



CITY OF CLEVELAND
Mayor Justin M. Bibb



12th Status Report

CASE NO. 1:15-CV-01046

Consent Decree

**Submitted by Mark D. Griffin on
behalf of the City of Cleveland**

October 31, 2022

Table of Contents

Executive Summary	2
I. City Leadership is Committed to Constitutional Policing.....	6
Mayor.....	6
Chief Director of Public Safety.....	6
Chief of Police.....	6
Chief Prosecutor.....	6
Chief Ethics Officer.....	6
II. The Consent Decree Has Created Substantial, Sustained Success	7
A. Community Engagement.....	8
B. Use of Force.....	10
C. Crisis Intervention.....	11
D. Recruitment.....	13
E. Accountability.....	14
1. Internal Affairs.....	15
2. Force Review Board.....	15
3. Office of Professional Standards.....	16
4. Civilian Police Review Board.....	17
5. Additional Accountability Progress.....	17
F. Equipment and Resources.....	19
G. Data Collection and Analysis/Compliance and Outcome Assessments and Reporting.....	21
H. Bias-Free Policing.....	22
III. Response to Monitoring Team’s Twelfth Semiannual Report.....	23
Conclusion	26

EXECUTIVE SUMMARY

City of Cleveland respectfully submits its Twelfth Status Report and response to the Monitoring Team's Eleventh Semiannual Report filed September 22, 2022 (Doc. No.. 440).

For the reporting period of January 1, 2022, through June 30, 2022, significant, measurable progress was made in constitutional policing, such that the Consent Decree can only be described as bringing substantial, sustained success. The Consent Decree has created fundamental changes in the Cleveland Division of Police ("CDP").

Furthermore, since the City's Eleventh Status Report, there is a new leadership team. Mayor Bibb came into office as the only mayoral candidate to have supported Issue 24, paving the way for unprecedented civilian oversight of the CDP through the creation of a new Community Police Commission. Mayor Bibb appointed the City's first Chief Ethics Officer, Delanté Spencer Thomas, Esq., who took the lead in the process of selecting qualified members of the new Community Police Commission. The Mayor also established a Police Accountability Team to oversee effective implementation of the Consent Decree.

Public Safety Director Karrie Howard; Police Chief Wayne Drummond; Deputy Chief Annie Todd; Commander Brian Carney; Internal Affairs Superintendent Christopher Viland; and Captain Robert Simon all reflect the CDP's divisional values of PRIDE: Professionalism, Respect, Integrity, Dedication, and Excellence.

Each and every one of these dedicated public servants is determined to see this mission through to completion.

The need to inform, instruct, train, monitor, and discipline officers with respect to Use of Force incidents, including those involving citizens experiencing mental health and behavioral crisis situations, is what gave rise to this litigation. The City can confidently say that it has met the broader goals of the Court concerning Use of Force and Crisis Intervention.

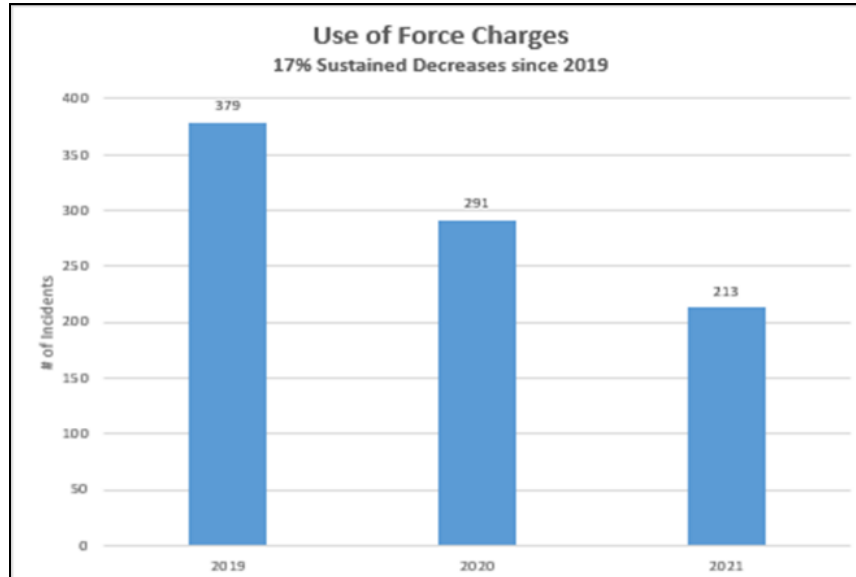


Table 23. Frequency Rank of De-Escalation Techniques used at CIT Incidents: 2020 & 2021

