

# Review of Officer State Certification Status and Current State Mandated Training Processes

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Review

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## DIVISION OF POLICE

**DATE:** August 7, 2020

**TO:** Chief of Police Calvin D. Williams

**FROM:** Inspector General Christopher Paul Viland, Esq., CIG®, #3700

**SUBJECT:** Review of Officer State Certification Status and Current State Mandated Training Processes

Sir.

The following review of officer certification status and compliance with state mandated training processes is presented for your use and consideration in any possible future update or amendment to Division policy or operations related to in-service or state required training.

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### **SECTION A – INTRODUCTION; EXECUTIVE SUMMARY**

In 2019, local area citizens initiated actions on the Special Docket of the Cuyahoga County Court of Common Pleas, General Division against the entire City of East Cleveland Police Department alleging that officers were not in compliance with state training requirements and were therefore illegally impersonating police officers during the periods of non-compliance.<sup>1</sup> Reporters from local media who picked up the story, followed up with a general investigation of the state’s training requirement systems commenting on the lack of consistency in those

requirements due to funding availability, and the complete lack of ability to track compliance data due to the lack of an independent and accessible statewide database.<sup>ii</sup> Those original citizen suits against East Cleveland have impacted the City of Cleveland directly, as public records requests to the City involving East Cleveland officers that had a history with the Cleveland Division of Police (the Division, CDP) are currently in litigation.<sup>iii</sup> And, more recently, similar citizen litigation regarding continuing professional training records and requirements has now been initiated against the City of Maple Heights.<sup>iv</sup> It is not a great leap to postulate that, based on this trend, the City may itself be subject to some future analogous probing litigation; and the Division should make every effort to reduce any possible liability exposure.

The Cleveland Division of Police Office of Inspector General (OIG) clearly recognizes that, in the current environment of transparent accountability in law enforcement, an agency's ability to maintain its officer's compliance with state training requirements and suitably report same has therefore become a publicly visible priority. And, as so much litigation has ensued in close proximity to the City, it would behoove the Division to review the status of its officer's current compliance with statutorily required training mandates as well as the processes used by the Division to achieve and report compliance. There are currently two different types of state mandated training that the Division is required to comply with and report, as below:

In 2007, Ohio passed legislation that enacted a mandatory continuing professional training (CPT) program for law enforcement officers that was to be maintained by the Ohio Peace Officer Training Commission (OPOTC, the Commission).<sup>v</sup> The program requires a minimum of up to twenty-four hours of such training annually, however, that minimum is directly tied to the ability of the state to provide reimbursement funding for it.<sup>vi</sup> If no funding for reimbursement is available, no continuing professional training hours can be required.<sup>vii</sup> This has resulted in a historically inconsistent mandate on law enforcement agencies throughout the state. There have been years where, due to a lack of reimbursement funding, the state has been unable to mandate any CPT, i.e. 2020; and, there have been years where various different amounts of training hours have been mandated.

*[Note: The Division itself annually conducts training for officers that is colloquially referred to internally as CPT. For purposes of this review, the acronym CPT will only be used in reference to the state mandated training requirements.]*

Additionally, the Commission has mandated that certain topics of instruction in the current basic police training academy, which may not have existed at the time current officers attended a past academy, are so important that they must now be completed and updated by all active officers.<sup>viii</sup> These are referred to as statutory updates. For example, there is a current basic police academy requirement of one hour of instruction on companion animal encounters and companion animal behavior. That course of instruction did not exist in basic police academies prior to 2015, and now therefore, statutorily, any current officer who attended their basic police academy prior to 2015 must update that training by attending companion animal training and reporting such to the Commission prior to January 1, 2019.<sup>ix</sup>

Failure to adhere to these two types of state training and reporting requirements can lead to an officer having their ability to carry a firearm and perform the functions of a police officer suspended until such time as evidence of compliance is satisfactorily provided to the Commission, also known as being put in a “cease function” status.<sup>x</sup> In 2019, Cuyahoga County Prosecutor Michael O’Malley formally counseled police chiefs in the county to ensure that all training is up to date and reported to the Commission in order to avoid problems with criminal prosecutions involving officers in that negative status.<sup>xi</sup>

As you know, the Inspector General (IG) of the Division, has been tasked, in the Settlement Agreement<sup>xii</sup> with the United States Department of Justice with some specific responsibilities, including, but not limited to: “[to] review CDP policies and practices to determine compliance with state and federal law, effectiveness ... [and] whether they promote public and officer safety...<sup>xiii</sup>”. The IG does consider that a review of statutorily required training practices and reporting falls within this authority; and does perceive that an unbiased review of compliance with these state mandates will serve to provide recommendations foundational to the Division’s future possible amendment or updating of policy and creation of exemplary practices moving into the 2020’s.

It must be clearly stated that there is a fundamental aspect of continuing officer certification under state standards which is not contemplated in this review: annual firearms re-qualification. Annual firearms re-qualifications are specifically exempted from consideration as CPT hours by the state,<sup>xiv</sup> and are regulated under separate state ordinance.<sup>xv</sup> This currently presented review includes only compliance with state mandates for statutory topic related update training as well as any statutory continuing professional training (CPT) requirements. There are no formal recommendations being made in this review as to firearms training, re-qualification, reporting or processes involved in compliance with state mandates.

The OIG has completed the below multi-part review of current Division officer certification status and compliance with state mandated training requirements. Findings and recommendations resulting from these reviews are presented, in detail, in following sections of this memorandum. There are some predominant aspects of the review that the IG has identified for inclusion in this introduction, in summary, as follows:

Primarily, the ability to comply with state mandates regarding the certification of law enforcement officers, failure of which results in those officers no longer being able to actively participate in law enforcement activities and possibly exposing the Division to legal liability, requires a substantially more robust records management system than that in use by the Division during the periods of time inspected for this review. This formal review of certification compliance records required access to: ad-hoc, informally created internal databases; similarly created internal spreadsheets; hard copy paper records; paper records that have been electronically scanned and stored; and the assistance of staff in locating documents or records that the databases or spreadsheets indicated were incomplete, inconsistent, or incorrect. The current status of each officer, including specific training history and attached, linked, or electronically saved

supporting documents should be available in a singular, dedicated Division training software package. Records should be able to be queried both by training event as well as by individual officer, a functionality not currently available with records as maintained. This must include a commitment to convert historical documents and data to any new system, including dedicating the time and staffing necessary. In a best case scenario, such software package should also provide methodologies to schedule training and capture attendance data. It is unknown whether the Division's current learning management system can be adapted to this purpose (no inquiry has been initiated by the OIG as to this point).

