

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.)	
)	
CITY OF CLEVELAND)	
)	MEMORANDUM SUBMITTING FIRST-
Defendant.)	YEAR MONITORING PLAN

Pursuant to paragraph 369 of the Settlement Agreement (also referred to as the “Agreement”, “Consent Decree,” or “Decree”) between the City of Cleveland (the “City”) and the United States ordered by this Court on June 12, 2015, the Monitor submits the First-Year Monitoring Plan, attached hereto as Exhibit A (the “Monitoring Plan” or “Plan”). Dkt. 7. The City and United States (the “Parties) and Cleveland Division of Police (“CPD” or “the Division”) have collaborated closely and effectively with the Monitor to produce a process or framework for effectively and efficiently implementing the Agreement’s requirements. Feedback and comment on previous drafts of this plan from community stakeholders, such as the Community Police Commission (“CPC”), and community members and groups at large have been directly incorporated into the final Plan submitted here. Because the Plan sets aggressive but realistic goals, deadlines, and milestones for complying with the requirements of the Agreement while ensuring that individuals and organizations across Cleveland’s diverse communities have a voice

in the discussion of how police services are delivered, the Monitor and the Parties together respectfully request that the Court approve the Plan.

I. OVERVIEW OF THE MONITORING PLAN

A. Objective & Format of the Monitoring Plan

The First-Year Monitoring Plan is intended to provide a clear, unified structure and framework for the day-to-day and week-to-week efforts that stakeholders from across the Cleveland community need to undertake to ensure that the Consent Decree is implemented in a manner aimed at “ensuring . . . police services in Cleveland” are “constitutional, effective, and consistent with community values, while preserving officer and public safety.” Dkt. 7-1 at 6.

The Plan details a formalized process for implementation of the Consent Decree and the Monitoring Team’s assessment of the Division’s progress in doing so. In the experience of the Monitoring Team, if well-intentioned stakeholders address disparate elements of the Consent Decree at different junctures, it will be far less possible for major changes to be implemented as effectively, efficiently, and with the involvement of all important stakeholders – including CPD officers, Cleveland community members, leadership of police officer unions and organizations, the CPC, and others.

This Monitoring Plan is partially a project implementation plan and partially an agenda. It is divided into nine major areas. Those areas address the core parts of the Consent Decree on which stakeholders will focus during the first year of monitoring.

Primary objectives, reflected in bolded white type in the more darkly shaded rows, are the broader achievements or accomplishments that the Consent Decree requires. Below those objectives, in the plain-text and indented rows, are the key results or milestones that must be met

during the year in service of each objective. In some instances, italicized notes explain or clarify details about the key results or milestone delineated immediately above it.

Each key result or milestone is associated with at least one “responsible stakeholder.” That stakeholder, or set of stakeholders, is responsible for achieving the key result or reaching the milestone indicated. Accomplishing the result or milestone is achieved by providing the “deliverable” identified in each row by the deadline provided in the “deadline” column.

The Plan covers the period of February 1, 2016 through January 31, 2017, with a limited number of deadlines falling beyond January 31, 2017.

B. Major Milestones Anticipated Under the Plan

The emphasis of the First-Year Monitoring Plan is on providing officers with clear rules with respect to using force and establishing within the Department the basic policies and procedures necessary to ensure that all uses of force are uniformly reported, fairly investigated, and rigorously reviewed. To this end, a new use of force policy will be in place, and all officers trained on it, by December 31, 2016. Ex. A at 8–10, 22–24. Throughout the year, CPD will be revamping protocols, procedures, and processes for reviewing internal investigations of officer misconduct, Ex. A at 37–39, and the investigation and review of use of force incidents specifically. *Id.* at 8–11. This means that, as of January 1, 2017, CPD officers will be operating under a use of force policy that meets the requirements of the Consent Decree.

Relatedly, CPD, in partnership with the newly-formed Mental Health Response Advisory Committee, will also be developing new policies and training for responding to individuals experiencing mental health, substance abuse, and other behavioral crisis challenges. *Id.* at 32–36.

