr>
<td>Don Hardin</td>
<td>Counsel to the Fraternal Order of Police</td>
<td>McCoy interview</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Newspaper interviews</td>
</tr>
</tbody>
</table>
4.4 Archival and Document Sources

In addition to interviews, I analyzed other data sources from the decision makers and community groups. These data sources add to the material obtained by the interview process designed for this case study. The sources provide additional information about other key decision makers not interviewed for this dissertation. For example, I did not interview Alphonse Gerhardstein, but analyzed both the interview conducted by Dr. McCoy as well as Gerhardstein’s publications about the Cincinnati Collaborative Agreement Process. Dr. Rothman and Dr. Eck have also published about the Cincinnati Agreement Process and these publications were analyzed.

4.5 Court Documents

The Collaborative Agreement itself as well as the related court documents served as an important record detailing the events and rationale behind decisions for this process. Judge Dlott required progress reports to be written by Dr. Rothman during the design phase. Additionally, during the implementation phase, the Independent Monitor, the individual responsible for overseeing implementation, submitted reports that detailed the progress. The Parties to the lawsuit were also required to submit reports on progress during implementation. These court documents, as well as newspaper articles, and reports were analyzed for this dissertation.

4.6 Newspaper Articles

Between 2005, the time I began this research, until even today, newspaper articles citing the Cincinnati Collaborative Agreement and the Cincinnati case have been added to a newspaper database constructed and maintained to capture news about the Collaborative Agreement
Process. A Google Alert (an automatic search feature) was created to send email alerts of any references to the Collaborative Agreement Process. A filter on a gmail account automatically saved all Google Alerts to an Evernote Folder, and electronic note keeping software application. This database provided rich sources of analysis for the Collaborative Agreement Process.

4.7 Primary Documents

When I initially met with Dr. Rothman in September 2009 at his home in Yellow Springs, Ohio, we discussed my plans for this dissertation and what data I had or would need to access. I left that meeting with six file boxes of documents consisting of all the hard copy documentation Dr. Rothman had stored related to this case. As part of my agreement with Dr. Rothman for his allowing me to access these documents, I agreed to digitize and provide him access to the digital archive of the documents. I delivered on this and have provided him, as well as several others he has requested, access to this digital archive.

In all, 436 documents were scanned comprising thousands of pages (A comprehensive list can be found in the Appendix). They also included both hand written and typed notes of the Feedback Sessions as well as meeting agendas used when holding meetings to plan the Feedback Sessions. The notes included organizational information from the ARIA Group including: job descriptions for both paid and volunteer ARIA staff as well as a flow chart of how this staff was organized (as presented in Chapter Eight). Additionally the documents consisted of letters and emails to and from Dr. Rothman. These documents provided an opportunity to conduct analysis at a level of detail that no other scholar has had the opportunity to do with this case. The participants’ completed surveys were also in the boxes of primary data but I did not scan them because it was my understanding that they existed in an electronic format.

4.8 Electronic Database
As part of the public input process that ARIA utilized from 2001-2002, individuals were asked to answer a variety of questions and their responses were recorded in an electronic database. This database was made available to me by the facilitator and process architect. The technology used to create and store this database was ten years old when I received the data. Thanks to the help of a grant I received in 2010 by the City and Community Studies Initiative called the Burning River Award, I began the process of finding the appropriate technology to access the files. Using these funds, I was able to get a copy of the file off the old floppy disc but I was unable to gain usable access to the files. At the same time I was attempting to access the electronic data, I was contacted by Dr. Rothman and introduced to Dr. Candace McCoy. Dr. Rothman asked that I share the files with Dr. McCoy. Through the assistance of a technology company as well as research assistants, she gained usable access to this data and sent me a copy.

From conversations with Dr. Rothman, I was under the impression that all the responses to this survey were located on this database. However, what I found on the database was not what I expected. The database consisted of the responses but did not have any other identifying information, such as Stakeholding Group, age or gender. Although these responses did provide some interesting content that helped me in my overall understandings of the Collaborative Agreement Process, it was not possible to systematically evaluate this material because, as will be described further below, much of my analysis focused on the Stakeholding Groups. The electronic database did not have any information from the participants; therefore, I was unable to look for trends across groups using the survey data.

While I had hoped to conduct a quantitative analysis, the lack of detail about the individual participants and the Stakeholding Groups made this impossible. Even though I was able to access the database, it did not have the detail that would have resulted in a meaningful
quantitative analysis for the aims of this research. It was therefore more beneficial to the project to focus analysis on other archival documents such as court documents.

4.9 Analysis

An evaluative framework was developed to critically analyze the process based on the best practices of deliberative democracy as outlined in the literature. This framework consisted of six criteria, as listed by Levine, Fung and Gastil (2005). Much more will be said about each of the six criteria and how I operationalized each at the beginning of the next chapters. The six evaluative criteria were adapted from Levine, Fung and Gastil (2005) and are accepted as characteristics of successful deliberative practices as described in the literature. These criteria are:

1. A realistic expectation of influence
2. An inclusive, representative process that brings key stakeholders and publics together
3. An informed, substantive, and conscientious discussion, with an eye toward finding common ground if not reaching consensus
4. A neutral, professional staff that helps participants work through a fair agenda
5. Over time, it is also hoped that deliberative processes can earn broad public support for their final recommendations
6. Prove sustainable over time

Using this evaluative framework, the various sources of data (interviews and documents) were analyzed in several rounds of coding.

4.10 Coding

4.10.1 Round 1: Familiarity of Data
Prior to beginning my first round of coding, I created a coding list consisting of 185 codes (See Appendix) using my evaluative criteria as well as key concepts from the deliberative democracy literature. My objective for the first round of coding was to become familiar with the vast amount of data I had collected. For this round, I utilized an electronic search feature in NVIVO, a qualitative coding software program. Except for a few of the hand written notes, I was able to search the text of almost all of the documents in my coding database. The text query allowed me to quickly search my entire dataset and code any references to the query. But, this was a tradeoff; I missed some of the more nuanced meanings of some of the codes; however, I needed to become better acclimated with the vast amount of data I was analyzing. This process did not help build or evaluate theory, but it did help me better understand my case and its many data points as well as provided me with a clear understanding of a complicated process. Throughout this round of coding, I took detailed notes to help me better understand the data as well as to determine what I needed to do next.

4.10.2 Round 2: Analysis of Interviews

For the second round of coding, focused on the participant interviews. I looked for and coded themes adding to the code list from round 1. At this point, I had not conducted interviews with key decision makers. Again, this round of coding was used to help me understand my data and in this round, to understand the participants and their experiences but the code list from round one and two became too big to provide analytical rigor for my analysis.

4.10.3 Round 3: Framework Matrix

A framework matrix was utilized to analyze the interviews conducted with the participants. A framework matrix uses codes, or nodes, to help sort the data, in this case responses to my interview questions; I used this to look for trends depending on the individual’s
classification or group membership. Nodes used for the framework matrix include Stakeholding Group, Gender, Frequency of Participation, Cincinnatian, Resident, and Facilitator. The framework matrix was utilized to look for patterns among survey responses. In other words, I evaluated how individual members of the same stakeholding group answered the same interview questions. Once individual responses were assigned according to respective nodes, all of the interview responses were summarized and included as a summary node for each question. What resulted was a database that could be sorted and compared along the above nodes. This allowed me to see patterns among the group members; for example, to see if members of the African-American stakeholding group defined the problem in Cincinnati similarly. Several patterns did emerge when I analyzed the participants’ responses using a framework matrix; however, due to the limited number of interviewees, broad generalizations were not possible. Despite not being able to generalize about the attitudes and opinions of any particular group, patterns did emerge and were used to triangulate other findings.

4.10.4 Round 4: Pattern Matching

To analyze the above-mentioned data, I utilized a pattern-matching approach. According to Yin (2012), pattern matching utilizes a theory driven technique to match empirically based patterns, patterns discovered in the collected data, with predicted patterns as derived from the literature (Yin 2012, 17). I focused the remainder of my analysis on pattern matching. Using the results and insight I gained from the above analysis as well as what the deliberative democracy literature describes as successful deliberation, I operationalized each of my six evaluative criteria. I then coded my data to see if the Collaborative Agreement Process matched to what the literature said constituted a successful process. While writing each of the substantive analytical chapters, I further analyzed the data to create and consolidate codes within the evaluative
framework. This type of coding took place over the course of several years. The final code list can be found in the Appendix. In this iterative process of developing codes and analytical methods, I structured my study with the objective of being a valid and reliable case study.

4.11 Validity and Reliability

Multiple steps were taken to increase the validity and reliability of the Cincinnati Case study. As described above, multiple sources of data were used and, through copious note taking and organization, a chain of evidence was created. A research database was populated that allowed for quick access to all the electronic records for this case, which were numerous (Yin 2003). Additionally, by using pattern matching driven by theory, I strengthened both the internal and external validity of a single case study (Yin 2003). Every effort was made to construct a sound and rigorous single case study. In spite of these efforts, it is necessary to discuss how this analysis deviated from the dissertation prospectus.

4.12 Changes from the Prospectus/Research Proposal

In my prospectus/research proposal, I proposed a mix of both micro level and macro level analyses; however, this research resulted in a macro-level analysis that I argue is necessary prior to carrying out a micro level analysis. My initial aims were to both demystify the black box, in the Cincinnati Case, of deliberation, while at the same time analyzing the deliberation within the system as a whole, which proved to be overly ambitious. I had also proposed analyzing the individual’s level of understanding within deliberative democracy practices by attempting to understand how one’s identity was challenged, changed or reaffirmed through the deliberative interactions with others. I made this decision because this was, after all, an identity-driven conflict. Jay Rothman even attempted a more conflict resolution type of approach to address this conflict over identity but was forced to adopt a process that more closely resembles a visioning
process than a conflict resolution process. I was unsuccessful in structuring an interview protocol that resulted in process participants, also interviewees, producing meaningful dialogue about identity or one’s sense of self. I had also anticipated the survey database being valuable to such analysis; however, the database was incomplete and not usable in this aim. Although the connections between individual identity and participation in deliberative democratic processes is an important and necessary research aim, the data just did not support this level of analysis. However, I suggest that what I did accomplish was far more important to understanding the Cincinnati case because of what it contributes to the field of deliberative democracy. Because of my focus on deliberative democracy at the expense of identity and sense of self, I was able to evaluate this case in greater depth with regard to deliberative democracy issues than if I had both focused on both identity and deliberative democracy. Although this dissertation focuses primarily on the macro level, my treatment of the various stages of the Cincinnati Collaborative Agreement Process also drills down, identifying and then critically analyzing the detailed dynamics of the respective stage of the process as I evaluate the degrees to which the process met the six criteria for deliberative democracy. To my knowledge, no comprehensive account of the Cincinnati Collaborative Agreement Process exists, to say nothing of the sort of detailed analysis of the process that is contained herein. It is necessary to provide this account as other communities look to the Cincinnati Model as a means to improve police-community relations.

I am writing this dissertation for several reasons. I am from Ohio and these events took place in my back yard. I want to analyze how an Ohio city turned tragedy into a model that could serve as a way for other communities to address their sometimes violent relationship with

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12 The database being referenced is the database that was supposed to have the individual responses to the survey questions asked during the public input phase of the Collaborative Agreement Process. Once I did access this database, I learned that the database did contain the individual responses but did not contain any identifying or group level information and was therefore unable to be analyzed beyond general observations.
the police. Additionally, as trust in government declines and as participation in civic organization declines as well (Leach and Sabatier 2005), I am interested in studying ways in which average citizens can become more involved and make a difference in the policy making process. With this analysis, I aim to contribute to the field of deliberative democracy by providing a comprehensive evaluative analysis of the Cincinnati Case along six criteria, and with enough detail to help other communities struggling with police-community relations to have a better understanding of one possible solution to similar problems. This analysis begins in the next chapter, where I document and analyze how both planner and participants understood what could be accomplished through a deliberative process and how public input was collected to influence decision makers.
CHAPTER 5
INFLUENCE

According to Levine, Fung and Gastil, there are six criteria that scholars agree are necessary for successful public deliberations. This chapter focuses on the first criteria, a criteria that evaluates the soundness of a deliberative practice, “The realistic expectation of influence (i.e., a link to decision makers)” (2005, p. 2). A successful deliberative process is one that manages the expectations of the participants as well as has a defined structured link to the decision makers that results in the decision makers incorporating the public’s input. In this chapter, I will first review the literature that discusses expectations of influence. Next, I will analyze how the problem that ultimately resulted in a deliberative process was defined by participants and decision makers in Cincinnati. Then I will discuss how participants and decision makers differed in what they hoped to get out of a deliberative process. Finally, I will analyze how expectations were or were not managed as well as how the public’s input was provided to the decision makers.

A fundamental aspect of deliberative democracy is incorporating the public’s goals into the decision making process (Beierle and Cayford 2001). According to Rowe and Frewer (2005), there are three mechanisms for engaging the public: public communication, public consultation and public participation. Each differs in how information is passed between the public and the decision-makers. Public communication involves a one-way flow of information from the decision makers to the public. If the public provides input, there is no structured way to capture and respond to this input. Public consultation is also a one-way flow of information but is from
the public to the decision makers. In a public consultation process, the public and the decision makers do not directly engage in dialogue. Public participation, on the other hand, consists of a two-way flow of information and includes some form of dialogue (Rowe and Frewer 2000, 255–56). The public has a different role in each of the three categories. Regardless of which of the three types are being used, participants should have a clear understanding of how their input will be used.

In what Abelson et al. described as “citizen engagement” and Rowe and Frewer described as “public participation” the goal is to incorporate public input as “full and equal partners” (Abelson et al. 2007). However, a citizen engagement process looks very different than a public communication process where citizens are solely “recipients of information” (Abelson et al. 2007). If the public does not understand how their input will be used as public input or communication, they could become disengaged and develop unrealistic expectations of what could happen if they participate. Additionally, participants could become frustrated if they understood their input was going to be used a certain way but the input is used in a different way or even not at all. The public could become disenfranchised or even have a decreased level of trust if this is not clear.

One of the main complaints about deliberative practices is that they often have been perceived as ineffectual, conducted to give an appearance of consultation without there being any intent of acting on recommendations (Rowe and Frewer 2000). This results in public skepticism and distrust concerning the motives of sponsors (Rowe and Frewer 2000, 14–15). Therefore, instead of increasing trust between parties, as Rowe and Frewer (2000) explain could happen, ineffectual use of public input can decrease trust in the deliberative process and even in government. Political trust, or trust in the government, had been on a steady decline in the
period preceding the events being studied in Cincinnati (Hetherington 1998, Putnam 2000). And not only were people trusting the government less, they were not participating in the social and political situations necessary for developing their social capital (Putnam 2000). According to Putnam, “For better or worse, we are forced to rely increasingly on formal institutions, and above all on the law, to accomplish what we used to accomplish through informal networks reinforced by generalized reciprocity—that is through social capital” (p. 147). Deliberative democracy events with citizen engagement can help participants develop social capital. According to Innes and Booher:

Formerly competing or even warring stakeholders can develop new personal and professional networks among themselves and, as a result, change the dynamic within the dialogue as well as outside it. Instead of demonizing or stereotyping each other, they can contact each other to sort out issues before they come to a head. They can find their common interests and trust each other sufficiently to work together toward ends that require political coalitions. Social and political capital is the essence of building an adaptive, higher performing system (Innes and Booher 2003a, 9–10).

Deliberative democracy participants can benefit from increased social capital, but can benefit in other ways as well. According to Irvin and Stansbury (2004), citizens can achieve the following benefits by participating in a public deliberation: “education (learn from and inform citizens), persuade citizens (build trust and allay anxiety or hostility), build strategic alliances, gain legitimacy of decisions, break gridlock, achieve outcomes, avoid litigation costs, and better policy and implementation decision” (2004, 56).

Since there are multiple ways the public can be included in deliberative democracy depending on the goal, it is important for decision makers to ensure the public understands how
their input will be collected as well as how it will be used. However, as Wondolleck and Yaffee point out, extolling the benefits of involving the public, or simply going through the motions of public involvement without achieving actual influence is not enough. They explain:

Successful efforts at collaboration pay more than lip service to the benefits of involving diverse interests in decision making. Rather than seeing public involvement as a statutory requirement or something to do because it is politically correct, collaborative efforts that view the ideas and buy-in of partners as integral to finding an effective solution are more likely to achieve good outcomes (Wondolleck and Yaffe 2000, 104).

Many deliberative processes, however, do not result in social changes or directly impact a public decision. Knowing this, participants have little incentive to take part if they feel what they are doing will not make a difference. Depending on the goal of the deliberative process, policy change may or may not occur. According to Levine, Fung and Gastil, there are two objectives for public deliberation. In one instance, the goal of deliberation is to “build networks of citizens, to develop new ideas, to teach people skills and knowledge to change attitudes- rather than influence government” (Levine, Fung, and Gastil 2005, 4). In the other instance, the goal of a deliberative process is to directly influence policy. Whatever the goal of the deliberation, it is important that it is specified and clear upfront. When participants are misled to think that new policy and implementation will result from deliberation but the deliberative decisions are ultimately ignored, resentment may develop (Irvin and Stansbury 2004). Therefore, it is crucial that expectations of influence are clearly described at the outset. Rowe and Frewer explain that to do this it is necessary for the public to have a clear understanding before beginning the process of what can be accomplished and how this will or will not influence policy depending on the objectives of the deliberative process.
Decision makers should also have a realistic expectation of what they can and cannot do as a result of the deliberative outcome as well. According to Rowe and Frewer, decision makers should not put themselves in a position where the result of the deliberation is binding or where they give away all of their power to participate (2000). There must be some balance between incorporating the public input at face value and tempering the input based on institutional limitations. Therefore, those in charge of the deliberation clearly should explain to participants how their input will be used and what outcomes can be expected. Even with expectations clearly articulated, participants may have an unrealistic, even impossible understanding of what could happen and this could translate into exaggerated expectations (Davis 1996).

To evaluate the Cincinnati case I will first evaluate how the problem was defined in Cincinnati. Second, I will describe the structure of the deliberative process, including objectives and processes as set by those who constructed it. Next, I will evaluate the different aims of those who participated in the deliberative process and those who constructed the process to analyze how these differences influenced individuals’ expectations. Finally, I will evaluate how expectations were or were not managed.

Before beginning this analysis, a brief overview of the aspects of the Cincinnati Collaborative Agreement Process, as analyzed in this chapter, is presented. The Collaborative Agreement Process was the result of a federal class action lawsuit. To settle the lawsuit, Judge Dlott, along with the parties to the lawsuit, the Cincinnati ACLU, BUF, FOP and the City of Cincinnati, agreed to take part in a deliberative democracy practice. I refer to the parties, the Judge and those who helped construct the process as decision makers, meaning they had influence over the process development and its implementation. Citizens participated in three
phases of the Collaborative Agreement Process: Getting Out the Voice (surveys); Shared Visions (Feedback Sessions); and Integration (see the blue boxes in the figure below).  

13 The table below represents the same events that appeared in the Figure 3-1 in Chapter Three. The figure in Chapter Three depicts how the Collaborative Agreement Process was a parallel process with the Department of Justice investigation that resulted in the Memorandum of Agreement. Figure 5-1 below represents the detailed events of the Collaborative Agreement Process. To help avoid confusion for the readers, I am depicting only the Collaborative Agreement Process events, as they pertain to the evaluative criteria, in Chapters Five through Eight. The Department of Justice investigation and the resulting Memorandum of Agreement are again introduced in Chapter Nine.
Figure 5-1 Flowchart: Structured Link to Decision Makers

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Design/ Cincinnati Sings</th>
<th>Getting Out the Voice</th>
<th>Shared Visions*</th>
<th>Integration**</th>
<th>Negotiation/ Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>June - August 2001</td>
<td>Class Action Parties: ACLU, BUF, FOP, City</td>
<td>Individual Goals</td>
<td>Feedback Sessions with 8 Stakeholding Groups</td>
<td>Integration Group (58)</td>
<td>Final CA Goals (5 Goals)</td>
</tr>
<tr>
<td>July-November 2001</td>
<td>ARIA Group</td>
<td>ARIA Group</td>
<td>Final Stakeholding Group Goals</td>
<td>Integration Goals (5 Goals)</td>
<td>Collaborative Agreement (5 Goals)</td>
</tr>
<tr>
<td>November - December 2001</td>
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<tr>
<td>January-April 2002</td>
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* Eight Stakeholding Groups (African-American, Social Service and Religious, Business and Philanthropic, Police Officers and Spouses, City Officials, White Citizens, Other Minorities, Youth) were used to organize the Feedback Sessions as well as to guide selection of the Integration Group Representatives.

**Integration Group consisted of five to ten members of the eight Stakeholding Groups.
5.1 Problem Definition

Three explanations of the problem emerged through coding and analysis of interviews, newspapers and court documents. Some Cincinnatians thought the problem of the violence was White vs. Black, including decades of mistreatment and discrimination of the African-American population by Whites. Another explanation of the violence was Black vs. blue with blue meaning the police. Individuals who gave this explanation of the problem explained a history of discrimination by the Cincinnati police that targeted African-Americans. The third explanation that people gave was a problem with what I call the “blue book” explanation, or policing policies and practices. Those who thought this was the problem said that it was not discrimination, but rather a need for improved policies or better customer service. These three explanations of the problem are examined below.

Those who defined the problem as White vs. Black attributed the problem to a community-wide cultural conflict between African-Americans and White citizens. Craig Richmond, who participated in the deliberative process and was interviewed for this dissertation, pointed to the riots as an indicator of just how bad the race relations had become in Cincinnati. He could not understand how tensions between the Black community and White community had reached the point of a riot and he “was upset that we hadn’t gotten beyond those kinds of things in the community” (Richmond, Craig, Interview, October 4, 2010). Richmond’s sense of disbelief was echoed in how Margaret Singer defined the problem.

For interviewee Margaret Singer, it was a serious intolerance of different races that led to the riots. She wanted a change. She said that Black and White Cincinnatians were not interacting at that time and that the deliberative process was structured to address race relations
more broadly. She said “I think it is set up to equally treat all different races and also to have more participation from the neighborhoods” (Singer, Margaret, interview, October 5, 2010).

Although some in Cincinnati pointed to a conflict between African-American and White citizens, the more prevalent description of the conflict was a problem of Black vs. blue. The class action lawsuit that was the organizing vehicle for the Collaborative Agreement Process, for example, defined the problem as unchecked discrimination by police officers, or Black vs. blue. Many others, in addition to those who provided their accounts as part of the lawsuit, shared this understanding. In a series of declarations for the lawsuit, African-American citizens recounted their experiences of discrimination by the police. Adelle McCray described her terrifying experience.

On or about the beginning of the year 2000, my family and I were on our way to pay a pager bill near the Brighter Day Bookstore. We were pulled over by a Cincinnati police cruiser. A White female cop with red hair jumped out of the police cruiser and ran to our brown Buick and pulled my son Matthew out of the car. She grabbed Matthew by his collar and dragged him out of the automobile. I then got out of the automobile to ask what was going on. My son for some reason started saying ‘no mom’ ‘no mom’ as I looked over my right shoulder the other White male officer had a gun pointed at my head. The police claimed they were looking for robbers who held-up a place called ‘Goodies.’ They told us they were looking for a silver automobile, however, the automobile we were driving was brown (Declaration of Adelle McCray).

McCray felt that she and her son were held at gunpoint for no other reason than they were African-American. She was stopped by the police despite her vehicle not matching the description of the one the police were looking for and, in a terrifying moment, had a gun pointed
at her head. Alfred Olverson also feels that he was purposefully stopped, because he was African-American, in front of colleagues to embarrass him. He explains,

On or about August of 1999, my wife and I left our business on California Avenue, in Cincinnati, Ohio heading towards Hartwell to Burns Avenue where we had a prearranged meeting with three officials of the Ohio Department of Education and others to see a prospective charter school location. When we got to Burns Avenue we slowed down to look for the exact address of the building that we were meeting to see. I was able to locate the building that he meeting was going to take place in when I saw the Department of Education officials standing outside of the building. At that moment, my attention was turned toward loud sirens and a police cruiser behind me. I stopped my automobile the officers got out of the automobile with guns drawn scaring myself and my wife to death. I rolled down the window and yelled back at the officers why are you stooping me and why do you have your guns drawn on me and my wife. The officer yelled out that I was driving a stolen car, mind you, it was registered in my name. It appeared that the officers wanted to embarrass me in front of the people that were now gathering with my business colleagues. The officer tried to show me that my car’s serial number was on his computer. I saw several numbers (5 or 6). He did not realize that I am in the business of insuring autos and that I know there are 17 alpha-numeric characters in the serial number for my car. He tried to place the blame on others by showing an incomplete serial number. After humiliating me and my wife in front of my colleagues and my fellow citizens, the officer was looking for a stolen Honda motorcycle. The OMI report indicated that a Wyoming Police officer informed him of his error on the scene but the officer never acknowledged an error. He told us that our car was reported stolen. I am
frightened every time I drive my car that I will be stopped by officers with guns drawn. Like all citizens, I need police protection. This experience I have related and my perception of widespread racial discrimination by the Cincinnati Police makes me less likely to call the police and more distrustful when I do encounter the police (Declaration Alfred E Olverson).

McCray and Olverson are just two of more than a dozen African-Americans who gave their declarations for the lawsuit. Even though only twenty-three individuals recounted discriminatory treatment by the police in the form a declaration for the lawsuit, many other African-Americans in Cincinnati said they experienced the same discriminatory treatment.14 Their experiences with the police describe a problem of discrimination by the police, or as summed up by a documentary, they were simply guilty of “Driving While Black.” These accounts detail a lack of trust, and in many cases, a deep fear of the police.

Despite these accounts, some in Cincinnati defined the problem a third way, as simply bad policies or subpar customer service from the police and not problems rooted in a deeper issue, which I have called the blue books explanation. This blue books approach was the opinion held by the police leadership as well the police officers interviewed for this dissertation.

Just weeks before the riots, for example, in response to the filing of the lawsuit, Police Chief Tom Streicher said that he did not think that police had a problem with racial discrimination. Rather, he encouraged the City of Cincinnati’s Law Committee to pass legislation that would require the collection of additional traffic stop information to evaluate the complexity of the situation pointing to police policies, if there was any problem at all

14 I located these declarations in the documentation given to me by Dr. Rothman.
Chief Streicher’s description of the problem, or a lack of problem, was shared by Officer Meece.

Officer Meece thought the tensions were the result of negative perceptions. He explained, in a feedback session, that what some see as racial profiling is really just bad customer service. He thought that officers needed to communicate better with citizens and if the police department learned to “do that a little bit better, then some of the [negative] perceptions will go away” (Goetz 2001a, n.p.). In his experience, he said he had never witnessed a fellow police officer stopping someone because of his or her race and therefore this must just be a problem of perception (Goetz 2001b).

Julie Johnson, an African-American police officer who was interviewed for this dissertation, carefully defined the problem as a blue books or policing policies problem. She first explained that her department was an accredited and professional department and that was something she was proud of. But she said there was always room to improve policing policies. “I always think there is room for improvement on anything, so I definitely think that it [The Collaborative Agreement Process] made us take a good long hard look at some of the things that we were doing” (Johnson, Julie, interview, October 5, 2010). But, she was also quick to point out that, despite there being room for improvement, the police were not to blame. She said, “Was something necessarily wrong? No. In terms of policies, there is room for improvement” (Johnson, Julie, interview, October 5, 2010). She understood the general need to improve policies, but not as a result of a specific racial problem. Although Johnson was willing to acknowledge the need for improvement, this view was not shared with some of the police leadership. Initially Fraternal Order of Police President Keith Fangman was adamant that the problem was one of perception and not that that police did anything wrong.
The following exchange epitomizes two competing understandings, the “Black vs. blue” and “blue books” explanations, as well as the emotion, pain and distrust that accompanied these two different understandings. A newspaper article titled, “Heads of NAACP, Police Union Clash on Talk Show,” captures the conflicting problem definition prevalent in Cincinnati, especially what some feel as unchecked discrimination met with a “don’t blame the police” narrative between the NAACP and the FOP. This article details a conversation between NAACP President Kweisi Mfume, who defines the problem as Black vs. blue, and FOP President Keith Fangman, who defines the problem as blue books, that took place on a local radio program on April 16, 2001, only days after the riots. When the radio host asked Mfume what caused the riots, he answered,

More than anything else, it has been 20 to 25 years of neglect and frustration of profiling, of a second-class feeling in Cincinnati. White citizens and Black citizens for all that time have been pleading for somebody to take a look at what was going on there, to respond. This didn’t happen…All this just bubbled over, but not because of this one incident, because of a number of incidents like this over the years (Heads of NAACP, Police Union Clash on Talk Show 2001, n.p.).

When asked to respond, Officer Fangman was quick to point to police policies, i.e., the blue books, and to statistics to describe the problem. This was not a response that Mfume was willing to accept. Fangman responded to Mfume saying,

I would say in terms of the Timothy Thomas shooting last week, it is still under investigation. We don’t know all of the facts. I can’t sit here and say that Officer Roach is innocent or guilty simply because it has been sent to the grand jury under subpoena, but I will say one thing: Of the 15 police-intervention deaths involving Black males since
1995, 12 of those 15 suspects were armed with deadly weapons. Eight of them were armed with guns in which they shot at our officers or pointed guns at our officers. One was armed with a brick. One was armed with a 2-by-4 with a cluster of nails on the end of it, and two were armed with automobiles, one in which our officer was dragged to his death (Heads of NAACP, Police Union Clash on Talk Show 2001, n.p.).

When pushed further about the racial imbalance of Black men vs. White men killed by the police, Fangman said that “I can assure you and your viewers that of those 15 suspects, 13 of whom were armed with deadly weapons, if everything was the same except those suspects were male Whites pointing guns at us or shooting us, the result would have been the same” (Heads of NAACP, Police Union Clash on Talk Show 2001, n.p.).

Mfume was not satisfied with Fangman’s lack of addressing or defining the problem and, in his estimation, Fangman was ignoring the past. By citing a long history of imbalance between the African-American community and the Cincinnati Police that he refers to as a “debt” owed by the police, he said,

Well, you know, Mr. Fangman is adept at trying to change the debt [owed to the African-American community as a result of the police mistreatment]. You asked him, was the problem brewing all along. He has yet to answer that question. You asked him also, is there something wrong? He has yet to answer that. The fact of the matter is not to point fingers. We believe that there are decent men and women, officers of this police force, that are being tainted by the actions of a few, and I have had officers come up to me in the street, Black and White, saying ‘Please don’t leave this issue, this is important for us.” After the funeral yesterday- after the funeral, the governor and the mayor and all the community there trying to put the community back again, one block away police officers
open up fire in a crowd, hitting a woman, shooting two little girls. Mr. Fangman does not
address that sort of stuff, and this is the kind of thing that I have been saying for years has
been building. There has got to be an admission of the fact that there is a problem (Heads
of NAACP, Police Union Clash on Talk Show 2001).

As the exchange between Mfume and Fangman demonstrates, not only were there
multiple definitions of the problem, but there was conflict over the definition. In fact, as it
developed, Fangman, along with other leadership of the police department, felt that a problem-
definition process would result in assigning blame only to the police officers. Because of this,
the police leadership refused to take part in the Collaborative Agreement Process and would take
their chances in court if it were going to include a focus on specific, presumed problems
attributed to the police.

The conflict extended beyond how the problem should be defined to conflict over what
should be done to address this problem, as will be analyzed below. However, before discussing
the conflict or the proposed solution, I will discuss the aims and objectives of both the
participants and those responsible for planning the process.

5.2 Aims and Objectives of the Collaborative Agreement Process

As Davis (1996) said, when an individual’s aims or objectives do not match the aims and
objectives of a deliberative democracy process, an individual can become frustrated and even
disenfranchised. I evaluated this claim in order to articulate how aims and objectives could
either result in, or had the potential to result in, frustrations or exaggerated expectations of what
the process could accomplish. To evaluate to what degree individual aims met the stated aims of
the deliberative democracy process, I coded a variety of data including my interviews of
participants, elites and decision makers, facilitator Why notes, participant How statements,
documents constructed by the ARIA Group, and court documents. I coded these sources looking for how people described their aims or objectives. What I found was that a person’s aims or objectives, in this case, fell within four categories: participant’s personal objectives, participants’ process objectives, decision makers’ personal objectives and decision makers’ process objectives. I found that the aims or objectives that were articulated were either personal or process oriented and varied whether the individual was a citizen participant or someone who planned the process. Personal objectives included what an individual wanted to get out of the process themselves. Alternatively, process aims or objectives included what individuals wanted the process, or the Collaborative Agreement Process, to accomplish for the city or the city inhabitants. Additionally, another differentiation became clear: an individual participant’s objectives were often different than a decision maker’s objectives.

5.3 Citizen Participants’ Personal Objectives

When I evaluated the data, it became clear that citizen participants wanted to “do something.” They wanted to have a dialogue and to learn and be a part of something bigger. This can be seen in the interviews I conducted as well as in the facilitator Participant Why notes. One facilitator said, when asked why they were there, “I want to make a difference, to change the way things are.” Craig Richmond, said, “If you have a serious problem in a community, and clearly we did or we wouldn’t have had race riots, and you have some allegiance to that community…. I wanted to do something positive to help in that respect. So I did it” (Richmond, Craig, Interview, October 4, 2010).

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15 As part of designing the feedback process discussed in subsequent chapters, Rothman held practice Feedback Sessions to train and prepare the volunteer facilitators. As part of this training process, volunteer facilitators were asked why they were at the meeting. I refer to these notes as facilitator Why notes. Cincinnati citizens were asked how they wanted to see police-community relations improve.

16 I am defining participant as a person who completed the survey and took place in at least one feedback session, but did not have power or influence over the design of the input gathering.
In addition to wanting to make a difference, participants wanted to learn. Wesley Hinton wanted to become more educated about the situation as well as engage in dialogue: “I wanted to learn about the situation in the city and I wanted to meet all the people who talk about each other in the newspapers all the time and find out what they were really like… I think watching them share their viewpoints with each other was very enlightening” (Hinton, Wesley, interview, October 4, 2010). Jan Seymour shared the desire to learn, “I think my objective was for me to learn what was happening and to understand the process and to know that and also contribute my ideas as a citizen” (Seymour, Jan, Interview, October 1, 2010). Not only did Seymour want to learn, but she wanted to be heard. This concept of being heard and starting the dialogue was a common theme among both my interviewees as well as the volunteer facilitators’ objectives as described in the meeting notes I analyzed. Participants wanted to be heard, to start a dialogue and to learn, these were their personal objectives; however, what participants wanted from the process was not always clear.

5.3.1 Citizen Participants’ Process Objectives

Using the same data sources described above, I examined participants’ aims and objectives to determine what they were expecting this process to accomplish. Several themes emerged when I coded this data. Participants wanted to come together, exchange ideas and engage the community in dialogue but wanted to do it in a way that was safe for all points of view. Additionally, participants saw this opportunity to take part in an interaction with elected officials in a way that was more open to their input and to have influence in a way not afforded to them normally.

Participants wanted an opportunity to participate in deliberation where their voice could be heard and where they could listen to others as well. In doing so, it is notable that many saw
the Collaborative Agreement Process as more democratic than public meetings. Terry Murray said, comparing the Collaborative Agreement Process to other processes, “I’ll say the collaborative meeting [was more democratic] but because you could say more and people at least get to hear your opinions whether they agreed, it sunk in with some other issues” (Murray, Terry Interview, October 6, 2010). Craig Richmond echoes this sentiment that the collaborative was a better expression of democracy by saying, “In a collaborative process, at least in my mind, you have an opportunity to participate in a forum that allows you to address issues and you may walk out of that room with a different opinion than you had when you came in” (Richmond, Craig, Interview, October 4, 2010). Therefore, for Richmond, the Collaborative Agreement Process provided an opportunity for participants to deliberate and form and change opinions based on the dialogue and participation of others. This change of opinion as a result of dialogue is a characteristic of what some scholars describe as ideal deliberation (Cohen 1997). In many ways, it is the bedrock of sound democratic practice. Even Melva Gwyn, who had an overall negative view of the Collaborative Agreement Process because she felt it was unnecessary said, “… it was very significant, only it was significant because of the fact that it was done and that people were listened to and were part of the process” (Gwyan, Melva, Interview, October 6, 2010). Although she thought the process was a waste of time and money, she felt there was some positive impact in that people were able to speak and be heard.

Participants wanted an opportunity to exchange their ideas and influence the outcome in a safe space. Meghan Clarke, when comparing the collaborative to other traditional methods of participation such as a public meeting said, “I think that the collaborative was more democratic in that it creates the space for people to actually agree with the future and look at each other.” Ken Cecil wanted a process where those in authority set aside that authority to allow for a safe
space for individuals to show up as themselves and engage in dialogue then address what was surfaced. He compared the Collaborative Agreement Process to an open space model saying:

Make sure the space is completely safe. Make sure the space is set where people can be safe and I don’t mean just physical safety but also safe enough to be themselves. Then just whatever shows up is meant to show up.

In his estimation, the Collaborative Agreement Process never achieved this level of safety in dialogue. Even though Ken Cecil was not satisfied with the authenticity of the dialogue, he acknowledged the influence the Collaborative Agreement Process had on one decision maker, Judge Dlott. He said,

We need to have some people that are willing to truly set aside the clowns, the authority, for what may happen. Knowing that it may not be pretty, knowing that it was not going to be anything familiar, but that it was going to be ugly for a while because there’s going to be new.

Therefore, what Ken Cecil wanted was authentic influence to come from the dialogue, not the façade of artificial influence that accompanies many deliberative practices as outlined in the beginning of this chapter. However, it goes without saying that this authentic influence was only made possible by the decision maker’s sharing in this objective.

5.3.2 Decision Makers’ Process Objectives

I uncovered two different aims of the decision makers; one objective was the need to gather community goals to guide negotiations and make a decision about moving forward by focusing on the past. Another narrative focused on the benefits and desire for a deeper resolution to the conflict. These two different process objectives surfaced as a result of my analysis of interviews, publications and court documents.
In my interview with Judge Susan Dlott, she explained the objective of gathering the public goals was to include community input in the negotiations. Judge Dlott wanted to make an agreement quickly but received opposition from the ACLU and the BUF. She said

[We] probably could have speeded it [community input] up during that period of time.

Jay’s [Rothman] work took a while, took several months, which added to that year a lot. Maybe we should have started the negotiations sooner but the plaintiffs [ACLU, BUF] didn’t want to do that until they had some idea of what the community wanted.

Although Judge Dlott agreed to include the public, she originally did not see its value.

At the time at least, I did not think it was real important because I thought that the goals were obvious, you know. And I attended one or more of those community meetings and I listened to them. I frankly thought it was just a lot of talk. That was wasting time. We needed to get down to the serious negotiations because it seemed to me the goals were obvious. People wanted to be treated with respect. (Dlott, Susan, Interview, January 7, 2014).

What is apparent is that one of Judge Dlott’s objectives was to reach a negotiated settlement. She could have easily interjected and expedited the community input process or even excluded it all together. However, she did not speed it up but rather moved forward in a deliberate way that kept the ACLU and the BUF engaged. Ultimately, she saw the benefit of the community input. Dlott was willing to allow a negotiated way forward that was different from her initial vision.

Judge Dlott saw the community input as a way to inform the negotiations, as a way for the community to be heard. Her ultimate goal was negotiating a settlement to the lawsuit and community input would inform these negotiations. However, she is quick to point out that
inclusion of the community input so valued by the plaintiffs was the result of the influence and
guidance of Alphonse Gerhardstein, a civil rights attorney and lawyer for the ACLU. She said
Gerhardstein did not want to start negotiations without first finding out what the community
wanted in terms of their goals for the future of police-community relations.

Alphonse Gerhardstein explained the purpose of the Collaborative Agreement in an
article he authored entitled “Group-Conflict Resolution Sources of Resistance to Reconciliation:
Can Effective Apology Emerge Through Litigation?”

The purposes of the Collaborative Agreement were to resolve social conflict, to improve
community-police relationships, to reduce crime and disorder, and to fully resolve all of
the pending claims of all individuals and organizations named in the underlying
litigation, to implement the consensus goals identified by the community through the
collaborative process…and to foster an atmosphere throughout the community of mutual
respect and trust among community members including the police (Gerhardstein 2009).

According to him, the purpose of the Collaborative Agreement Process was to “resolve
social conflicts” or a White vs. Black definition of the problem. This is a much larger and
different undertaking than engaging the community in a visioning process.

Initially, Jay Rothman, architect of the public input process, wanted the process to be one
that engaged in problem definition. Rothman explains the fine line that he had to walk between
his objectives and the objectives of the parties to the lawsuit (ACLU, BUF, City, FOP):

In April 2001 when I was retained by the court to help mediate and guide the parties
along this new path, it was based on previous work in community development and
experience in addressing ‘identity-based conflict’ in both international and domestic
settings (Rothman 1997, 2006). My experience overlapped well with the Judge’s view
that the ‘social conflicts’ are at the root of the controversies over perceived or actual racial profiling [and] needed a broader and deeper process than could be afforded by a win/lose court battle… I first proposed a problem-definition process, suggesting to the parties that without a common definition of the problem of racial profiling, they would have difficulties finding a common solution (Rothman 2012b).

In his practice, Rothman argues that the process of problem definition is a necessary starting point. He refers to this as “antagonism” and thinks this step is important because it “allows a period of emotional vetting that can bring buried and pent-up issues to the surface, it presents a point of comparison and contrast to the process that will follow, and it helps create motivation for change” (Rothman 1997, 23).

5.3.3 Decision Makers’ Personal Objectives

In addition to having process objectives, those who shaped and designed the Cincinnati events also had personal objectives. Those who were designing this process understood the importance of what they were doing and wanted to leave their mark. The Cincinnati Collaborative Agreement Process was referred to by then Attorney General John Ashcroft as a model and a blueprint as well as a process that could be utilized in other situations. Even in the beginning stages of the Cincinnati Collaborative Agreement Process, the visionary and groundbreaking nature of what was about to happen was known. Therefore, those who were designing the events realized that this was their opportunity to make an impact and leave a legacy in their respective fields.

Dr. John Eck, a criminologist and professor at the University of Cincinnati, was asked to lead the collection of best practices and present this information to the parties of the lawsuit (ACLU, BUF, FOP, City) as part of refining the public’s goals. John Eck saw his opportunity to
implement a strategy that was the focus of his academic work, community problem oriented policing. Much more will be said about his role in upcoming chapters, but it is important to note Dr. Eck’s personal objectives as they relate to his participation. At no point in my interview with Dr. Eck did he mince words, and he was up front with the fact that he had an agenda. He said, “I’ll be honest with you right from the beginning, when I was first asked to participate in this, and I started listening to things, I thought to myself, ok, if I’m going to be a part of this, how am I going to approach this, and my first thought was, well, I’m going to push the kind of things I think are important, and I already knew what they were.” He wanted to see an increased focus on community problem oriented policing.\footnote{For more information about his influence and the role of the Expert Panel, see Chapter Eight.} When he reflected upon his involvement, he was more than satisfied. He said, “This is one of my great satisfactions of my career. I’m really pleased to have been part of this thing” (Eck, John, Interview, January 8, 2014). Eck was not the only one who saw his opportunity to further his career, Dr. Jay Rothman did as well.