Secondarily, the Division should establish by policy or manual a formal self-auditing process of officer status, at least annually, to ensure that each officer's training records and status are 1) substantiated by primary evidence records especially as required by statute, and 2) that this status comports with and is consistent with the records being maintained by the Commission. This process must include active participation by the Personnel Unit (especially with regard to timely filing of state hiring and termination forms, SF-400 and SF-401). And, until such time as the Commission provides agency access or public facing access to its statewide status records, it will require continued public records requests and correspondence chains to maintain the most up to date, synchronized status information possible.

It is apparent that these records management and maintenance issues are important enough that they should be detailed to a specific Division position in order to establish direct accountability and focus tasks given to that position to those that won't detract from continuous compliance and records maintenance.

Division policy may be improved by adopting any of the substantive recommendations as reviewed for this memorandum and detailed below. These recommendations are listed individually in the separate sections of this review below and again, *in toto*, at the end of this memorandum.

The remainder of this memorandum discusses methodology, details specific aspects of reviews, and generates and documents recommendations for Division continued and improved compliance with state training and record keeping requirements. This information is presented so as to assist the Division with meeting the goals of the current Settlement Agreement, especially as regards to policy, practice and promotion of public and officer safety.

## **SECTION B – METHODOLOGY**

The OIG reviewed the following policy documents issued by the Division (for purposes of citation, it is noted that all of these documents are unpublished and maintained and available with the Division Policy Unit):

1. Divisional Notice 16-006 – 2016 In-Service Continuing Professional Training, issued January 8, 2016.

2. Divisional Notice 17-128 – 2017 Continuing Professional Training (CPT), issued May 3, 2017.
3. General Police Order 1.1.45 – Return to Duty Program (RTDP), issued September 27, 2013.

State statutory requirements regarding law enforcement training binding upon the Division were researched and determined to be contained in:

1. Ohio Revised Code §109.803. Continuing professional training for peace officers and troopers.
2. Ohio Revised Code §109.802. Law enforcement assistance fund.

Other associated state statutory provisions were additionally researched, as found in the Ohio Administrative Code, as follows:

1. Ohio Administrative Code Chapter 109:2-18. Continuing Professional Training for Peace Officers and Troopers.
2. Ohio Administrative Code §109:2-1-13. Statutorily mandated training.

City statutory provisions were researched with regard to police in-service training, as follows:

1. City of Cleveland, Ohio Code of Ordinances §135.37. Annual Police In-service Training Program.
2. City of Cleveland, Ohio Code of Ordinances §135.38. Attendance Records for In-service Training Program.

Guidance and direction with regard to CPT compliance were reviewed as presented in:

1. 2017 Continuing Professional Training Directions and FAQ's, as published by the Ohio Peace Officer Training Commission, Office of the Ohio Attorney General.
2. 2016 Continuing Professional Training Directions and FAQ's, as published by the Ohio Peace Officer Training Commission, Office of the Attorney General, December 15, 2015.
3. Continuing Professional Training "Fact Sheet", as published by the Ohio Peace Officer Training Commission, 2007.

Division training records were provided by the Academy Unit and included access to multiple Microsoft Access® databases containing training information, various spreadsheets containing training data, and multiple attendance sheets containing Division member signatures. Copies were made available at request, and follow up data inquiries were also assisted with by Academy Unit staff.

The OIG was also provided with records obtained either directly or indirectly from the Ohio Peace Officers Training Commission which included but was not limited to status rosters, state maintained eOPOTA course completion records, and correspondence regarding cease function status.

Additionally, the OIG inquired with various members of the Division especially interviews with current command and superior officers in the Academy/Training Unit of the Division. Information was collected from those sources and is incorporated as appropriate.

### Sampling

As part of this review, the OIG inspected individual Division training records for various employees, time periods, and requirements. In order to maintain consistency in statistical reporting, and for purposes of file review, the OIG selected March 19, 2020 as the date that Division records would be inspected for. On that date, a roster of the Division, as provided by the Personnel Unit, indicated that there were 1,637 sworn police officers on the rolls. Using commonly available sample size calculators, with a confidence level of 95% and a margin of error of 5%, at that population, the OIG determined that 310 individual employee files would be inspected.

Utilizing a random integer generation tool<sup>xvi</sup>, and assigning each of the 1,637 officers a control number, 310 random numbers were selected, leading to the selection of 310 employee training files for review. A hard copy of the random integer selection is maintained in the files of the OIG.

All of the above referenced materials and information were assessed to determine the Division's current compliance with the various state mandates and current member statuses as collected and cited below. The work encompassed in this review was done in accordance with the Quality Standards for Inspections, Evaluations and Reviews by Offices of Inspector General<sup>xvii</sup>, as applicable.

## **SECTION C – DETAILED ANALYSIS RESULTS**

Below are presented separate sections of review assessment based on the following criteria:

- Part 1 – Current Officer Certification Status per OPOTC
- Part 2 – OIG Review of Supporting Division Documentation

- Statutory Mandates
- Continuing Professional Training Mandates
  - 2016
  - 2017