De-Escalation Technique	2020 Count ³ /Percent	2021 Count/Percent
Verbal De-Escalation Techniques	2,280 60%	2,730 55.8%
Allow Time and Opportunity to Comply	1,784 45.3%	2,524 51.6%
Listening and Interacting in Conversation	1,507 38.3%	2,086 42.7%
Strategic Communications/Voice Command	1,065 27.1%	1,642 33.6%
Use of Distance/Cover/Concealment	1,129 28.7%	1,518 31%
Increased Officer Presence	646 16.4%	887 18.1%
Requested CIT Specialist	172 4.3%	421 8.6%
Requested Supervisor	281 7.1%	387 7.9%
N/A	1,212 30.8%	1,494 30.5%
TOTAL	3,934	4,889

- Table 23 shows that verbal de-escalation was the most frequently utilized technique at 2021 CIT incidents (56%), followed by allowing time for compliance (52%), listening and interacting (43%), and strategic communications (34%). The percentage of CIT incidents where a CIT officer was requested increased from 4.3% in 2020 to 8.6% in 2021.
- A de-escalation technique was not used or not applicable (N/A) in 31% of 2021 CIT incidents.

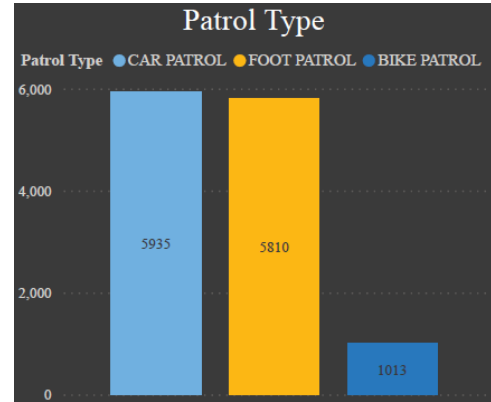
Further, Community Engagement inarguably has been successful: foot patrols are greatly increased; there are increases in community partnerships for every police district; and the QR code citizen-feedback program shows greater than 90% satisfaction with police interactions.

Overall Satisfaction		
Strongly Satisfied	486	85.56%
Satisfied	30	5.28%
Neutral	14	2.46%
Dissatisfied	7	1.23%
Strongly Dissatisfied	31	5.46%

The Officer Treated Me Fairly		
Strongly Agree	493	87.1%
Agree	28	4.95%
Neutral	15	2.65%
Disagree	14	2.47%
Strongly Disagree	16	2.83

Officer Treated Me With Respect		
Strongly Agree	495	87.15%
Agree	33	5.81%
Neutral	17	2.99%
Disagree	9	1.58%
Strongly Disagree	17	2.46%

Officer Demonstrated Professionalism		
Strongly Agree	493	86.8%
Agree	33	5.81%
Neutral	14	2.46%
Disagree	7	1.23%
Strongly Disagree	21	3.7%



In the realm of Accountability, personnel have changed but the institutions are strong. The Office of Professional Standards, as an example, has seen reduced caseloads through the hard work of its staff; and the number of cases open for longer than one year has significantly dropped.

YEAR CASE INITIATED	Ongoing Investigations
2019	0
2020	1
2021	57
2022	97
September 13 th	155
August 02 nd	171
July 19 th	168
July 5 th	152
June 21 st	166
June 7 th	169
May 24 th	164

The Civilian Police Review Board has heard more cases this year as a result of this work. The Force Review Board's investigations were all timely. The institutions created through the Consent Decree and endorsed by CDP are working.

The other areas of constitutional policing addressed in the Consent Decree also have seen continued, measurable progress.

Starting with the new Community Police Commission, fundamental change in police oversight and institutionalization of reform policies is well underway. The City of Cleveland is "all in" on making Cleveland a national model for police reform.

CITY OF CLEVELAND LEADERSHIP

I. City Leadership is Committed to Constitutional Policing

The City's leadership team is working to lead, implement and make permanent the improvements required by the Consent Decree. These leaders include:



Mayor – Justin M. Bibb

Justin M. Bibb is the 58th Mayor of Cleveland and is committed to police reform. Once taking office, Mayor Bibb worked swiftly to implement the new police accountability measures adopted from the passage of Issue 24 in the November 2021 election as well as establishing a Police Accountability Team to assist the Cleveland Division of Police in compliance with the Consent Decree.



Chief Director of Public Safety – Karrie D. Howard

Chief Director Howard has a history of commitment to constitutional policing. Previously serving as the Chief Prosecutor for the City of Cleveland and the assistant director of safety operations, Chief Director Howard was appointed to Public Safety Director by Mayor Frank Jackson in 2020.