As discussed previously, Jay Rothman and his ARIA Group were contracted by Judge Dlott to design a mechanism to gather and synthesize public input. He was selected because of his past experience as a mediator; however, he had never conducted a project of this size. Therefore, he had a lot to lose in his position. His reputation, as well as potential future work, depended on his success. In an interview, he described this sense of importance, saying, “I would have liked to have not been always inventing as we were going. We didn't have much of a precedent in terms of whether what we were doing made sense and whether it was going to work. On a small scale I had, you know, 25 people in this foster care agency [at which he used a similar process]. I had another couple dozen projects I'd done, but we didn't have any kind of model for this kind of systemic, gigantic project” (Rothman, Jay, Interview in Beyond
Intractability). Additionally, in ARIA notes about the Feedback Sessions, Rothman voices concerns about the stress that was placed on both him and his team. By taking this project, Rothman was risking his reputation and potential future work if he was not successful.

Judge Dlott also took a risk. In an interview with the Judge she explained that she saw these cases as her opportunity to make a lasting difference or to leave a legacy. She said, …I was really sorry I wasn’t the federal judge during the days of civil rights… I thought to myself, I wish I had been a federal judge during that time, that I would have an opportunity to really make a difference, and it occurred to me that this was something similar that only the Federal Court could order all these different people to negotiate—to come in and talk to each other (Dlott, Susan, Interview, January 7, 2014).

Even though she was a relatively new judge, only having served in that role for about five years, she saw an opportunity to leave her mark and she took it.

These three individuals wanted to make an impact in the neighborhoods of Cincinnati going forward and also to leave a legacy in their professional fields. They wanted to be part of creating and implementing a successful process. For each of the three, a successful process could serve as a highlight of their careers, as Eck expressed it. This personal desire, a successful legacy, affected how much each of the three was willing to compromise his or her personal objectives to see success. John Eck, for example, did not see a need to compromise. He was included for his expertise on policing and as the expert he was going to enforce his agenda of community problem oriented policing. In contrast, Judge Dlott and Jay Rothman had different roles which forced them to accommodate other interests and to compromise if they wanted to continue in the Collaborative Agreement Process.
Judge Dlott was willing to compromise and allow decision makers to negotiate the terms of the public input collection. By doing so, she was able to keep all parties at the table. Jay Rothman was also forced to compromise in order to keep all the parties at the table. However his compromise resulted in moving away from a problem definition process.

5.4 How Problem Definition Shaped the Proposed Solution

Initially Jay Rothman wanted to design a public input process that resulted in a shared understanding of the problem, as described above. The police leadership refused to take part in anything that would define the problem as Black vs. blue. Because this was part of a negotiation to settle a court case, the police could walk away and prevent community collaboration. If the problem was defined as Black vs. blue, then the police were to blame and this was not something the police department was willing to admit. However, if the problem was defined as blue books, or problems with policing policies, the problem was one of process, because, as officer Julie Johnson explained above, there is always room for improvement. Therefore, if Rothman wanted to keep all the parties at the table, which he needed for both his professional success as well as a genuine opportunity for making a difference, he had to come up with another solution. The solution he proposed was Action Evaluation, which according to Rothman and Dosik, “helps organizations or projects achieve success by deriving goals in a reflective and participatory manner” (ND). Rothman described his rational for this decision saying:

We suggested a broad-based visioning process in the form of an Action Evaluation process to be launched by focusing on goals or improving police-community relations (goals being the flip side of problems to resolve). In addition to helping avoid a costly and provocative court battle, the city and the police union (the FOP) found this acceptable because it seemed a constructive process in which members from all parties
could work collaboratively to improve police-community relations. For the leadership of The Black United Front, it was promising largely due to the fact that it was to be conducted within a legal framework promising some form of judicial oversight during the process and implementation of its outcomes. The bottom line for all sides was the willingness of the other parties to pursue this collaboratively (Rothman 2012b, 193).

In using this process, rather than personal definition of the problem, the police would avoid the blame and therefore found it amenable as did the leaders of the BUF and ACLU. This solution kept all parties involved in the process, but it had its own drawbacks.

For example, Rothman was forced to design the public input as part of the Collaborative Agreement Process as a way of gaining consensus about future police-community relations, as opposed to engaging the broader and deeper conflict rooted in past relations between the White and Black communities in Cincinnati, as he originally wanted to do. In a way, the process was designed to address one manifestation or symptom (police-community relations) of a deeper problem or illness (long-running racism across many aspects of public life) and this was done only in the context of coming to an agreement on the definition of the problem for the purpose of negotiations. Nonetheless, Rothman struggled with this approach:

I suggested that the parties undertake a broad-based visioning process focused on improving police-community relations. This was accepted. However, I was immediately concerned about this general acceptance. Not only was a single process being accepted for significantly different and even opposing reasons, but when racial or identity conflicts are strongly present, as they were in this situation, a collaborative, future-oriented process is normally premature…Nonetheless, I saw my role as being largely responsive and thus when some enthusiasm was generated for an alternative framing-not on racial profiling
from the past but improving police-community relations in the future- I threw myself into
this purpose (Rothman 2012b, 201).

Therefore, Rothman focused his attention on a goal driven process that did not directly
address racial and identity conflicts. In his personal opinion, the conflicts of the past needed to
be addressed before moving to future goals, but he was willing to sacrifice this understanding in
order to gain comprehensive involvement across the eight Stakeholding Groups and keep a
collaborative process moving forward. Many in the African-American community wanted not
only the past conflicts to be addressed but also wanted an apology from the police. However, in
his article, Gerhardstein explained, “Canner and Jordan opine that the Cincinnati conflict was too
complicated and too raw for a sweeping and simplistic apology from the police or the mayor; and
they imply that the incremental steps represented by the Collaborative Agreement were perhaps
all that reasonable observers should expect” (Gerhardstein 2009, n.p.). Therefore, some in
Cincinnati saw the Collaborative Agreement Process—that was essentially a future-focused
process—as a necessary first step towards comprehensive change when a problem definition
process was not acceptable by the decision makers.18 With competing understanding of what
could or should be accomplished through the Collaborative Agreement Process, decision makers
and process organizers should have made sure that participants’ expectations were managed.

5.5 Managing Expectations

Managing expectations is an important part of a deliberative democracy exercise. By
aligning personal objectives with process objectives, the potential for unrealistic expectations can
be minimized. To manage expectations, participants should be informed about how their input

18 More analysis will be provided about the role of identity in the Collaborative Agreement Process in the Chapter
Six that discusses group formation.
Citizen participants who wanted to participate in the Collaborative Agreement Process by completing a survey were given instructions. The survey instructions told participants that “By completing this questionnaire, you are now agreeing to participate in an action research project designed to establish broad-based goals and actions for the future of police-community relations in Cincinnati” (ARIA Questionnaire Instructions, n.p.). These instructions are straightforward in that they explain the purpose of the input to be creating community goals for police-community relations. However, these instructions do not specify what would be done with the surveys once they were collected or how they would be used. Individuals who wanted more information might have been given an ARIA Group document entitled “Frequently asked Questions About the Cincinnati Collaborative Process.” The first section on this document answers the question, “What is the collaborative and who is responsible for it?” Jay Rothman’s ARIA Group answered this question by saying, “The collaborative is a process that will combine citizen input and expert analysis to help Cincinnati understand and constructively address police-community relations.” This document goes on to explain what will be accomplished through the process.

After the participants have met and shared their views, those views will be analyzed alongside the work of an Expert Panel that will be studying specific issues regarding police-community relations in Cincinnati and best practices across the country. The result will be a dynamic proposal that addresses the various stakeholders’ summaries and
could include suggestions for changes in policing practices, community involvement in policing, programs for improving communication between youth and police, individual responsibility and many other topics. The goal is to negotiate a written agreement, which will then be approved by the Federal Court (ARIA “Frequently Asked Questions”, n.p.).

Despite receiving these instructions, as well as participating in the Feedback Sessions, interviewees did not know what happened after they participated in the Feedback Sessions, what police changes were enacted, or how their input was ultimately used. When interviewees were asked what they thought about how their input influenced the final decision making process, many were pressed to explain what happened after they participated. Some were frustrated, and only one felt positive about it, but overall, interviewees did not know what happened after they participated.

Police officer Julie Johnson felt that the decision makers adequately listened to her opinion. She said she was invited to meetings with council members and was listened to; however, she stated that other police officers might not have felt the same way. Johnson thinks that because of her influence in the community, her opinion was highly regarded. Although she felt she was listened to, she had no opinion about how her input was used in the decision making process.

Wesley Hinton, Terry Murray, Meghan Clarke, Pam Dixon and Jan Seymour expressed that they were indifferent when it came to understanding what happened after they provided their input. Wesley Hinton, Pam Dixon and Jan Seymour said they could not remember what happened after they participated. Terry Murray remembered only that an agreement was reached but he did not express either satisfaction or dissatisfaction with how his input was used to reach the agreement (Murray, Terry, Interview, October 6, 2010).
Diane Jordan explained that the process broke down after the community participation and before implementation (Jordan, Diane, Interview, October 4, 2010). But the breakdown that Jordan is referencing is a lack of communication, not a breakdown of influence. She explained that she wanted “to make sure that the community knew what was going on. Justice was communicated but I think you had to be engaged to get that information. I don’t think that information went to the people who could be impacted by it but who weren’t engaged in the process” (Jordan Interview, October 4, 2010). For her, the communication breakdown could be remedied by making sure that the general public understood the results and how this improved the lives of Cincinnatians. The lives of Cincinnatians were improved because there was a structured link to decision makers as described in the next section.

It is somewhat surprising that the interviewees did not comment on or have an opinion about how their input was used. Additionally, I was unable to find newspaper references shortly after the input was collected that detailed how this input was used. Ultimately, after the Collaborative Agreement was signed, the document was disseminated to community groups but the specifics of how citizen input was used were lost on those whom I interviewed. This is important because having meaningful, influential citizen participation in deliberative democracy processes, where citizens know their input has influence, increases citizen ownership of and support for the outcome and that in turn may impact implementation and sustainability for the outcome (See Chapter Nine on support and sustainability for more on what took place after the Collaborative Agreement was signed). As Diane Jordan commented, if participants were not deeply engaged in the process they did not have a direct link to or understanding of what was happening with their input. Therefore, in the end, many of the interviewees felt disenfranchised. The participants’ frustration can best be summed up in a quote from Diane Jordan who laments
that it was realistic to think that people wanted deep cultural change but it was unrealistic to think that could happen overnight. She said,

    When it comes to failure, I don’t know if I would call it a failure as much as a narcissistic realization that the frustration was much higher than the goal. I think managing people’s expectations is really important. When you had generations of frustrations and you want to see a major solution overnight, whatever the agreement was it was never meant for that (Jordan, Diane, Interview, October 4, 2010).

Although the participants did not know what happened after they participated, the decision makers indeed felt the influence of their input, in no small part due to the process design.

5.6 Public’s Link to Decision Makers

    The public input process in Cincinnati was designed to have a structured link to decision makers and this link was outlined in the court documents. According to the Litigation Plan, the public input was to assist the decision makers, or the parties to the lawsuit in “developing police practices, supervising police action and channeling citizen complaints into instructions…” (Litigation Plan Case No C-1-99-317). Therefore, according to the litigation plan, public input was to directly impact decision and the creation of policing policies, a blue book approach.

    Rothman and his ARIA team began meeting in early March 2001, following the filing of the class action lawsuit against the city (Rothman 2001c). The ARIA team met with the attorneys for the plaintiffs and defendants individually and established a working group, the Advisory Group, or what I have called the decision makers (Rothman 2001c). The formation of this group was a natural progression of the previous meetings called by Judge Dlott (Dlott Interview, 2014). Representatives from both sides of the lawsuit participated, including: Al Gerhardstein, Rev. Damon Lynch, Ken Lawson, Ayanna Love, Juleana Frieson, Scott Greenwood, Rick Janke,
Gregory Baker, Steve Lazarus, and Keith Fangman (Rothman 2001c). Throughout the project planning and information gathering stages, the decision makers of the Advisory Group, as a whole, met on a bi-monthly basis (Rothman 2001c).

The ultimate goal of the decision makers was to negotiate a settlement; however, they were to use the public’s input in forming this settlement. Although the decision makers did not directly deliberate with the public participants, the decision makers had influence over the process, beginning with input on how the eight Stakeholding Groups were defined, as described in Chapter Six. The public participated in three phases, Getting Out the Voice, Shared Visions and Integration, with only oversight from the decision makers. It was not until the Negotiation/Approval phase that the decision makers directly interacted with the public input.

An Advisory Board meeting took place on Tuesday, December 11, 2001 in the Federal Courthouse building. This meeting was intended to serve as a symbolic ‘hand-off’ of the public input to the decision makers as the Collaborative Agreement Process entered its next phase of negotiating a Collaborative Agreement. At this meeting, five integration goals, derived through the previous phases, were presented to the decision makers. Even with this elaborate structure for gathering and reporting the public input, it was possible that public input could have been ignored. In fact, Judge Dlott was uncertain what impact the citizen input would actually have on the negotiations (Dlott, Susan, Interview, January 7, 2014). To be considered a successful attempt at deliberative democracy, the input must have an actual influence, especially if the process was designed to do so.

John Eck was chosen to lead the Expert Panel, charged by Judge Dlott to research and present best practices in policing as it related to the collaborative process in Cincinnati.\(^{19}\)

\(^{19}\) Eck’s role as head of the Expert Panel will be discussed in the chapter evaluating project staff.
However, part of Eck’s responsibilities was helping Rothman incorporate both the public opinion and the best practices material from the Expert Panel when refining the goals of the Collaborative Agreement. Therefore, I asked him, what impact if any, did the public input have. He said he personally paid no attention to the public input as mentioned earlier. But when asked how important he felt the community input was to the actual decision makers, he said, “Oh, it was huge, it was huge.” The importance, as Eck described it, was especially prevalent for the elected officials.

Well, basically what it did was, the city starts off in these with an advantage, your elected officials. People voted for them, right, so they have this sort of thought that ‘we are the spokesman for the people. Not some self appointed community rebel rousers, but we are elected.’ But the city folks at the table, primarily lawyers, don’t know shit about data, right, so when Jay comes in with what thousands of people who have said one thing [surveys], they couldn’t tell you whether that data was good, bad or indifferent. It’s data you know, so that really—I think put them back on their heels a bit because—they really were-- the political animal in them-- oh my God, there are a lot of people who might punish me if we don’t do something about this. So, I think the data was really important because it frightened them, it frightened them in much the same way as a lot of people in city hall would, I mean what you can think about the data is that it performed, it’s like a riot of its own (Eck, John, Interview, January 8, 2014).

Eck describes the impact of the public participation data serving as a mechanism for measuring public temperament that forced the decision makers (ACLU, BUF, FOP, City) to pay attention. The number of individuals who participated meant that the public was deeply involved and also paying attention, and so then should the elected officials also pay attention to the public
Therefore, the data was a “riot of its own;” it represented a series of public events so large it could not be safely ignored by public officials, elected and otherwise.

5.7 Conclusion

This chapter evaluated the Cincinnati case to determine if the Cincinnati model provided participants with a realistic expectation of influence, a criteria necessary for successful public deliberations (Levine, Fung, and Gastil 2005). To evaluate inclusiveness, I examined several aspects of the Cincinnati Collaborative Agreement Process including how problem definition influenced perceptions of influence.

In the Cincinnati case, problem definition played an integral role in the solution that was used. There were competing definitions of the problem in Cincinnati. Some viewed the problem as White vs. Black, whereas other viewed the problem as Black vs. blue and finally others viewed the problem as blue books, or police policies. Initially, the police refused to acknowledge any problem whatsoever. The lawsuit that resulted in the Collaborative Agreement was filed prior to the riots in 2001 and when it was filed Police Chief Striecher denied any racial discrimination in the police force pointing instead to poor customer service as the issue. It was evident that Chief Striecher and his police force were not willing to share any of the blame for the problem. After the riot, tensions remained over the varying definitions of the problem. Those who defined the problem one way struggled to understand how others could not see the problem the say way. Many African-Americans wanted non-discriminatory police practices, but the police refused to acknowledge the problem as Black vs. blue. The police were even initially reluctant to identify the problem as blue books and blamed the problem on how others perceived them, avoiding any blame for the conflict. In fact, the police were so adamant that they were not part of the problem that they refused to take part in the Collaborative Agreement Process if it
meant that a problem definition process would take place. As will be discussed in upcoming chapters, especially Chapter Nine, the police eventually became active partners in solving the problem in Cincinnati, but only because they were forced to do so because of the lawsuit. Although the police eventually became okay with the problem being defined as blue books, this would not have happened if the Cincinnati Collaborative Agreement Process were not part of a federal lawsuit that forced their participation. The lawsuit also influenced what both participants and decision makers wanted to get out of the process and what they wanted to achieve personally.

I analyzed what participants and decision makers expected from their influence to understand what they wanted and expected from the process. In both cases, the participants and decision makers had two types of objectives, what they wanted to get out of the process personally and what they wanted the process to achieve. Participants wanted to have the opportunity to participate in a process where they could express their stories and be part of the dialogue to change the city. Participants wanted a process where they could openly and safely exchange ideas and be exposed to differing viewpoints. They also wanted their participation to influence the changing policing practices. Although one of the biggest complaints about deliberative democracy practices is that they typically do not result in changes in policies and practices (Frewer, Rowe, and Frewer 2005), Cincinnati Citizens had incentive to participate because they believed that their influence would, in fact, influence policing policies and practices. Decision makers also had both personal and process objectives.

Decision makers had two main objectives for the process, to use the publics’ goals to settle the class action lawsuit and to engage in a deeper conflict resolution process to address the White vs. Black and the Black vs. blue problem. Judge Dlott, the Federal judge overseeing the
class action lawsuit, wanted a deliberative settlement to the discrimination case. Alphonse Gerhardstein, a civil rights attorney representing the ACLU, wanted the Cincinnati Collaborative Agreement Process to resolve social conflicts. Although these two aims were not necessarily competing, those who wanted the process to resolve social conflicts were ultimately disappointed because the Cincinnati Collaborative Agreement was not designed with the sole purpose of resolving social conflicts, but rather settling a federal lawsuit. This meant that the decision makers’ personal objectives weighed heavily on the design of the Collaborative Agreement Process.

Those who designed the Collaborative Agreement process wanted to leave a legacy in their respective fields. This desire resulted in their willingness to compromise their process objectives, as listed above, in order obtain their personal objectives. For example, Dr. Rothman initially wanted a process that was designed to address the deep social conflicts of the past and he proposed a problem definition process that would do this. However, the police refused to take part in any thing that could result in their being blamed. Rothman understood that, in order to keep all the parties at the table including the police, he must propose and implement a different solution. The Collaborative Agreement Process was ultimately a forward thinking goal-oriented process, much different than a conflict resolution process. Although it was necessary for this compromise to take place so that any deliberative process could move forward, unrealistic expectations developed when the process objectives were not clear.

A successful deliberative process is one that manages expectations of influence (Frewer, Rowe, and Frewer 2005; Levine, Fung, and Gastil 2005). The Cincinnati Collaborative Agreement Process, at times, failed to manage participant expectations. To manage expectations, personal objectives need to be aligned with process objectives and this alignment is the
responsibility of the decision makers and process designers. Participants’ expectations can be managed by explaining how their input would be used and what they could expect to gain from their participation. In the Collaborative Agreement Process, participants should have been made aware, up front, that this process was a public consultation process with the intent of influencing policy. By telling the participants that deep cultural conflict engagement was outside of the scope of this process, it is possible that expectations would have better been managed by better aligning the personal and process aims of the participants with the personal and process aims of the decision makers. Expectations could have been managed through better, clearer, and more repeated communications on how their input was going to be used in the survey instructions as well as instructions provided at the Feedback Sessions. In addition to managing expectations of influence, a successful deliberative process has a structured link to decision makers.

The Cincinnati Model was designed with a structured link to decision makers. When the process architects designed the input process, they created a direct mechanism for public input to be given to the decision makers. The public’s goals were provided to the parties to the lawsuit in order to be used in settling the class action lawsuit. However, even with this mechanism, it is possible that the public input would be ignored if the decision makers did not deem it influential. The input was not ignored. Because of the influence of Judge Dlott as well as the number of people who participated the parties to the lawsuit, could not ignore the publics’ goals. The Cincinnati Model was successful in developing a structured link to decision makers.

The Cincinnati case suggests that adaptability, however necessary for the process to continue, can increase unrealistic expectations. The details of what will be done with the public input is best defined up front, and needs to be communicated to the involved public regularly, and repeatedly. And most importantly, if you want decision makers to pay attention to the
public’s input in a deliberative process, generate a large amount of data through broad public participation. Whereas this chapter focused on influence and expectations of influence, the next chapter evaluates how participants were selected and then grouped as part of this participation to determine if the Cincinnati Collaborative Agreement Process was an inclusive and representative process that brought key stakeholders together.
Participation is a key component of deliberative democracy practice. To gauge participation, scholars evaluate inclusiveness and representativeness. Since it is often not possible to include every stakeholder who could participate, individuals or groups are often selected or self-select as representatives. However, not all methods of achieving representation are equally legitimate. This chapter evaluates inclusiveness and representatives as a measure of a sound deliberative process by applying Levine, Fung and Gastil’s criteria of success stating that a deliberative process should be “an inclusive, representative process that brings key stakeholders and publics together” (2005, 2).

Leach argues that inclusiveness is one of the easier principles to evaluate by analyzing who was included as well as evaluating the rules of participation (Leach 2006). However, the literature is not clear on how many people need to be included for a process to be either successful or legitimate. Some theorists argue that, in order for a deliberative process to be inclusive, it must have participation on a large scale (Hartz-Karp 2005). Other theorists argue that a critical mass of participation must be reached for a deliberative process to be inclusive but the literature is not clear on what constitutes a critical mass (Nabatchi 2012). Kadlec and Friedman examine the concept of critical mass on the national level, or what they call tipping points (2007). For them, inclusiveness achieves a critical mass when public judgment becomes apparent. They define this as “enough judgment by enough people to change and improve the
climate of opinion on an issue, diminish political paralysis, and allow the policy debate to evolve” (2007, 23-24).

To evaluate inclusiveness, Leach suggests asking the following questions: “Does the process have rules (official or tacit) governing who may participate, or is participation open to all? Was anyone who wished to participate turned away?…Were the excluded participants invited to participate in electing a representative” (Leach 2006, 101). Although inclusive processes are called the ideal in deliberative democracy, it is often difficult to include many participants due to staffing, time, monetary, and participation constraints. Because of these constraints, individuals or groups of individuals are called upon to serve as representatives in deliberations.

Within the field of deliberative democracy, there are multiple approaches towards defining and achieving representativeness. Regardless of what approach is taken towards representativeness, limitations occur and “any such group of citizens acting to represent others, however constituted, may always fall short descriptively and normatively and fail to be inclusive and consequential” (Bohman 1998, 79). Therefore, when selecting an approach to achieve representation, decision makers should be strategic because as Pennock (1979) is frequently cited as saying, “No one would argue that morons should be represented by morons” (np).

Several common approaches to representativeness include random sampling, a deliberative poll, representative discourse comprised of descriptive representation. In a deliberative poll, representatives are selected at random to participate. Proponents of the random sample approach focus on developing a mini public, or “a microcosm of the people, a miniature version of the public in both demographics and attitudes” (Fishkin 2013, 497). A Deliberative
Poll utilizes random sampling as a starting point. Deliberative Polling involves surveying a random sample of individuals before and after a deliberative meeting (Fishkin 2004). A statistically representative sample is only one approach to representation. Another approach is structured around deliberative discourse, or making sure that the relevant discourses are present in the deliberations. However, Bohman cautions against developing the deliberative practice around discourse. He says, “Discourses fail to be authentic, primarily because they are constructed prior to deliberation. Discourses also fail to realize communicative freedom to the extent that such freedom requires a continual openness to new perspectives” (2012, 77).

Yet another approach at representation focuses on disadvantaged populations through descriptive representation. According to Hartz-Karp, the more diverse the participants are, the better the deliberative process (Hartz-Karp 2005). To capture this diversity, several scholars argue that representation should be structured around descriptive representation. According to Mansbridge, in a process constructed around descriptive representation, individuals represent some larger group of individuals with whom they have a shared experience, whether that is skin color, gender or other shared experience (Mansbridge 1999). Mansbridge argues that in situations where group mistrust is high, descriptive representation increases the quality of the deliberation (Mansbridge 1999). Mansbridge also argues that in these situations, African-Americans should represent African-Americans and women represent women through descriptive representation in deliberative processes.

Deliberation in small groups typically consisting of some form of representative is a central element of deliberative practices. However, there is no consensus in the literature about how these groups should be selected or how they should be operationalized. Additionally, some group structures actually have a negative impact on deliberations, such as in cases where
representatives of state authority may tend to mute those who do not agree with their tactics. Therefore, Karpowitz and Mendelberg argue that “one of the most important contributions empirically-minded scholars of deliberation can make is to identify the group-level conditions under which deliberation is likely to have the effects deliberative theorists hope to achieve as well as the conditions under which it may fall short of these goals” (2007, 647). In this chapter, I evaluate the group structure used in the Cincinnati Case to determine if the group conditions were inclusive and representative. I begin with analyzing the eight Stakeholding Groups.

6.1 Eight Stakeholding Groups

The deliberative democracy process in Cincinnati revolved around eight Stakeholding Groups. Specifically, Stakeholding Groups served to identify, solicit and categorize the community input as well as organize the Feedback Sessions in the phases Getting out the Voice and Shared Visions as described in Figure 6-1 below. In the table I have highlighted in blue the events analyzed in this chapter. These events took place in the phases Getting Out the Voice (surveys), Shared Visions (Feedback Sessions), and Integration (Integration Group). As will be analyzed in detail below, the eight Stakeholding Groups were integral in each of these phases. In the phase Getting Out the Voice, the Stakeholding Groups were used to strategically target participants to complete the survey. In the phase Shared Visions, at least one Feedback Session was held for each of the eight Stakeholding Groups. And in the Integration Phase, the Integration Group consisted of representatives from each of the eight Stakeholding Groups. Because of the Stakeholding Groups centrality to this case, group formation must be analyzed. It is not possible to understand how the input was gathered without understanding how the groups were formed and what the implications were for inclusiveness and representativeness.
### Figure 6-1 Flowchart: Inclusiveness and Representativeness

<table>
<thead>
<tr>
<th>Design/ Cincinnati Sings</th>
<th>Getting Out the Voice</th>
<th>Shared Visions*</th>
<th>Integration**</th>
<th>Negotiation/ Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Timeframe</strong></td>
<td><strong>March - July 2001</strong></td>
<td><strong>June- August 2001</strong></td>
<td><strong>July-November 2001</strong></td>
<td><strong>November - December 2001</strong></td>
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<table>
<thead>
<tr>
<th>Collaborative Agreement Process</th>
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<tbody>
<tr>
<td>Class Action Lawsuits</td>
</tr>
<tr>
<td>Class Action Parties: ACLU, BUF, FOP, City</td>
</tr>
<tr>
<td>Individual Goals</td>
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<tr>
<td>ARIA Group</td>
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<td>ARIA Group</td>
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<td>ARIA Group</td>
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*Eight Stakeholder Groups (African-American, Social Service and Religious, Business and Philanthropic, Police Officers and Spouses, City Officials, White Citizens, Other Minorities, Youth) were used to organize the Feedback Sessions as well as to guide selection of the Integration Group Representatives.

**Integration Group consisted of five to ten members of the eight Stakeholding Groups.
The Stakeholding Groups were negotiated and defined early on by the parties to the lawsuit (ACLU, BUF, FOP, City of Cincinnati), also referred to as the Advisory Group, and the parties did not initially agree about how to define the groups. Because the Collaborative Agreement Process resulted from a class action lawsuit, Judge Dlott easily identified the first Stakeholding Group of stakeholders. Judge Dlott defined the first group, or the class in the class action lawsuit, as

All African-Americans or Black persons and people perceived as such who reside, work in and/or travel on public thoroughfares in the city of Cincinnati, Ohio either now or in the future and who are stopped, detained, or arrested by Cincinnati Police officers or their agents, and citizens of any race who have been or will be subjected to use of force by Cincinnati police officers and their agents (Collaborative Agreement 2002).

Although this group was easily identified, the other groups were not. Dr. Jay Rothman, who was responsible for designing the public input process, described the group formation as “probably the best and most important activity of the steering committee [Advisory Group or parties to the lawsuit]” (Rothman, Jay, Interview, May 18, 2015). According to Rothman, when creating the groups, the parties wanted to construct identity groups. He explained, “We defined Cincinnati as a collection of identity groups using my language and my framework. That it’s not a city of interest groups, everyone vying for their piece of the pie, but rather, it’s a collection of identity groups for people’s sense of self is on the line, individually and collectively” (Rothman, Jay, Interview, May 18 2015). To come up with the identity groups, Rothman said that the parties to the lawsuit looked at historical efforts to help frame their decision. He said, “We looked at past studies and we looked at past organizational efforts. And then we had a pretty
contentious debate where some said, “this is not only a problem that the African-American citizens can experience, but a problem of all minority communities, in Cincinnati and America” (Rothman, Jay, Interview, May 18, 2015).

Ultimately, The Advisory Group settled on the final eight groups:

1. African-American
2. Social Service and Religious Organizations
3. Business and Philanthropic
4. Police Officers and Spouses
5. City Officials
6. White Citizens
7. Other Minorities
8. Youth

Although the groups were referred to as identity groups (Rothman, Jay, Interview May 18, 2015) the groups were combination of identity and professional classifications. Of the eight groups, four were classified as identity groups, African-American, Youth, White and Other Minorities whereas the professional groups were Social Service and Religious Organization Groups. However, Rothman viewed each of the groups as identity groups who spoke for or represented larger groups within the community.

The composition of the Stakeholding Groups was not mutually exclusive; an individual could conceivably identify with more than one group. Several groups had a lot of overlap in their definition. For example, many individuals who belonged to organizations that were social service in nature and fell under an umbrella of a philanthropic group could have been classified in both the Social Service Group and the Business and Philanthropic Group. Additionally,
individuals could have been classified in multiple groups, such as both African-American and Youth; for example, an African-American teenager could be classified in two groups.

In an interview Rothman reflected on one specific situation with a young African-American police officer. He said, “She said to me, ‘Who am I? I could fit in the Youth Group because I’m under 25. I could fit in the African-American Group because I’m Black, and I could fit in the Police [Officers and Spouses] Group, because I’m an officer. So, who do I choose?’” Rothman encouraged her to consider which group most needed her voice. Upon reflection, she said, “The Police [Officers and Spouses] Group needs my voice, as a woman and as a minority. So, that’s the group I’ll join” (Rothman, Jay, Interview, May 18, 2015). Therefore, in this example it can be seen that Rothman viewed the groups as representing larger groups within the community by “giving a voice” to identity groups through descriptive representation.

The group structure was created to give a “voice” to members of a Stakeholding Group, but if the groups were not mutually exclusive, then the collective voice may be skewed. This created a potential problem. If, for example, African-American men or women were placed into the ethnic/identity group, their voice would be absent from the professional classification. Although it is not possible to determine the exact extent to which this happened, this is problematic for exclusivity and representativeness, as will be discussed later.

One group that the parties to the lawsuit created, albeit with hesitation, was the White Group. Rothman explained, “The group that we named ‘White community’ was odd for all of us and rather scary. Because the only groups that really identify themselves as White are usually chauvinistic. It is not the normal White folks who say ‘my identity is as a White person’”

20 Although this example demonstrates that an individual was able to select his or her group, I will discuss below that individuals were placed in groups. However, this example is Rothman’s memory and is an example of how he viewed representativeness.
In the end, the White [Citizens] Stakeholding Group became what Rothman described as the “catch-all phrase for suburban Cincinnatians.”

Although Rothman explained that the existence of the White Group did not create any turmoil, it is worth pointing out that, in general, Whites do not tend to identify themselves as White. Additionally, many Whites do not notice or acknowledge the benefits provided to them because of their being White (Kivel 2011). This White privilege is problematic with regard to the construction of this group because, as will be future discussed below, many Whites who participated in the Cincinnati Collaborative Agreement Process were placed into another group other than the White Citizens Group and this deteriorates the goal of representativeness in the Cincinnati Collaborative Agreement Process. Additionally, by structuring the group as a catch all for suburban Cincinnatians, this implies that Whites lived in the suburbs and African-Americans lived in the city and thereby reinforces this falsely held assumption. This is dangerous because this understanding reinforces the stereotypes of inner city African-Americans and suburban Whites.

The Other Minorities Group was also problematic. The parties of the lawsuit, especially the Black United Front (BUF), heavily influenced the way that the groups were defined. Rothman explained, “The Black United Front, which of course brought the initial racial profiling lawsuit to the judge said, ‘We understand that the other groups also feed aggrieved. But this is our process. We initiated this and we’re the ones who feel most aggrieved. And we want to make sure that we are the main group, or at least one of the main groups’” (Rothman, Jay, Interview, May 18, 2015). To meet the demands of the BUF, Rothman explained that an African-American Group as well as a “catch-all” group was created, the Other Minorities Group, to capture the representation of minorities other than African-Americans. He said that this
decision “created, on the one hand, a sense of primacy of the African-American community, but inclusion of the other communities too” (Rothman, Jay, Interview, May 18, 2015). Although Rothman may have had the goal of placing emphasis on the African-American Group, he could have been more successful in this by not diluting the African-American input into other Stakeholding Groups. Additionally, he missed an opportunity to better represent disadvantaged populations such as the Hispanic and LGBT community by creating a catch all Other Minorities Group.

6.2 Participation Qualification and Group Formation

As stated above, Leach proposed a series of questions to be applied to cases when evaluating inclusiveness and one was, “Does the process have rules (official or tacit) governing who may participate, or is participation open to all” (Leach 2006, 101)? I determined that, although they were not explicitly called “rules,” there were guidelines and qualification criteria for each of the three phases, i.e., Getting Out the Voice (surveys), Shared Visions (Feedback Sessions) and Integration. Of most importance were the rules or guidelines of the Getting Out the Voice phase. According to the language in the survey, an individual had to meet one of four qualification criteria to participate. The survey asked individuals to select one of the following to be considered “qualified to answer this questionnaire:”

1. Live and work within the city limits of Cincinnati
2. Live within the city limits of Cincinnati
3. Work within the City limits of Cincinnati
4. I do not live or work with the city limits of Cincinnati but I do participate in activities in Cincinnati.
In addition to answering the qualification questions, survey participants were asked a series of questions that presumably determined their Stakeholding Group membership. The ARIA survey included questions about racial identification, professional and organizational affiliations, and age. In addition, participants were asked about their work status, gender, education, and religious affiliation. Given the fact that any one individual could belong to multiple identity groups and given the issues of overlap mentioned above with regard to the eight Stakeholding Groups, it was not immediately apparent how individuals were assigned to which group. In an interview, Dr. Rothman expressed that he was unclear about how individuals ended up in a group. After interviewing Dr. Rothman and reviewing all the documentation, I believe that ARIA Group placed individuals in Stakeholding Groups.

There were several issues with the qualification criteria as well as group formation. The survey qualification questions should have allowed for either an “other” selection or the opportunity to be qualified to participate simply because one was interested in police-community relations. The survey questions designed to qualify participation did not allow access for some of the individuals who made up the class in the class action lawsuit. Specifically, the class was defined as broadly as all African-Americans who traveled through the city. Therefore, it is possible that an individual who was covered under the class description was excluded from participating in the survey as well as subsequent phases because of the qualification criteria.

Representation was also problematic for the surveys. Individuals who completed the survey were not informed about how the survey questions were used to assign them to different Stakeholding Group. The participants were informed that their responses would be summarized by Stakeholding Group, but they were not given the choice to directly select their Stakeholding Group. Because the individual’s survey-based input was used as representative within a specific
To evaluate inclusiveness and representativeness, I analyzed participation in the following phases: Getting out the Voice, Shared Visions, and Integration. Based on data I compiled and from reviewing ARIA documentation and interviews, I was able to determine the number of participants involved during each of the three phases analyzed in this chapter, with the exception of Shared Visions, or the Feedback Sessions. For those, I was not able to identify specific numbers of participants.

To evaluate inclusiveness and representativeness, I am first going to present who was included and represented in each of the phases. Next, I am going to evaluate each of the phases with regard to inclusiveness and representativeness. Finally, I am going to compare inclusiveness and representativeness throughout the process by comparing the survey participation to the Feedback Sessions and to the final Integration Group.

Figure 6-2 below presents data showing the numbers of participants involved in each of the eight Stakeholding Groups across each of the three phases, Getting Out the Voice, Shared Visions, and Integration. The blue shows the survey participation broken down by Stakeholding.
Group in the phase Getting out the Voice.\textsuperscript{21} Looking at the survey participation, the Business and Philanthropic Group had the highest participation with 764 people completing a survey. The second most represented group was Youth, with 749 surveys completed. Finally, the third most represented group was the African-American Group with 679 participants.

\textsuperscript{21} The total of survey participation as represented in the blue section is 3,424. I used the data presented in ARIA documents to breakdown participation by group and this number does not equal the total number reported by Rothman. Presumably, what happened was the ARIA Group continued collecting surveys after the group data was reported and did not update these numbers to reflect the final count. The difference in the two numbers is 130 surveys and I do not think that this lack of inclusion in the group numbers will substantively impact my analysis.
Figure 6-2 Participation by Stakeholding Group

**Totals**
- Surveys (Blue): 3554
- Feedback (Green): 405
- Integration (Red): 58

*The main Other Minorities Group only consisted of 12, but there were subgroups. Hispanic (25), LGBT (13), Appalachian (39)*
Rothman did not design the initial survey collection process with the aim of collecting a critical mass of public judgment. I conclude that the Cincinnati Collaborative Agreement Process did not reach a critical mass according to Nabatchi’s definition of a critical mass meaning that public judgment is recognized. However, as presented in the previous chapter, the decision makers were forced to pay attention to the public’s input because of the number of participants in the Collaborative Agreement Process. Another way to evaluate the Cincinnati Collaborative Agreement process is to evaluate statistical representation. Although Rothman’s goal was not to produce a statistically representative sample of the community survey participants, a sample that represents the citizens of Cincinnati, it is beneficial to look through this evaluative lens. By doing so, it is possible to determine if any one group was under or over-represented compared to the compilation of the city. To do this, I compared the demographic distribution of the survey participants to the demographic makeup of the city. Because survey participants were used to determine who would participate in each of the subsequent phases, Shared Visions and Integration, this comparison provides a check against which to measure representativeness.

6.4 Surveys

There are three data points that I used to analyze survey participation, the Stakeholding Group membership, the racial identification of the survey participants, and the 2000 census data. Racial identification was collected as part of the surveys (see the Appendix for the full survey). Table 6.2 below presents this analysis. As described in detail above, an individual’s racial identification may not match his or her Stakeholding Group.
### Table 6.1 A Comparison of Participation by Race in the Survey Phase

<table>
<thead>
<tr>
<th>Race</th>
<th>2000 CENSUS</th>
<th>SURVEYS</th>
</tr>
</thead>
<tbody>
<tr>
<td>African-American</td>
<td>142,176 (42.9%)</td>
<td>1617 (46%)</td>
</tr>
<tr>
<td>White</td>
<td>175,493 (53%)</td>
<td>1700 (48%)</td>
</tr>
<tr>
<td>Hispanic</td>
<td>4,230 (1.3%)</td>
<td>49 (1%)</td>
</tr>
<tr>
<td>Asian</td>
<td>5,132 (1.5%)</td>
<td>17 (&lt;1%)</td>
</tr>
<tr>
<td>Native American</td>
<td>709 (0.2%)</td>
<td>16 (-%)</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td>112 (3%)</td>
</tr>
</tbody>
</table>
To evaluate statistical representation of the five main racial classifications of Cincinnatians, I analyzed the 2000 census data. According to the 2000 census, African-Americans represented 42.9% of Cincinnatians. Looking at the surveys, African-Americans represented 46% of survey participants; therefore, the African-American population was included in the survey phase roughly as expected. However, when looking at Hispanic, Asian and Native Americans, each group was underrepresented in the surveys. Additionally, Asian and Native Americans were not listed as being of any substantial participation in the surveys. Therefore, looking strictly at racial inclusion, the survey stage of the Cincinnati process was successful in its inclusion of African-Americans, but did not accurately represent the Hispanic, Asian and Native American population in the survey phase.

The composition of the surveys with regard to racial identification mirrors the census, meaning that the surveys were representative of the city population. By looking at the survey participation this way, several trends emerged. The first trend is that 46% of participants, or 1,617 identified as African-American on the survey. But only 697, or 20% of people were placed in the African-American Group. This means that 920 African-Americans were in a different Stakeholding Group other than the African-American Group. It is possible that the collective voice of African-Americans was diminished or even minimized. The reason why this is important and particularly problematic is because the Cincinnati Collaborative Agreement Process was structured to over emphasize the voice of the African-American citizen. Although it is not possible to know precisely what impact the diminished voice of the African-American Group had, it is reasonable to argue that this could have had a deleterious impact.

The same trend can be seen with the White Citizens Group; however, as described above this is not surprising, given that Whites tend not to be comfortable with the label of White (Kivel
Of the 3,514 survey respondents, 1,700, or 48% identified as White. But only 334, or 10% of overall respondents were placed in the White Citizens. When comparing the survey participation of the two groups, relatively more African-Americans were placed in the African-American Group more than Whites were placed in the White Citizens Group. Only 20% of Whites were placed in White Citizens Group (334 of 1700), whereas 43% of African-Americans were placed in the African-American Group (697 or 1617).