Another primary area of focus will be bias-free policing. A major, early task of the CPC will be to conduct an assessment of CPD's bias-free policing policies, practices, and training and make recommendations for improvements or changes. Dkt. 7-1 ¶ 17; Ex. A at 55–57. After also receiving input from CPD officers, officer organizations, and community members and organizations, CPD will develop a bias-free policing policy and training that “incorporates the principles of procedural justice and . . . is designed to ensure that police services are delivered free from bias.” Dkt. 7-1 ¶¶ 38, 39; Ex. A at 55–58.

More generally, CPD will have a new mission statement on or about June 10, 2016. That mission statement, which must communicate the Division's commitment to community-oriented policing, will be reflective of Cleveland resident and officer input. Dkt. 7-1 ¶ 27; Ex. A at 1–2. Consistent with the revised mission statement, CPD will develop a new, comprehensive strategy for implementing a community and problem-oriented policing model. Dkt. 7-1 ¶ 27; Ex. A at 3–4.

By June 2016, CPD will develop a new recruitment policy and strategic recruitment plan “that includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross-section of the community.” Dkt. 7-1 ¶ 302; Ex. A at 29–31. Supervisors will receive a general overview of CPD's new mission statement, what to expect under the Consent Decree, and their new and enhanced responsibilities with respect to the central issues of the Decree. Ex. A at 20–22.

Also by June 2016, CPD and the Monitoring Team will complete comprehensive equipment and resource studies that assess CPD's current needs and priorities with respect to its officers being able to fulfill CPD's mission and satisfy the requirements of the Agreement. Dkt. 7-1 ¶¶ 292, 314; Ex. A at 46. The Monitor will work closely with officers, community members,

City stakeholders, and the Division to ensure that officers have the tools and resources that they need to effectuate the priorities associated with problem-solving and community-oriented policing strategies.

The Plan calls for CPD to complete a staffing study and plan for ensuring that CPD deploys the appropriate number of personnel to perform the functions necessary for CPD to fulfill its mission and satisfy the requirements of the Agreement. Dkt. 7-1 ¶¶ 319, 322; Ex. A at 49–51. Part of this analysis will necessarily consider implications of CPD’s implementation of a new department-wide computer system enabling it “to collect, maintain, integrate, and retrieve data . . . for each officer” about officer performance. Dkt. 7-1 ¶¶ 326, 328; Ex. A at 47–49.

Efforts will also be underway in 2016 to ensure that the Office of Professional Standards (“OPS”), which receives and investigates civilian complaints of officer misconduct, performs high-quality, objective investigations and that the Police Review Board, which reviews OPS investigations, has the training, expertise, and composition to ensure fair, objective, and rigorous assessment of misconduct investigations. Ex. A at 39–44.

C. What the Plan Is and Is Not

This Plan does not take the place of the Consent Decree. The Consent Decree sets forth a number of objective, goals, and major commitments that the City and CPD have made for changing the way that a number of things are done within CPD. Nothing in this Plan alters the Decree’s fundamental obligations, adds new requirements, or eliminates commitments. Instead, the Plan provides a framework for the City of Cleveland to meet the objectives and fulfill the major commitments of the Decree.

The Plan covers only the first year of monitoring. It is not a multi-year, comprehensive plan that details each and every step that CPD must take to get to where it needs to ultimately be

under the Consent Decree. Instead, it covers a 12-month time period, beginning on February 1, 2016 and continuing until January 31, 2017. There are a few deadlines, for projects that will be well underway by January 31, 2017, that go beyond this one-year focus – to ensure that there are clear expectations about how the work performed in the first year will need to be continued in the second year. In December 2016, the Monitor will present a plan for the second year.

