

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,)	
)	JUDGE SOLOMON OLIVER, JR.
vs.)	
)	<u>NOTICE SUBMITTING CDP REALITY-</u>
CITY OF CLEVELAND)	<u>BASED and BIAS-FREE IN-SERVICE</u>
)	<u>TRAINING CURRICULA</u>
Defendant.)	
)	
)	

Pursuant to Paragraphs 39, 40, 42, 84, 86, 173 and 174 of the Consent Decree and the 2022 Monitoring Plan in the above-captioned matter, the Cleveland Division of Police (“CDP” or “Division”), submitted a Proposed Reality-Based and Bias-Free In-Service Training Curriculum to the Monitoring Team, consisting of seven parts: 1) On-line Preload Training; 2) Introduction; 3) Scenario Training One; 4) Scenario Training Two; 5) Scenario Training Three; 6) Training Debrief; and 7) Cultural Humility Training with Instructor Guide, attached hereto respectively as Exhibits A through H.

The Monitoring Team has carefully reviewed the Proposed Training Curricula. The Team has determined that it provides sufficient guidance for CDP officers to understand the Division’s Bias-Free, Use of Force, and Search and Seizure policies through effective adult learning techniques, particularly through guided scenarios that allow officers to better understand policy and legal requirements that can often can be difficult to learn and put into practice.

The Monitoring Team therefore recommends that the Court approve CDP's Reality-Based and Bias-Free In-Service Training Curricula.

I. SUMMARY OF TRAINING

The Proposed Training Curricula submitted to the Monitoring Team are designed to provide annual in-service training to officers on the topics of bias-free policing, use of force, and search and seizure. In-service training aims to provide annual updates on the respective subject areas each year following the initial comprehensive training.

A. BIAS-FREE POLICING TRAINING

Paragraph 39 of the Consent Decree require that "the City...develop training that incorporates the principles of procedural justice and that is designed to ensure that police services are delivered free from bias." Paragraph 40 details that the training must include:

- a. "constitutional and other legal requirements related to equal protection and unlawful discrimination, including the requirements of this Agreement;
- b. "strategies, such as problem-oriented policing, procedural justice, and recognizing implicit bias, to avoid conduct that may lead to biased policing or the perception of biased policing;
- c. "historical and cultural systems that perpetuate racial and ethnic profiling;
- d. "identification of racial or ethnic profiling practices, and police practices that have a disparate impact on certain demographic categories;
- e. "self-evaluation strategies to identify racial or ethnic profiling;
- f. "District-level cultural competency training regarding the histories and culture of local immigrant and ethnic communities;
- g. "police and community perspectives related to bias-free policing;
- h. "the protection of civil rights as a central part of the police mission and as essential to effective policing;
- i. "instruction in the data collection protocols required by this Agreement; and
- j. "methods, strategies, and techniques to reduce misunderstanding, conflict, and complaints due to perceived bias or discrimination."

Dkt. 413-1, Exhibit A at ¶ 40; Dkt. 416.

Paragraph 42 requires that officers to "receive annual in-service training on bias-free policing that is adequate in quality, quantity, type, and scope."

B. USE OF FORCE TRAINING

Paragraph 84 of the Consent Decree requires the City to “provide all current officers use of force training that is adequate in quality, quantity, scope, and type and that includes:

- a. “proper use of force decision-making;
- b. “use of force reporting requirements;
- c. “the Fourth Amendment and related law;
- d. “de-escalation techniques, both verbal and tactical, that empower officers to make arrests without using force and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, using cover, calling in specialized units, or delaying arrest may be the appropriate response to a situation, even when the use of force would be legally justified;
- e. “role-playing scenarios and interactive exercises that illustrate proper use of force decision-making, including training on the importance of peer intervention;
- f. “the proper deployment and use of all intermediate weapons or technologies;
- g. “the risks of prolonged or repeated ECW exposure, including that exposure to ECWs for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious physical injury;
- h. “the increased risks ECWs may present to a subject who is pregnant, elderly, a child, frail, has low body mass, or is in medical crisis;
- i. “that when using an ECW the drive stun mode is generally less effective than the probe mode and, when used repeatedly, may exacerbate the situation;
- j. “firearms training, as described in paragraph 60;
- k. “factors to consider in initiating or continuing a vehicle pursuit; and
- l. “for supervisors of all ranks, as part of their initial and annual in-service supervisory training, training in conducting use of force investigations; strategies for effectively directing officers to minimize uses of force and to intervene effectively to prevent or stop unreasonable force; and supporting officers who report unreasonable or unreported force, or who are retaliated against for attempting to prevent unreasonable force.”

Dkt. 413-1, Exhibit A at ¶ 84; Dkt. 416.

Paragraph 86 requires CDP to “provide all officers with annual use of force in-service training that is adequate in quality, quantity, type, and scope.”