Members of the Other Minorities Group’s voice were also diminished. According to the 2000 United States Census, 1.3% (4,230) Cincinnatians identify as Hispanic or Latino. Margaret Singer, who was interviewed for this dissertation, felt that the goals of the Hispanic population were underrepresented. As an advocate of the Hispanic population in Cincinnati, Singer was disappointed that there was not a focus on the goals of the Hispanic population as well. She said, “It seems like the collaborative [process] tried to address the African-American population and maybe the Appalachian population and other minorities here in Cincinnati but it really wasn’t addressed that well with the Hispanic population” (Singer Interview). She felt that while the collaborative process contributed to improved relationships between the police and African-Americans, it did not address the relationships between the police and the Hispanic population. If the goal of representation in the Cincinnati Collaborative Agreement Process is to include a statistically representative sample that approximated the general population, then it is not surprising that the Hispanic population, making up 1.3% of Cincinnati, did not have greater representation and influence. If the goal of representation was descriptive representation with greater emphasis placed on typically under-represented groups, then a greater emphasis should have been placed on the Hispanic participation, even necessitating a separate Stakeholding Group. Interestingly enough, in the lawsuit that defined the class, the last part of the class
description stated, “any race subject to use of force.” Because of the lawsuit and the lobbying interests of the ACLU and the Black United Front, the primary focus was placed on the African-American Group, and all other minorities were placed into the Other Minorities Group, despite the fact that there was evidence of disproportionate use of force against Hispanics.

6.5 Feedback Sessions

In preparation for the next phase, Shared Visions, survey participants were asked if they were interested in participating in Feedback Sessions. On the survey, they were asked:

Would you like to participate in a four-hour Feedback Session, led by professional facilitators, in which you will discuss your values, beliefs and goals publically and attempt to reach agreement with others in your group? We will select about 100 representatives from each identity group. If you are selected, you must agree to attend the entire session and, since media will be there, confidentiality of your name and response may no longer be protected (ARIA Survey, n.p).

Respondents were provided three possible responses: “Yes, I am willing to participate;” “I might be willing to participate;” or “No, I do not wish to participate.” The language in the survey does not inform the individual that he or she was representing anyone other than himself or herself. The language in the survey makes it sound like the participant is going to the Feedback Session to further his or her goals and interests as opposed to representing a group. However, representatives were given additional clarification explaining that representatives in the Feedback Sessions were to “represent your group’s views” and to “monitor your own biases to minimize their impact on the process and participants” (ARIA Position Description: Cincinnati Collaborative Feedback Session Representative, n.p.).
Feedback Sessions took place from June 25, 2001 until November 15, 2001 as part of the phase Shared Visions. In total, 13 Feedback Sessions were held to refine and clarify the goals for each of the Stakeholding Groups.\textsuperscript{22} A list of the Feedback Sessions, and the dates they took place, is below. For this list, I have included the main Feedback Sessions as well as the sub-Feedback Sessions.

- Social Service and Religious Organizations (Pilot) Feedback Session: June 25, 2001
- Youth Feedback Session: August 16, 2001
- African-American Feedback Session September 22, 2001
- City Officials Feedback Session: October 4, 2001
- White Citizens Feedback Session: October 18, 2001
- Police Officers and Spouses (Sentinels) Feedback Session: October 22, 2001
- Business and Philanthropic Feedback Session: November 1 and 5, 2001
- Police Officers and Spouses Feedback Session: November 13, 2001
- Other Minorities: November 15, 2001
- Hispanic Feedback Session: November 11, 2001
- LGBT Feedback Session: November 13, 2001
- Appalachian Feedback Session: November 14, 2001

The first Feedback Session was a pilot session with the Social Service and Religious Organizations Group. Volunteer facilitators, who gave of their time and efforts, sharpened their skills in the Pilot Feedback Sessions and Rothman used this Feedback Session to train and improve their facilitation practices. Representatives from each of the eight Stakeholding Groups

\textsuperscript{22} Feedback Sessions were summarized in the reports from Dr. Rothman to Judge Dlott. Therefore, if a meeting took place that was not recorded in these reports, I have no record of it.
Two Feedback Sessions require additional explanation, Police Officers and Spouses and Other Minorities Groups. First, the Police Officers and Spouses Group required two Feedback Sessions. According to Rothman, it was difficult to work with the police and the Police Officers and Spouses Group divided because the Sentinels, African-American police officers, felt they represented a separate voice. The first Police Officers and Spouses Group Feedback Session took place with the just Sentinels and was well attended. The second Feedback Session, not Sentinel specific, did not take place as scheduled but was rescheduled due to a lack of interest and scheduling conflicts (Rothman 2001a). More will be discussed about the participation, or lack of participation, and commitment of the police in the chapter that discusses the commitment to the process in Chapter Nine. However, when it comes to representativeness, the way that the Police Officers and Spouses Group was structured was no representative for the Stakeholding Group representatives. African-Americans who were police officers wanted a separate voice, or descriptive representation. They felt they had unique concerns that could not be expressed within The Police Officers and Spouses Group as a whole and therefore, a second Feedback Session was created. These multiple sub-Feedback Sessions within the Police Officers and Spouses Group Feedback Sessions highlighted a problem I discovered with the structure of the Stakeholding Groups. If the groups were identity groups being used to descriptively represent groups within the community at large, there should not have been a need for sub-Feedback Sessions. Additionally, the Police Officers and Spouses Group was initially divided between the African-American officers and the White officers, and this could have served to further any existing differences between the two groups. Individuals wanted a sub-group speaks to the fact
that the group itself was not meeting the needs of the participants. The same can be said of the Other Minorities Group.

The Other Minorities Group also had multiple sub-Feedback Sessions. Three minority groups, Hispanic, Appalachian, and LGBT had separate Feedback Sessions before combining for the main Feedback Session for the Other Minorities Group. Although it would have resulted in additional groups, these three minority groups could have remained separate to further emphasize their contribution and amplify their voice through descriptive representation. As noted in Figure 1 “Participation by Stakeholding Group,” the Other Minorities Group Feedback Session only consisted of twelve participants. A Hispanic sub-Feedback Session held a session that consisted of twenty-five individuals, the LGBT sub-Feedback Session met and an Appalachian sub- Feedback Session was as made up of fifty people. What is telling is that eighty-eight people participated in the sub-Feedback Sessions, but only twelve people participated in the combined Other Minorities Group. This important finding means that individuals were less likely to participate when they felt that their identity group was not clearly articulated.

These two examples, the Feedback Sessions for the Police Officers and Spouses Group and the Other Minorities Group, point to the fact that participants did not feel the assigned Stakeholding Group accurately represent their identities or issues. For example, some individuals did not want to just represent police officers, but wanted to represent African-American police officers. This created sub-Feedback Sessions within the Stakeholding Groups that diluted descriptive representation of the Stakeholding Groups. Therefore, it can be argued that the Feedback Sessions of the Shared Vision phase was less successful in representing the salient identities and voices of the community because of how the groups were initially structured.
Participants wanted to have the descriptive representation of their identity group and the grouping of Other Minorities as well as Police Officers and Spouses Group did not allow for that.

Representativeness was further diminished in the Shared Visions phase when a Feedback Session began before all the surveys were completed for the Social Service and Religious Organizations Group. By conducting the Feedback Session before the surveys were completed, not all survey input was used to create the Preliminary Group Goals, the goals used as a starting point for deliberation in the Feedback Sessions, for the Social Service and Religious Group. This only influenced the Social Service and Religious Organizations Group, as they were the only group to complete their Feedback Session while the surveys were still being collected. Although it is not possible to know how the inclusion of all the surveys would have changed the goals, this was nonetheless a determent to inclusiveness. Although the survey was touted as being open to everyone, not everyone’s input was, in fact, used.

6.6 Integration Group

In addition to the Feedback Sessions, representativeness was sought in the Integration Sessions of the final Integration Phase. Representatives who participated in the Feedback Sessions selected individuals to represent their Stakeholding Group in the next phase, Integration. These representatives comprised the Integration Group. The Integration Group consisted of five to ten members of each of the eight Stakeholding Groups. On December 2001, the Integration Group’s 58 representatives from the Stakeholding Groups met to vote and comment on the final set of goals.

Unlike the Shared Visions phase, or the Feedback Sessions, I was able to locate data that provided a racial breakdown of the Integration Group participants. As mentioned earlier, the
surveys collected in the phase Getting out the Voice closely mirrored the racial composition of
the city and were representative of city inhabitants. Therefore, to see if the same was true about
the Integration Group participants, I compared the census data with both the survey participants
as well as the Integration Group participants and this can be seen in Table 6.3 below.
Table 6.2 Comparison of Group Participation in Survey and Integration

<table>
<thead>
<tr>
<th>Group</th>
<th>Surveys</th>
<th>Integration Session</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>African-American</td>
<td>697 (19.9%)</td>
<td>10 (17.2%)</td>
<td>-2.7%</td>
</tr>
<tr>
<td>Youth</td>
<td>749 (21.3%)</td>
<td>4 (7%)</td>
<td>-14.3%</td>
</tr>
<tr>
<td>City Officials</td>
<td>176 (5%)</td>
<td>6 (10.3%)</td>
<td>+5.3%</td>
</tr>
<tr>
<td>Police Officers and Spouses</td>
<td>226 (6.4%)</td>
<td>7 (12.1%)</td>
<td>+5.7%</td>
</tr>
<tr>
<td>Social Service/Religious Orgs.</td>
<td>258 (7.3%)</td>
<td>10 (17.2%)</td>
<td>+10%</td>
</tr>
<tr>
<td>Business and Philanthropic</td>
<td>764 (21.7%)</td>
<td>9 (16%)</td>
<td>-5.7%</td>
</tr>
<tr>
<td>White Citizens</td>
<td>334 (9.5%)</td>
<td>7 (12.1%)</td>
<td>+2.6%</td>
</tr>
<tr>
<td>Other Minorities</td>
<td>220 (6.2%)</td>
<td>5 (9%)</td>
<td>-2.8%</td>
</tr>
<tr>
<td>Facilitators/Advisory Staff</td>
<td>78 (2.2%)</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Unassigned</td>
<td>12 (0.3%)</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Total</td>
<td>3,514</td>
<td>58</td>
<td></td>
</tr>
</tbody>
</table>

The total number does not match the other total numbers reported (3,554). It is possible that the information used to construct this chart, specifically the survey information, was gathered and reported prior to the collection of all surveys.
The biggest changes in Stakeholding Group representation was with the Social Service and Religious Organizations Group and the Youth Group. The Social Service and Religious Organizations Group comprised 7.3% of the surveys but increased to 17.2% of the Integration Group. The Youth Group saw a decrease in participation. This is not surprising given that it is difficult to maintain participation by typically disadvantaged groups (Verba et al 1993). Additionally, Youth overall do not participate in civic activities at a high frequency. These two decreases, along with changes in representation, point to a declining legitimacy of representativeness in the process over time when evaluating statistical representation.

The previous analysis focused on representativeness by examining participation according to race in the Stakeholding Group membership. However, there is another way to evaluate representativeness in deliberative processes and that is by evaluating educational levels. Education can cause inequalities in the deliberative process (Mendelberg 2002, Verba et al 1995). Although some argue that this inequality is acceptable because those with education typically have the skills necessary to deliberate, others argue that this inequality is troubling given deliberative democracy’s aim to include the average citizen or a representation of the community as a whole. According to Mendelberg, “People with little education are not only likely to lack access to occupations where reasoning and public speaking skills develop. They also lack access to the pool of cultural arguments about public issues available to people in these occupations and in institutions of higher education” (2002, 166). The discrepancies in education levels becomes troubling for deliberative democracy when those with more education end up representing those with less, as it is possible that the two groups have very disparate perspectives. In addition to reasoning, those with higher education levels tend to have better paying jobs and access to resources needed to sustain participation in a deliberative event.
According to the census report from 2010-2014, 85% of individuals over twenty-five years of age, graduated high school in Cincinnati. However, during this same time period only 32% of those twenty-five and older held a bachelor’s degree. In the Cincinnati Collaborative Agreement Process, education levels were only reported for two phases, Getting out the Voice and Integration, or the survey phase and the integration phase. I was unable to locate any educational breakdown for the Feedback Sessions or the Shared Visions phase. The education levels reported for survey participants and Integration participants as well as the change in participation can be seen in the Table 6.4 below.

Table 6.3 Comparison of Education

<table>
<thead>
<tr>
<th></th>
<th>SURVEYS</th>
<th>INTEGRATION GROUP</th>
<th>CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eight grade or less</td>
<td>81 (2%)</td>
<td>1 (1.8%)</td>
<td>-0.2%</td>
</tr>
<tr>
<td>Some high school</td>
<td>417 (12%)</td>
<td>2 (3.6%)</td>
<td>-9.4%</td>
</tr>
<tr>
<td>High school grad or GED</td>
<td>445 (13%)</td>
<td>1 (1.8%)</td>
<td>-11.2%</td>
</tr>
<tr>
<td>Some college</td>
<td>969 (28%)</td>
<td>13 (23.2 %)</td>
<td>-4.8%</td>
</tr>
<tr>
<td>Bachelor’s degree</td>
<td>583 (17%)</td>
<td>10 (20%)</td>
<td>+3%</td>
</tr>
<tr>
<td>Some graduate courses</td>
<td>290 (8%)</td>
<td>6 (11%)</td>
<td>+3%</td>
</tr>
<tr>
<td>Advanced degree</td>
<td>710 (20%)</td>
<td>16 (26%)</td>
<td>+6%</td>
</tr>
<tr>
<td>Total</td>
<td>3,495</td>
<td>58</td>
<td></td>
</tr>
</tbody>
</table>

As noted before, the overall participation number for the survey phase Getting out the Voice often does not match. To report the overall participation, I used the highest number I was able to verify. However, in this chart, survey participation is only reported as 3,495. I believe this chart was constructed either before all the surveys were complete or only 3,495 of the respondents reported their education levels.
Comparing the survey population to the census, 15% did not graduate high school and 14% of survey respondents reported an education of eighth grade or less or some high school, more or less mirroring the census. In this phase, those who did not graduate high school were well represented again demonstrating that the surveys were, overall, representative of the population as a whole. However, only 5.4% of Integration Group members reported not having a high school diploma. Therefore, although the survey was representative of the education levels of Cincinnatian’s, the Integration Group membership was not a good representation of those with less education. This trend is also seen in the higher education levels. Those with a bachelor’s degree or higher education levels were over represented in the Integration Group. When looking at the participation trends overall, the survey phase was most representative of Cincinnati citizens, but as the Cincinnati Collaborative Agreement Process progressed, representation became more White, more educated and much older. This is problematic, given the earlier stated emphasis on overemphasizing African-American participation and on general representativeness.

6.7 Conclusion

In this chapter I have evaluated participation for inclusiveness and representativeness throughout the Cincinnati Collaborative Agreement Process. To evaluate inclusiveness, I analyzed who was included in each phase and how they were included (Leach 2006). One rule could have excluded individuals who wanted to participate and these were the qualification questions from the survey. It is possible that someone who was covered in the class, from the class action lawsuit, would have been excluded from participating in the Cincinnati Collaborative Agreement Process because he or she did not meet the survey qualification criteria. Additionally, not all survey respondents could participate in the Feedback Sessions, and representatives were used.
Representativeness was also evaluated throughout each of the three phases analyzed in this chapter. The eight Stakeholding Groups, while emphasizing African-American participants, did not meet the needs of the Hispanic population as well as those in the Other Minorities Group. Participation was higher in the sub-Feedback Sessions where the Stakeholding Group was descriptively representative of their identity groups but participation declined when individuals were grouped together as the Other Minorities Group. According to Gutmann (2003), the purpose of identity groups is to instill a sense of self and social belonging while identity groups in the deliberative democracy process serve to articulate a shared vision within this group. In this case, grouping Other Minorities did not meet the needs of the participants to accurately represent their views, as demonstrated by the decreased participation levels in the Feedback Sessions. Also, African-American police officers wanted additional descriptive representation and a sub-Feedback Session was formed within the Police Officers and Spouses Group. This again points to the Feedback Sessions, as originally constructed, as not meeting the needs of the participants.

In addition, I evaluated representativeness through each of the three phases analyzed in this chapter. In the survey phase, or Getting Out the Voice, individuals were not able to select their group, and this is problematic when it comes to representativeness, especially since the Cincinnati Model used the eight Stakeholding Groups as the way to structure representativeness in multiple phases. Because of not being able to self-select, representativeness was diminished. The survey phase was most representative of Cincinnati as a whole, when comparing the racial breakdown of the participants to the city inhabitants. However, as the process progressed and participants assigned to Stakeholding Groups in the Integration Phase it became less representative of the Cincinnati population, had a decreased emphasis on the African-American
participants and became more White and educated, exactly what deliberative democracy should be designed against. Therefore, although the Cincinnati model began as more or less representative with the surveys, did not end that way.

Representativeness can be strengthened by the decision rules in a deliberative process. Even though the group may not be statistically representative, if the decision rule is one of unanimity, then the groups’ interests cannot be ignored or discounted. In this case, the decision rule was created by the ARIA Group and examined in the next chapter that evaluates consensus.
CHAPTER 7
CONSENSUS

This chapter focuses on deliberation itself and seeks to evaluate if the Cincinnati Case was, according to the model I am following, “informed, substantive, and conscientious discussion, with an eye toward finding common ground if not reaching consensus” (Levine, Fung, Gastil 2005, 5). This chapter will focus on how informed participants were and on the use of experts in reaching consensus. First, I will discuss what the literature says about the degree of information required and the use of experts and the consensus required for a successful deliberative practice. Then I will apply the criteria of a sound deliberative model to the Cincinnati Case.

Information plays a key role in deliberative practices. In deliberative democracy practices, “an active, engaged citizen (rather than the passive recipient of information) is the prescription of the day” (Abelson et al 2003, 240). According to Weeks, participants should have some former knowledge about the topic in question and this knowledge should be consistent and stable (Weeks 2000). He explains, “Becoming informed about a policy problem requires a knowledge of the basic elements of the problem, about the relationships among those elements of the problem, about the consequences and the tradeoffs associated with alternative policies” (2000, 361). Scholars agree that informed discussion is necessary for a successful deliberation (Weeks 2000, Fischer 2009, Abelson et al 2003).

Citizens come to deliberate with varying levels of prior information. Before beginning deliberations, citizens are presented with information or are provided access to experts with
which to engage, depending on the type of deliberative process being utilized. Although Weeks and other deliberative democratic theorists want participants to begin deliberation with some level of information, the literature is not clear on what type and how much information the participants need prior to deliberating. Frank Fischer, in his book *Democracy & Expertise: Reorienting Policy Inquiry*, asks two important questions about the role of information, specifically with regard to the role of experts. First, he asks, “Can citizens intelligently deliberate on complex matters of public policy” (49). This is a legitimate question given the public’s overall lack of interest and involvement in policy issues. Next, he questions, “Is citizen participation meaningful in the face of complex issues that require a fair amount of expert input” (49)? For participation to be meaningful, scholars argue that participants must be informed and one way they become informed is through the use of experts.

Experts play an important role in deliberative practices. According to Fischer, an expert is someone who is skilled in his or her field and is experienced above others in that same field (Fischer 2009, 17). Decision makers and deliberative process designers lean on experts to provide information to participants. Those tasked with designing deliberative practices must consciously consider the role of both the information base and the experts to serve in the process. The design of the deliberative process largely determines how citizens, experts and information influences deliberation (Fung 2003). Additionally, the purpose of the deliberative process should drive the process design.

Earlier theorists like Habermas and Cohen stressed the importance of consensus; however, more recent theorists such as Levine, Fung and Gastil, recognize that consensus is oftentimes impossible in larger public processes (Levine, Fung, and Gastil 2005). Levine, Fung and Gastil argue that even if a deliberative process does not result in consensus, it is still
beneficial to participants if the participants “alter, deepen, and stabilize their perspectives through reflection and discussion, even when it does not cause participants’ views to converge” (Levine, Fung, and Gastil 2005, 3).

In what follows, I will examine the Cincinnati case to see if participants were informed, how experts were used, and how consensus was sought. To further clarify what part of the process I am evaluating, I include again the process flow chart highlighting, in blue, the analytic focus of this chapter, as seen in Figure 7-1 below, highlighting the places where consensus was sought. This chapter focuses on four phases, Getting Out the Voice, Shared Visions, Integration and Negotiation. Specifically, this chapter evaluates the way information and experts influenced the deliberative process as well as evaluates the consensus building events. To do this, I am focusing on how goals were deliberated and changed, as discussed and analyzed below. The goals I am analyzing can be seen as highlighted in the flowchart. To conduct this analysis, I will first describe and analyze the Cincinnati model that consisted of the Advisory Group, or parties to the lawsuit, the Expert Pane, and the Stakeholding Groups. I will next explain the way the Cincinnati model differs from other models of deliberative democracy described in the literature review. Finally, I will analyze the consensus building process two ways; first by focusing on how goals progressed more broadly through the process and second by analyzing two specific goals and their progression.
Figure 7-1 Flowchart: Consensus

<table>
<thead>
<tr>
<th>Design/ Cincinnati Sings</th>
<th>Getting Out the Voice</th>
<th>Shared Visions*</th>
<th>Integration**</th>
<th>Negotiation/ Approval</th>
</tr>
</thead>
</table>

**Collaborative Agreement Process**

1. Class Action Lawsuits
   - Class Action Parties: ACLU, BUF, FOP, City
   - Cincinnati Citizens survey (3,500)
   - Individual Goals
   - ARIA Group

2. Feedback Sessions with 8 Stakeholding Groups
   - Final Stakeholding Group Goals
   - ARIA Group

3. Expert Panel & ARIA Group
   - Integration Group (58)
   - Integration Goals (5 Goals)

4. Class Action Parties: ACLU, BUF, FOP, City
   - Final CA Goals (5 Goals)
   - Collaborative Agreement (5 Goals)

* Eight Stakeholding Groups (African-American, Social Service and Religious, Business and Philanthropic, Police Officers and Spouses, City Officials, White Citizens, Other Minorities, Youth) were used to organize the Feedback Sessions as well as to guide selection of the Integration Group Representatives.

**Integration Group consisted of five to ten members of the eight Stakeholding Groups.
7.1 Informed Participation

To understand the Cincinnati model, the role of three different groups must be understood. These groups were the Advisory Group, the Expert Panel and the citizen participants. The Advisory Group included the four parties to the lawsuit, The Expert Panel included a team selected by Professor John Eck, an expert on Criminology at the University of Cincinnati who was appointed by the Court, and the citizen participants included those who were identified through outreach described in Chapters Five and Six.

In this section, I will provide a description and analysis of each of these three groups with a focus on the role of information that was available to each group. Because the deliberative events in Cincinnati were the result of a federal court case, early decisions about structure were guided by Judge Dlott, who was hearing the case. The parties to the lawsuit, the ALCU, the Black United Front, the City of Cincinnati and the Fraternal Order of Police in Cincinnati also known as the Advisory Group, were tasked with negotiating a settlement that involved public deliberation and they too guided the early design decisions. This Advisory Group selected researchers and experts to provide research on best-practice research on policing. This group was called the Expert Panel and was led by Dr. John Eck.

Judge Dlott, the Federal Judge who sought a deliberative settlement to the class action lawsuit, visualized the role of the Expert Panel as one that would inform the Advisory Group as they worked through the process of identifying current practices and the feedback process. The Expert Panel was one of three supporting structures supporting the Advisory Group as they attempted to reach an agreement, as visualized in Figure 7-2, below. According to a court document describing the rational for this model,
These components can be visualized as a triangle with goals, current practices and best practices as the three points of a triangle, with the Advisory Group at the core… The final product from the gathering of goals and Feedback Sessions on police-community relations will be a platform of shared and divergent goals across all Stakeholding Groups… An effort will be made to match up current and best practices with identified goals. This will promote reality testing, quality control and assist the parties with short- and long-term goal-implementation and negotiation of a settlement agreement (Design of Expert Panel [Group] 2001).

**Figure 7-2 Three supporting components for the Parties**

John Eck was selected by the court to lead the Expert Panel. Eck, who holds a Ph.D. in Criminology and teaches at the University of Cincinnati, led a team of researchers. As a result of
the research from the Expert Panel, the following information was submitted to the Advisory Group:

1. An outline of a monitoring system to track the attainment of goals agreed to among the parties
2. A flow chart of the current process for investigating police misconduct
3. A report on current community policing and problem solving efforts in the CPD (Rothman 2001 a).

Eck, who is an expert in Community Problem Oriented Policing, or CPOP, was able to influence the process in a way that was favorable to adopting and implementing this method of policing. Eck reflected on how problem solving, a part of CPOP, made the list of Final Collaborative Agreement Goals (See the previous chapter) because he did not think that the public could come up with this goal unassisted. He described working with Dr. Rothman, the public input process architect and facilitator, by saying,

Well, starting with the notion that we should be doing problem solving and having Jay [Rothman] produce evidence, such as it was, that the community wanted problem solving, what am I going to say to this, right? But, I’ve always had this suspicion, I just didn’t believe that that many people in Cincinnati, even in a non representative sample of people, would just out of the blue come up with problem solving (Eck, John, Interview, January 8, 2014).

Eck is referencing the Final Collaborative Agreement Goal of “Police officers and community members will become proactive partners in community problem-solving.” The way that the Final Collaborative Agreement Goals were derived will be discussed in detail below. However, Eck doubted that the public could have come to this goal without his influence over the process. He therefore questioned how the public goals were created, especially because he
doubted that the public could have included problem solving as a goal. Although Eck did not meet with the Advisory Group as a whole, he met with the parties individually. In an interview, he explained that his proposals to include CPOP were initially met with hesitancy and requests for clarification, which he thought was demonstrating an adversarial attitude. However, as the process progressed, he began to understand that the parties were both vetting him and the expert strategy he was bring to the group and this was part of their job. All parties did not support his proposal equally. In an interview Dr. Eck explained,

The ACLU and Black United Front people embraced it because I think they honestly understood that this could help. This was their best chance of doing something. That it made sense, it had a lot of possible potential… I think the FOP folks embraced it because they saw this as putting the rank and file officers in an important valuable position and it did (Eck, John, Interview, January 8, 2014).

Eck was able to position CPOP in a way that was deemed beneficial for the parties, albeit for different reasons.

In fact, Eck felt that he was also able to influence Rothman to place an emphasis on community problem solving. In the goals collected and derived from community input. As described previously, Dr. Jay Rothman was selected by the court to design and facilitate a public input process whereas members of the community could provide their goals for police-community relations. Although Dr. Eck felt he was able to influence Dr. Rothman and the goal creation process, Dr. Rothman saw it differently. Rothman explained,

You know, if John [Eck] and I were together, he’s a much better rhetorician than me, so he would probably win. But each of us would say we manipulated the other, right? He’d say ‘I got Rothman to make problem solving the main point on the agenda.’ And then I’d
say, ‘I got John to give me input that I could take back to the community, and offer them as a way forward.’ The negative interpretation, which I’m afraid John would have is, ‘I got them to follow my agenda.’ The positive is, we took best practices and we fed it back to the community, in ways that they felt really truly articulated their voice and felt great ownership over it (Rothman, Jay, Interview, May 18, 2015).

Perhaps the greatest indication of Eck’s influence was the decision to use community problem- oriented policing as the operative policing method for the Collaborative Agreement. According to the City of Cincinnati’s website, which adopted the method, Community Problem Oriented Policing, or CPOP is “a philosophy and methodology designed to tackle community problems through a partnership between the employees of the City and the residents of Cincinnati.”

In the Cincinnati case, however, no effort was made to educate the participants prior to deliberations. In fact, the only group that received information about best-practices from the Expert Panel was the Advisory Group. The Expert Panel did inform and influence the final agreement as described above, but they did not provide the scientific information about best-practices directly to the citizen participants. However, it is important to point out that Rothman felt the expert research, or the influence of community problem solving, was used to constructively provide a way forward, and in this estimation, if the community did not want problem solving, they could have removed it from the list of goals. Therefore, even though the average stakeholder did not directly receive the information about best practices as the Advisory Group did, the expert research guided the goal formulation through Rothman’s facilitation.

Although I agree with Rothman that the community could have included CPOP as the problem solving goal, I do not think they had the capacity to make this decision. If they were
going to make a decision about problem solving, then they should have had access to the research on best practices. Community problem solving sounds like a general suggestion or goal, but it is a specific theory and practice, and participants were not informed of the practical implications of their decision since Rothman’s process design did not include providing them information about best practices. If the facilitator was guiding community discussions along the precepts of best practices, the participants making decisions should have been made aware of this, especially if it had policy implications, as will be discussed later. Participants were making decisions about a type of policy, or an approach to community policing, yet they were not given information about policy alternatives. This created a problem, as will be discussed later, when those tasked with implementation felt they did not have a firm understanding of what community problem oriented policing meant. However, under the Cincinnati model, no effort was made to educate participants about community policing or even how policing works in Cincinnati.

In this model of deliberative democracy, where the public participants do not receive the information from the experts, the public served as valued consultants and provided their goals for what a new relationship between the police and citizens looked like. In this model, the citizens do not deliberate about the specific policing methods, but rather represent expertise about their own lives and values. In the Cincinnati Case, the public’s goals were indirectly influenced by the Expert Panel research by Rothman including problem solving as a goal.

The Cincinnati model turned out to be a very different model than other deliberative models, as described above. In other deliberative models, the citizens interact with the experts in one way or another, and then factor in the information gained from this interaction into their deliberations. In the Cincinnati Model, citizens were not given the opportunity to engage with the experts. However, many of the other models consist of a smaller number of participants,
with several hundred at most. Whereas, in the Cincinnati case, several thousand citizens participated.

I argue that the publics’ goals should have been presented, without influence of the Expert Panel, directly to the Advisory Group. By not doing so, the lines between the Expert Panel and the community goals became blurred. If the input of both groups, the experts and the public, were to be merged, than all participants should have understood the intent and objective. Transparency is a key hallmark of good facilitation (Schwartz 2005), and Rothman should have made clear to participants his logic and intent.

Given this caveat, the Cincinnati Case does represent a new model for integrating expert and technical knowledge into the deliberative process without presenting it to the citizens themselves. This type of model will work best when the problem or solution involves technical information but the desired public input on the goals should include as many stakeholders as possible. I analyzed another aspect of the Cincinnati model, consensus building.

### 7.2 Consensus

Deliberation, or the respectful and thoughtful exchange of ideas, is at the center of deliberative democracy practices. Scholars have proposed a variety of methods for decision making in deliberative democracy but consensus remains a method often preferred for decision making in such contexts. In this section, the public deliberation process is analyzed. To understand this analysis, the reader must understand both the frame Rothman used to design this process as well as the method utilized.

Rothman utilized a process known as Action Evaluation to structure deliberation in the Cincinnati case. Action Evaluation, according to Rothman, is a technique that “uses social and computer technology to define, promote, and assess success in complex social interventions”
Using Action Evaluation, participants answered a series of questions designed to develop criteria for success. Participants were asked what they wanted to see as a goal, why they wanted this goal, and how they saw this goal being implemented. These goals were referred to as “What, Why, How” goals and were collected and evaluated by an Action Evaluator, or in this case ARIA staff, who codes and organizes the goals according to shared and divergent themes (Rothman 1995, 5).

To refine these goals, the public input process in Cincinnati utilized a multi-step process involving multiple rounds of input. To keep track of how goals changed, Rothman used a single-text method. Innes and Booher describe a single-text:

The single text method is often used by facilitators to track agreements as they move through the process and to show what the emerging package of ideas is. It is an evolving document, and anything in it can be changed as the negotiations develop and surface new issues or point the way to unforeseen opportunities (Innes and Booher 2003, 46).

As will be evaluated below, goals were recorded by the Rothman and the ARIA Group and as the goals changed, they were recorded using a single-text.

To analyze consensus process in the Cincinnati case, I am focusing on two Stakeholding Groups and how the single-text was developed and modified for these groups. Specifically, I focus on the African-American Group and the Police Officers and Spouses Group. I have selected these two groups over others because they are the two groups most central to my case and because the African-American Group represented the class in the class action lawsuit and the police were most responsible for implementing the Collaborative Agreement. Additionally, I am focusing on the goals of trust and problem solving. I am focusing on trust because, as detailed in
Chapter Five that addressed problem definition, many in Cincinnati pointed to a lack of trust between the community, specifically the African-American community and the police.

I am focusing on problem-solving to better understand how Dr. John Eck and his Expert Panel influenced the goals that emerged. In what follows, I will analyze how goals were created and changed in the phases of Getting Out the Voice, Shared Visions, Integration and Negotiation and Approval. Within each of these phases, the goals changed. For the sake of clarity, I have named the goals during each of the phases, as seen in Table 7.1 below.
### Table 7.1 Types of Goals

<table>
<thead>
<tr>
<th>GOALS</th>
<th>DESCRIPTION</th>
<th>PHASE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Individual Goals</strong></td>
<td>Over 3,500 people provided their Individual Goals in survey form. These goals were entered into a database.</td>
<td>3 - Getting out the Voice</td>
</tr>
<tr>
<td><strong>Preliminary Group Goals</strong></td>
<td>The ARIA Group analyzed the Individual Goals and created Preliminary Group Goals that were the starting point for discussion in each of the eight Feedback Sessions. The Stakeholding Groups revised the Preliminary Group Goals to come up with the Final Group Goals in the Feedback Sessions.</td>
<td>4 - Shared Visions</td>
</tr>
<tr>
<td><strong>Final Group Goals</strong></td>
<td>After the eight Stakeholding Groups refined their goals, they came up with the Final Group Goals. There are Final Group Goals for each of the eight Stakeholding Groups.</td>
<td>4 - Shared Visions</td>
</tr>
<tr>
<td><strong>Integration Goals</strong></td>
<td>The Integration Group, consisting of 58 representatives of the Stakeholding Groups, worked to combine the Final Group Goals from each of the eight groups. These goals, the Integration Goals, were presented to the Settlement Group.</td>
<td>5 - Integration</td>
</tr>
<tr>
<td><strong>Final Collaborative Agreement Goals</strong></td>
<td>As part of the lawsuit settlement, five Final Collaborative Agreement Goals were negotiated by …..based on the Integration Goals presented to the parties.</td>
<td>6 - Negotiation</td>
</tr>
</tbody>
</table>
7.3 Phase I Individual Goals – Getting Out the Voice

In the phase Getting out the Voice, Cincinnatians completed a survey answering a range of questions including What, Why and How questions about their goals for police-community relations from June 1st to August 31st 2001. This process was built on what Rothman refers to as “Action Evaluation”, as described above. In total, over 3,500 citizens filled out the survey. The survey included a series of questions about demographic information as well as the following open-ended What, Why, and How questions:

- What is your first goal for future police-community relations in Cincinnati?
- Why is this goal important to you (what experiences, values, beliefs, feelings influence your goal)?
- How do you think your goal could be best achieved (the more specific your suggestions the better)?

Previous chapters (Five and Six) examined how participation was restricted in this phase and whether or not it was inclusive. The focus of this chapter is consensus and deliberation. Participants did not take part in any discussion in the phase Getting Out the Voice, but filled out surveys. However, those who indicated interest in deliberation in the next phase were asked to express their interests on the survey. If the individual was selected by the ARIA Group, he or she was given an invitation to participate in group deliberation in the next phase.

Deliberation is a key component of deliberative democracy. However, there was no deliberation among survey participants in this stage. Once the surveys were collected the ARIA Group coded and refined the Individual Goals to compile a list of Preliminary Group Goals, as described next.
7.4 Preliminary and Final Group Goals

The ARIA Group worked to refine the Individual Goals into five or six Preliminary Group Goals for each of the eight Stakeholding Groups. Goals were coded and summarized into Preliminary Group Goals by looking for common themes and similarities prior to the second Shared Visions stage that took place from July to November 200. This initial set of Preliminary Group Goals resulting from the first survey phase became the starting point for deliberations. It is possible that bias could have occurred in the creation of the Preliminary Group Goals because the ARIA Group coded and created the Preliminary Group Goals without verifying the coding with participants. This introduced the risk that participants’ intentions may have not been accurately coded. However, two things mitigate this bias.

Once the ARIA Group had distilled the thousands of Individual Goals into Preliminary Group Goals, they created handouts in preparation for the feedback session participants. These handouts included several examples of the Individual Goals that were placed into Preliminary Group Goals, as well as a frequency count and the percentage that each goal represented (Crandall n.d.). First, the handouts that were given to feedback session participants included the Preliminary Group Goals as well as a few examples of the Individual Goals and the frequency count. This presentation added some degree of transparency for the participants. Second, the Preliminary Group Goals were presented only as a starting point for deliberations, and participants could therefore alter and change the goals as deliberations progressed, as described below. Deliberation began in Feedback Sessions that consisted of meetings taking place in two parts. Each of the eight Stakeholding Groups participated in at least one separate feedback session.

7.5 Feedback Sessions
Jay Rothman, trained facilitators to coordinate the Feedback Sessions. (The role of the facilitator is analyzed in the next chapter, Chapter Eight). Before beginning the discussions, Jay Rothman addressed participants and provided an overview of the day’s process as well as the described the expectations of confidentiality. Participants were then divided into groups of approximately seven to fourteen (ARIA Document).

At least one Feedback Session was held for each of the eight Stakeholding Groups. Feedback Sessions consisted of a two-part meeting that was segregated by Stakeholding Group, meaning that, for example, members of the African-American Group were present at the African-American Feedback Sessions. In the first half of the feedback meeting the facilitator guided all of the Feedback Sessions participants to discuss their “Why,” or why their goals about police-community relations were important to them in small groups.

In the Feedback Sessions, participants worked to further refine the goals through brainstorming, using the handout they were given. Facilitators reminded participants to “use ‘I’ statements” so that deeper ‘why’ discussions could occur” (ARIA n.d.). Facilitators were instructed that they should “restate when participants have expressed deeper ‘why’ responses to acknowledge that resonance had been reached and to acknowledge participant’s contribution (ARIA n.d.)” as well as establish and enforce ground rules. Consensus was not the objective in the first part of the Feedback Sessions, but rather the aim was “experience resonance” or the development of a better understanding of other participants “values, beliefs, hopes, traditions, and stories” (Stakeholder Meeting n.d.). At the end of the first half of the Feedback Sessions, one representative was selected from each of the smaller groups to take part in the second half of the feedback session.
In the second half of the Feedback Session facilitators selected individuals to participate in what was referred to as the fishbowl. Not all Feedback Session participants deliberated in the second half. Those participants who were not selected as representatives watched the fishbowl sessions. The fishbowl participants worked to refine the single-text goals as Jay Rothman mediated the deliberation on the stakeholding group’s What goals. After the fishbowl representatives deliberated and decided on five to six What goals, all participants, not just the representatives in the fishbowl, were asked to place a dot next to their choice or choices for What goals voting for their strong support, support or lack of support. From the feedback session participants, representatives were chosen by the feedback session participants to move on and represent their group in the next stage, Integration. Each stakeholding group selected at least one representative from their Feedback Sessions.

There were several advantages to conducting the Feedback Sessions in this two step process. By taking time to discuss why, participants were able to listen to others. In this conflict, identity was a driver and conflicts over identity had contributed to people’s frustrations. Therefore, taking time to discuss Why allowed individuals to express their deep concerns as well as to hear the concerns and experiences of others. However, there were also disadvantages. Participants only shared their own experience and expressed their Why with individuals who were in the same representative stakeholding group. One of the biggest benefits of deliberation can be interacting with individuals who share differing views and experiences. In this phase, participants could have benefited from hearing experiences outside of their group, especially the two groups that were at the center of the conflict, the African-American Group and the Police Officers and Spouses Group.
Additionally, all feedback session participants were not given the opportunity to deliberate in the development of the What goals. Voting is not the same as deliberation. Although all feedback session participants were encouraged and allowed to vote for the What goals they supported, they could have been given the opportunity to deliberate, or change their opinions based on the argument and experiences of others. Had this occurred, it is reasonable to think that the Final Group Goals may have looked much different. To give all feedback session participants the opportunity to deliberate in the first part of the Feedback Sessions could have been extended to include deliberation of the What. Then each group could have selected a representative to work on merging What goals, as they had with the Why discussion. In that way the goals would have been influenced by stakeholders themselves, not created by the ARIA Group without deliberation, an approach that runs somewhat counter to core values in deliberative democracy. From the second part of the feedback session, representatives were again selected, this time to represent the stakeholding group in the Integration Phase.

7.6 Integration Goals

The Integration Group met once in December 2001 (See the flowchart at the beginning of the chapter). Fifty-eight representatives who were selected from each of the Stakeholding Groups in the previous phase worked to integrate the Final Group Goals into Integration Goals. (For an analysis of the representativeness of the Integration Group, see Chapter Six). These members of the Integration Group voted on the Integration Goals and the voting results can be seen below:
### Table 7.2 Integration Group Vote on Final CA Goals

<table>
<thead>
<tr>
<th>Goal</th>
<th>Strongly Support</th>
<th>Support</th>
<th>Do Not Support</th>
<th>No Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police officers and community members will become proactive partners in community problem solving</td>
<td>53 (91.4%)</td>
<td>4 (6.9%)</td>
<td>1 (1.7%)</td>
<td>0</td>
</tr>
<tr>
<td>Build relationships of respect, mutual accountability, cooperation and trust within and between police and communities</td>
<td>46 (79.3%)</td>
<td>9 (16%)</td>
<td>2 (3.4%)</td>
<td>1 (1.7%)</td>
</tr>
<tr>
<td>Improve education, oversight, monitoring, hiring practices, and accountability of CPD</td>
<td>42 (72.4%)</td>
<td>14 (24.2%)</td>
<td>2 (3.4%)</td>
<td>0 (0.0%)</td>
</tr>
<tr>
<td>Ensure fair, equitable and corneous treatment for all</td>
<td>42 (72.4%)</td>
<td>13 (22.5%)</td>
<td>2 (3.4%)</td>
<td>1 (1.7%)</td>
</tr>
<tr>
<td>Create methods to establish the public’s understanding of police policies and procedures and recognition of exceptional service in an effort to foster greater support for the police(^{24})</td>
<td>40 (69.0%)</td>
<td>15 (25.8%)</td>
<td>4 (6.9%)</td>
<td></td>
</tr>
</tbody>
</table>

Note: In the last row, the total vote is one more than the total participants. This is how the data was reported in the ARIA documents.
The Integration Group process differed from the feedback session in that participants were not given the opportunity to deliberate. Integration Goals were drafted by the ARIA Group and presented to Integration Group Members as a handout with the Integration Goals and several examples of Final Group Goals that were transformed to make the Integration Goals. Integration Group participants were allowed to vote and provide written comments on the proposed Integration Goals.

Jay Rothman, the architect of the Collaborative Agreement public input phase, as well as the facilitator for the Integration Group, described the Feedback Sessions in the previous phase as consensus building, but he said that the Integration Group came down to a vote and in his view, this was not consensus.

We succeeded very well in all the small groups [regarding consensus]. However, as we got to the inter-group merge [Integration Group], we were experiencing tremendous stress…That was when the whole business about the police, about the letter from the Black United Front came out accusing the police of raping and pillaging. It looked like the collaborative was going to collapse yet again. I was getting real pressure to get this thing finished and moved on to the court... So, we gave the representatives a platform of goals [Integration Goals] and they had to vote it up or down (Rothman, Jay, Interview, May 18, 2014).

