

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,	)
vs.	) JUDGE SOLOMON OLIVER, JR.
	)
CITY OF CLEVELAND,	)
	) <u>CITY OF CLEVELAND'S</u>
Defendant.	) <u>FIFTH STATUS REPORT</u>

**I. Introduction**

Paragraph 387 of the Settlement Agreement/Consent Decree directs that “the City will file a status report every six months thereafter while this Agreement is in effect.” The City of Cleveland (“City”) files its fifth semi-annual status report to provide the Court with a review of the challenges and accomplishments addressed in the six months following the City of Cleveland’s Fourth Status Report (Dkt. 144).<sup>1</sup>

**A. Updated Second Year Monitoring Plan**

The initial “Second Year Monitoring Plan” (Dkt. 120, 123) was updated by way of a Memorandum filed in August (Dkt. 147) (“Plan”) to reflect the status of the efforts being undertaken to meet the many goals associated with the Consent Decree. The City’s

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<sup>1</sup> Section 387 provides:

This report will delineate the steps taken by CDP during the reporting period to comply with this Agreement; CDP’s Assessment of the Status of its progress; plans to correct any problems; and response to concerns raised in the Monitor’s previous semi-annual report.

report addresses the continuing efforts and progress in relation to the Plan that has been made in the past seven months.

**B. Monitor's Summary Assessments**

The Monitor's Fourth Semiannual Report makes clear that the various reforms contemplated in the Consent Decree cannot be simultaneously accomplished in all areas at once. As was initiated in the Monitor's Third Semiannual Report, the recently released Fourth Semiannual Report again conveys through the use of "summary assessments" the Monitor's (1) evaluation of active, ongoing efforts in relation to the requirements of the Consent decree and (2) where evaluation has been deferred as the result of project management decisions. In this regard the Monitor's most recent report has continued the use of shorthand assessment signifiers: "Non-Compliance," "Evaluation Deferred," "Partial Compliance," "Operational Compliance," and "General Compliance" in relation to specific terms of the Consent Decree.

While the Monitor, Department of Justice ("DOJ") and the City do not always agree on the status of compliance summarily assessed in the Monitor's Fourth Semiannual Report, the City continues to work in a cooperative spirit with both the Monitor and DOJ, and remains focused on the goal of achieving substantial and effective compliance with the reforms agreed to in the Consent Decree. It is of note in contemplating progress toward such goal that the Monitor's most recent report reflects improvement through upgraded compliance measures in fifty-three (53) separate areas where "generalized conclusions about the status of compliance" have been addressed.

Moreover, the Monitor's most recent report reflects seventy-two (72) fewer "non-compliance" summary assessments than were contained in the prior semiannual report.<sup>2</sup>

**II. Steps Taken by the Cleveland Division of Police and the City of Cleveland During the Reporting Period.**

As with the City's previous reports, the activities and milestone events addressed during this reporting period are addressed in the following order:

- A. Community and Problem-Oriented Policing,
- B. Use of Force,
- C. Crisis Intervention,
- D. Officer Training,
- E. Accountability
- F. Equipment and Resources,
- G. Data Collection and Analysis,
- H. Bias Free Policing, and
- I. Compliance and Outcome Assessments and Reporting.

**A. Community and Problem-Oriented Policing**

**1. Community and Problem-Oriented Policing Work Plan**

Commander Johnny Johnson heads CDP's Bureau of Community Policing ("BCP"). The Consent Decree provides that CDP is to develop and implement a comprehensive and integrated community and problem-oriented policing ("CPOP") model that will promote and strengthen partnerships within the community, ensure collaborative problem solving, and increase confidence in the CDP. (Dkt. 7-1, Sec. 27).

As was addressed in the City's Fourth Status Report, the CDP worked directly with the Monitor, the DOJ, CPC, and other stakeholders in the first half of 2017 to gain

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<sup>2</sup> This figure would also include assessments formerly categorized as "non-compliant" and now categorized as "evaluation deferred." This assessment category addresses those areas where attention "has been intentionally and affirmatively deferred in order to work on other, necessary prerequisites." (Dkt. 179, p.6).

input directly from community members concerning what they would like to see in the CPOP Plan. The Monitor commended the CDP “for its strong commitment to this outreach effort” during this period. (Dkt 179, p. 17).

