

February 21, 2019

VIA EMAIL AND U.S. MAIL

Chief Calvin Williams  
Cleveland Division of Police  
1300 Ontario St.  
Cleveland, Ohio 44113  
cwilliams3@city.cleveland.oh.us

Matthew Barge, Monitor  
40 Washington Square South  
New York, New York 10012  
matthew.barge@21cpsolutions.com

cc: eorozco@cleveland.city.oh.us  
axb74@case.edu  
jgoodrick@clecpc.org  
gfriedman@clecpc.org



AMERICAN CIVIL LIBERTIES UNION

Ohio

4506 Chester Avenue  
Cleveland, OH 44103  
P: (216) 472-2220  
F: (216) 472-2210

1108 City Park Avenue  
Suite 203  
Columbus, OH 43206  
P: (614) 586-1959  
F: (614) 586-1974

acluohio.org  
contact@acluohio.org

Jack Guttenberg  
President

J. Bennett Guess  
Executive Director

**RE: Necessary revisions to search and seizure GPOs**

Dear Chief Williams and Mr. Barge:

We write again to urge the adoption of the Cleveland Community Police Commission's (CPC) revisions to the five Cleveland Division of Police (CDP) search and seizure GPOs. Without these revisions the GPOs will fall short of the minimum standards Clevelanders deserve. The GPO revision process does not happen often so it is imperative that Cleveland takes this opportunity to create sound policies that comport with basic best practices.

Founded in 1920, the national ACLU includes more than 1.4 million members in all 50 states, making it our country's foremost advocate of individual rights. The ACLU of Ohio has 20,000 members statewide. Police practices are a key area in which we work to protect the rights of *all* individuals. If transgender individuals, juveniles, or African Americans do not enjoy the basic Fourth Amendment protections of Cleveland's policies, the policies have failed. The CPC's revisions, which we summarize below, are aimed at equal application of the law.

The ACLU of Ohio urges CDP to adopt all of the CPC's revisions, including:

- **Incorporate Fourth Amendment best practices to protect individual rights, including: informing a person during a consensual stop that they are free to leave, describing and prohibiting acts that constitute coercion, and clarifying that observance of open carry does not constitute reasonable suspicion.**

The reasonable person rarely, if ever, feels free to ignore a police officer's question or walk away from a supposed "consensual" encounter. This can be especially true for African Americans, who have historically faced disproportionate police scrutiny. A reasonable person will only feel free to leave

if the officer specifically indicates that he is. The search and seizure policy of Austin, Texas, for example, explicitly recognizes that use of the consent search can “negatively impact the Department's relationship with [their] community.” Specific guidance around consent searches and the other areas mentioned is crucial to protecting individual rights.

- **Provide guidance for searches of transgender individuals, to comply with law and best practices.**

Ohio is home to approximately 40,000 transgender or gender non-conforming adults. It is critically important for our police departments to understand best practices for interacting with these community members. The working group's revisions are consistent with the Prison Rape Elimination Act requirements: that transgender arrestees shall be searched by an officer of the gender identity with which they are most comfortable, and that officers shall not use searches to determine a person's sex or gender identity. Although the Sheriff's takeover of the jail means CDP is conducting far fewer strip searches, even one strip search conducted by CDP justifies inclusion of this guidance.

- **Include protections for juveniles, who may not understand their rights or appropriate behavioral responses as adults would.**

Developmentally, juveniles differ from adults in significant ways, and are more vulnerable to coercion. For example, a juvenile may be considered legally detained when an adult in the same situation would not be. As such, the policy must include specific guidance for interactions with juveniles so their rights are protected just as adults' rights are. Furthermore, procedural justice theory and developmental research shows that youth are more likely to accept responsibility for their actions if they perceive that they have been treated fairly.

- **Require that searches be trauma-informed, to prevent escalation of the situation and improve community trust.**

For many people, and particularly for those that have survived sexual violence, searches by police officers can be very traumatizing, and trigger behavioral responses. Teaching officers about the effects of trauma and ways to respond will allow them to in turn reduce trauma and prevent interactions from needlessly escalating. Trauma-informed practices can be as simple as an officer explaining what the search will consist of before conducting it.

- **Require that training on the policies be given in-person by a lawyer with subject matter expertise, given the policies' importance and complex nature.**

While not its primary focus, the DOJ investigation nonetheless uncovered major deficiencies in CDP's search, seizure, and arrest practices. One cannot undervalue the cost such deficiencies have to Cleveland's residents – nor the legal complexity of this area. For this reason the training must allow real-time, face-to-face questions and answers and scenario-based learning. Anything less is simply insufficient.

- **End the use of militaristic language, by substituting “shift” for “tour of duty.”**

In addition to complying with the Fourth Amendment and nationally-recognized best practices, the principles of procedural justice contained in these revisions will help repair broken trust between community members and the police. This trust ultimately makes officers' jobs easier.

If we can provide more information, please don't hesitate to contact us via email or by phone at

Sincerely,



Jocelyn Rosnick  
Policy Director  
ACLU of Ohio



Emma Keeshin  
Advocacy Associate  
ACLU of Ohio