Chief of Police – Dornat "Wayne" A. Drummond

Chief Drummond was sworn in July 21, 2022 as Cleveland's 41st Chief of Police. Chief Drummond has served for the Cleveland Division of Police for over 33 years and envisions building the CDP into a national model of policing.



Chief Prosecutor – Aqueelah Jordan

Chief Prosecutor Jordan has been committed to the City of Cleveland's prosecutor's office and police reform since 2010. Rising through the ranks, Chief Jordan has been the Chief Prosecutor since July 2020 where she oversees the prosecution of Cleveland police officers.



Chief Ethics Officer – Delanté Spencer Thomas

Chief Thomas is the first Ethics Officer for the City of Cleveland and has led the effort to implement the new CPC. Appointed in April 2022, Chief Thomas quickly became the lead coordinator in charge of conducting interviews and vetting potential candidates for the new CPC.

CONSENT DECREE SUCCESS

II. The Consent Decree Has Created Substantial, Sustained Success

The Consent Decree at ¶ 387 provides that the City will file periodic status reports that “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 responses to any concerns raised in the Monitor’s previous semi-annual report.”

The City reports on events in the following order:

- A. Community Engagement
- B. Use of Force
- C. Crisis Intervention
- D. Recruitment
- E. Accountability
- F. Equipment and Resources
- G. Data Collection and Analysis/Compliance and Outcome Assessments and Reporting
- H. Bias-Free Policing.

In addition to the City’s reporting on the above topics, the following Exhibits are attached:

- Ex. 1: CDP 2022 Mid-Year Budget Report
- Ex. 2: Summary of City’s presentation at September 22, 2022, Status Conference (slide deck)
- Ex. 3: CPOP Form Dashboard (slide deck)
- Ex. 4: August 2, 2022 Memo Summarizing Substantial Progress

A. Community Engagement

The Consent Decree addresses community engagement in Section III, Community Engagement and Building Trust, and Section IV, Community and Problem-Oriented Policing. As stated by Chief Drummond at the September 22, 2022, Status Conference, community engagement, and more specifically, community and problem-oriented policing (CPOP) is extremely important to CDP. In the reporting period, community engagement continued to increase significantly and has taken many forms.

Renewed emphasis has been placed on foot patrols, which have become mandatory for the A and B platoons (first and second shift patrol officers). Officers getting out of their cars and engaging with community members can sometimes lead to CPOP, as for instance when a citizen informs officers that street lights are out.

Also, the City has submitted a General Police Order (GPO) to the Monitoring Team, on Community and Problem Oriented Policing (CPOP).

On March 1, 2022, the CDP started collecting CPOP data in order to monitor officer outreach to the community, an effort required by ¶ 33-34 of the Consent Decree. Thus, there is data available for four months of the reporting period, i.e., March, April, May and June of 2022.

A CPOP form is completed after a reportable event. A single event may include multiple officers; accordingly, the number of officers involved in a CPOP event does not always equal the total number of CPOP forms. CPOP forms may typically remain in “updates required” status for some time since these events generally involve issues that may involve collaboration and multiple strategies.

There were 280 CPOP forms completed by officers between March 1, 2022, and June 30, 2022. Most were in the Second District. More than two-thirds (69%) of the CPOP interactions stemmed from community-engagement encounters, and approximately one-third (31%) did not stem from a community engagement encounter.

The primary source of issue-identification was determined to be contacts with the District Commanders' offices initiated by complainants. Officer-observed situations on patrol were also a primary source of information.

A and B platoons (first and second shifts) saw most of the activity, as would be expected. Most of the issues involved traffic-related concerns. Drug dealing and drug use were also a primary issue identified in the CPOP forms, along with loud music, theft and vagrancy, and

Overwhelmingly, the primary strategy used, as reported by the officers completing CPOP forms, was officer presence. Officers generally were assigned by their Districts to address CPOP-related issues. Approximately three-fourths (77%) of all CPOP forms completed during the reporting period were considered closed, i.e., the problem was handled.

The CDP tracked the factors supporting the conclusion that its efforts were successful in CPOP-reported events. These factors included no new calls for service, no further criminal activity seen, and vehicles moved. Approximately two-thirds of the successful efforts were due to fewer calls for service and individual satisfaction.

