

CLEVELAND COMMUNITY POLICE COMMISSION



ACCOUNTABILITY WORK GROUP REPORT

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Accountability Work Group Report

Examining Police Accountability in Cleveland Beyond Discipline
& Recommendations to Enhance Police Practices

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Thank You

Endeavors such as these require a significant investment from dedicated citizens willing to share their expertise, both professionally and personally. This report was made possible through the commitment and support of community members from various experiences, belief systems, and cultures. They shared invaluable insight, asked challenging questions, and were willing to engage in substantive discourse, at times heated, but always necessary to move the work forward.

Accountability is an expansive topic made manageable by the committee members who aided in streamlining ideas, while remaining focused on reflecting the voice of the community and the important role of every police officer as a collaborator.

It was an absolute pleasure to embark on this journey with such an impassioned group of people with one goal in mind – *contributing to a reform process built on accountability and empowered to transform Cleveland policing into an exemplary example for the nation.*

Thank you for your contribution of time and heart for the Cleveland community!

With Immense Gratitude,

LaToya Logan

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Part One: Background

When the City of Cleveland (City) and the Cleveland Division of Police (CDP) entered into the federal agreement, the Consent Decree, it was purposed to not only implement necessary and overdue changes to address “systemic deficiencies,” but to make a concerted effort to improve community relations bruised by years of conflict. While a critical component of reform requires changes to policies intended to transform police practices specific to recruitment, training, use of force, among other critical areas, true reform is impossible if it occurs simply on a bureaucratic level. The key to reform is in the development, implementation, and assessment of practices purposed to usher in transformative change, while challenging the frame of reference for policing in general and policing specifically in Cleveland related to community-police relations. The most critical component of transformative change is *“critically reflecting on their assumptions and beliefs and consciously making and implementing plans that bring about new ways of defining their worlds.”* Developing new ways of defining policing requires collaboration with non-law enforcement stakeholders, who are respected and genuinely incorporated into the process.

For many community members, true police reform can ONLY be measured by those most impacted by potential misconduct and poor practices, in hopes of highlighting what not to do and facilitate learning through empathy and meaningful connection. To be clear, reform should be evaluated in real time as there is no benefit to revisiting every past violation. However, accountability built upon a foundation of justice cannot live solely in the future, absent of any connection to or reflection of those violations. To attempt to do so, is not reform, but a revision of history that can only further the divide between the community and the police.

Far too often, CDP leadership has dismissed valid concerns raised by community members who have requested responsibility and likened it to “an apology tour.” Not only is this phrasing utterly demoralizing, but it also sends a clear message to all under the command that the voice of the community is irrelevant at best and whining at worst, further complicating the ability to heal the community, which should be a goal of this reform process. The Consent Decree must be much more than a performance improvement plan focused on paper and checkboxes. The community called for transformation, which is a disruption to every aspect of policing, especially culture, to ensure that the remnants of the old system find no comfort.

The City representatives and CDP leadership has asserted the Cleveland Community Police Commission (CPC) has a history of focusing on the negative, aligning itself with critics who would never acknowledge progress, or dismissing the hard work invested to improve policing. While the CPC would disagree, we acknowledge why this perspective exists. The CPC has recognized improvement in various aspects of policing including, recruitment, the Crisis Intervention Team Training in conjunction with the ADAMHS Board, as well as, the policies surrounding Search and Seizure and Bias-Free Policing, which included meaningful and tangible input from the Commission Workgroups consisting of community members.

It is critically important that all stakeholders and community members are aware of the unique position of the CPC, serving as the only open access entity into the reform process for the citizens. The CPC's development was a direct result of community activism which advocated for community members to have a place where their voices were not only heard but responded to and included in the reform process. In fulfilling that role, the CPC must place accountability above incremental progress. It is also important to note the CDP and the City have various outlets to highlight the work they have done and continue to do. In doing so, seldom, if ever, acknowledges limitations, setbacks, or the need to start over. If the perception of community collaboration is negative because community members criticize police, then it is the responsibility of the CDP and the City to convey what they believe are successes. It is not and can never be the goal of the CPC to find balance between reporting potential positives or negatives of the CDP that would require playing politics. We believe we can hold two competing pursuits of truth in the interest of justice and police reform accountability, without compromising integrity.

Building community trust is vital to any hope of creating a collaborative and mutually respectful relationship. While there have been efforts to improve practices within the CDP, it is important to be reminded the community is the aggrieved party and they have been asked to trust a system with a historical pattern of misconduct. To expect this trust would occur immediately highlights a huge disconnect with those the CDP are meant to serve. The community requires accountability, to every citizen, but also to each police officer risking their lives every day. When the CDP incorporates accountability into every aspect of policing, it not only improves police interactions with the community, but it also ensures each patrol officer and supervisor has been effectively trained and supported, enabling them to carry out their duties.

