

FINAL AUDIT REPORT



Gainesville Police Department's Use of Force

A Report to the City Commission

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AUGUST 17, 2017

City of
Gainesville Office
of the City
Auditor

Carlos L. Holt – City Auditor

Audit of the Gainesville Police Department's Use of Force

EXECUTIVE SUMMARY

August 17, 2017



Why We Did This Audit

The use of force audit was included on the City Auditor's 2017 Fiscal Year Audit Plan due to the profound national interest and number of use of force incidents occurring across the country.

What We Recommend

GPD Management should take actions to:

- Run an IT query to identify delinquencies after each training class.
- Schedule make up classes as needed throughout the calendar year.
- Create a procedure to rank use of force techniques for reporting purposes to ensure the process will always produce the same result no matter who is doing the report.
- Devise a process to ensure officer access to the simulator at any time.

BACKGROUND

The mission of the Gainesville Police Department (GPD) is to serve the Gainesville community and foster order, safety, and freedom while their vision is to make Gainesville a safe and healthy community. They are a full-service, community oriented policing agency dedicated to partnering with citizens for problem resolution. The goals of community oriented policing are to reduce the calls for service, decrease crime through prevention and enforcement, and enhance the quality of life for the citizens of Gainesville. The organization values the lives and safety of its employees and the public. As a result, the Department shall maintain stringent guidelines on the use of force by its sworn members. Sworn members acting within their official capacity may use only that force which is reasonably necessary to accomplish a lawful objective and shall act in good faith in the exercise of use of force and comply with the provisions of Florida State Statutes and City of Gainesville's policies.

OBJECTIVES

The objectives of the audit were to determine the following:

- Is the Use of Force policy clear and able to be followed?
- Are all sworn police officers on the street trained in use of force in accordance with policy?
- Is the use of force reporting adequate in order for others to understand the environment?

WHAT WE FOUND

The United States Constitution and Florida law allow the Gainesville Police Department (GPD) to use force to effect arrests and ensure public order and the safety of citizens and their property.

- The use of force subject is well defined in resources available to GPD officers. Efforts to revise and update the policy with relevant criteria have been ongoing since September 2016 and will soon be shared with the community and finalized.
- A small number (2%) of sworn police officers had not received their required training during the 2016 calendar year.
- The 2016 Gainesville Police Department's Annual Use of Force Report contains relevant and valuable information.
- The Gainesville Police Department has demonstrated that it has taken a proactive stance to ensure that its criteria are reflective of the current environment and that its officers are knowledgeable about the requirements.

GOVERNANCE

The governance of the Gainesville Police Department relies on the chain of command through training and policy. The Police Chief reports to the City Manager, who is one of six charter officers that reports directly to the City Commission. The department has approximately 307 sworn officers and 90 civilian personnel that are divided into two primary bureaus (Operations and Investigations) and various divisions.

In regards to the use of force, the Florida Department of Law Enforcement (FDLE) maintains the Automated Training Management System (ATMS), which is a centralized record repository, recording officer and training certificates and training school instructor certificates. A full-time, part-time, or auxiliary officer shall successfully complete 40 hours, every 4 years, of In-service, Advanced, Specialized, or Career Development Training Courses. Rule 11B-27.00212(6), F.A.C., states that the certification of any officer who fails to meet the mandatory retraining requirement shall become inactive. An officer is not statutorily authorized to perform the duties of a sworn officer until the officer has satisfied the mandatory retraining requirements. Audits by FDLE of the GPD program occur when they apply for new certifications (both new officers and instructors). Additional audits or inspections can occur whenever issues arise.

SCOPE AND METHODOLOGY

This engagement segment concentrated on the process of policy, training, and reporting for fiscal years 2015 - 2016. During the engagement, we attended meetings, interviewed key personnel and a random sample of officers, conducted an on-line survey, attended policy development meetings, attended community group events, examined documents, analyzed drawings and specifications, inspected documents in different areas, and contrasted the GPD efforts with other cities that have undertaken use of force audits or internal reviews.