- Part 3 – Total Sample Results Summary

### **Part 1**

#### **Current Officer Certification Status per the Ohio Peace Officer Training Commission**

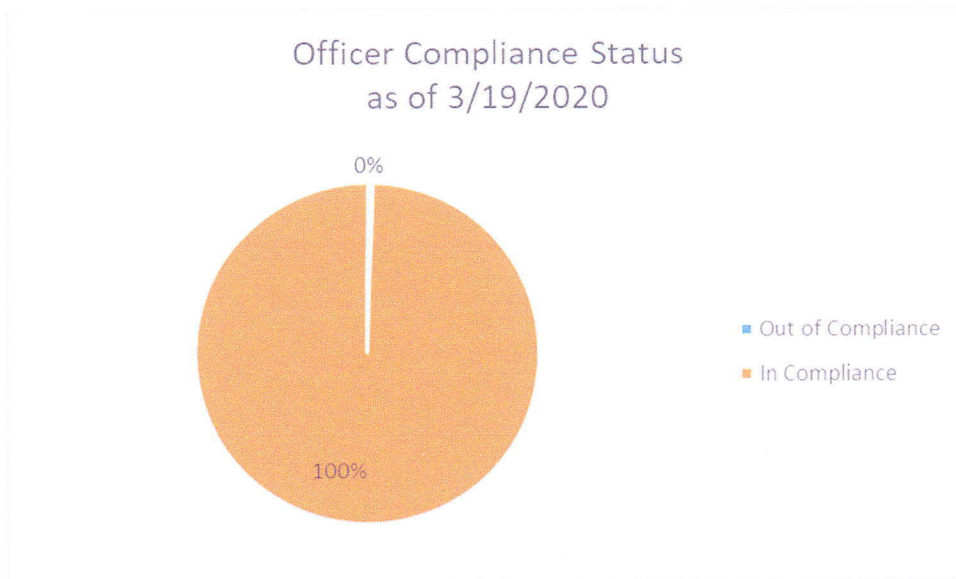
The primary determiner of peace officer training compliance status in Ohio is the Executive Director of the Ohio Peace Officer Training Commission (the Commission, OPOTC). The Ohio Administrative Code provides, in pertinent part, as to CPT:

“any peace officer who, in any calendar year, fails to comply with the continuing professional training requirements set forth in paragraphs 109:2-18-01 to 109:2-18-07 of the Administrative Code shall cease carrying a firearm and cease performing the functions of a peace officer or trooper until such time as evidence of compliance is filed with the executive director.”<sup>xxviii</sup>

And, as to statutory mandated training:

“Any peace officer who fails to comply with the requirements set forth in paragraphs (B) to (F) of this rule shall cease carrying a firearm and shall cease performing the functions of a peace officer until such time as evidence of compliance is filed with the executive director.”<sup>xxix</sup>

It would seem rather straightforward that a compliance check on officer status should be as simple as requesting that data directly from the Commission. Therefore, the OIG inspected or was copied on public record requests responses and other correspondence between the Academy Unit and the Commission including specific compliance data and observed that, as of March 19, 2020, once bookkeeping errors and updates had been corrected<sup>xx</sup>, combined Division and Commission records had seven (7) out of sixteen hundred thirty seven (1,637) Division officers determined to be out of compliance, 0.4% of the total.



Each of those seven officers was currently not actively working, listed on either extended illness leave or restricted duty status, and not acting in the capacity of peace officer at the time of the review.<sup>xxi</sup> Division policy requires that each of those seven officers successfully complete a return to duty program including a training phase individually tailored to the officer’s situation and the training requirements that apply, prior to return to full duty status.<sup>xxii</sup> And it may be therefore posited that as each of the non-compliant officers return to active duty, they will become compliant as part of that process.



Bookkeeping errors and updates mentioned above included nineteen (19) officers no longer employed by the Division (1.2%) and twenty-seven officers in compliance erroneously on the Commission’s rolls as non-compliant (1.6%). These accounting type errors were corrected or resolved by the Academy Unit with the Commission by April 6, 2020.

Findings: The Division was, as of March 19, 2020, as close to 100% compliant with state mandated training requirements, both statutory and CPT derived, as can be expected based on the status and availability of all officers. The amount of administrative time and volume of Division contacts required with the Commission to ensure that records were adequately documented and updated in the first quarter of 2020 could have been reduced with a more formalized notification schedule/methodology and a more robust training records management system.

Supervisory staff in the Academy Unit did mention that the Division’s ability to self-audit compliance and do error correction was hampered by the inability to access Commission records without formal public record requests and extensive time frames in response. A Commission publicly facing database that could be readily accessed would allow more rapid records maintenance processes with the state.<sup>xxiii</sup>

Recommendations:

*Recommendation 1 – It is recommended that the Division obtain and implement or dedicate a robust record management system to its Training/Academy function. This system should replace any ad hoc, internally created database or spreadsheet system and should accept and include all historical data and electronically preserved primary source documents. All historical records should be consolidated under this single system. This system should have the functionality to be queried both by training event as well as by individual officer, a functionality not currently available with records as maintained. In a best case scenario, such software package should also provide methodologies to schedule training and capture attendance data.*

*Recommendation 2 – It is recommended that the Division institute a formal self-auditing process of officer status, minimally annually, to insure that there are sufficient substantiating records as required by statute and that Division and Commission records are in synchrony, accurate, and timely. This process must anticipate continued correspondences with the Commission and should advocate for a publicly available statewide database with Division access for maintenance.*

**Part 2**

**OIG Review of Division Supporting Documentation**

While the entire prior section implies that auditing officer compliance is a simple matter of requesting compliance roster data from the Commission, it must be remembered that the Commission’s sole source of information is the self-reporting of individual agencies.<sup>xxiv</sup> For example, with regard to CPT, “Each appointing authority is required to report compliance in a manner prescribed by the executive director.”<sup>xxv</sup> And that a sworn affidavit from the agency head is sufficient documentation to demonstrate compliance.<sup>xxvi</sup>

Based on the source of this data substantiation, it becomes a chicken v. egg problem, or causality dilemma, in that the Commission's data is only as good as that submitted by the agency, and the agency's data is what is submitted to the Commission. This circular derivation of authority should lead to the conclusion that agency reports and Commission records alone are not the last word on compliance. Supporting agency documentation necessarily becomes a lynchpin, and the state recognizes this in its statutory record keeping requirements.<sup>xxvii</sup>

Therefore, the OIG determined that a review of Division records that supported its compliance reporting must also be completed. Reviews of such corroborating evidence are generally appropriate to provide a reasonable basis for determination of compliance, findings and recommendations in a risk reduction environment. As the OIG has no ability to review or make findings regarding the state Commission's records and reporting receipt and maintenance issues, Division internal records maintenance is the focus of review for purposes of this memorandum.

