

**USE OF FORCE POLICY AND PRACTICES STUDY
FOR
CLEVELAND DIVISION OF POLICE**



August 2013



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Introduction

The Police Executive Research Forum (PERF) was retained by the Cleveland Division of Police (CDP) to conduct a comprehensive review of the Division's policies and practices related to the use of force. This study was conducted in two phases. In the first phase, PERF subject matter experts reviewed all of the Division's written policies and procedures related to the use of force, recommended changes where appropriate, and then evaluated policy changes made by the Division. The purpose of the review was to recommend that the Division implement use of force policies and procedures that were in line with current best practices. The following policies were designated by the Police Division for PERF review:

- Standard Operating Procedure Manual: The Use of Deadly Force Investigation Team (UDFIT Manual)
- GPO 1.1.22 Deadly Force Investigation Team (UDFIT)
- GPO 1.3.16 Integrity Control Section Call-up Teams
- GPO 2.1.01 Use of Force
- GPO 2.1.02 Beanbag Shotguns
- GPO 2.1.03 Firearm Discharge Investigations
- GPO 2.1.04 Animal Incidents
- GPO 2.1.05 Weapon Clearing Trap (Device used to safely clear weapons).
- GPO 2.1.06 Taser – Electronic Control Device (ECD)

The policy review and development process was conducted over a period beginning in January 2012 and concluding in September 2012. Working meetings were held with CDP officials to review existing policies, deliberate on potential use of force policy changes, review and discuss PERF's recommended changes, then review and formalize policy changes made by the CDP.

The second phase of the study, which began in September of 2012, evaluated how the Division currently manages department processes that affect use of force practices, and the extent to which CDP has implemented use of force policies, procedures, directives and training. During this phase, PERF staff met with members of the CDP; subject matter experts evaluated the Division's use of force training, reporting, supervision, and investigations; and national law enforcement leaders facing similar challenges as in Cleveland were brought in to provide consultation for the Mayor and key appointees and the command staff of the Cleveland Division of Police. PERF's findings and recommendations are described in this report.

The intended outcome of the study is to provide the Division with a roadmap to evaluate and strengthen (where necessary) how the Division controls and manages the use of force by officers.

Methodology

PERF performed the following tasks for the collection of information related to CDP's use of force issues:

1. An examination of existing policies related to police use of force.
2. Use of the following policy modification process - PERF made recommendations to revise existing use of force policies; those recommendations were reviewed by the CDP; the Division revised policies as they deemed appropriate; PERF performed a second review and commented on the modified policies; all input was used by the CDP to finalize changes to policies.
3. A review of a sample of use of force reports filed by Cleveland police officers.
4. An examination of a sample of internal investigation reports regarding the use of force.
5. Interviews with supervisory and command level personnel regarding use of force training, reporting, supervision, investigations and aftercare.

To assist PERF in carrying out this methodology, the Division provided the following documentation:

- Use of Force policies, procedures, directives and training curricula and materials directly or indirectly related to the use of force.
- Materials related to self-defense, weaponless use of force and firearms training, and training provided to tactical and other specialized units within the CDP.
- Materials related to the reporting and investigation of use of force incidents, including protocols and/or policies and procedures for carrying out investigations related to the use of force.
- Materials concerning aftercare and employee assistance programs available to personnel involved in use of force incidents.
- A randomly selected sample of use of force reports and deadly force investigation reports.

The execution of this methodology was accomplished by PERF staff and national police experts performing policy reviews and conducting site visits to meet with members of the Cleveland Division of Police. PERF identified current conditions and practices in the Police Division, then compared them to best practices in policing. This approach has resulted in the findings and recommendations contained in this report. The 26 recommendations by PERF included in this study have been numbered sequentially throughout this report for ease in review and reference.

Use of Force Policies and Procedures

The policy review and change process, as outlined in the Methodology portion of this report, resulted in substantial revisions to the Division’s written directives. The following table describes the policy modification resulting from this study. The General Police Order and topic is identified along with PERF’s recommendations and CDP’s response. Such response includes policy revisions made by the Division or rationales for maintaining the existing policy. CPD’s relevant policies are attached as an appendix.

<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
1.1.22	Use of Deadly Force Investigation Team (UDFIT)	PERF recommends adding shootings involving attacking dogs to UDFIT’s investigative responsibilities.	CDP agrees and has made the appropriate revision. <i>(page 2)</i> ¹
1.3.16	Integrity Control Section Call-up Teams	PERF recommends defining the three units: Integrity Control Section, Internal Affairs Unit, and Inspection Section.	CDP has made sufficient changes that, when taken together with our supervisors’ knowledge of the organizational chart, meet the intent of the above recommendation. <i>(pages 1 and 2)</i>
2.1.01	Use of Force	PERF notes that there is an inconsistency in terminology, specifically the interchangeable use of “Actively” Resistant and “Aggressively” Resistant. PERF recommends the consistent use of the word “Actively”.	CDP has reviewed all the Use of Force documents and made the appropriate changes where needed. <i>(G.O. 2.1.01 pages 3 and 5, Appendix A page 2; G.O. 2.1.06 page 5; UDFIT Manual page 15)</i>
2.1.01	Use of Force	PERF recommends the	CDP has made the appropriate

¹ As applicable, italicized page numbers in parenthesis within the table refer to where the modification to the Cleveland Division of Police policies can be found. For example, the revision recommended in the first row of the chart can be found on page 2 of General Police Order 1.1.22.

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		elimination of the use of lateral vascular restraint holds.	change. <i>(eliminated from policy)</i>
2.1.01	Use of Force	PERF recommends including "persons with mental illness" to the list of persons needing to be transported to the hospital in the event of an OC spray usage; and that officers should take steps to relieve the discomfort of an OC application at the scene.	CDP has made the appropriate changes. <i>(pages 7 and 8)</i>
2.1.01	Use of Force	PERF recommends section VI, D, 5 be changed to state that officers shall not discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the police officer or another person present, by means other than a moving vehicle. This is a nationally accepted best practice. Shooting the operator of a moving vehicle does not result in a stopped vehicle – it simply raises the chances of danger from an uncontrolled vehicle.	CDP subsequently changed it policies through Divisional Order 13-342 to comply with PERF's recommendation.
2.1.02	Beanbag Shotgun	PERF recommends that the next higher supervisor than	CDP agrees and has made the appropriate revision. <i>(Change found</i>

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		the one deploying the beanbag shotgun conduct the Use of Force investigation.	<i>on page 4 of Draft G.O. 2.1.02.V.F dated 12-19-12 however that section is not included on revised policy dated 3-22-13.)</i>
2.1.02	Beanbag Shotgun	PERF notes that there is a lack of clarity over who has the responsibility of investigative oversight. It is recommended that all beanbag shotgun discharges be investigated by the Use of Deadly Force Investigation Team (UDFIT).	<p>CDP has revised this General Police Order (GPO) (<i>page 4</i>) and GPO's 1.1.22 Use of Deadly Force Investigation Team (<i>page 2</i>) and 1.3.16 Integrity Control Call-up Teams (<i>page 2</i>) to create more clarity in the investigative responsibilities.</p> <p>CDP differs with PERF on the recommendation that UDFIT investigate ALL beanbag shotgun discharges. In this instance, CDP reasons that there is no intent to kill or cause serious injury, and that a miss (lack of marksmanship) does not rise to the level of an UDFIT investigation. But in the interest of providing maximum oversight, CDP has revised this GPO (<i>page 4</i>) and GPO 1.3.16 (<i>page 2</i>) to add the <u>discharge of the beanbag shotgun when no death or serious injury has occurred regardless of whether a person was struck by a beanbag round</u> to the responsibilities of the Integrity Control Call-up Team.</p>
2.1.03	Firearm Discharge Investigations	PERF recommends that the Use of Deadly Force Investigation Team (UDFIT) investigate firearm discharges	CDP agrees and has made the appropriate revision. (<i>page 2</i>)