Not all requirements and reforms of the Consent Decree are addressed by this Plan – only what the Team contemplates that stakeholders can focus on during the first year of implementation and monitoring. For instance, policies and training on the stops and detentions of civilians, and changes to the system of officer discipline are issues on which this Plan – given the host of foundational issues to be tackled in the first year – proposes not to focus intensive work or collaboration during the first year. The Consent Decree requires that these issues be addressed during the process, and subsequent Monitoring Plans will outline a unified process for addressing them in the same way that issues related to use of force policy, use of force training, the internal affairs process, and equipment and resources are addressed in this First-Year Monitoring Plan.

Finally, this Monitoring Plan proposes deadlines for specific deliverables or milestones. If a party or implicated stakeholders fails to meet a deadline, the Monitor will inform the Court and seek its assistance on addressing the deficiency. To ensure swift and effective progress toward achieving the major objectives of the Consent Decree, any entity covered by this plan that seeks to delay, move, or otherwise change a deadline in the Plan must petition the Court to do so. The Monitor may, at his discretion, support or comment on the motion to extend. However, the Plan provides a limited exception to the general requirement that any entity seeking to change a deadline petition the Court:

[T]he deadlines might, in some instances, need to be extended by a brief interval to allow or accommodate unforeseen circumstances or unexpected, minor delays. Accordingly, if and only if all of the Monitor, United States, and the City of Cleveland agree that an extension for any of the deadlines outlined in this Plan is warranted and acceptable, the deadline may be extended by an interval of seven (7) calendar days without petitioning the Court for an extension of the deadline. No deadline may be extended by more than seven (7) calendar days without approval of the Court. The extension of any specific deadline, or deadlines, will not change or otherwise affect any other deadline.

Ex. A at 1. This exception is consistent with the goal of establishing aggressive but realistic deadlines for progress under the Decree.

II. COMMUNITY COLLABORATION & INVOLVEMENT

A. Community Stakeholder Involvement in Reaching Major Milestones

If policing in Cleveland is to be “consistent with community values,” the community must have a direct and ongoing role in the substantive reforms contemplated under the Consent Decree. Dkt. 7-1 at 6. This Monitoring Plan outlines a specific process for involving the community, in all of its forms, in the implementation of the Consent Decree. It tasks the community, including CPD officers, both with framing and focusing issues as the “first step” of substantive reform and with providing specific, substantive input on contemplated changes.

Specifically, this Plan provides a general process that typically requires the CPC to collect the concerns, experiences, values, and issues of the community related to the various areas of concern from across Cleveland’s diverse communities. The Commission synthesizes and summarizes disparate community feedback into a single, written work product that fairly and accurately summarizes community input received. The work product is distributed to the CPD so that the Division can directly take community input into account, where appropriate, when it revises policies, drafts training, or contemplates new initiatives.

That same process typically requires that the Monitor, leadership of police officer unions and organizations, and CPD collaborate to convene a series of meetings and establish alternative forms of officer outreach (including email, surveys, anonymous written submissions, and discussions at roll calls before the start of officer shifts) to collect the concerns, experiences, values, and issues of rank-and-file officers related to the various areas of the Plan's focus. The Division synthesizes and summarizes disparate officer feedback into a single, written work product that fairly and accurately summarizes community input received. The Division likewise will directly take community input into account, where appropriate, when it revises policies, drafts training, or contemplates new initiatives.

Subsequently, when the Division has produced a proposed final draft of policy or training, or a finalized plan for implementing another aspect of the Decree, the Monitor is tasked with engaging in an affirmative, intensive effort to obtain CPC, community, officer, and other stakeholder input and comment. During this time period, the Monitor will circulate proposed drafts or plans for comment by community organizations and leaders; receive input from CPC and CPD officers; solicit feedback on the Monitor's website, by email, and via social media; and hold community forums and meetings. Drafts of key written materials will be accessible on the Monitor's website and CPC's website, with printed materials available at Cleveland Public Library locations. Such written materials will be accompanied by an executive summary that explains, in plain language, what the draft is, what it addresses, and what the most important areas for feedback will be. When possible, those written materials will be translated into Spanish.