As indicated in the Introduction section above, there are two separate types of mandatory law enforcement training requirements required to be reported to the Commission contemplated in this review: statutory update mandates and continuing professional training (CPT). The OIG reviewed Division corroborating records pertaining to both, as below:

#### Statutory Update Mandates:

According to the Ohio Administrative Code, the most recent statutory update mandated training topic is: companion animal encounters and companion animal behavior (CA).<sup>xxviii</sup> This mandate required final reporting to the Commission by January 1, 2019.<sup>xxix</sup>

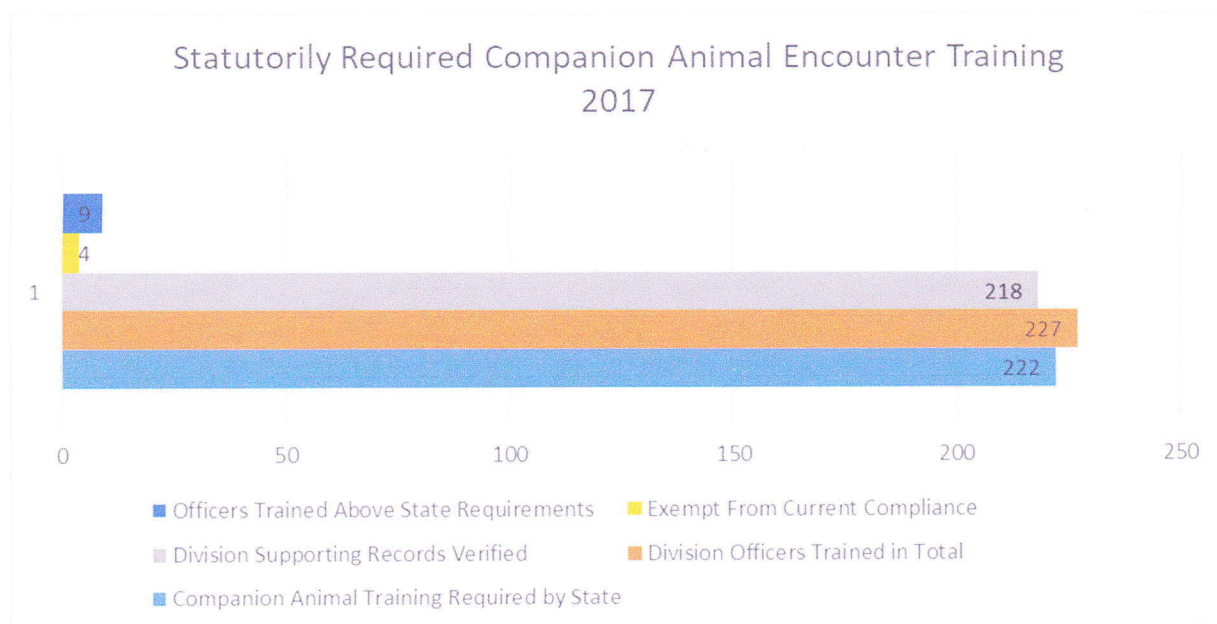
The Division incorporated this update training into its 2017 annual Division-wide training.<sup>xxx</sup> As part of that training, officers were required to log on to the statewide training website (eOPOTA) and complete the course of instruction on companion animals.<sup>xxxi</sup> The Division tracked attendance and completion in two ways. First, officers reported to District Training Coordinators their completion which was tabulated in District Tracking Spreadsheets which were subsequently turned in to the Academy Unit upon completion of training. Second, the Academy Unit maintained records of completion in a Microsoft Access® database specifically created for tracking 2017 training requirements and completion. Post training, at the end of the year, the Academy Unit obtained a transcript from the Commission containing all data regarding completion of this course of instruction, which was used to corroborate attendance and possibly prepare for make-up training sessions.

Utilizing the sample size and method referred to in the Methodology section above, the OIG reviewed all records for each specific officer randomly identified for assessment and found the following:

Of the three hundred and ten (310) member sample, two hundred and twenty two (222) were required to have completed the companion animal (CA) statutory update. The Division's records indicate that two hundred and eighteen (218) of those officers completed the training as required and corroborated by the Commission. Of the four (4) officers that did not complete the training, all four (4) were on extended illness or injury leave and either remain in that status or

have left service with the Division through disability retirement and currently cannot comply or are no longer required to, and none of whom are currently performing the duties of law enforcement officer. This results in all available officers being fully compliant with this mandate as of the date of review. In addition, nine (9) officers who were not required to attend this training by statute because their police academy course of instruction already included it, did attend and complete the training as part of annual Division updates.

It must be noted that, in fourteen (14) cases, it was determined that the District Tracking Spreadsheets used to track this and other training events were incomplete or incorrect. That is six percent (6%) of this sample. And, for this reason, they were not considered as primary evidence of attendance and compliance for this review. This applies both to the companion animal statutory update mandate as well as the 2017 CPT section below.



**Finding:** The Division was, as of March 19, 2020, as close to 100% compliant with state requirements regarding statutorily mandated companion animal encounter update training as can be expected based on the status and availability of all officers. District Tracking Spreadsheets implemented for use in tracking compliance with training mandates were determined to be unreliable at the level of accuracy expected.