Many conversations limit accountability to discipline and understandably so, as discipline can give the impression that the person or entity has been made to answer for their actions. The problem with this perspective is it is limited and too late. Discipline is initiated after the misconduct has already occurred and while there may be some relief in knowing the misconduct was not left unchecked, the damage has already caused a ripple effect of trauma that no write-up, suspension or termination can undo. For this reason, accountability must be defined as a proactive intervention to reduce and when possible, prevent misconduct. Accountability is not one intervention, but the combination of interventions which clearly builds upon one another, with discipline being the last alternative. The interventions include clearly articulated policies and procedures, effective and reflective measurable training, and consistent and transparent expectations supported by supervisors.

Part Two: Accountability Areas and Recommendations

Consent Decree Surveys

Without accountability, there can be no reform. Sustainable change, which is or should be, the goal of any reform process, requires change to be characterized as a living process, which must be constantly reviewed, evaluated, updated and measured. Vital to the evaluation process is the development of a tool that captures the attitudes, assumptions, and confidence of the reform process for both the community and the CDP. The Consent Decree requires a community survey be administered biennially. The first survey was conducted in 2016 to gauge community concerns towards police reform, purposed to obtain a baseline of attitudes and perceptions prior to any implementation of policy and departmental changes. (Citation) This is a great practice in theory, as it provides a glimpse into the community to assist the CDP and City officials, while incorporating the data into the reform process in real time.

The 2016 survey, titled, “The Cleveland Ohio Community Survey: Public Perceptions of Safety and Policing,” was comprised of six sections and 41 questions specifically asking about policing, such as “Police Job Performance,” “Bias-Free Policing” and “Community Policing,” among other areas. The survey was completed by 1289 community members, including Black (49%), White (32%) and Hispanic (18%), 51% were women, 79% identified as straight and 29% of the participants reported an income over \$30,000, while 24% refused to report their income. This survey utilized a Likert Scale with varying rating options based on the questions.

The 2018 survey, titled “Cleveland Police Survey,” facilitated by ALG Research, is significantly different in both structure and questions. This survey includes four questions about other public safety agencies, including Fire and Cuyahoga County Sheriff’s Department. The survey was completed by an undisclosed number of people, the demographic breakdown is as follows: Black (52%), white (32%), and Hispanic (10%), 52% were women, and 48% of the participants reported an income over \$30,000, while 22% refused to report their income. Previous sections highlighting areas included in the Decree were removed. A Likert Scale was used with varying rating options.

It is unclear why there was a change in survey administrator or format. No rationale was provided as to why several critical questions were not included in the 2018 survey. Due to this modification, it is impossible to conduct a comparative analysis of changes in the community’s perception of the police reform process. The increases identified in the 2018 survey cannot be accepted without examining the context and determining if the participants of the survey truly reflect the demographic breakdown of the City of Cleveland. More importantly, does the survey reflect the demographics of citizens most likely to encounter police? Research suggests income, education level, race, gender, neighborhood, among other factors, have a significant influence

on not only the way the citizen perceives policing, but also how the police interacts with said citizen. For example, a 45-year-old white female physician living in Ohio City most likely has a different experience with the police than a 19-year-old Black male factory employee living on 93rd and Kinsman.

Surveys are extremely useful tools when they are designed with intentionality. The intentional focus is what enables the administrator to craft questions purposed to obtain meaningful and tangible data to inform the process. Yes, it is simply a survey, but it is the only tool the Consent Decree requires to measure community member's perceived change in policing. Without consistency, data can be intentionally or unintentionally misinterpreted and worst gives the impression of improvement, where there is none.

Recommendations:

- 1) A longitudinal survey should be developed in conjunction with the community to ensure the questions included are responsive to the community issues identified. A longitudinal study is the best option to track community perceptions related to the police reform process over time. The CPC is capable and willing to facilitate the survey beyond the involvement of the Monitoring Team.
- 2) The survey should use the original title, "The Cleveland Ohio Community Survey: Public Perceptions of Safety and Policing." The survey was initially intended to focus on community perceptions to aid the CDP and the title should reflect the purpose.
- 3) Every effort must be made to seek out participants reflecting the actual demographic breakdown of the community. It is insensitive to maintain 79% straight participants, when it is common knowledge there is a large LGBTQIA community in Cleveland who actively addresses issues with the police. This is but one example of the need to expand the survey's reach.