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		that were made as a defensive/enforcement action taken by a police officer against an animal taking aggressive action or being used as a weapon against the officer or innocent person (e.g. an attacking dog).	
2.1.06	Taser	PERF recommends that language be incorporated into this General Police Order regarding an appropriate response when a subject has control of a Taser or other Electronic Control Weapon (ECW) ² especially when there are multiple officers present. The modification should reflect guideline 15 in the Police Executive Research Forum and the U.S. Justice Department's COPS Office 2011 Electronic Control Weapon Guidelines.	CDP agrees and has made the appropriate revision. <i>(page 7)</i>
2.1.06	Taser	PERF recommends that language be incorporated into this General Police Order discouraging the use of the drive stun mode as a pain	CDP agreed and made appropriate recommendations. <i>(pages 2 and 3)</i>

2 PERF recommends the descriptor *Electronic Control Weapons (ECWs)* rather than *Electronic Control Devices (ECDs)*. The use of the descriptor *ECW* acknowledges that Tasers and similar devices are weapons. Also CDP should consider replacing the brand name Taser with the generic term "ECW."

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		compliance technique.	
2.1.06	Taser	PERF recommends that the following language be incorporated into the GPO. "Drive stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option."	This language was not incorporated into the GPO.
2.1.06	Taser	PERF recommends that language be incorporated into this General Police Order regarding the proper storage and transportation of the ECW.	CDP agreed that the language is needed and reports that this is a matter that is covered in the initial Taser training and annual Taser re-qualification.
2.1.06	Taser	PERF recommends that all ECW inspection downloads be printed and that periodic random audits be made of recorded activations and Use of Force reports.	CDP has studied the feasibility of these recommendations and finds that due to the aging inventory of Taser stock and other administrative and technical factors involved, putting these recommendations in practice is not workable. However, CDP acknowledges the merits of these recommendations and will revisit them when CDP transitions to the next generation Taser. As new Tasers are acquired, Cleveland will comply with this recommendation.
2.1.06	Taser	PERF recommends that CDP adopt the brightly colored (e.g.	CDP concurs. The next generation Taser (X2) that Cleveland will acquire

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		yellow) ECW so that its visibility may reduce the risk of escalating a force situation and may decrease the possibility of mistaking the ECW for a firearm.	will be yellow.
2.1.06	Taser	PERF notes that the GPO is silent on the frequency and nature of annual ECW training.	CDP concurs and has made this an integral policy of the GPO's introductory policy statement. <i>(page 1)</i>
2.1.06	Taser	PERF recommends that training protocols include instruction on the risks associated with positional asphyxia following an ECW application.	CDP acknowledges the risks of positional asphyxia in its training and in this GPO. <i>(page 8)</i>
2.1.06	Taser	PERF recommends that if CDP is using multiple models of the ECW, that information must be included in the GPO.	In anticipation of having more than one model Taser concurrently in use, the GPO has been revised where appropriate. <i>(pages 3,4,10 and 11)</i>
2.1.06	Taser	PERF recommends that the protocol for use of force investigations related to ECW activations be consolidated into this GPO.	Cleveland's response was: "While there is some merit to this recommendation, all Cleveland police supervisors are already very well acquainted with the investigative protocols. Repeating these protocols here will make an already cumbersome GPO even more so."
2.1.06	Taser	PERF recommends enhancing ECW deployment investigations to include photographs of injuries, cartridges and probes; as well	Photographs are already required when UDFIT investigates a Taser deployment. CDP has added language requiring the collection and entering into evidence the entire

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		as collecting cartridges and probes.	spent cartridge, including the probes. <i>(pages 8 and 9)</i>
2.1.06	Taser	PERF notes that while CDP captures much of the information recommended in the 53 ECW guidelines promulgated by the Police Executive Research Forum and the U.S. Justice Department's COPS Office, it is recommended that the Cleveland Police consolidate guidelines 43, 44, and 50 into one document. ³	Cleveland declined to make the recommended change stating "Officers and their supervisors are well acquainted and comfortable with the reporting and investigative requirements where they are presently located in the General Police Orders. Editing and moving large sections of information across several GPO's would likely cause confusion to officers and supervisors accustomed to the current arrangement of directives." "However, CDP acknowledges the goal of producing consolidated and streamlined directives, especially when it improves clarity for non-CDP partners. CDP is committed to excellence in policy and practice; and it is in that spirit that CDP is continually open to the input of our law enforcement partners and the community we serve."
	UDFIT Manual	PERF notes that there is an inconsistency in terminology, specifically the interchangeable use of	CDP has reviewed all the Use of Force documents and made the appropriate changes where needed. <i>(G.O. 2.1.01 pages 3 and 5,</i>

³ "2011 Electronic Control Weapon Guidelines," available online at <http://cops.usdoj.gov/Publications/e021111339-PERF-ECWGb.pdf>

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		<p>"Actively" Resistant and "Aggressively" Resistant. PERF recommends the consistent use of the word "Actively".</p>	<p><i>Appendix A page 2; G.O. 2.1.06 page 5; UDFIT Manual page 15)</i></p>
	<p>UDFIT Manual</p>	<p>PERF recommends that the term "less lethal" replace the current used "non-deadly" standard.</p>	<p>CDP has reviewed all the Use of Force documents and made the appropriate changes where needed. <i>(G.O. 1.1.22 page 3; G.O. 2.1.01 pages 2,9,10,11,12,and 15; Appendix A page 4; G.O. 2.1.06 page 9; UDFIT Manual pages 2 and 4)</i></p>
	<p>UDFIT Manual</p>	<p>PERF recommends a revision to the definition of "serious injury" to include "head injury".</p>	<p>CDP has made the change. <i>(page 4)</i></p>
	<p>UDFIT Manual</p>	<p>PERF notes a lack of consistency in the UDFIT Manual and the General Police Orders on the roles and responsibilities of the Integrity Control Section and the Internal Affairs Unit.</p>	<p>CDP agrees that some additional editing will alleviate any confusion on the apparent interchangeable use of these entities. CDP has reviewed all the documents and edited the language, making corrections where needed, to provide more clarity on the roles and responsibilities of the Integrity Control Section and the Internal Affairs Unit. CDP believes that with these changes, our supervisors will have sufficient knowledge of the process and the organizational structure to know how to make the proper notifications. <i>(page 7, footnote 1)</i></p>
	<p>UDFIT Manual</p>	<p>PERF recommends that the CDP request a representative from the prosecutor's office</p>	<p>CDP has no objection to this. However, the prosecutor's office is outside the span of control of CDP</p>

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<i>General Police Order</i>	<i>Topic</i>	<i>PERF Recommendation</i>	<i>Cleveland Division of Police Response</i>
		come to all officer involved shootings, not just those that involve death or injury.	and therefore CDP cannot impose that mandate on them. <i>(page 8)</i>

PERF has conducted significant research on Electronic Control Weapons (ECWs) with the U.S. Department of Justice and other partners. Previously, the term Electronic Control Devices was used to describe these devices. The term was changed in 2011 to act as the descriptor for such devices acknowledging that Taser and similar devices are in fact weapons. CDP refers to such weapons as "Taser" in its policies, procedures and report forms. In order to bring policies up to date with national terminology, the Division should consider changing all references of "Taser" to "Electronic Control Weapons (ECW)" in its policies, procedures and reporting forms.