Recommendations:

*Recommendation 3 – It is recommended that the Division either improve District spreadsheet tracking of training events by requiring higher levels of accuracy, standardizing their format or template and reporting requirements across the Division, or abolishing their use once replaced by a more robust and accessible training records management system.*

## Continuing Professional Training (CPT) Mandates:

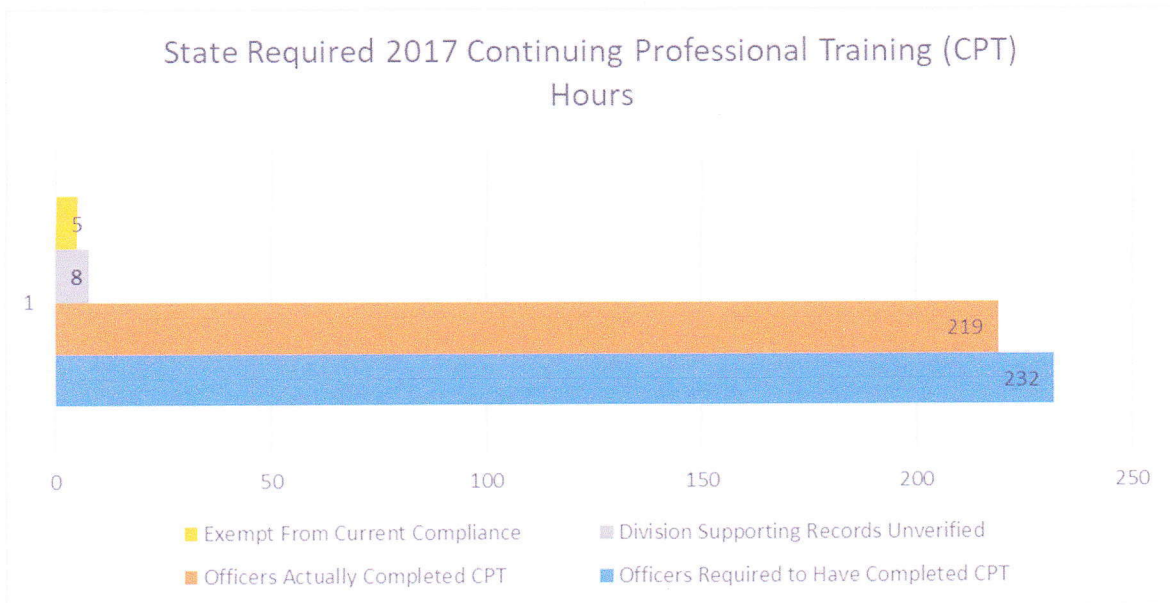
### 2017

As mentioned in the introduction above, whether or not CPT is mandated by the state is directly tied to the funding available. The most recent year in which the state had reimbursement funding available to require CPT was 2017, when a twenty hour requirement was established. Those twenty hours were to consist of: six hours of trauma informed policing, four hours of practical application of force, four hours of Blue Courage or procedural justice and police legitimacy, two hours of legal update, and four hours of discretionary training left to the agency's needs.<sup>xxxii</sup>

The Division's plan to comply with this requirement consisted of 9 hours of online training through the state's eOPOTA system and three full days of live, in-person training in use of force and crisis intervention with Division instructors totaling well more than the required twenty hours.<sup>xxxiii</sup> The Division tracked attendance and completion in multiple ways. First, officers reported to District Training Coordinators their completion of online coursework that was tabulated in District Tracking Spreadsheets which were subsequently turned in to the Academy Unit upon completion of training. Second, individual signatures were gathered on attendance sheets for each half day of live, in-person training. The Academy Unit maintained these records of completion and attendance in a Microsoft Access® database specifically created for tracking 2017 training requirements and completion. And finally, the Division requested online tracking data from the state's website to continuously confirm officer online training completion and / or prepare for make-up training.

Utilizing the sample size and method referred to in the Methodology section above, the OIG reviewed all records for each specific officer randomly identified for assessment and found the following:

Of the three hundred and ten (310) member sample, two hundred and thirty two (232) were required to have completed the 2017 CPT training. The Division's records indicate that two hundred and nineteen (219) of those officers completed the training as required and corroborated by the Commission. Of the thirteen (13) officers that did not complete the training, five (5) were on extended illness or injury leave and either remain in that status or have left service with the Division through disability retirement and currently cannot comply or are no longer required to. The remaining eight (8) officers' files are missing sufficient documentation to fully corroborate compliance; less than four percent (3.4%).



It must be noted that, of the eight officers listed above as having insufficient documentation, six (6) of those officers were training staff that are reported to have participated in instructing the Division to maintain compliance with CPT requirements. Officers who serve as instructors do gain credit for compliance with state mandates.<sup>xxxiv</sup> Attendance as instructional staff may be inferred from secondary source documents (2017 CPT Instructor Schedule; Data in 2017 CPT Microsoft Access® database; statement of Academy administrative staff). That inference, however, is not sufficient, in the opinion of the OIG, to serve as primary evidence corroborating attendance. No signatures exist that validate attendance (despite there being specific fields on attendance sheets for instructors to sign). If this secondary source evidence were to be accepted, it would have decreased unverifiable records to less than one percent (0.9%).

Finding: The Division was, as of March 19, 2020, not fully compliant with state 2017 CPT record keeping requirements as certain records were not able to be located. Additionally, Division CPT instructors did not adequately document instructional time or attendance in order to substantiate compliance with state mandates.

Recommendations:

*Recommendation 4 – It is recommended that the Division improve procedures and policies regarding instructor attendance at training events by mandating instructor signatures on any required attendance sheets or other method that can serve as primary evidence of attendance.*

