



June 25, 2021

Antoinette Ursitti
Deputy Chief of the Training and Support Group
Chicago Police Department
3510 S. Michigan Avenue
Chicago, Illinois 60653

RE: Feedback on the Chicago Police Department’s 2022 Use of Force In-Service Training Curriculum

Dear Deputy Chief Ursitti:

We are grateful for the Department’s interest in COPA’s feedback on the Department’s 2022 Use of Force Training Curriculum. We continue to see value in collaborating with the Department in the identification of opportunities to enhance and refine training efforts to improve outcomes for both Department members and the public. We are also appreciative of the Training and Support Group’s willingness to provide training on use of force to COPA Academy participants.

On May 21, 2021, I and members of COPA staff met with a member of your staff to discuss COPA feedback on the 2022 Use of Force In-Service Training Curriculum that follows below. In advance of the meeting, and to develop greater familiarity with current use of force training content, COPA received and reviewed copies of the Department 2021 Use of Force (Communications) and 2021 Use of Force (Procedures) training curriculums.

We recognize that a significant amount of time and effort has already gone into the development of these materials. The following seeks to provide high level feedback on the structure, content, and tone of training to assist the Department in its goal of delivering equitable and constitutional policing to all members of the public.

Time Allocated to Transmit Content

It is COPA’s understanding that the currently proposed use of force curriculum is to be administered in one eight-hour block over the course of a single day. As a principal matter, COPA strongly suggests allocating additional time to use of force training.

First, given the voluminous amount of content contemplated—de-escalation, diversion, communication techniques, proportionality, appropriate and safe physical techniques, legal rules,

current Department directives, treatment of an individual suffering a mental health crisis, and more—allotting only eight hours for content delivery seems greatly inadequate.

Second, the one day, eight-hour design is incongruent with best practices on learning and memory. When information is spaced over time, with opportunity to process and integrate learned information in the interim, memory and learning effects may be enhanced. While COPA appreciates there may be logistical challenges to spreading content over multiple sessions, doing so would likely increase opportunities for comprehension and retention.

COPA stresses the importance of providing use of force training that is sufficient in both amount and design, as failing to do so may render the training ineffective in preventing use of force that is unsafe, unconstitutional, or outside of policy. Further, the issues covered in this training have significant implications for all Chicagoans. For example, from 2009-2019, the City of Chicago reportedly paid out more than \$524 million to settle lawsuits against police, many involving complaints of excessive force.¹ In addition, excessive force is one of the most frequent complaints received by COPA and one of the most frequently sustained. In the past 12 months, nearly one third of the misconduct allegations sustained by COPA were related to use of force.² Allocating additional time, over more than one session, to cover this critical training content would reflect the Department's continued commitment to prioritizing the sanctity of human life, as well as demonstrate that the Department is earnestly committed to the principles of procedural justice by equipping Department members with the tools and strategies necessary to effectively comply with use of force expectations.

Instructors & Training Environment

COPA emphasizes the critical role of the instructor to communicate proposed content in effective, informed, and intentional ways—as well as to create and foster a learning environment that encourages vigorous, open discussion of the topics covered.

The Department is directly responsible for projecting the message of reform to its members, and, as a conduit for this effort, the efficacy of the training instructor is critical. 2021 use of force curriculums reviewed by COPA do not detail Department selection processes or criteria for instructors. COPA suggests the Department seek to identify instructors that display a personal belief and commitment to procedural justice, de-escalation, community policing, empathy, and effective communication. Furthermore, instructors should have service records which demonstrate a commitment to force mitigation and adherence to Departmental objectives relative to reform and current use of force policies.

Additionally, the Department should seek to remove barriers that inhibit robust discussion. Such efforts may include breaking down or suspending reliance on the Department's normal paramilitary structure to create a suitable training environment that leaves space for reasonable disagreement over the analysis and potential outcomes of use of force incidents. It is also critical

¹ CBS2 Chicago, "City Has Paid More Than \$524 Million Over Past Decade To Settle Lawsuits Against Police," September 4, 2019, <https://chicago.cbslocal.com/2019/09/04/police-lawsuit-settlement-cost/>.

² COPA Concluded Investigations Data Dashboard (data current as of May 31, 2021), <https://www.chicagocopa.org/data-cases/data-dashboard/closed-investigations/>.

that trainers are capable of engaging Department members in a variety of scenarios and fact patterns, so as to provide sufficient context for policy expectations related to, for example, application of balancing tests, how to reasonably assess and articulate the totality of the circumstances prior to utilizing force that is necessary and proportional, and the limited availability of exceptions.