The Monitoring Team has also been working to establish a network of Consent Decree "study groups" in partnership or affiliated with a number of churches throughout Cleveland,

Cuyahoga Metropolitan Housing Authority locations, the Cleveland Public Library, and Cuyahoga Community College. These groups will receive monthly or bi-monthly guides to understanding and discussing the Consent Decree. The Monitor will regularly solicit input from these groups of particularly involved, committed, and informed community members.

Upon approval of the Monitoring Plan, the Monitoring Team will ensure that it publicizes the host of ways that community members and organizations can be substantively involved in Consent Decree reform.

B. Community Feedback on the Monitoring Plan

The Monitoring Team did not wait to begin the process of sustained, intensive, and substantive engagement with the community. The process has already started with the Monitoring Plan submitted here.

Specifically, the Monitor distributed an initial draft of the Plan to the Parties, and associated stakeholders including the Division of Police and leadership of the major police officer unions, in mid-December. On the same day, the Monitor presented the Plan to the CPC at a public meeting. The Monitoring Team subsequently circulated the Plan to some 116 community organizations and leaders and outlined the Team's desire for feedback, comment, edits, and input. In early January, the Monitoring Team established its website, where the draft Plan has been available. Through that website, interested members of the public can use a comment form or email to provide input on the Plan. The Team also established a presence on social media, allowing for additional forms of electronic feedback.

The Monitor, Parties, and Division engaged in a series of candid, collaborative discussions on the proposed Plan in January 2016, which led to some changes and refinement. Representatives of the Monitoring Team appeared before the Cleveland City Council's Public

Safety Committee to answer questions and receive comment on the draft Plan. The Monitor solicited comment from the leadership of the police officer unions and met with leadership of the Cleveland Police Patrolmen's Association ("CPPA") to address the Plan.

The Monitoring Team received feedback from throughout the Cleveland community on the draft Plan. Community input was received via several mechanisms:

- **Community Meetings.** The Monitor invited individuals and organizations who had received an initial draft of the Plan to participate in community meetings to discuss the Plan on January 11, 2015 and January 12, 2015.
- **Community Police Commission.** CPC commissioners reviewed and discussed the Plan. It held a public comment period on the Plan at its January 27, 2016 meeting. The Monitor received formal, collected comments from CPC on January 28, 2016.
- **Community Organizations.** The Monitor received input directly from community organizations in Cleveland, such as the American Civil Liberties Union (ACLU) of Ohio and the Legal Aid Society of Cleveland.
- **Direct Resident Feedback.** The Monitor received comments and input via email and the form on the Team's website from residents of Cleveland.

A good deal of community input was incorporated directly into the Plan. For instance, the CPC, as well as several members of the public, expressed some concern that the initial draft Plan called for the Commission to complete too much important work by unrealistic deadlines. Working with the CPC and Parties, the Monitor sought both to adjust some deadlines and to collapse some proposed responsibilities into either broader work product or into the Monitor's community engagement efforts.

The Monitor also appreciates feedback from several community stakeholders that desired additional clarity about the specific outlets and mechanisms available for community input going forward. As previously noted, the Monitoring Team will be working to clarify and publicize the

host of mechanisms for community participation in the Consent Decree process as implementation of the Decree begins in earnest under this Plan.

III. CONCLUSION

The task of the Monitor was to craft a plan for monitoring CPD's implementation of the Consent Decree during its first year. The Monitor and Parties, with input and feedback from across the Cleveland community, have collaborated on a Monitoring Plan that sets aggressive but realistic goals and asks the Cleveland community to participate directly and substantively. Therefore, the Monitor and Parties together respectfully request that the Court approve the First-Year Monitoring Plan and order them effective.

Respectfully submitted,

/s/ Matthew Barge

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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2016, I served the foregoing document entitled Memorandum Submitting First-Year Monitoring Plan via the court's ECF system to all counsel of record.

/s/ Matthew Barge
MATTHEW BARGE