

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>MOTION TO APPROVE CLEVELAND</u>
CITY OF CLEVELAND)	<u>DIVISION OF POLICE PROPOSED</u>
)	<u>COMMUNITY ENGAGEMENT AND</u>
Defendant.)	<u>PROBLEM-SOLVING TRAINING AND</u>
)	<u>BIAS-FREE POLICING TRAINING</u>
)	<u>CURRICULA</u>

Pursuant to Paragraphs 30, 39, and 40 of the Consent Decree and the Revised Third-Year Monitoring Plan in the above-captioned matter, the City of Cleveland (the “City”), on behalf of the Cleveland Division of Police (“CDP” or “Division”), submitted proposed curricula for its Community Engagement and Problem-Solving Training and Bias-Free Policing Training (together, the “Proposed Training Curricula”) to the Monitoring Team, attached hereto as Exhibits A and B, respectively.

The Monitoring Team has carefully reviewed the Proposed Training Curricula. The Team has determined that the Community Engagement and Problem-Solving Training provides sufficient guidance for officers to understand principles of community policing, communicate and engage with Cleveland residents, seek partnerships with community members and organizations,

and develop collaborative solutions to public safety problems. The Bias-Free Policing Training provides sufficient guidance for CDP officers to understand forms of biased policing, the ways in which biased policing obstructs the goals of law enforcement, and how to minimize the occurrence of biased policing by identifying and managing moments where their decision-making may be susceptible to implicit bias. Both trainings include instruction on critical concepts such as procedural justice and legitimacy. The Monitoring Team therefore recommends that the Court approve CDP's Proposed Training Curricula.

I. SUMMARY OF CONSENT DECREE REQUIREMENTS REGARDING BIAS-FREE POLICING AND COMMUNITY ENGAGEMENT AND PROBLEM-SOLVING TRAINING

Paragraph 30 of the Consent Decree obligates the CDP to “provide initial and annual in-service community and problem-oriented policing training that is adequate in quality, quantity, type, and scope, and will incorporate into its training of all officers . . . community and problem-oriented policing principles, including:

- a. “methods and strategies to improve public safety and crime prevention through community engagement;
- b. “training that promotes the development of new problem-solving partnerships between the police and community, targeting problem-solving and crime prevention;
- c. “leadership, ethics, and effective communication and interpersonal skills;
- d. “community engagement, including how to establish partnerships and actively engage civilians and community organizations, including youth, LGBT, homeless, and mental health organizations and communities;
- e. “principles of procedural justice and its goals;

- f. “conflict resolution and verbal de-escalation of conflict; and
- g. “cultural competency and sensitivity training.”

Additionally, Paragraphs 39 and 40 of the Decree require that “CDP will develop training that incorporates the principles of procedural justice and that is designed to ensure that police services are delivered free from bias” and that will 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.”

II. PROCEDURAL HISTORY

Work on the Community Engagement and Problem-Solving Training began around March 2018, when the Division began drafting an initial curriculum. After CDP submitted an initial draft on April 20, 2018, the Parties worked through multiple drafts, ensuring that the curriculum properly covered the particular skills necessary for CDP officers to engage with and problem-solve collaboratively alongside members of the public.

Separately, work on the Bias-Free Policing Training Curriculum began in late 2017, when CDP initially identified an outside training vendor that could assist the Division in designing its curriculum. After the Parties and Monitoring Team reviewed the vendor's curriculum and discussed the scope of its offered training, it was determined that the vendor's training and prior experience working with police departments were insufficient to meet the terms and expectations of the Decree.

Shortly after, the Parties and Monitoring Team began discussions with the Center for Policing Equity ("CPE"), a research center that has developed and conducted evidence-based procedural justice training in collaboration with police departments across the country. CPE's curriculum is based on the concept of cognitive "traps" in which people can get stuck, even without knowing or intending to do so. These "traps," rooted in implicit or unconscious biases, can cause people to behave in prejudicial or discriminatory ways.

It was determined that CPE's procedural justice training could, with appropriate modifications based on the terms of the Decree and the particular needs of the Cleveland community, serve as a starting point for the Division's required training. CDP prepared an initial draft based on CPE's training, and the Parties and Monitoring Team collaborated to work through feedback and comments in successive drafts.

In June 2018, a trainer from the Chicago Police Department who had previously assisted CPE in developing their curriculum visited the Division to conduct a train-the-trainer session for members of the Division's Training Section.

Subsequently, on July 13, 2018, CDP incorporated the final round of feedback from the Department of Justice and Monitoring Team and submitted its final drafts of the two Proposed Training Curricula.

III. STANDARD OF REVIEW

The Monitoring Team's role is to "assess and report whether the requirements" of the Consent Decree "have been implemented." Dkt. 7-1 at ¶ 351; *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 comply with the Consent Decree's requirements.