Appropriateness of Teaching Materials

The 2021 curriculum materials provided to COPA include links and/or reference to several video and audio clips intended to demonstrate taught concepts and spark discussion. The overwhelming majority of these clips feature lethal or potentially lethal situations, described from the perspective of law enforcement members from external agencies.

COPA encourages the Department to balance the use of teaching materials accentuating extreme circumstances with opportunities to demonstrate appropriate use of force procedures in non-lethal situations. Most use of force complaints received by COPA do not present issues of deadly force. While COPA appreciates that use of force incidents are fluid, COPA sees benefit in firmly anchoring training efforts in initial decisions and tactics surrounding uses of force that law enforcement officers routinely encounter, the majority of which do not introduce issues pertaining to deadly force.

Furthermore, Departmental training would benefit from the inclusion of teaching materials, including audio and video recordings, that focus on the perspective of the civilian and are told in the civilian voice. The Department's current use of force policies recognize that a strong partnership with the public is essential for effective law enforcement. Key to any effective partnership is mutual communication, thus, the civilian voice should be included to achieve Department aims.

Finally, the Department should consider leveraging on its own body-worn camera recordings as a teaching tool, rather than relying largely on audio and video of incidents from other jurisdictions. For example, the Department could present recordings of a real incidents involving its own Department members and discuss how the incident was or would be reviewed and investigated to determine if uses of force complied with Departmental policy. Regardless of the source of any such video or audio files, when such recordings are presented, COPA encourages that instructors foster an environment in which trainees feel empowered to critically analyze the use of force scenarios, thoroughly discuss the issues that arise, and debate whether the scenario appears within or contrary to Department policy.

Use of Force as Retaliation and Threat of Force as a Control Tactic

Questions of retaliatory uses of force frequently arise in COPA disciplinary investigations. While COPA recognizes that Department directive G08-05 (Prohibition of Retaliation) explicitly prohibits Department members from engaging in any form of retaliation against members of the

public,³ COPA suggests that increased emphasis be placed on this prohibition. COPA sees benefit to offering strategies to avoid the retaliatory uses of force,^{4,5} as well as for preemptive intervention by partner or assisting officers to avoid or thwart retaliatory uses of force.

Additionally, COPA suggests offering content addressing avoidance of inappropriate and non-permissible threats of force, whether to gain a subject's compliance, or for any other reason.⁶

Report Drafting and Adequacy of Supervision

Concerns regarding the sufficiency and accuracy of Departmental reports detailing use of force incidents arise frequently in COPA disciplinary investigations. COPA encourages the Department to thoroughly integrate in training expectations surrounding documentation of use of force incidents,⁷ as well as the importance of scrutiny from front line supervisors to ensure accuracy, completeness, and identify opportunities to reinforce challenging principles.⁸ The consequences of deficient reporting, both interdepartmental and external, should be discussed and explained to provide context to the importance of paperwork which might otherwise be perceived as tedious or unnecessary.

Colleague Conduct & Opportunities to Intervene

COPA appreciates the Department's inclusion of discussion points in the 2021 curriculum materials on the affirmative duty of a Department member to intervene if they witness a fellow Department member use force which is excessive or otherwise outside of policy. COPA sees opportunities to expand upon this topic, particularly as it relates to strategies for evaluating another Department member's use of force and effective intervention. These may include criteria and tactics to employ at various times during a use of force incident, as well as discussion points addressing the extent to which one member may physically intervene to prevent or halt a fellow Department member's impermissible use of force.

COPA emphasizes the need to frame the duty to intervene in a positive and non-controversial light, such as by anchoring content to a member's duty to the public and fundamental concepts of Constitutional policing. COPA encourages instructors to tackle issues of policing culture head-on, which includes reinforcing that Department members enjoy protections against retaliation for intervening or reporting colleague misconduct, and procedures addressing how to proceed should

³ G08-05 (eff. 12/30/20). Department policy also explicitly prohibits retaliation against other Department members; A discussion of this prohibition is included in the infra section entitled "Colleague Conduct & Opportunities to Intervene."

⁴ For example, inclusion of discussion points addressing the influence of Department member anger or stress on perceptions, actions, and behaviors.

⁵ Including discussion on force option limitations and assessments once an individual is restrained.

⁶ For example, offer scenarios addressing whether display of a weapon, to include sparking a Taser, or verbal threats regarding the discharge of a firearm, comport with Department policy expectations.

⁷ For example, the importance of fact-based, rather than conclusory, drafting techniques.