The CDP continues to look for opportunities to interact socially with community members, outside any enforcement context. For instance, the CDP has held an ice cream social, sponsored "movies with a cop," and held parties for children with giveaways. Also, there was a back-to-school fair event; community clean-up event; Food Bank event; Night Out Against Crime;

Coffee with a CIT Officer event; Safety Fairs; Senior Walk; Explorer Meetings; MHRAC Community Resource Cards; Citizens Academy; and Public Safety Week. Less formally, officers have been doing similar outreach on a regular basis without talking about it, often at their own expense and without any regard to publicity or even the Consent Decree. An example is the “lawn enforcement” by officers in the Second District, who volunteered to cut neighborhood lawns on their own time. Another example is random visitations to seniors and others needing extra attention.

In addition, the CDP redesigned its webpage to be more user-friendly and constantly updates its social media pages, including Facebook (84,000 followers), Instagram (3,200 followers), Twitter (82,500 followers), and individual District Facebook pages.

Community Engagement remains a high priority within the CDP, as seen by its operation of the Bureau of Community Policing, including the Community Relations Section. The Bureau of Community Relations consists of several sections and diverse units with separate mission statements serving the community. Bureau officers respond to a variety of quality-of-life issues within their designated assignments. As indicated above, the Bureau also offers several programs to citizens free of charge; and its officers address community groups, church groups, and neighborhood watch groups.

B. Use of Force

Use of Force incidents were the impetus for the Consent Decree and are the main focus of it, as set forth in Section VI. Since 2019, Use of Force incidents and related activity have decreased in number in all five CDP districts, i.e.:

- 43% decrease in Use of Force incidents overall;

- 17% decrease in Use of Force charges;
- 20% decrease in Use of Force incidents ending in arrests;
- 27% decrease in Use of Force complaints;
- 6% decrease in incidents of use of Electronic Control Weapon (ECW), i.e., Tasers.

In the reporting period, there were 117,138 calls for service, resulting in 3,764 arrests. There were 108 Use of Force incidents. Thus, there was a Use of Force incident in 0.09% of all calls. Put another way, more than 99.9% of all calls did not involve a Use of Force.

- Uses of Force in the reporting period consisted of 12 Level 1 incidents (on pace to be the lowest since the new definitions of Use of Force were incorporated in 2018);
- 54 Level 1 firearm point incidents (up from 2021);
- 41 Level 2 incidents (consistent with 2021);
- 6 Level 3 incidents (consistent with 2021).

The City is confident that the CDP has met the broad goals of the Consent Decree with respect to setting policies, training officers, supervision, and discipline related to Use of Force incidents, including those involving citizens experiencing mental health and behavioral crisis situations. Inevitably, CDP will not be perfect, but the overall systemic improvements within the CDP show a substantial and sustained decrease in use of force over several years. The CDP has made objectively-sustained progress in constitutional policing.

C. Crisis Intervention

Section VII of the Consent Decree addresses Crisis Intervention. As stated by the Department of Justice at the September 22, 2022, Status Conference, the Crisis Intervention Team (CIT) is a “bright spot” in the implementation of the Consent Decree. Two critical pieces moving forward are to maintain consistent CIT leadership and to continue providing CIT training

to as many officers as possible, including Chief Drummond and his command staff, as soon as possible.

While the pandemic has had an impact on CIT training, which started in October 2020, significant progress has been made. One thousand officers have received a refresher training on CIT Stat Sheet data collection forms. Training on interacting with citizens who are homeless was very well-received. Nearly 100 officers are now specialized CIT members, after completing the 40-hour CIT course; and there are several more classes this year. Further, CDP officers have trained since 2004 with ADAMHS Board of Cuyahoga County.

The key to the success of having specialized CIT officers is to recruit officers with a passion for the social service aspect of policing. It is the CDP's experience that most of the officers who express a particular interest in the specialized program have some type of experience with individuals in crisis, in their families or otherwise.

In the CDP's co-responders program, the police officers are all specialized CIT officers with a passion for the job who are partnered with a licensed partner or clinician to respond to people with crises. They are not responding to 911 calls; rather, referrals are made from responding officers. The CIT officers follow up with the individuals in crisis multiple times after the initial contact with police in order to get them resources so they don't become repeat offenders.

The City is hopeful that funding will be appropriated to add CIT officers and licensed counselors, as well as a mental health dispatcher, through ARPA funds. A mental health dispatcher would be able to triage calls regarding persons in crisis and possibly provide for referrals to an agency without dispatching officers.

The CDP currently needs to fill the CIT coordinator open position with a member who has the rank of Captain. The CDP believes there are excellent candidates with the right attitude, and one will be selected soon.