Hiring

If there is one immediate lesson for the CDP and the City involving Officer Loehmann, who killed 12-year-old Tamir Rice, it is the need to develop and strictly implement a background check process for all potential candidates to ensure the applicant embodies the values of the CDP. Officer Loehmann continues to fight to overturn his termination from the CDP on the grounds he was dishonest on his job application. It was not until the loss of Rice that the City conducted an in-depth investigation, which revealed a less than stellar performance as an officer, where he could resign and was characterized as "unfit to serve." It stands to reason had the City had this information prior to extending an offer of employment, there would be no conversation about Mr. Loehmann. While this remains a polarizing topic, the fact remains, Officer Loehmann was dishonest on his application, which is a characteristic unbecoming an officer who is tasked with upholding the law.

The City assured the community following this revelation that mandatory background checks were being conducted. However, one-year after the termination of Officer Loehmann, Officer Shawn Simmons managed to complete the 6-month Police Academy and served as a patrol officer until February 2019, when he was placed on restrictive duty. The “discovery” of his felony history was by sheer good fortune. A Norwegian officer saw Simmons’s photo online and alerted the U. S. Bureau of Alcohol, Tobacco, Drugs and Explosives. Simmons had an extensive criminal past, which included convictions for extortion and aggravated assault, as well as a 2015 charge for kidnapping, which was dropped.

It is not our position that anyone with a criminal history should be automatically excluded from potential employment. However, when a candidate presents with a clear pattern of violating the rights of others, both physically and through intimidation, there should be no question of their inappropriateness to protect and serve the community. Although, Simmons had not engaged in police misconduct, based on public knowledge, if the process for background checks were effective, he would have never worn a badge.

Hiring Recommendations:

- 1) The background process must be evaluated for effectiveness by an independent consultant, as the City cited “an extensive background check failed to uncover Simmons felony history in Norway.”
- 2) The City should include a question regarding overseas residency/criminal history.
- 3) The City should include a question regarding expungements/sealed records for any violent or aggressive/threatening charges or convictions.
- 4) All candidates who have past employment in law enforcement, police departments, corrections, military or any security-related area, should be required to provide a copy of their employment history with all performance measures.
- 5) The City of Cleveland should lead the innovation to create a singular database system for all police officers employed in the State of Ohio to ensure transparency of employment history and to improve the transfer process.

Training

Training is a critical aspect of police reform as it is the first introduction of the policy’s expectation and purpose. Training has the greatest influence on the culture of the department as officers can explore ideas and discuss concerns in a safe, learning environment. All of which is only possible based on the skillset of the trainers. The CDP has often responded to questions about the effectiveness of the training by stating, “It was well-received.” While this gives the impression of positive understanding, it is neither measurable nor qualifiable. The greater concern is how can the CDP adequately evaluate the effectiveness of training or know when it is time to revise/update training if the current standard for a positive training outcome is that is

has been “well-received?” While it has been announced training evaluations are being developed, some of the training has gone through two or more cycles without evaluation. If the training is currently inadequate or has deficiencies in learning application, officers will have been trained minimally three times before administration is aware.

Many of the facilitators were selected out of interest, not necessarily experience or expertise in adult learning best practices or the actual training topic, which is indispensable to effective training. It is important to note that many of the district trainers have done an impeccable job in attempting to create training curriculums. Commander Jones, Lt. Smith, and each of the District Training Officers have been engaging and receptive to feedback, while creating access to participate in training and the Community Engagement Days for new recruits. However, they have noted the need to have additional support in the actual development of curricula due to limited knowledge in best practices for adult learning. This is not a negative observation, but an opportunity to improve support and education to the staff responsible for training the Division.

Training Recommendations:

- 1) The CDP should collaborate with locally based experts in adult learning to improve the skill level of all facilitators.
- 2) The training should include collaborations with the community, where most appropriate, to illustrate the perspective of a civilian related to the topic. Ex: Search and Seizure Training – Allowing a community member to describe their stress-tolerance and thought process when being pulled over by a patrol officer and fear associated with the stop. The CDP spends significant portion of training highlighting the importance of what an officer may feel during a stop. It is important to build insight of the reverse.
- 3) When applicable training should be instructed by or co-instructed by subject matter experts. As an example, when legal subjects are being taught a J.D. or professor of law should be present. This is a best practice recommendation of the Ohio Peace Officer Training Academy.
- 4) Basic recruit training should be reinforced via a standardized Field Training Program for new graduates. Field Training Officers (FTOs) should also be trained in methods for adult education and have a set of universal competencies to evaluate that is designed in conjunction with the training academy.
- 5) The city should greatly expand its supervisor training curriculum. Four hours of training is insufficient to equip a new Sargent or any current supervisor with the skills required to properly supervise and enforce all the 1,000 pages of policy in the current General Order book.