⁸ For example, application of balancing tests, positive verbal communication skills, and how to reasonably assess and articulate the totality of the circumstances prior to utilizing force that is necessary and proportional.

a Department member believe that they are the victim of retaliation.⁹ It is critical that Department members understand that they will be supported and protected if they act on their concerns.¹⁰

De-Escalation

The 2022 curriculum presents a significant opportunity for the Department to reinforce core principles of sanctity of human life, and better meet reform objectives focused on a cultural shift toward consistent positive, and professional initial interactions. In other words, how members can avoid creating their own exigencies. To that end, instructors should be prepared to provide and/or discuss a variety of scenarios illustrating that, though certain tactics and force options may be permissible under criteria listed in Department policy, members must still exercise discretion in employing those options (i.e., assessing competing Departmental objectives such as protecting the sanctity of human life, public cooperation, de-escalation, and use of force as a last resort). Again, to aid in the delivery of this content, COPA encourages the Department to leverage its own body-worn camera recordings as a teaching tool to highlight examples of positive and negative initial interactions, and their eventual outcomes.¹¹

COPA strongly encourages the Department reinforce, through training, the fluid nature of law enforcement interests, as well as a person's compliance, as interactions unfold (i.e., even after employing an initial threat assessment, members must perform a totality of the circumstances analysis continually throughout). Further, the Department should consider methods to achieve consistency in explanation and demonstration of the "safe and feasible" standard often mentioned in the 2021 curriculum materials.

Emanating from trends observed in COPA investigations, we highlight the following topics as areas of focus relative to de-escalation:

Traffic Stops: Consider including de-escalation techniques and tactics aimed at positive verbal communication and critical thinking, particularly as it relates to law enforcement practices involving vehicle extraction. Members employing rude, negative, or hostile language to any person during a traffic stop may inadvertently escalate or create unnecessarily dangerous situations because of antagonistic initial contacts.

Concealed Weapon Inquiries: Following on the Department's recent release of a revised training bulletin,¹² COPA suggests that the Department develop content addressing member inquiries into legal possession of a firearm. In addition to facilitating robust discussion regarding various fact patterns and applicable legal standards, such as

⁹ Department directives provide limited reassurance by simply acknowledging that retaliation is prohibited. This training is an opportunity for the Department to elaborate on and explain the extent to which they offer protection for an officer who intervenes or reports.

¹⁰ A review of peer bystander intervention training models, such as Georgetown University's ABLE program and the City of New Orleans EPIC program, may be useful in the Department's efforts to develop effective training content.

¹¹ See also the Department's May 28, 2021 response to COPA's March 31, 2021 Report on Non-Compliance with Body-Worn Camera Regulations. In response to COPA's recommendation to incorporate actual or staged BWC recordings to demonstrate proper conformance with BWC regulations and provide examples of non-compliance, the Department indicated that it would forward COPA's recommendation to the Training Academy for consideration.

¹² Education and Training Bulletin 14-01, *Firearm Concealed Carry* (April 2021).

reasonable articulable suspicion, instructors should offer strategies aimed at positive communication to keep inquiries regarding a person's possession of a firearm, Firearm Owners Identification (FOID) card, and concealed carry license from escalating unnecessarily.

Assessing Compliance with Verbal Directives: COPA encourages the Department to explore opportunities to enhance content surrounding members' ability to assess compliance with verbal commands (i.e., clarity in the issuance of verbal commands, repeating or altering verbal commands, and time available between commands and reasonableness of opportunity to comply).

Partner Communications: To achieve all the above stated aims, the Department's use of force training would benefit from robust content focused on building effective partner communication skills (i.e., avoidance of competing or inaudible directives, task division, planning pre-stop when possible, and other teamworking strategies).

De-escalation is a core principle which must be woven through all use of force related training content. Indivisibly linked to the practice of de-escalation are strategies related to procedural justice, identifying cognitive bias, other fallacies of perception, using active listening, and practicing neutral, equitable policing. The proposed use of force training curriculum could benefit immensely from continual reference and contextualization of how each use of force concept relates back to these core concepts and practices. It is simply not enough for the Department to state the importance of these principals—it is critical for the Department to demonstrate what these principals look like in practice.

Conclusion

COPA again expresses its appreciation for the opportunity to comment on the 2022 Use of Force Training Curriculum. We look forward to continued collaboration towards our joint goal of ensuring equitable and constitutional policing in the City of Chicago. Should you want to further discuss our comments, please do not hesitate to reach out.

Respectfully,



Jay Westensee
Deputy Chief Administrator

cc: Robert Boik, Executive Director, Chicago Police Department
Sybil Madison, Chief of Staff, Office of the Mayor
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