2016

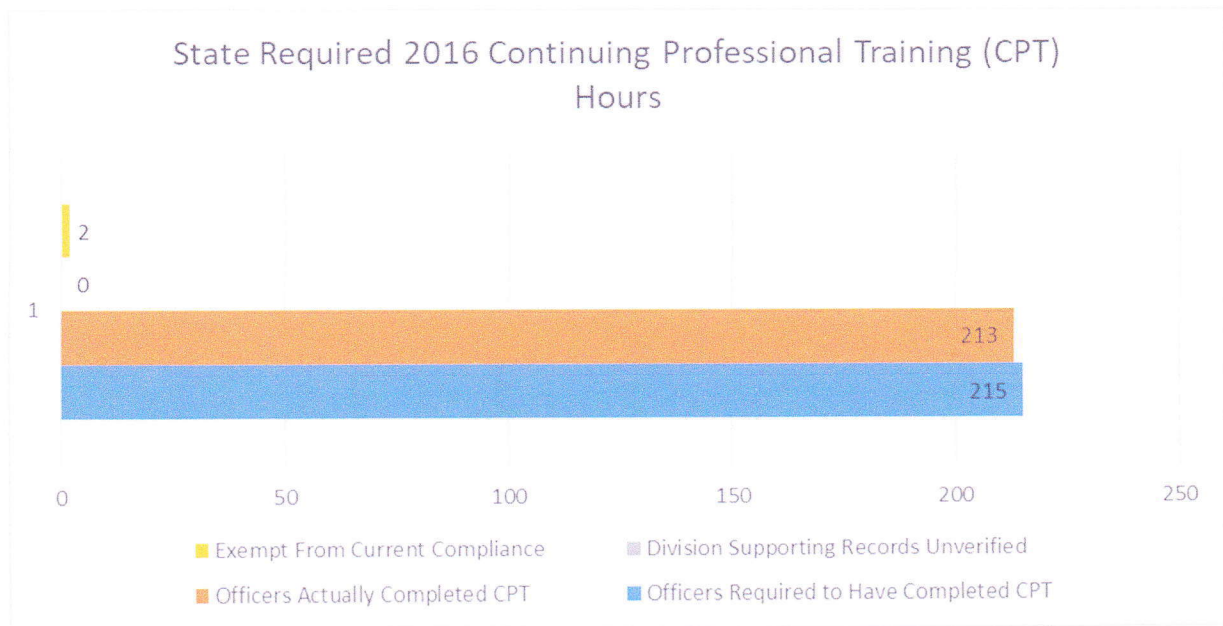
The OIG also reviewed the next most recent year in which the state was able to fund required CPT hours, which was 2016. In 2016, the CPT requirement was set at 11 hours, and was to consist of four hours of community police relations, two hours of crisis de-escalation, two

hours of constitutional use of force, one hour of human trafficking and two hours of general training left to the discretion of the agency.<sup>xxxv</sup>

The Division’s plan to comply with this requirement consisted of eleven hours of in-person instruction as part of a three full day annual in-service course of instruction by Division instructors.<sup>xxxvi</sup> Attendance was validated by signatures on attendance sheets for each half day of attendance. The Academy Unit maintained these records of completion and attendance in a Microsoft Access® database specifically created for tracking 2016 training requirements and completion.

Utilizing the sample size and method referred to in the Methodology section above, the OIG reviewed all records for each specific officer randomly identified for assessment and found the following:

Of the three hundred and ten (310) member sample, two hundred and fifteen (215) were required to have completed the 2016 CPT training. The Division’s records indicate that two hundred and thirteen (213) of those officers completed the training as required and corroborated by the Commission. Of the two (2) officers that did not complete the training, both were on extended illness or injury leave and either remain in that status or have left service with the Division through disability retirement and currently cannot comply or are no longer required to. This results in all available officers being fully compliant with this mandate as of the date of review.



**Finding:** The Division was, as of March 19, 2020, as close to 100% compliant with state CPT requirements as can be expected based on the status and availability of all officers.

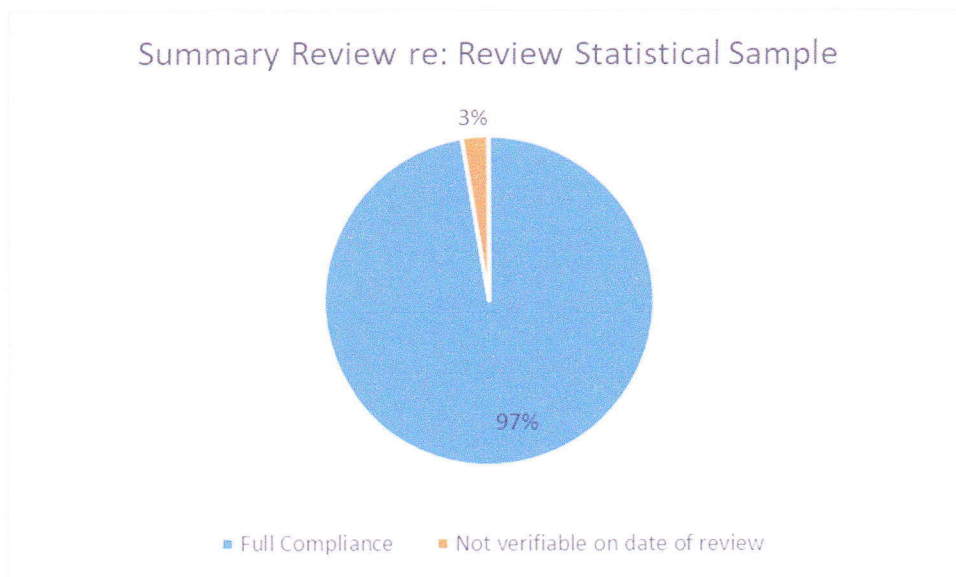
**Recommendations:**  
*No recommendations based on this data at this time.*

### Part 3

#### Total Sample Results Summary

Of the three hundred ten (310) member sample, the following summary results are provided. Three hundred and two (302) officers were found to have no compliance issues in their records. This includes five (5) non-compliant officers who remain on extended illness, restricted duty or have taken disability retirement and cannot yet come into compliance or are no longer required to.

The remaining eight (8) officers' records were either not found during inspection, or were insufficient to show completion of requirements. This results in a 97.4% compliance rate in the sample.



In each of the detailed sections above, officers who were unable to complete certification requirements due to extended illness leave or restricted duty status were tallied in compliance statistics as compliant due to their current inability to meet requirements and the presumption that compliance would come as part of their return to duty process. Their status presumed that they were not acting in the capacity of a law enforcement officer at that time. That being said, there is an official methodology to request extensions of time for officer compliance with the Commission<sup>xxxvii</sup> and the OIG did not observe any documentation that formal extensions were requested in those cases.

Additionally, as noted above in the discussion of 2017 CPT requirements, if the Division would have been able to provide primary source attendance document evidence for its instructional staff, the total sample review would have resulted in a compliance rate of over ninety nine percent (99.4%).

It must also be noted that due to the fact that the current record keeping processes are ad hoc, purpose built for tracking specific scheduled trainings, there is a lack of consistency in ability to track training for officers who missed the scheduled training sessions due to injury or illness status, especially if that training was made up months after the scheduled training was completed. Two (2) officers in the sample missed 2017 CPT training due to injury or illness leave, and their make-up records could not be found at the time of this review. These two officers and the instructional staff mentioned above are the entirety of the non-compliance issues discovered.

