

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 1:15-CV-01046
	)	
Plaintiff,	)	
	)	JUDGE SOLOMON OLIVER, JR.
vs.	)	
	)	
CITY OF CLEVELAND	)	<b>MEMORANDUM SUBMITTING</b>
	)	<b>INITIAL OFFICER USE OF FORCE</b>
Defendant.	)	<b>TRAINING</b>
	)	

The Consent Decree requires that the Cleveland Division of Police (“CDP” or the “Division”) provide an initial use of force training to “all current officers use of force training that is adequate in quality, quantity, scope, and type.” Dkt. 7-1 ¶ 84. Over the past several months, the Division’s Training Section has capably crafted a training program that meaningfully addresses the requirements of the Decree and provides high-quality instruction to officers on the use of force policy that this Court previously approved. Dkt. 101. The final initial use of force training curriculum is attached hereto as Exhibit A.

The Monitoring Team has closely reviewed the final proposed curriculum. It concludes that the initial training serves as a strong foundation both for the Division’s implementation of its use of force policy and for its other major training initiatives to come. The finalization of this training marks an important milestone in the reform process, and the Monitor commends the men and women of the Division’s Training Section for their hard work and dedication to develop a

strong, substantive training. Therefore, the Monitoring Team approves the initial use of force training as consistent with the Consent Decree's paragraphs 84 (a) through (i) and as furthering the broader requirements and objectives of paragraphs 45, 46, 49, and 269. It asks the Court to order the training effective.

#### **I. REQUIREMENTS OF THE CONSENT DECREE REGARDING USE OF FORCE TRAINING & PROCEDURAL HISTORY**

The Monitoring Team has previously described the process throughout 2016 of updating the Division's officer use of force policy – including the significant role that CDP officers, Cleveland residents, and community organizations played in the formulation of the revised policy. Dkt. 97 at 27–35. The Monitoring Team “conclude[d] that the policies are consistent with the Consent Decree because they promote officer and public safety, enhance effective and proactive law enforcement, and advance constitutional policing in a manner consistent with the values of Cleveland's communities.” Dkt. 83 at 2. The Court approved the new use of force policies, subject to some specific conditions. Dkt. 101.

The Division's “approved, new use of force policies . . . will only become effective once the men and women of the Division receive significant, substantive training the policy's provisions.” Dkt. 97 at 35. With the use of force policy finalized, the Consent Decree requires that CDP “provide all current officers use of force training that is adequate in quality, quantity, scope, and type.” Dkt. 7-1 ¶ 84. This training must, among other things, include instruction on:

- proper use of force decision-making;
- use of force reporting requirements;
- the Fourth Amendment and related law;
- de-escalation techniques, both verbal and tactical, that empower officers to make arrests without using force and instruction that disengagement, area

containment, surveillance, waiting out a subject, summoning reinforcements, using cover, calling in specialized units, or delaying arrest may be the appropriate response to a situation, even when the use of force would be legally justified;

- role-playing scenarios and interactive exercises that illustrate proper use of force decision-making, including training on the importance of peer intervention;
- the proper deployment and use of all intermediate weapons or technologies;
- the risks of prolonged or repeated ECW exposure, including that exposure to ECWs for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious physical injury;
- the increased risks ECWs may present to a subject who is pregnant, elderly, a child, frail, has low body mass, or is in medical crisis;
- that when using an ECW the drive stun mode is generally less effective than the probe mode and, when used repeatedly, may exacerbate the situation;
- firearms training . . . ; [and]
- factors to consider in initiating or continuing a vehicle pursuit.

*Id.* CDP’s Academy recruits must also receive this use of force training. *Id.* ¶ 85. The Division’s supervisors must receive this general force training as well as specialized training relating to supervisor-specific force issues and broader supervisory skills. *Id.* ¶ 84. Upon successful completion of an “adequate” initial force training, the Division must “provide all officers with annual use of force in-service training that is adequate in quality, quantity, type, and

scope.” *Id.* ¶¶ 84, 86. All of these requirements support the Decree’s general provisions relating use of force policy, use of force principles, and officer training. *Id.* ¶¶ 45, 46, 49, and 2369

The Division began the process of planning for the initial training of all officers on use of force in August 2016. Since then, CDP has focused sustained efforts on designing and implementing the Use of Force Training.<sup>1</sup> The Monitoring Team was able to work closely and collaboratively with the Division of Police and its Training Section. The Team’s objective was to provide both guidance and technical assistance as to the development and implementation of a cohesive training curriculum that is consistent with the requirements of the Consent Decree and provides the most effective and operationally efficient means by which to ensure that all sworn members of the CDP are rigorously trained and have a working knowledge of the Division’s new use of force policy.