CDP is presently finalizing a proposed CPOP Plan. Using the Court approved framework, the CDP believes it is on track to reach an agreed upon CPOP Plan in the second half of the year that fully takes into account the feedback and values of the communities being served. Commander Johnson and CDP’s District Commanders have further worked with the Monitor, the DOJ, the City’s Community Relations Board, and the CPC to address and encourage greater participation by community residents with the five District Policing Committees (“DPC’s”), (formerly known as “Community Relations Committees”) in the Consent Decree. (Dkt. 7-1, see generally ¶¶ 23-26). The

## **2. Cleveland Police Commission**

As noted in the City’s last Status Report, Dr. Rhonda Williams left the CPC at the end of last May. Dr. Rhonda’s vacant position on the Commission was filled pursuant to the application process outlined in paragraph 16 of the Consent Decree. After completing the application and its interview process the Selection Panel selected Richard Knoth to fill the vacant commissioner position. Rev. Dr. V. Yvonne Conner and Ms. LaToya Logan continue to serve as the Commission co-chairs.

During this reporting period the CPC completed filling its five full-time staff positions and has moved into its new permanent staff office location at 3631 Perkins Avenue in Cleveland. The CPC staff includes Executive Director Jason Goodrick, Community Engagement Coordinators Chinenye Nkemere Thompson and Vrére Bunkley, Assistant Administrator Rosie Jovic, and Senior Policy Analyst Bethany Studenic. The

**B. Use of Force —Policies**

**1. Use of Force**

In its prior Status Report, the City identified having received approval for CDP's new Use of Force policies. The Court approved policies included (1) Use of Force - General, (2) Use of Force-Definitions, (3) De-Escalation (4) Use of Force-Intermediate Weapons, and (5) Use of Force-Reporting. Training on these policies is addressed below in Section II(D). Following training the policies became effective on January 1, 2018.

**2. Investigation and Review**

Policies relating to the investigation and review of an officer's use of force are related directly to the level and outcome of the force used. Policies that will govern investigations for each of the three levels of force, the creation of a Force Investigation Team ("FIT"), and a separate policy relating to the creation of a Force Review Board ("FRB") have not been finalized and remain subject to ongoing discussions with the Monitoring team and the DOJ. The Monitor's comments in the Fourth Semiannual Report are instructive:

Over the course of the current reporting period, CDP has worked diligently with DOJ and the Monitoring Team to develop the required policies and procedural manuals. Nevertheless, these policies and manuals continue to be the subject of discussion and revision. This process has taken longer than any stakeholder originally contemplated or desired. The Monitoring Team would be substantially more concerned about the timelines on these important set of interrelated policies if it did not appear, as it does, that the Division and City are proceeding in good faith to work through some challenging issues and meaningfully overhaul existing structures, systems, and processes to ensure compliance with the Consent Decree. As the Monitoring Team has previously indicated, taking more time to get things right the first time may ultimately mean that more time is expended upfront so that less time can be expended on the back end to realize fully the outcomes that the Consent Decree requires.

(Dkt. 179, p. 35). The City believes that consensus between the Parties is close, and that

recommended approval by the Monitor in these areas will be achieved in the very near future.

### **3. Canine Policy**

On October 30, 2017 the Monitor filed a motion requesting the Court approve the CDP's new General Police Order ("GPO") addressing the use of Canines. (Dkt. 159). The language of the new GPO makes clear that the primary use of CDP's canines is to mitigate risk and remains related to search and detection functions:

It is the policy of the Division to use canine teams to mitigate risk and effect efficient police operations in the detection, prevention of crime, and service to the community. The canine teams are very effective resources and should be considered when searching for items, people, illegal drugs or other evidence detection.

The policy makes clear that any apprehension of a suspect that involves a canine bite will be reported and investigated as a Level III Use of Force.

