CPC Full Commission Meeting
March 30, 2016
Friendly Inn Settlement

Attendees
Commissioners: Mario Clopton, Co-Chair; Rhonda Williams, Co-Chair; Kathy Clegg; Yvonne Conner; Lynn Hampton; Amanda King; Steve Loomis, Dylan Sellers

Staff: Sylvia Perez and Deidra Gill

Absent: Craig Boise, Anthony Body, Lee Fisher

Presenters: Ayesha Hardaway, Monitoring Team CPC Liaison

The meeting was called to order at 5:50pm

Mario Clopton and Rhonda Williams presided.

Co-Chair Report
The Co-Chairs asked Rev. Conner to report on the Mission Statement. Rev. Conner commented that the Mission Statement workgroup met last Monday. They presented to the Consent Decree Stakeholders (i.e. The City, DOJ and the Monitoring Team) the feedback received from the community regarding the current mission statement. They will engage in research on other department mission statements and will discuss the topic at the next town hall on April 13th. Dr. Ellen Burts-Cooper, Improve Consulting, will conduct a presentation on best practices for mission statements at the April 13th town hall. The workgroup anticipates receiving a draft, revised mission statement from the CDP on April 15th.

The OPS is developing a new operations manual. The Commission submitted its recommendations on the manual on March 17th. The Commission expects to hear back from OPS in April. The recommendations included suggestions received directly from current OPS investigators.

On March 7th, the Commission submitted its recommendations for bias-free policing. The workgroup was chaired by Lee Fisher. The feedback collection process including conducting research on best practices, community forums and conversations. The recommendations are available on the CPC website. Recommendations were received from individuals, survey results, police officers, National Association for Civilian Oversight of Police Law Enforcement, and others. The process is an iterative process. The City will give its feedback on the recommendations on April 4th. The CPC will have the opportunity to review and comment on a future draft of the city’s bias-free policies, before they are submitted to the judge for finalization.

The CPC submitted a letter to Chief Williams inquiring about the security and equipment plans for the RNC and the policies regulating the uses of new equipment in the community after the RNC was over. The letter was discussed at the last stakeholder meeting, at which time the Chief confirmed that he had no plans of purchasing military-grade weapons to meet the security requirements of the RNC. The Chief also held a public press conference was asked if he would be willing to hold a public press conference to address community concerns on this topic that he was aware of at that time. The CPC will continue to discuss this issue with the Chief.
Monitor Team Presentation
The Monitoring Team is actively seeking survey responses to the body-cam policy. The survey addresses issues such as: activation, what is recorded, deactivation, data retention, and access to recorded footage. Ayesha Hardaway, member of the Monitoring Team, distributed copies of the survey to the meeting participants. An electronic copy of the survey is also available on the Monitoring Team’s and CPC’s website. The CDP is currently using body cams.

There is also a phone survey being prepared by the Monitoring Team, which will evaluate the community’s views towards police generally. The survey results will serve as a benchmark metric throughout the consent decree implementation process.

Use of Force Policy Recommendations Discussion and Vote
Dr. Clegg led the discussion about the Use of Force Policy by providing a general introduction to the process uses to compile the presented document. She commented on the research sources reviewed to develop the recommendations, as well as the CPC questionnaire, specific Use of Force focus groups (100 Black Men, The Black Shield, CMHA, etc.), as well as information gleaned from the bias-free policing workgroup meetings. Additionally, the CPC received recommendations from named groups that were included as addendums to the recommendations.

The recommendations document includes the CPC’s policy recommendations and general feedback received. Every recommendation notes its source (i.e. PERF, research, or community feedback process). The CPC’s submission will be considered by the CDP when the CDP revises its GPOs.

The Commissioners explained the policy development process established by the Consent Decree and the Monitoring Plan. The CPC’s first set of recommendations are submitted to the CDP for their consideration as they revise their policies. The CDP then shares their first draft back with the community. The CPC and the community will have another chance to comment on the CDP’s draft, before it is finalized and submitted to the Judge as a completed deliverable of the Consent Decree. The process is intentionally designed as an iterative process to ensure that there are multiple opportunities for public comment and engagement in the police reform process.

The Commissioners read the document and raised questions along the way. Discussion points included:
● Adding explicit language to define what a “show of force” means.
● Graham v. Connor is a United States Supreme Court decision that states a police officer is responsible for decisions made with the information available at a specific moment when using force. The CPC recommends that the CDP’s GPO holds a higher standard than is presented in Graham v. Connor, treating the court’s ruling as the floor instead of the ceiling. This recommendation is also in the PERF report and has been adopted by other police departments in other parts of the country.
● Where recommendations are related to something that is already mentioned in a GPO, it is marked as such in the document.
● There are two addenda detailing recommendations for use of force policies applying to youth. These recommendations emphasize the consideration of age and developmental maturity of the youth involved, when developing policies.
● The community can continue to comment on the first draft via the CPC website or by emailing the CPC. Input received as of today and moving forward will be taken into consideration as the CPC comments on future iterations of the CDP’s GPOs.
• A commissioner expressed concern that it was unfair to hold an officer accountable for the diversity of views that could be held by the general public when they have to make split-second decisions to use or not use force. He doesn’t think that judging proportionality is a matter that can be addressed through a GPO; he felt it was better addressed through training. Another commissioner attempted to clarify the recommendation by saying that the police officer is not expected to preference one public perspective; instead the officer is to gage proportionality by asking him or herself how would the general public feel about the severity of one’s response. It was agreed to revise the proportionality standard recommendation to remove reference to “the general public” as it was viewed as too vague.