The preceding table illustrates that the CDP has adopted the majority of PERF's policy recommendations. In a few instances, the CDP found PERF's recommendations to be unworkable in their environment, and has explained its position. The one area of policy disagreement between PERF and CDP is the extent to which the CDP discourages the use of the Taser in "drive stun" mode. PERF stands by its recommendations and suggests reconsideration by the Cleveland Division of Police.

Recommendation 1. The Taser (ECD) policy - G.P.O. 2.1.06 - should contain stronger language discouraging the use of the Taser in "drive stun" mode.

CDP General Order 2.1.06 outlines the Taser (ECD) policy and indicates use in drive stun mode, "is not the preferred use of the Taser as it is based on pain compliance which is not always a reliable method of gaining submission." However, the policy allows for deployment in the drive stun mode at the pressure point areas of the body as long as used with a non-fired cartridge attached. The best practice regarding the use of an ECW in drive stun mode is restricting its use only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.

Current Practices Related to the Use of Force

In addition to an agency's use of force policies reflecting best policing practices, there are a number of department functions that are important to create a culture where use of force practices and policies are congruent. These critical components include training, supervision and management, less-lethal use of force reporting, early intervention, and post-traumatic stress aftercare and are addressed in the following section of this report.

Training

The training of new and existing personnel provides the foundation for department practices regarding the use of force. The discussion of training contained in this report is divided into three sections. First is entry level or recruit training which is provided to newly hired personnel in the Basic Police Academy before they begin work as a police officer. A substantial portion of this curriculum is related to use of force issues. Second, in-service training is described, which is provided to all sworn personnel annually and includes use of force topics. Third, specialized training is covered and is designed to prepare selected officers as subject matter experts and instructors in the use of force domain. Findings and recommendations related to each type of training are presented below.

Entry Level/Recruit Training

PERF evaluated entry level use of force training in the Cleveland Division of Police (CDP) in regard to curriculum, instructional delivery techniques, management and scheduling, staffing, instructor training, classroom training and psychomotor training. Our evaluation was accomplished through interviews with training managers and instructors, as well as an examination of curriculum and training outline materials.

Curriculum

The core curriculum of the CDP entry level peace officer training is promulgated and mandated by the Ohio Peace Officer Training Commission (OPOTC). The OPOTC defines student performance objectives and requires that recruit training consist of a minimum of 569 hours of prescribed curriculum. The CDP Academy nearly doubles the state standard, providing 1,040 hours of recruit training. This amount of entry level training hours is consistent with similarly sized police departments. For example, the Boston Police Department's entry level training is 1,040 hours in length and Seattle's consists of approximately 1,000 hours.

Some of the additional hours in the CDP academy beyond OPOTC minimum requirements are related to use of force. A sample of such training modules include subject control, firearms training, interacting with special needs populations, field force training, crisis intervention, civil disorder and physical readiness. Scenario based training is included in some of these modules.

Comparison of OPOTG and CDP Use of Force Basic Academy Training Hours

Basic Academy Training Topic	OPOTC Required Hours	CDP Academy Hours	Standard Compliance
Subject Control	78	78	Meets Standards
Firearms	76	92	Exceeds Standards by 16 hrs
ECW	none	4	Exceeds Standards by 4 hrs
OC Spray	4	4	Meets Standards
Force Continuum	4	4	Meets Standards
Civil Liability/Use of Force *	4	4	Meets Standards
Physical Readiness	none	50	Exceeds Standards by 50 hrs
Total	166	236	Exceeds Standards by 70 hrs

* Classroom Hours

CDP use of force instructors contend that discipline and physical preparedness are important components of the appropriate application of force. The CDP academy dedicates 50 hours of training to physical readiness, while there are no state requirements for this type of training. The CDP academy operates in a quasi-military fashion, and physical training is an important part of that model. A quasi-military approach is a practice common in many large-city police departments.

In summary, the CDP exceeds state minimum training requirements related to the use of force. The state mandates 166 hours of training related to the use of force. The CDP academy provides an additional 70 hours. Of those supplementary hours, 50 are consumed on physical readiness, 16 are dedicated to firearms training and four hours are spent on ECW training. Beyond training specific to the use of force, CDP instructional staff members said that their use of force policies are linked to many academy topics, including those listed above.

Instructional Delivery Techniques

CDP instructors are required to develop their own lesson plans that conform to OPOTC requirements. Entry level recruit training consists of traditional classroom/lecture

delivery, hands-psychomotor training supplemented by classroom instruction, simulations, and student-led problem solving groups.

Management and Scheduling

Academy scheduling is complex and requires a tremendous amount of coordination and flexibility. CDP academy staff fulfills this function efficiently and effectively, ensuring that all instructional modules are completed in each academy class. Classroom and psychomotor training are coordinated and managed by separating recruits into multiple groups thereby maximizing facility space, instructor/student ratio, and recruits' learning environment.

Staffing

Use of force training is provided by academy staff for classroom training, by gym staff for psychomotor training, and by range staff for firearms classroom and range training. Use of force instructional staff members are certified as required by the OPOTC and are competent CDP sworn officers. PERF found the staffing levels of the Academy to be adequate in use of force training components.

Instructor Training

CDP instructors are selected based upon their expertise in a specific subject matter combined with a demonstrated competence as an instructor. Prior to serving as a trainer, all instructors must complete an 80-hour OPOTC instructor development course. If needed, instructors receive additional training in their areas of expertise.

Use of Force - Classroom Instruction

Recruits receive four hours of formal use of force training during their academy instruction. The four-hour block presented covers the use of force as it is related to civil liability and CDP use of force policies; GPO 2.1.01 Use of Force and others. Use of force topics are further reinforced in other training curriculums including: firearms instruction, subject control training and interacting with special needs populations.

Use of Force – Psychomotor Instruction

Psychomotor subject control training includes techniques related to presence, verbalization, linguistics, de-escalation, subject control, defensive tactics, firearms and proper use of a baton (ASP), Oleoresin Capsicum (OC), and electronic control weapons. Some psychomotor training such as discretionary firearms ("shoot/don't shoot") is conducted through the use of simulations. Recruits receive firearms and subject control training one to two times per week throughout academy training.

Firearms qualification standards for CDP academy recruits are established by OPOTC. Instructional performance objectives are defined by OPOTC while competence is tested by academy staff.

Use of force subjects are directly related to policing "high liability" areas and are critical to maintaining officer safety and public safety. A recruit's ability to develop cognitive and physical skills is an important component of their training and ability to perform required tasks. Cognitive skills include: processing speed (the efficiency with which the brain processes information it receives); auditory processing (analyzing, segmenting and blending sound); visual processing (the ability to receive and manipulate visual information); memory (storage and recall of information); and logic and reasoning (skills necessary for planning and problem solving.) Physical skills combine fitness and muscle memory to maintain situational control. This type of training and the number of hours dedicated by CDP are typical of the curriculum in most major city police academies. Cognitive and physical skills require a substantial time investment to adequately train new officers in order to mitigate possible risk.

In-Service Training

PERF evaluated in-service use of force training provided by the CDP with regard to hours of instruction, training needs and curriculum. The evaluation was accomplished through interviews with training managers and curriculum review, and a review of a number of training outlines.

Overview

In-service training topics are established on an annual basis and can change from year to year based upon the needs of the CDP. Some topics, such as firearms qualification and use of force classroom training, are incorporated into each year's in-service training. In-service training topics are established by a training committee, with subsequent approval required up the chain of command. The training committee recommends training topics and the number of hours to be invested in each topic. Some curriculum is driven by performance deficiencies noted during the previous year and officers may also suggest topics for in-service instruction.

Recertification is conducted as required by OPOTC. Taser recertification is conducted annually while ASP and OC recertification training are conducted every three years. PERF noted there are no lesson plans for in-service ASP baton and OC training.