Bias-Free Policing Recommendations:

The community has been adamant about the need to include a mandatory portion of training dedicated to implicit bias, which has yet to occur. The Harvard Implicit Association Test (IAT) test is included in the Bias-Free training, however, there are no specific instructions provided to the facilitators or participants regarding the utilization or value to their work. It is also a voluntary process that does not require the officers to discuss the results with their superiors, making the gesture futile. The CDP is comfortable with defaulting to “just respect everybody” as a means of addressing implicit bias. Based on data from the CDP, 38 of the 227 civilian complaints were related to allegations of biased treatment. The National Association for the Advancement of Color People (NAACP) (Citation) highlighted the value of focusing intentionally on building insight of implicit bias to improve policing. Study after study has proven officers often interact and react to people of color, particularly Blacks in a more hostile tone. The report goes on to state, “officers who are given direction about improving interactions with the community are less likely to use force and more able to resolve situations without arrest,” (pg. 9). A reoccurring theme in the Monitoring Team Focus Group Report, released June 2018, is that officers are unclear on how to interact with citizens. They are well-versed in what not to do, but little attention has been paid to positive interactions.

- 1) Implicit Bias Training should be a mandatory part of the Bias-Free Training. The City should seek the expertise of local consultants with a proven track record for addressing and dismantling implicit bias, such as the Gestalt Institute of Cleveland or The Ohio State University’s Kirwan Institute on Implicit Bias.
- 2) This section of the training should be taught by a local expert on implicit bias that is not departmentally based. There is no one training that can be conducted to build the competency necessary to effectively facilitate the material, successfully challenge assumptions, and build practical engagement skills.
- 3) If the department would like some of their facilitators to become trainers, they should complete a TOT, with minimally one observation by the expert.

District Awareness Training (DAT) Recommendations:

The DAT is an innovative approach to ensuring patrol officers have the necessary knowledge to not only engage with the district’s citizens, but to understand the richness of the history, changes and concerns of the community. This is a vital step towards making the idea of Community and Problem-Oriented Policing (CPOP) a reality in practice. This training is currently under construction, which is hopeful as this is a great opportunity, but requires a good deal of revisions.

- 1) The training should be developed in conjunction with local community leaders and/or citizens who can speak to the specific concerns of the neighborhood that may not be trackable via a census or demographic data.

- 2) The concept and definition of the word, “culture,” must be expanded beyond race, ethnicity or orientation. Culture includes age, income, education, etc.
- 3) There must be a commitment to update this training annually to reflect in real-time the culture of the district.

Recommendations:

The Monitoring Team released the Cleveland Police Officer Focus Groups Report on June 6, 2018. The focus group addressed concerns and questions related to the reform process, with great attention directed towards the Use of Force policy and training. The report identified various issues impacting the officers’ ability to implement the expectations of the policy, as well as, supervisors understanding of how to offer corrections or discipline misconduct. Key insights from the report include:

- Participants expressed “a great deal of concern, anxiety, and misinformation related to the use of force, specifically, the corresponding discipline and accountability procedures surrounding the enforcement” of the policy.
- Officers indicated “their colleagues are hesitant to go “hands-on” with subjects, even when that is necessary to ensure their, or the public’s safety.”
- “Officers expressed a great deal of confusion surrounding what constitutes force.”
- “Supervisors allow or even require overly protracted efforts to de-escalate, which might place officers, the subject, and members of the public in jeopardy.”

The policy was updated in 2018 and the training has been based on the updated policy. However, it is unclear how the above information was incorporated into the updates. The training does not address anxiety related to use of force, which is a key component to officers’ ability to recall information, implement procedural steps, and utilize good judgment. This is a critical area as anxiety is a symptom of fear connected to the autonomic nervous system, which activates the fight, flight or freeze response to stress, distress or trauma. Facilitators often mentioned the impact of adrenaline and the limited ability to think clearly during a crisis or stressful situation, yet, there is zero mention of how to reduce the symptoms of such a response. The question is quite simple, if you know this is an issue, why are you not addressing it?

The CDP and the City have asserted the 2018 update to the Use of Force training addressed the issues of the previous training. However, there is no evidence to support that assertion. The issues identified in the Focus Group were not addressed in the training or the policy. Officers should be provided with clarity to ensure an unhindered understanding of the expectations and the CDP should act in the interest of their officers who are asking for assistance.