C. SEARCH AND SEIZURE TRAINING

Paragraph 173 of the Consent Decree requires that “[t]he City provide all officers with initial training . . . on investigatory stops, searches, and arrests, including the requirements of this

Agreement.” The training must “address the requirements of the Fourth Amendment and related law, CDP policies, and this Agreement, including:

- a. “the difference among the scope and degree of intrusion associated with different types of police contacts; the difference between probable cause, reasonable suspicion, and mere speculation; and the difference between voluntary consent and the mere acquiescence to police authority;
- b. “the types of facts and circumstances that may be considered in initiating, conducting, terminating, and expanding an investigatory stop;
- c. “the level of permissible intrusion when conducting searches, such as ‘pat-downs’ or ‘frisks’;
- d. “the permissible nature and scope of searches incident to an arrest;
- e. “procedures for executing searches, including handling, recording, and taking custody of seized property and evidence; and
- f. “the principles of procedural justice and the effect that differing approaches to investigatory stops, searches, and arrests can have on community perceptions of police legitimacy and public safety.”

Dkt. 413-1, Exhibit A at ¶ 173; Dkt. 416.

Paragraph 174 states “CDP also will provide officers with annual search and seizure in-service training that is adequate in quality, quantity, type, and scope.”

II. STANDARD OF REVIEW

The Monitoring Team’s role is to “assess and report whether the requirements” of the Consent Decree “have been implemented.” Dkt. 413-1, Exhibit A at ¶ 351; Dkt. 416; *accord id.* ¶ at 352 (requiring the Monitor to “review . . . policies, procedures, practices, training curricula, and programs developed and implemented under” the Decree). The task of the Monitoring Team here is to determine whether the Proposed Training Curricula complies with the Consent Decree’s requirements.

III. ANALYSIS OF TRAININGS

A. BIAS-FREE TRAINING

CDP has requested that a 4-hour course on Cultural Humility satisfy their annual in-service Bias-Free training required by the Consent Decree. The proposed training was initially provided to CDP by the Ohio Peace Officer Training Academy. The Division enhanced the training through the addition of relevant CDP Bias-Free policy requirements. The Proposed Bias-Free Training Curriculum contains the following four modules: 1) Introduction; 2) Cultural Humility; 3) Humility and Leadership; and, 4) Culture Matters. The course aims to provide participants with the requisite framework to understand: what cultural humility is, how can be valuable to law enforcement officials working in diverse communities, and the complex way in which cultural identities influence interactions, communications, and misunderstandings. In addition to the subject-specific information conveyed through the training, it also uses ice breakers and prompts the instructors to establish agreed upon values such as openness to the material, sincerity, authenticity, and curiosity to provide a framework for the session. Overall, the training tackles complex concepts and issues essential to bias-free policing and delivers the material in a manner appropriate for adult-learners.

B. REALITY-BASED TRAINING

The Proposed Reality-Based Training Curricula is an eight-hour block of in-service training designed to will incorporate CDP's use of force and search and seizure Divisional policies into a single training event. The curriculum is composed of an on-line Pre-Load module an Introduction, three scenarios, and Training Debrief.

The on-line Pre-Load provides trainees with the legal requirements related to vehicle inventory searches, a review case law related to traffic stops, the lawful objectives of arrests, the requirement that force only be used when necessary, objectively reasonable and proportionate to the level of resistance, and the on-going obligation to de-escalate interactions. The Introduction

details expectations of officer participation and engagement in the training. It also describes the schedule for the day.

The Proposed Training Curricula includes three separate 90-minute scenario simulations for each officer to complete. The first scenario involves officers responding to a reported domestic violence call for service. The lesson plan requires officers to consider nuanced issues related to the legal basis required to search shared property, threat assessment, and interactions with youth. The second scenario involves a call for service related to an attempted burglary. The lesson plan requires officers to demonstrate an understanding search and seizure legal requirements and consider the use of intermediate weapons while navigating a dynamic situation. It also calls on officers to employ community problem-oriented policing and reporting. The final scenario involves a traffic stop. Officers participating in this third scenario will be required to demonstrate an understanding of Fourth Amendment concepts reasonable suspicion, probable cause, search incident to arrest, and inventory searches. Each of the scenarios requires officers to be evaluated on their ability to adhere to CDP policies on use of force, search and seizure, crisis intervention, and de-escalation all while demonstrating an ability to employ procedural justice.

The Training Debrief lesson plan provides CDP trainers with sixty minutes to review the training experience with officers. Most importantly, it provides the Division with the opportunity to emphasize to officers how de-escalation and procedural justice should have been employed to net positive outcomes in the training. The Debrief session also includes a written examination for each officer.

Overall, the training uses a commendable variety of adult learning techniques, including question-and-answer, scenario-based training, written assessments, and debriefing.

V. CONCLUSION

The task of the Monitoring Team is to duly consider whether the City's submitted Proposed

Training Curriculum satisfies the terms of the Consent Decree. The Monitoring Team concludes that the Proposed Training Curriculum meets the terms of the Consent Decree. Accordingly, the Monitoring Team approves Reality-Based In-Service Proposed Training Curriculum for Use of Force and Search and Seizure in its entirety and requests that this Court order it effective immediately.

Respectfully submitted,

/s/ Hassan Aden

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2022 I served the foregoing document entitled **Notice**
Submitting CDP Reality-Based and Bias-Free In-Service Training Curricula via the court's
ECF system to all counsel of record.

/s/ Ayesha Bell Hardaway _____
AYESHA BELL HARDAWAY