OBJECTIVES AND CONCLUSIONS

The objectives of the audit were to assess the criteria, training, and effectiveness of the Gainesville Police Department's (GPD) use of force component. The three major categories that provide a framework for a use of force program are policy, training, and reporting.

1. Is the Use of Force policy clear and able to be followed?

Yes. The use of force subject is well defined in resources available to GPD officers. Not only are there valuable education material provided, the use of General Orders and internal memorandums have effectively increased the highest standards of awareness in regards to the use of force.

Since September 2016, leadership of the GPD formed a weekly working group to rewrite and update the department's Use of Force policy. Headed by the Assistant Chief of Police, important key position holders within the department were included as members. Also invited to participate was the State Attorney's Office, City Attorneys, and the Fraternal Order of Police. The City Auditor's Office participated as observers of the process.

The working group methodically disassembled and re-created a new Use of Force policy that is not yet finalized. During the process, it was apparent that GPD made significant efforts to ensure

that the policy would reflect changing environments. Recently issued “30 Guiding Principles” regarding the use of force from the Police Executive Research Forum, supported by the US Department of Justice, were considered throughout the process as well as other criteria and research. As the GPD moves closer to finalizing the new policy, they have plans to hold community discussions with various groups such as the Black on Black Crime Task Force, the Police Advisory Council, and others. The policy also will be presented to the City Manager and elected officials before taking effect.

2. *Are all sworn police officers on the street trained in use of force according with policy?*

Generally yes. A small number (2%) of sworn police officers had not received their required training during the 2016 calendar year. The GPD policy maintains that there will be 100% compliance with use of force training. No sworn police officer is allowed to perform in the capacity of an officer until the training has been completed (see Observation A). Additionally, although a fairly realistic “shoot or don’t use simulator” was available for officers, interviews and surveys indicate that it is significantly underutilized with 80 percent of officers stating they would like to use the equipment more often but it is unavailable much of the time (see Observation C).

3. *Is the use of force reporting adequate in order for others to understand the environment?*

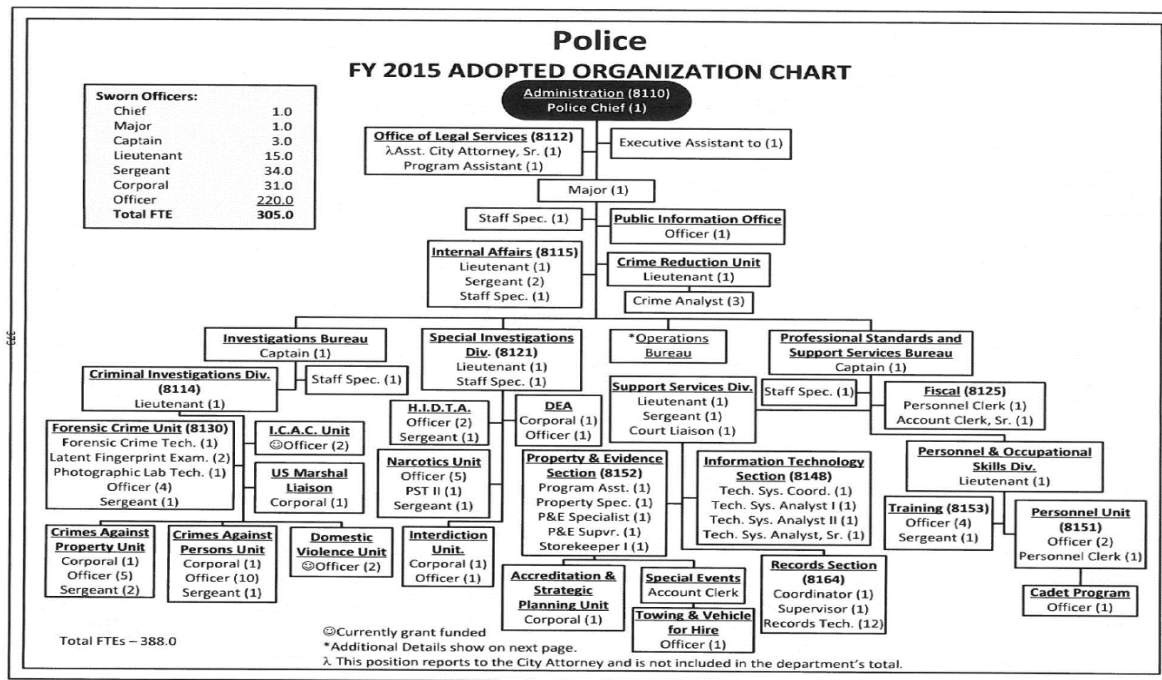
Generally yes. The 2016 Annual Use of Force Report contains 24 pages of relevant information. The previous annual reports consisted of only two pages and did not balance the information efficiently. The 2016 Annual Use of Force Report delves into many areas of interest and subjects and is a substantial improvement over the prior product. The only continuing issue is the counting methodology used to tabulate the number of times specified use of force techniques were used. The methodology can be subjective and not easily substantiated during an ex-post facto review (see Observation B).