Recommendations:

- 1) The Monitoring Team should facilitate a focus group utilizing the same methodology of the 2018 focus group to assess for change.

- 2) The Use of Force training should incorporate a section on handling anxiety and distress, to address the concerns identified in the report.
- 3) Supervisors should have an additional training section to ensure they understand how to review and discipline use of force.
- 4) The CDP should clearly articulate the accountability procedures surrounding the enforcement of use of force. It is unclear through several observations of training how this was addressed.
- 5) The City should submit an RFQ for behavioral health services with the specific intention of assessing police stress and distress related to use of force to develop a training focused on helping officers recognize and respond to the symptoms.

Culture

On July 9, 2019, during the monthly Stakeholders' Meeting, which includes, Representatives from the City, CDP Administrators, members of the Monitor Team, and representatives from the Department of Justice, as well as, a CDP Executive Officer asked, "Why does the CPC consistently collaborate with anti-police groups who are so negative?" This question was asked in response to the CPC collaborating with the following community organizations: Showing Up for Racial Justice (SURJ), Black Lives Matter (BLM), the American Civil Liberties Union of Ohio (ACLU) and PRISM. Language is power. Language influences behavior. Language is a directive, particularly when spoken by CDP leadership. Characterizing community organizations as anti-police only reinforces hostility by promoting an us vs. them mentality, in an already strained relationship.

CDP leadership is accurate in their assertion the community criticizes the work they have completed, may not recognize progress made and perhaps there are some community members who will always have trust issues with the police. Instead of using those barriers and potential confrontational exchanges as a catalyst for change, they are dismissed or avoided. Worst, they are considered unworthy of further attention or comment. This is perhaps the most distressing aspect related to accountability in the culture promoted by CDP leadership to the rank and file officers, as it legitimizes police disengagement from the community, contradicting the intentions and outcomes of Community and Problem-Oriented Policing (CPOP). There have been significant efforts to improve community relations through barbershop talks, expanding the recruitment process by holding physical exams in the community, successful collaboration with community leaders to facilitate Academy Community Engagement Days, and many others. These successes are undermined and forgotten due to leaderships' approach and response to disagreement or valid criticism.

Recommendations:

- 1) The Safety Director, Police Chief, Mayor, City Council, The Monitor Team, Department of Justice and the CPC should meet with community organizations the CDP has mischaracterized to discuss how to improve communication and

collaboration for the purpose of increasing positive interactions and mutual respect. These meeting should be scheduled and maintained semi-annually.

- 2) The Police Chief should draft a values statement in relation to the reform process and community collaboration. This statement should be posted on the City's website.
- 3) A training booster (defined under the training section) should be drafted clearly articulating how the Police Chief's value statement is to be incorporated into daily police practices. This training booster should be facilitated in conjunction with the District Awareness Training.

Mental Wellness

During the Use of Force Training, the facilitators repeatedly used two phrases during the scenario-based video assessment, which appeared purposed to reduce judgment of the officer's actions and promote understanding.

"No Monday Morning Quarterbacking"

"We don't know what the officer was feeling, thinking at the time."

Both phrases are more than suggestions regarding behavior but are truly setting a cultural expectation that officers should not harshly judge the actions of their colleagues. Largely in part, because it could be them on the video the next day. More alarming is the second phrase which acknowledges the influence of stress and distress caused by a mixture of adrenaline and fear in relation to citizen interactions. When repeatedly asked about the wellness program and support for officers who may have experienced a crisis or highly confrontational experience, the response is: "Officers can seek assistance through EAP." It is important to note that in addition to EAP, there is a staff psychiatrist and a psychiatric consultant available. The CDP is working on a peer-support phone program, which may increase engagement from officers in need. The CDP is also invested in working on a GPO focused on wellness. However, knowing a support exists and accessing the supports are two different things.

Officers have reported apprehension to engage with EAP or the psychiatrists, fearing the information may be used against them or their peers might view them as unreliable. Both are valid concerns and plausible outcomes rooted in stigma surrounding mental health that no profession escapes. This fact also returns us to the first statement made during training, "No Monday Morning Quarterbacking." Officers are told they have a responsibility to report potential distress, which contradicts the messaging that they should not assume anything about other's actions and should give the officer the benefit of the doubt. Officers have also indicated departmental training discussing mental health is unrelatable, sterile, and off-putting, making it difficult for them to see themselves in the examples provided.