The Black United Front (BUF) was a party to the lawsuit as well as a member of the Advisory Group. The BUF published an accusatory and disparaging letter targeting the police that caused the parties to the lawsuit to question their support of the Collaborative Agreement Process. Both support and momentum that had been gained up until this point were beginning to falter, and Rothman felt he had to make a judgment call to again keep all parties at the table.
This judgment call resulted in consensus building being sacrificed. Therefore, Rothman modified the consensus building process in the Integration Phase. He explained,

If we had done the consensus process, we probably wouldn’t have gotten the platform [the Integration Goals]. We only had a couple hour sessions [for the Integration Group sessions]. We’ve certainly no way to build the momentum towards agreement. So, I gave them a platform and they had to vote up or down…I think we had 56 [of the 58] that supported it. It was some great overwhelming number, but it wasn’t consensus (Rothman, Jay, Interview, May 18, 2015).

The platform Rothman referenced was constructed using a very different process than the fishbowl consensus building process described in the Feedback Sessions. In the Integration Group, arguably the most important phase and group, representatives were not given the opportunity to further deliberate or refine the goals reached by the Final Group and refined by the ARIA Group, but rather they were instructed to vote strongly support, support or do not support on the Integration Goals provided to them by the ARIA Group. This means that the ARIA Group had a tremendous amount of power and influence over setting the Integration Goals, and ultimately over the Final Collaborative Agreement Goals. It is not possible to know how the Integration Goals may have changed if they had been open for deliberation as part of a consensus-achieving process, as opposed to a vote with little deliberation, but it is reasonable to assume there would have been differences.

The architects of the Collaborative Agreement Process (the Expert Panel) were often faced with Advisory Group members, the parties to the lawsuit, threatening to drop out of the settlement. If this were to happen, all progress and momentum would have been lost. Therefore, decisions were made along the way where the original plan was altered. Although these
decisions, and the decision to not use a consensus building process deviated from ideal deliberative democracy conditions, the process continued and all parties remained at the table. Trade-offs were made so as to keep the process moving forward in time to meet the court’s deadlines. In so doing, some of the principles that mark sound deliberative practices were sacrificed. The Cincinnati Case perfectly demonstrates the criticism that it is important to not only understand the ideal deliberative democracy model, but also that scholars and practitioners need to analyze how deliberation actually occurs in practice, and the pressures that shape that practice.

Although consensus building deliberation did not take place in the Integration Group, the support, or lack thereof, of the participants was quantified and recorded through the voting process developed by the ARIA Group. This quantified support was presented to the parties so that they could attempt to negotiate a settlement. Presenting goals in this format demonstrates transparency. Because consensus building and deliberation were sacrificed to some extent during the Integration Phase, Integration Group members did not experience several fundamental benefits to deliberation.

### 7.7 Collaborative Agreement Goals

To demonstrate how the single-text process worked throughout each of the public participation phases of the Collaborative Agreement process, I described the process of problem solving. To evaluate the process, I have focused on the issues of trust and problem-solving. As the goals were refined through stages, and moved from specific Individual Stakeholder Goals to Final Group Goals and then to Integration Goals before reaching the Final Collaborative Agreement Goals, I argue that some of the participants’ intentions were lost. Although it was necessary for goals to be merged and distilled, the Final Collaborative Agreement Goals
represented more general or overall objectives. The specific objectives of the Stakeholding Groups were lost in the process. As described earlier, the problem in Cincinnati was viewed by many as one surrounding the relationship between the African-American community and the police, due to a lack of trust. Additionally, as described earlier in this chapter, the Cincinnati model differs from other deliberative democracy models in its usage of an Expert Panel. The influence of Dr. Eck and his expert team drove the inclusion of problem solving and Community Problem-Oriented Policing in the Collaborative Agreement Goals. Therefore, it is important to trace problem solving, as a goal that resulted from the deliberative process.

7.7.1 Trust

In the Individual Goals as expressed in the survey, many African-Americans expressed a desire to be understood by the police and for the police to understand the specific needs of the African-American community. The progression of trust as a goal can be seen in Figure 7-3 below that presents examples of how narrative and goals related to trust were modified, changed and abandoned as the goal progression moved through the phases. As described above, the ARIA Group drafted the Preliminary Group Goals from the surveys that became the starting point of deliberations in the Feedback Sessions with the different groups representing different stakeholders. A Preliminary Group Goal for the African-American Group also pointed to a need to acknowledge the specific concerns of the African-American community by in three areas: “Increase trust, respect and safety for the African-American community” (African-American Group Goals). Even after the African-American Group met in the Feedback Sessions, the Final Group Goal for the African-American Group still highlighted two of these three goals as the African-American Final Group Goal read, “Increase respect and safety for the African-American community through the elimination of racially biased practices by the CPD” (African-American
Final Group Goal). Their objectives became even more specific: to eliminate racially biased practices by the Cincinnati Police Department.

However, when the ARIA Group drafted the Integration Goals they did not specifically mention the African-American community, and presented the goals to the Integration Group without the opportunity to deliberate the goals, only the opportunity to vote strongly support, support or oppose and add comments. In fact, none of the Integration Goals mentioned the African-American community. The goal for trust read, “Build relationships of respect, mutual accountability, cooperation and trust within and between police and communities,” without even specifying the African-American community. In total, two Integration Group representatives voted in opposition to this goal but only one of these individuals provided a comment. A member of the African-American Group commented that “I cannot be held to the same accountability as the officer. The officer is paid and a trained professional. I am not!” This individual felt that the police should be held to a higher standard due to their profession. Therefore, for them trust and respect should be given by the police officer regardless if it is reciprocated. Another individual did not feel the same way and voted in support of this goal stating that trust was a “two-way street.” Several individuals, although they voted to support or strongly support this goal, wanted to see a stated emphasis on the African-American community. One individual said, “The general statement says ‘communities’ and I believe it needs narrower focus to where the trouble spots are, at least initially”, meaning the African-American community. And yet another individual commented, “I still think the police department has a unique opportunity to lead other citizens. We have lily-White suburbs, heavily Black city neighborhoods, who don’t understand each other. An integrated police force, treating each other well, sets a great example and influences the greater community.”
Even in the goal progression from the police, a specific emphasis was placed on the African-American community. Individual Stakeholder Goals from the Police Officers and Police Spouses Group included a need for establishing trust and understanding and one said “establish trust and a cooperative spirit between the entire community as a whole, but especially between the African-American community and the police.” The Preliminary Group Goal for the Police Officers and Spouses Group constructed by the ARIA Group included emphasis on the African-American community and read, “Enhance mutual respect, trust and communication between the police officers and the community with particular emphasis on youth and African-Americans.” However, after the Police Officers and Spouses Group Feedback Sessions, this goal became more general, and did not include an African-American emphasis. The Final Group Goal for the Police Officers and Spouses Group read, “Enhance mutual respect, trust and understanding between the police and the entire community.”

It is somewhat surprising that there is no specific mention of African-Americans in any of the Integration goals, given the emphasis on stakeholder group selection and formation, as analyzed in a previous chapter. Additionally, the Collaborative Agreement Process was created as a result of a settlement for a federal class action lawsuit and the class was African-American citizens. What is not known is what could have happened, had the Integration Group been given the opportunity to deliberate. Voting in support or in strong support is not the same as being given the opportunity to deliberate.
## Figure 7-3 Evolution of Trust Goal

### Trust

<table>
<thead>
<tr>
<th>Individual Goals</th>
<th>Establish trust and a cooperative spirit between the entire community as a whole, but especially the African American community and the police</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Have the police and the community recognize that we are partners not adversaries</td>
</tr>
<tr>
<td></td>
<td>To establish a better relationship with our youth</td>
</tr>
<tr>
<td>Preliminary Group Goals</td>
<td>Increase trust, respect and safety for the African American community</td>
</tr>
<tr>
<td></td>
<td>Enhance mutual respect, trust, and communication between the police officers and the community with particular emphasis on youth and African Americans</td>
</tr>
<tr>
<td></td>
<td>Improve fairness and equal treatment for all</td>
</tr>
<tr>
<td>Final Group Goals</td>
<td>Increase respect and safety for the African American community through the elimination of racially biased practices by the CPD</td>
</tr>
<tr>
<td></td>
<td>Enhance mutual respect, trust and understanding between the police and the entire community</td>
</tr>
<tr>
<td></td>
<td>Develop and foster greater understanding and positive interactions between the African American Community and the CPD</td>
</tr>
<tr>
<td>Final Goal</td>
<td>Build relationships of respect, mutual accountability, cooperation and trust within and between police communities</td>
</tr>
</tbody>
</table>

**Key**

- African American
- Police
7.7.2 Problem Solving

The goal of problem solving was also traced from Individual Goals to Final Collaborative Agreement Goals. In Figure 7-4 below, I trace the evolution of the goal for problem solving specific to police and to African-American stakeholders as it moved through the different phases/stages. Members of the African-American stakeholding group expressed vague goals of wanting to “work with the police,” but did not specify how or what this would look like. Members of the Police Officers and Spouses Group, on the other hand, had specific goals of what they wanted police to do, as detailed in their Individual Goals. One example comes from an individual who wanted to “to involve our community councils in how we police their communities.” The Preliminary Group Goal for the Police Officers and Spouses Group included a specific mention of community policing, but more importantly, after the police deliberated, the Final Group Goal still included community policing. However, the Integration Goal read “Police officers and community members will become proactive partners in community problem solving.” The Integration Goal, and subsequently the Final Collaborative Agreement Goal, did not include community policing. There was only one individual who did not support this Integration Goal. This person commented, “Artificial positive interaction does not help.” Although the members of the Police Officers and Spouses Group voted that they strongly supported or supported the goal of becoming partners with the community in problem solving, the officers and spouses disagreed on whether community oriented policing would be the best approach or not. One officer who strongly supported this goal stated that, “Proactive and community policing is key. CPD needs to revamp our COP (Community-Oriented Policing) team philosophy, put role models/good communicators in these positions. COP should also raise the bar and hold all CPD employees accountable for meeting and achieving the COP team
philosophy.” However, another police officer did not share this sentiment about community policing and but still voted that they strongly supported this goal. They said, “Don’t expand community-oriented policing. Eliminate it.” Additionally, a member of the City Officials Group also questioned what exactly problem solving would look like stating “Community problem-solving, if we are referring to ‘problem-oriented policing,’ this is not the same thing as community oriented policing. I am concerned about the term ‘community problem-solving.’ Emphasis needs to be placed on public safety and order maintenance policing.” This is significant because my research uncovered that this disagreement at this phase of the process over how problem solving should be implemented was the beginning signs of an ongoing struggle over the definitions that eventually plagued implementation of the Collaborative Agreement, as will be discussed and evaluated in Chapter Nine.
Figure 7-4 Evolution of Problem Solving Goal

Problem Solving

<table>
<thead>
<tr>
<th>Final Goal</th>
<th>Key</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Final Group Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage citizen involvement in problem solving in their neighborhoods</td>
</tr>
<tr>
<td>Reinforce the community oriented policing philosophy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Preliminary Group Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Promote community self-help and development</td>
</tr>
<tr>
<td>Further develop our community-oriented policing programs</td>
</tr>
<tr>
<td>Encourage more citizens to help address problems in their neighborhoods</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Individual Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>To work together for a crime-free community</td>
</tr>
<tr>
<td>African-Americans take a more proactive role in learning more about the laws and regulations to abide by</td>
</tr>
<tr>
<td>The community needs to teach the young people how to deal with police</td>
</tr>
<tr>
<td>To make sure that police-community relations continues to progress through positive community policing</td>
</tr>
<tr>
<td>More community empowerment and accountability</td>
</tr>
<tr>
<td>To involve our community councils in how we police their communities</td>
</tr>
</tbody>
</table>

Police officers and community members will become proactive partners in community problem solving.
7.8 Negotiation

The votes on the Integration Goals were tallied and handed off to the Advisory Group, the ultimate decision makers and parties to the lawsuit (ACLU, BUF, FOP and City), to negotiate a settlement. Although the Integration Goals were not the result of deliberative consensus at this point, as some deliberative democracy theorists would argue is necessary, the final product of community derived goals that had emerged in earlier phases of deliberation and consensus and presented for vote was presented as the result of deliberative process to the decision makers. The celebration that ensued after passing the Integration Goals to the parties making up the Advisory Group would have been short-lived had the parties not been able to reach an agreement. While they did eventually reach an agreement, progress stalled initially, despite all the momentum gained from the progress achieved in the earlier phases.

Judge Dlott recognized that it was imperative to reach a settlement sooner rather than later if an agreement was going to be reached at all. For this reason, as the negotiations dragged on she set what she refers to as an arbitrary deadline for the conclusion of the talks. She used the anniversary of the riots. She explained in an interview,

If it hadn’t been for the riots, and the anniversary of the riots as the deadline to get something done, it wouldn’t have happened then. That was an artificial sort of deadline that I was able to set and what happened to the city was they were embarrassed because it was a year after the riot almost and they had nothing to show for any progress they had made during that time. It was going to be a big deal in the city – the anniversary of the riots. …This was the opportunity, you know, to make people come to an agreement with the deadline. That was extremely helpful (Dlott, Susan, Interview, January 7, 2014).
Even with a deadline and the need to be seen as accomplishing something, the parties of the lawsuit could not reach an agreement. As the anniversary of the riots drew near, the negotiations intensified but a settlement was not reached. Fearing that the parties could not come to an agreement at all, Judge Dlott changed her strategy. She explained,

What happened was we got down to two weeks before the anniversary of the riots. Jay said, we got either a week or two weeks. So what I did, I had a courtroom upstairs on the eight floor, a small courtroom but I turned it into a conference room. I just laid a horseshoe table and I told everybody they have to be there at eight o’clock at the morning and they couldn’t leave until 12 o’clock at night and my husband and I provided all the meals. We hired you know, food and pizza companies and everything we—you have no excuse to go home and I remember going to Trevor’s at four o’clock in the morning to buy cases of Cokes, you know, because we’re running out of Cokes. And we fed everybody so they had no excuse to leave the courthouse (Dlott, Susan, Interview, January 7, 2014).

But even with the parties putting in long hours in an upstairs courtroom, they could not reach a settlement. It was not until a new mediator was brought in that a settlement was reached. Until this point, Dr. Rothman was still serving as the main mediator. Although he had been successful in gathering and facilitating the deliberation on the public goals, he was not able to help the parties of the lawsuit reach an agreement. When reflecting on this decision, Rothman felt that he should have been more authoritative as a facilitator. The meeting was held around the time of Passover, when he had religious obligations.

There was some Passover issue, that I couldn’t facilitate a meeting. But I recall, at some point, I said, I need a lawyer. I need someone with a big hammer, and a big stick, who
can hit these guys over the head because I don’t know how to do that (Rothman, Jay, Interview, May 18, 2015).

To conclude the negotiations, Judge Dlott recommended bringing in Jude Michael Merz to facilitate the process. She said,

I suggested Judge Merz, a Magistrate Judge in Dayton [Ohio] to continue the negotiation that Jay had started. So Mike came in and he finished it and frankly, Mike was much better at hard negotiations than Jay. Jay was a conciliatory person (Dlott, Susan, Interview, January 7, 2014).

With Judge Merz at the table, an agreement was finally reached. After over a year of work, after collecting goals from 3,500 citizens through the survey, after a series of deliberations in the eight stakeholder groups, and the integration of the goals by the Integration Group, and after the deliberations of the parties to the lawsuit, the Collaborative Agreement was finalized. The result of this negotiation was a signed and agreed upon document called the Collaborative Agreement. Five goals were the foundation upon which the rest of the Collaborative Agreement was built. The Final Collaborative Agreement Goals were:

1. Police officers and community members will become proactive partners in community problem solving
2. Build relationships of respect, cooperation and trust within and between police and communities
3. Improve education, oversight and monitoring, hiring practices and accountability of CPD
4. Ensure fair, equitable, and courteous treatment for all
5. Create methods to establish the public’s understanding of police policies and procedures and recognition of exceptional service in an effort to foster support for the police
The goals from the Integration Group are the exact same goals that appeared in the Collaborative Agreement. The parties did not alter or change the language of the Integration Goals, but rather listed the Integration Goals verbatim in the Collaborative Agreement. I am calling the goals listed in the Collaborative Agreement as Final Collaborative Agreement Goals even though they are the same as the Integration Goals because they withstood the scrutiny and negotiation of the process and resulted in the Collaborative Agreement.25

### 7.9 Conclusion

A historic agreement was reached, built upon the community’s hopes and fears, and The Collaborative Agreement was signed in 2002. However, the Cincinnati model was not a complete success when evaluated in light of the criteria applied here for deliberative democracy because of some lapses in terms of informed, substantive, and conscientious discussion. According to most models of deliberative democracy, the Cincinnati model did not succeed in preparing participants for an informed discussion. Participants were not provided with any type of information about policing practices, either best practices or current state. Although this decision to not provide the expert research to the participants may have served to speed up the goal refinement process, it resulted in several problems. The line between the Expert Panel input and the community input became blurred. “Problem solving” is a vague goal, despite the expert understanding of Community Problem-Oriented Policing. Because this was not specified in the goal, confusion ensued. As seen in the comment by a member of the City Officials Group, the

25 The full text of the Collaborative Agreement is located in the Appendix. The operational provisions of the Collaborative Agreement will be discussed in the chapter that evaluates implementation.
definition of problem solving was not clear. (This confusion carried over into implementation, as will be discussed in a following chapter).

However, the Cincinnati Model could be seen as a new way of integrating expert knowledge with public input, especially if the main purpose of the public was to serve as value consultants, providing the What goals. In this new model, citizens serve as experts in their own lives and deliberate values and issues that are important to them. They deliberate what they would like to see, but not how they would like to see this happen. The values from the public are then provided to the decision makers along with the best practice information from the experts. Experts help educate the decision makers on the How, or how these goals will be operationalized and implemented and the best practice research that is conducted. The biggest drawback to this model, in terms of expected benefits for participants, is that participants do not have the opportunity to learn about best practices from the experts which could result in an increased understanding of government. Even so, what this model does allow is the inclusion of thousands of citizens who are able to come together and express their deepest concerns and the goals they have for the city. In conflicts like the one in Cincinnati, this was a necessary first step for Cincinnatians to start moving forward.

In addition to evaluating the role of information, I analyzed the consensus building process. The Collaborative Agreement Process differed in its success of consensus building throughout the various stages. Survey participants, or those who participated in Getting Out the Voice, were not given the opportunity to deliberate but only to fill out a survey. Shared Visions, or the phase that utilized Feedback Sessions, was the most successful with regard to building consensus. However, the biggest drawback of the Cincinnati Model was that public deliberation only took place in the Shared Visions phase, and did not take place between members of
different Stakeholding Groups. Additionally, although participants were encouraged to articulate their Why, or describe why this problem was important to them, stakeholder Whys were not shared with individuals beyond their respective Stakeholding Groups, which would have benefited all participants. In a perfect setting, which arguably no deliberative practice will fully achieve, all participants would have been given the opportunity to deliberate with those who are different from them. As will be discussed in the next chapter, both time and financial restraints restricted what could have been done.

The structure of the deliberation process in Cincinnati also impacted how goals were refined. As the process progressed from Individual Goals to the Final Collaborative Agreement Goals, the goals became more generic despite some participants wanting more specific goals. One notable example is that the Final Collaborative Agreement Goals makes no specific mention of the African-American community, despite the emphasis and importance of this group in the conflict. Both the Police Officers and Spouses Group and the African-American Group Goals included the need for an increased focus on this community in their goals, but this focus, in the end, was not included in the final Goals. Had participants in the Integration Group been allowed to deliberate, instead of simply voting and providing comments, it is conceivable that the Final Collaborative Agreement Goals would have looked much different and even included a provision for increased focus on the African-American community. This specifically demonstrates how the rules and the process likely influenced the outcome with regard to the African-American community.

Even though the process by which the goals were created did not wholly meet Innes’ criteria of consensus, a decision was still made based on the goals of the community as they were determined by the community itself through a complex, multi-phased process that was driven by
eight stakeholder groups that represented the community at large. The Collaborative Agreement was historic. Although this aspect of the process may not meet all the criteria for an ideal collaboration, something dynamic and impactful happened. John Eck was asked if he thought this process was collaborative.

Again, compared to what? We have these expectations. Our internal dictionary knows what collaborative is, what problem solving is. It's this pure kind of thing much like you would think like ‘Okay. I got perfect -- what a saint is like.’ And then you say, ‘Well, I'm not a saint. Poor me. I'm an asshole.’ Compared to a normal human being, you might be great. A number of years back, our attorney general was saying, ‘We need to have a dialogue raised. We need to have a conversation raised.’ I got furious because I thought ‘What do you think I've been doing for my entire life. This is what a conversation looks like.’...This is a conversation. It's a lot of yelling and a lot of silence. Isn't this a faculty meeting? He [Rothman] had some purist notion of what this conversation was going to be like. Be realistic. We’re humans. You need to approach people as a human...This is as Kumbaya as you will ever get (Eck, John, Interview, January 8, 2014).

Although the deliberative process that took place in Cincinnati might not have been the ideal, substantive and sustained democratic deliberation did take place. Facilitators helped design and guide these deliberations and are analyzed in the next chapter.
Deliberation is at the heart of deliberative democracy. Participants gather, usually in small groups, to exchange ideas in order to reach some objective. To aide in these deliberations, facilitators are used in almost all deliberative models (Ryfe 2006). However, there is no clear standard for how facilitation should take place or what type of facilitators should be used.

According to Mansbridge et al, facilitators must be both a “task facilitator” and a “process facilitator” (Mansbridge et al 2006). As a task facilitator, they are charged with establishing ground rules and organizing the meeting so that deliberation can occur. As a process facilitator, they are tasked with stimulating discussion and ensuring fair opportunities for participants to speak (Spada and Vreeland 2013, Ryfe 2005).

Before even beginning a deliberative process, facilitators have an important task of framing the discussion process. Actually, it is more complicated than that because facilitators are faced with important albeit at times contradictory tasks. They must frame the facilitation according to two possibly competing objectives. First, the facilitation should be framed in a way that it is deemed appropriate by the project sponsors or decision makers. Second, the facilitation should be framed in a way that is fair to the stakeholders as well (Smith and Wales 2000).

Facilitators can play different roles in the deliberative process. A facilitator may be viewed as a facilitative consultant engaged for his or her process expertise (Schwartz 2005). This type of facilitator works directly with the decision makers, is both a process expert and a content expert, and influences the design of the deliberation. A facilitative coach, on the other
hand, is more influential with participants by helping them reframe, reflect and guide deliberation (Schwartz 2005). This type of facilitator is a process expert and is involved in the content of deliberations. Depending on the role of the facilitator, he or she may be a strong, moderate, or weak facilitator.

Strong facilitators often ask leading questions during a deliberation and summarize and redirect participants (Ryfe 2006). Doing so, strong facilitators are often at the center of the deliberation guiding conversations. Although this type of facilitation might get to consensus more quickly, there is less time for participant story telling or allowing participants to deeply explore feelings and topics that come up in the deliberations (Ryfe 2006). A weak moderator, on the other hand, does not take an active role in steering the deliberation but rather mainly helps participants enforce ground rules and be respectful of each other. A moderate facilitator exists somewhere between the two extremes of strong and weak. Specifically looking at the role and interaction of the moderator, Reykowski (2006) examined three experimental conditions for deliberation. In the first setting, participants are provided with the minimal amount of support beyond instructional support. Reykowski evaluated the impact of these three styles in participant feedback surveys and determined that deliberation took place with all three styles (Reykowski 2006, 344). Therefore, different facilitation approaches can be used in different situations and still achieve the deliberation that deliberative democracy aims for.

Not only are there different facilitator approaches, but there are different types of facilitators, professional or volunteer (Innes 2004). However, according to Innes, scholars do not agree on what type of facilitator to use. Innes explains,

The evidence remains inconclusive about the type of facilitation that is needed. Some argue that a facilitator should be professionally trained and neutral while others contend
that stakeholder or other members of a community can be effective if they have the skills and they can act neutral in their facilitator role (Innes 2004, 8).

If process organizers decide on a professional facilitator, that facilitator has greater incentive to achieve a positive outcome in deliberations. Practitioners, who make a living as facilitators, have an incentive to be seen as doing a good job so that they can have positive references and recommendations for future engagements (Mansbridge et al 2006).

Not only is there disagreement on the type of facilitator that should be used, but the there is not consensus about the role of neutrality. In one study, post deliberation surveys revealed that participants thought that an unbiased facilitator was important (Susskind, Levy, and Thomas-Larmer 2000). Even if participants think a neutral facilitator is highly important to the outcome of deliberation, Susskind et al. provide three arguments for rejecting neutrality outright. First, they claim that a lack of neutrality may not influence the outcome of the deliberation (Susskind, Levy, and Thomas-Larmer 2000). Second, Susskind et al. argue that facilitators rarely act neutrally or impartially in practice. Finally, they go so far as to argue that it is “morally and ethically untenable” for facilitators to remain neutral in some situations (Susskind, Levy, and Thomas-Larmer 2000, 175). Spada and Vreeland also determined that facilitators often intervene in deliberations in a way that can be seen as biased. They explain that “moderators sometimes intervene in discussions by summarizing or reframing the opinions of participants and providing additional information, or explicitly supporting one opinion over another” (Spada and Vreeland 2013, n.p). They conclude that moderators can change participants’ opinions and behaviors in the deliberation by expressing their views (Spada and Vreeland 2013). In light of these ways that facilitators can directly influence the outcome of deliberations, and in light of the other issues raised above about the roles of facilitators, it is important that they be transparent
with the decision makers as well as the participants regarding how they view their role and the potential outcome of their influence.

In this chapter, I analyze the facilitators in the Collaborative Agreement Process and apply Levine, Fung, and Gastil’s criteria that deliberations should have “a neutral, professional staff that helps participants work through a fair agenda” (2005, 2). To do this, I examine Dr. Jay Rothman’s model as a facilitator, examining the ARIA approach and how Action Evaluation was used in the Cincinnati Case. Next, I evaluate the facilitators, specifically the volunteer facilitators, and examine their roles and approaches to facilitation, as well as their potential biases. Finally, I analyze the project budget and outline the risks Dr. Rothman undertook to make sure the deliberations took place as desired.

8.1 Rothman and the ARIA Approach

Prior to the class action lawsuit that initiated the Collaborative Agreement Process, Dr. Jay Rothman was working with the Andrus Foundation, out of New York. As the parties to the lawsuit began to define what the public deliberation process would look like, Alphonse Gerhardstein, a well-respected civil rights attorney in Cincinnati who represented the plaintiffs in the class action lawsuit, turned to the Andrus Foundation to suggest a facilitator. The parties reached out to Dr. Rothman, who accepted the position as Special Master to the Court as well as the charge of designing the Collaborative Agreement Process.

Jay Rothman, Ph.D. from Yellow Springs, Ohio, approximately seventy miles to the north of Cincinnati, was selected as the mediator in April 2001 (Rothman 2012). He and the ARIA Group, his consulting company, were engaged to facilitate public deliberations in Cincinnati. Rothman, both a practitioner and an academic, began the ARIA Group, Inc., in 1998 as a “conflict resolution training, consulting and evaluation company” (ARIA Website n.d.). As
an academic, he was a Fulbright Senior Researcher and Scholar in Israel from 2006-2007 (ARIA Website n.d.). He has also served as an Associate Professor in the Graduate Program on Conflict Management, Resolution and Negotiation at Bar Ilan University in Israel. As a practitioner, Rothman worked in Cyprus, Israel, Northern Ireland, the former Soviet Union and Sri Lanka (ARIA Website n.d.).

In his experience as a facilitator, Dr. Rothman developed his own approach to resolving conflict, which he called the ARIA framework. According to Rothman, the ultimate goal of the ARIA framework “is to foster harmony and resonance from adversaries’ full and honest expression of the deeply felt human motivations that lie beneath their conflict” (Rothman 1997, 18). There are four steps to the ARIA method: Antagonism, Resonance, Invention, and Action.

1. Antagonism brings out the festering angst and anger and puts them out for discussion.

2. Resonance fosters a harmony that can emerge between disputants, a harmony growing out of deep exploration and articulation of what goes on without them.

3. Invention is the process of brainstorming mutually acceptable, creative, and integrative options for addressing the central and underlying aspects of the conflict.

4. Action is then built upon the previous stages implementing what should be done and why, by whom and how (19-20).

The ARIA method was developed to engage conflict and seek to resolve it. Rothman also developed a second method he called Action Evaluation as a process for setting goals. In one of his conflict resolution projects, Rothman was charged with creating a definition of success in a conflict process. Action Evaluation was born out of this charge (Friedman, Rothman, and
Rothman’s Action Evaluation is a method of engaging stakeholders in a goal setting process based on the premise that stakeholders can both define success and resolve a conflict. Additionally, it argues that stakeholders can reevaluate their definition of success through implementation. Action Evaluation involves asking stakeholders a series of what, why, how questions about their goals. “1. What are your definitions of success, or goals, for this program? 2. Why are these goals important to you? 3. How do you think the program should go about achieving these goals” (Friedman, Rothman, and Withers 2006, 204)?

Although Rothman often refers to Action Evaluation as a visioning process, Action Evaluation is different from the visioning process used in many deliberative practices. Visioning, according to Dukes, “is a term used to describe a process which involves substantial portions of a community in imagining their desired future and in setting goals for how that future might be attained” (Dukes 2006, 67). Visioning processes tend to be future-focused and to ask community members about their goals and values. Although a visioning process can increase urgency for accountability during implementation due to public involvement (Dukes 2006), there are no formal mechanisms for public evaluation of implementation. This is a key differentiating factor between Action Evaluation and visioning. Whereas Action Evaluation and visioning are both focused on the Why and What goals, only Action Evaluation is focused on the How, or implementation.

Initially, Rothman wanted to engage the conflict in Cincinnati using his ARIA method, which involves surfacing antagonism. However, the parties to the lawsuit (ACLU, BUF, FOP, and City) could not reach agreement about this approach. Specifically, the police would not take part in a problem definition process if it resulted in finger-pointing towards the police, accusing them of being the problem. Therefore, Rothman suggested instead that his Action Evaluation
The parties agreed to participate in a goal setting process that did not engage in problem solving. Rothman designed a public input process in hopes of surveying 5,000 Cincinnatians, conducting Feedback Sessions to further refine the goals and finally integrating the goals and submitting them to the parties to the lawsuit. Although Rothman only collected 3,500 surveys, it was a large undertaking and required paid staff, consultants and volunteers. To help clarify how facilitators were used, I have modified the Phases of the Collaborative chart, presented previously, to include a column that shows staff involvement during each phase and is presented in Table 8.1 below.
<table>
<thead>
<tr>
<th>Phase</th>
<th>Date</th>
<th>Action/Goals</th>
<th>Staff Involved</th>
<th>Accomplishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Design</td>
<td>March – May 2001</td>
<td>Design</td>
<td>Jay Rothman</td>
<td>Negotiated the design and structure of the upcoming phases</td>
</tr>
<tr>
<td>2 Cincinnati Sings</td>
<td>May 1- July 1, 2001</td>
<td>Awareness</td>
<td>ARIA Staff and Volunteer Facilitators</td>
<td>Awareness raised about the process of gathering What, Why and How goals</td>
</tr>
<tr>
<td>3 Getting out the Voice</td>
<td>June 1- August 31, 2001</td>
<td>Individual Goals</td>
<td>ARIA Staff Volunteer Facilitators</td>
<td>Over 3,500 surveys collected</td>
</tr>
<tr>
<td>4 Shared Visions</td>
<td>July- November 2001</td>
<td>Preliminary/ Final Group Goals</td>
<td>Volunteer Facilitators ARIA Staff Jay Rothman</td>
<td>Facilitated a two part Feedback Session for each of the eight Stakeholding Groups</td>
</tr>
<tr>
<td>5 Integration</td>
<td>November-December 2001</td>
<td>Integration Goals</td>
<td>Jay Rothman ARIA Staff</td>
<td>Rothman facilitated a vote on Integration Goals from representatives from each of the eight Stakeholding Groups</td>
</tr>
<tr>
<td>6 Negotiation</td>
<td>January- April 2002</td>
<td>Final Goals</td>
<td>Jay Rothman</td>
<td>The details of the Collaborative Agreement were negotiated with the parties</td>
</tr>
<tr>
<td>7 Approval</td>
<td>April 2002-August 2002</td>
<td>Submission for court approval</td>
<td></td>
<td>The parties submitted proposed plan for court approval</td>
</tr>
<tr>
<td>8 Implementation</td>
<td>April 2002-2007</td>
<td>Implementation of Agreement</td>
<td></td>
<td>The Collaborative Agreement was implemented in Cincinnati</td>
</tr>
</tbody>
</table>
8.2 Facilitators

Before the Collaborative Agreement Process, the ARIA Group had seven part-time employees; however, to facilitate the Collaborative Agreement Process, the ARIA Group expanded to approximately six full-time and six part-time as well as fifteen paid contractors. This expansion took place rapidly and placed a great deal of stress on Rothman and the ARIA Group (ARIA 2001b). Rothman hired or contracted with a variety of individuals, as described in Figure 8-1 below. The figure shows how the staff was organized, and how they ultimately reported to the U.S. Federal Court Judge Susan Dlott. The Advisory Board, although not directly in the hierarchy, as described in previous chapters, consisted of the parties to the lawsuit, the ACLU, BUF, FOP and the City of Cincinnati. These individuals informed the design, deliberation and implementation of the Collaborative Agreement.
Cincinnati Police-Community Relations Collaborative
Organizational Chart

Judge Susan Dlott
U.S. Federal Court

Jay Rothman
Project Director

* Advisory Board

Nashid Shakir
Associate Director

Randi Land
Communications Director
Budget and Accounting

Brooke Hill
Special Assistant and PR Consultant

John Eck
Research Team Director

Lisa Growette
Senior Researcher

Shawn Minor
Researcher

Rob McLaughlin
Project Coordinator

Cincinnati Collective Learning Center
Outreach

Stakeholder Group Representatives

Mike Cohen
Action Evaluation
Project Manager
Data / Web

Teresa Mowery
Administrative Coordinator

Margie Wells-Davis
Facilitator Management

Facilitators and Recorders

Laura Fathauer
Data Base Technology

Heather Murray
Data Assistant

Office Volunteers

* Advisory Board
Al Gerhardtstein
Ken Lawson
Juleana Frieson
Mike Harmon
Richard Janke
Alan Freeman
Keith Fangman
Scott Greenwood
Damon Lynch III
Greg Baker
Rick Gagnon
Steve Lazarus
William Martin
8.3 Volunteer Facilitators

Volunteer facilitators played the biggest role during the phases “Getting out the Voice” and “Shared Visions.” In “Getting Out the Voice,” volunteers helped to collect 3,500 surveys. In the phase “Shared Visions,” volunteers facilitated and helped with Feedback Sessions by both taking notes and facilitating the dialogues. As described in the previous chapter, the Feedback Sessions took place in two parts. The first part involved volunteer facilitators helping participants express their Why goals. Volunteer facilitators recorded Why goals expressed during the first part of the Feedback Session. The second half of the Feedback Session was facilitated by Dr. Rothman, with the purpose of reaching consensus on the What goals.

A public input process of this magnitude was a huge undertaking and was only made possible by the dedication and support of volunteer facilitators. In all, approximately 60 volunteers provided their assistance by facilitating Feedback Sessions. These individuals included professional consultants, psychologists, mediators, social workers and community activists (Rothman 2001b).

Although the facilitators were volunteers, the ARIA Group set qualifications for these positions. To be a volunteer facilitator, an individual was required to meet four ARIA qualifications:

- Complete the survey that recorded the Individual Goals
- Attend eight hour training session and introduction to ARIA methodology
- Facilitate four-hour feedback session designed as a Pilot Feedback Session
- Facilitate one to ten Feedback Sessions (4 to 40 hours)

---

26 As part of the phase Getting Out the Voice, Cincinnatians were asked to complete a survey and explain what goals they had for police-community relations, how these goals should be implemented and why this was important to them. Their responses to the question of why this was important to them are referred to as Why goals.
The volunteers selected were trained to conduct the following during feedback session:

- Manage speaking time (3-5 minutes per individual) to ensure each participant has an opportunity to fully participate. Co-facilitator can keep time
- Maintain a group environment that permits full expression of people’s feelings, while controlling potential escalation
- Monitor your own biases to minimize their impact on the process and participants
- Assist group in selecting one representative to attend the Integrated feedback Session (ARIA n.d.).

The volunteer facilitators shouldered the responsibility of guiding stakeholders through small group discussions where participants discussed their Why goals. In their training, volunteer facilitators were instructed on the practices they were to use. Facilitators were informed that their main activity was to encourage feedback session participants to share their Why goals, not their What responses in disguise. To do this facilitators were encouraged to “probe [participant’s] answers, without putting anyone on the spot, to get at what they really care about: their stores, their hopes, fears, hurts and beliefs” (ARIA n.d.). The facilitators were encouraged to model for the participants by sharing their own Why goals.

The volunteers were task facilitators who focused on the task of facilitating feedback groups, and did not have input or influence over the design of the process. They were mainly tasked with enforcing ground rules and keeping the process amicable, occasionally asking clarification question to get at the stakeholder’s intent behind their Why goal.

The volunteer facilitators had personal reasons to participate, as will be discussed below. Therefore, when they shared their personal Why goals, bias was introduced into the facilitation
process, potentially influencing participants to be more likely or less likely to share their own Why, depending on if the participant agreed or disagreed with the facilitator’s Why. In general, however, the effect of this was probably limited, since the objective of the volunteer facilitators was to provide a safe space for participants to share their Why goals, which could be done even in the face of disagreement over Why goals. Because the volunteer facilitators were not tasked with reaching consensus or even seeking common ground, bias was less likely to influence the outcome.

8.3.1 Pilot Feedback Session

The ARIA Group conducted a Pilot Feedback Session to test the readiness of the facilitators. The Pilot Feedback Session was the first feedback session of the Shared Visions stage. The deliberations of the Business and Philanthropic Group were selected as the pilot session.

Prior to the Pilot Feedback Session, Individual Goals were collected by survey and coded by the ARIA group to create the Preliminarily Group Goals, the starting point of the Feedback Sessions. To expedite the coding process, fifty-six Business and Philanthropic Group members who were deliberating in the Pilot Feedback Session were required to complete their survey online, providing their Individual Goals, online (Rothman 2001 b). In all, fifty-six people from the Business and Philanthropic Group participated in the pilot Feedback Session.

Unlike the Feedback Sessions with other groups, the Pilot Feedback Session was a test of the volunteer facilitators and the proposed facilitation process. After the Pilot Feedback Session participants were asked to both evaluate the volunteer facilitators and the process.

Like all Feedback Sessions, the Pilot Feedback Session consisted of two main parts, part one and part two. In the first part of the Pilot Feedback Sessions, volunteer facilitators guided
discussion of participants’ Why goals in small groups. As discussed above, the role of the volunteer facilitator was to moderate maintenance of ground rules and, when necessary, to redirect participants to explore deeper meanings behind their Why. The goal of the first part of the Pilot Feedback Session was not to find consensus or even common ground, but to allow participants the opportunity to express their Why and to hear the Why of others in their group. Volunteer facilitators operated as note-takers observed the Why facilitation and took notes, which were submitted to the ARIA Group. In the second part of the Pilot Feedback Session, group representatives met in the center of the room to deliberate the What goals for the Business and Philanthropic Group. Individuals who were not selected as a representative were asked to sit around the representatives and to listen to the deliberations in a manner referred to as a fishbowl. Participants who were selected as representatives in part one were provided the “Preliminary Group Goals” for the Business and Philanthropic Group, which was a summary of the Business and Philanthropic Group’s Individual What Goals coded and categorized into the “Preliminary Group Goals”. Using this information as a starting point, the Business and Philanthropic Group representatives began deliberating the What goals, with Dr. Rothman facilitating the discussion. Unlike the first part of the Pilot Feedback Session, the purpose of the second part was to reach consensus about the What goals for the Business and Philanthropic Group. After consensus was reached, the Final Group Goals were displayed around the meeting room on paper hanging on the wall and all participants, regardless of whether a representative who deliberated in the second part, were encouraged to vote in support of goals they backed. To conclude the Pilot Feedback Session, Business and Philanthropic Group members were asked to evaluate both their facilitators as well as the facilitation process.

8.3.2 Evaluation of Facilitators
After the Pilot Feedback Session, participants were given a feedback form that collected identifying information as well as the opportunities to describe “What did you like about today’s feedback session?” and “What could be improved?” Additionally, individuals were asked to rate their facilitator on a scale of one to five, with one being excellent and five being needs improvement.

The average rating score of volunteer facilitators was 2.51, slightly above average. Participants provided comments about their facilitators as well. Some facilitators were favorably reviewed by participants, who viewed them as being strong and staying on topic and asking clarifying questions. When participants commented that the group needed more structure or the facilitator needed more training, they were not viewed as favorably. Volunteers were used to facilitate the Why and it is possible that, had professional facilitators been used, the average facilitator rating may have been higher. Dr. Rothman own evaluation of the facilitators aligned with the participants’ assessment of the facilitators. In ARIA meeting minutes, Rothman noted how he thought fifteen were great, ten were okay and ten were weak (ARIA 2001b).

8.3.3 Participant Evaluation of Pilot Feedback Session

Participants also provided feedback on the facilitation process itself in the Pilot Feedback Session, when asked about what they liked and disliked about the event. The biggest complaint from participants was that the accommodations were not appropriate. Sixteen individuals said either that the acoustics or the sound system needed improvement. Many participants were unable to hear what was going on and this was frustrating for them. One individual, when asked what could be improved, said “acoustics- could not understand the leader.” Another individual pointed out the he or she had difficulties hearing in both the small group and the fishbowl. Yet another individual said that he or she “missed much of what was said.” The largest complaint
about the Pilot Feedback Session was a lack of appropriate accommodations. Setting up a room with the appropriate accommodation is a small but important part of the facilitation process. All the significant and even impressive preparation and training of staff and volunteer facilitators could not overcome the problem of participant’s inability to hear the directions and group deliberation in the fishbowl.

8.3.4 Reasons for Volunteering as a Facilitator

Volunteer facilitators sacrificed their time to facilitate. They dedicated many hours over the course of a few weeks leaving their family and friends to give of their service without compensation. But why would a group of individuals want to do this? Those who facilitated on June 18, 2001 were asked “Why did you come here tonight?” Although the responses varied slightly, most indicated that they wanted to make a difference. One individual reflected that “Through dialogue we can talk. The decision makers have already shown us what they are going to do. It is time for citizens to join to make things happen. When we start working together, that will be when things change here” (ARIA 2001a). Another individual called it his life’s calling to be a facilitator in the Cincinnati Collaborative Agreement Process. He said, “It is a dream to be here. I’m a great facilitator and I’m eager to learn. In my lifetime, I never thought I’d live in a smoke-free world and we do. I have a similar hope, that we’d (sic.) live in a racism-free world. I’m not sanguine, but I hope it works.” And yet another said, “I want to be part of the change in the community.”

