



## City Council Work Session, October 26, 2020—Police Department Policy Review and Reform Q&A

- 1. Why does the Shaker Police Department set the standards for our officers' conduct at the constitutional minimum? Shouldn't we aspire to something more than the bare minimum?**

The Shaker Heights Police Department, historically, throughout this process, and prospectively will continue to aspire to the goal of adherence to the high standards for officer conduct required by law and endorsed by our accrediting entity, CALEA, and other well respected law enforcement executive leadership organizations. These standards are not the “bare minimum”, rather they are the standards that are considered at the level of excellence required of a professional police department.

- 2. How does officers' biases factor into determining reasonableness?**

Claims of excessive force, under the law of the United States Supreme Court, are analyzed in part by answering the question was the officer's conduct (use of force) “objectively reasonable in light of the facts and circumstances confronting the officer without regard to their underlying intent or motivation?”

Evidence of an underlying intent or motivation, such as bias, according to the United States Supreme Court is not evidence that a court could use to determine if the officer's use of force was reasonable or unreasonable.

However, there are potentially other means by which an officer's bias may be redressed through claims under state law, administratively, and the Agency's disciplinary process.

Additionally, there are circumstances where even though the officer's intentions (e.g. bias or prejudice) may not be legally considered; other evidence presents itself (perhaps motivated by or derived from improper bias or intent) that could be utilized in an effort to show that the officer's behavior was unreasonable under the total set of circumstances.

- 3. I appreciate the point about whether force was necessary, not just reasonable, but would also encourage Shaker to adopt a standard of proportional force ...  
[Continued]**

Full question: I appreciate the point about whether force was necessary, not just reasonable, but would also encourage Shaker to adopt a standard of proportional force (limiting force to that which is proportional to the threat), like the city of Cleveland has adopted. Also, there is no detail on the de-escalation guidance added to the policy — what are those details?

Answer: The concept of proportionality is a factor in any analysis to determine whether the force used by an officer was objectively reasonable, which is the use of force standard contained in both the Shaker Heights Police Department's Response To Threats general order and the City of Cleveland Police Department's Use of Force general order.

Cleveland's policy does include a general statement that, based on the totality of circumstances, "all force shall be proportional to the level of a subject's resistance."

A comparison between a subject's resistance and the force used by an officer is certainly one of many factors in the totality of circumstances that is utilized in determining whether the officer's use of force was objectively reasonable.

The Shaker Heights Police Department is preparing a general order requiring de-escalation.

- 4. It is completely incorrect to say that Tennessee v. Gardner sets out the rule, rather than the exception. The rule is that police should not use lethal force. The exceptions laid out by Gardner, are the only instances it is permitted. The third exception listed has been interpreted to allow the killing of people fleeing the police. There is no reason that Shaker has to keep it in its policy, and the question is why wouldn't Shaker set a higher standard?**

See answer to Question #1.

- 5. If officers are to "understand" that if they are not certified to use the LVNR, then would it not be wise to put that statement in writing in the policy?**

The City's Response to Threats policy states that officers are only allowed to use techniques and weapons that are authorized through training. LVNR is not one of those.

- 6. Also, what repercussions will an officer experience should they use the LVNR as an unlicensed officers?**

Progressive discipline is possible depending on the situation.

- 7. How are we working with other organizations to understand the reforms being considered to assist in deciphering the calls and (1) identifying when the police are not needed to services the call and (2) building relationships with appropriate organizations to be on call to handle these types of calls. I suggest that building in this type of support is an issue of considering one possible way of reallocating some percentage of police funding.**

Council members Tres Roeder and Anne Williams are working with a group of residents and the Administration to evaluate the Calls for Service to the SHPD and, ultimately, to make recommendations about how best to reduce officers' time spent responding to non-safety calls for service and offer a multi-disciplinary approach to mental health issues of some of our residents. The group is being assisted by staff of the Cuyahoga County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board.

- 8. Where can we find the annual Internal Affairs report and the racial demographic data that is tracked from police stops?**

Both reports can be requested through a [Public Records Request](#).