Understanding mental health cannot occur in a vacuum or in a single training, nor should it be the intent of the CDP to train officers to be mental health professionals capable of self-diagnosis. Effectively addressing officer needs and deconstructing stigma to increase engagement is the responsibility of the CDP, not any individual officer.

Recommendations:

- 1) The CDP should develop a training booster focusing on the connection between stress, distress, and trauma specific to the demands of policing. The training should be developed in conjunction with forensic social workers or behavioral health providers and the district training officers to ensure the language and examples are relatable.
- 2) The City and the CDP shall require psychological exams after every crisis interaction, traumatic event, and every 5 years of service.

Discretion and Use of Force

The Department of Justice identified a pattern of dysfunction and inconsistency in police responses which were linked directly to the idea of discretion. Citizens apply to become police officers with varied backgrounds, some as young as 21, most with no more than a high school education. New recruits complete the six-month Academy and are expected to have a competent understanding of the legal and ethical responsibility of discretion. This expectation exists without any formal or standardized education on the concept, application within law enforcement or potential risks.

Discretion is an ambiguous concept used to convey a higher level of authority, which not only explains police actions, misconduct or otherwise, but justifies the necessity of those actions regardless of their misalignment with policy. One assumption made is that officers have been sufficiently trained to effectively assess various risk levels to expertly render a definitive decision. It is important to stress “definitive,” as many of the outcomes have irreversible consequences, such as distress, trauma, incarceration, physical injury and even death. The other assumption requires mutual collaboration between the community and the CDP, based on professionalism and competence of the Division, which only highlights the disconnect between the CDP and the citizens they are most likely to engage.

Even more abstruse is *Graham v. Conner* (1989), the most cited Supreme Court ruling on this topic, which states:

Police use of force must be ‘objectively reasonable’ in light of the facts and circumstances confronting him, without regard to his underlying intent or motivation.

What is a reasonable officer? There is no policy or standard operating procedure describing the conduct, thought process, experience, or knowledge of an officer exhibiting reasonableness.

While the CDP defers to the Disciplinary GPO as clarification, it only explains what is unreasonable and the consequences for misconduct. Furthermore, an officer can exhibit unreasonable behavior and continue to engage with citizens, never having their capacity to utilize discretion appropriately questioned.

Proper understanding and application of discretion requires exposure, experience and education. Officers gain exposure through targeted supervision and peer discourse, they develop experience through the daily demands of their job. However, the responsibility of their education rests solely on the Cleveland Division of Police. The community's fear of police has less to do with an individual person holding the title and more to do with the perception there is a blue veil of discretion which cloaks police officers making their actions always just and beyond reproach. Police experts consulted to render decisions in high profile cases typically default to discretion to explain the officer's actions.

Recommendations:

- 1) The CDP will clearly define discretion.
- 2) The CDP will develop a training on discretion in relation to use of force, search and seizure, and discipline for supervisors. The training will include video and written scenario-based components.

Professionalism

In 2017, the survey, "Experiences and Perceptions of the Police in Cleveland: A Report for the Monitor Based on Interviews with Arrested Detainees" was released. The report asked detainees questions related to their experience with the police. It is important to note that detainee, does not mean guilty. Detainees are citizens accused of a crime, have been arrested, and are awaiting their court date. It would stand to reason that many of these individuals might have a negative opinion of policing due to their circumstances, however, the report revealed something quite different. While the participants indicated a less than favorable opinion of how well a job the CDP is doing, 42% reported bad or terrible and 36% were indifferent, the open-ended answers were thoughtful and reflective.

Key Insights:

- Several suspects thought police had intentionally withdrawn from their communities and 'don't care' about what happens there. (p. 14)
- Possibility that some residents expect rough treatment by the police and have become inured to violence in the course of encounters with the police.
"They're not too hard on you. But like one of the cops yesterday, he grabbed me and slammed me, I had my hands up there like [shows position of hands], and he grabbed me

and slammed me, and like I don't know if that's necessary but...I really don't know too much.

- The lack of respect shown to subjects is a critical area of concern. "Respect also appeared to mean a recognition of the racial and social divide between communities inhabited by cops and arrested suspects" (p. 21).
- Respect was a common theme in relation to "officers escalating the situation due to perceived disrespect or aggression."
- In response to the question, "If they were Chief" – "I would try to get people's opinions. I would get research done. I would set up a big meeting where everybody gets to come up and speak about how things are going" (p. 22).