In the reporting period, 2,487 Brazos CIT forms were completed; 98% of these incidents were resolved without an arrest; 88% did not involve handcuffs; 65% involved de-escalation attempts by the officer; 90% involved “no resistance” after the officers spoke with the subject; only 2.4% resulted in any kind of injury to the subject; less than 1% resulted in any kind of injury to the officer; and reporting officers conferred with the Mobile Crisis Team 5.3% of the time.

Overall, as recognized by the DOJ at the Status Conference, the CDP is doing well with Crisis Intervention. The Mental Health Response Advisory Committee (MHRAC) is widely recognized as making meaningful contributions to this initiative.

D. Recruitment

Recruitment and Hiring is addressed in the Consent Decree at ¶ 300-311. The CDP continues to attract qualified candidates, although competition for new recruits is fierce between the CDP and other police departments who may be able to offer higher salaries with a less stressful day-to-day law enforcement experience. The CDP remains mindful of the need to recruit a diverse work force, preferably familiar with the City prior to joining the Academy. The same is true with respect to lateral hires.

The CDP further remains committed to undertaking comprehensive background checks for new hires. As has been publicized, intensive social media background searches by independent entities have revealed posts from officers that were not discovered by or disclosed to the CDP prior to hiring, in at least one case. The CDP remains committed to a bias-free police

force and will take every possible step within the law to ensure that its current and prospective officers share that mission.

E. Accountability

The CDP has been one of the first police departments in the country (if not *the* first) to use QR codes to provide immediate feedback from citizens about police encounters. Responses since the inception of the QR code program in November of 2021, through the reporting period and beyond, show that the public involved in police encounters have had very high overall satisfaction after the call. More than 90% of respondents were satisfied or strongly satisfied; and more than 90% agreed or strongly agreed that the officers treated them fairly, with respect and professionalism.

Additionally, Public Safety has committed to improved accountability through a formalized disciplinary process at the Director's level hearings, increased transparency and trust for the public and Division through divisional notices, and the introduction of Sergeant Kelly Smith as the case preparation officer for Public Safety which creates a separation between the Chief's office and the Director's Office for OPS appeals, allowing an unbiased review of appeals cases.

While CDP is directly and immediately accountable to the public every day, as recognized by the QR code program, CDP recognizes the importance of more formal and deliberative accountability processes, through the efficient and dedicated work of police Internal Affairs, the disciplinary system, the Force Review Board (FRB), Office of Professional Standards (OPS), and the Civilian Police Review Board (CPRB).

1. Internal Affairs

The CDP's Internal Affairs unit is now under the oversight of Superintendent Christopher Viland, who brings a wealth of law enforcement experience and expertise to the role, as the Court is aware, and is also an Ohio-licensed attorney in good standing. Supt. Viland has responsibility for review of the IA investigation of the incident, which the Monitoring Team recently noted was a case of interest. The case is currently in litigation, such that the City cannot comment here on the facts.

The CDP is committed to a full and efficient investigation of the incident and will share information with the Monitoring Team to the fullest extent permissible, within the limits imposed by confidentiality protections adhering to both open investigations and ongoing litigation. It is the City's hope and expectation that any initial conclusions that may have been drawn by the Monitoring Team regarding the investigation of this incident will be rounded out and possibly modified, after consultations with the City.

The CDP is dedicated to ensuring appropriate discipline practices for sustained allegations of misconduct, as evident through the Division's review of their disciplinary matrix and changes made to document aggravating and mitigating factors of misconduct for the past two years and applying discipline pursuant to the Court approved GPO 1.07.06, Ranges of Discipline.

2. Force Review Board

The CDP's Commander Brian Carney oversees the Bureau of Compliance, which facilitates FRB meetings. FRB is part of the CDP's mission to emphasize de-escalation, use of proper equipment, tactics, and efficiencies, in order to sustain continuous improvement under the Consent Decree (see ¶ 124-130).

FRB training was completed as of November 13, 2020. The first FRB meeting occurred on February 8, 2021. In the reporting period, FRB met on the following dates: January 7, 2022; March 18, 2022; and June 17, 2022. With respect to unfounded concerns raised about the frequency of FRB hearings, there have been more FRB hearings than required. FRB reviews all complaints regarding use of force in the period at issue, and there is no need for meetings if there are no cases to be reviewed. Meetings are based on the frequency of Use of Force incidents in the field, which is believed to be the same approach adopted in Seattle, WA. There have been ten FRB hearings since its inception in February of 2021. This is a greater frequency than the quarterly meetings required by the Court. The CDP conducts a minimum of quarterly meetings, has no backlog, and reviews the required percentage of Level II Use of Force cases. Uses of Force incidents are set for a hearing as soon as an investigation is completed, absent any pending discipline associated with the case. Comprehensive, reliable reviews are being conducted within 90 days of submission, as required by ¶ 126 of the Consent Decree.