### **C. Crisis Intervention Team ("CIT")**

On August 11, 2017 the Monitor submitted a memorandum to the Court recommending approval of the CDP's Specialized Crisis Intervention Plan and the Division's process for designating and selecting CIT officers ("Selection Process"). (Dkt. 146). The Consent Decree specified that CDP was to establish a Specialized Crisis Intervention Plan, with the expressed goal of ensuring "that a specialized CIT officer is available to respond to all calls and incidents that appear to involve an individual in crisis." (Dkt. 7-1, ¶ 152). A review of calls for service received citywide in 2016 established that calls involving crisis intervention issues approximated three percent (3%) of all calls.

CDP's Specialized Crisis Intervention Plan conforms to the requirements outlined

in the Consent Decree by addressing five specific areas:

1. An assessment of the number of Officers necessary to ensure coverage of all calls for an individual in crisis across all shifts and all Districts.
2. A description of the procedures for identification of any gaps in coverage.
3. The mechanisms that the Division will use to fill gaps in coverage.
4. An analysis of barriers to full coverage and possible steps to overcome these barriers.
5. A list of ways to identify officers who are appropriate to be assessed for suitability to be specialized CIT officers.

The plan presently envisions a minimum of 148 specialized CIT officers being trained as specialized CIT officers to address city-wide coverage of calls involving the need for crisis intervention. Monthly reports will allow for ongoing assessment by CDP as to the effectiveness of coverage and the need for adjustments to the required number as the plan is implemented.

The Selection Process for choosing police officers as specialized CIT officers has been crafted to ensure that volunteers who are committed to the CIT concept and its principles will be selected as specialized CIT officers. The selection process involves (1) an officer volunteering and requesting to participate in the program, (2) review of the applicant officer's personnel file, and (3) a selection board interview to assess character and suitability for the position. Each selected officer will receive 40 hours of specialized CIT training. The required 40 hour CIT training curriculum for selected officers is not yet finalized and remains under development.

**D. Officer Training and Recruitment**

**1. Use of Force**

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). Before the new use of force policies that were approved by the Court could be implemented it was necessary that all active patrol and supervisory officers be thoroughly trained on them to ensure that officers had a thorough knowledge and understanding of the changes going forward. There were a total of 1,431 officers who would need to be trained on the new policies. A total of 1,364 active officers and supervisors were trained on the new use of force policies by the end of 2017. Of the 67 officers yet to be trained, sixty two (62) members were unavailable for training because of their status, to include extended illness, restricted duty, impending retirement, and extended military leave. Before being returned to full active status officers in such status will receive the use of force training. Five active officers scheduled for training did not complete the training.

The Monitor’s Fourth Semiannual Report provides a cogent overview and detailed observations concerning the two days (sixteen (16) hours) of training that was provided to CDP’s officers on the new policies. (Dkt 179, pp. 27-31). Significant topics covered in the two days of training included: De-escalation, Contact and Cover, Subject Control and Handcuffing, Intermediate Weapons, Decision-making Scenarios, Threat Assessment, and Officer Performance Assessments. The high quality of CDP’s Use of Force training was well recognized by the Monitor Team in its most recent report:

All said, the CDP’s sustained and focused efforts to design and implement the 2017 Use of Force Training program has yielded substantial results. From the development of the curriculum to the logistics of providing high-quality training to so many officers, the 2017 Use of Force Training was no small task. The Monitoring Team applauds the Division’s Training Unit for their hard work and dedication – and commends CDP for designing, implementing, and completing a critical element of reform.

(Dkt 179, p. 31).



## **2. Crisis Intervention**

The Consent Decree requires that all officers be given at least eight hours of initial and annual in-service training on responding to individuals in crisis. The training is to be “adequate in quality, quantity, type, and scope, and will include the circumstances in which a specialized CIT officer should be dispatched or consulted and how situations involving individuals in crisis should be addressed if a specialized CIT officer is not immediately available.” (Dkt. 7-1, ¶ 143).

The Eight-Hour Curriculum developed by the CDP and the Mental Health Response Advisory Committee Advisory Committee was reviewed with the Monitor and DOJ and submitted by the Monitor for approval of the Court on May 22, 2017. (Dkt 129). The Monitor, in recommending approval by the Court, described the curriculum as “some of the strongest and best training on basic crisis intervention issues that the Monitoring Team’s experts have seen across the country.” (Dkt. 129).