One of the most difficult professions is choosing to serve one's community in the role of police officer. Policing is a vital component of every community. Serving is so much more than enforcement but is a symbol of integrity and trust. Frightened children, those in need, and the vulnerable seek police assistance with a belief the badge worn means one thing: SAFETY. This trust is premised on an agreement with the City and the CDP to implement practices to sufficiently vet potential recruits and most importantly, enforce accountability measures to quickly address misconduct. When one officer can violate the trust of the community and is shielded by the badge, it has a rippling effect through the community, casting doubt on every officer. Doubt transforms to mistrust when the City shifts the blame.

Far more damaging than the willful ignorance of officers faced with their colleagues' misconduct, is the citizens' apathy to such misconduct. Violating citizens is so common that they no longer respond with outrage, but gratitude that they were not severely injured. It is this thought process which may have resulted in the reduction of civilian complaints for police use of force, rather than effective policing. Unfortunately, we will never know, as there was no data collected.

Recommendations:

- 1) The report identified clear recommendations: a) distinguish high and low performing districts, b) clarify the relationship between instant arrest – look at perceptions of police professionalism or satisfaction with the most recent experience, c) understand different appraisals of the police among arrested

suspects vs. community, and d) invite suspects to give more concrete advice to the Department specific to drug policy, use of force and relations with the police.

- 2) This survey should be conducted annually to assess gains, changes or areas of improvements.
- 3) The Chief of Police, Mayor, CPPA, FOP and the Black Shield must develop an inclusion in the Disciplinary GPO for Conduct Unbecoming an Officer. Citizens should not be held hostage by individuals wearing a badge who clearly exhibit ideology and behaviors threatening the safety of civilians and officers. Officers with limited training literally hold the lives of every citizen they encounter in their discretion and professionalism in the moment. When they have shown signs of incompetence or impaired judgment, the Chief, Mayor and Unions should act swiftly in the interest of the community.

Part Three: Enforcing and Strengthening the Consent Decree

City of Cleveland

Collective Bargaining Agreement

The Consent Decree states in Section F, Paragraph 249, “CDP will work with the unions to allow for sustained disciplinary findings to stay in an officer’s record for 10 years.” The problem with this statement is the phrase, “work with,” which is both ambiguous and passive. This paragraph allows for non-compliance, which enabled the CPPA Union to rightly capitalize on the non-descript language. To date, the City compromised on 3 years, which is a failure. Officers and union representatives have argued the fairness of having discipline in a record for 10 years as it might prevent future promotions. However, the Consent Decree did not arbitrarily select 10 years and there is merit to keeping discipline in the record as a means of accountability of the officer’s behavior moving forward and for administration when deciding promotions. It can be argued that regardless of the length of time, discipline should always be evaluated when a promotion is considered.

Recommendation:

The City is the advocate of the community and must not yield on complying with expectations of the Consent Decree. The collective bargaining agreement must comply with the Consent Decree and the City should not enter into a contract that does not reflect a 10-year inclusion of disciplinary records.

Secondary Employment

There has been a significant amount of discussion related to the expectations and risks associated with police officers who accept secondary employment as security. Community members have been adamant in their request that officers be required to wear body-worn cameras, as they are technically serving as police officers, and would not have those specific employment options if they were not. Additionally, these officers utilize CDP equipment paid for by taxpayers, which increases the expectation of accountability to the community. The opposing argument has rested on the time and staffing required to process the footage from the off-duty body worn cameras. The City argued it would be laborious and costly, due to overtime requirements. While this position is economically valid, community members are less concerned with the cost and more invested in ensuring officers working in an official or unofficial capacity, are held to the same standards.

Recommendation:

The City should require all secondary employers to contract directly with the City of Cleveland to ensure there is effective and consistent oversight and conduct expectations whenever officers

are wearing their CDP badge, uniform, and are carrying department issued weapons. The benefits of such a move is tangible:

- Promotes transparency.
- Ensures consistency of police conduct and expectations.
- Increases community trust.
- Establishes a clear line of supervision.
- Increases revenue for the City which could be applied to the cost of overtime or hiring of staff to process body worn camera footage.

Collaborating with the CPC

The City should make a concerted effort to improve relations with the CPC, which includes reducing and where possible, removing barriers negatively impacting the productivity of the CPC. While the City provides oversight of the reform process to the CDP, the City serves in the interest of the people. The City includes not simply the three representatives at the stakeholders' table, but the Mayor and each member of his leadership team, who was appointed to support all citizens. The credibility of the reform process hinges heavily on the commitment from leadership. This point can be made no clearer than having the key stakeholders of the reform process, along with the Mayor, attend a CPC public meeting to present on the current state of progress, future goals and the importance of community engagement. It is one thing to speak about the importance of community involvement, it is another to orchestrate the access points for such opportunities.