On September 30, 2022, Commander Carney provided the Monitoring Team with ten completed FRB reports and a spreadsheet for the FIT assessment.

3. Office of Professional Standards

OPS has remained strong as an institution despite vacancies in the office, reflective of recent turnover in the overall workforce nationally. OPS is close to appointing a new administrator following the departure of Roger Smith from the position in 2021 to take a position in Phoenix, AZ. As has been noted, it is more important to get this decision right than to make it quickly. Thomas A. Fisher, Esq., has served as acting administrator and made a significant

contribution. Despite the vacancies, including two investigator openings, caseloads have been reduced without sacrificing thoroughness in the interests of timeliness.

In the reporting period, OPS closed cases efficiently and is on track to have more cases closed in 2022 than in 2021. There also were fewer open cases in 2022 than at the same point in 2021.

OPS also has been working on a draft investigator training plan and has provided a revised draft OPS manual, which reflects the amendments to Charter section 115, to the Monitoring Team for review.

The OPS introductory pamphlet is now available in Arabic, Chinese and Russian, at all branches of the Cleveland Public Library and all three locations of the Rape Crisis Center.

4. Civilian Police Review Board

CPRB also has submitted a draft manual reflecting the recent Charter amendment to Section 115. As seen in the Monitoring Team's February 2022 report, CPRB has made great strides. Since 2020, CPRB has seen a steady increase in the number of cases heard. In 2020, 103 cases were heard; and in 2021, 115 cases were heard. As of the date of the most recent Status Conference, 136 cases had been heard. As of October 18, 2022, all previous vacancies on the CPRB have been filled with the addition of Brandon Brown and Billy Sharp, the first African-American man to be appointed to the CPRB.

5. Additional Accountability Progress

In the review period, in March 2022, the City and the DOJ submitted a joint amendment to the Consent Decree to permit implementation of Charter Section 115, formerly known as Issue 24. The City's Chief Ethics Officer, Delanté Spencer Thomas, Esq., has reviewed applications for

the new Community Police Commission (CPC) established by the voters in November 2021, to provide community input on police policies to help strengthen relationships between officers and the constituents they serve.

Interviews of candidates by the five-member advisory panel were live streamed, beginning in the review period, on June 29, 2022. Three days of interviews were conducted, of 27 finalists from a pool of nearly 300 applications. From there, the selection advisory panel continued to vet and deliberate based on interviews. The CPC ultimately will be a 13-member commission, with ten members nominated by the Mayor and three by City Council. All finalists are subject to background checks, in large part to make sure the CPC ultimately reflects the diversity required by Charter Section 115-5. As of October 26, 2022, the Mayor and City Council have selected their nominations for the CPC to be interviewed by the Mayor's Appointments Committee. Also, a request for qualifications was published, seeking quotes and vendors for training of the CPC.

As part of its outreach efforts, the City sent four employees, including the Chief Ethics Officer, to the recent NACOLE (National Association for Civilian Oversight of Law Enforcement) conference in Dallas.

Further, Mayor Justin M. Bibb is creating the Police Accountability Team (PAT) to support the CDP's continuing improvements and to assist with the final, successful implementation of the Consent Decree. The City is in the process of hiring a qualified candidate to serve as executive director, who will assemble and collaborate closely with City employees assigned to work on the Consent Decree. The PAT will include professionals who are skilled in police procedure, community engagement, data analysis, and the law of constitutional policing.

The City believes that the CPC and PAT are integral to the Substantial, Sustained Success of the Consent Decree.

F. Equipment and Resources

General Police Order 4.06.04: Wearable Camera System (WCS) establishes guidelines for use, management, storage, retrieval, and supervision regarding the WCS, and to provide officers with clear guidance on the use of the WCS and preservation of recordings to foster transparency, increase accountability, build trust, and protect the privacy rights of individuals. The WCS shall be deployed to ensure transparency and foster trust within our community. It shall be the responsibility of each officer to deploy their WCS in accordance with this order.

The CDP currently has a contract with AXON for the WCS commonly referred to as body cameras. The use and maintenance of the WCS system are currently defined under GPO 4.06.04. Current AXON AB3 cameras do not have facial recognition or other surveillance capabilities. The Division has operated AXON AB3 cameras since 2021. WCS has been used within the Division since 2015. Access to video is maintained through a web-based application, Evidence.com, and all access is tracked via an audit trail. All WCS video is a public record and can be acquired by submitting a public records request.