BACKGROUND

GPD Organization

The Gainesville Police Department employs approximately 307 sworn police officers and 90 civilian support personnel. The Department is organized as a functional organization structure which is hierarchical in nature. In this kind of organizational structure people are grouped per their area of specialization and classified according to the function they perform within the organization (Figure 1).

Figure 1: FY 2015 ADOPTED ORGANIZATION CHART



Source: http://www.gainesvillepd.org/Portals/0/files/GPD_2015_OrgChart.pdf?ver=2015-10-19-140503-377

Questionnaires

Interviews of officers were conducted both online and in-person to gauge the culture as it pertains to the use of force. Online there were 122 respondents using our web based anonymous questionnaire. In-person, we created a random sample of 24 officers and were able to complete 24 interviews.

We met with the officers at GPD for the in-person interviews and explained that we were using an anonymous model. The model uses notes from the interview and then all notes are merged into one document so that no one answer is identifiable with an officer. The in-person interview differs from an online questionnaire because we can ask for clarification of an answer with the in-person interview. There were nine baseline in-person questions asked.

In-person questionnaire

1. How many times in the last 5 years have you used: Deadly Force? Non-Deadly Force?

A wide majority of officers had not been involved in a use of deadly force, but felt they were well trained by GPD to handle any situation. Almost all officers were satisfied with the tools provided for their utility belt, but most felt that they didn't use their baton much and wouldn't mind if the requirement to carry one was waived. Every officer discussed the many types of techniques for use of force and had to use them infrequently. For GPD, the TASER has become the go-to tool since it provides for an effective stopping device; however some reported that the TASER did not work as expected and the officer had to quickly improvise to secure the situation.

2. What criteria is the use of force standard at GPD based on?

Pressure Point Control Tactics (PPCT) has been used by GPD for at least 24 years. PPCT is a private company based in St. Louis, Mo. and several agencies worldwide have adopted their systems. PPCT defines how the officers will conduct use of force through training and approved tactics. The model works on a use of force continuum that allows the escalation of force to

overcome the resistance conducted by a perpetrator. Starting in 2017, GPD is changing to the State of Florida Defensive Tactics System which is the system approved by the Florida Department of Law Enforcement. The officers feel that they will better serve the community by endorsing Florida's Defensive Tactics and closely align GPD with the rest of the state.

3. Why would you not want to report a use of force incident?

This question applied some stress to the officers, since no officer could think of any reason why you would not want to report truthfully on an incident. Some speculated that others might believe that the force that was used was not worth reporting because it was slight and did not produce injury.

4. Is there any time deadly force should be used on someone unarmed? If yes, explain.

Generally each officer answered this question with the concept that a situation changes frequently. Any time during the de-escalation of a situation, the situation could reverse and escalate into something dangerous. Officers must read their situation and apply force based on a continuum. Some of the reasons cited were that the officer had no back up and was being choked out. Being matched with someone stronger or larger than you was another reason as well as having background knowledge that the person has committed a heinous crime or is in close proximity to a weapon.