The general goals of the eight hour training included providing officers with (1) a better appreciation and understanding of behavioral disturbances that may be associated with severe mental illness, (2) improved communication and active listening skills, (3) an understanding of the advantages of verbal de-escalation in resolving crisis situations, (4) an understanding of CDP’s Crisis Intervention Team response and individual officer responsibilities in dealing with individuals in crisis, and (5) an overall understanding of CDP’s Crisis Intervention Team program and the goals and policies associated with the program.

The eight hours of crisis intervention training was provided to officers within a dedicated three-day block of instruction that also included the sixteen hours of training

required by the adopted use of force policies that took effect at the beginning of the year. As with the use of force training, those officers on extended sick leave, extended military training, and restricted duty will receive the training before being returned to active duty status.

### **3. Recruitment**

As noted in prior reports, the Consent Decree requires that CDP “develop a recruitment policy and a strategic recruitment plan that includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross-section of the community.” (Dkt. 7-1, ¶ 302). The Monitor noted “Evaluation Deferred” in the summary analysis relating to compliance with paragraph 302. (Dkt. 179, p. 95). The City continues to work in a cooperative manner with the Monitor Team and the DOJ and anticipates reaching an agreed upon “fully-formed recruitment plan” in early 2018. (Dkt. 179, p. 96).

While work on crafting a final formal recruiting policy remained ongoing in the second-half of 2017, the City’s recruiting team continued to engage with the Greater Cleveland community to highlight the positive aspects of public service and career in the Division of Police. The ongoing outreach to the community is broad-based and includes the sophisticated utilization of radio, billboards, and social media, along with direct personal contacts with members of the City’s diverse communities.

The City’s recruiting team regularly attends local and regional job fairs and interacts with veteran affairs’ organizations, high schools, colleges, universities, and other public events. Several examples of events attended by recruiters in the past several months include an FBI/Law Enforcement Regional Recruitment Event, Case Western

Reserve University's Career Fair, Cleveland State University's Safety Fair, and a College and Job Fair conducted at Garret Morgan High School. One example of a creative direct youth based recruiting effort involved Public Safety personnel, Cleveland Browns players and 40 juniors and seniors from area high schools sharing a meal together in October. This event provided students with a positive opportunity to voice their experiences and feelings about the City's Safety forces. A broader community outreach effort involved the recruiting team's OIC, Sgt. Charmin Leon, being interviewed in November on Channel 43 to discuss opportunities with the CDP.

In whatever form the efforts are undertaken, the goal of the City's recruiting efforts remains to attract and hire a diverse number of qualified individuals for public service careers in the Division of Police.

#### **4. Hiring**

The city has announced a goal of 250 new officers entering the CDP's ranks in 2018. Police Academy Class No. 138 was commenced in June, 2017 and anticipates graduating 43 new officers in March, 2018. The new officers will have completed eight weeks of local training in Cleveland following six months of training at the Ohio State Highway Patrol Training Academy. It is further anticipated that Police Academy Class No. 139 will graduate several officers who were accepted as lateral transfers to CDP from other law enforcement agencies. Lateral transfer officers complete a ten week training course at the City's Police Academy before becoming CDP officers. Police Academy Class No. 140 recently started at the Cleveland Police Academy with 69 individuals presently undergoing cadet training. Future Police Academy Class No. 141 with an

anticipated enrollment of 70 recruits will begin training at the Tri-C Police Academy in March. Recruitment activities and testing for future classes remains ongoing.

**E. Accountability**

The City agrees with the requirements of Paragraph 176 of the Consent decree which provides the City will:

[E]nsure that all allegations of officer misconduct, whether internally discovered or alleged by a civilian, are fully, fairly, and efficiently investigated; that all investigative findings are supported by a preponderance of the evidence and documented in writing; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair, consistent, and provides due process. (Dkt 7-1, ¶ 176).

The City and CDP continues to work with the Monitor, DOJ, stakeholders, and its officers to ensure it meets such standard.