As part of ongoing efforts to reduce violent crime, the ShotSpotter gunshot detection system will be used in a high-crime area of the Fourth District. The pilot project is intended to help save lives, deter crime, and make the neighborhood safer. Recently, the City Council approved spending \$2.8 million to expand ShotSpotter.

Through the placement of acoustic sensors, ShotSpotter software detects the location of gunfire. Within approximately one minute, ShotSpotter will provide an alert from unsuppressed,

outdoor gunfire from weapons above .25 caliber. The alert conveys a location typically within a 25-meter radius where the shots were fired and can include information about the number of gunshots, the firearm's capacity, and if multiple firearms are involved.

Audio snippets of the gunfire event are limited to less than one second before the gunfire and one second after the completion of gunfire. Live streaming of sensor audio is not possible by company employees, police or third parties. Human voices and street noise will never trigger a sensor because they do not produce an instantaneous sharp sound and they are not loud enough to be picked up by three or more sensors. It is highly unusual for a human voice to be included in a snippet. For this to occur, the voice must be loud enough to be heard over the gunfire. There is no personally identifiable information in any audio snippet.

ShotSpotter technology guarantees accuracy approximately 90% of the time. If officers respond to a call in which a gun was fired inside the ShotSpotter area, but no alert was triggered and/or the alert location is not accurate, ShotSpotter must be notified.

The CDP cameras mounted in public spaces are typically viewed when there is a law enforcement predicate to view the cameras (emergency call, police action, special event, etc.). The City has implemented a video surveillance camera program consisting of over 1,600 cameras throughout the City, known as the #SafeSmartCLE Video Surveillance Project. The City's camera program's main objectives are to prevent, deter and respond to crime, and enhance the quality of life of residents and visitors. The City has a records retention policy of 30 days of video surveillance storage for the camera program. Video camera footage is available to the public via a public records request

The CDP currently does not operate a vehicle dash mounted camera system (dashcams). However, the CDP is considering whether there would be merit to acquiring dashcams sometime in 2023.

Public Safety is currently creating a training complex to facilitate cross-division training between Police, Fire, and EMS and will incorporate dispatchers and emergency call-takers. This facility will allow greater role playing and in-the-community training opportunities.

G. Data Collection and Analysis/Compliance and Outcome Assessments and Reporting

The CDP has hired Dr. Rania Issa as Data Collections & Analysis Coordinator. Dr. Issa and her colleagues have developed a number of dashboards available to CDP personnel through SharePoint. The Data Analytics Team is collaborating with the Office of Information and Technology on making the dashboards available to the public in the near future. Dr. Issa's work has allowed for increased awareness of likely issues to be raised in community engagement encounters, and furthers CDP's mission of transparency and accountability.

In this regard, please see Exhibit 3, Form Dashboard (slide deck).

Further, the City's partnership with CWRU continues to allow for optimal data collection, analysis, and reporting. CDP has utilized Microsoft Power BI, a software program that can create reports, allow collaboration on dashboards, and permit input from inside and outside the CDP.

H. Bias-Free Policing

Bias-Free Policing is addressed in Section V of the Consent Decree. General Police Order 1.07.08 provides officers guidance to ensure that police services are delivered equitably, respectfully, and free of bias in a manner that promotes broad community engagement, trust, and confidence in CDP. In 2022, officers are required to have in-service training on bias-free policing. CDP expects that the CPC will ensure that Bias-Free Policing continues to be the norm.

RESPONSE TO MONITORING TEAM REPORT

III. Response to Monitoring Team's Twelfth Semiannual Report

The Monitoring Team's Twelfth Semiannual Report adds color-coded compliance markers (green, red, and yellow). In contrast to a traffic signal, in which green, red, and yellow have a universally accepted meaning, the Report's use of color is a subjective assessment. Unfortunately, this may have the effect of detracting from data-driven outcome analysis and reinforcing the acknowledged superficial quality of the Monitoring Team's paragraph-by-paragraph "grades" issued to the City every six months.