Finding: As of the date of review, March 19, 2020, pursuant to a sampling with a confidence level of 95% and a margin of error of 5%, the Division was not fully compliant with all state required training mandates and reporting. Lack of full compliance was attributable to two specific factors, 1) insufficient records of instructor attendance at 2017 CPT sessions, and 2) inability to locate make-up records for officers who missed 2017 CPT training sessions due to illness, injury or other extended leave.

Recommendations:

*Recommendation 5 – It is recommended that the Division improve procedures and policies regarding the substantiation, maintenance of records, and reporting of officer attendance at make-up training events having missed the primary scheduled sessions due to illness, injury or other extended leave.*

## **SECTION D – RETURN TO DUTY PROGRAM**

During the preparation of this memorandum, and while researching related Division documents, the current Return to Duty Program (RTDP) General Police Order<sup>xxxviii</sup> was reviewed. The GPO provides procedures for sworn officers to appropriately return to duty after serious injury or extended absence. During the multi-phase return process, training is addressed as follows, in pertinent part:

“V. Phase II – Training

A. Phase II will be conducted at the Training Section and may include, but not be limited to, state laws, city ordinances, criminal procedures, General Police Orders and other written directives of the Division, physical training, tactics, firearms proficiency, and driving.

B. Training Section instructors shall document in writing all training provided to the officer. All documents shall be kept in the officer’s training file with copies being forwarded to the RTDP Coordinator.”<sup>xxxix</sup>

While it is fairly clear that state mandated training of either statutory update or CPT mandate absolutely falls within the category of ‘state laws’ in Section V(A) above, the Division may possibly best be served by individually identifying these mandates in policy so that they are not overlooked. The high level of importance of these trainings, failure to complete which



may result in revocation of the ability to serve as a law enforcement officer, certainly demands some emphasis in procedures as opposed to implicit generality.

Additionally, as stated in Part 3 above, the Commission has provided for statutory means to request extensions for compliance.<sup>x1</sup> The RTDP, may be the most expeditious point in the process wherein the Division may formally make those requests and maintain those correspondences and records. Nonetheless, the Division would be best served to file for formal extensions based on circumstances at some point in the process to proactively advise the Commission of their understanding of the non-compliant officer's situation.

Finding: The OIG is not in a position to make any specific policy findings, including any finding regarding the current Return to Duty Program policy on the basis of this review. Nonetheless, recommendation is being made to assist with process improvement in the Division.

Recommendation:

*Recommendation 6 – It is recommended that the Division specifically identify state statutory mandated update training and state required Continuing Professional Training (CPT) as training areas that must be included in the creation of the Phase II training section of the current Division Return to Duty Program by amending current policy. Additionally, records created as a result of these training updates must be kept specifically with other records of Division compliance with state mandates.*

*Recommendation 7 – It is recommended that the Division make formal requests for extensions to comply with state training mandates for any officer who is unable to comply based on injury, illness, or other restricted duty, either at the time of inability to comply, or at minimum during the RTDP process with records and correspondence maintained with the officer's training files.*

## SECTION F – CONCLUSION

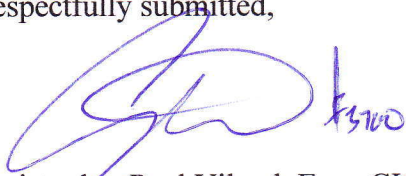
Law enforcement training is foundational to constitutional, professional and community accepted policing. The Division, has historically trained officers annually, making every attempt to increase officer knowledge, skills and ability based on the budget, time and staffing available. The State of Ohio, has, over time, instituted certain mandated training benchmarks which must be complied with by local Ohio police agencies. Failure to meet these mandates results in the possibility that officers lose their lawful ability to conduct law enforcement activities. The possibility that officers may take law enforcement actions while not having met these standards due to inability to maintain or report records correctly, exposes agencies to liability for constitutional violations.

The Division has recognized and complied with these state requirements for both statutory topic mandates and annual Continuing Professional Training mandates annually. Consistent and timely verification of compliance for agencies, including the Division, is difficult as the state and the Commission have provided no publicly facing database or agency specific access to data; all confirmations and verifications are done at the Commission's pace based on

public records requests. Nonetheless, the Division has used the tools available to it, to comply and report as required. The CDP Office of Inspector General has undertaken a thorough review of that compliance and evidence thereof. A listing of recommendations has been identified and presented for the sole purpose of assisting the Division with any future modification or updating of policy along with identification of compliance needs.

The OIG pledges to make itself available to assist with any policy creation and development needs of the Division.

Respectfully submitted,



Christopher Paul Viland, Esq., CIG®  
City of Cleveland, Division of Police, Inspector General #3700  
Work Product #20002-M

cc: *via email only:* Deputy Chief J. O’Neill  
Hon. Gregory White

*[NOTE: After creation of the assessment tool utilized in this review, and during the data collection from Division files itself, it was discovered that Human Trafficking training given by the Division in 2016 was to establish partial compliance with state CPT mandates that year and NOT to establish compliance with prior statutory mandates from 2012. This caused a change in some formatting and data presentation in this report.]*

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## **SECTION F – SUMMARY OF RECOMMENDATIONS**

A listing of all above formal recommendations regarding compliance with state statutory training update mandates and CPT mandates are presented below for reference.