Members of the Monitoring Team met periodically with the Training Section staff reviewing the specific modules developed, carefully scrutinizing both the content and the instructional modality to ensure that the most effective adult learning methodology was incorporated into each module. Cleveland has not previously conducted training on new policies that integrate such sustained and substantial interactive and scenario-based instruction. Using these approaches required the Division and its Training Section to re-think and re-engineer its methods, and the Monitoring Team has indeed been favorably impressed by the hard work of the

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<sup>1</sup> The Second Semiannual Report indicated that it was then “contemplated that use of force training may be able to begin sometime in February 2016. Even if several weeks more are required beyond that date to finalize training . . . , the Monitoring Team is satisfied that the Division is committed to completing a high-quality training.” Dkt. 97 at 35. Ultimately, CDP required only about four to five weeks of additional time, which all of the Monitor, CDP, City, and DOJ agreed was useful to refine the training further rather than address any outstanding foundational issues.

Training Section and their willingness to embrace definitively new approaches to officer training.

After sustained work on training curriculum material, the Parties and Monitoring Team observed the proposed in-class force training in person in late April 2016. After the Division incorporated additional feedback, the Division successfully provided the Parties and Monitoring Team with a finalized version of the complete initial use of force training curriculum on May 12, 2016.

## II. STANDARD OF REVIEW

“As an agent of the Court,” the Monitoring Team must “assess and report whether the requirements” of the Consent Decree “have been implemented.” Dkt. 7-1 ¶ 351; *accord id.* ¶ 352 (requiring the Monitor “to review . . . policies, procedures, practices, training curricula, and programs developed and implemented under” the Decree). With respect to the use of force training, the task of the Monitoring Team is to evaluate whether the initial use of force training, consisting of a video-based roll call component and a 16-hour in-class component, “is adequate in quality, quantity, type, and scope.” *Id.* ¶ 84.

The Monitoring Team has previously emphasized to the Division, Parties, and Court the importance of CDP “tak[ing] full advantage of . . . best practices in adult education”:

Generally, effective adult and professional learning programs present problems for adult to solve or tasks for them to complete rather than, or at least in addition to, solely providing information for students to passively consume . . . Some training courses depend too much on . . . lectures [or] slide presentations. This type of learning requires the learner to passively absorb and retain large amounts of *content*. To retain learning, learners need opportunities to make a *connection* with the content and *apply* the learning to real-life.

Dkt. 65 at 55 (emphasis in original). For law enforcement training, “established best practices and the Consent Decree point the way toward ‘realistic, scenario-based training’ that is

integrated and woven throughout specific training courses.” *Id.* (citing TASK FORCE ON 21ST CENTURY POLICING, FINAL REPORT at 42 (Mar. 2015); Dkt. 7-1 ¶84(e)). Indeed, in providing real-time feedback to CDP on the use of force training, the Monitoring Team and the Division looked to use of force training materials from throughout the country that use scenario-based and interactive learning techniques that provide an opportunity for officers to develop skills and apply tactics in dynamic learning environments. *See* POLICE EXECUTIVE RESEARCH FORUM, ICAT: INTEGRATING COMMUNICATIONS, ASSESSMENT, AND TACTICS: TRAINING GUIDE FOR DEFUSING CRITICAL INCIDENTS (Oct. 2016), [http://www.policeforum.org/assets/icattraining\\_guide.pdf](http://www.policeforum.org/assets/icattraining_guide.pdf); SEATTLE POLICE DEPARTMENT, USE OF FORCE PHASE II 2014 (May 2014), [https://static1.squarespace.com/static/5425b9f0e4b0d66352331e0e/t/542ae4f1e4b00ac585ed4e87/1412097265945/DKT No. 144 Memorandum Re ISDM dated 053014.pdf](https://static1.squarespace.com/static/5425b9f0e4b0d66352331e0e/t/542ae4f1e4b00ac585ed4e87/1412097265945/DKT+No.+144+Memorandum+Re+ISDM+dated+053014.pdf).

## **II. SUMMARY AND ANALYSIS OF CDP’S INITIAL OFFICER USE OF FOR TRAINING**

The initial training to all sworn CDP personnel on use of force consists of two primary components: (1) initial policy instruction (also referred to as a “pre-loading”) in District-based video roll calls, and (2) a two-day, in-class, scenario-based training program.

### **A. Initial Policy Instruction (“Pre-Loading”)**

CDP’s Training Section constructed a “pre-load” video presentation that all CDP officers have viewed or soon will view, in an expanded roll call training context, in the Districts in May and June before they attend the subsequent in-class training components. Ex. A at 4–28. The approximately one-and-a-half-hour video presentation outlines, step by step, the new policy and the expectations of the upcoming use of force training sessions. The “pre-load” presentation begins with a message from Chief Williams that reinforces the importance of the use of force policy provisions and underscores the Division’s commitment to these important changes. *Id.* at

6. The presentation then proceeds through the new CDP policies, providing instruction to officers on the specific provisions of the updated, Court-approved use of force policy. *Id.* at 6–29.