The Report acknowledges that its summary assessments of the CDP's progress in implementing the Consent Decree, on a paragraph-by-paragraph basis, is not a measure of compliance required or even addressed in the Consent Decree. The Report attempts to justify this approach by stating that, for the City to be in "Substantial and Effective Compliance," the CDP must be deemed to be in "General Compliance" with *all* paragraphs of the Consent Decree. In fact, "Substantial and Effective Compliance" is defined in ¶ 456 as achieving "sustained and continuing improvement in constitutional policing as demonstrated pursuant to this Agreement's outcome measures." Thus, the Consent Decree mandates that the outcome measures employed must be in "this Agreement," but the Report's paragraph-by-paragraph color-coded grading is nowhere contemplated in the Agreement. Furthermore, the CDP has yet to receive an analytical report from the Monitoring Team regarding the Chief's discipline hearings as it relates to the Division's compliance with the Consent Decree in the seven years of this agreement.

Even adopting the Report's summary evaluation method, the City respectfully disagrees with the assessments of "partial compliance" and "non-compliance."

For example, in the area of Community Engagement and Building Trust, the Report's status of partial compliance with respect to ¶ 14, 17, 18, 19 and 21 of the Consent Decree is disputed, based on the measurable progress identified above. The City acknowledges work remains with respect to District Policing Committees (¶ 23-26) but notes the negative impact of the pandemic on efforts in this regard. The Report also states that there is partial compliance or non-compliance with respect to CPOP (¶ 27-34) and that the Monitoring Team will soon be conducting its assessment of CDP's CPOP efforts. The methodology for this assessment is not identified. The City respectfully refers the Court to Exhibit 3, the CPOP dashboard, for evidence of progress that is substantially beyond mere partial compliance, as set forth above.

Similarly, the Report's overall negative assessment of Bias-Free Policing (¶ 35-37, 41-44) appears to be based not on any data, but rather on what is described as "the collective failure" to address "recent critical incidents of compelling public interest." Respectfully, matters of compelling public interest are not always identifiable in today's headline news reports, which should not be allowed to set the agenda for CDP's community engagement. Moreover, it is not always appropriate for CDP members to discuss ongoing investigations and litigation in public forums. The City has included and will continue to include the Monitoring Team in its handling of incidents that might drive news reports.

The Report finds operational or general compliance with 44 of the 49 paragraphs regarding Officer Use of Force Principles and Policy (¶ 45-92). The Report also finds operational compliance with 25 of the 37 paragraphs regarding Use of Force Investigation and Review. The

generally high marks in this area supports the City's position that the original mandate in this action, to address the CDP's Use of Force, has been followed. Also identified as generally compliant are the City's efforts with respect to Crisis Intervention (§ 131-159), which the DOJ singled out as a bright spot at the recent Status Conference. However, even in the face of this indisputable progress, non-compliance and the Report only indicates "partial compliance." The City does not agree. According to the Report, if even one paragraph in the Use of Force or Crisis Intervention sections is not colored in "green," the Consent Decree must continue. As noted, however, this is not the definition of Substantial and Effective Compliance.

The above examples serve to make the point that evaluation of the CDP's progress in the Report should be based on objective measures not subject to any reasonable debate, as opposed to any measures that might be characterized in whole or in part as superficial, broad-brush grading. As illustrated herein, despite the unforeseeable and negative impact of the pandemic and extreme competition for employees and officers, the CDP has made outstanding progress in the period from January 1, 2022, through June 30, 2022. The City respectfully refers the Court to Exhibit 1, the CDP 2022 Mid-Year Budget Report, which is an excellent overview of CDP's progress in the review period, and to its other Exhibits, for conclusions based on scientific analysis and data.

CONCLUSION

At the September 22, 2022, Status Conference, the Court observed that the spirit of the Consent Decree is *to make sure policing here in Cleveland rises to the level of the best anywhere -- that's the commitment, what this is all about.*

The Court also commended Chief Counsel Gary Singletary upon his retirement. Chief Counsel Singletary's words in closing echo the Court's message: *the parties have the same goal, to serve the community in an honorable, constitutional manner.*

The City believes that the significant, measurable progress of the CDP in the reporting period reflects the Substantial, Sustained Success of the Consent Decree. With fulfillment of the broad goals of institutional reform litigation on the horizon, judicial oversight of this core area of local responsibility soon may give way to community-based accountability – driven by a reform-minded administration that will not surrender the momentum created by the passage of Issue 24.

Respectfully submitted,

MARK D. GRIFFIN (0064141)
Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114-1077
Tel: (216) 664-2800
mgriffin@clevelandohio.gov
Attorney for City of Cleveland

CERTIFICATE OF SERVICE

The foregoing was served via operation of the Court's ECF system and made available thereby to all parties of record on the date of filing, with courtesy copies emailed to counsel and to the Monitoring Team c/o Ayesha Bell-Hardaway, ayesha.hardaway@case.edu.

By: s/ Mark Griffin
Mark Griffin (0064141)