5. Can you list the kinds of training that you have been exposed to relative to the use of force?

Officers begin their training at the police academy. Afterwards, they receive mandatory training for use of force with lots of hands on training, in service training with TASER, weapons, and crowd control. Whatever training is being conducted, they always talk about aspect of use of force. Due to timing issues, many officers do not find time to conduct any training on their own time. Policy and general orders are available on line for the officers to study.

6. What is your approach to people who are experiencing a mental illness episode?

The common theme to this question was that officers would first spend time to de-escalate the situation. Since situations can go bad fast, officers stress the need in having at least two officers respond to the call. Using empathy instead of sympathy, officers work together to create a calming environment and try to talk the person down. A big resource is using the Crisis Intervention Training (CIT) officer to help out. When an arrest is imminent, officers fall back on their training and have to treat the situation like any other arrest. This means using appropriate force that is applied according to ensure safety.

7. Have you ever used force on a person suffering from a mental illness episode?

A person suffering from a mental illness episode has the same aptitude to behave violently as does someone who is not afflicted. Officers assess the situation for safety for everyone and then respond. One tactic is to stay close to an individual in case they become agitated and continue to talk to them for as long as possible.

8. What should GPD be doing differently or not at all?

Officers feel that the training they currently get is very good; however, there are some that think they are receiving less training than they used to. Some feel firearms training is not given to the officers frequently enough. Some officers are concerned that Mixed Martial Arts (MMA) is becoming popular with the public, but GPD is not teaching tactics to counteract this. Some mentioned that the baton is extra weight and not being used. Finally, officers would like more communications training.

9. What is your experience with using Milo 3000 Simulator?

Officers feel that the simulator is more realistic training than other methods. They stated they don't get to use the simulator much at all and would like to see a solution that would let them use it more, also noting that the simulator could be used to train for situational problems and help create solutions. Many wonder if there needs to be more of the budget applied to training.

On-line questionnaire

The online questionnaire was sent anonymously to all sworn officers. Out of the eleven questions on the questionnaire, six were drop down questions, four were yes/no questions, and one was a fill in the blank question. The questionnaire should have taken no more than five minutes to complete.

Most respondents agreed that they received adequate training. Overall, ninety-four percent agreed GPD has an effective training program. On use of force, 89 percent indicated they are adequately trained to protect themselves and others from aggressors up to and including deadly force (Figure 2).

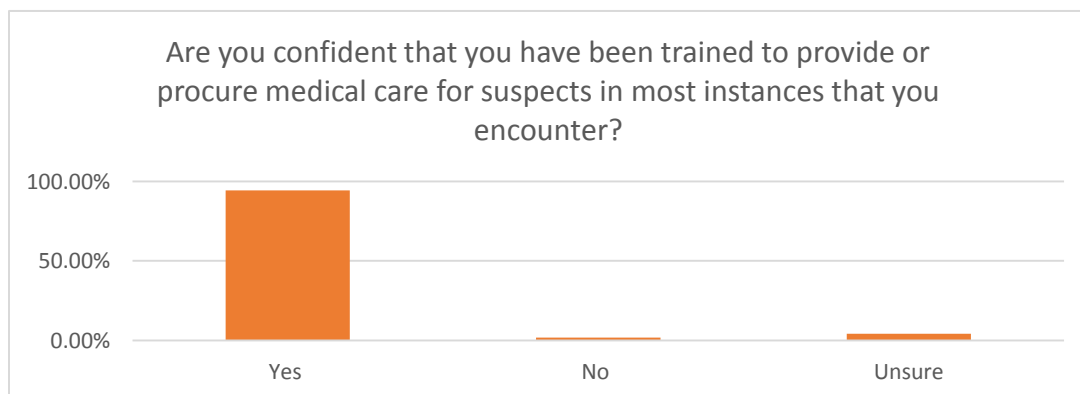
Figure 2: Adequately trained



Source: Use of force questionnaires on ACL GRC web-based platform

With use of force there is a high probability that someone will be injured to some extent. Police officers, as first responders, must be able to provide or procure medical care. This question's results were that 94 percent of officers indicated that they were trained to provide medical care (Figure 3).