The Monitor in addressing the imposition of discipline commented in the most recent report:

Because it decided to focus on creating Internal Affairs policies and addressing major OPS deficiencies over the current reporting period, the Monitoring Team has deferred a systemic evaluation of the imposition of discipline and the quality and rationale for findings until next year. Although the Monitoring Team has observed some disciplinary decisions that do not appear to appropriately hold officers to account, it has also seen the appropriate imposition of discipline in some serious cases. A comprehensive evaluation of the imposition of discipline will be conducted upon the implementation of the new disciplinary matrix. The Monitoring Team hopes that the new Disciplinary Matrix will give CDP the tools it needs to ensure fair and accountable discipline in the long-term. This evaluation will also examine the extent to which CDP command staff explains its rationale for disciplinary decisions to its officers and the PRB.<sup>3</sup>

(Dkt. 179, p. 80) (Emphasis added). The observation is representative of ongoing

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<sup>3</sup> The creation and use of a disciplinary matrix by CDP has been in effect for several years and predates the Consent Decree. CDP's experience with the matrix well informed the negotiations and ultimate approval of the language in the policy establishing the current matrix as it became effective on January 1, 2018.

discussions between the Monitor, CDP, and the City concerning discipline.

The City cannot accept the Monitor's broad unsubstantiated characterizations at pages 51-52 of the Fourth Semiannual report wherein the Monitor states that "the accountability system does not seem to be working for anyone." The characterization by the Monitor that follows is incorrect:

The accountability system is not working for the men and women of the Division of Police who at least believe that discipline is arbitrarily imposed through a system, from the start of an investigation to the hearing of a case on grievance to an arbitrator, that is a game of chance that can be swayed only by "who you know" rather than the propriety of performance under scrutiny.

(Dkt. 179, pp51-52). This statement is contrary to the above-quoted and more accurate assessment of compliance to date with the Consent Decree's requirements regarding discipline. It leaves an improper impression and is not supported by fact. Officers are provided due process and investigations undertaken by CDP's Internal Affairs officers are not predicated in chance, but based on the discovery and review of relevant evidence. Discipline that is ultimately imposed through either the Chief of Police or the Director of Public Safety is not predicated on "who you know." However anecdotal, the Monitor's characterization on this issue is incorrect, unfair, and not acceptable. The City and CDP continue to work to meet and exceed the requirements relating to discipline in the Consent Decree and continue to maintain a well-established, cooperative, and professional working relationship with the Monitor Team.

#### **1. Internal Affairs**

Historically the head of Internal Affairs has been a police officer who serves as the Commander of CDP's Bureau of Integrity Control. The Consent decree provides going forward that "Internal Affairs will be headed by a qualified civilian who is not a

current or former employee of CDP, and who is not a current or retired law enforcement officer.” (Dkt. 7-1, ¶ 178). Because of difficulties in finding a qualified candidate, the City made a request to the Monitor and DOJ that the pool of potential candidates be expanded to allow retired former prosecutors, federal investigators and former officers from police departments other than CDP to be considered for the position. This change was agreed and a joint motion was formally filed requesting that the terms of paragraph 178 be so amended. The Court entered an order granting the requested amendment and the City anticipates finalizing the hiring of a civilian Internal Affairs Superintendent in the immediate future.

## **2. Office of Professional Standards**

### **a. OPS Investigation Backlog**

On December 15, 2017 the City filed a “Memorandum Outlining the Plan to Address Completion of Investigations by the Office of Professional Standards in 2018.” (Dkt. 169). The filing of the memorandum followed a hearing with the Court on November 21, 2017 that addressed the lack of substantive progress by OPS in reducing a substantial backlog of unfinished investigations of complaints filed with OPS during the 2015-2017 time period. At the time of the hearing OPS had identified there were 378 such investigations that were unfinished.

The City plan submitted to the Court on December 15, 2017 that contained three primary goals to be achieved:

- (1) OPS would remain timely in completing the investigation of complaints received by it on and after December 1, 2017;
- (2) OPS would remain in compliance with the investigative processes and reporting requirements established in the OPS Operations Manual; and

(3) Completion of the identified backlog of unfinished OPS investigations associated with public complaints received in 2015, 2016, and 2017.