Over the coming weeks, CDP personnel will view the pre-load and be given the opportunity to ask questions of training personnel, supervisors, and Command staff who will be in attendance during these District-based sessions. It is expected that the “pre-loading” activities will ensure officer knowledge of the new policy and a better understanding of newly emphasized concepts prior to attending the classroom instruction, where instructors will delve deeper into content and afford officers the opportunity to demonstrate their understanding in a scenario-based environment.

The Monitoring Team has reviewed the curriculum for the Initial Policy Instruction component. It faithfully provides a sufficient, substantive overview of the new expectations and obligations under the Court-approved use of force policy.

**B. Two-Day, In-Class, Scenario-Based Training**

Between May and October 2017, all sworn CDP personnel will attend two days (16 hours) of in-class training. This training consists almost exclusively of integrated, interactive scenario-based instruction aimed at giving officers repeated opportunities to apply the new use of force policy provisions in a real-world context. *Ex. A* at 29–115.

Over the course of the two days, officers will proceed through eight “modules” of instruction, all of which have either interactive or scenario-based elements. *Ex. A*. Those modules include instruction on:

- De-Escalation
- Contact and Cover

- Subject Control and Handcuffing
- Intermediate Weapons
- Decision-making Scenarios
- Threat Assessment
- Officer Performance Assessments (Video-Based) (two modules)

The maximum, total class size for the two-day course is 48 officers. On both days, the class of 48 officers will begin with an introduction and overview that emphasizes the training's objective and various provisions and expectations of the new policy. Ex. A at 7. Subsequently, the class will be divided into four groups of twelve officers each. *Id.* Each group of twelve officers will proceed, throughout the remainder of each day, through four of the above modules. *Id.*

#### 1. Day One

Day one begins with a formal introduction of the instructors, safety rules, attendance requirements and expectations. Ex. A at 29. The class is then divided in smaller groups to maximize safety and facilitate close observation and evaluation of each officer attending the training. The officers then go through four “modules” – or approximately hour-and-a-half long substantive training blocks – of instruction. Ex. 29, 39, 51, 58.

The first module is solely focused primarily on the introduction and thorough review of the five new policies relating to use of force and all of the major changes within those policies, particularly in how force is used and reported. Ex. A at 29–38. This is an interactive classroom segment of the training that builds the foundation for all of the training modules that follow.

Module two explores De-escalation principles, strategies and techniques with the officers and is intended to fully explain what de-escalation is, why it matters and how it should be



considered in every aspect of police work from daily citizen contacts to crisis events. Ex. A at 39–50.

In module three, officers will learn to effectively evaluate the situations and the subjects they encounter as well as how to quickly assess the resources they have available to help them safely resolve various situations. Ex. A at 51–57. Teaching the officers to assess the environment they are in will also be part of the training. This is commonly referred to as “contact/cover” training and is a key part in determining the options to de-escalate or use force available to the officers. *Id.*

Module four trains the officers on contemporary Subject Control and Prone Handcuffing techniques. Ex. A at 58–67. Handcuffing and control techniques have changed over the years, and this refresher training will teach officers in accordance with policy changes and modern techniques.

## 2. Day Two

Day two will begin with a significant review of the four modules learned in day one and then proceed into four modules. Ex. A at 68–72. Module one is a complete session focused on the assessment of videos depicting scenarios of officers handling various situations that end in various ways. Ex. A at 73–80. The CDP officers have to identify whether stops were justified, whether use of force was justified and if the correct options were used etc., and are evaluated based on CDPs new GOPs. *Id.*

Module two is comprised of reality based scenarios in which the officers are faced with a variety of situations and are evaluated on verbal commands, choice of intermediate weapons and the utilization of de-escalation techniques if opportunities to do so exist. Ex. A at 81–91.

Module three is also a reality based scenario that focuses on how the officer reacts to and assesses the environment to which he or she is dispatched to, and the tactical decisions that follow. Ex. A at 92–103. The scenarios are intended to evaluate the officers’ decision making skills in accordance with the new use of force related GPOs. *Id.*

Module four builds on module three by further exploring the officers’ verbal commands, body language, level of awareness about the event they are in and finally their understanding and execution of de-escalation techniques and or transition to use of force tools and techniques in accordance with the new use of force policies. Ex. A at 104–120. If the scenario turns to force, the level of force is evaluated as to whether it was necessary, proportional and objectively reasonable. *Id.*

### **C. Officer Evaluation**

During the training, officers must meet minimum performance requirements. One element of officer evaluation will be a written exam, administered during the training, to confirm that officers have a clear understanding of the new force policy’s requirements and expectations. Ex. A at 2. Another element of officer evaluation will be a formal, operationalized performance “check list” for evaluating every officer’s performance during the various interactive, scenario-based elements. Ex. A at 2, 38, 50, 67, 80, 91, 103, 115. If officers do not receive a passing score for their performance in one of the scenario exercises, the officers will receive specific, remedial training and/or one-on-one discussion to ensure their understanding of the appropriate application of the force policy. Ex. A at 2.