IV. ANALYSIS OF THE PROPOSED TRAINING CURRICULA

1. Community Engagement and Problem-Solving

By agreement of the Parties and the Monitoring Team, the Community Engagement and Problem-Solving Training is not designed to train officers on the Division's Community and Problem-Oriented Policing Plan ("CPOP Plan"), which is, as of the date of this filing, being reviewed by community members and stakeholders. Core components of the CPOP Plan, including organizational changes relating to the Division's staffing, deployment, hiring, and recruitment, may well be modified following public input.

Instead, the 8-hour Community Engagement and Problem-Solving Training is meant to cover foundational skills and practices that officers will need to support the Division's organizational transformation towards CPOP principles. To that end, the Community Engagement

and Problem-Solving Training primarily provides instruction to CDP officers on establishing relationships with community members, engaging positively with appropriate communication skills, policing in a procedurally just and culturally competent manner, and collaborating with community members to identify, solve, and prevent public safety problems.

The training dedicates a full 2 ½ hours to teaching officers the critical skill of collaborative problem-solving. It explains why collaborative problem-solving is important, defines collaboration and public safety problems, and identifies individuals and groups with whom officers should seek to partner. Specifically, the training teaches officers the “SARA” approach to collaborative problem-solving, which lays out four stages—Scanning, Analysis, Response, and Assessment—through which officers can identify, analyze, implement, and later evaluate collaborative problem-solving efforts. With these four discrete steps, officers will have an actionable way to implement a new strategy to which officers often can be unaccustomed. The training provides numerous examples and a substantial class exercise for officers to understand the expectations and practice of collaborative problem-solving.

2. Bias-Free Policing

The Proposed Bias-Free Policing Training Curriculum encompasses a 12-hour training block. A significant amount of time is dedicated to core principles of procedural justice and legitimacy, ensuring that officers understand that their personal and professional goals in policing are made more difficult by policing that is procedurally unjust, including bias-based policing. The training emphasizes that popular legitimacy is key in promoting public trust in the police and in establishing the police’s authority to enforce the law. The training considers the community’s perceptions and expectations for how police officers should interact with members of the public.

The Proposed Bias-Free Policing Training Curriculum includes a module on the historical and generational effects of policing, describing how certain communities have had historically fraught relationships with law enforcement. The module includes a discussion of the treatment of minorities by the police throughout history, including specific episodes such as the Fugitive Slave Act, the Convict Lease Program, and Jim Crow laws in the Southern United States.

The Proposed Bias-Free Policing Training Curriculum does not include “District-level cultural competency training regarding the histories and culture of local immigrant and ethnic communities.” Dkt. 7-1 at ¶ 40(f). The Parties and Monitoring Team understand that separate training addressing these topics is currently being developed at each CDP District. The Team looks forward to reviewing the curricula soon.

Perhaps most importantly, the Proposed Bias-Free Policing Training Curriculum includes practical, actionable steps by which officers can self-manage moments of potentially biased decision-making. A significant amount of training time is dedicated to concepts of implicit bias and automatic assumptions. Officers will learn about cognitive “traps” that can lead to involuntary thinking and possibly discriminatory behavior. The training then puts officers through various scenarios and examples, highlighting how officers can slow down and take stock of situations and recognize that they may be vulnerable to implicit biases (possibly leading to stereotyping or other discrimination).

The Proposed Bias-Free Policing Curricula is complemented with an exam that all CDP officers will be required to complete via the Division’s Learning Management System. The exam tests officers on specific provisions of the Division’s Bias-Free Policing Policy. The Monitoring Team and Department of Justice have provided CDP with revisions to the exam to ensure that officers are adequately tested on their understanding of the Division’s Bias-Free Policing Policy.

Altogether, both Proposed Training Curricula contain practical guidance that takes academic theories of legitimacy, authority, implicit bias, and problem-oriented policing and presents them in accessible language and real-world scenarios.

V. CONCLUSION

The task of the Monitoring Team is to duly consider whether the City's submitted Proposed Training Curricula satisfy the terms of the Consent Decree. The Monitoring Team concludes that the Proposed Training Curricula meet the terms of the Consent Decree. Accordingly, the Monitor approves the Proposed Community Engagement and Problem-Solving Training and Bias-Free Policing Training Curricula in their entirety and requests that this Court order them effective immediately.

Respectfully submitted,

/s/ Matthew Barge

MATTHEW BARGE
Monitor
234 5th Avenue, Suite 314
New York, New York 10001
Tel: (202) 257-5111
Email: matthew.barge@21cpsolutions.com

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2018, I served the foregoing document entitled Motion to Approve Cleveland Division of Police Proposed Community Engagement and Problem-Solving Training and Bias-Free Policing Training Curricula via the court's ECF system to all counsel of record.

/s/ Matthew Barge _____
MATTHEW BARGE