(Dkt. 169, p. 2). The plan incorporates the use of current OPS investigators to remain timely in completing the investigations of complaints received after December 1, 2017 going forward while contracting with outside investigation resources to complete the existing backlog of unfinished 2015-2017 investigations. The plan provides that until the outside investigation resources are retained and capable of addressing the backlog of investigations that OPS's existing investigators would continue to work to reduce the 2015-2017 backlog, while ensuring that claims received in 2018 be kept current and timely completed. All investigations are to be accomplished in compliance with the OPS Operations manual.

In seeking to identify an appropriate outside investigation resource to address the backlog of investigations the City released a "Request for Qualifications" ("RFQ") through which the City invited the submission of qualifications from professional investigation organizations. The time frame established for completing the backlog of unfinished 2015-2017 investigations was twelve (12) months. The City is in the process of completing the necessary processes involved in identifying a final outside investigation organization meeting the criteria established in the RFQ and anticipates identifying the outside vendor in very short order.

**b. OPS Administration**

While the second half of 2017 presented challenges for OPS in addressing the backlog of unfinished investigations, OPS continued to address other issues that needed resolution in its efforts to meet the terms of the Consent Decree.

OPS is currently conducting a nationwide search for an OPS Administrator who has the requisite skills, expertise, and experience to effectively manage the intake,

tracking, and objective complaints, while also identifying and implementing appropriate training for OPS investigators and members of the Cleveland Police Review Board.

Assistant Safety Director Laura Palinkas is managing the daily operations of OPS during the search period. In addition to searching for a new Administrator, the OPS budget for 2018 provides funding for a new senior investigator position, two additional full-time investigators, and a community engagement coordinator. The daily duties of Assistant Director Palinkas in managing OPS will be reduced as the new Administrator and the new Senior Investigator become fully integrated into the OPS management structure and can assume effective supervisory oversight. The community engagement coordinator will assist in the Community Awareness Plan undertaken by OPS in promoting throughout the Cleveland community a better awareness of OPS and understanding of the process for filing complaints. OPS has distributed to each police district signs and pamphlets in English and Spanish that describe the OPS mission and authority, how to file a complaint, and the complaint process.<sup>4</sup>

As required in the Consent Decree OPS has committed to ensuring OPS investigators receive continuing training on a broad range of relevant matters. Training has been accomplished using expertise provided by the Monitor team, CDP, and outside sources. Investigators received training during the course of the past year on a variety of topics to include: investigations of complaints, Information Technology (“IT”) , Crisis Intervention and CDP’s CIT policy, the First and Fourth Amendments to the Constitution,

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<sup>4</sup> OPS maintains a website at [http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/PublicSafety/OPS\\_PoliceReview](http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/PublicSafety/OPS_PoliceReview) providing information in both Spanish and English.



CDP's new Use of Force policies, and use of wearable camera systems,<sup>5</sup> In January, 2018 the OPS investigators received sixteen hours of additional investigative training at Tri-C, specifically addressing such training within the established requirements of the OPS Operations Manual that was adopted in 2017.

### **3. Civilian Police Review Board**

The City Charter was amended in November 2016 to increase the size of the Civilian Police Review Board ("PRB") from six to nine members. Five members are appointed by the Mayor and four by City Council, with each of the City's five police districts being represented by at least one member. A new PRB manual was adopted in the first half of 2017. In compliance with the Consent Decree, PRB meetings are open to the public with case presentations to the PRB by OPS taking place in open session.

A focus remains on providing PRB members with ongoing training that is adequate in quality, quantity, scope and type for their role reviewing recommendations made by OPS subsequent to the investigations of citizen complaints that have been made against members of CDP. Recent topics of training have included CDP's new use of force policies, body worn cameras and how they can be utilized by OPS investigators, and the First and Fourth Amendments to the Constitution.

## **F. Equipment and Resources**

### **1. Equipment and Resources Plan**

As was addressed in the City's Fourth Status Report, the Monitor and CDP continue to address the development of "an effective, comprehensive Equipment and

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<sup>5</sup> All OPS investigators were equipped in the second half of 2017 with body worn cameras to assist them in off premise interviews and investigations.

Resource Plan that is consistent with its mission and that will allow it to satisfy the requirements of this Agreement.” (Dkt. 7-1, Section 292). Ongoing discussions with the Monitor and DOJ concerning the City’s Plan will continue over the course of the next reporting period. While a formal Equipment and Resource Plan has yet to be approved by the Monitor, the City continues to make considerable progress toward the implementation of a substantive Equipment Plan that it believes will allow CDP to satisfy the Consent Decree requirements. The City regularly addresses progress with the Monitor on identified tasks, issues, and achievements.