Those wanting to make a difference in race relations so rarely have the opportunity to participate in public events that result in substantive change and Cincinnatians in 2001 were no different. Several years before the Cincinnati riots, President Bill Clinton announced the “One America in the 21st Century: The President’s Initiative on Race” and asked the American people
to begin “a candid conversation on the state of race relations today” (Clinton 1998). The initiative was created with the intent of promoting community dialogue (Smith 1998) and resulted in a best-practices guide for communities to begin to engage in conversations about race (Community Dialogue Guide 2003). Although Clinton was giving the American people permission to have hard conversations about race and discrimination, the “One America” initiative was a top-down initiative that did not reach every city. Even though Americans were given the opportunity to have dialogues about race, not everyone was provided an opportunity to do so in a government-sponsored dialogue. That is why volunteer facilitators in Cincinnati were optimistic about the opportunity to not only take part in this dialogue, but to help facilitate it.

8.4 Budget

Public deliberations are expensive and large public deliberations are even more expensive. Lukensmeyer and Brigham (2005) explain that public input processes increase in cost as the number of participants increase, ranging from several hundred thousand dollars to over a million. The initial project budget for the Cincinnati deliberations was $200,000, which was lean for a project of this magnitude. Both the plaintiffs and the city were to contribute $100,000 each for a total of $200,000 (Order Establishing the Collaborative Procedure). Unless ordered by the court, the parties would not have to pay more. Even with this clearly stated in the Order Establishing the Collaborative Procedure, Rothman proposed an initial budget of $460,000 but negotiated down to $420,000, which was still higher than what was allocated in the Order Establishing the Collaborative Agreement. To make up the difference, Rothman was forced to raise funds and to begin the public input process before the project was fully funded. When asked what he would have done differently, Rothman said, “What I would do differently here is I would make sure we had all the money before we started. This thing would have cost about a
million. We ended up having a $420,000 budget, and we had to beg, borrow and steal it every moment” (Rothman, Jay, Interview in Beyond Intractability).

As Rothman and the ARIA Group began the first phases of the Collaborative Agreement Process, the funds did not come in. Therefore, those who were paid were asked to reduce their rate or even donate their time. Rothman describes continued participation from paid staff at a reduced rate as “a labor of love and an expression of deep commitment of everyone involved” (Rothman Progress Report May 25, 2001). Rothman, himself, led by example and donated 250 hours of his time and reduced his normal fee.

There were times when it looked like the Collaborative Agreement Process in Cincinnati would not continue. Rothman and the ARIA Group could have walked away, but they did not. Because Rothman had not facilitated a process of this size before he did not have the leverage to require payment up front. He said, “You know, we didn’t have the success to say to people if you don’t give us the money we’re going to go away. We had to prove it could be successful, and then each time we proved it we could get a little more money. So that was excruciating” (Rothman Beyond Intractability). Through his and the ARIA Group’s dedication to seeing change in Cincinnati, they found a way complete the process with donated time and reduced fees.

To begin a deliberative process without funding is a risky decision. Because the Collaborative Agreement Process started without being fully funded, it might have stopped when the money ran out. Had this happened, the public’s trust in the Cincinnati City government could have decreased. In general, the public is leery of public processes like this one and does not trust the government. Therefore, if the public had began this process full of hope and encouragement but was forced to stop, they would have become disenfranchised. Despite
understanding the risk, Rothman elected to both start and continue the process without the guarantee of funding. The process, however, did continue and was successfully completed.

8.5 Conclusion

A successful deliberative process relies on facilitators to help design and guide the process. According to Levine, Fung and Gastil, a good deliberative process is one in which a “neutral, processional staff… helps participants work through a fair agenda” (Levine, Fung, and Gastil 2005). Dr. Jay Rothman and his ARIA Group were selected by Judge Dlott as facilitators in the Cincinnati case. Rothman was responsible for designing the public input process in a way that met the needs of the decision makers, or in this case the parties to the lawsuit. As Smith and Wales (2000) explained, facilitators are often required to frame the deliberation in a way that satisfies competing interests. Dr. Rothman was forced to frame the deliberation in a way that did not involve problem-solving in order to keep the police at the table.

The volunteer facilitators were integral to the Cincinnati Collaborative Agreement process and the Feedback Sessions would have failed without them. To help ensure that the volunteer facilitators were ready to meet the demands of facilitation, Dr. Rothman constructed an innovative and creative way to help them prepare. Dr. Rothman designed a pilot feedback session for the facilitators to test their skills with the Business and Philanthropic Group. At the pilot Feedback Sessions, volunteer facilitators guided the Why dialogue where members of the Business and Philanthropic Group were encouraged to share their thoughts on why improving police-community relations was important to them. After the volunteer facilitators completed this portion of the pilot feedback session, Dr. Rothman guided Business and Philanthropic Group Representatives in a consensus-building process to narrow the group’s What goals. After the pilot feedback session was conducted, Business and Philanthropic Group representatives were
asked to evaluate the volunteer facilitators. Rothman’s design of a pilot feedback session was timely and provided quick and direct feedback to ensure volunteer facilitators were ready for other, possibly more contentions, stakeholding groups. His decision helped make sure that the volunteer facilitators were prepared and trained, which was key to the success of the volunteer facilitators in the Cincinnati case.

All the preparation, training and adherence to best practices of facilitation may not be enough to guarantee a successfully facilitated deliberative process. As the Cincinnati case demonstrated, despite Dr. Rothman and the ARIA Group’s meticulous preparation and facilitation design, situations and circumstances outside of their control affected the deliberation. In the fishbowl deliberation of the Business and Philanthropic Group’s What Goals, participants could not hear the deliberation. The Cincinnati Case serves as a reminder that large-scale deliberative process are complex and have many complicated variables that influence success, and some of these variables may be outside the control of the process facilitators.

In the Cincinnati Case, Dr. Rothman was forced to manage a complicated and elaborate public input process. To do this, he was required to manage relationships, process logistics and the deliberation all at the same time. The deliberative democracy literature focuses mainly on the importance of the facilitator managing the deliberations, as the criteria evaluated in this chapter demonstrates. And although it is important for process facilitators to provide an atmosphere for deliberation, ensuring high-quality dialogue, in the Cincinnati case, Dr. Rothman realized that he must also manage relationships and process logistics for the deliberations to be successful as well. Dr. Rothman worked to balance expectations of the parties to the lawsuit, Judge Dlott, paid ARIA staff, the media, as well as volunteer facilitators. In addition, he managed the process by securing funding, creating schedules, locating facilities for the
deliberation as well as testing volunteer facilitators. Although the deliberative democracy
literature focuses mainly on the importance of ensuring facilitators conduct high-quality
deliberation, if the facilitators do not pay adequate attention to managing the process and
relationships, the deliberations will not be successful. If the deliberations are successful, those
who participated will ideally improve their relationships among each other as well as support the
final recommendations of the deliberative agreement. The next chapter evaluates support and
sustainability after the Collaborative Agreement was signed and examines the complex
relationship between the two in the Cincinnati case.
CHAPTER 9
SUPPORT AND SUSTAINABILITY

The previous chapters have focused on what happens before and during a deliberative democracy process. Literature about deliberative democracy tends to focus on events before and during the deliberation; but what happens after an agreement is reached? This chapter examines what happens after an agreement by evaluating implementation and the effects of support and sustainability. To do this, I apply Levine, Fung and Gastil’s criteria for successful deliberation is that high-quality deliberations should over time “earn broad public support for their final recommendations” and “prove sustainable” (Levine, Fung and Gastil 2005, 2). This chapter examines what happened after the agreement was reached by evaluating public support for the recommendations of the sustainability.

Public deliberations can result in a variety of outcomes, ranging from the creation or modification of policies to simply building support or knowledge about a certain initiative, or to solve some problem. Regardless of the justification for involving the public, the goal of deliberations is to come to some type of agreement and preferably one that is high quality. Innes and Booher explain, “High quality agreements genuinely alleviate, if not solve problems; they are widely acceptable among parties whose support is needed among the public; and they are practical and implementable” (Innes and Booher 2001, 10). When a high quality agreement is reached through deliberation the results are a series of observable outcomes that can be attributed to the deliberation, or first, second and third order effects. Of course a first-order effect of effective deliberation would be any agreement reached. First-order effects typically occur during
the deliberation when participants build “social, political, and intellectual capital” (Connick and Innes 2001, 11). Additionally, any agreement reached because of a deliberative process is considered a first-order effect. Second-order effects can be observed after the deliberation takes place, typically within the first few years, and they include “new partnerships and collaborative activities coordinated and joint action, learning that extends into the larger community, changes in perceptions of problems and of other stakeholders, changes in practices, and implementation of agreements and strategies” (Connick and Innes 2001, 11-12). Third-order effects can also result from deliberations, although these are more difficult to directly observe. Third-order effects involve a change in the relationship among those who took part in the deliberation. This change can result in new and improved partnerships as well as innovative ways to solve problems that involve all of the stakeholders (Connick and Innes 2001). For the decision maker and stakeholders to experience all of these benefits, a deliberation must result in an agreement that is implemented.

Much of the literature that evaluates deliberative democracy focuses on the black box of deliberation and does not analyze implementation. Successful implementation depends on support and sustainability. Implementation and support during this implementation is closely associated with the type of deliberative process used. As discussed previously, there are multiple methods that decision-makers utilize when engaging the public in a deliberative process, ranging from public communication and public consultation to public participation (Rowe and Frewer 2005). In public communication processes, the objective is to inform participants and as such public support is only necessary before the agreement is reached. In public participation processes, on the other hand, public support is vital in reaching the agreement, but it may also may be required during implementation. The public may be asked to participate in building
support for varying types of processes so that an agreement can be implemented (Irvin and Stansbury 2004). Additionally, many deliberative processes, or as Fung and Wright refer to as mini-publics, are front-loaded with regard to public support. They explain,

Most mini-publics are front-loaded in the sense that they aim, like an opinion poll or election, to generate public discussion and refine opinion about a candidate, issue or policy choice. The expectation and hope is that politicians and officials will take these public deliberations into account in their subsequent decisions (Fung and Wright 1999, n.p.).

However, some deliberative processes are designed with a need for sustained support during the implementation phase. According to Fung,

Some mini-publics, however, also incorporate back-loaded participation and deliberation that reviews the quality of ongoing action and implementation. If a mini-public generates sufficient interest to sustain the ongoing participation necessary for monitoring, important benefits can redound to participants (Fung 2003a, 346).

Fung and Wright (1999) as well as Kadlec and Friedman (2007) explain that if participation is maintained throughout the entire cycle (including implementation), then it is possible that the public will both learn from the process as well as increase the accountability of those implementing the decisions. However, Fung and Writing caution that it is difficult to maintain public participation through long processes. They explain,

It remains to be seen, however, whether the public actively involved in these [deliberative democracy] experiments can sustain participation over time with sufficient intensity to become effective monitors of the decisions they make; as in conventional democratic
processes, moments leading up to decision are no doubt more exciting and visible than the long periods of execution that follow (Fung and Wright 1999, n.p.).

Depending on the type of process being used, support can be needed either up front, or during implementation, but it can be difficult to sustain support both up front and during implementation especially if it is a long process.

In this chapter, I am evaluating public support and sustainability in the implementation of the agreement, my last two evaluative criteria. I analyze the implementation of the Collaborative Agreement overall to determine how both public support and sustainability of support helped or hindered this implementation. As I became familiar with this case and analyzed these two criteria, it became apparent to me that these two criteria should be evaluated simultaneously because, as I argue below, it is impossible to tease them apart when evaluating the Cincinnati case. Additionally, as I analyzed the case, I noticed three distinct time periods where the relationship between support and sustainability changed. These periods were:

1. Support during the public input process
2. Support during implementation
3. Support after implementation period

Therefore, I have focused this chapter around the chronological analysis of support and sustainability during these three periods, starting with evaluation of public support during the public input process.

The focus of this dissertation, up until this point, has been on the way that citizens participated in the deliberative process. Future studies of the Cincinnati case might focus on the elite aspect, or on the relationship between the court and the elites (McCoy forthcoming). However, my focus is on the way that citizens provided input and how this resulted in police
reform. I will continue this focus on citizen input in the implementation phase and look at the role of citizens in implementing the Collaborative Agreement. This means that I am not going to analyze issues in which force is used, but rather I am going to focus on Community Problem Oriented Policing, or CPOP, as well as the commitment of the parties and the participants to the outcome.  

9.1 Collaborative Agreement and Memorandum of Agreement

To understand and evaluate the events that took place while implementing the Collaborative Agreement, the reader must first understand implementation expectations as outlined in the Collaborative Agreement and the Memorandum of Agreement. After the riots in 2001, then-mayor Charlie Luken called upon the Department of Justice for support with policing reform. The Department of Justice conducted an investigation of the Cincinnati Police Department that resulted in a Memorandum of Agreement (MOA) that focused on “use of force” policies. At the same time the Collaborative Agreement was deliberated on by the public and parties to the lawsuit, the Department of Justice issued a Memorandum of Agreement (MOA) with the city of Cincinnati. Both agreements included some of the same parties and the implementation of both agreements was to take place at the same time, despite the different goals of each agreement. The Memorandum of Agreement (MOA) between the Department of Justice and the city of Cincinnati was signed in April of 2002. Perhaps the best description of the differences between the CA and the MOA was described by Saul Green in the Final Report from

27 For a detailed description of how the MOA and CA were carried out, see the Final Independent Monitor Report
28 Previous chapters and analysis have not focused on the parallel path of the Department of Justice investigation that resulted in the Memorandum of Agreement. This path intersects the Collaborative Agreement path during implementation and as such, the DOJ process and the MOA are analyzed in this chapter.
the Independent Monitor provided to Judge Dlott detailing the progress of the Collaborative Agreement and Memorandum of Agreement. Green said,

In April 2002, close to one year after the Thomas shooting, the DOJ and Cincinnati entered into a MOA [Memorandum of Agreement], and the City, the FOP and the Plaintiff Class entered into the CA [Collaborative Agreement]. The MOA specifically targets police accountability and use of force issues. It required new policies on use of force, reporting and investigating use of force incidents and citizen complaints, new training requirements, early intervention and risk management. The CA focused on the style of policing employed by the CPD in building mutual respect and accountability through, (1) adopting Community Problem Oriented Policing (CPOP) as the principal crime fighting approach for the CPD; (2) addressing bias-free policing through policy, training, and data collection; (3) requiring evaluation to determine if the measures implemented are working (a review that focuses on outcomes, not just process); and (4) the creation of the Citizen Complaint Authority, which conducts independent reviews of citizen complaints (Green 2008, 5-6).

The MOA focused on policies about use of force and police accountability. Specifically, the MOA “required new policies on use of force, reporting and investigating use of force incidents and citizen complaints, new training requirements, early intervention and risk management” (Final Independent Monitor Report, 5). It is important to understand certain aspects of the MOA as compared to the CA. First, the MOA and the Collaborative Agreement were to be implemented at the same time, and implementation fell largely on the shoulders of the Cincinnati Police Department and the City of Cincinnati. This required the city and the police to rapidly implement both agreements, at times being forced to focus on one agreement over the
other, as will be discussed below. Second, both agreements were overseen by the Federal Court through an Independent Monitor, as will also be discussed in greater detail below.

9.2 Support During the Public Input Process

Cincinnatians were given the opportunity to demonstrate their support for not only the Collaborative Agreement Process, but also to show their support for improving police-community relations by participating in a variety of other public input processes. While this dissertation focuses on the Collaborative Agreement Process, but several other public input processes were taking place at the same time. One in particular, the “Cincinnati Community Action Now”, played a role in the implementation of the Collaborative Agreement. Cincinnati citizens expressed their desire for change in their city not only by participating in the Cincinnati Collaborative Agreement Process, but also by participating in Cincinnati Community Action Now, or CAN.

Although CAN was not directly tied to the Collaborative Agreement Process, it was often confused as such because it was organized and met during the same time as the public deliberation input process for the CA. Although the two processes worked in parallel, there was an intersection of the two later on. As such, I argue, it is important to evaluate CAN. As one of Mayor Charlie Luken’s responses to the 2001 riots, he commissioned CAN as a working partnership between city government, businesses and civic leaders in the community. Funded through private donations, CAN sought to address five areas: education and youth development, economic inclusion, police-community relations in the justice system, housing and neighborhood development, and image and media (Aldridge 2001).

CAN worked with over 250 volunteers with varying backgrounds throughout the community who volunteered nearly 20,000 hours (ARIA The Cincinnati Experience in Race
Relations n.d.). The president of the Greater Cincinnati Foundation at the time, Kathy Merchant, explained that CAN worked vigorously for the two years after the riot in 2001 to construct and implement initiatives ranging from education to police-community relations (Edmonson and Zimpher n.d., 15). CAN completed its work in 2003 and morphed into a new organization, Better Together Cincinnati, raising over $7 million for its programs that eventually included the Community Partnering Center (as will be discussed below). Citizens in Cincinnati demonstrated their support for change by participating either in CAN or the Collaborative Agreement Process or both. Although CAN and the Collaborative Agreement Process operated as two independent initiatives, their purposes were unified when it came to the creation of the Partnering Center, which will be discussed further in the chapter. The $7 million raised by Better Together Cincinnati to support the Partnering Center was not the only way private industry in Cincinnati showed support as funders many of the same backed the Collaborative Agreement Process as well.

One way to gauge public support is to look at what and how much money and in-kind support the public contributed to the CA. Many organizations and individuals in Cincinnati provided both financial and in-kind contributions that made the public deliberation process possible. As was discussed in the previous chapter, the initial CA project was funded by $200,000 contributed from the City of Cincinnati and a grant from the Andrus Foundation. However, Dr. Jay Rothman, who was in charge of designing the public input process, budgeted over $460,000, and was required to raise additional funds to meet this budget. Dr. Rothman successfully raised just shy of the $460,000 goal, including the initial $200,000 as outlined in Table 1 below. Cincinnati businesses and foundations demonstrated their support of the
Collaborative Agreement Process through their financial contributions. As seen in the Table 9.1 below, multiple organizations, churches, and businesses contributed.
### Table 9.1 Contributions to the Collaborative Agreement Process

<table>
<thead>
<tr>
<th>Funder</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrus Family Fund</td>
<td>$100,000</td>
</tr>
<tr>
<td>City of Cincinnati</td>
<td>$100,000</td>
</tr>
<tr>
<td>Peterloon</td>
<td>$1,000</td>
</tr>
<tr>
<td>Jewish Federation</td>
<td>$2,500</td>
</tr>
<tr>
<td>Greater Cincinnati Foundation</td>
<td>$50,000</td>
</tr>
<tr>
<td>Christ Church, Episcopal Dioceses</td>
<td>$20,000</td>
</tr>
<tr>
<td>Fifth Third Foundation</td>
<td>$5,000</td>
</tr>
<tr>
<td>Anonymous Foundation</td>
<td>$10,000</td>
</tr>
<tr>
<td>Blank, Rome Comisky &amp; McCauley</td>
<td>$2,000</td>
</tr>
<tr>
<td>Taft, Stettinius &amp; Hollister</td>
<td>$5,000</td>
</tr>
<tr>
<td>Hon. Robert Black, Jr.</td>
<td>$2,000</td>
</tr>
<tr>
<td>Mayerson Foundation</td>
<td>$10,000</td>
</tr>
<tr>
<td>Michael &amp; Suzette Fisher</td>
<td>$1,800</td>
</tr>
<tr>
<td>Archdiocese of Cincinnati</td>
<td>$25,000</td>
</tr>
<tr>
<td>Xavier University Student Government</td>
<td>$3,000</td>
</tr>
<tr>
<td>Federated Department Stores</td>
<td>$10,000</td>
</tr>
<tr>
<td>Tom Cody</td>
<td>$1,000</td>
</tr>
<tr>
<td>Proctor and Gamble</td>
<td>$10,000</td>
</tr>
<tr>
<td>Jewish Federation of Cincinnati</td>
<td>$15,250</td>
</tr>
<tr>
<td>Episcopal Society</td>
<td>$10,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$361,050 (Needed $460,000)</strong></td>
</tr>
</tbody>
</table>
Looking at this table, we see the support of many community organizations as well as individuals. The donors consisted of religious organizations such as the Jewish Federation of Cincinnati and the Episcopal Society as well as large corporations located in Cincinnati, such as Federated Department Stores. Additionally, project funding came from local philanthropic organizations such as the Greater Cincinnati Foundation, whose role in this process will be discussed further in this chapter.

In addition to financial support, the community also donated their church basements and meeting rooms for the deliberations, as well as hot meals and thousands of hours volunteering. Without the many volunteer hours, the Collaborative Agreement would not have been signed. As discussed in Chapter Five, over 3,500 individuals provided their goals for police-community relations in Cincinnati. Through the countless hours of volunteer work and generous donations and citizen participation, the Collaborative Agreement was deliberated, negotiated and eventually signed. The community wanted to see change in Cincinnati and multiple efforts were conducted at multiple levels to try to achieve this change. The community demonstrated their support while the agreement was being negotiated. But, what did support look like after the signing of the Collaborative Agreement and the Memorandum of Agreement? Could this support be sustained? I seek to answer these questions in the remainder of this chapter.

9.3 Support During Implementation

9.3.1 November 2002- December 2003

The ink was barely dry on the signed Collaborative Agreement before support from both the public and the parties began to falter. What success was achieved in signing the agreement was challenged again and again, especially during the first year of implementation. Some parties threatened to drop out, some parties did, in fact, drop out, and an Independent Monitor was fired.
All of this occurred within the first year after the Collaborative Agreement was signed. Below I will outline and analyze the many places where the support and excitement of the parties was challenged and, in some cases, failed. But, before I can examine the ways that support faltered, I will first discuss the terms of the CA for implementation between November 2002 and December 2003.

Although the Collaborative Agreement listed multiple provisions, I am focusing on one, Community Problem Oriented Policing, or CPOP. I am making the decision to focus on CPOP for several reasons. First, the community goals specifically stated problem solving (See Chapter Seven). Second, because I am focusing on the role of the community in the deliberative process, this provision directly impacts the community and requires their ongoing support for successful implementation. Therefore, I am focusing on CPOP at the expense of other provisions because the community was involved in creating this goal and was also responsible for helping to implement it.

According to the text of the Collaborative Agreement, the parties were to implement CPOP, or Community Oriented Policing. CPOP was defined in the Collaborative Agreement as …one form of police work that seeks resolution of troublesome circumstances in the community. These troublesome circumstances are framed as problems to solve. They usually reveal themselves as a form of repeat offending, victimization or locations. First, problems need to be carefully defined. A usable problem definition requires a description of harmful behaviors and the environments where these behaviors occur. The second principle guiding community problem-oriented policing is that problems are carefully analyzed prior to developing a solution. Community problem-oriented policing is an
information intensive strategy that places a premium on data, intelligence, community input, and analysis (Collaborative Agreement 2002).

The Collaborative Agreement listed several ways CPOP was to be implemented. These included provisions like, “develop and implement a plan to coordinate city departments with the CPOP focus of the CPD” (Collaborative Agreement 2002, pg 7) and “develop and implement a system for regularly researching and making available to the public a comprehensive library of best-practices in community-oriented policing” (7). However, there were two provisions in the Collaborative Agreement surrounding CPOP that are particularly important to this dissertation, and they were:

- The Parties, consistent with the Community Partnering Program… shall conduct CPOP training for community groups, jointly promote CPOP, and implement said CPOP training.
- The Parties shall coordinate efforts undertaken through the Community Partnering Program and establish an ongoing community dialogue and interaction including but not limited to structured involvement between the CPD and the youth as well as with property owners, business tenants, community and faith-based organizations, motorists, low income residents and other city residents on purposes and practices of CPOP (8).

Although each of the provisions had varying deadlines, the two provisions listed above were to be developed and implemented within 90 days of the fairness hearing that was held August 5, 2002. As these two provisions established, the community had a role in ensuring the success of CPOP by promoting it and participating in its ongoing efforts. To oversee
implementation, the Collaborative Agreement called for the oversight of an Independent Monitor.

The first Independent Monitor selected by Judge Dlott was Alan Kalmanoff, JD, MSW, Ph.D. According to the website for his consulting company, Institute for Law and Policy Planning (ILPP), he

…is a national policy consultant on cost-effective local and government planning in all aspects of public safety and criminal justice systems, facilities and health planning, as well as training and facilitation. He has been a law professor at the University of California and taught in a half dozen academic departments… (ILPP 2015).

Kalmanoff accepted the appointment as the Independent Monitor; however, when he submitted his first invoice to the city, the city went public with its criticism of Kalmanoff. The city announced that they refused to pay his invoice due to what they considered out of line charges. Kalmanoff disagreed with the city’s assessment and even suspected that the city was using this dispute to push him out. When he was reflecting on his experience some ten plus years later, he said,

From October 13 to October 23, City officials used media-created confusion and outright deceit concerning the cost and terms of the monitorship to undermine its legitimacy. This, in turn, set the stage for the City to stall the Collaborative Agreement and its imposition of external controls. Fighting a losing battle against the City as it played out daily in the local media, by November 13, 2001, I had come to the painful conclusion that ILPP [Kalmanoff’s consulting company] must step down from its role as Monitor for the sake of police reform in Cincinnati (Kalmanoff n.d, 7).
When Judge Dlott removed Kalmanoff, the public again questioned the Collaborative Agreement. Jan Seymour, who was interviewed for this dissertation, reflected on the failed monitor. She said, “I remember that they had some issues with the actual mediation or something. It seems like they bought somebody in and they hated him and they fired him and they brought somebody else in. That was messy…That probably gave the general citizenship some doubts about the process…” (Seymour, Jan, Interview, October 1, 2010). The City’s public disagreement with the outside contracted monitor cast doubt on the potential success of implementing the agreement. It is not clear whether city representatives truly believed Kalmanoff was financially exploiting the payment structure, or if they were trying to sabotage the implementation process. It is also possible that the City wanted to successfully implement the Collaborative Agreement but did not believe Kalmanoff was the appropriate monitor. Regardless of their reasoning, Kalmanoff was removed as the Independent Monitor.

The city, however, did not express concerns about the second monitor Judge Dlott was forced to find not even several months into implementation. She selected Saul A. Green, from Michigan, who successfully remained the monitor for the duration of the implementation period. Green had a background in police-community work including serving as the Chair of Advocates and Leaders for Police and Community Trust, which was a coalition working to address racial profiling. Although Green served as the Independent Monitor for the duration of implementation, he and his research team were met with some resistance due to a lack of support for the Collaborative Agreement by some actors, as will be discussed below.

The first major test of support for the Collaborative Agreement came when the Black United Front (BUF), a party to the lawsuit, wanted to withdraw from implementing the Collaborative Agreement. At the same time that the BUF was participating and negotiating the
Collaborative Agreement, they were organizing a boycott of the city. Organizers of the boycott felt that the disparaging economic environment for African-Americans in Cincinnati was not comprehensively or adequately addressed by the Collaborative Agreement. In November 2001, the BUF wrote and distributed a letter urging for “travel and tourism sanctions against the Cincinnati area” (BUF 2001, np). In the letter, signed by Reverend Damon Lynch III, Dwight Patton and Juleana Frierson, the BUF said, “Police are killing, raping, planting false evidence, and, along with the Prosecutor and courts, are destroying a general sense of self-respect for Black citizen” (BUF Letter). These comments infuriated both the city and the police, who felt they were participating in the collaborative process as a way to work with this group.

Nonetheless, the BUF filed to withdraw from the Collaborative Agreement on March 19, 2003 with a renewed commitment to the economic boycott,

Because a Federal Court oversaw implementation, the BUF had to obtain permission from Judge Dlott to drop out, which she granted on April 7, 2003. She ruled, “that the Black United Front could withdraw as a representative of the plaintiff class, given that all African-American residents of Cincinnati were covered by the class” (Korte 2004, n.p.). According to a Cincinnati Enquirer article,

Dlott also rejected the argument from the Fraternal Order of Police Queen City Lodge No. 69 that the Black United Front could not withdraw because they had ‘mutual accountability’ for improving police-community relations. That accountability belongs not to the Front, but to the entire class of ‘all African-American or Black persons’ who are actual or potential victims of racial profiling by police, she said (Korte 2004, n.p.).

With the BUF out, the Fraternal Order of Police (FOP), also a party to the lawsuit, wanted out as well. Roger Webster, FOP President, publicly challenged the Judge’s decision to
allow the BUF to withdraw saying, “Where’s the mutual accountability? It is not there. The Judge has let them go. We didn’t want to have anything to do with it any more” (Osborne and Wood 2003, n.p.). Webster was understandably frustrated. Green explained, “The FOP also reacted strongly, as a significant reason that its members approved participating in the CA was their view that the CA also held the Black United Front and other in the Plaintiff class accountable for cooperating with the police department” (Green and Jerome 2008, n.p.). The FOP filed their motion to withdraw on April 30, 2003; however Judge Dlott denied the motion.

Scott Greenwood, an attorney for the American Civil Liberties Union’s Ohio Chapter, encouraged the FOP to remain involved. He said, “If they [FOP] leave, they’ll just be told what to do after remaining parties leave” (Korte 2004, n.p.). Therefore, even if Judge Dlott had allowed the FOP to drop out, the FOP would still have been forced to implement the Collaborative Agreement provisions.

These events clearly demonstrate the role Judge Dlott played in implementation. She forced the support of the FOP for the sake of sustaining implementation of the Collaborative Agreement. Even if Judge Dlott had allowed the FOP to withdraw, they would still have been responsible for implementing the Collaborative Agreement. However, according to the text of the Collaborative Agreement, as well as the definition and understanding of CPOP, the community also had a responsibility in implementation as well, not just the FOP. Still, the judge could not force participation of the community in CPOP, as will be discussed further below. In contrast, the FOP and the police were legally required to implement CPOP. Despite the fact that the BUF was not allowed to voice their accusations about police actions as a part of a problem identification phase at the beginning of the CA process, but were forced to begin at a later phase
I argue nonetheless that it would have been in the best interest of the BUF to remain involved. Their involvement could have helped increase community participation later in the process.

9.3.2 January–December 2004

With the remaining parties either forcibly or willingly at the table, the focus shifted back to implementation. Although implementation continued with the MOA, implementation of the Collaborative Agreement again suffered, this time over the definition of how and where citizens should participate in Community Problem Oriented Policing.

In an attachment to the Collaborative Agreement, A Partnering Plan was added, which provided for a Community Partnering Center which was to function as an extension of the ARIA Process of Action Evaluation and to involve the community collaboratively to implement the How goals. The Partnering plan outlined how the community was to remain involved in the implementation of CPOP.

The community consensus goals, and consensus goal two in particular (Build relationships of respect, cooperation, and trust within and between police and communities), are the core of the community partnering plan. All initiatives associated with this process must address one of the five consensus goals (Collaborative Agreement 2002).

The purpose of the Partnering Center was to begin implementation of the How Goals that were collected through a survey in the phase Getting Out the Voice. Also according to the plan, the center was to be directed by a coordinator who was to use the ARIA database of How goals to:

make an initial effort of analyzing it for solution ‘themes’ that will be developed into draft implementation action plans. These action plans will be made available to
community stakeholders that desired to participate during the implementation phase. Initial activities will focus on those stakeholders that are current collaborative friends and others that have the infrastructure and networks necessary to facilitate community involvement through the religious, health, social services, and education systems as well as the workplace and community at large. It is anticipated that these groups may chose to implement the action plans provided as well as utilize the database and consensus goals to develop additional action plans with their constituents (Collaborative Agreement 2002).

During the January to December 2004 implementation period, the Partnering Center worked to establish the CPOP curriculum and train CPD officers and outreach workers (Green and Jerome 2008). Also, the Partnering Center facilitated joint problem solving efforts between the police and community to address specific crime issues (Green and Jerome 2008). Despite these early successes, CPOP was far from accepted by the Cincinnati Police.

During this implementation period, the community embraced their role as partners with CPOP. One example of this success took place in the Over-The-Rhine neighborhood (OTR), where the 2001 riots took place. The CPOP team in OTR neighborhood identified an area by a gas station where youth were soliciting money in exchange for washing windows or pumping gas. The CPOP team “learned by talking with the young people that they needed the money and saw themselves as ‘entrepreneurs’” (CPOP Annual Report 2004, n.p.). To work with the energy and drive of the youth, the CPOP team helped to organize a car wash. With support from the community, including adults and the CPOP team, the car wash was a huge success (CPOP Annual Report 2004). Even with this success, and many other examples like this, there was still disagreement between the parties on what CPOP should look like going forward. Specifically,
the police were uncertain about which how and what problems should be referred to CPOP teams. But more importantly, the police were uncertain of how CPOP was to be implemented in the day-to-day police work (Green and Jerome 2008). In fact, the uncertainty of what CPOP implementation should look liked caused the parties to question if they should reach out to the court for clarification (Osborne 2003).

Public involvement was key to CPOP, however; Police Chief Streicher and his staff did not like “a provision that calls for creating a community partnering center to oversee the police department’s efforts to implement CPOP and coordinate similar efforts among civilian groups and other” (Post 2003, n.p.). Not only were the police frustrated with CPOP, they were also resistant to the monitoring team. According to the Saul Green, the Independent Monitor, a series of events took place demonstrating the non-compliance of the police. As listed in the Final Independent Monitor’s report, the CPD:

- Barred Plaintiffs from going on ride-alongs (for decades, the City had offered citizens the opportunity to go on ride-alongs)
- Denied the requests of Plaintiffs’ counsel to attend MHRT [Mental Health Rehabilitation Training] training at the Police Academy (despite clear CA language calling upon the Parties to review Academy courses and recommend new ones)
- Denied the DOJ access to demonstration of the Employee Tracking System
- Refused to provide the DOJ documents related to use of force investigations (Green and Jerome 2008, 25–26).

Due to the non-compliance of the police, Green was forced to take action in early 2005. Up until this point, the police just publically aired their grievances but now it was almost as if they were saying “make me” implement this. Judge Dlott did make them.
9.3.3 January- December 2005

The frustration of the police reached a boiling point in 2005. Independent Monitor Saul Green’s monitoring team showed up to participate in a ride-along and Police Chief Streicher questioned them, “What are you doing here?...What are we accomplishing, and don’t tell me ‘We signed the Collaborative Agreement’” (Osborne 2005b). A monitoring team member who was also a former undercover narcotics agent and attorney, was thrown out. Richard Janke, the assistant police chief, was also present for the incident and became “increasingly animated and heated during the incident and verbally attacked the competence of one of the monitoring team member,’ That is the stupidest question I have ever heard” (Osborne 2005b, n.p.).

In my interview with Judge Dlott, she recalled this event with frustration and personal conviction. She said, “When this was reported to me, I remember saying to Saul [Green], throwing Rana [monitoring team member] out of the Police Department was like throwing me out of the Police Department. She was like my substitute. She’s my surrogate. So, that’s when we had the contempt hearing” (Dlott, Susan, Interview, January 7, 2014). It was this act that caused Judge Dlott to change how the Collaborative Agreement was entered thereby changing the ramifications of non-compliance.

The Conciliator, Judge Michael Merz, issued his Decision and Recommendation, finding the city engaged in a breach of the Collaborative Agreement. Merz recommended that the Collaborative Agreement be a court order. If the Collaborative Agreement was entered as a court order, this meant that there could be legal ramifications for not following it. This decision would increase the severity of noncompliance. To express their renewed and resolute commitment to the Collaborative Agreement, as well as trying to avoid a court order, the City Council passed a resolution “expressing the continued commitment of the City to achieve the goals as stated in the MOA with the DOJ and the CA, and to continue to work with the Parties to
those Agreements to accomplish the mutually agreed objectives as set forth in those
Agreements” (Green and Jerome 2008, 26). The city’s stated renewed commitment, however,
was not enough to stop the court order. On March 28, 2005, Judge Dlott entered the
Collaborative Agreement as a court order.

Judge Dlott ruled that “Because the kind of material breach that occurred as a result of
the city’s actions has served to effectively short-circuit the process of monitoring necessary to
maintain accountability and compliance, merely granting access again does not serve to fully
remedy the breach …The damage to the monitoring process caused by the denial of access must
be prevented from occurring again” (Osborne 2005a). Despite the challenges throughout this
first year, Green concluded that the parties were forced to work together and expressed their
renewed commitment to the Collaborative Agreement thus renewing the spirit of collaboration.
Again during this phase the City and the police demonstrated a forced support, not a willing,
unprompted support, but support in an attempt to avoid stricter oversight and harsher
punishment.

9.3.4 January-December 2006

Despite the renewed commitment in 2005, the Cincinnati Police department made several
operational decisions that did not align with the spirit of the Collaborative Agreement in 2006.
In February 2006, the police department restructured overnight, without warning or notifying the
Independent Monitor. The monitor, Saul Green, reflected on this restructure,

On the one hand, this was presented as a way to help the transition to department-wide
adoption of CPOP, moving it beyond the responsibility of a few neighborhood officers.
However, lack of warning and consultation about the reassignments bred community
suspicion about CPD’s motives (Green and Jerome 2008, 29).
Even more significant is the fact that the police department implemented a new strategy that went directly against the spirit of the Collaborative Agreement when they instituted Vortex, a policing program that “specialized in high intensity officer saturation of an area, increased number of stops and frisks of pedestrians, more intense car stops, as well as zero tolerance” (Green and Jerome 2008, 29). Despite this contradictory decision, the CPD did make progress on implementing the CPOP and revised their policies to include a method of Scanning, Analysis, Response and Assessment (SARA) to solve problems, consistent with best practices in CPOP. According to the City of Cincinnati’s website, SARA is still utilized today: “City employees and the community work together, under the direction of the Cincinnati Police utilizing a consistent process of Scanning, Analysis, Response and Assessment (SARA) to resolve problems” (Accessed December 20, 2015).

But perhaps the biggest change during this period was in the leadership of Police Chief Streicher himself. In previous meetings, Dlott explained that Chief Streicher was animated in his disagreements over implementing the Collaborative Agreement. Around this time a new City Manager for the City, Milton Dohoney, was hired. Prior to becoming City Manager in Cincinnati, Dahoney served as the chief administrative officer for the Lexington Fayette Urban County Government (Cincinnati Herald 2013).

Dohoney and Police Chief Streicher were in a meeting with Judge Dlott. Dlott recalled the meeting in an interview,

He [Dohoney] came to the next monthly meeting we had at my courtroom. Streicher would always sit at the council table in the front…And he [Streicher] got up and just started one of his hurrahing and Dohoney went like this [motioned to come here] and whispered something into his ear and Streicher said, ‘Your Honor, could we have a short
break?…And they went out in the hall and they came back and it was a new Tom Streicher. He had converted in the hallway (Dlott, Susan, Interview, January 7, 2014).

From thereon, Judge Dlott explained that Streicher became a supporter. She was never able to determine what was said in the hallway, but she saw a level of willing support necessary to successfully implement the remainder of the agreement.

9.3.5 January-July 2007

The Memorandum between the City and the Department of Justice was terminated on April 12, 2007. As mentioned several times previously, the City and the Police Department focused their initial efforts on implementing the MOA at the expense of the Collaborative Agreement; however, the successful termination of the MOA was reason to celebrate. This marked the end of the five year implementation period initially outlined when both the Memorandum and the Collaborative Agreement were signed. Additionally, the positivity and support by Police Chief Streicher after his hallway conversion was seen in a new police initiative, The Cincinnati Institute to Reduce Violence (CIRV) put in place after the termination of the MOA.

CIRV, or The Cincinnati Institute to Reduce Violence, was started in 2007 and included a multi-agency collaborative. This initiative focused on partnering with the community to reduce crime and violence. CIRV worked with Collaborative Agreement Policing Expert John Eck to help develop the program and, according to Saul Green, had the support of the Collaborative Agreement parties. Green described CIRV as

A highly focused violence reduction project focused around actively violent individuals. The identified people were: (1) called in and offered an alternative to a life of violence on the street; and (2) told about the legitimate levers that the police and other agencies will
use to ensure that their violence stops if they refuse the offer to help (Green and Jerome 2008, 31).

According to the Cornerstone Consulting Group, which analyzed the impact of the Collaborative Agreement, CIRV was award winning, “In 2008, the Cincinnati Police Department won the Webber Seavey Award for Quality in Law Enforcement from the International Association of Chiefs of Police for CIRV. In 2009, the Cincinnati Police Department won the International Association of Chiefs of Police West Award for Excellence in Criminal Investigations” (The Cornerstone Consulting Group, 8). This program was a far cry from the zero tolerance program implemented just a few short years earlier with Vortex. For the first time, Streicher and the police were willfully supporting both the Collaborative Agreement as well as the spirit of the Collaborative Agreement. This cooperation was again demonstrated when the city and the police agreed to extend the monitoring period of implementation to address unmet provisions addressing CPOP.

9.3.6 August 2007- August 2008

Building on the momentum of genuine support, the CPD embraced CPOP. The police department held a leadership retreat with CPOP training, revised their policies to more comprehensively implement problem solving throughout the police force, even including problem solving as a metric for performance assessments for all ranks and assignments (Green and Jerome 2008). The parties wanted to extend the monitoring period to be in compliance with the Collaborative Agreement; therefore, the parties entered into a one-year transition period that was monitored. According to the Final Independent Monitor Report, Saul Green, the Independent Monitor, best sums up this one year transition.
The Transition Year witnessed a lot of progress towards CA implementation. While the CPD has still not adopted problem-solving as its principal crime fighting strategy, significant steps were taken, without which, the full adoption of CPOP will not be possible. The next steps in the journey rest with the community, the City and the CPD to fulfill the promise of the CA (Green and Jerome 2008, 36).

9.3.7 After the monitoring period

To evaluate support and sustainability after the monitoring period ended, I am again focusing on the elements where the community was involved and on the general commitment of the parties. This means that I am focusing on the Partnering Center and CPOP.

As Fung and Wright (1999) as well as Kadlec and Friedman (2007) explain, maintaining community support after a deliberative process is difficult, and unfortunately the Partnering Center did not receive enough community support to be sustainable. The Partnering Center was first housed in the Urban League, and then efforts with Cincinnati Community Action Now (CCAN).

In 2011, the Greater Cincinnati Foundation contracted with the Cornerstone Consulting Group to review the work of Better Together Cincinnati, a program of the Greater Cincinnati Foundation. According to the report, Community Police Partnering Center (CPPC) was the foundation of CAN’s primary goal of improving police and community relations and reducing crime and disorder in the city. It was also the centerpiece for community implementation of the Collaborative Agreement (CA) and the Memorandum of Agreement (MOA)…, the Cincinnati Plan- a CAN initiated framework for bringing best practice models in law enforcement and
criminal justice to the city, and the principles of community problem-oriented policing (CPOP) throughout the city (7).