1. The Mayor and key City officials should attend one CPC public meeting to discuss the state of the Consent Decree.
2. The City should make a commitment to collaborate with the CPC on three public forums throughout the year, intended to increase the community's understanding of policy changes, evaluations, and continued goals.

City Council (Support for CPC to become chartered or separated from City's oversight)

The CPC and the City have had strained relations which has significantly impacted our ability to fulfill the mandate of the Consent Decree. In the Monitor Team's Annual Report, there are several areas identified as incomplete/has not met regarding the CPC, however, the report does not identify the barriers faced in attempting to address those areas. Time and time again, the CPC has made reasonable requests to the City to complete work and have been met with unreasonable denials or excessively delayed responses, which all but prevents a timely response to court submissions of policies, if any response is provided at all. Year after year, the CPC requests funding from the City of Cleveland, which is later approved by City Council, with the intention of engaging community members and producing thoughtful, data-driven, yet responsive feedback. Unfortunately, at the end of the year, the money is returned because many

of the requests made were denied by the City representatives of the Consent Decree. This is especially important, as the finance department is not evaluating the request based on compliance with city policy, but are instead, sending the requests to the representatives to decide if the requests are allowable.

There is no rationale for denying a reasonable printing request of 10,000 flyers to promote a community meeting, purposed to educate the community about the Crisis Intervention Team Training, as well as, the progress of the Consent Decree. There is no City policy which prohibits the collaboration of the CPC and members of City Council. It is not the responsibility of the City to suggest the number of flyers needed to increase awareness to the community, especially, when the City Council approved the CPC's budget. It should never take 5 months to request a bid for consultant services because the City does not agree with the language of the bid, even though the funds were allocated and support the work of the CPC. Time and time again, the City has chosen to abuse their power and intervene in the work of the CPC, not because there is a

legitimate concern, but because the City has determined the CPC does not need to engage in this area of work.

The work of the CPC must not be held hostage by the City, or it negates any meaningful contribution from the community in the reform process. The purpose of constituting the CPC was to ensure the community had a real seat at the table, not a superficial gesture. We cannot fulfill our mandates with continued interference from the City.

Recommendation:

The City Council must be separate the CPC from the City of Cleveland's oversight, even as it pertains to finances, to ensure the CPC remains a separate entity of the City in thought and actions. This is not an attempt to pursue endeavors beyond the scope of the Consent Decree, but to be uncrippled by the City to pursue endeavors that drives the reform process.

Community

At the community forum co-hosted by SURJ and the CPC, featuring a panel with the ACLU, BLM, PRISM and community activists held on July 17, 2019, a member of the community asked, "How can someone like me, who doesn't have a lot of knowledge about policing or policies, make a difference in this process?" Leaders have done a masterful job of tricking the public into believing they are powerless and ill-equipped to voice valid concerns in this process. They use the word "expert" or try to convince the community only law enforcement experience could offer meaningful solutions. It is time the community, "ordinary" citizens, remind their ELECTED leaders, just how powerful they can be.

This entire process began with citizens voicing their outrage when members of various police departments turned the streets into a shootout, releasing 137 bullets into two mentally ill individuals who were unarmed and posed zero threat. Even though the CDP, the CPPA, and the City sided with the officers, referring to this as a reasonable response, the community knew better and demanded more. Nearly 4 years into the process, the City and the CDP have capitalized on and manipulated the Community's fatigue. The City has an entire staff dedicated to pushing the CDP's agenda and block or significantly delay CPC's access to public records, court filings, budget expenses, and even the hiring of staff to assist the volunteers charged with such an enormous task. Low community participation in CPC meetings are used to support dismissal of the CPC, as they see no consequence to such behavior.

The CPC's ability to fulfill our mandate is 100% reliant on the community. We can go as far as you fuel us. We can pursue the areas you deem most appropriate when you tell us. We can implement meaningful changes into police reform when you empower us. The CPC belongs to the Community. In fact, so does the City and the CDP, as they are public servants FIRST and members of the community regardless of whether they live within city limits or not. It is past time for a reminder.

Appendix

Accountability Report Recommendations

Accountability Forum Questions – May 22, 2019

Accountability Survey and Results

Monitoring Team’s Focus Group Report

Detainee’s Report

2016 Biennial Survey Results

2018 Biennial Survey Results

Disciplinary Notices

Analysis of Police Disciplinary Arbitrations – Working Paper

A Family’s Response (submitted with permission)