In-Service Training and Delivery

As with all policing organizations, the number of hours invested in annual in-service training by CDP is a balance between the ability to schedule officers in training with maintaining minimum staffing levels in operational units. The number of hours invested in annual in-service training varies from year to year. In the past, annual in-service training has ranged from 24-32 hours but recently expanded to 32-40 hours. This additional time is being devoted to more training in the areas of felony traffic stops and shoot/don't shoot firearms simulations.

Internal and external in-service training instructors must be certified by OPOTC. Certification standards vary based on the subject the instructor is teaching. Instructors are required to write their own curriculums which are approved by members of the Academy Unit.

In-service training also includes perishable skills such as annual firearms training, driver's training and certification, and hands-on training in other tactical competencies.

Recent training has also included active shooter training. The Division uses Ohio Peace Officer Training Academy driving and shooting simulators for in-service training, but the scheduling of officers is constrained by the availability of the simulators.

Specialized Training

PERF evaluated the availability of use-of-force training outside of entry-level and in-service training delivery systems. The evaluation was conducted through interviews with training managers and is summarized below, based upon the rank structure of the Division.

Remedial use-of-force training is provided to officers who have demonstrated a need for additional training. Referrals may be made by management and supervisory personnel, by field training officers, or through the disciplinary process.

All FTOs are scheduled to attend additional use of force training to assist in the training of new officers.

Newly promoted sergeants are required to attend additional use of force training to provide the information necessary to fulfill their newly acquired supervisory responsibilities. The Division also has mandated that all sergeants complete the National Incident Management System (NIMS) leadership courses on-line, which includes content regarding communications, leadership and influence, and decision making and problem solving. Many supervisors also attended the Police Executive Leadership College (PELC) and the Certified Law Enforcement Executive Program (CLEE), both sponsored by the Law Enforcement Foundation.

In the last year, the department has provided command staff, including captains, with additional leadership and command training from independent training agencies. The Division sponsored a “Leadership in Police Organization” class, which was three weeks in length. The course was provided by the International Association of Chiefs of Police. The Chief also sponsored a training program entitled “Evolution in Law Enforcement” with former Raleigh, NC Chief Harry Dolan as the speaker.

Training Recommendations

Based on the preceding findings, the Cleveland Division of Police should adopt the following PERF recommendations.

Recommendation 2. The number of hours dedicated to entry level training should be increased by at least eight hours to accommodate classroom training on CDP's use of force policies.

While the department's policies on use of force are integrated into some subject-control psychomotor training, only four hours of classroom training are provided regarding the basis and legal background for department policies. The CDP has a substantial number of policies that are related to the use of force. Classroom instruction, followed by student competency testing, should be conducted on each additional policy. Increasing time for policy training should be considered rather than displacing the hours now allocated for existing topics.

Recommendation 3. The OPOTC curriculum for civil liability and the use of force should be separated into two distinct classes.

Currently, OPOTC combines training regarding civil liability and use of force into one outline and a single four-hour training block. The curriculum for each topic is well done and extensive. However, the material would be difficult to cover thoroughly, even in lecture format, in the time allowed. These training modules should be segregated into two instructional segments: four hours for civil liability; and with the implementation of PERF Recommendation 3, eight hours should be devoted to use of force policy instruction. Such modification also provides the opportunity for instructors in each section to facilitate group discussions on critical legal matters for a more comprehensive understanding by recruits.

Recommendation 4. The integration of department use of force policy with subject control training should be formalized in training outlines.

Currently, instructors integrate discussion of department use of force policies during subject control psychomotor training. The integration of policy with practice is an excellent approach. This process should be formalized in training outlines so that this integrated approach is provided uniformly by different instructors. Recruits should be tested for competency in both psychomotor and policy application abilities.

Recommendation 5. The CDP should develop training outlines for ASP and OC instruction for in-service training.

ASP baton and OC training outlines are currently available for entry level training but not in-service. Such training outlines should be developed to serve as an instructional aid and as documentation of training content. Existing recruit outlines in these topics can generally be used as a guide for in-service training by reflecting the different level and content of instruction for experienced officers.

Supervision and Management

PERF interviewed street supervisors and district commanders and conducted a focus group of uniformed field sergeants to ascertain their views on the department's use-of-force policies, procedures and training. This information was helpful to PERF in understanding the current culture and practices of the Division. This data was also instrumental in our development of tailored recommendations. Following are some of the observations made by supervisors:

City Officials and Command Staff

- Making supervisors accountable for their officers' actions is one of the biggest organizational challenges.
- There are a number of new sergeants on the street, creating a significant need for mentoring and training.
- The promotional process for sergeant recently was changed to include an assessment center. Department leaders feel this added component has resulted in more qualified individuals being selected for promotion to Sergeant.

Supervisory Personnel

- Supervisors reported that some officers have indicated that while policies are adequate, practice may not reflect policy.
- The reduction in the number of lieutenants, along with a negotiated schedule change, has resulted in fewer lieutenants being available for supervisory street duty in the districts.
- Because patrol supervisory staffing is based on seniority, the least experienced sergeants work the most active shifts.
- Some supervisors say that the decision making of some officers is being affected by the scrutiny they undergo when they use force, and that there is a lack of supervisory consistency in charging for violations.

- Some supervisors felt use of force incidents are over-investigated, while others recommended that extensive photos should be taken of every arrestee to avoid false claims of excessive force.
- Some expressed the view that the bean bag shotgun is not very useful because it seldom can be deployed in a timely manner due to existing policy.
- Some believe that the use of force investigative process could be made more user-friendly with a smaller check list rather than current full-blown reporting requirements which require exhaustive detail.

Use of Force Recommendations from CDP Personnel

- Sergeants and officers need more training on use-of-force policy, reporting requirements and the investigative and review processes.
- Officers and the department would benefit from more scenario-based training on use-of-force issues.
- Field sergeants need specialized training on supervising the scene of deadly force incidents, including officer-involved shootings.
- The timely debriefing of deadly force incidents at roll calls would provide officers with valuable training information while preventing the spread of misinformation throughout the department.
- Use of force policies and related information should be periodically disseminated and discussed at roll calls.

Supervision and Management Recommendations

Based on PERF's analysis of supervision and management, the Cleveland Division of Police should consider the making the following changes.

Recommendation 6. The CDP should conduct an assessment of patrol supervisory staffing, including a historical analysis of supervisory coverage, and should consider adding additional lieutenants to the patrol districts.

Current scheduling makes it possible to have a lieutenant working in a given district on particular shifts only three out of seven days of the week. Coupled with the relative inexperience of some of the sergeants, there appears to be a gap in supervisory oversight. The Department should attempt to balance the patrol supervisory staffing citywide, so that an adequate span of supervisory control is maintained within the individual districts,

coordinating supervisory staffing with other districts. In addition, CDP should review the assignment of newly promoted supervisors and ensure that platoon assignments have an appropriate balance of experienced and recently appointed supervisors. Criteria such as span of control, peak times for high volume, and in-progress field activity should be considered when deploying new supervisors. This is critical in the mentoring process of newly promoted sergeants.

Recommendation 7. The CDP should develop a program similar to the Compstat model for tracking and managing use of force issues.

Many police departments operate a program called Compstat, where command and executive rank personnel meet frequently to carry out a qualitative and quantitative assessment of crime levels, patterns, and police strategies. A major component of the process is to require accountability from executives and commanders for crime in their areas of responsibility. The CDP should initiate a program similar to Compstat to assure internal accountability regarding the use of force. The analysis would consider data on citizen complaints, use of force reports, and staff inspections compiled on the basis of shift, district, supervisory staffing and other variables included in the Division's Early Intervention Program to identify common denominators. Accountability for use of force would be given to commanders and lieutenants. As they are held accountable for administrative issues in their areas of responsibility, it will be more likely that the requirement for accountability will be pushed down to supervisors and officers.