- 9. I would also like to hear more discussion on how an officer might detain a suspect when deadly force is not necessary but restraint is necessary.**

Officers have a variety of options available to them which may be deployed based on the level of resistance from a subject.

**10. What is and what should be the policy regarding no-knock entry?**

A "No-Knock" warrant is requested by the Police Department from a judge to enter a property without prior notification. The Police ask for this exception to the knock and announce rule only when there is some type of emergency requiring the police to enter right away without delay, such as when the officers' safety is at risk, or the police believe that the suspects are destroying evidence. If a judge believes sufficient evidence is presented to justify the issuance of a "No-Knock," they authorize this type of warrant.

**11. I would like to understand why none of these arguments were presented to the Wildlife Task Force, Public Safety, or Finance?**

They were discussed with the Wildlife Task Force. We do not believe that the question was asked by a member of the other committees.

**12. Why was the decision made to put (bury) the community conversation under the How Do I section? In my opinion, that is not intuitive at all to find a conversation so relevant, important and crucial not featured on the City's site and more readily visible to the public. It should also be prominent on the police department's site. Please add this to our list of questions. I would really like to see a response.**

Organizing large amounts of information on a municipal website is a fairly complex process. Our website platform has parameters about how it can be structured and only provides limited options for where to place information such as this (i.e. special initiative rather than a department information, calendar, etc). After careful consideration, the How Do I/Learn More section was determined to be the most logical place for this information. It is where other important information has been placed (Sewer Fees, DEI page).

Further, the DEI page can be accessed by a tab at the top of the homepage and from there you can navigate to a link to the [Community Conversations](#) webpage. In addition, there is a link to the [Community Conversations](#) webpage from the Police webpage by clicking on [Policy Review and Reform Work](#).

Also, because users navigate websites differently, people often use the search function to find information they are looking for on websites. By typing in "Community Conversations" into the search bar, the user is directed to the page. Lastly, Community Conversations webpage was highlighted with links in various ENews and social media posts to draw attention to it.

(Question submitted at City Council's 10/26/20 Work Session)

**13. Can we have a clear explanation of the difference between Vascular Neck Restrictions and Chokehold Restrictions. As a follow-on, I believe I understood the Chief to say that an officer is not allowed to use vascular neck restrictions without holding a certification. Is the same true for chokeholds? If not for chokeholds, then this will link to an earlier question you have from me, which is why can't we be specific about the requirement for certification in writing and what are the repercussions should an officer be in violation of either.**

Lateral Vascular Neck Restraint (LVNR) is a technique not considered an air choke, because it does not restrict airflow. It temporarily restricts blood flow to and from the brain. A chokehold is a deadly force option, restricting air flow. They are not the same techniques and are considered

separately for that reason. The City's Police Department does not train in Lateral Vascular Neck Restraint or permit its use due to the risks if it is not be applied correctly, but authorizes a chokehold if deadly force is justified.

**14. Specific revisions to Police policies are due November 30, 2020, according to tonight's agenda. Will these revisions to Police policies be presented for public comment and council approval before they are implemented? If so, when, and if not, why?**

Public comment on reform policies has been provided to the City and the SHPD in a number of ways prior to revisions of certain police policies. In addition to guidance from the SHPD's accreditation agency the Accreditation for Law Enforcement Agencies (CALEA), guidance was taken from Governor DeWine's Police Reform Proposals and Campaign Zero/8 Can't Wait Proposal. Comments from residents were received from the Community Conversations held on July 23, 2020; the Shaker African American Mothers Support (S.A.M.S.) members/community events, and the Minorities Together Movement/Just Society Proposal, and various other residents who contacted the Police Chief, Mayor and Council members. Council gave their input at the October 26, 2020 work session. These policies will be written into General Orders which are finalized and issued by the Chief of Police. City Council approval of General Orders by a formal vote is not required and no General Orders have been referred to Council. They are an administrative measure, like other rules adopted by departments for their internal operation.