• PERF was presented as a set of recommendations intended to support 21st century policing with specifying ways in which police departments can prioritize de-escalation techniques over use of force techniques.

• A commissioner commented that police officers are already trained to avoid use of force and that the recommendation to emphasize it in the GPO implies that officers don’t already preference de-escalation techniques when interacting with the community.

• The workgroup commented that the Policy, Procedure and Assessment Committee had a thorough discussion of the CPC’s recommendation to train officers to not “incapacitate” a threat. Sgt. Jones, the FOP representative on the commission, shared with the committee that currently, officers shoot for the largest mass of the human body, not necessarily to kill. If they were trained to shoot elsewhere, it could change behaviors. She expressed comfort with the language used in the draft to train officers “to wound, not simply to incapacitate,” because it would serve as a way to open the discussion to what is a sensitive issue. A commissioner expressed that with this background information in mind, he still felt it was impractical and unreasonable to expect an officer to shoot a specific body party when in a potentially life threatening situation.

• A commissioner questioned who would qualify as independent specially trained personnel when investigating critical police incidents? The workgroup responded that it did not have a specific professional position in mind.

• Training should include tactical, scenario-based training.

• Police Officers should be required to have worked for at least five years and show effective, if not stellar, training in de-escalation tactics before being promoted to a Field Training Officer.

• Communication to and from the dispatcher should be improved

• The CPC’s is recommending that the police should be able to administer Narcan, not just EMS. Community feedback, included in the second section of the report, included a suggestion that Narcan be available to the general public through pharmaceutical platforms (e.g. CVS and Walmart) so that a person could have it available and be talked through how to use it by a dispatch worker if faced with an emergency situation.

• A commissioner shared that the city’s current dispatch system is divided by department and was working to streamline all emergency calls through one EMS system. This would require non-medical dispatch workers to be training in medical emergency response techniques.

• Due to a lack of quorum, the co-chairs will release an e-vote to approve the Use of Force recommendations, with a due date of March 31st

Budget, IT, and Infrastructure Committee Update
Ms. Pérez updated the Commission on the status of the Executive Director Search. She shared that the position announcement was posted to the City of Cleveland website. Applications will be accepted through April 27, 2016. The Budget, IT, and Infrastructure Committee will meet next week to discuss the design of the selection process. She referenced a handout of questions about the selection process, provided to the Commissioners, and requested their comment and feedback. All received comments
will be taken into consideration when designing the selection process. The Budget, It, and Infrastructure Committee will provide a summary of the proposed selection process to the Commissioners, over the next few weeks.

Inspector General Job Description Recommendations Discussion and Vote
Dr. Williams presented the draft CPC recommendations for the Inspector General Job Description. Highlighted in her presentation or in the concurrent discussion included the following comments:

● The workgroup is seeking to manage for potential conflict of interest by requiring that a candidate not be related to a police officer employed in the state of OH.
● Bilingualism is presented as a strongly preferred criteria.
● “Good Standing” status with Ohio State Bar is presented as a preferred but not required characteristic.
● A commissioner raised the concern that using a minimum year requirement could unfairly exclude young people from qualifying for the positions. It was clarified that the years of experience recommended in the document were drawn from research and that the recommended four years of prior experience is viewed as a low minimum for such a senior position.

Schedule and Planning for Mandates
Mr. Clopton reviewed a proposed meeting schedule that aligns with the police deliverable deadlines outlined in the Monitoring Plan and the Consent Decree. The proposed schedule also allows for an iterative process between the CPC and the community and within the CPC. The Commission was receptive to the proposal. Mr. Clopton will share his proposal electronically and follow up with City to confirm venues for any changed meeting dates.

Mr. Clopton also asked the commissioners who have not yet responded with their availability for a CPC retreat to respond as soon as possible.

Other Business
There was a motion to revise the CPC bylaws to redefine quorum for conducting business. The motion was seconded. A vote on the motion will be included in an e-vote.

Approval of Meeting Minutes
Due to a lack of quorum, an e-vote will be circulated to approve the minutes from the following meetings: Jan 27, 2016, Feb. 20, 2016, and Feb. 24, 2016.