Recommendation 8. Suggestions identified by CDP personnel to address organizational use of force issues have merit and should be considered for implementation.

As part of PERF's fact finding methodology in this study, input was solicited from a sample of the Division's managers and supervisors regarding how they felt organizational use of forces issues could be positively impacted. A review of their thoughts revealed sound recommendations based upon their experience in the agency and expertise in the field.

Additional training, including scenario-based exercises; the periodic review and discussion of high liability policies at roll call; and further information on reporting, investigating and reviewing use of force incidents will all benefit the Division. Based upon the number of relatively inexperienced field sergeants, specialized training on supervising the scene of deadly force incidents, including officer-involved shootings, has

value. Debriefing major incidents provides training opportunities and the dissemination of accurate information by the administration.

Less Lethal Force Reporting

PERF evaluated use-of-force reporting in the CDP through interviews and a review of completed use-of-force reports.

Less lethal force is defined by the CDP as any use of force other than that which is considered deadly force. Officers are required to complete a records management system (RMS) report when less lethal force is used. CDP officers also are required to file a *Use of Less Lethal Force* report when less lethal force is used. These two reports are completed by the involved officer and submitted to his or her supervisor for review and approval. Supervisors are also required to complete an investigation into the incident and submit a report. Once approved, the reports are forwarded up through the chain of command, ultimately to the appropriate Deputy Chief, for appropriate study and action.

In 2012, 413 *Use of Less Lethal Force* reports were filed. The incidents of less lethal force, as measured by the number of *Use of Less Lethal Force* reports completed, have been declining since 2006. The 2012 number represents a 36% decrease from the six year average. Department officials attribute the reduction in the number of use of force reports to a declining population in Cleveland, fewer calls for service, and officers becoming “much more judicious” in their use of force.

Both executive and supervisory level personnel agree that the reporting process needs to be simplified because of the length of the form. The existing report has several check box components which assist in completing the report while capturing specific information that is needed to conduct a thorough analysis of use-of-force incidents. Care should be taken to modify the report without losing the current robust analysis capabilities.

A review of reports revealed the use of boilerplate language by officers and supervisors. Supervisory comments in the reports sometimes mirror or duplicate the exact language used by reporting officers. Use of force training includes the elements of a thorough reporting of force used by a member of the CDP, including proper terms and phraseology which were reflected in the examined reports.

Review of Use of Less Lethal Force Reports

During PERF's December 18-20, 2012 site visit to Cleveland, members of the team reviewed a random sample of ten Use of Less Lethal Force reports from each of the department's five policing districts, a total of 50 reports. The use of force incidents occurred in 2011 and 2012. It should be noted in the past, the report form was entitled *Use of Non-Deadly Force Report*.

In general, PERF noted the following strengths of the Use of Less Lethal Force reports reviewed.

- The report form itself, GPO 2.1.01 Appendix A, provides for the collection of critical specific information that is needed to conduct a thorough analysis of use-of-force incidents. Such data includes: nature of call; subject information (gender, height, weight, build, whether the subject was under the influence of alcohol or drugs, mental illness suspected or reported); information on each officer involved (gender, height, weight, age, force used); what precipitated the incident; specific information on suspect actions and officer response; a picture of the impact area; injury information including EMS unit and run number involved, hospital, and physician when applicable; and comments for endorsements throughout the chain of command.
- With few exceptions, all boxes were completed on the report forms.
- Officers requested EMS response to the scene when an injury or complaint of pain occurred and documented such action.
- Arrestees were interviewed when possible.
- A number of reports included witness statements.
- There were examples of Commanders returning reports to supervisors for corrective action when pertinent information was not included in the report.
- A supervisor's report included follow-up of an off-duty incident to ensure that the involved officer was adhering to department policy in working a second job.

PERF also noted the following opportunities to improve the Use of Less Lethal Force reports.

- An increase in uniformity in the reporting format used by supervisors in competing Use of Less Lethal Force reports will enhance the review process.
- In many reports, pictures were included to document suspect and/or officer injuries. This should become a universal practice.
- Supervisors should avoid copying and pasting narratives from officers' reports into their own supervisory reports.

- Some officers inserted a disclaimer into their reports that stated, “I am making this report pursuant to the orders of a lawful supervisory officer. Failure to obey the order constitutes insubordination and punishment can be up to and including termination.”

Less Lethal Force Reporting Recommendations

Based on the preceding findings, PERF has identified the following opportunities for the Cleveland Police Department to improve the reporting of less lethal force incidents.

Recommendation 9. The CDP should require that supervisors submit a uniform use-of-force investigation report.

PERF observed several different formats used by sergeants; one appeared to be a form created by that supervisor. Based upon the various formats used by supervisors, a suggested form should include the following outlined categories: synopsis, involved parties, interviews, investigation, medical attention/injuries, notifications, arrests, findings/conclusions.

Recommendation 10. The CDP should require that officers' and supervisors' use-of-force reports be their own original work and be completed in a uniform manner; reports should not be duplicated from someone else's report or from training materials, and should not contain extraneous legal verbiage.

In reviewing Use of Less-Lethal Force reports, it appears officers and supervisors are cutting and pasting the narratives between various reports that document the incident. When supervisors cut and paste from an officer's use-of-force report, it can appear that there was no independent investigation. The supervisor's report should reflect his/her original description and findings regarding the incident, without relying on narrative text written by an involved officer(s). Supervisors should not cut and paste from an officer's report into their own report. The supervisory report of a less lethal use of force incident should be original work and should only include language from an officer's report if it is quoted for context.

It is understandable that *officers* sometimes cut and paste language between their use of force narrative (RMS report) and their other reports that describe the incident or crime that precipitated their use of force since it is the officer's original work which documents the incident. However, officers should carefully proofread report narratives since cutting and

pasting segments with errors compounds the problem. Such errors may cause a report to be factually incorrect, creating a basis to challenge the officer's account.

As in a supervisory report, assisting officers' reports should also be original work, not copying text from another person's documentation of the incident. Language from another officer's report should only be included if it is quoted for context.

PERF noted in our review of less lethal use of force reports that some reports included verbiage to describe and justify the action of officers that appears to be taken directly from use-of-force related training materials and instruction. While it is a good approach to train officers in how to describe use-of-force situations, overuse of certain key phrases may be suspect.

Finally, the addition of "disclaimer" language by officers adds no value to the use of force report, and goes beyond the information that is required or desired by the department.

Recommendation 11. The CDP should require that use-of-force reports be returned for correction by the officer or supervisor and resubmitted within three working days of receipt.

PERF observed several instances where a six-week period elapsed between when a report was returned to an officer for correction and when it was resubmitted to the supervisor. This is unacceptable. Reports should be corrected and resubmitted within three days of receipt unless extenuating circumstances exist. In those instances, supervisory approval should be required for an extension and a specific due date should be stated.

Recommendation 12. CDP should increase its scrutiny of use-of-force reports relating to the use of ECWs.

Based upon our review of force reports, particular attention should be paid to the following areas of use-of-force incidents in which Electronic Control Weapons (Tasers™) are used:

- Inaccurate dates and times, which raised concern, on downloaded ECW data after deployment;
- Frequency at which the ECW is used when deployed in the Drive Stun mode;
- Multiple officers deploying their ECWs at one subject;
- Officers aiming and deploying the ECW at a subject's chest, center mass, against the recommendation of the manufacturer's Training Bulletin.