*Recommendation 1 – It is recommended that the Division obtain and implement or dedicate a robust record management system to its Training/Academy function. This system should replace any ad hoc, internally created database or spreadsheet system and should accept and include all historical data and electronically preserved primary source documents. All historical records should be consolidated under this single system. This system should have the functionality to be queried both by training event as well as by individual officer, a functionality not currently available with records as maintained.*

*Recommendation 2 – It is recommended that the Division institute a formal self-auditing process of officer status, minimally annually, to insure that there are sufficient substantiating records as required by statute and that Division and Commission records are in synchrony, accurate, and timely. This process must anticipate continued correspondences with the Commission and should advocate for a publicly available statewide database with Division access for maintenance.*

*Recommendation 3 – It is recommended that the Division either improve District spreadsheet tracking of training events by requiring higher levels of accuracy, standardizing their format or template and reporting requirements across the Division, or abolishing their use once replaced by a more robust and accessible training records management system.*

*Recommendation 4 – It is recommended that the Division improve procedures and policies regarding instructor attendance at training events by mandating instructor signatures on any required attendance sheets or other method that can serve as primary evidence of attendance.*

*Recommendation 5 – It is recommended that the Division improve procedures and policies regarding the substantiation, maintenance of records, and reporting of officer attendance at make-up training events having missed the primary scheduled sessions due to illness, injury or other extended leave.*

*Recommendation 6 – It is recommended that the Division specifically identify state statutory mandated update training and state required Continuing Professional Training (CPT) as training areas that must be included in the creation of the Phase II training section of the current Division Return to Duty Program by amending current policy. Additionally, records created as a result of these training updates must be kept specifically with other records of Division compliance with state mandates.*

*Recommendation 7 – It is recommended that the Division make formal requests for extensions to comply with state training mandates for any officer who is unable to comply based on injury, illness, or other restricted duty, either at the time of inability to comply, or at minimum during the RTDP process with records and correspondence maintained with the officer's training files.*

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- <sup>i</sup> See, e.g., Shaffer, Cory, Activists allege dozens of East Cleveland’s police officers were not compliant with training, seek criminal charges, Cleveland.com, as posted online August 23, 2019. See also, *Willis/Crenshaw vs. Affidavit Statement Having Knowledge Of, Etc.*, SD-18-077857-8, Cuyahoga County Common Pleas Court, unreported.
- <sup>ii</sup> See, e.g., Caniglia, J. and Dissell, R., Ohio Law Enforcement Annual Training ‘Critical’; Reimbursements Inconsistent, Tracking Questionable, Cleveland.com, as posted online February 16, 2020.
- <sup>iii</sup> *Crenshaw v. City of Cleveland Law Department*, CV-18-899041, Cuyahoga County Common Pleas Court, unreported.
- <sup>iv</sup> *Crenshaw v. City of Maple Heights Police Department*, CV-20-929426, Cuyahoga County Common Pleas Court, unreported.
- <sup>v</sup> Ohio Revised Code §§109.802-3, enacted January 4, 2007.
- <sup>vi</sup> ORC §109.802A(1).
- <sup>vii</sup> *Id.*
- <sup>viii</sup> Ohio Administrative Code 109:2-1-13.
- <sup>ix</sup> *Id.* at (F).
- <sup>x</sup> *Id.* at (I), also Ohio Administrative Code 109:2-18-06(A).
- <sup>xi</sup> Cuyahoga County Police Chiefs Association, Board Meeting Minutes for November 21, 2019, unpublished document (copy in possession of author).
- <sup>xii</sup> *United States of America v. City of Cleveland*, United States District Court, Northern District of Ohio, Eastern Division, 1:15 CV 01046, Settlement Agreement, June 12, 2015.
- <sup>xiii</sup> *Id.* at ¶253(a).
- <sup>xiv</sup> Ohio Administrative Code 109:2-18-02(L).
- <sup>xv</sup> Ohio Revised Code §109.801.
- <sup>xvi</sup> Haahr, M., RANDOM.ORG: True Random Number Service. Retrieved from <https://www.random.org>, accessed May 6, 2020.
- <sup>xvii</sup> Association of Inspectors General, Principals and Standards for Offices of Inspector General, Philadelphia, PA, May, 2014.
- <sup>xviii</sup> OAC 109:2-18-06.
- <sup>xix</sup> OAC 109:2-1-13(I).
- <sup>xx</sup> Some Division self-reported records required updating with the Commission, including removal of names of those no longer employed by the City, per Sgt. Lam in the Academy Unit.
- <sup>xxi</sup> Per Division Academy Unit spreadsheet as of 3/19/20: Officers D. Aldreman, R. Clayton, P. Kinney, M. Mahoney, A. Benkalowycz, J. Hotz, and E. Mixon, unpublished document (copy in possession of author).
- <sup>xxii</sup> City of Cleveland Division of Police, General Police Order 1.1.45 Return to Duty Program (RTDP), September 27, 2013.
- <sup>xxiii</sup> Information from teleconference with Division Academy Unit Supervisor, Admin. Sgt. David Lam, interview date 7/29/2020.
- <sup>xxiv</sup> See, e.g., Caniglia and Dissell, *supra* note ii.
- <sup>xxv</sup> OAC §109:2-18-05(D).
- <sup>xxvi</sup> *Id.* at (C).
- <sup>xxvii</sup> *Id.* at (A & B).
- <sup>xxviii</sup> OAC §109:2-1-13(A)(5).
- <sup>xxix</sup> *Id.* at (F).
- <sup>xxx</sup> City of Cleveland Division of Police, Divisional Notice 17-128 2017 Continuing Professional Training (CPT), May 3, 2017.
- <sup>xxxi</sup> *Id.*
- <sup>xxxii</sup> Ohio Peace Officer Training Commission, 2017 Continuing Professional Training Directions and FAQs, unpublished document (copy in possession of the author).
- <sup>xxxiii</sup> City of Cleveland Division of Police, Divisional Notice 17-129 2017 Use of Force/Crisis Intervention Team (CIT) Training, May 3, 2017. See also, DN 17-128 *supra* note xxviii.
- <sup>xxxiv</sup> OPOTC 2017 CPT Directions and FAQs, *supra* note xxxi.
- <sup>xxxv</sup> Ohio Peace Officer Training Commission, 2016 Continuing Professional Training Directions and FAQs, unpublished document (copy in possession of the author).
- <sup>xxxvi</sup> City of Cleveland Division of Police, Divisional Notice 16-006 2016 In-Service Continuing Professional Training, January 8, 2016.
- <sup>xxxvii</sup> OAC §109:2-18-02(I) and OAC §109:2-1-13(G).
- <sup>xxxviii</sup> Division of Police GPO 1.1.45, *supra* note xxi.
- <sup>xxxix</sup> *Id.* at Section V.
- <sup>xl</sup> OAC §109:2-18-02(I) and OAC §109:2-1-13(G).