Regardless of whether officers meet the required, minimum performance standards, all scenario-based modules provide an opportunity for a full debriefing in which participating instructors and other students will be charged with fully analyzing officer performance –

identifying the application of good tactics and areas of strength as well as areas for improvement or where other or different strategies or tactics could or should have been applied.

Another innovation that the Training Section is implementing relates to gauging and integrating officer feedback on the training program. To do so, the Division has designed an effective evaluation form to be completed by each officer at the conclusion of the in-class training. The resulting evaluation survey, created by the Training Unit with some assistance from the Monitoring Team, allows for officers' feedback to be incorporated to improve or adjust the training curriculum to ensure maximum effectiveness and value. Ex. A at 29–120.

Consistent with the Consent Decree's requirements that the Division "document all training provided to or received by CDP officers," Dkt. 7-1 ¶ 288, CDP has plans and processes in place to document attendance and maintain records of officer participation in all aspects of the training. The contemplated implementation of an electronic Learning Management System will substantially aid in these efforts over time.

Given the critical importance of the Use of Force Training, members of the Monitoring Team will attend training sessions throughout the implementation of the Use of Force training to ensure that the training is of the quality that all stakeholders expect. The Team looks forward to updating the Court on the use of force training as it is implemented over the next several months.

Presuming that the Use of Force Training is completed in early Fall 2017, the Consent-Decree-required and Court-approved use of force policy will be implemented in the field – such that officer performance will be evaluated in light of adherence to the new use of force policies – as of January 1, 2018, consistent with the Court's previous order. Dkt. 101 ("The new policies will become effective upon the Cleveland Division of Police's successful completion of Use of Force Training.").

#### **D. Overall Analysis of Initial Training Program**

During the week of April 17, 2017, members of the Monitoring Team conducted a walk-through of the entire in-class curriculum. CDP training instructors delivered content, modeled scenarios, and demonstrated hands-on and decision making modules that reinforce the policy changes and underscore the fundamental use of force principles (necessity, proportionality, objective reasonableness, and de-escalation whenever safe and feasible) that are the foundation of the division's policy. The Monitoring Team was tremendously impressed by the level of the training demonstrated and the clear commitment of the instructors to the overriding objectives of the Division's Use of Force Training initiative. This interactive, immersive training is a far distance from the rote "Death by PowerPoint" style that, for some police departments, has served as the default method. Having now reviewed the finalized training curriculum materials, the Monitoring Team believes that the training appropriately takes advantage of new instructional approaches and is geared toward providing officers with practical, day-to-day skills and an ability to practice application of the new force policy in realistic settings. Accordingly, the Monitoring Team concludes that the initial use of force training for officers appears "adequate in quality" and "type." Dkt. 7-1 ¶ 84.

Likewise, the "quantity" of use of force training appears adequate for an initial training on the new force policy, especially given that CDP officers will receive substantial use of force training in coming years. *Id.* ¶ 86. The roll-call based, basic instruction on the new policy and the sixteen hours of intensive in-class instruction appear sufficient to cover and reinforce the policy provisions and provide extensive opportunities for officers to practice the application of the new policy in interactive exercises and immersive scenarios. The Monitoring Team therefore concludes that the initial use of force training is also "adequate in . . . quantity." *Id.* ¶ 84.

Finally, the use of force policy is “adequate in . . . scope” because it both provides meaningful instruction on the specific provisions of the new force policy and addresses nearly all of the various, express requirements of the Consent Decree with respect to the initial force training. *Id.* Other CDP training will address “firearms training,” *id.* ¶¶ 84(j), 60; “factors to consider in initiating or continuing a vehicle pursuit,” Dkt. 7-1 ¶ 84(k); and supervisor-specific force-related training, *id.* ¶ 84(l).

### III. CONCLUSION

The Monitoring Team approves the initial use of force training as consistent with the Consent Decree’s paragraphs 84 (a) through (i) and as furthering the broader requirements and objectives of paragraphs 45, 46, 49, and 269.

Respectfully submitted,

/s/ Matthew Barge

MATTHEW BARGE

Monitor

234 5th Avenue, Suite 314

New York, New York 10001

Tel: (202) 257-5111

Email: [matthewbarga@parc.info](mailto:matthewbarga@parc.info)

**CERTIFICATE OF SERVICE**

I hereby certify that on June 1, 2017 I served the foregoing document entitled Memorandum Submitting Initial Officer Use of Force Training via the court's ECF system to all counsel of record.

/s/ Matthew Barge  
MATTHEW BARGE