Recommendation 13. CDP supervisors should maintain the integrity of use-of-force reports by returning them to officers for correction when errors are made.

Different handwritings were seen on some reports, which appeared to be supervisors making minor corrections to an officer's report. This practice, while time-efficient, jeopardizes the integrity of the report. Such action is unacceptable and should not be accepted.

Recommendation 14. CDP should require that use-of-force investigations include a review of the actions of officers to ensure compliance with laws governing arrests and searches and seizures.

While a review of an officer's use of force is the primary reason for requiring a use-of-force investigation, it should also include a review of the actions that may have precipitated the use of force. This practice may provide the CDP with valuable opportunities for training.

Deadly Force Investigations

When deadly force is used by a member of the Cleveland Division of Police, five different investigations or reviews are initiated by the department, each with a separate purpose: an investigation into the use of force that may include a criminal investigation; an investigation of the precedent crime; an administrative review of the use of force; a review of the incident by the civilian Office of Professional Standards; and a tactical review of the incident.

Use of Force Investigation

The investigative protocol of a deadly force incident involving a member of the CDP is outlined in General Police Order, Cleveland Division of Police 1.1.22, *Deadly Force Investigation Team, Use of (UDFIT)*. Such investigations are led by the Officer in Charge of the Homicide Unit who is granted full investigative authority by the Chief of Police and reports directly to the Chief of Police in all matters pertaining to the UDFIT. Members of the Homicide Unit, the Technical Section and the Internal Affairs Unit make up the investigative team. By definition, an officer-involved shooting is an “*event that irrespective of injury, involves any firearm discharge by a police officer other than: authorized firearms training, an accidental shooting not resulting in injury or death, or the necessary destruction of a sick or injured animal.*”

Use of deadly force incidents are investigated by the UDFIT in coordination with the Chief Prosecutor of the City of Cleveland. When the use of force results in a death, the Cuyahoga County Medical Examiner's Office is also notified. The Medical Examiner's Office is responsible for conducting an investigation to determine the cause of death, and in coordination with the Chief Municipal Officer and CDP's UDFIT, makes a determination as to whether the use of force is justifiable or is a violation of the law. If no violation of the law is found, further administrative and tactical reviews are initiated. If the determination is made that the actions of an officer may have violated the law, a criminal prosecution may be initiated by the Cuyahoga County Prosecutor, the City Prosecutor or the United States Attorney's Office.

Precedent Crime Investigation

A separate investigation into the alleged criminal actions of the suspect(s) involved in the police encounter is conducted by members of the UDFIT. If a violation of the law is found, criminal charges may be initiated by either the Cuyahoga County Prosecutor or the City Prosecutor.

Administrative Review Investigation

While the UDFIT completes the Use of Force investigation, the Chief of Police assigns the Integrity Control Section to conduct an administrative review of the incident and make one of the following determinations: No administrative violations are noted, or administrative violations are noted. One or more of the following actions may also be recommended to the Chief: individual re-instruction; training; policy review; and charges recommended. Such recommendations are forwarded to the Chief of Police for further study and action.

Office of Professional Standards Review

Upon completion of the criminal investigation, the Administrator of the Office of Professional Standards may make a written request to the Director of Public Safety for a review of the investigative package. The Police Review Board may also conduct its own review or investigation in any use of force incident. Upon completion of the Office of Professional Standards review, the Administrator will make one of the following determinations to the Director of Public Safety: No administrative violations are noted, or administrative violations are noted.

Based upon the Administrator's review of the incident, one or more of the following actions may also be made to the Director of Public Safety: individual re-instruction; training; policy review;

and charges recommended. Such recommendations are forwarded to the Director of Public Safety for further study and action.

Tactical Review

Upon completion of the UDFIT investigation and administrative reviews, a multi-disciplinary tactical review team examines all related reports. This purpose of the tactical review of the incident is to identify issues related to training, tactics, equipment, policies and procedures. Training opportunities are presented at annual in-service training.

Review of Use of Deadly Force Reports

During PERF's December 18-20, 2012 site visit to Cleveland, members of the team reviewed a random sample of nine deadly force investigations conducted by the Use of Deadly Force Investigative Team (UDFIT) occurring in 2009 - 2012, including four administrative reviews of deadly force and one tactical review of a deadly force incident.

PERF noted the following general strengths of the Use of Deadly Force Reports completed by the UDFIT:

- Investigative assignments are appropriately delegated to team members.
- Case files are well organized and tabbed with the following major sections: Form 10's (Original Use of Force Report completed by officers), RMS reports, Record and CAD Information, Investigative and Miscellaneous Reports, Medical Reports and Statements.
- The case file includes digital information related to the incident such as crimes scene pictures, dispatch data, related telephone calls, and interviews.
- The investigative team accounted for all shots fired by officers and suspects.
- Canvass checks are routinely conducted to locate potential witnesses.
- DNA evidence is recovered and processed when appropriate.
- The UDFIT routinely uses the resources of the ATF to determine ownership and other identifying information of weapons used against officers in deadly force incidents.
- Crime Scene Investigative logs are thorough and comprehensive.

The assessment of the Use of Deadly Force Reports revealed several areas for improvement.

- The four administrative reviews of deadly force incidents examined by PERF revealed the "monitoring" duties of Internal Affairs at the scene of such events. Comments on one

case investigated by the UDFIT by the Administrative Review indicated, “All logical investigative steps appear to have been taken in this investigation and that it was conducted in a fair and impartial manner by all investigators involved.” However, in one incident, three members of the investigative division involved in the incident were disciplined for a violation of CPO 2.1.01 (II) (failing to carry OC), but others were not. The report did not provide clarification as to why some at the scene received disciplinary action and others did not.

- Some inconsistencies in the administrative review of deadly force incidents were noted. In one case an anonymous officer called to say the suspect had accused officers at the scene of “stomping” and “kicking” him. The administrative review was silent on what was done regarding that allegation against officers. In another case, there were inconsistencies in an officer’s statement that were not clarified or explained.

Evaluation of Tactical Review Reports

The purpose of the Tactical Review is to improve the training of departmental personnel in sound tactics to ensure their safety. In the Use of Deadly Force Tactical Review examined by PERF, the reviewers noted that officers who were not in a tactical position to return fire did not shoot their weapons. This self-discipline and good judgment should be reinforced at in-service training. It may also reflect the value of the Division’s inclusion of shoot/don't shoot firearms scenarios in its expansion of annual in-service training.

Use of Deadly Force Recommendations

Based on the preceding findings, PERF has identified the following opportunities for the Cleveland Division of Police to improve the investigation of deadly force incidents. Observations are based on a review of a sample of use of deadly force investigation reports.

Recommendation 15. The CDP should require that inconsistent statements from the same officer be clarified in the investigation.

The use of deadly force is certainly a significant event in the career of an officer. Inconsistent statements may occur as the involved officer or witnesses relay their observations before, during and following the event to those conducting the investigation. It is important that such discrepancies be identified immediately and action initiated to quickly resolve any such differences.

Recommendation 16. The CDP should require that reports be reviewed by the author to ensure accuracy, consistency, and proper grammar.

In the sample of case files examined by PERF, the name of a witness was not consistent and incomplete sentences were observed in approved reports. In all instances, but especially in the investigation of such a high profile event, each report should be carefully reviewed by the writer and supervisor to ensure its accuracy and consistency.

Recommendation 17. The CPS should require that investigators not ask leading questions of officers.

In one case reviewed by PERF, the investigator asked the officer involved in a deadly force incident, “Were you afraid for your safety and that of other police officers at the scene?” These types of leading questions can only lead to an affirmative response. Instead, the officer should be asked to describe his/her state of mind.

