

DATE: DECEMBER 16, 2022

TO: PROF. HARDAWAY

FROM: MARK GRIFFIN

RE: **CITY OF CLEVELAND, OH RESPONSE TO: INDEPENDENT MONITORING TEAM'S ASSESSMENT OF CDP'S INVESTIGATION AND ADJUDICATION OF CLEVELAND POLICE OFFICER BAILEY GANNON'S SHOOTING INJURY TO CLEVELAND POLICE OFFICER JENNIFER KILNAPP**

After reviewing the MT's memorandum, going forward the City recommends a paradigmatic shift to view not only this case, but all future after action type reviews. The MT's current lens is one that uses an incident to uplift parts of the Consent Decree when it comes to policy and procedure as applied anecdotally to the individual actions of one officer, but does not lift up the work of the Division's entire accountability system and its adjudication of cases in a holistic manner. Ultimately, after the Consent Decree is lifted, the Division will need to be autonomous in a number of areas, specifically ensuring that required accountability systems are solid and operable; holding others accountable and being effective for the citizens served. Rather than focusing on the incident itself, (and the City recognizes that its officers are not infallible) the City would best benefit from the MT's comments focused on the execution of the accountability process and how it could have been best handled if adverse to the consent decree and/or Division policies.

The MT's memorandum speaks to the perceived actions and inactions of IA, FRB, etc. However, while the memorandum states that it covers the investigation and subsequent adjudication of the case, a great majority of the memorandum highlights issues with communication regarding the event to the MT. While the City has been open about the fact that it fundamentally disagrees with the MT about the timing of communications, it is important to note that this information is not material and should not have been included in the memorandum.

The City looks forward to reviewing and implementing, were necessary, the recommendations from the IA Investigation, all of which have already been addressed in the 30 months since the incident occurred. Everything that the MT is identifying as being a failure on the part of the Division occurred over two years ago. The Division is being seen through a lens of past actions, not current actions, and past personnel, not current personnel. Since Superintendent Viland arrived, the Division has actually investigated and disciplined officers for accidental discharges and discharges that are unsafe or out of policy. Internal Affairs is shifting the investigative culture through mentoring, instruction, and changes in personnel. The City would like to request that there be some acknowledgement that what happened 30 months ago would not happen today, based on process changes to become compliant with the Agreement. That includes improvements in each FRB hearing since inception (in this case the FRB hearing was one of the very first held).