Significant accomplishments in providing officers with equipment need to perform their jobs effectively and efficiently include:

- CDP has completed an assessment of the zone car fleet and graded vehicles as to their condition – poor, fair, or good. A priority during the most recent reporting period was equipping thirty five vehicles that had been identified as fair or good but were lacking mobile data terminals (“MDT”) with such terminals.<sup>6</sup>
- CDP has established a Vehicle Car Plan which will provide for the scheduled purchase of 65 new vehicles each year for the next five years.
- Technological upgrades have been accomplished for the Computer Aided Dispatch (“CAD”) system that will allow the dispatch of calls to officers through silent transmission via vehicle MDT’s instead of through radio

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<sup>6</sup> MDT’s ensure that the vehicles are compatible with officer field based reporting body worn cameras, Blue Team, email, and other technological applications.

communication over the airwaves. The silent dispatching allowed by the CAD upgrades is scheduled to go live in the first quarter of 2018.

- CDP's Learning Management System ("LMS") has been established and went live on January 22, 2018. Training for officers is ongoing. LMS allows for remote training and ensures centralized management of training accomplished by officers. The LMS will allow for the transmission of Divisional Notices and General Police orders to individual officers via LMS which officers will have access to through a dedicated web address.
- Upgrades to CDP's Law Enforcement Management System ("LERMS") have been accomplished. The upgrades have allowed officers to utilize Field Based Reporting ("FBR") from remote locations through vehicle MDT's. FBR allows for data and reports to be entered directly into the system without the need for transcription of handwritten reports. In addition to the use of MDT's, district headquarters have been provided with PC's that are dedicated for use by officers. It is of note that during January 3,723 FBR's were entered by Patrol Officers.
- In addition to PC's provided for use by patrol officers in the districts, the City replaced 159 PC's throughout the Division. The current PC refresh schedule will result in the replacement of an additional 219 computers throughout the Division in 2018.

## **2. Body Worn Cameras**

As previously noted the CDP's Body Worn Camera (Wearable camera System) Policy has been approved by the Court in large part (Dkt. 101, Order). The issue of

whether officers should be required to wear the cameras they have been issued while engaged in secondary employment has not been resolved. The City's policy as drafted encourages officers to use the cameras while engaged in secondary employment but does not mandate that cameras be worn at that time. The issue was addressed with the Court at the January 24, 2018 Status Conference. CDP continues to further evaluate the issues presented with the use of body worn cameras by officers while engaged in secondary employment.

**G. Data Collection and Analysis**

During the past six months, the Cleveland Division of Police (CDP) has made a number of advancements in the area of data collection and analysis specifically in hiring, training and data analyses. In September 2017, CDP hired a full-time Data Analysis and Collection Coordinator, Rania Issa, Ph.D. CDP continues to benefit from working with Case Western Reserve University Begun Center Director Daniel Flannery, Ph.D. and his research team. CDP staff trainers have provided Dr. Issa and the Case research team with training in IAPro and Blueteam (software packages utilized for the collection of data). In addition, CDP staff trainers and the Data Analysis and Collection Coordinator attended the annual IAPro Users' Conference.

In January 2018, the Data Analysis and Collection Coordinator with the help of the Case research team completed and submitted the first End of Year Use of Force Report to the monitoring team. Beginning in October 2017, use of force COMPSTAT meetings have been held on a monthly basis with members of the CDP and the monitoring team in attendance. COMPSTAT meetings continue to provide important dialogue between CDP and members of the monitoring team on ways to reduce the time it

takes to complete use of force investigations. In turn, CDP is working on scheduling a meeting with supervisors, trainers and the Data Analysis and Collection Coordinator for utilizing use of force data to reduce the time it takes to complete use of force investigations. Moving forward, CDP strives to continue collecting and analyzing data for an enhanced understanding of not only trends but also context.