Recommendation 18. The City of Cleveland should require that members of the Civilian Police Review Board receive additional orientation and training related to their responsibilities.

The Civilian Police Review Board consists of seven civilian members appointed by the Mayor and approved by the City Council. The Board accepts complaints, investigates incidents of alleged police misconduct, and recommends any necessary discipline. In addition, the Board may investigate other incidents, including those involving deadly force, those resulting in the death or injury of persons in police custody, and matters requested by the Director of Public Safety. Members of the Board would benefit from the following training to fulfill their important duties: Use-of-force policies and procedures, completion of the CDP’s Citizen Police Academy, participation in regularly scheduled ride-alongs, and attendance at the National Association of Civilian Oversight of Law Enforcement 40-hour seminar.

Recommendation 19. The CDP and the Civilian Police Review Board should develop a disciplinary matrix to ensure equity and consistency in disciplinary matters.

PERF’s review of reports revealed what may be instances of inconsistent applications of discipline. Many police departments use what is commonly referred to as a disciplinary

matrix to ensure consistency in discipline across the department. Consistency, where officers are disciplined in the same manner for the same rules violations, is important in maintaining the integrity of the disciplinary system. Equal treatment helps the department apply discipline in a way that limits allegations of favoritism or discrimination. (The Minneapolis Police Department has a model Disciplinary Matrix Policy.)

Recommendation 20. The UDFIT should work in partnership with the Office of Professional Standards (OPS) at the scene of deadly force incidents so OPS may perform its oversight duties.

The scene of a use of deadly force is often chaotic and must be managed carefully by both first responders and later, investigative personnel. In Cleveland, two separate groups of investigators respond to the scene of such an event, including representatives from multiple agencies. The UDIFT is responsible for the initial investigation while the Office of Professional Standards represents the Office of the Chief to oversee the integrity of the investigation. It is imperative that these two groups are seen to work in a coordinated manner for the good of the involved parties, the agency and the community.

Early Intervention Program

The Cleveland Division of Police maintains an Early Intervention Program (EIP). PERF's evaluation of CDP's EIP was conducted through the review of General Police Order 1.1.20 Early Intervention Program (EIP) and interviews with the former and current EAP managers.

The purpose of the CDP's Early Intervention Program is to "actively intervene and provide guidance and assistance to members of the Division displaying changes in performance and/or diminished inter-personal skills." The program is designed to prevent inappropriate conduct which may, without intervention, rise to a level where discipline becomes necessary. Participation in the program is voluntary and all information pertaining to an individual's contact with EIP are confidential and not subject to disclosure under the Ohio Public Records Act.

Oversight of the EIP is provided by the Employee Assistance Unit which is also responsible for the Employee Assistance Program, (EAP.) The EIP tracks and identifies members who exceed the threshold of: administrative charges sustained by the Chief's office; sick time abuse sustained by the Chief's office; Office of Professional Standards (OPS) complaints; use of force incidents; or Internal Affairs investigations. Members are referred to EIP by the Occupational Medical Director of the Medical Unit when they exceed a pre-determined threshold of indicators

which is the same for all members and reviewed by the Chief on a regular basis. The current threshold is seven EIP entries per rolling year, adjusting for false positives based on conduct that has already been addressed.

Members who have been involved in incidents that fall into the above categories are tracked through the use of a database using Microsoft Access. Data collection for the EIP requires that units throughout the department fax or manually submit data to the EIP office for data entry. It was reported to PERF that data entry is approximately one month behind, and the EIP office has difficulty in obtaining the information.

When an employee's activity triggers the established threshold, an EIP package is gathered by the office and forwarded to the employee's commanding officer. Working in cooperation with the member's OIC or immediate supervisor, the commanding officer within 72 hours must determine whether an intervention is appropriate, and if so, what intervention should be applied. If no intervention is warranted, a notation of "Intervention Not Merited" is returned to the EIP office along with a brief synopsis supporting the finding. If further action is required, available interventions include training or retraining; temporary change in shift, duty hours, partner or duty assignment; closer supervision; or referrals to a number or internal and external resources.

If an EIP intervention is initiated, the EIP officer shall submit monthly progress reports to the Occupational Medical Director for a minimum of six months. After six months the EIP officer decides whether the member should exit or continue on a month-to-month basis. When the employee has successfully concluded the program, the EIP officer submits a summary report to the Occupational Medical Director outlining the program synopsis, action taken and results. The Director advises the member's commanding officer of the final outcome.

The division reports approximately seven employees per month are triggered for an EIP review. Command staff indicated while the ability to monitor negative performance trackers exists, it is limited. They would also like to have the ability to track positive performance indicators.

Early Intervention Program Recommendations

Based on the preceding findings, PERF makes the following recommendations:

Recommendation 21. The CDP should require employees to participate in the Early Intervention Program. Participation should not be voluntary.

EIP programs are designed as a non-disciplinary system to improve the performance of the department and its individual members through coaching, training, and other types of professional development. As such, participation cannot be voluntary. Employees' participation in the program should be mandatory.

Recommendation 22. The CDP should acquire or develop a software application that integrates both the EIP and Internal Affairs case management.

The current EIP is limited by the need to collect data manually from the Chief's office, internal affairs, the inspections unit and the Office of Professional Standards. Sometimes this data is not supplied in a timely fashion, or is not provided without multiple requests. An integrated system would provide necessary information in a timely fashion, and would make the system more efficient. The system should allow for user level access control, so that employees would only have access to information they are entitled to view. The department is currently evaluating an internal affairs application. Any system improvements should contain input capabilities for both positive and negative data factors.

Recommendation 23. The CDP should extend the EIP application to gather additional information.

Currently, the CDP has no automated capability to allow for internal affairs oversight of complaints received and disposed of at the district level. As a result, district level complaints and dispositions are not captured by the EIP. This data should be a component of the EIP. In addition, best policing practice dictates that all complaints, sick leave, administrative charges, etc. be captured by the EIP, not just those that are sustained. Such behavior may be the first indication of a troubled employee.

Recommendation 24. The CDP should consider refining EIP reporting thresholds to reflect both the number and severity of incidents required for an officer to meet the triggering intervention threshold.

Many departments use a more discerning combination of events that consider both frequency and severity of incidents when considering whether an officer's performance requires intervention. For example, the Memphis Police Department recently made policy changes that created a list of 17 performance indicators to be tracked by their Early Intervention System. This department also established new thresholds, which are the aggregate value of

indicators which trigger an EIS review and alert commanders to officers' patterns of behavior that could put the officer at risk. (Other model police Early Intervention Systems include San Francisco PD, Phoenix PD and Minneapolis PD).

Primary data not currently captured by the CDP but regularly accrued in an effective Employee Intervention Program includes: Officer Involved Shootings; Officer Involved Discharges; civil suits; tort claims; vehicle pursuits; and on-duty traffic accidents. Secondary data included in an effective EIP include: commendations and awards; motor vehicle stops; pedestrian stops; training history; volunteer overtime worked; discretionary time off; charges of assaulting a police officer; and charges of resisting, obstructing or delaying a police officer.

Recommendation 25. The CDP should give supervisors authority to view selected data in the early intervention program.

Supervisors may not be aware of all issues that may be affecting one of their subordinates' performance. The overall quality of supervision would be improved if more information about subordinates were available to immediate supervisors. Under current conditions it would be difficult to allow supervisors to view selected data regarding their personnel. In an automated system, supervisors should be granted access to EIP information that they are authorized to view.

Recommendation 26. The CDP should establish guidelines regarding when and how data should be entered into the EIP system.