The Partnering Center saw success in its early years, as discussed above. This success was due in part to the funding from Better Together Cincinnati for more than $4.8 million through 2001. However, after 2011, funding ceased and the Partnering Center lost the backing of the city (The Cornerstone Consulting Group, 8). Additionally, the community lost interest in the Partnering Center as well. The Cornerstone Consulting group describes the waning support, At first, it was anticipated that once community members were trained and the CPOP team was in place, the role of the CPPC would diminish and staff would move on to other neighborhoods. However, community members’ interest in the initiative could not always be sustained outside of a crisis or serious safety situations (The Cornerstone Consulting Group, 8).

The biggest struggle for Community Problem Oriented Policing was the lack of ongoing community support. Eck describes the problem of involving the community and the decisions the police are forced to make with a lack of support,

The ‘community’ in Community Problem-Oriented Policing is both a blessing and a curse. The blessings are obvious…The curse is the abilities of communities to deliver on substantive actions to reduce problems is often more aspirational than real, and this ability is highly variable across community members. This is often a major frustration for police who would dearly like to have community partners, but find that the partners cannot deliver. The consequences are varied. Sometimes the police soldier on with the communities bringing up the rear. Sometimes the police back off and focus on problems
that they can address without community involvement. Sometimes the inabilities of communities results in conflict between police and community members (Eck 2014, 32).

In 2014, John Eck evaluated the status of CPOP in a report *The Status of Collaborative Problem Solving and Community Problem-Oriented Policing in Cincinnati.* When evaluating the status of the Partnering Center, he said

One of the important results of the Collaborative Agreement was the establishment of the Community Policing Partnering Center. Originally, the Partnering Center was housed within the Urban League, but was a separate organization. It now has been brought within the Urban League. When it began, the Partnering Center assisted communities in developing problem solving efforts along with the police. Unfortunately, it no longer has the staff or resources to assist communities (Eck 2014, 33).

Eck recommended that substantial efforts be made to revitalize the Partnering Center to again help problem solving between the police and the community. However, police commitment to problem solving decreased.

To evaluate the status of problem solving and policing, Eck reviewed policies and conducted interviews “with police officials of various ranks and assignments who have experience with various facets of implementing problem-solving” (Eck 2014, 16). Although Eck does not outline how many interviews he conducted, he states “It is very clear, from all the interviews, and the data, that the Cincinnati Police Department has developed a solid foundation for problem solving and had had notable successes. Considerable progress has been made since the signing of the Collaborative Agreement” (Eck 2014, 16).

Much of the success that Eck notes, however, involves programs that the police department can initiate without the assistance of the community, such as improved analytical and
technical support. Additionally, at the height of problem-solving in 2008, the police documented over 60 cases of problem solving for that year. This number diminished to less than 10 cases in 2013.\textsuperscript{29}

In Cincinnati, the police soldiered on as much as possible but never saw the support of the community like they did in the beginning. According to Eck, all is not lost, and he feels that with renewed support and commitment, the little problem-solving that is going on now can be translated into a wider effort like what was originally envisioned.

\section*{9.4 Conclusion}

In the Cincinnati case, public support was both required up front and during implementation. Public support was needed up-font when the community was asked about their goals for police-community relations. Their support and participation resulted in five community-derived goals that served as the beginning for the Collaborative Agreement. Financial contributions as well as in-kind contributions (individuals donating their time and use of their business space) was another kind of public support, the focus of this chapter. The Cincinnati community generously gave of their time and efforts to make sure the Collaborative Agreement Processes succeeded. In this way, the community support helped drive the success where front-loaded support was necessary and public support was at its highest during the deliberative phases of the Collaborative Agreement Process. However, maintaining this support proved difficult as the Collaborative Agreement Process moved into implementation.

This case points to an important question within the field of deliberative democracy that is not clearly answered in the literature: who is responsible for the outcome of deliberations? In

\textsuperscript{29} At the time Eck was writing the report, he only had two months of data in 2014 and this also included less than 10 cases.
most deliberative democracy events there is not a federal judge overseeing implementation, as there was in the Cincinnati case, but rather only the decision makers and those who organized the process oversee implementation. Therefore, it is not surprising, as discussed in Chapter Five, that deliberative events often do not result in policy change, especially if the decision makers do not implement the recommendations of the deliberation. In many cases there is no mechanism to make sure implementation occurs. However, in Cincinnati, because of the court order, implementation was to some extent guaranteed. This meant that, at least during the implementation period with federal oversight, sustainability was certain and support was forced.

As Connick and Innes explain, the impact of deliberation can have a variety of effects, extending to what they call second-order and third-order effects. In the Cincinnati Case, due to the input and influence of a federal judge, several second-order effects were forced. These included collaborative activities, joint action, changes in practices, and implementation of the agreement (Connick and Innes 2001). As was demonstrated above, the Cincinnati Police Department as well as the City were required to change the policing policies to implement Community Oriented Policing, or CPOP. During the early phases, the police and the city were resistant to CPOP as well as the Independent Monitoring Team, whose job it was to oversee implementation of the Collaborative Agreement. When the police would not allow a member of the monitoring team to observe a ride-along, Judge Dlott took it personally and entered the Collaborative Agreement as a court order. Therefore, in the Cincinnati case, a federal judge forced several second-order effects; however, she could not force all second-order effects.

Some second-order effects, those that require a genuine change in attitude or view of others, cannot be forced. As described by Connick and Innes (2001), second-order effects can include new partnerships, changes in perceptions of the problem and voluntary changes in
practices. It was not until Police Chief Streicher’s hallway conversion after strategizing with the new City Planner that these second-order effects were realized. When the highest-ranking police official had a change in attitude about the Collaborative Agreement Process, support moved from forced to willing support. When the police began to support implementation of the Collaborative Agreement, progress toward implementing specific provisions, including CPOP, increased exponentially.

Most notably, after Chief Streicher’s hallway conversion, new and voluntary police programs began to align with the spirit and intent of the Cincinnati Collaborative as observed through the creation of CIRV, or the Cincinnati Institute to Reduce Violence. Unlike the zero tolerance program Vortex had attempted just a few years earlier, CIRV focused on collaboration with members of the community to reduce crime. Therefore, this case demonstrates that some second-order effects can be forced through federal oversight whereas others cannot.

Another second-order effect of deliberation that could not be forced is the public’s involvement in implementation. The Partnering Center was created as a way for the public to become involved in CPOP. The objective of The Partnering Center, an organization of the Cincinnati Police Department, according to the Collaborative Agreement, was to implement the Collaborative Agreement goal to “Build relationships of respect, cooperation, and trust within and between police and communities.” To do this, the Partnering Center was to implement the community How Goals, as determined during the initial survey phase. In addition, the police were able to refer CPOP cases to the Partnering Center. It is unfortunate that the Partnering Center did not maintain its early success for reasons described above…primarily for lack of

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30 As part of the public deliberation process, members of the community were asked why improving police-community relations was important to them, what they would like to see accomplished, and how they would like to see this done. Their responses for how they would like to see this done comprised the How Goals.
financial resources. In an interview with Jay Rothman about the Partnering Center, he expressed regret over the lack of success. In his approximation of what the Partnering Center would be, he explained he had wanted it to be an extension of the ARIA Action Evaluation process described in previous chapters. He said,

The Partnering Center should have taken up all the data, and should have picked up on all the ideas. But they didn’t. Six months later, we tried to reach back to folks…We didn’t get many responses. So, we lost the momentum at that point from the community. And I left feeling quite disappointed that we hadn’t done that (Rothman Interview).

Instead of asking the public and the police to implement How goals, I argue, focus should have shifted to institutionalizing community involvement in problem-solving through police-initiated CPOP. Public and police efforts were split between CPOP and How Goals.

One approach might have been to follow the Chicago Police Department community policing model adopted in 1994. The model of Community policing is somewhat different than Community Problem Oriented Policing, but the two are similar in their approach at involving the community. The Chicago Police Department worked to hold monthly meetings where they discussed and deliberated solutions to community problems. These meetings were well attended. According to Fung, “On average, 17 persons attend each meeting, cumulating to a citywide attendance of approximately 5,000 people per month. In surveys, 12 per cent of adults in Chicago report that they have attended at least one community-policing meeting” (Fung 2003b). The support for community policing was bolstered by significant support from Mayor Richard Daley as well as substantial financial backing. According to Fung,

Under a US $2.9 million contract, the city [Chicago] hired the Chicago Alliance for Neighborhood Safety to teach this curriculum [Community Policing] to residents and
officers… Between 1997 and 2000, the city spent US $1.6 million annually on media efforts to advertise and educate residents about participation opportunities in community policing (Fung 2007, 120-121).

The Chicago model was built for ongoing participation and community policing was institutionalized within the Chicago Police Department.

In the implementation of the Collaborative Agreement, I argue, the Partnering Center should have attempted a Chicago-style community policing initiative. The biggest difference in the success of the Chicago model versus the lack of success in the Cincinnati model is that in the Chicago model, the police initiated community involvement to help them solve community problems. The community involvement was institutionalized within the Chicago Police Department, not through a separate organization with a different agenda. In the Cincinnati Case, the Partnering Center was focused on implementing the How goals. Cincinnati Police had to refer CPOP cases to the Partnering Center, as opposed to reaching out to the public directly. With public attention increasingly fading during the implementation phase, to ensure sustainability the sole focus of the Partnering Center should have been to assist in implementing CPOP.

Although it took longer than the five years allotted for implementation, the City of Cincinnati and the Police finally embraced and supported the Collaborative Agreement. Because these six years were overseen by an Independent Monitor reporting to a federal judge, the parties provided their support either willingly or unwillingly. The oversight of Judge Dlott ensured sustainability for those six years, and on multiple occasions she forced the parties to move forward on implementing the Collaborative Agreement.
In many ways, the Cincinnati case contributes to the literature on deliberative democracy and, perhaps no more so than for the fact that included the oversight of a federal judge. Without Judge Dlott and her enforcement and monitoring, the Collaborative Agreement would not have been implemented. This oversight complicated the relationship between community support and sustainability as was demonstrated above. Both the community and the parties willingly supported the public input process, although the parties’ degree of commitment varied while the Collaborative Agreement was being deliberated. Before the Collaborative Agreement was signed, the parties could have dropped out and the settlement would have gone back to Judge Dlott and the Collaborative Agreement would have never existed. However, once the agreement was signed, certain parties were forced to stay at the table. The way that the FOP and the City were forced into supporting the implementation demonstrates the power that Judge Dlott exerted. Therefore, during the implementation phase, the Collaborative Agreement was sustainable because Judge Dlott forced support. It was not until implementation was over that uncoerced support and sustainability could be observed. Some seven years after the signing of the Collaborative Agreement, and even today, the Cincinnati Police are implementing provisions from the Collaborative Agreement. Although I have focused on the community aspect of the agreement, there were many other provisions that were implemented, including use of force and communication policies that are still utilized today.

Also, the relationship between support and sustainability, I argue, is impossible to separate in this case. The court order was yet another pivotal moment when support faltered but sustainability was ensured because of Judge Dlott. The parties were now forced to either support the Collaborative Agreement or violate a court order. This case demonstrates that the relationship between the meanings and measures of support and sustainability can become
blurred within a deliberative democracy practices. Because most deliberative democracy practices are not driven by a federal judge, the only way to ensure sustainability during implementation is through support of the decision makers, or those who organized and are responsible for implementing the deliberative outcomes. In these cases, if there is no support, then the agreement is typically not sustained. However, as the Cincinnati case demonstrates, it is possible to have forced support to ensure sustainability.

One of the evaluative criteria I examined in this chapter was public support, or whether “overtime, it is also hoped that deliberative processes can earn broad public support for their final recommendations” (Levine, Fung, and Gastil 2005). The public initially supported the final recommendations, or the Collaborative Agreement, but support waned, as Fung and Wright (Fung and Wright 2001) explained can happen. Additionally, I evaluated sustainability, or does the deliberative process “prove sustainable over time.” Although the Partnering Center did not survive in its intended capacity, many aspects of the Collaborative Agreement did. In the next chapter, I summarize key findings of previous chapters as well as present what other communities can learn from the Collaborative Agreement Process.
In this concluding chapter, I will review the findings from previous chapters focusing on determining if the Collaborative Agreement Process was a sound deliberative process as well as determining if the process successfully improved policy-community relations in Cincinnati. Next, drawing on this case, I will present several aspects that I deem necessary for success in a deliberative process. Specifically, I will focus on how lessons learned from the Collaborative Agreement Process can be applied to other communities seeking to improve the relationship between the community and the police.

In the second chapter, I presented a historical summary of police-community relations as well as describing earlier attempts to improve the relationships between the African-American community and the police in Cincinnati. Although several attempts were made to make the environment better, none of them witnessed lasting success. One of these attempts included the Mayor’s Friendly Relations Committee in the 1940s, which had promise, but suffered from a lack of leadership and buy-in as well as a lack of an enforcement mechanism. Another attempt to improve police-community relations was the Kerner Commission in 1967. One recommendation of this commission was to have a community service officer to better engage with the community; however, this was not implemented. The program with the most potential to change the situation in Cincinnati was called Community Sector Policing, or COMSEC from 1973 to 1975. This program heavily relied on the community to support policing practices in
Cincinnati, but similar to the Mayor’s Friendly Relations Committee, it lost support when new leadership took charge. The attempts of years past were not enough to assuage the fear and frustration of the African-American community.

From 1995 until 2001, fifteen African-American men were shot and killed by the police in Cincinnati. African-Americans were tired of discriminatory treatment by the police, including Bomani Tyehimba, who filed a civil rights lawsuit against the Cincinnati Police Department in 1999. Tyehimba’s case was joined by multiple other African-Americans in the city and became a class action lawsuit, but it was not until the city erupted that police-community relations became a priority. After Timothy Thomas was killed on April 7, 2001 the African-American community rioted. Cincinnatians had enough and wanted change. Little did anyone know that the potential for change was in the works and that a riot could provide the necessary momentum to move it forward. This potential for change was the filing of several lawsuits that, combined, resulted in a class action lawsuit alleging decades of discriminatory treatment by the police towards the African-American community. Because this lawsuit was filed and settlement talks were underway when the riots occurred, the riots served to focus community attention on the potential for change. The Cincinnati Collaborative Agreement Process utilized a deliberative democracy practice to gather public input as a means to guide the parties to the class action lawsuit as they sought to settle the lawsuit.

The Cincinnati case has been called a blueprint for other communities seeking to improve the relationship between the African-American community and the police; however, there has been no rigorous analysis to determine if it should be a blueprint. There are two parts to the determination. First, because the Cincinnati model was an experiment in deliberative democracy, it is necessary to determine if the Cincinnati model conformed to sound deliberative
democracy practice. To determine if the Cincinnati model was a sound deliberative practice, I evaluated key aspects that deliberative democracy scholars deem vital for a sound deliberative process. Chapters Five through Eight evaluate the Cincinnati Collaborative Agreement Process in terms of being a sound deliberative process. Second, it is necessary to evaluate the Collaborative Agreement Process in terms of its success at improving police-community relations. The success of the Collaborative Agreement Process is evaluated in terms of support and sustainability in Chapter Nine. By determining if the Cincinnati Collaborative Agreement Process was a sound deliberative process and if it was successful in improving police-community relations, then it is possible to determine if this model should be applied to other communities.

Chapter Five evaluated if the Collaborative Agreement process established a realistic expectation of influence (i.e., a link to decision makers). In my evaluation of this criterion, I determined that participants had different expectations than those who planned the process of what the process could achieve. Additionally, I determined that expectations were directly linked to how an individual defined the problem. Those who wanted a more conflict resolution approach were disappointed when the Collaborative Agreement Process did not address the decades of conflict between the African-American community and Cincinnatians more broadly. When defining the problem if participant objectives and the objectives of planners did not align, frustration ensued. Part of this frustration and confusion was due to the process type being changed from a more conflict style approach to a more traditional deliberative democracy approach. Dr. Jay Rothman, facilitator and architect of the public input process, made these changes to keep all the parties at the table.

Dr. Rothman began constructing the deliberative process with the intent of addressing a Black vs. Blue problem, or a problem of police discrimination, and possibly, to some extent, a
White vs. Black problem, or a problem of decades of discrimination against African-Americans, but the police would not participate if he did this. Therefore, he adopted and utilized a goal setting or visioning process that focused on a blue books problem, or a problem with policing policies. However, this adaptability, despite being ever so necessary, added to unrealistic expectations when participants did not clearly understand how their input was to be used or what they could expect to get out of the process. Cincinnati was ripe for change, and citizens wanted more from the deliberative process than it was ultimately designed to give.

Despite adaptability leading to unrealistic expectations, it was necessary if the Collaborative Agreement Process were to take place at all. The decision makers had varying incentives to ensure the process did take place. The Federal Judge, Susan Dlott, who oversaw the settlement of the class action lawsuit saw this as her opportunity to contribute to the civil rights movement that took place before she was a judge. Dr. Jay Rothman, who was selected to design the public input process as well as serve as the main facilitator, saw this as his opportunity to apply his fame of action evaluation to a large-scale public conflict in a way he had not done before. Dr. John Eck oversaw the research on policy best practices and, as an academic, had spent his career studying community problem oriented policing. When Dr. Eck was asked to research and present best practices, he recommended Community Problem Oriented Policing, or CPOP, a form of community policing, something he had been studying for years. These three individuals shaped the Collaborative Agreement Process with their influence and they did so because they wanted to both contribute to their professional fields as well as leave their personal legacies. Although this can be viewed as the decision makers and process designers manipulating the construction of the Collaborative Agreement Process, I argue that without their dedication to their personal objectives, they would have been much more likely to abandon the
Collaborative Agreement Process along the way. They did not allow the Collaborative Agreement Process to fail, but rather continued to find ways to keep all parties at the table so that an agreement could be reached.

The Collaborative Agreement Process was structured to provide a link for public input to reach the decision makers, one criterion of a successful deliberative process (Levine, Fung, and Gastil 2005). Public input was collected through surveys and refined through a series of Feedback Sessions. The publics’ goals for police-community relations were given to the parties to the lawsuit (ACLU, BUF, City, FOP) to be used in the settlement negotiations for the class action lawsuit. Even with this structured link, however, it was possible that the public input could have been ignored, but it was not. The input was not ignored for two reasons. First, 3,500 citizens shared their goals for the future of policing and the number of participants forced the decision makers to pay attention to what the public had to say. Dr. Eck described the surveys as creating a riot of their own that forced the decision makers to pay attention because of the number of participants. Second, the Collaborative Agreement Process was part of a settlement for a class action lawsuit. Because of this, Judge Dlott had to approve any settlement and if the parties did not satisfactorily incorporate the publics’ input, she had the authority to reject the settlement. For these two reasons, the Cincinnati model was both successful in designing a structured link to decision makers as well as making sure the publics’ input had substantive influence.

In Chapter Six, I evaluated the Collaborative Agreement Process in terms of inclusiveness and representatives. Scholars of deliberative democracy agree that a deliberative process should be inclusive and representative, but they do not agree on how these two things should be defined or operationalized. The decision makers, or in this case the parties to the class
action lawsuit that initiated the Collaborative Agreement Process (ACLU, BUF, FOP, City of Cincinnati), determined who was to be included and inclusion was driven by the class definition in the class action lawsuit. According to the lawsuit, the class was defined as “All African-American or Black persons and people perceived as such who reside, work in and/or travel on public thoroughfares in the City of Cincinnati” (Collaborative Agreement 2002). Therefore, for the Collaborative Agreement Process to be inclusive according to the class, it must not only include Cincinnati citizens, but African-Americans who traveled through the city. The largest public input during the Collaborative Agreement Process came in the form of surveys when Cincinnati citizens were asked to submit their goals for improving police community relations. However, according to the instructions on the survey, an individual could have been excluded from completing the survey if he or she did not reside in the city or its suburbs. Because of this, inclusiveness as a criterion of success was diminished in the Cincinnati model.

In many deliberative processes, it is not possible to include everyone who wants to participate; therefore, some mechanism is developed to represent the stakeholders. In the Cincinnati model, the decision maker, or parties to the lawsuit constructed eight stakeholding groups to represent the Cincinnati community. The eight stakeholding groups were:

1. African-Americans
2. Social Service and Religious Organizations
3. Business and Philanthropic
4. Police Officers and Spouses
5. City Officials
6. White Citizens
7. Other Minorities
8. Youth

Because the lawsuit was the driving force behind the Collaborative Agreement Process, the parties to the lawsuit, especially the Black United Front and the American Civil Liberties Union, sought to emphasize representation of African-Americans. However, the creation of an African-American stakeholding group alone did not meet the needs of African-American participants as demonstrated in the Feedback Sessions. Feedback Sessions, or in-person group deliberative meetings, were held for each of the Stakeholding Groups. The Feedback Sessions consisted of representatives from their respective Stakeholding Groups. The Police Officers and Spouses Feedback Session did not meet the needs of African-American police officers. African-American police officers conducted a separate Feedback Session from the other Police Officers and Spouses Feedback Session. This meant that African-American police officers wanted additional descriptive representation than what the Police Officers and Spouses Feedback Session afforded them. The same need for additional descriptive representation was demonstrated in the Other Minorities Group. Sub Feedback Sessions of Hispanic, LGBT and Appalachian were created and better attended than the generic Other Minorities Group.

In addition to evaluating descriptive representation, I analyzed the statistical representation of the phases of the Collaborative Agreement Process compared to the demographics of Cincinnati inhabitants. When comparing the Collaborative Agreement Process participation to census data, the survey phase of the Collaborative Agreement Process was the most representative of Cincinnati as a whole. As the process progressed to Feedback Sessions and then an Integration Group that consisted of representatives from each of the Feedback Sessions, however, it became less representative, more White and more educated. The
Cincinnati process demonstrates that within deliberative practices it is difficult to maintain participation over long periods of time.

In Chapter Seven, I evaluated whether the process consisted of informed, substantive and conscientious discussion with an eye toward finding common ground. To evaluate the Cincinnati model on the criteria on common ground and consensus, I traced how goals were distilled and derived through what all would agree was a complex process. Goals started at the broad community survey level and were distilled through Feedback Sessions and ultimately an Integration Group. The process was designed like an upside down funnel, channeling broad citizen concerns gradually upward from one state to another, eventually reaching up to a smaller, hopefully representative group of decision makers in the Integration Group. Although survey participants and eventually group representatives and members of the Integration Group discussed their goals for the community, they did not receive education about the police or the city and its working, a vital component of deliberative processes.

Sound deliberative democracy practices require informed deliberation as a measure of success. In the Cincinnati Collaborative Agreement Process, citizens were not provided with access to information before deliberating, as is typically the practice. However, the Cincinnati Model did incorporate information and used an expert. In this case, an Expert Panel on policing practices was created and informed the decision makers as opposed to the citizen participants. Citizen input was used primarily to provide decision makers with values and goals the public had to improve police-community relations not specific direction on policing policy. Although this may serve as a new model for incorporating information into a deliberative practice, more analysis needs to be completed.
Deliberation towards consensus took place only in Feedback Sessions when Stakeholding Group participants deliberated in small groups sharing why change was important to them and what they wanted to see accomplished. However, the small group dialogue took place only within the Stakeholding Groups, meaning that members of the African-American Group did not have the opportunity to deliberate with members of the Police Officers and Spouses Group or any other group. At the Feedback Sessions, representatives were selected to move to the Integration Group. The Integration Group, although designed with consensus building in mind, did not provide participants an opportunity to deliberate because of time constraints and increased tension to both come to an agreement as well as tension over what that agreement should include. The Integration Group representatives were provided with goals derived from the Feedback Sessions and only allowed to vote and provide written comments not to deliberate.

Despite an earlier focus on the African-American Group, in the end, there was less African-American representation and there was no specific reference to African-Americans in the final Collaborative Agreement Goals. Despite these shortcomings, a historic decision was made and was based on community input. Although the process deviated from the norm or sound deliberative practices with regard to consensus, the fact that a decision was reached and this decision was based on public input was, to some degree, successful because in many deliberative cases, a decision is not made or implemented.

In Chapter Eight, I evaluated the Cincinnati model to see if it had a neutral, professional staff that helped participants work through a fair agenda, which in turn meant that I closely evaluated Dr. Rothman, his team and volunteer facilitators. Facilitating the Cincinnati deliberation was the largest project Dr. Rothman had conducted at that point. Because of this, he was still trying out and developing his methods. Although I can criticize his methods, ultimately
I argue he was the best facilitator for the Cincinnati process. He was not local to Cincinnati, but he was from a town outside of Dayton, Ohio, which is not far from Cincinnati. Rothman knew some of the key players or was known by these individuals and was therefore not a complete stranger. But his best contribution to the process may not have been his methods, but rather his flexibility and adaptability and dedication to seeing the Collaborative Agreement Process succeed. He was able to gain the confidence of the parties to the lawsuit and propose and implement new processes when they would not agree to move forward otherwise.

Much of the success of the Feedback Sessions can be attributed to volunteer facilitators, or individuals who volunteered their time and efforts to facilitate. To ensure that volunteer facilitators were ready to facilitate, Dr. Rothman designed an innovated and timely process to train and assess volunteer facilitators. Using the Feedback Session for the Business and Philanthropic Group, Dr. Rothman created a pilot Feedback Session. After volunteer facilitators guided deliberations for this group, participants were asked to complete post Feedback Session surveys in which they provided their assessment of the volunteer facilitators and their readiness for facilitation. Dr. Rothman used this information to prepare to other Feedback Sessions.

Even with all the attention paid to best practices and training as well as innovative methods to train facilitators, successful facilitation is not guaranteed. In the Cincinnati case, audio equipment and meeting space limitations negatively influenced facilitation. Additionally, large-scale public processes require more than just managing the deliberation. In the Cincinnati case, Dr. Rothman had to manage relationships, process logistics as well as the deliberations, all at the same time. Much of the deliberative democracy literature focuses solely on facilitating deliberation, but a successful deliberative process requires facilitators to focus on much more.
In Chapter Nine, I evaluated the last two criteria, support and sustainability. Successful deliberative processes gain public support for final decisions and are sustainable. I evaluated these two criteria simultaneously because in the Cincinnati case, it is impossible to separate them. The Cincinnati case demonstrated that some degree of support can be forced and, by doing so, some level of sustainability can be forced as well. Deliberative democracy literature does not address the concept of forced support and sustainability. In the Cincinnati case, this dynamic was made possible due to the enforcement mechanism of the federal court. Judge Susan Dlott forced the police and the city to take part in collaborative activities and joint action and forced them to change their practices and to implement the Collaborative Agreement. Without the enforcement of the federal court, the police and the city would have abandoned the Collaborative Agreement Process, the tried to do so. Some measure of support cannot be forced, but this support may not be necessary for sustainability if an enforcement mechanism is in place. A change in attitude or genuine support, however, cannot be forced.

Not only is support and sustainability intertwined, but these two things changed depending on the phase of the Collaborative Agreement Process. Early on the community and the parties showed their support, albeit at times cautiously. As the process moved into the implementation period, already tense relationships became strained and support was maintained and sustainability possible only through a court order from Judge Dlott. During this time, the Black United Front was allowed to drop out as a party to the lawsuit and as such was not required to participate further in implementation. With the BUF out, the FOP wanted out as well, but the Judge would not allow it. The process was sustainable but support was forced. It was not until Police Chief Streicher’s hallway conversion, in which he exited the courtroom an opponent but returned a believer, that true progress was made. The true test of support and
sustainability came after the six-year implementation period ended. The Partnering Center, which could have been the greatest institution created through the Collaborative Agreement, could not get the necessary support to have any lasting impact, but Dr. Eck, who headed the Expert Panel, is hopeful that community policing can still make a difference in the city. In my opinion, one of the greatest testaments to the imperfect success of the Collaborative Agreement Process is when Damon Lynch, head of the BUF, travels to Ferguson, Missouri in 2014 to talk about how that community, torn apart by poor police-community relations, can benefit from a Cincinnati style process. Although Lynch was not a believer in the Cincinnati process at the time of the BUF drop out, it turns out that he is now.

Beginning in 2014, national attention was again focused on police-community relations when, in July, Eric Garner was asphyxiated by a police officer in New York City despite telling the officer, multiple times, that he could not breathe. One short month later in Ferguson, Missouri, unarmed Michael Brown was shot and killed by a Ferguson police officer. These two events focused national attention on a deteriorating relationship between the African-American community and the police around the country. Over the course of the next few years, similar events played out in high-profile cases in multiple cities across the country including Chicago, Illinois, Cleveland, Ohio, North Charleston, South Carolina, Baltimore, Maryland, Prairie View, Texas, Baton Rouge, Louisiana, Tulsa, Oklahoma and Charlotte, North Carolina as African-American men and women were killed by the police. Although the circumstances behind each of these situations is different, the African-American community’s response is the same. Across the country, African-Americans continue to express their fear and distrust of the police as well as recount personal stories of police discrimination. Although many would agree that something needs to be done to improve the relationship between the community and the police, there is no
one agreed upon way to do this. As the Cincinnati case demonstrates the best possible chance at change includes a commitment from the police and the city, involving the community and some form of oversight.

In some of these cases, the Department of Justice became involved, but their involvement varied. From 1994 until 2015, the Department of Justice has investigated sixty-seven police departments with varying outcomes from no response to a consent decree legally enforcing the changes required by the DOJ (Bloomberg 2015). In nine cases, a Department of Justice consent degree was overseen by an independent monitor, one of the factors that ensured forced support and sustainability in the Cincinnati Case (Bloomberg 2015). However, in most cases, the Department of Justice requirements do not include a large-scale community input process, like in Cincinnati. The driving force behind the community input in Cincinnati was the class action lawsuit, not the Department of Justice’s Memorandum of Agreement. Therefore, the Cincinnati model is unique in its design and unlike any other intervention to improve police-community relations used to date. This does not mean, however, that other communities cannot benefit from applying the Cincinnati model or lessons learned in the Cincinnati Case.

As other communities look to the Cincinnati model to improve their police-community relations, I echo Meghan Clarke’s sentiment. When I asked her what she would tell a group of decision makers considering the Cincinnati model, she said she would first congratulate them. She said, “I would say that it is a long journey. I would share with them that they will experience suffering and… it is labor intensive, but it is worth it. I would really encourage them to open their hearts and their ears” (Clarke, Meghan, Interview, December 7, 2010). In addition to congratulating decision makers who are considering this model, I would add the following. A commitment to change is necessary, especially if the process is not being governed by a lawsuit.
of the Department of Justice. Without a strong commitment, it will be easy to abandon the process. To help ensure this commitment, select decision makers or process designers who have an incentive to see the process succeed, whether that is personal or professional. Additionally, be realistic about what can be accomplished through dialogue. A community that is ripe for change is also a community that has suffered greatly and will have high hopes about what can be accomplished. As the deliberative process is designed and progresses, understand that tradeoffs will be made between a sound deliberative process according to theory and one that conforms to realistic expectations and pressures. As outlined in this dissertation, it is possible to make these necessary tradeoffs, but often there are consequences. Next, get as many people as possible to participate. By doing so, it will not only help make sure the public’s input is considered, but it provides the community a chance to heal through dialogue. Including the community benefits the community and the police as well as improves the quality of the agreement and outcome. But, it is difficult to design a process that involves the community in any sustained fashion. Finally, although the Cincinnati model could improve on many aspects of providing a sound deliberative practice, as outlined in Chapters Five through Nine, relationships were improved between the community and the police as a result of the Cincinnati Collaborative Agreement Process and I consider the Cincinnati experiment in deliberative democracy an imperfect success.
APPENDIX A

TIMELINE

- **August 1946:** In response to racial violence around the country and in Cincinnati, the Mayor’s Friendly Relations Committee (MFRC) was created. The scope and authority of the committee was questioned and serious changes in police-community relations in Cincinnati were not realized.
- **1967:** Rioting took place in Cincinnati to protest a lack of employment opportunities, housing options and a lack of political representation.
- **1967:** The Kerner Commission studied the civil disorders taking place throughout the country, including Cincinnati. The Commission concluded that police-community relations needed to change, for the better, to alleviate tensions.
- **March 1973-September 1975:** The Cincinnati Police Department implemented Community Sector Policing (COMSEC). COMSEC was a trial in one district that utilized community input and input from all levels of the police force to improve policing. Despite the program showing promise, a lack of buy-in and a change in leadership resulted in the program being stopped.
- **1981:** The Ohio Advisory Committee to the U.S. Commission on Civil Rights investigated complaints against the Cincinnati Police Department specifically looking at claims of discrimination and improper use of force. The Commission report recommended an increase in citizen participation in the creation of policing policies.
- **1995-2001:** 15 African-American men killed in interactions with the Cincinnati Police.
- **1999:** Bomani Tyehimba filed a civil rights lawsuit against the Cincinnati Police for racial discrimination.
- **November 7, 2000:** Roger Owensby, Jr. was asphyxiated in the back of a police car. The officers involved were Robert Blaine Jorg and Patrick Canton.
- **November 9, 2000:** Jeffery Irons was shot and killed by the police when he grabbed a sergeant’s gun during an altercation.
- **January 3, 2001:** Cincinnati Police officers Robert Blaine Jorg and Patrick Canton are indicted in the November 2000 case.
- **January 5, 2001:** Jorg and Canton are stripped of police powers.
- **January 13, 2001:** The Cincinnati Black United Front collects accounts of racial profiling by the police.
- **March 15, 2001:** The Cincinnati ACLU along with the Black United Front files a federal lawsuit claiming racial profiling. Tyehimba is the lead plaintiff. The filing of the lawsuit received little public attention. Judge Susan J. Dlott was the presiding judge. Dlott begins holding meetings with both sides of the lawsuit and engages Dr. Jay Rothman, of the ARIA Group, to gather public opinion on police-community relations. The ARIA Group immediately began planning.
- **March 28, 2001:** The Cincinnati City Council passes a racial profiling law. This requires officers to record details of traffic stops.
- **April 7, 2001:** Unarmed nineteen year old Timothy Thomas was shot and killed by Cincinnati police officer Stephen Roach as Thomas ran from police in Over-the-Rhine. Thomas was wanted for over a dozen warrants.
April 9, 2001: Looking for answers, an angry crowd formed at a City Council meeting. The members of the crowd became agitated when council members and the police could not provide answers. The crowd moved to Cincinnati Police headquarters where they threw rocks and bottles at the police.

April 10-11, 2001: The protest became a riot and Mayor Luken sought support from the DOJ.

April 11, 2001: “Random violence . . . arson, assault, looting, property destruction and shooting. . . occurs in communities from Over-the-Rhine to Norwood. . . A Justice Department team arrives in the city to determine if it should begin a civil-rights investigation into the ‘patterns and practice’ of Cincinnati’s Police Division” (Enquirer [Cincinnati] 30 December 2001). Mayor Luken called in the Department of Justice.

April 12, 2001: State of emergency declared by Cincinnati Mayor Luken. Citywide curfews are implemented.

May 1, 2001-July 1, 2001: Stage One of the Cincinnati Collaborative, “Cincinnati Sings,” raised awareness about the public input process that was going to take place. As part of the potential negotiated settlement, the Cincinnati public was going asked about their goals for police-community relations.

June 1, 2001- August 31, 2001: Stage Two of the Cincinnati Collaborative. “Getting Out the Voice.” Over 3,500 surveys were collected asking individuals about their police-community relation goals. These surveys were categorized into eight Stakeholding Groups.

July 14, 2001: A boycott is initiated by religious and political groups.

July-November 2001: Stage Three of the Cincinnati Collaborative, “Shared Visions.” Worked within each of the eight Stakeholding Groups to further refine their goals.

September 26, 2001: Officer Roach was acquitted in the Thomas trial.

November-December 2001: Stage Four of the Cincinnati Collaborative: Integration. An Integration Group, consisting of representatives from each of the 8 groups, met to further refine the goals into 5 goals. January 2002-April 2002: Stage Five of the Cincinnati Collaborative: Negotiation. The parties to the lawsuit took the public’s goals along with the Expert Panel’s findings, and negotiated a settlement referred to as the Collaborative Agreement.


April 12, 2002: The Memorandum of Agreement (MOA) between the DOJ and the city as well as the police department, is signed.

October 10, 2002: The first Independent Monitor is appointed. He later resigns.

December 2002: Saul Green is appointed monitor of the MOA and the CA.

January 6, 2003: The Citizens Complaint Authority (CCA) begins operations.

April 2003: The Black United Front withdraws from the Collaborative expressing desires to concentrate on the boycott.

January 1, 2006: CIRV- A Cincinnati Police Department initiative begins to reduce gun violence.

June 6, 2007: Implementation of the CA is extended to August 5, 2008 in attempts to focus on CPOP.

August 5, 2007: Federal Court Supervision of the Cincinnati Police Department ends.
August 5, 2008: Monitors no longer oversees implementation of the Collaborative Agreement.
APPENDIX B
ORDER ESTABLISHING COLLABORATIVE PROCEDURE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BOMANI TYEHIMBA,
Plaintiff

vs.

CITY OF CINCINNATI et al.
Defendants

Case No. C-1-99-317

ORDER ESTABLISHING COLLABORATIVE PROCEDURE

The Plaintiff's motions to amend the complaint, to certify a class, and for a preliminary injunction are all pending. The motion to amend the complaint seeks to join two proposed plaintiff organizations and alleges racially discriminatory police practices in the City of Cincinnati. The parties have expressed an interest in collaborating to investigate, analyze, and address the alleged social conflicts expressed by the proposed amended complaint.

This Order, agreed to by the parties and entered pursuant to Fed. R. Civ. P. 16(c)(9), Local Civ. Rule 16.3, Fed. R. Evid. 408, and additional terms as set out below, establishes a special collaborative procedure to be utilized by the parties to address the social conflicts alleged in the pleadings before the Court.

The City of Cincinnati and the other Defendants have expressed their opposition to the motion to amend the complaint, their opposition to the Court's jurisdiction over the amended complaint, their intent to move to dismiss the amended complaint if the motion for leave to amend is granted, and their opposition to the motion for class certification. The Court acknowledges the Defendants' opposition and finds that the Defendants have not waived any of their objections to the motion to amend the complaint or any other motion pending before this Court. The Court finds, however, that the City has agreed to
the participation of the two proposed plaintiff organizations solely for purposes of this Order and the collaborative procedure described below. If at any time during this proceeding the Plaintiff or proposed Plaintiffs move to be declared prevailing parties under 42 U.S.C. §1988, the parties agree that the entry of this Order will be neutral on that issue. The parties do not waive any argument they may have concerning prevailing party status and claims for attorney fees based on other developments in this case.

The Court recognizes that the City enacted Ordinance No. 88–2001 on April 4, 2001, for the purpose of requiring the preparation of reports for stops and arrests in order to compile data for analyzing the City’s law enforcement practices, and the City now has pending before it a proposal for the Mayor’s Community/Public Safety Forum to address issues of public safety and community relations and a proposal for a vendor to perform a cultural audit of the Police Division and Fire Division in the Safety Department. On April 16, 2001, the Mayor of the City chartered a high-level commission to address the broader issues of racism and economic inclusion in the community.

1. The Court orders a pretrial collaborative of the social conflicts alleged in the proposed amended complaint.

2. The Court shall retain the services of Jay Rothman, and the ARIA Group, Inc., to manage the collaborative procedure.

3. The collaborative shall proceed as follows:
   a. The proposed amended complaint alleges social conflicts of great public interest to the community. To the extent possible, the collaborative will include an opportunity to receive the viewpoints of all persons in the Cincinnati community regarding their goals for police-community relations. The participants will state their goals for police-community relations; why these goals are important; and how they would achieve those goals (What, Why, and How data).
The collaborative will include an opportunity for dialogue about these responses in structured group sessions. As described below, the collaborative will also include a process for expert analysis of the current practices of the Cincinnati Police Division (CPD) and practices in other communities.

b. What, Why, and How data will be collected from all segments of the Cincinnati community. The data will be collected through various modalities. As set out below, the identity of the participants will remain confidential and will be possessed only by the ARIA Group. The remaining data will be available to the public and be the basis for structured dialogue among members of the Cincinnati community in group sessions. The following group sessions are anticipated but may be altered by the ARIA Group as it deems necessary: (1) minority groups; (2) city officials and police administration; (3) line officers and families; (4) business community; (5) religious, social services, and education; (6) print and electronic media; (7) community councils; and (8) youth. Each group will in public session produce a summary of its dialogue explaining its shared goals, values and proposals, which will be made public and considered by the parties. All group, and structured dialogue sessions will be open to the press. The ARIA Group will endeavor to work closely with the press before such sessions to fully inform it about the collaborative, the goals of the dialogue sessions, and the value of coverage consistent with those goals.

c. The parties, with the approval of the Court, will develop a protocol for the collaborative operation of an expert panel of police experts by May 25, 2001. Nothing herein shall preclude the use of experts that have been used by the Civil Rights Division of the United States Department of Justice. Under the management of the ARIA Group, the expert panel shall collaboratively review
current practices of the Cincinnati Police Division and similar practices in other communities and make public recommendations for addressing police-community relations in Cincinnati. The expert panel shall make available to the parties and the public information about the best practices from any and all sources as deemed appropriate by the ARIA Group. The expert panel will be provided with (1) the ARIA Group summary of responses by those contributing data; (2) prearranged access to all personnel and physical work sites; Cincinnati Civilian Police Review Panel, OMI and Internal Investigation Section reports; public records, including nonconfidential discipline and personnel files; and policies and procedures related to the Cincinnati Police Division and other records that are public records under the Ohio public records statute; (3) copies of all previous reports and studies of police-community relations from 1967 to the present; and any other public material they may deem important to the accomplishment of their task. The lawyers for the parties will not have any ex parte communications with the experts. The ARIA Group shall be free to pose questions and solicit responses from the expert panel as the need arises. If the expert panel requires access to nonpublic records, a protocol for accommodating that request that preserves the nonpublic status of those records will be developed by the parties and approved by the Court.

d. Under the management of the ARIA group, the parties intend to negotiate a written agreement including a plan for action, ongoing collaboration, and reconciliation regarding the alleged social conflicts that are the subject of the collaborative. Further, any negotiated agreement must address the goals and values that are identified in the dialogue sessions.

c. If the parties are able to negotiate a proposed agreement regarding the
alleged social conflicts that are the subject of the collaborative, the proposed
agreement will be presented to the public, to City Council and to the Court, which
will receive testimony, if appropriate, from the parties, participants in the dialogue
sessions, court experts, and other national experts as to the fairness of the
agreement. The staff of the ARIA Group shall not be asked to testify about
matters that are protected as confidential. The ARIA staff may be asked to testify
generally about the collaborative process. It is anticipated that the openness of
this collaborative process and the combination of expert and broad based
community input will provide an opportunity for the parties and the Court to
create a national and international model for other communities. The parties
reserve the right to take any action they deem necessary should the matter return
to litigation.

f. Nothing in this order prohibits the ARIA group from concurrently
assisting the commission announced by the Mayor of the City of Cincinnati on

4. The names and identifiers of all individuals (parties and nonparties) who
provide What, Why, and How data to the ARIA Group shall be confidential and kept
under seal. The disclosure of this identity data is prohibited by federal law and is not a
public record under ORC §149.43(A). The preservation of the confidentiality of this data
is necessary both for the effective implementation of the collaborative in this case as well
as to protect the safety and rights of the participants in the process. See generally
Kallstrom v. City of Columbus, 136 F.3d 1055 (6th Cir. 1998) (releasing personal
information about law enforcement officers and their families can create security risk and
violate their privacy); Smith v. City of Dayton, 68 F. Supp. 2d 911, 917-19 (S.D. Ohio
1999) (acknowledging the validity of security as a reason to deny access to information).
On motion to this Court and for good cause shown, the redacted identity data may be released only to counsel for the parties. These materials shall be produced to counsel FOR ATTORNEYS' EYES ONLY. As used in this Order, "nonparties" includes all persons who are not named in the lawsuit or the proposed amended complaint and all those persons who participate in the collaborative as authorized by this Court. See Knoll v. AT&T, 176 F.3d 359 (6th Cir. 1999).