Public Comment
The Co-chairs reviewed the ground rules for the public comment section of the meeting and then invited meeting participants to the floor. Mr. Clopton reminded that public that these ground rules were in place to create and preserve a safe and constructive place to dialogue about complicated and sensitive issues. Comments shared included:

● On behalf of the Committee for Social Justice, a member of the public expressed concerns relative to the issue of arbitration and how it led to consistent overruling of Mayor Jackson’s decision to fire police officers. If all six of the officers that were fired in response to their involvement in the car chase and shooting of Malissa Williams and Timothy Russell are readmitted to the Cleveland Police Department, it will undermine the reform process and put the public at risk of being exposed to these officers. Also with regard to the police, it may embolden the more violent police officers in the department who feel they have the impunity to use excessive use of force particularly of black
people. The Committee for Social Justice proposes that any officer that fires and kills an unarmed citizen should be fired and not subject to a process of arbitration.

- Concern was expressed that (1) the Commission was designed to represent the community and each committee member is taken from a sector. The speaker would like to have access to them and see how they are voting; (2) the Commission’s challenge in establishing quorum at its meeting undermines the integrity of the commission and its ability to claim representation of the general public.

- Concern was expressed about the “proportionality” aspect of the Use of Force recommendations, because of the growing tendency in the general public to address conflict through an “us vs. them” lens. The speaker expressed that this lens is becoming more vicious, and asked what if it works the other way -- that is, “people who support the police think it is okay for me to be murdered. Please do not in my opinion pass the hot potato and just not be forceful enough to put out a set of rules that they [the police] should go by.”

- A member of SURJ complimented the Commission on its work to date and read a prepared statement that introduced SURJ and its mission.

- In response to a request for clarification, the Commission explained that it provides recommendations on both legislative policies and internal policies (e.g. GPOs, manuals). The Commenter recommended that the Commission delineate that in its presentations of its recommendations, because internal policies, unlike legislative policies, are not limited by constitutional law.

- Mr. Loomis was asked to explain his comment about “pro and against police” perspectives influencing an officer’s gage of proportionality. Mr. Loomis shared that he did not mean to imply that different neighborhoods would view police differently. His comment meant to call into question what part of Cleveland’s diverse community is a police officer supposed to consider when gaging proportionality in a critical moment. He feels that it is unfair to expect a police officer to consider all of Cleveland’s diverse perspectives when making a split-second decision.

- A community member shared an example of police training that used community members from specific groups to train police officers on how to engage each group. There should be some acculturation, so police officers don’t go in and insult people. There seems to be too many of those split-second situations coming up. Police should see people as people, instead of people trying to do harm to the officers. He also shared his support of the Commission’s recommendation to preference de-escalation techniques and suggested that the police department take leadership styles of different genders into consideration when designing de-escalation techniques.

- A community member asked if the Commission will discuss both sides of the problem: the police side of the problem and the community side of the problem. Will the Commission invest resources in addressing bias in the community that contribute to the relationship between the police and the community? The commenter was asked to further clarify his questions, to which he responded by saying that the resources should be invested in the community issues (e.g. education, economic opportunity, etc.) that contribute to the city’s police reform challenges. The Commission agreed that addressing the macro issue affecting the community were of significance and that they, along with local community organizations, could work on this issue.
A community member asked how an arbitrator can overrule the Mayor’s decision to terminate a police officer in response to his or her inappropriate use of violence. Mr. Loomis was asked to respond. He commented that the police department has an internal process to review the actions of officers that is based on an interpretation of “just causes.” The Police Union and the City’s law department present their facts to a jointly selected arbitrator, who then reviews evidence and testimony before making a decision. The arbitrators selected for these assignments are mostly retired judges, attorneys, and law professors. In the specific case of Sgt. Donegan, the arbitrator’s decision was appealed to multiple levels of state court, all of which sided with the Union on his case.

A community member asked who controls how recommendations are implemented. The final arbitrator of the consent decree is Judge Oliver (a federal judge). The Judge reviews all final proposals and determines whether or not they meet the mandate of the Consent Decree. The Monitoring Team represents the judge on the ground and has attended a majority of the CPC’s meeting. The CPC commented that the Commission is only one of many vehicles for community engagement in the police reform process, so there are many actors listening to community feedback. The CPC, while mandated to collect community feedback, does not have implementation power. It is an advisory body. For that reason, the public has to stay engaged in traditional forms of community engagement.

A community member asked how many meetings the federal judge has attended.

A community member asked if a judge was involved in the last Consent Decree and if there are copies of the recommendations from that time.

The CPC clarified that the 2002 Memorandum of Understanding between the DOJ and the City of Cleveland was not a Consent Decree and thus did not involve a judge.

A community member commented that the use of arbitrators to resolve conflict between individuals and organizations, instead of the public judicial system has been a growing trend over the last 30 years. This is because arbitrators are selected for the bias that they bring to the resolution process, which is what results in the reversal of decisions such as those of the Mayor when firing a police officer.

The meeting adjourned at 8:20pm.