For the EIP to be effective, data regarding events must be entered in a timely and consistent manner. How the data is entered is software dependent, and the CDP may have to revise the data it collects to accommodate the software that is acquired.⁴

Some departments require event data to be entered into the EIP system as soon as possible. A system for updating the status of an event in a timely manner must also be established. For

⁴ Commercial off-the-shelf software (COTS) is generally limited in the extent to which it can be customized to accommodate an individual department's forms and business processes. Since EIS applications are the result of research and development with numerous police departments, it is likely that the data requirements and business processes the software supports are more efficient than current systems, and should be adopted.

instance, while a citizen complaint should be entered into the system quickly, the impact of that complaint on EIP thresholds may be reduced if the officer is later exonerated from wrongdoing based on the results of an investigation.

Employee Assistance and Wellness

PERF evaluated employee assistance and wellness programs in the CDP. The evaluation was accomplished through interviews and a review of pertinent policies. Through the Employee Assistance Plan, the Division strives to maintain a healthy and productive workforce.

The CDP maintains a wellness program, which is overseen by the Employee Assistance Unit. The unit provides members with peer support from officers who work on a confidential basis and recommend professional services if they feel an officer needs help. The division maintains an Employee Assistance Program (EAP), which provides a wide range of services to officers and their families, either through the division or through an external provider contracted with by the city. Referrals include police psychological assistance and hotline services. Members may be referred to the EAP in a number of ways including: as an intervention initiated in the Early Intervention Program, through the Chief's Office, the employee's commander or supervisor, or other concerned members of the Division of Police.

The Cleveland Division of Police's Employee Assistance and Wellness programs appear to be comprehensive and to be meeting the needs of its members.

Post Traumatic Stress Aftercare

The CDP maintains an aftercare program related to post traumatic stress. An evaluation of this aftercare program was conducted through the use of policy reviews, including General Policy Order 1.1.38 Post Traumatic Incident Protocol, and interviews.

The purpose of the Post Traumatic Stress Aftercare services is to establish a support protocol for members of the Division who have been involved in a traumatic incident. The program involves members' mandatory meetings with the division's stress consultant and medical director after defined traumatic stress incidents. Such incidents include involvement in a deadly force incident; involvement in or witnessing the death of another person; and events where a member experiences a "near-death" or serious physical harm event.

There are a variety of recovery/treatment protocols in place, the intensity of which depends upon the nature of the traumatic event. Conditions surrounding when an officer may return to work

are dependent upon the nature of the traumatic incident. The return-to-work procedures when an officer uses deadly force resulting in death are extensive and involve treatment, approval by the medical director and the Chief of Police, and transitional assignments. Officers' return-to-work procedures after involvement in a traumatic incident other than the use of deadly force resulting in death are less rigorous, yet require approval from the Division's stress counselor and Chief of Police before the member may resume their assignment duties.

The Cleveland Division of Police's Post Traumatic Incident protocols appear to be comprehensive and are meeting the needs of its members at the time of the incident, immediately following the event and until such time as no further assistance is needed.

Conclusion

This *Use of Force Policy and Practices Study for Cleveland Division of Police*, performed by the Police Executive Research Forum, identified the core issues affecting how officers use force in the performance of their duties. Recommendations were offered to align the operations of the CDP with policing best practices, thereby enhancing the delivery of service to the public while limiting the City's exposure in these areas of high liability.

PERF's review of eight General Police Orders and the Use of Deadly Force Investigative Team Manual produced 20 recommendations for changes in six of the orders, and six recommendations for change to the UDFIT manual. CDP has implemented all six of the recommended changes to the UDFIT manual. CDP has integrated all PERF's recommendations for policy change into the appropriate General Police Orders with one exception:

- GPD 2.1.06, Taser - Electronic Control Device - Limiting the use of a ECW in stun drive mode only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.

Use of force training for recruits in the basic police academy is accomplished directly through such modules as firearms (76 hours), subject control techniques (78 hours), use of force/civil liability (4 hours), ECW (4 hours), OC spray (4 hours), force continuum (4 hours) and physical readiness (50 hours). This critical area of use of force is also integrated into other courses in academy studies, including interacting with special needs populations (16 hours), field force training (16 hours), crisis intervention (6 hours), control of violent crowds/confronting hostile

crowds (4 hours) and scenario based exercises. Due to the volume and complexity of CDP use of force policies, eight additional hours should be added to academy training and devoted to this area. Also, the topics of civil liability and use of force should be separated from a single module into two.

The Division has recently increased the number of in-service training hours to between 32 to 40 hours per year. The utilization of a Training Committee to identify contemporary topics for the Division is an effective practice. This process allows for the timely implementation of topical training issues as illustrated by the recent in-service sessions on felony traffic stops and shoot/don't shoot firearms simulations.

The Division should continue to emphasize supervisory training. Newly promoted sergeants are required to attend additional use of force training to provide the information necessary to fulfill their newly acquired supervisory responsibilities. The Division also has mandated that all sergeants complete the National Incident Management System (NIMS) leadership courses on-line, which includes content regarding communications, leadership and influence, and decision making and problem solving. Many supervisors also attended the Police Executive Leadership College (PELC) and the Certified Law Enforcement Executive Program (CLEE), both sponsored by the Law Enforcement Foundation. Providing training to meet the high performance required from street supervisors is an essential element of a program which seeks to limit the use of unnecessary force.

Core issues identified by PERF that affect how CDP officers use force in the fulfillment of their duties involve effective and accountable supervision, adequate supervisory coverage, and the need for a more robust Early Intervention Program. These three issues are interrelated. The decrease in the number of field lieutenants, combined with a relatively inexperienced cadre of patrol sergeants, is exacerbated by a scheduling system based on seniority that in many cases has the least experienced supervisors working when there is the greatest volume of calls, including emergency calls.

PERF recommends that an assessment of patrol supervisory staffing be conducted by the Division to fill the gap in effective supervisory oversight. PERF recommends a program similar to the Compstat model be initiated for overseeing use of force issues and attaining managerial and supervisory accountability.

The Division should also implement significant enhancements to the Employee Intervention Program (EIP), or as it is called by most agencies, the Early Intervention System (EIS). For an

EIP to work, the Division must provide high quality performance data to a progressive system. To provide the best oversight, commanders, supervisors and managers must have complete information about subordinates. The Division should expand the criteria that trigger an EIP alert, and software must be acquired that integrates data with the system for timely monitoring and examination. EIP programs are designed as a non-disciplinary system to improve the performance of the department and its individual members through coaching, training, and other types of professional development. Participation cannot be voluntary as in the CDP, it must be mandatory.

The Police Executive Research Forum, with funding from the U.S Department of Justice, has conducted extensive research on Early Intervention Systems. Two PERF publications, titled *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors* and *Supervision and Interventions within Early Intervention Systems: A Guide for Law Enforcement Chief Executives* will be provided to the Cleveland Division of Police and should be used for assistance and reference in enhancing the Division's EIP.

PERF's report describes and makes recommendations regarding managing the use of force in the CDP. The implementation of these recommendations should assist the CDP in its goal of addressing this important matter in the department through the development and implementation of best use-of-force practices in policing.

APPENDIX

- GPO 1.1.22 Deadly Force Investigation Team (UDFIT)
- GPO 1.3.16 Integrity Control Section Call-up Teams
- GPO 2.1.01 Use of Force
- GPO 2.1.02 Beanbag Shotguns
- GPO 2.1.03 Firearm Discharge Investigations
- GPO 2.1.04 Animal Incidents
- GPO 2.1.05 Weapon Clearing Trap (Device used to safely clear weapons).
- GPO 2.1.06 Taser – Electronic Control Device (ECD)
- Standard Operating Procedure Manual: The Use of Deadly Force Investigation Team (UDFIT Manual)