5. Pursuant to orders of this Court, the Plaintiff and proposed Plaintiffs (hereinafter "Plaintiffs") and the City shall pay the fees and expenses of the ARIA Group, the expert panel, and any other substantial expenses incurred in this collaborative. An escrow account shall be established at Firstar Bank with the approval of the court for that purpose. The Plaintiffs and the City have each reserved $100,000 to cover the initial cost of the collaborative. No costs in excess of $200,000 will be approved until further order of the Court. By May 11, 2001, the ARIA Group will submit a work plan to the Court for approval with service on the parties, including budget, schedule and work products. Neither the City nor the Plaintiffs will be required to pay more than their designated shares of $100,000 toward the cost of this collaborative unless the City and/or the Plaintiffs consent to pay additional amounts. The ARIA Group will submit a progress report to the Court and the parties on May 25, 2001, and then every thirty days thereafter.

6. The parties agree that all of the statements whether oral or written that are made by participants in this collaborative or in the possession of the ARIA Group will not be used as evidence by any party and that the entire collaborative is subject to the provisions of Fed. R. Evid. 408 and further limited as described in this Order. The parties agree that data or other information collected by ARIA or received by the parties, by whatever modality and in whatever form, summary or otherwise, is not relevant,
competent, material or otherwise admissible for any purpose in any judicial proceeding including the case at bar.

7. All litigation matters in the case at bar and the following cases are tolled until further order of the Court:

- Antonio Johnson v. City of Cincinnati, Case No. C-1-99-1063*
- Matthew Shaw v. City of Cincinnati, Case No. C-1-99-1064*
- Mark A. Ward v. City of Cincinnati, Case No. C-1-99-494
- Charles A. Wiley v. City of Cincinnati, Case No. C-1-00-267
- Lisa Youngblood-Smith v. City of Cincinnati, Case No. C-1-00-434
- Elise Carpenter v. City of Cincinnati, Case No. C-1-99-227
- Nathaniel Livingston v. Thomas Streicher, Case No. C-1-01-233
- Lasha Simpson v. Thomas Streicher, (re force on 4/14/01)(to be refiled federal court)

Concurrent with the collaborative procedure and subject to a protocol that will permit limited discovery necessary to the individual claims, the parties agree to make a good faith effort to confidentially mediate the disputes in these cases. All settlements achieved shall be available to the public. If a settlement is not achieved the parties may move to return the case to the litigation docket. Additional cases may be added to this list by further order of the Court.

**IT IS SO ORDERED**

Susan J. Drott
United States District Judge

*Subject to agreement by Cincinnati Metropolitan Housing Authority ("CMHA") counsel. CMHA counsel shall notify the Court in thirty days whether CMHA will make a good faith effort to mediate this case.

Agreed:

**Plaintiff's and Proposed Plaintiffs' Counsel:**

Kenneth L. Lawson
Trial Attorney for Plaintiffs
Scott Greenwood
Trial Attorney for Plaintiffs

Alphonse A. Gerhardstein
Trial Attorney for Plaintiffs

Defendants' Counsel:

Fay D. Dupuis
City Solicitor

Michael Harmon
Richard Gamulin
Trial Attorney for Defendants
Assistant City Solicitor
City of Cincinnati

Donald Hardin
Special Counsel for Individual Defendants
And the Fraternal Order of Police
In order for your response to be counted, you must provide your name, address and telephone number. This information will remain absolutely confidential.

I am qualified to answer this questionnaire because I (choose one):
  o  Live and work within the city limits of Cincinnati
  o  Live within the city limits of Cincinnati
  o  Work within the city limits of Cincinnati
  o  I do not live or work within the city limits of Cincinnati but I do participate in activities in Cincinnati

Please fully and accurately answer all of the following by checking the appropriate responses. This is essential for helping us organize and categorize the many responses we will receive.

Racial Identification:
  o  White
  o  African America
  o  Hispanic
  o  Asian
  o  Native American
  o  Other _____________________________________

Which one of the following professional groups or organizations do you most closely identify with?
  o  Business/foundation
  o  Police (officers and families)
  o  Social Service Organization
  o  Religious Organization
  o  Education Institution
  o  City/Council/Police Leadership or Administrator
  o  None of the above
  o  Other _____________________________________

Current work status:
  o  I work full-time
  o  I work part-time
  o  I am a homemaker
  o  I am unemployed
  o  I am retired

Current school status:
  o  I am in school full-time
  o  I am in school part-time
I am not in school

Age:
- 17 and younger
- 18-25
- 26-34
- 35-55
- 56 and older

Gender:
- Male
- Female

Religious Identification (optional):
- Christian
- Jewish
- Muslim
- Hindu
- Buddhist
- Other _____________________________________

Other Identification (optional- can check more than one):
- Appalachian
- Gay/Lesbian/Bisexual/Transgender
- Activist
- Artist/Musician
- Other _____________________________________

Marital Status (optional):
- Never married
- Married or in committed relationship
- Divorced or separated
- Widowed
- Other _____________________________________

Number of family members living in your home (optional):
- Self only
- Tow
- Three-five
- Six of more

Education level:
- Eighth grade or less
- Some high school
- High school graduate or equivalent
- Some college
- Four-year college degree
- Some graduate courses
- Advanced degree

Household income:
- Under $20,000
- $20,000- $50,000
- Above $50,000

First Name: _________________________________
Last Name: _________________________________
Email address: _______________________________
Address:____________________________________
City:_______________________________________
State:______________________________________
Zip Code:___________________________________
Telephone Number:___________________________

Further Participation:
Would you like to participate in a four-hour feedback session, led by professional facilitators, in which you will discuss your values, beliefs and goals publicly and attempt to reach agreement with other in your group? We will select about 100 representatives from each identify group. If you are selected, you must agree to attend the entire session and, since media will be there, confidentiality of your name and responses may no longer be protected.
- Yes, I am willing to participate
- I might be willing to participate
- No, I do not wish to participate

**Questionnaire Instructions**

By completing this questionnaire, you are now agreeing to participate in an action-research project designed to establish broad-based goals and actions for future of police-community relations in Cincinnati. You also understand that this information will be made public, although your name will remain confidential.

**How to enter your responses online:**
1. The online questionnaire can be found at http://www.ariagroup.com
2. Click on the link that says “click here for the Cincinnati Police-Community Relations Collaborative.”
3. Next click on the link that says “please click here to access the questionnaire”
4. Fill out the information sheet carefully and completely
5. When you have finished completing the information sheet, click on “complete” and then read and carefully follow instructions to complete the questionnaire. When you have completed the questionnaire click on “finished” to conclude the process and submit your responses.

You may answer the questionnaire only one time. If you have any technical difficulties, please email tech@ariagroup.com.
If you fill out the hard copy:
Please fax or mail the completed questionnaire, along with the demographic data, to:
The ARIA Group, Inc.
C/o Christ Church Cathedral
318 East Fourth St.
Cincinnati, Ohio 45202-4202
Fax Number: (513) 842-2080
Thank you!
Please describe your goals for this project. You may describe up to three goals.

Name:________________________________

Goal 1
○ What is your first goal for future police-community relations in Cincinnati?
○ Why is this goal important to you (what experience, values, beliefs, feelings influence your goal)?
○ How do you think your goal could be best achieved (the more specific your suggestion the better)?

Goal 2
○ What is your second goal for future police-community relations in Cincinnati?
○ Why is this goal important to you (what experience, values, beliefs, feelings influence your goal)?
○ How do you think your goal could be best achieved (the more specific your suggestions the better)?

Goal 3
○ What is your second goal for future police-community relations in Cincinnati?
○ Why is this goal important to you (what experience, values, beliefs, feelings influence your goal)?
○ How do you think your goal could be best achieved (the more specific your suggestions the better)?
# APPENDIX D

## PRELIMINARY GROUP GOALS FOR STAKEHOLDING GROUPS

<table>
<thead>
<tr>
<th>African-American Citizens</th>
<th>Youth (25 and under)</th>
<th>City Officials and Employees</th>
<th>Police Officers and Families</th>
<th>Religious/Social Service Leadership</th>
<th>Business/Foundation/Education Leaders</th>
<th>White Citizens</th>
<th>Other Minority Persons</th>
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<tbody>
<tr>
<td><strong>Responses</strong></td>
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<td></td>
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<td>693 (total)</td>
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<tr>
<td>693 (total)</td>
<td>749</td>
<td>176</td>
<td>216</td>
<td>259</td>
<td>661</td>
<td>333</td>
<td>181</td>
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<tr>
<td><strong>Goal 1</strong></td>
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<td>Increase respect and safety for the African-American community though the elimination of racially biased practices by the CPD</td>
<td>Establish and maintain positive interaction and communication between the police and the community</td>
<td>Promote a partnership of trust, respect, and acceptance among the community and the CPD</td>
<td>Create methods to establish the public’s understanding of police policies and procedures in an effort to foster greater support for the police</td>
<td>Reform the CPD (including recruitment, hiring, training, and accountability procedures)</td>
<td>Police officers and community members will become proactive partners in community problem solving</td>
<td>Increase community accountability and responsibility for reducing misconduct and unlawful behavior</td>
<td>Foster more positive interaction, cooperation and communication between the community and the police</td>
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<td><strong>Goal 2</strong></td>
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<td>Reform to change and improve something by correcting faults, removing inconsistencies and abuses, and imposing modern methods and values – the education process in the CPD</td>
<td>Build greater understanding and cooperation within and between the communities and the police</td>
<td>Promote shared responsibility for community safety and crime reduction</td>
<td>Encourage citizen involvement in problem solving in their neighborhoods</td>
<td>Create new community-police relations and understanding</td>
<td>Together, ensure a safe environment for our community through the fair and equitable application of the rule of law</td>
<td>Foster greater understanding and acceptance of diverse communities in Cincinnati and ensure fair and equal treatment for all its citizens</td>
<td>Enhance trust, respect and sensitivity between police and diverse communities</td>
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<tr>
<td><strong>African-American Citizens</strong></td>
<td><strong>Youth (25 and under)</strong></td>
<td><strong>City Officials and Employees</strong></td>
<td><strong>Police Officers and Families</strong></td>
<td><strong>Religious/Social Service Leadership</strong></td>
<td><strong>Business/Foundation/Education Leaders</strong></td>
<td><strong>White Citizens</strong></td>
<td><strong>Other Minority Persons</strong></td>
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<td><strong>Goal 3</strong></td>
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<tr>
<td>Improve oversight, monitoring and accountability of CPD</td>
<td>Develop fairness and respect between the police force and the community</td>
<td>Expand community oriented policing</td>
<td>Ensure fair, equitable and courteous treatment for all citizens</td>
<td>Build relationships of respect, cooperation and trust within and between police and communities</td>
<td>Foster greater understanding, trust respect and sensitivity between the community and the police</td>
<td>Develop positive citizen and police interaction to create mutual trust, understanding, and shared responsibility for public safety and peace</td>
<td>Raise the professional standards of police and develop an effective internal and external accountability system</td>
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<td><strong>Goal 4</strong></td>
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<td>Develop and foster a greater understanding and positive interaction between the African-American community and the CPD</td>
<td>Promote trust and decrease confrontation and violence to ensure safety</td>
<td>Ensure officer accountability for misconduct and promote recognition for exceptional service</td>
<td>Increase professional and public recognition of individual officer achievement</td>
<td>Minimize violent confrontation</td>
<td>The police will become more accountable and responsible to the public they serve, with immediate attention to the African-American community</td>
<td>Change the culture of the CPD by improving trading, oversight, and accountability in order to enable officers to better understand and apply the appropriate use of force</td>
<td>Increase partnership between police and community in problem-solving and neighborhood safety</td>
</tr>
<tr>
<td>African-American Citizens</td>
<td>Youth (25 and under)</td>
<td>City Officials and Employees</td>
<td>Police Officers and Families</td>
<td>Religious/Social Service Leadership</td>
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<td><strong>Goal 5</strong></td>
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<td>The African-American community will receive appropriate level of service from CPD</td>
<td>Invest in self-help, community education and development</td>
<td>Increase public awareness and education about the challenges police officers face and the roles they play</td>
<td>Enhance mutual respect, trust, and understanding between the police and the entire community</td>
<td>Do justice, pursue equality and seek peace, recognizing social, economic and political factors throughout the region</td>
<td>The community will develop more knowledge and a more positive perception about the police, their procedures, motivations and duties to create greater trust and support, with immediate emphasis on the African-American Community</td>
<td>Foster greater mutual respect, trust, and understanding among all citizens of Cincinnati about the laws that govern us</td>
<td>Improve support of police and awareness of their role and by the community at large</td>
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<td><strong>Goal 6</strong></td>
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<td>Improve diversity training &amp; communication skills for police officers</td>
<td>Reinforce the community oriented policing philosophy</td>
<td>Establish systems and structures for equitable treatment and respect by officers for individuals and all communities</td>
<td>Ensure equal treatment under the law for everyone</td>
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<td>African-American Citizens</td>
<td>Youth (25 and under)</td>
<td>City Officials and Employees</td>
<td>Police Officers and Families</td>
<td>Religious/Social Service Leadership</td>
<td>Business/Foundation/Education Leaders</td>
<td>White Citizens</td>
<td>Other Minority Persons</td>
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<td>Goal 7</td>
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<td>Increase diversity within the CPD</td>
<td>Educate the community on appropriate responses to law enforcement</td>
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APPENDIX E

COLLABORATIVE AGREEMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE CINCINNATI POLICING : Case No. C-1-99-317

: Judge Diett

: COLLABORATIVE

: AGREEMENT

1. The Cincinnati Black United Front ("Front"), the American Civil Liberties Union of Ohio Foundation, Inc. ("ACLU"), on behalf of the class, as defined herein ("the Plaintiffs"), the City of Cincinnati ("City"), and the Fraternal Order of Police ("FOP"), hereinafter collectively referred to as the "Parties," hereby enter into this Collaborative Settlement Agreement dated as of (the "Agreement" or "Collaborative Agreement") providing for full and complete settlement of the claims of all of the Parties as described in certain litigation commenced by Plaintiff Domani Tyorimbuka against the City and others in United States District Court in case No. C-1-99-317 as later sought to be amended by Amended Complaint and subsequent pleadings filed by the Front and the ACLU on or after March 1, 2001, against the City and others, herein described as the Litigation, in consideration of the mutual promises of the Parties and pursuant to the terms and conditions set forth below, all subject to the approval of the Court.

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I. VALUE STATEMENT

2. The overall Collaborative Agreement described in this document contains a description of problem-oriented policing which frames the overall philosophy and practices at its core. Central to a problem solving orientation is that problems are dilemmas to be engaged and learned from and that blame is an obstacle to progress. The overall collaborative effort suggests an alternative to blame: that different groups within the community with different experiences and perspectives share much more in common than not, and can work together on common goals and solve problems together.

II. INTRODUCTION

3. This Collaborative on Police Community Relations was proposed by the Parties, authorized by the City Council of the City of Cincinnati and established by United States District Judge Susan J. DiLott as an alternative dispute resolution effort to resolve social conflict, improve community relations, and avoid divisive litigation. The Collaborative has been pursued with Judge DiLott’s direction, encouragement and assistance as a joint project of the Parties. The Litigation alleges racially biased policing by the Cincinnati Police Department (“CPD”). The City and the FOP have denied the allegations but have agreed to pursue this unique partnership as a means of resolving the conflict. The court has appointed as Special Master, Jay Rothman, Ph.D., who has been leading the resolution process.

4. The Collaborative includes outreach to the entire Cincinnati community through eight stakeholder groups: African-Americans, social service and religious organizations, businesses and philanthropic groups, police line officers and spouses, City officials, white citizens, other minorities and youth. The community outreach included responses to an online questionnaire as well as interviews with citizens for whom a computer was not easily accessed. Feedback sessions were used to collect and discuss the information that was gathered. Over 3500 persons participated in this process. The collaborative also included an expert research effort headed by John Eck, Ph.D., charged with identifying best practices and model programs. The results of this community dialogue and expert research were shared with the Parties for use in settlement negotiations.

5. The Parties have studied and received the results from community based work done through Study Circles by the Cincinnati Human Relations Commission; Neighbor to Neighbor, sponsored by numerous Cincinnati organizations; suggestions by the National Conference for Community and Justice (NCCJ) and Cincinnati Community Action Now (CCAN)

6. The Collaborative has engaged the entire community in a constructive dialogue that has resulted in an ongoing commitment to cooperation between the police and the community. The Parties, through this Agreement, make a commitment to promote and foster this ongoing cooperation.

III. CLASS CERTIFICATION AND FRIENDS OF THE COLLABORATIVE

7. The Parties agree that the goal of securing continuing, broad based community commitment to implementation of the terms of this Agreement shall be accomplished through certification of a plaintiff class action under Fed.R.Civ.P. 23(b)(2). The representative plaintiffs shall be
the Cincinnati Black United Front ("Front") and the American Civil Liberties Union of Ohio Foundation, Inc. The Parties shall permit the Urban League of Cincinnati and NAACP, Cincinnati Branch to join as class representatives within thirty days of the signing of this Agreement if they agree. The Parties agree to the certification of a mandatory class for settlement purposes under Fed. Rule Civ. P. 23(b)(2). The class shall be defined as:

All African-American or Black persons and people perceived as such who reside, work in and/or travel on public thoroughfares in the City of Cincinnati, Ohio either now or in the future and who are stopped, detained, or arrested by Cincinnati Police Officers or their agents, and citizens of any race who have been or will be subjected to a use of force by Cincinnati police officers and their agents.

8. A community advisory committee of Cincinnati organizations, the Friends of the Collaborative, shall be established within 30 days of the approval of this Agreement by the Court. Such Committee will consult with and support the parties regarding the implementation of the Agreement.

9. The Parties agree that they are entering into this class action settlement agreement for settlement purposes only. Any acquiescence or agreement to the class certification in this case does not constitute an admission of liability or fault by the City of Cincinnati or any of its officials, agents, or employees and may not be used as evidence in any proceeding by any member of the class except proceedings under this Agreement.

IV. PURPOSE OF SETTLEMENT AGREEMENT

10. The purposes of this Agreement are to resolve social conflict, to improve community-police relationships, to reduce crime and disorder, and to fully resolve all of the pending claims of all individuals and organizations named in the underlying litigation, to implement the consensus goals identified by the community through the collaborative process (listed below), and to foster an atmosphere throughout the community of mutual respect and trust among community members including the police. The Parties recognize that there has been friction between some members of both the community and the CPD. The ultimate goal of this Agreement is to reduce that friction and foster a safer community where mutual trust and respect is enhanced among citizens and police. This Agreement reflects the following goals adopted by the 3500 respondents through the feedback process developed by the Parties through the Collaborative.

First Goal: Police Officers and Community Members Will Become Proactive Partners in Community Problem Solving

Second Goal: Build Relationships of Respect, Cooperation and Trust Within and Between Police and Communities

Third Goal: Improve Education, Oversight, Monitoring, Hiring Practices and Accountability of CPD

Fourth Goal: Ensure Fair, Equitable, and Courteous Treatment for All
solutions. The City of Cincinnati will routinely evaluate implemented solutions to crime and disorder problems, regardless of the agency leading the problem-solving effort. The City will develop and implement a plan to coordinate the City's activities so that multi-agency problem solving with community members becomes a standard practice. Such an approach does not preclude law enforcement and prosecution.

Introduction to Community Problem Oriented Policing

17. The City of Cincinnati is committed to community problem-oriented policing (CPOP) as a means to reduce crime and improve the quality of life for its citizens. The plaintiffs and the POP join in that commitment. The Cincinnati Police Department (CPD) recognizes CPOP as the next phase of effective community policing. Current research and case studies from around the world indicate that the problem-solving process known as SARA (Scanning, Analysis, Response, and Assessment) effectively addresses crime, disorder, and the fear of crime in communities. The Parties acknowledge that there are broad causes of crime and disorder. For a long period of time the police have been looked at as the only entity to address crime and disorder in our community. This Agreement is designed to encourage the Parties to commit to help the police and community work together to address crime, disorder, and quality of life issues in the Cincinnati metropolitan area.

18. The CPD has recently adopted a strategic plan that embraces community problem-oriented policing. This Settlement Agreement builds on that commitment. Implementing a widespread, in-depth community problem-oriented policing strategy in Cincinnati can increase the police, City, and community effectiveness in preventing and solving crime, reducing disorder, improving quality of life, and restoring functional neighborhoods.

19. The CPD consulted Advisors Helping Agencies in the development of its strategic plan in order to gain an outside perspective of the Cincinnati Police Department. One of the goals identified through this process was the use of problem oriented policing, in partnership with the community, to implement effective solutions. This is the process the CPD adopted to help communities solve problems. Part of this goal is the implementation of a problem tracking and reporting system to document successes and failures. The CPD is still implementing this system and is working to improve it. The Collaborative Agreement will directly assist in this effort.

Explanation of Community Problem-Oriented Policing

20. Community problem-oriented policing is one form of police work that seeks resolution of troublesome circumstances in the community. These troublesome circumstances are framed as problems to solve. They usually reveal themselves as a form of repeat pattern of offending, victimization, or locations. First, problems need to be carefully defined. A useable problem definition requires a description of harmful behaviors and the environments where these behaviors occur.

21. The second principle guiding community problem-oriented policing is that problems are carefully analyzed prior to developing a solution. Community problem-oriented policing is an information intensive strategy that places a premium on data, intelligence, community input, and analysis. The analysis is designed to reveal critical aspects of the problem that can be altered to effect a reduction in the problem.
22. The third principle is that the police and their partners engage in a broad search for solutions based on the analysis of information. A law enforcement response is always a possibility, but may not be required. Rather, a range of options is explored, often drawing from the field of "situational crime prevention" that block opportunities to commit crimes and disorder. Effective solutions to problems may require the active participation of and partnership with other City agencies, community members, and the private sector. This implies that for a community problem-oriented policing strategy to be effective there must be close police-community relations and the City must support this approach.

23. The fourth principle is that problem solving efforts are evaluated to determine if the problem has been reduced. Here again, the use of information technology and analysis is critical to assure continuous improvement. If the problem has been successfully addressed, the police can move on to other problems. If it has not, then more work needs to be done, including a re-analysis of the problem or a search for alternative solutions.

24. Beginning in the fall of 1993 through February 1994, all CPD personnel received eight hours of police problem solving training using the SARA model as the process for community problem solving. The CPD has also specifically trained all neighborhood officers in the SARA model. In 1998, Police Officers and Police Specialists received a one-hour overview of community oriented policing that examined successes of community oriented policing. The overview also helped educate best officers on how neighborhood officers could assist them in finding solutions to problems on their beat. Also in 1998, the problem solving method was used during Critical Incident Training for all Sergeants and Lieutenants. All of this suggests a solid foundation for even more focused and comprehensive commitment to community problem oriented policing.

25. The CPD also uses crime analysis and mapping for problem solving. CPD analysts receive numerous requests for information during the analysis and assessment phases of problem solving. They have the ability to draw a picture of crime for those involved in the problem solving initiative. Several years ago, the CPD, Kloster Street Homeowners Association and the Cincinnati Public Works Department collaborated to develop a strategy for combating increasing incidents of theft and vandalism in the Kloster Street neighborhood.\(^1\) This is only one example of the use of technology and crime mapping for problem solving by the City and provides a further successful foundation for this Collaborative Agreement.

26. Citizens of Cincinnati have expressed a strong and uniform desire to see greater positive interaction between the police and the public. During the nine-month collaborative process in 2001, the public called for the City to "reinforce and expand community-oriented policing and practice." They have recommended that the City "establish and maintain greater understanding, positive interaction, and communications between the community and the police." They have asked the City to "promote a partnership of shared responsibility for community problem solving." Citizens want to "develop more trust, respect and acceptance between the police and community." They want to "increase public's understanding of police policies, procedures, duties and roles." The public wants to "foster greater

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\(^1\) They used the SARA model for problem solving and the project and findings were published in Crime Mapping Case Studies: Successes in the Field, Volume 2, 2000, Police Executive Research Forum.
appreciation and support for police through professional and public recognition of outstanding service as well as awareness of the motivations of police officers and challenges they face." Citizens want to "improve communications and foster greater understanding, trust, respect and sensitivity between the community and the police." And the public wants to "increase community accountability and responsibility."

27. The Parties, and especially the CPD, understand that fully engaging the community is a fundamental key to effective law enforcement. The CPD will continue to implement policies and procedures that are guided by the principles of community problem-oriented policing. In accordance with these principles, the CPD continues to work in partnership with the community to solve problems that impact the community. As part of that process the Department has expanded its successful Citizens on Patrol Program to include neighborhoods of Bond Hill, College Hill, Madisonville, Mt. Washington, Price Hill, Gorshage, Hartwell, Westwood, Northside, Clifton/University Heights/Fairview (CUF), Kennedy Heights and Pleasant Ridge. This program started with only four communities in 1997. Its success was recognized by other neighborhoods that wanted to work in partnership with the police to take back their neighborhoods. Neighborhood officers have been encouraged to utilize the SARA model and explain the process to citizens.

28. It is abundantly clear that the citizens of Cincinnati and their police officials want a two way dialogue about effective and fair policing. Taking a proactive and preventative approach toward informing the public about police operations will go a long way toward improving police-citizen relations and preventing information vacuum that increase friction between the community and the police. The ultimate goal of this Agreement is to reduce that friction and foster a safer community where mutual trust and respect is enhanced among citizens and police.

**Implementation of Community Problem Oriented Policing (CPOP)**

29. The Parties shall be jointly accountable for the implementation of community problem solving policing. The Parties, through their attorneys, shall meet each of the development deadlines by drafting whatever policies, procedures or other documents that may be necessary to carry the commitments of this Agreement into operation. The Parties will work together to mutually insure that each of the following implementation steps is accomplished by the deadlines set for implementation.

   a) The City, in consultation with the other Parties, shall develop and implement a plan to coordinate City departments with the CPOP focus of the CPD.

   Plan Development Deadline: 60 days after fairness hearing.
   Plan Implementation Deadline: 90 days after fairness hearing.

   b) The Parties shall develop and implement a system for regularly researching and making available to the public a comprehensive library of best practices in community problem-oriented policing.

   Plan Development Deadline: 60 days after fairness hearing
   Plan Implementation Deadline: 90 days after fairness hearing
c) The City, in consultation with the Parties shall develop a “continuous learning” process through the CPD. Experiences with problem solving efforts in the field will be documented and disseminated throughout the police department and made available to the public. Problem solving will continue to be emphasized in (included but not limited to) academy training, in-service training, and field officer training.

Plan Development Deadline: 60 days after fairness hearing
Plan Implementation Deadline: 90 days after fairness hearing

d) The Parties will seek out information on how problem solving is conducted in other police agencies. Research and best practices on successful and unsuccessful methods for tackling problems, and analogous processes used by other professions (e.g., conflict resolution, organization development, epidemiology, military, civil engineering, and business) will be disseminated.

Plan Development Deadline: 60 days after fairness hearing
Plan Implementation Deadline: 90 days after fairness hearing

c) The Parties, consistent with the Community Partnering Program, attached as Exhibit A, shall conduct CPOP training for community groups, jointly promote CPOP, and implement said CPOP training.

Plan Development Deadline: 60 days
Plan Implementation Deadline: 90 days

f) The Parties shall coordinate efforts undertaken through the Community Partnering Program and establish an ongoing community dialogue and interaction including but not limited to structured involvement between the CPD and youth as well as with property owners, businesses, tenants, community and faith-based organizations, motorists, low income residents and other city residents on purposes and practices of CPOP.

Development Deadline for training and informational materials: 60 days after fairness hearing
Plan Implementation Deadline: Immediate. 90 days after fairness hearing

g) The Parties shall establish an annual CPOP award to recognize the efforts of citizens, police officials, and other public officials who have made substantial contributions to CPOP by addressing community problems in Cincinnati.

Deadline to Complete Award(s) Design: 120 days after fairness hearing
Deadline for Implementation: 180 days after fairness hearing

h) The City, in consultation with the Parties and consistent with the Ohio Law, shall develop and implement a system for consistently informing the public about police policies and procedures.
In accomplishing this item, The City, in consultation with the Parties, shall conduct a communications audit, and develop and implement a plan for the improvement of internal and external communications. This will be funded by NCCJ pursuant to the attached description, Exhibit B.

System Development Deadline: 60 days after fairness hearing
System Implementation Deadline: 120 days after fairness hearing

i) The CPD shall create and staff a Community Relations office that will coordinate within the CPD implementation of this Agreement.

Deadline for Creation of Community Relations Office: 60 days after fairness hearing

j) The Parties shall describe the current status of problem solving throughout the CPD and what is being done to improve it through an annual report. Each party shall provide information detailing what it has done relating to its role in CPOP.

Implementation Deadline: One year after fairness hearing

k) CPD District Commanders and Special Unit Commanders or officials at comparable levels shall prepare quarterly reports that detail problem solving activities within their Districts. To the extent practicable, these reports shall identify specific problems addressed and steps taken by the City and the community toward their resolution. The reports also shall identify obstacles faced and recommendations for future improvement. Consistent with individual privacy and relevant law, these reports shall be available to the public through the CPD’s Community Relations Office.

Deadline to Commence Quarterly Reports: 90 days after fairness hearing

l) The Parties shall review existing courses and recommend any new ones that may be appropriate for the Police Training Academy in order to effectively and accurately inform police recruits, officers and supervisors about the urban environment in which they are working.

Deadline to Complete Course Review and Design: 90 days after fairness hearing
Deadline for Implementation: 120 days after fairness hearing

m) The Parties, in conjunction with the Monitor, shall develop and implement a problem tracking system that will have the goal of documenting problem-solving activities, including problem definition, analysis and response activities and information, evaluation results, and partnerships with police, government, and community organizations and individuals.

System Development Deadline: 180 days after the fairness hearing
System Implementation Deadline: 240 days after the fairness hearing

n) The City shall periodically review its staffing plan in light of its commitments under CPOP and make revisions as necessary subject to funding provisions of this Agreement.
Deadline for Staffing Plan review: ongoing

a) The City shall review and, where necessary and appropriate, revise, police department policies and procedures, organizational plans, job descriptions, and performance evaluation standards, consistent with its commitment to CPOP.

Deadline to Complete Review: 60 days after fairness hearing
Deadline for Revision: 90 days after fairness hearing

p) Consistent with applicable federal and state law regarding protection of personal privacy and the Ohio Public Records Act, the City shall design a system that will permit the retrieval and linkage of certain information including that which is already collected by the CPD but may not be routinely searchable under the present system. Further the system shall enable the tracking of repeat offenders, repeat victims, and/or repeat locations that are necessary to community problem oriented policing. Finally, the system established under this paragraph shall include, but not be limited to, that information necessary to comply with the terms in this Agreement regarding nondiscrimination in policing and early warning.

Deadline to Complete Request for Proposal: 180 days after fairness hearing
Deadline for Implementation: to be determined by the Monitor

c) The City, in consultation with the Parties, shall study the options and then determine if and how to best secure appropriate information technology so that police officers, supervisors, managers, and executives, as well as other City agencies and community members, can get access to timely and useful information needed to detect, analyze, and respond to problems and evaluate their effectiveness subject to the provisions of this Agreement with respect to funding.

Deadline for Development of Procurement Plan: 180 days after fairness hearing
Deadline for Securing Funding: 240 days after fairness hearing
Deadline for Procurement: one year after fairness hearing
Deadline for Implementation: immediately regarding those aspects that need no new purchases, otherwise two years after fairness hearing

B. Parties' Mutual Accountability and Responsibility for Evaluation Of The Implementation of the Agreement

Introduction

30. The Parties, in consultation with appropriate experts and under the supervision of the Monitor, shall develop a system of evaluation to track the attainment of goals agreed to between the Parties in the Settlement Agreement. This tracking enables the Agreement to serve as a mutual accountability plan. The term "mutual accountability plan" is defined as a plan that ensures that the conduct of the City, the police administration, members of the Cincinnati Police Department and members of the general public are closely monitored so that the favorable and unfavorable conduct of all is fully documented and thereby available as a tool for improving police-community relations under this
Agreement. The Parties will regularly meet with the Monitor to study the results of the evaluation instruments and determine what changes, if any, in the Agreement or in their actions should be pursued in light of the evaluation results. That system shall also include a plan for determining what parts of this evaluation oversight may be transferred from the Monitor’s supervision to a successor agency before this Agreement expires in order that ongoing evaluation efforts of police-community relations continue.

Protocol Development

31. The Parties shall, with the advice of expert consultants, and under the supervision of the Monitor, develop a Protocol to accomplish this system of evaluation. This Protocol (hereafter, the “Evaluation Protocol”) shall be developed within 90 days of the Court approval of this Agreement, and implementation shall be commenced not more than 60 days thereafter.

32. The Evaluation Protocol shall set forth (i) a schedule for implementation of its terms, (ii) the cost of implementation, (iii) the individual or entity that will perform its requirements, (iv) data collection methods, forms, and procedures, (v) guidelines for analysis of collected data and reporting formats, (vi) levels of statistical confidence and (vii) levels of statistical power.\(^2\)

Cost

33. The cost to implement the provisions of this Section B, including the cost to implement the Evaluation Protocol, shall not exceed the limit set forth in paragraph 130.

Elements of Evaluation Protocol

34. This Evaluation Protocol shall include (1) periodic surveys; (2) periodic observations of programs in which the police are involved, (3) and annual statistical compilations of police interactions with the community and the community’s interactions with the police.

Periodic Surveys.

35. Subject to final decision after development of the Evaluation Protocol, the Parties anticipate utilizing several types of surveys regarding events occurring after the signing of this Agreement. The Evaluation Protocol shall provide that for all probability sample surveys, the Parties will assure that the response rate of sampled respondents is not lower than 70 percent.

a) A probability sample\(^3\) of citizens will be surveyed, periodically citywide. This survey will provide a barometer of citizen attitudes toward and satisfaction with the police.

\(^2\) Statistical confidence refers to the probability that a difference between two groups is real and not due to randomness. Statistical power refers to the ability to detect a given non-random difference between two groups.

\(^3\) A probability sample is a group of people selected in a way that allows researchers to calculate the proportion of the population they represent with known accuracy. Simple random samples are a type of probability sample, but there are many other types as well.
should be large enough that meaningful distinctions can be drawn among neighborhoods, race, gender and ages of respondents. Special consideration will be given to the use of a non-probability sample of residents who have no fixed address and who are likely to be missed by probability sampling. The citywide survey of citizens will include measures of neighborhood conditions, fear of crime, community efficacy, awareness of policing efforts, participation in policing efforts, perception of policing effectiveness, police responsiveness, performance, officer civility and demeanor, and citizen conduct with the police. The surveys shall also include multiple items that are specifically designed to fairly measure identification and prioritization of problems, awareness of community problem oriented policing efforts, participation in such efforts, and program effectiveness in community relations.

b) A probability sample of citizens with police encounters will be surveyed periodically to determine the nature of the contacts, citizens’ perceptions of the police involved and the outcomes of the contacts. These citizens will be drawn from police records, including but not limited to lists of citizens attending neighborhood meetings with the police, involved in police-community problem-solving efforts, stopped and questioned by the police, and arrested by the police. The periodic survey of citizens with police encounters will include measures of police responsiveness, performance, demeanor, the perceived performance of other city agencies involved in the problem-solving process, the perceived effectiveness of the problem solving itself, and perceived community receptiveness to police involvement. The exact nature of the questions asked will depend on the nature of the encounter. Consequently, citizens involved in traffic stops and citizens involved in police-community problem-solving efforts will be asked similar questions about police demeanor, for example, but different questions about the outcomes of the encounter.

c) A probability sample of police officers, specialists, sergeants, lieutenants, and other members of the Cincinnati Police Department who have significant contact with the public and their immediate families will be surveyed periodically to determine their perceptions of their organizational work climate, citizen support, and methods for improving the CPD and police-community relations. The periodic survey of officers will include measures of officer perceptions of personal safety, perceptions of citizen conduct, their perceptions of support or lack thereof from the CPD, the City, and elected officials, and recommendations for improving the working conditions and effectiveness of police officers. Such surveys shall also include multiple items that are specifically designed to fairly measure identification and prioritization of problems, participation in community problem oriented policing efforts, program effectiveness in community relations. The reasonable surveys of members of the CPD and members of their families shall not be deemed an unfair labor practice and the results of the survey shall not be utilized by the City for any purpose other than those set forth in this Agreement.

d) Probability samples of officers and citizens involved in the citizen complaint process will be taken to determine their levels of satisfaction with the fairness of the process. Also, a probability sample of officers involved in internal investigations and the disciplinary processes will be taken to determine their levels of satisfaction with the fairness of the process.
Periodic Observations

36. The Evaluation Protocol shall include provision for periodic observations of a representative sample of community police meeting, problem-solving projects, and citizen complaint processes to examine how police and citizens interact in these settings. The periodic observations of problem-solving activities and community policing programs will focus on describing the activity, meeting, or process and the characteristics of effective and ineffective programs, procedures, processes, and personnel.

Privacy and Anonymity of Survey and Observation Respondents

37. The Evaluation Protocol shall provide protection for the privacy of the individual survey and observation respondents (citizens and members of the CPD and their immediate family members) who must feel confident in providing frank and meaningful information. The protocol shall assure that no data with individual respondent identifiers will be released to the public, news organizations, members of the CPD, the City, or other Parties to this Agreement. These survey data and observation data collected as part of this Agreement shall be retained by the Monitor and access to data with personal identifiers shall be restricted to the Monitor, the Monitor’s staff, and others the Monitor designates for the sole purpose of accomplishing the goals of this Agreement. This provision may be implemented with any appropriate protective order issued by the Court.

Statistical Compilations from Official Records

38. In addition to surveys, and subject to the final determination of the Parties, the Evaluation Protocol shall include a means for providing the following data to the Parties and the public by the City of Cincinnati on a periodic basis. Citizen and officer information shall not carry personal identifiers but shall include age (by sub-groupings of 7-17, 18-25, 26-35, 36-45, 46-55, 56-65, and 65 and over), race, national origin, gender, geographical area (by neighborhood), years of service, rank, assignment and other characteristics as deemed appropriate.

39. Compilations shall include an analysis, by percentage attributable to each of the 52 city neighborhoods:

- Arrests
- Reported crimes and drug complaints
- Citations of vehicles and pedestrians
- Stops of vehicles and pedestrians without arrest or issuance of citation
- Uses of force
- Citizen reports of positive interaction with members of the CPD by assignment, location, and nature of circumstance

All favorable encounters between citizens and police officers shall be reported as soon as they are made known to the City and police administration and any police supervisor. Citizens, City councilpersons and their staffs, all City departments, divisions and agencies and their staffs, City and
• Reports by members of the CPD of unfavorable conduct by citizens in encounters with the police
• Injuries to officers during police interventions
• Injuries to citizens during arrests and while in police custody
• Citizen complaints against members of the CPD

40. For each of the above items, the city shall provide to the Monitor incident-based data so that the nature, circumstances, and results of the events can be examined. These data will allow examination of trends in the use of force, their geographic patterns, their association with criminal activity, and differences among groups.

Evaluation of Problem Solving Processes

41. The Evaluation Protocol shall also include data recording processes for study of the problem-solving projects undertaken by members of the CPD and the community and the community-police meetings attended by members of the CPD. For these items, the Evaluation Protocol will allow an assessment of core strategic processes of the Cincinnati Police Department.

Evaluation Of Video And Audio Records

42. The Evaluation protocol shall also include a procedure for representative sampling of police vehicle mounted video and audio recordings in all police districts, and for creating a database describing the sampled recordings. If possible, the protocol will seek to develop a method to study how citizens of various racial and ethnic backgrounds are treated by the police, and how these same people treat the police. Compliance with this term shall be coordinated with compliance with the City-DOJ Agreement attached as Exhibit C.

Evaluation of Staffing

43. The Evaluation Protocol shall also allow examination of the hiring, promotion and transfer processes within the CPD. Accordingly, the Protocol shall require review of data from the CPD regarding staffing, including data on recruits, promotions, transfers, retirements, and overall organizational staffing by rank, assignment, race, gender, age, and years of experience with the CPD.