#### **H. Bias Free Policing**

Paragraph 35 of the Consent Decree establishes that CDP is to “deliver police services with the goal of ensuring that they are equitable, respectful, and free of unlawful bias, in a manner that promotes broad community engagement and confidence in CDP.” (Dkt. 7-1 at ¶ 35). On February 2, 2018 the Monitor filed a motion recommending the Court approve the bias-free policy that was submitted for approval by CDP. The proposed policy incorporated as appropriate recommendations received from the CPC and was informed by public input received at public meetings on the topic.

The Monitor recommended Court approval after careful review and determination that the policy “provides sufficiently clear guidelines around, among other things: (1) the Division’s expectations for its members around bias-free policing; (2) the principles of procedural justice in police-civilian interactions; and (3) protocols to report bias-based policing.” (Dkt. 186, p. 1). While further attention and work on the required training curriculum remains ongoing, it is anticipated that the required initial training of officers on the new policy will be completed in 2018.

#### **I. Compliance and Outcome Assessments and Reporting**

In January CDP issued its first annual use of force report. This first annual use of

force report provides comprehensive use of force data and highlights the progress made by CDP. Findings in the report are intended to follow the approved data collection and analysis protocol for all use of force data categories as set forth in the paragraph 259 of the Consent Decree. This initial and succeeding reports will contribute to an improved understanding of Cleveland's use of force cases, and will contribute to providing the Monitoring Team with use of force information required by the Consent Decree. CDP understands this is only the initial report and much more information, time and effort will be expended going forward to gain a continuing and improved understanding of use of force.

### **III. Assessment of the Status of Cleveland Division of Police's Progress**

As addressed above, it is clear that the City has made significant and sustainable progress toward meeting the reforms agreed to in the Consent Decree. This is further evidenced by the substantive improvements in the Monitor's summary assessments of applicable Consent Decree provisions. The completion of training for officers in two of the most important areas addressed in the Consent Decree — use of force and crisis intervention, is a major accomplishment, with the new use of force policies going into effect on January 1, 2018. Finalization of a bias free policy that has been recommended for approval by the Monitor further evidences the CDP's strong commitment to the diverse communities that make up Cleveland. As was discussed in the City's December 15 Memorandum to the Court and at the recent January 24 status conference, the City remains committed to resolving the OPS backlog issue.

Going forward in 2018, as was noted in the Monitor's Third and Fourth Semiannual Reports, the City will be directly responsible for the initial "fashioning of the

project implementation plan” —the Third Year Monitoring Plan, for the upcoming year. (Dkt. 179, p.4). As the Monitor noted in the Fourth Semiannual Report, “transitioning the duties of generating a first draft of the plan for reform in the upcoming year is geared toward ensuring that CDP develops the capacity to implement and maintain reforms well after the Consent Decree is done.” (*Id.*) CDP has accepted the responsibility of preparing and submitting an approved Third Year Monitoring Plan and finalization of the plan should be forthcoming shortly. The City appreciates the Monitor’s confidence in this regard and believes the Third Year Monitoring Plan will provide a roadmap in 2018 for continuing the meaningful progress accomplished by the City and CDP to date.

#### **IV. Response to Concerns Raised in the Monitor’s Semi-Annual Report**

The Monitor has expressed reservations associated with the nature of the team approach developed and utilized by the City to facilitate ongoing compliance with the Consent Decree. (Dkt. 179, pp. 4-6). The City has adopted a team approach that regularly involves the expertise of knowledgeable individuals who cross multiple City departments and divisions. The City believes its multi-disciplinary team approach, with former U.S. Magistrate Judge Greg White’s serving as the Consent Decree Coordinator, has worked well and is in accord with Consent Decree requirements. As with other issues arise, the City continues to evaluate its compliance model going forward, with the ever present goal of ensuring continuing and future compliance with agreed upon reforms is achieved.

#### **V. Conclusion**

The City and CDP made significant progress in the second half of 2017 toward meeting the reforms that were agreed to in the Consent Decree; and each will continue to work to ensure the goals set for accomplishment in 2018 are timely achieved.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

The undersigned certifies that the City of Cleveland's Fifth Status Report was filed electronically on February 9, 2018. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. Pursuant to the requirements of the Consent Decree the Monitor has been electronically delivered a copy of this filing.

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