Evaluation Reports

44. Using the data from the above sources, and subject to the final determination of the Parties, the evaluation protocol will include provision for periodic reports that will address each of the following questions, taking into consideration breakdowns by age (by subgroups of 7-17, 18-25, 26-
Is public safety improving throughout the City of Cincinnati?
Have the number of reports by police of unfavorable conduct by citizens during encounters with the police increased or decreased in the neighborhoods of Cincinnati?
Is police use of force declining relative to the City’s population and serious crime rate?
Is police use of force equitably distributed across racial, gender, and age groups, once involvement in crime, disorder, and other relevant factors is taken into account?
Do police officials feel their supervisors, City officials, and citizens support their actions?
Are the citizen complaint processes and discipline outcomes perceived to be fair by involved citizens and officers?
Are police-community relations improving throughout Cincinnati?
What can be done to continue to reduce police use of force, make police activities more equitable, address community problems, increase the fairness of the citizen complaint process, improve police-citizen relations, and improve community safety?
Has the use of police force declined or increased relative to the number of police/citizen contacts?
Were persons of any particular race or national origin, gender, or age in any of the fifty-two community geographic areas subjected to a disproportionate share of use of force by the police?
Were members of the CPD in any of the fifty-two community geographic areas subjected to a disproportionate share of use of force by persons of any particular race or national origin, gender, or age?
Is there any correlation between the answers to the two previous questions?
Are community problems being successfully addressed?
Are police problems being successfully addressed?
Do police officers feel that their supervisors, City elected and appointed officials, and citizens have done anything positive or negative with respect to supporting their police-related actions?
Do citizens have any adequate means for positive engagement with police officers and police officials?
Do lower ranking members of the CPD have any adequate means for positive engagement with higher ranking police officials and elected and appointed officials of the city?
Do members of the CPD have any adequate means for positive engagement with the community?
Is the citizen complaint process perceived to be fair by the involved citizens?
Is the citizen complaint process perceived to be fair by the involved police officer?
Is anything further required to make the citizen complaint process more fair?
Is the police complaint process against citizens perceived to be fair by the police?
Is the police complaint process against citizens perceived to be fair by the involved citizen?
Is anything further required to make the police complaint process against citizens more fair?
Are police/community relations improving throughout the Cincinnati area?
What is required to improve police/community relations throughout the Cincinnati area?
Is public safety improving throughout the Cincinnati area?
What has been done to continue to reduce police and citizen use of force?
What has been done to help make police activities toward the citizens more equitable?
What has been done to help make citizen activities toward the police less confrontational?
What has been done to help the police respond to the citizens in a more respectful manner?
the CPD, or other available civilian complaint processes. Any cases previously investigated and adjudicated since March 31, 2000, shall be sent directly to the Monitor.

c) That complaint shall be immediately investigated by a select team of CPD officers selected by the Chief after consultation with the plaintiff.

d) The investigator(s) shall make a determination on each complaint within thirty days of the time it is filed, absent exceptional circumstances, and shall file said determination with the parties and the complainant and Monitor.

c) After six months, all of the complaints and investigator determinations shall be provided to the Monitor. The Monitor shall compile the data and forward it to the Conciliator.

f) The Conciliator shall review the information provided by the Monitor. If the Conciliator finds, by a preponderance of the evidence, that there exists a pattern of improper pointing of firearms at citizens, then the parties agree that the city shall henceforth require officers to report all instances where they point a firearm at or in the direction of a citizen. This provision is subject to the dispute resolution process set forth more fully at Paragraph 113 and appeal under Fed. R. Civ. P. 53.

49. Due to the fact that the Joint Settlement Agreement between the City and the Department of Justice was negotiated without the involvement of the Fraternal Order of Police (FOP), and because the City-DOJ Agreement contains a substantial number of items that may create many additions, modifications, and deletions to the current Police Procedure Manual that have not yet been submitted to the FOP in compliance with the terms of Article XII, Section 5 of the Collective Bargaining Agreement by and between the City and the FOP, the FOP does not agree to, adopt, or afford any procedural effect to the terms of the City-DOJ Agreement, but will allow it to be appended to the Collaborative Agreement, so long as the FOP reserves the right to raise issues relating to the City-DOJ Agreement through the Monitoring, Reporting, and Dispute resolution provisions of the Collaborative Agreement. The decision of the FOP, acting as a Collaborative partner, not to file any unfair labor practice charges or grievances as a result of the above shall not be used as a precedent, estopped, or waived by the City in this matter or in any unfair labor practice claim involving the City and the FOP.

D. The Parties Shall Collaborate to Ensure Fair, Equitable, and Courteous Treatment for All

50. The City shall provide police services in a fair and impartial manner without any discrimination on the basis of race, color, or ethnicity. The City, in consultation with the Parties, shall take appropriate action to track compliance as set out in this section.

Implementation of Commitment to Bias-Free Policing

51. The City, pursuant to Ordinance 88-2001, has commenced an effort to measure whether any racial disparity is present in motor vehicle stops by the CPD. The analysis of this data will be reported pursuant to Paragraph 39.
52. The Parties shall cooperate in the ongoing training and dissemination of information regarding the Professional Traffic Stops Bias-Free Policing Training Program.

53. The Monitor, in consultation with the Parties, shall in all public reports, include detailed information including, but not limited to, the racial composition of those persons stopped (whether in a motor vehicle or not), detained, searched, arrested, or involved in use of force with a member of the CPD, as well as the race of the officer stopping such persons.

54. In providing police services, the members of CPD shall conduct themselves in a professional, courteous manner, consistent with professional standards. Except in exigent circumstances, when a citizen is stopped or detained and then released as part of an investigation, the officer shall explain to the citizen why he or she was stopped or detained in a professional, courteous manner. An officer must always display his or her badge on request and must never retaliate or express disapproval if a citizen seeks to record an officer’s badge number. This paragraph shall be incorporated into the written CPD policies.

E. Civilian Review. The City Will Establish A Citizen Complaint Authority.

55. The new Citizen Complaint Authority (CCA) will replace the Citizen Police Review Panel (CPRP) and the police investigations functions of OMI. The CCA’s mission will be to investigate serious interventions by police officers, including but not limited to shots fired, deaths in custody and major uses of force, and to review and resolve all citizen complaints in a fair and efficient manner. It is essential that the CCA uniformly be perceived as fair and impartial, and not a vehicle for any individuals or groups to promote their own agenda. It is also essential that the CCA be encouraged to act independently consistent with its duties.

Staffing and Powers of CCA

56. The CCA will have three components: (1) a Board of seven Citizens appointed by the Mayor and approved by City Council, (2) a full-time Executive Director with appropriate support staff, and (3) a team of professional investigators.

The Board of Citizens

57. The Board will include a diverse array of seven individuals, from a cross-section of the Cincinnati community, who have the requisite education and experience to impartially review evidence and render judgments on alleged officer misconduct. The Mayor will accept nominations from the City’s fifty-two Community Councils, business, civic, social service, and other agencies and organizations. The Mayor also will accept applications from individual City residents. The members will serve for a maximum of two terms of two years each, except that three of the initial appointees will be appointed for one year. Those three shall be limited to a single second term of two years in order to ensure that the Board has staggered terms. In the event of the resignation, removal, death, or incapacitation of a member of the panel, any replacement member shall serve the remainder of that term.
58. Applicants for a position on the Board shall execute a signed release authorizing a thorough background check, including a criminal check. No person may serve on the Board who has been convicted of a felony, assault on a police officer, or any crime of dishonesty. The results of the background check for any person appointed to the Board shall be a matter of public record and shall be retained for five years.

59. The Board shall select a chairperson from among its members, who shall serve for a term of one year.

60. The Board and the Executive Director, in consultation with the City Manager, shall develop Standards of Professional Conduct and a comprehensive training program for Board appointees. Said standards shall be approved by the City Manager. Before assuming office and prior to beginning their duties, each member of the Board shall be required to complete a basic course of training, including courses at the Cincinnati Police Academy, instruction in constitutional and criminal protections, and re-education with members of the CPD assigned to patrolling the City, in order to fully and adequately perform each Board member of the training and duties of Cincinnati police officers. Each appointee must promise to abide by the Standards and satisfactorily complete the training as a condition of appointment and prior to service on any cases. The Mayor, after consultation with the other Board members, may remove an individual from the Board for cause, including failure to strictly abide by (including action inconsistent with) the Standards or failure to properly discharge the duties of the office. The Mayor shall seek to act in a manner consistent with the recommendations of the other Board members.

61. The CCA will not commence operations until each member of the Board has satisfactorily completed the training program and promised to abide by the Standards. Until that time, OMI and the Citizens Police Review Panel shall continue in their current roles. Thereafter, new appointees to the Board shall be afforded up to a maximum of ninety (90) days to complete training and promise to abide by the Standards. The CCA shall assume jurisdiction over all of the police cases pending before OMI and the CPRP at the time of the transfer. There shall be no break in civilian review as a result of this transition.

62. The Board and Executive Director shall develop the specific procedures necessary for the CCA to carry out its mission, including the procedure to convene hearings on cases, procedures for investigations, procedures for coordination of work with CPD, and other operating procedures. Consistent with the City Charter, any procedures affecting the administrative service shall be approved by the City Manager.

63. Board members shall be compensated at the rate of $100 per meeting. The Chairperson shall be compensated at the rate of $125 per meeting.

64. The City Solicitor shall provide legal counsel on a routine basis to the CCA. The City Solicitor shall designate an assistant city solicitor for the CCA who shall maintain independence from and not be involved with any other legal work involving the CPD or individual police officers. If the Board determines on an individual case that it requires outside counsel, it shall notify the City Solicitor. The Solicitor will respond to and cooperate fully with the Board to employ counsel whenever the Solicitor determines in the exercise of her professional discretion that there is the need for such outside
counsel. If the City Solicitor determines that there is no need for outside counsel she shall explain her determination to the City Manager, who shall relay it to the Board.

Executive Director

65. The City Manager shall appoint the CCA’s Executive Director, who shall be an unclassified employee of the City. The City Manager shall consult with the Board and seek the Board’s recommendations, provided, however, that the final selection of the Executive Director shall be made by the City Manager. The Executive Director shall serve as an unclassified employee and may be discharged by the City Manager after consultation with the Board. This provision shall not relieve the City Manager of the duty to respect the need of the Executive Director to act independently, consistent with the duties of the Executive Director. The Executive Director will be accountable for the efficient operations of the CCA, and for the achievement of the desired outcomes set forth above.

66. The Executive Director shall have professional experience in the investigation of allegations of police misconduct, and he/she should be perceived as fair and impartial. To this end, the City Manager and other City officials, including elected officials, shall be prohibited from interfering with individual investigations.

67. The Executive Director shall be responsible for day-to-day operations of the CCA, including (i) recommendations for hiring of professional and support staff, (ii) preparation, submission and adherence to a budget, (iii) conduct and timely completion of investigations, (iv) reporting to the City on the CCA’s work, and (v) maintaining an effective working relationship with the CPD and other branches of government. Within the resources allocated by City Council, the Executive Director shall ensure that the CCA’s human and other resources are sufficient to ensure timely completion of investigations and maintenance of complete and accurate records.

68. As a condition of employment, all police officers and city employees are required to provide truthful and accurate information to the CCA. In addition to the foregoing, when a key witness other than a City employee refuses to cooperate in an investigation, the Executive Director may recommend to the Board that a subpoena be issued to compel such testimony, and the Board shall have the authority to request such a subpoena from City Council. Subpoenas for the attendance of persons shall be secured only through City Council. The Board shall have the authority to issue subpoenas for documents, photographs, audio tapes, electronic files and tangible things, subject to approval by the Board’s legal counsel.

Investigators

69. The City’s Office of Municipal Investigations currently has four full-time investigators assigned to police cases. The CCA shall have a minimum of five professional investigators and one support person to achieve timely completion of all investigations. Each investigator shall have prior professional experience in investigations, and may be a former police or other law enforcement officer from outside the City.
CCA Investigation Process

Intake and Assignment

70. Each citizen complaint, excluding matters involving criminal investigations, will be directed to the CCA regardless of where it initially is filed, and the Executive Director, in consultation with the Board, shall establish criteria to determine whether specific complaints are suitable for CCA investigation or referral to the CPD's Citizen Complaint Resolution Process (CCRP). At a minimum, the CCA shall open its own investigation upon (i) receipt of a complaint of serious misconduct, or (ii) knowledge by the Executive Director of allegations of serious police intervention. The CCA will immediately provide the CPD with detailed information regarding the complaint, including the time and location of the underlying events and the name(s) of the officer(s) involved.

71. Where a complaint is to be investigated by the CCA, it will be assigned to an investigator within 48 business hours of receipt. The CPD shall notify the CCA Executive Director immediately upon the occurrence of a serious police intervention and the Executive Director shall immediately dispatch an investigator(s) to the scene. The CPD shall not interfere with the ability of the CCA investigator to monitor the work of the CPD at the scene and to monitor all interviews conducted by CPD. CCA investigators shall not physically enter the crime scene or delay or impede a criminal investigation.

72. The Chief of Police will retain the discretion to initiate a parallel CPD investigation of any complaint under investigation by the CCA. In addition, the CPD will investigate all complaints initiated within the Department (i.e., where the complainant is a police employee).

CPD and City Cooperation

73. Police officers and other City employees will be required to submit to administrative questions consistent with existing constitutional and statutory law. See, e.g., CMC §13(I), §20(I)(B). The Executive Director of CCA shall have reasonable access to city records, documents and employees, including employee personnel records and departmental investigation files and reports consistent with Ohio public record laws. CCA investigations shall be conducted consistent with professional standards.

74. The Chief of Police and the Executive Director will develop written procedures that will assure the timely exchange of information and the efficient coordination of CCA and CPD investigations.

CCA Investigations

75. The CCA will complete its investigations within 90 days of its receipt of the complaint from a complaining citizen, provided, however, that the Executive Director may extend an investigation upon consultation with the Board. The time required to complete investigations will be a performance accountability measure.

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5 "Serious police intervention" shall include, but not be limited to, major use of force, shots fired or deaths in custody.
76. Upon completion of a CCA investigation, the Executive Director will forward the investigative report to the Board. That report shall include any positive information about the officer that may be relevant. Similarly, where a complaint is referred to the CCRP, the CPD will report the results of that process to the CCA, and the Executive Director will submit those reports to the Board. Each CCA report shall include proposed findings and recommendations. The Executive Director shall recommend each report either for a Board hearing or summary disposition. The complainant and respondent officer(s) also will be provided the investigative report, and each may challenge the report and/or appeal the Executive Director’s recommendation to the Board.

77. If the Board conducts a review hearing, its purpose shall be to confirm the completeness of the CCA investigation and approve or disapprove the Executive Director’s report (findings and recommendations). The Board’s review hearing will not be an adversarial proceeding and should not be used to reinvestigate the matter. The Board may receive witness testimony including that of the complainant and/or police officer(s). Interviews of city employees or other witnesses shall be conducted only in closed inquiry sessions unless the witness requests otherwise. Such sessions shall not be open to the public and shall include only CCA Board members, and any necessary staff or support personnel. A written record shall be kept of any statements, testimony, or other evidence obtained in such sessions. Any city employee directed to answer questions in an inquiry session shall be advised that the statements and answers given can be used only for administrative purposes relating to city employment and cannot be used in any criminal proceedings involving that employee. Such advice shall be consistent with the constitutional principles identified in Garrity v. New Jersey. The employee shall be further advised that a failure or refusal to answer truthfully and completely can subject the employee to disciplinary action including termination. Any employee directed to appear before the CCA for such an inquiry session may bring a legal representative or other support person of choice. Any police officer or complainant, who is directly involved in the circumstances under review, may also attend such sessions and may bring a legal representative or support person, who shall be strictly limited to consultation and such persons may not otherwise participate in the inquiry proceedings.

78. Following a hearing, the Board may either approve or disapprove the Executive Director’s findings and recommendations. Where the findings and recommendations are approved, they shall be submitted to the Police Chief and City Manager. If they are disapproved, the Board shall state its reasons and may direct that further investigation be pursued. The Board may issue its own findings and recommendations, and submit them along with the Executive Director’s original report to the Police Chief and City Manager. In all cases, the City Manager and Police Chief will refrain from making a final decision on discipline until after receipt of the CCA report. The City Manager shall agree, disagree or agree in part with any findings and recommendations of either the Board or the Executive Director, and she shall inform the Executive Director and the Board in writing of any reasons for agreeing in part or disagreeing with said findings and recommendations. It shall be the Executive Director’s responsibility to inform the officer(s) involved in the complaint and the complainant when a final decision has been reached on a complaint.

79. Reports prepared by the CCA, the CPD or the City Manager pursuant to this process shall be publicly available to the extent provided by Ohio law.
Records

80. The CCA and CPD will create a shared electronic database that will track all citizen complaints, including the manner in which they were addressed (e.g., CCA investigation or CPD) and their dispositions. Subject to restrictions which may exist in any applicable collective bargaining agreements, this database also will capture data sufficient for the CCA and the CPD to identify officers involved in repeat allegations, citizens making repeat allegations and circumstances giving rise to citizen complaints. This data will be integrated into, or regularly shared with, an electronic information management system to be developed by the CPD. Procedures will be adopted to secure information which is not subject to release under Ohio law.

81. In addition to the foregoing, the CCA shall maintain its files for each investigation for a period of five years or such shorter period as may be provided in any applicable collective bargaining agreement. Where feasible, these files shall include tape-recorded interviews of officers, complainants and witnesses. These data will be made available for the accountability system.

Prevention

82. There are two methods used for reducing citizen complaints: (i) thorough investigation of officers charged with misconduct, and (ii) examination of complaint patterns to identify at-risk officers, citizens and circumstances. The former represents the traditional method of complaint prevention. The latter method involves an examination both of circumstances that lead to complaints and opportunities to alter those circumstances. It is a problem-solving approach that may prove effective in Cincinnati.

83. The CCA will examine complaint patterns that might provide opportunities for the CPD and community to reduce complaints. At a minimum, the CCA will look for three types of patterns: (i) repeat officers, (ii) repeat citizen complainants, and (iii) repeat complaint circumstances. Following the identification of such patterns, the CCA and the CPD jointly will undertake a problem-solving project to determine the reason(s) for the pattern and whether there are opportunities to eliminate or reduce root causes. Where feasible, this project should involve both affected officers and the community.

Information Dissemination

84. The CCA will develop a clear and direct information brochure to inform citizens how they can access the CCA and how the CCA operates. The City will make this brochure available to all citizens, including at public libraries and other public facilities.

85. The Executive Director will be responsible for working with the CPD and community to develop and implement an information plan that ensures officers and citizens fully understand the investigation, mediation, restoration, and prevention processes outlined above, and that the CCA’s achievements are clearly articulated to the public and the CPD.
86. The CCA shall issue annual reports summarizing its activities for the previous year including a review of significant cases and recommendations. Such reports shall be issued to City Council and the City Manager, and made available to the public.

Resources and Redundancy

87. The City Council will allocate resources sufficient for the CCA and CPD to accomplish the foregoing.

88. The CPRP and police investigation functions of OMI will be eliminated, and associated resources will be allocated to the CCA.

89. ACCOUNTABILITY MEASUREMENTS

- Was the CCA established on a timely basis?
- Was the CCA fully staffed and resourced?
- Was an effective Memorandum of Understanding developed establishing a co-operative working relationship between the CPD and the CCA?
- How many complaints were handled and what were the categories of those complaints?
- What was the time to disposition of the complaints?
- What were the outcomes of the complaints?
- Was a mediation process established?
- Was a restorative justice process established and evaluated?
- Were basic goals/objectives/outcomes achieved?

VI. MONITORING AND DISPUTE RESOLUTION

90. The provisions of this Article VI shall be construed consistent with, and shall in no way modify or amend, the provisions of Paragraph 130.

Selection of the Monitor

91. Within 150 days of the execution of the City-DOJ Agreement, in accordance with the timetable set forth below, the Parties, together with the DOJ, will select a Monitor with law enforcement experience who will review and report on the Parties’ implementation of, and assist with the Parties’ compliance with, this Agreement.

a. Within 30 days of the execution of the City-DOJ Agreement, the Parties, together with the DOJ, jointly will issue a solicitation for bid proposals for appointment of the Monitor. In addition to a targeted national mailing, the solicitation shall be published in several national newspapers, and the websites of the Parties and the DOJ. The City shall bear the cost of publicizing the solicitation.

b. The deadline for the submission of such proposals will be 30 days after publication of the solicitation on City’s website.
c. All proposals for providing the monitoring under this provision shall include, but not be limited to, plans for experts to be utilized, resumes and *curriculum vitae* of proposed experts, cost proposals, and any other information that the Parties and the DOJ deem necessary.

92. If the Parties and the DOJ are unable to agree on a Monitor within 150 days, each Party and the DOJ will submit two names of persons with law enforcement experience, along with resumes or *curriculum vitae* and cost proposals, to the Court, and the Court will appoint the Monitor from among the names of qualified persons submitted.

93. The Monitor, at any time, may request to be allowed to hire or employ such additional persons or entities as are reasonably necessary to perform the tasks assigned to him/her by this Agreement. The Monitor shall notify the Parties and the DOJ in writing if and when the Monitor wishes to select such additional persons or entities. The notice shall identify and describe the qualifications of the person or entity to be hired or employed and the monitoring task to be performed. If the Parties and the DOJ agree to the Monitor's proposal, the Monitor shall be authorized to hire or employ such additional persons or entities. Any Party or DOJ has ten days to disagree with the proposal. If the Parties and the DOJ are unable to reach agreement within ten days of receiving notice of the disagreement, the Court shall resolve the dispute.

94. The City shall bear all reasonable fees and costs of the Monitor. In selecting the Monitor, the Parties and the DOJ recognize the importance of ensuring that the fees and costs borne by the City are reasonable, and accordingly, fees and costs shall be one factor considered in selecting the Monitor. In the event that any dispute arises regarding the payment of the Monitor's fees and costs, the Parties, the DOJ, and the Monitor shall attempt to resolve such dispute cooperatively. If the Parties and the DOJ are unable to reach Agreement, the Court shall resolve the dispute.

95. In the interest of expediting the selection and contracting processes for the Monitor, the Parties and the DOJ shall be exempt from local contracting procurement regulations and all such regulations shall be considered waived for this purpose.

96. The Monitor shall not be subject to dismissal except upon good cause and the Agreement of all of the Parties and the DOJ or by the Court upon motion of one of the Parties or the DOJ and a showing of good cause.

**Selection of the Conciliator**

97. The Honorable Michael R. Merz, United States Magistrate Judge, will be appointed by the Court pursuant to Fed. R. Civ. P. 53 as the Conciliator for compliance with this Agreement.
Duties of the Monitor

98. The Monitor will only have the duties, responsibilities, and authority conferred by this Agreement. The Monitor shall not, and is not intended to, replace or take over the role and duties of any City or CPD employee. The Monitor may not modify, amend, diminish, or expand this Agreement.

99. The Monitor shall offer the Parties technical assistance regarding compliance with this Agreement. Technical assistance will be provided to a party upon request by that party, and it will be offered consistent with the provisions of this Agreement.

100. The City and the CPD shall provide the Monitor with full and unrestricted access to all CPD and City staff, facilities, and documents (including databases) necessary to carry out the duties assigned to the City and the CPD by this Agreement, provided, however, that the Monitor shall not have access to any materials protected from disclosure by the attorney-client privilege and/or work product doctrine. Any materials or information claimed to be protected by the attorney-client or work product privilege shall be logged with information including author, date, nature of the material, reason for the claim of privilege, and persons to whom the material was disseminated. The Monitor shall cooperate with the City to access people and facilities in a reasonable manner that, consistent with the Monitor’s duties, minimizes interference with daily operations.

101. The Monitor shall retain any non-public information in a confidential manner and shall not disclose any non-public information to any person or entity absent written notice to the City and either written consent by the City or a court order authorizing disclosure. In monitoring the implementation of this Agreement, the Monitor shall maintain regular contact with the Parties.

102. The Monitor shall file with the Comptroller written public reports detailing the Parties' compliance with and implementation of each substantive provision of this Agreement. The first such report shall be 180 days after Court approval of this Agreement, and quarterly thereafter. The Monitor may make recommendations to the Parties regarding measures necessary to ensure full and timely implementation of this Agreement.

Compliance Reviews

103. In order to monitor and report on the Parties’ implementation of this Agreement, the Monitor, shall, inter alia, regularly conduct compliance reviews to ensure that the Parties have implemented and continue to implement all measures required by this Agreement. The Monitor shall, where appropriate, when measuring compliance, employ appropriate sampling techniques.

104. Each Party shall designate a person or persons to serve as liaisons to the Monitor for compliance purposes. The City Solicitor shall serve as a liaison between the City and the Monitor, and shall assist with the City’s compliance with this Agreement.

Reports and Records

105. Between 90 and 120 days following Court approval of this Agreement, and every three months thereafter until this Agreement is terminated, the Parties shall file with the Monitor a status
report, including any supporting documentation, delineating all steps taken during the reporting period to comply with this Agreement.

106. During the term of this Agreement, and subject to record retention requirements and procedures imposed by state or local law, any existing consent decree, or any relevant collective bargaining agreement, the Parties shall maintain all records documenting compliance with this Agreement and all documents required by or developed pursuant to this Agreement.

107. The Monitor shall issue quarterly public reports to the Parties and the Conciliator detailing the Parties’ compliance with and implementation of this Agreement, after filing the first such report 180 days after Court approval of this Agreement. These reports shall not include information specifically identifying any individual officer. Drafts of the status reports will be provided to each of the Parties at least 10 days prior to publication to afford the Parties an opportunity to identify factual errors.

108. The Monitor shall not issue statements or make findings with regard to any act or omission of any Party, or their agents or representatives, except as required by the terms of this Agreement. The Monitor may testify in any enforcement proceedings regarding provisions of this Agreement and the Parties’ compliance. The Monitor shall not testify in any other litigation or proceeding with regard to any act or omission of any Party, or any of their agents, representatives or employees, related to this Agreement or regarding any matter or subject that the Monitor may have received knowledge of as a result of his or her performance under this Agreement. Unless such conflict is waived by the Parties, neither the Monitor nor a member of his or her staff shall accept employment or provide consulting services that would present a conflict of interest with the Monitor’s responsibilities under this Agreement, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant’s or claimant’s attorney, in connection with a claim or suit against the City or its departments, officers, agents or employees. The Parties agree to request an appropriate protective order for non-public records in the possession of the Monitor. The Monitor shall not be liable for any claim, lawsuit, or demand arising out of the Monitor’s performance pursuant to this Agreement. Provided, however, that this paragraph does not apply to any proceeding before a court related to performance of contracts or subcontracts for monitoring this Agreement.

109. The reporting requirements set forth in Paragraphs 102 to 107 herein do not limit the reporting requirements under the DOJ-City Agreement.

Duties of the Conciliator

110. The Conciliator will evaluate the Monitor’s reports, instruct the Parties on how to remedy areas of non-compliance and, if necessary, may issue an order pursuant to Fed. R. Civ. P. 53, on issues of compliance regarding particular provisions of this Agreement.

111. The Conciliator shall be responsible to review the quarterly reports of the Monitor and to determine whether each of the Parties is in compliance with the Agreement, pursuant to Fed. R. Civ. P. 53.

112. If the Conciliator determines that a Party is not in substantial compliance with a provision of this Agreement, he shall so inform the Party, and the Party shall have 60 days from receipt of such
notice to cure the asserted failure. If the Party fails to cure the asserted failure within that period, then the Conclator may without further notice, issue an order consistent with the Agreement. Any party may appeal said order pursuant to Rule 53.

113. If the Monitor determines in a report made pursuant to the City DOI Agreement that the City is not in substantial compliance with a provision of the City DOI Agreement, the Monitor shall notify the Special Litigation Section of DOI in writing. If the DOI declines after 60 days to move the court for specific performance or to correct persistent substantial non-compliance, then the Monitor shall notify the Parties to this Agreement of that dispute, and the Parties may request, and the Conclator shall, giving due deference to the action or determination of the DOI, determine whether the City is in substantial compliance with a provision of the DOI Agreement. If the Conclator determines that the City is not in substantial compliance with a provision of the DOI Agreement, and if the City fails to remedy that non-compliance within 60 days of the Conclator’s determination, then the Conclator shall issue an order directing such compliance pursuant to Fed. R. Civ. P. 53. In the event a Party disagrees with the Conclator’s order, that Party may appeal to the Court pursuant to Rule 53. The Parties agree that the Department of Justice shall be permitted to intervene beginning at the Conclator level regarding the terms of the City DOI Agreement with the Court in the event of such proceedings.

114. Pursuant to the dispute resolution process set out in this Agreement, in the event that the Court finds that any Party has engaged in a material breach of the Agreement, the Parties hereby stipulate that the Court may enter the Agreement and any modifications pursuant to paragraph 124 as an order of the Court and to retain jurisdiction over the Agreement to resolve any and all disputes arising out of the Agreement.

VII. INDIVIDUAL ACTIONS, MEDIATION

115. All litigation matters regarding the damage claims in the case at bar (Tyeisombo v. City of Cincinnati) and the following cases, in which the statute of limitations have not expired, are tolled until July 1, 2002.

Antonio Johnson v. City of Cincinnati, Case No. C-1-99-1063
Matthew Shaw v. City of Cincinnati, Case No. C-1-00-1064
Mark A. Ward v. City of Cincinnati, Case No. C-1-99-494
Charles A. Wiley v. City of Cincinnati, Case No. C-1-00-267
Lisa Youngblood-Smith v. City of Cincinnati, Case No. C-1-00-434
Elise Carpenter v. City of Cincinnati, Case No. C-1-99-227
Nathaniel Livingston v. Thomas Streicher, Case No. C-1-01-233
Laasha Simpson v. Thomas Streicher, (re file on 4/14/01)(to be refil red federal court)
Claim of Vivian Clarke and Terry Horton
Claim of William Hayshert
Claim of John E. Harris
Claim of Ms. Stephanie Keith and Paul Keith
Claim of Enrico Martin
Claim of Rodney Glenn
Claim of Arnold White
Claim of Tony Stillwell  
Claim of Shella Barnes  
Claim of Iwucha Okarocha  
Claim of Patricia Watkins

Undersigned Plaintiffs' counsel are counsel of record for the above and are authorized to so stipulate on their behalf.

116. The Parties agree to develop an expedited arbitration process for the above cases within thirty days of the approval of this Agreement. The process will include a provision for an exchange of lists by the City, the attorney for any individual defendants and the plaintiffs of the cases and claims each party is willing to submit to arbitration. All statutes of limitation that have not expired are tolled until July 1, 2002 in the above matters. All settlements achieved shall be available to the public. For any case on the above list that is not settled by July 1, 2002, that case may be filed if not already filed or returned to the active litigation docket if already pending.

VIII. MISCELLANEOUS PROVISIONS

117. This Settlement Agreement is the product of extensive arms-length negotiations by competent legal counsel for the Parties.

118. The Parties agree that they are entering into this class action settlement agreement for settlement purposes only. Any acquiescence or agreement to the class certification in this case does not constitute an admission of liability or fault by the City of Cincinnati and may not be used as evidence in any proceeding for damages by any member of the class.

119. No Party shall retaliate in any manner against any other Party or person for their participation in this case.

120. All Parties hereto agree to exercise their best efforts and to take all reasonable steps necessary to effectuate the Settlement set forth in this Agreement.

121. This Agreement constitutes the entire Agreement among the Parties with regard to the subject matter of this Agreement.

122. Any notice, request, instruction or other document to be given hereunder by any Party hereto to any other Party (other than class notification) shall be in writing and delivered personally or sent registered or certified mail, postage prepaid, to the Parties as follows:

To: Cincinnati  
City Manager with a copy to  
City Solicitor Erny Dupuis  
City Hall  
801 Plum Street  
Cincinnati, OH 45202

-29-
To: Class Counsel and plaintiffs or class members:

Alphonse A. Gerhardstein
Class Counsel
1409 Enquirer Building
617 Vine Street
Cincinnati, OH 45202

Kenneth L. Lawson
Class Counsel
1575 Kroger Building
1014 Vine Street
Cincinnati, OH 45202

Scott T. Greenwood
Class Counsel
1 Liberty House
P.O. Box 5400
Cincinnati, Ohio 45202-0400

ACLU Foundation of Ohio, Inc.
4506 Chester Avenue
Cleveland, OH 44103

To: Fraternal Order of Police

Don Hardin
Steve Lazarus
915 Cincinnati Club Building
30 Garfield Place
Cincinnati, OH 45202

123. This Agreement is a public document and shall be posted on the websites of the City or CPD and of the Plaintiffs.

124. This Agreement may only be modified in writing and on consent of the Parties.

125. The Parties agree to join in a motion to approve a class action settlement that will incorporate the terms of this Agreement and protect the City from other lawsuits seeking injunctive relief on the matters addressed herein. Further, the Parties agree that this is not a consent decree and stipulate to continuing jurisdiction and venue in the United States District Court for the Southern District of Ohio for enforcement in accordance with this Agreement’s provisions. Further, the Parties agree that this matter may be appropriate for administrative processing in the Court’s discretion after the fairness hearing.

126. The Agreement will terminate five years after the Court approval of this Agreement. The Agreement may terminate earlier if the City-DOJ Agreement between the City and DOJ has terminated, and if the Parties agree that the plaintiffs, the FOP and the City have substantially complied with each of the provisions of this Agreement and maintained substantial compliance for at least two years. Such
Agreement will not be unreasonably withheld. If the Parties do not agree, the issue of early termination shall be submitted to the Conciliator. The burden shall be on the party owing the duty to demonstrate that it has substantially complied with each of the relevant provisions of the Agreement and maintained substantial compliance for at least two years. For the purposes of this paragraph, "substantial compliance" means there has been performance of the material terms of this Agreement. Materiality shall be determined by reference to the overall objectives of this Agreement. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance shall not constitute substantial compliance.

Long Term Fiscal Impact Of Collaborative Agreement

127. The plaintiffs agree to take lead responsibility for securing funding for the Community Partnering Program through grant applications to local and national philanthropic organizations. The other Parties agree to assist with the grant application process as needed. It is estimated that such cost will total at least $175,000 per year early in the Agreement but that cost could be reduced as CPOP takes root in the community.

128. The other costs associated with this Agreement shall be the responsibility of the City subject to the provisions of this section.

129. The Parties agree that for the purposes of budgeting, all technology purchases, one-half of the increased expenditures associated with civilian review of alleged police misconduct, one-half of the police staffing expenses and one-half of the monitoring costs necessary will be required to satisfy the terms of the City-DOJ Agreement, regardless of the relationship between the DOJ and the Collaborative Agreements. The Parties will cooperate in seeking federal and private assistance with those costs. The City will be ultimately responsible for those costs.

130. The Parties estimate that the overall cost attributable to the City of meeting the terms of this Agreement, other than the costs of the preceding paragraph attributable to the City-DOJ Agreement, is five million dollars. These costs include, e.g., the costs of implementing CPOP, implementing and evaluating the Parties' mutual accountability, monitoring, and operating civilian review. If the overall cost to the City under this Agreement is in excess of an average of one million dollars per year over the life of the Agreement, or in excess of one million two hundred fifty thousand dollars in the first year, the Parties shall revisit the schedule for implementation of the terms of this Agreement to determine if that schedule should be modified in light of the cost.

131. Any procurement of services or goods under the terms of this Agreement shall be open to all persons, including African-Americans, regardless of race or gender and affirmatively available to all African-American vendors, consistent with City policy.

132. During the life of this Agreement, if any Party is unable to meet an interim or long-term goal due to finances, that Party shall notify the others and the Monitor of the problem, all efforts that have been taken to resolve the problem, and any plan to address the problem in the future. The Monitor shall investigate the relevant facts and make a recommendation on the issue to the Parties and the Conciliator.
Parties:

Cincinnati Black United Front

American Civil Liberties Union of Ohio Foundation, Inc.

The City of Cincinnati

The Fraternal Order of Police

Plaintiffs and Proposed Plaintiff Class Counsel:

Kenneth L. Lawson
Trial Attorney for Plaintiff Class

Scott T. Greenwood
Trial Attorney for Plaintiff Class

Alphonse A. Gerhardstein
Trial Attorney for Plaintiff Class

Defendants' Counsel:

Fay D. Dupuis
City Solicitor

Trial Attorneys for Defendants
Donald Hardin
Trial Attorney for Individual Defendants
And the Fraternal Order of Police
### APPENDIX F

#### CODE LIST

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<td>Trust</td>
<td>References to trust</td>
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<tr>
<td>Trust in Gov't</td>
<td>References to trust in government</td>
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<tr>
<td>Trust in Others</td>
<td>References to trust in others</td>
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<tr>
<td>Trust in Self</td>
<td>References to trust in self</td>
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<tr>
<td>Understanding</td>
<td>References to understanding</td>
</tr>
<tr>
<td>View of Others</td>
<td>References to how one views someone else</td>
</tr>
<tr>
<td>Vote</td>
<td>References to vote and voting</td>
</tr>
</tbody>
</table>

**Codes from Second Round of Coding**

<table>
<thead>
<tr>
<th>Code</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advisory Group</td>
<td>References to the Advisory Group, or parties to the lawsuit</td>
</tr>
</tbody>
</table>
| Aim or Objective                      | References to an individual's aim or objective
| Architect                             | References to the decision makers' aims and objectives
| Average Citizen                       | References to the citizen participants aims and objectives
| Be Heard                              | References to the aim or objective of being heard in the CAP
| Be Ourselves                          | References to the aim or objective of being true to oneself in the CAP
| Change                                | References to the aim or objective of change resulting from the CAP
| Community Engagement                  | References to the aim or objective of engaging the community through the CAP
| Conflict Resolution                   | References to the aim or objective of the CAP resolving conflict
| Dialogue                              | References to the aim or objective of creating dialogue
| Education                             | References to the aim or objective of becoming educated through the CAP
| Goal Setting                          | References to the aim or objective of setting goals through the CAP
| Implementation                        | References to the aim or objective of implementing the agreement reached through the CAP
| Learn about Others                    | References to the aim or objective of learning about others through the CAP
| Make a Difference                     | References to the aim or objective of making a difference by participating in the CAP
| Personal Objective                    | References to personal aims and objectives of the CAP
| Police-Community Relations            | References to the aim or objective of addressing police-community relations
| Power Dynamics                        | References to the aim or objective of addressing power dynamics through the CAP
| Process Objectives                    | References to aims and objectives of the process
| Program Creation                      | References to the aim or objective of creating new programs through the CAP
| Racism                                | References to the aim or objective of addressing racism through the CAP
| Self Interest                         | References to the aim or objective of self interest
| Black vs. Blue                        | References to defining the problem in Cincinnati as Black vs. Blue
| White vs. Black                       | References to defining the problem in Cincinnati as White vs. Black
| Blue Book                             | References to defining the problem in Cincinnati as a policing policies problem
| Budget                                | References to the budget of the CAP
| Change                                | References to change throughout the CAP
City
Consensus
Court
Critical Junction
Discursive Representation
Discussion
DOJ
Expert
facilitator
Flexibility
Group Formation
Identity
Impact
Inclusiveness
Ease of Access
Soliciting Participation
Influence
Structure
Informed Discussion
Integration Group
Interest Groups
Monitoring
Outsider
Police Culture
Problem
Professional Staff
Dlott
Eck
Monitor
Rothman
Volunteer Facilitators
Public Support
Representativeness
Riots
References to the city of Cincinnati
References to consensus
References to court
References to events that happened that represent a critical junction
References to discursive representation
References to discussion
References to Department of Justice
References to experts or the use of experts
References to facilitators
References to flexibility or adaptability in the CAP
References to how the Stakeholding Groups were formed
References to identity
References to the impact of the CAP
References to the inclusiveness of the CAP
References to how the ease of accessing the CAP was targeted for participation
References to how participation influenced decision makers
References to how the CAP was or was not structured to influence the decision makers
References to how the CAP deliberations were or were not informed
References to the Integration Group
References to interest groups
References to monitoring the CAP implementation
References to being an outsider or perceived as an outsider, not from Cincinnati
References to police culture
References to the problem that resulted in the CAP
References to the facilitators being professional
References to Judge Susan Dlott
References to Dr. John Eck
References to the Independent Monitor
References to Dr. Jay Rothman
References to volunteer facilitators
References to public support of the CAP
References to representativeness within the CAP
References to the 2001 Cincinnati Riots
Rothman Frame
References to how Dr. Jay Rothman framed public participation in the CAP
Sustainable
References to whether or not implementation was sustainable
APPENDIX G

KEY DECISION MAKERS INTERVIEW SCHEDULE

1. If you were meeting someone for the first time, what would you tell them about yourself?
2. How much time do you spend in each of these roles (referencing above answers)?
3. How do you view your role in regard to the deliberative/collaborative process that took place in Cincinnati beginning in 2001?
4. Thinking back to the Collaborative Process, how did your roles change as a result of participation?
5. In designing the Collaborative Process, what were your goals?
6. With regard to participation, what were some of your concerns/goals?
   a. What were your goals/concerns for citizen participation?
      i. Who should be participating?
   b. What were your goals/concerns for police participation?
   c. What were your goals/concerns for government official participation?
7. How and to what degree was citizen input incorporated?
8. Should citizens be involved in the crafting of new policies?
   a. What do you think constitutes legitimate citizen participation in the forming of public policies?
   b. What would this look like?
9. Compared to other traditional methods of public input, such as voting and public meetings, do you think the collaborative process was more democratic?
   a. How do you define democratic?
10. How do you feel the policies that resulted from the Collaborative were or were not implemented?
    a. Why were they not implemented?
11. Do you feel the collaborative process had any lasting effects, if so, what were they? And if not, why?
    a. Were there any lasting policy/institutional changes?
    b. Were there any attitudinal changes?
12. If you were speaking to a group of decision makers considering a deliberative process, what would you tell them?
    a. What were the “successes” of the process?
    b. What were the “failures” of the process?
APPENDIX H

PARTICIPANT INTERVIEW SCHEDULE

1. If you were meeting someone for the first time, what would you tell them about yourself?
2. How much time do you spend in each of these roles (referencing above answers)?
3. How do you view your role in regard to the deliberative/collaborative process that took place in Cincinnati beginning in 2001?
4. Thinking back to the Collaborative Process, how did your roles change as a result of participation?
5. Why did you participate? What were your objectives?
6. Should citizens be involved in the crafting of new policies?
   a. What do you think constitutes legitimate citizen participation in the forming of public policies?
   b. What would this look like?
7. Compared to other traditional methods of public input, such as voting and public meetings, do you think the collaborative process was more democratic?
   a. How do you define democratic?
8. How do you feel the policies that resulted from the Collaborative were or were not implemented?
   a. Why were they not implemented?
9. Do you feel the collaborative process had any lasting effects, if so, what were they? And if not, why?
   a. Were there any lasting policy/institutional changes?
   b. Were there any attitudinal changes?
10. If you were speaking to a group of decision makers considering a deliberative process, what would you tell them?
    a. What were the “successes” of the process?
    b. What were the “failures” of the process?
APPENDIX I

KEY PLAYER PUBLICATIONS

Dr. Jay Rothman


In addition to publications and newspaper articles, Rothman was recorded giving lectures at the Institute for Conflict Transformation and Peacebuilding (ICP) Switzerland, where he is currently a visiting professor, and these recorded lectures were published on the ICP Switzerland’s YouTube channel. I reviewed and analyzed these lectures. The lectures were:

The Institute for Conflict Transformation and Peacebuilding (ICP) Switzerland had a YouTube channel.

3 C’s Interview with Jay Rothman (in English) uploaded on August 30, 2010.

Jay Rothman: Applying Pre-Negotiation in Transforming Identity-Based Conflict Part 1
Uploaded Jan 12, 2011

Jay Rothman: Applying Pre-Negotiation in Transforming Identity-Based Conflict Part 2
Uploaded Jan 13, 2011
Dr. John Eck


Alphonse Gerhardstein


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Keefe, Brendan. 2014. “Ferguson Must Learn from Cincinnati’s Riots.” *USA Today*.


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