Figure 3: Provide or procure medical care



Source: Use of force questionnaires on ACL GRC web-based platform

Although the officers stated they were adequately trained in the use of force, the survey answers reflected that this confidence did not always transfer over to their fellow officers. Only 46 percent of officers felt confident that their fellow officers were adequately trained in the use of force. Thirty-one percent of officers said no, they did not think their fellow officers were adequately trained and 23 percent were unsure (Figure 4).

Figure 4: Confident fellow officers are trained



Source: Use of force questionnaires on ACL GRC web-based platform

AUDIT OBSERVATIONS

Internal control helps entities achieve important objectives and sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control – Integrated Framework (2013 Framework)*, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environments, mitigate risks to acceptable levels, and support sound decision making and governance of the organization. The audit observations listed are offered to help management fulfill their internal control responsibilities.

Observation A: Two Percent of sworn officers did not complete the required use of force training for 2016

Documentary (paper and electronic) evidence to support that all uniformed member officers completed their required annual use of force training indicated that the vast majority, but not all, completed the training. A cross reference was done using the Record Management System (RMS) underlying database to identify all sworn officers who had not taken a GPD course that was identified as Power Point Control Tactics or Use of Force for calendar year 2016 and through to April 1, 2017. Twenty-two sworn officers were located that did not have a corresponding entry of a GPD course. Eleven of those were new recruits who had received use of force training at the academy and three others were located on paper rosters. Two more were found to no longer be sworn officers. The remaining six had not been available to receive the training during the training period and have no documentation that they completed a GPD use of force training by April 1, 2017. This represents two percent of sworn officers.

Training for police officers to perform in a professional manner is paramount. While GPD offers an extensive training program, ensuring officers in a large organization like GPD always attend required training can be a challenge. There are multiple criteria for ensuring that yearly required training for use of force be conducted. General Order 1.5-E-1 contains three sub statements. Sworn members shall not be permitted to carry a weapon, Taser, or firearm until they have been trained in the Department's use of force policy. Sworn members will be instructed annually on the use of force policy. The Operational Skills Unit shall keep accurate and current records on sworn members' use of force training. Sworn members must also successfully demonstrate proficiency with their weapon annually by qualifying. No sworn officers are exempt from the training.

Risks:

- Sworn officers won't react according to department policy
- The readiness of officers will be negatively impacted
- Violations of policy will open the City to litigation

Criteria:

- General Order 1.5, Use-of-Force
- General Order 33.1, Department Training Programs
- Inter-Office Communication From Chief Tony Jones, dated 12/12/16, RE: 2017 In-service Training

Recommendations for City Management:

- 1) Have GPD IT run a query to identify delinquencies after each training class.
- 2) Schedule make up classes as needed throughout the calendar year.

Observation B: Ranking of technique for reporting not sequentially rated

Use of force techniques were generally ranked on a force continuum; however, when two use of force techniques are rated as equal on the continuum, there is no policy guidance provided for the annual reports. An experienced officer may select one use of force technique based on the details of the incident report, while a member of the public, in an effort to maintain transparency, may select the opposite. When there is an absence of specific guidelines for a process, the resulting product trust level may be diminished.

The counting of specified use of force techniques or tools for the 2016 Annual Use of Force Report is done by selecting the highest level of force from multiple selections. On the incident report for use of force, the report writer selects all techniques used in the incident. For instance, if a take down and a police canine were used in an incident, both techniques will be included in the incident report. For the 2016 Annual Use of Force Report, only one is counted. Since the police canine is higher on the level of the Force Continuum, it is counted in the annual report and the take down is not. When two use of force techniques are equal on the Use of Force Continuum, the selection becomes subjective.

Risks:

- The particular technique totals (on the annual report) may be different based on who is creating the report
- The level of trust for the report will be diminished
- Future data analysis will be hindered

Criteria:

- General Order 1.5, Use-of-Force
- The Committee of Sponsoring Organizations of the Treadway Commission, Internal Control – Integrated Framework (2013 Framework), Control Activities – Principle 12 – “The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.”

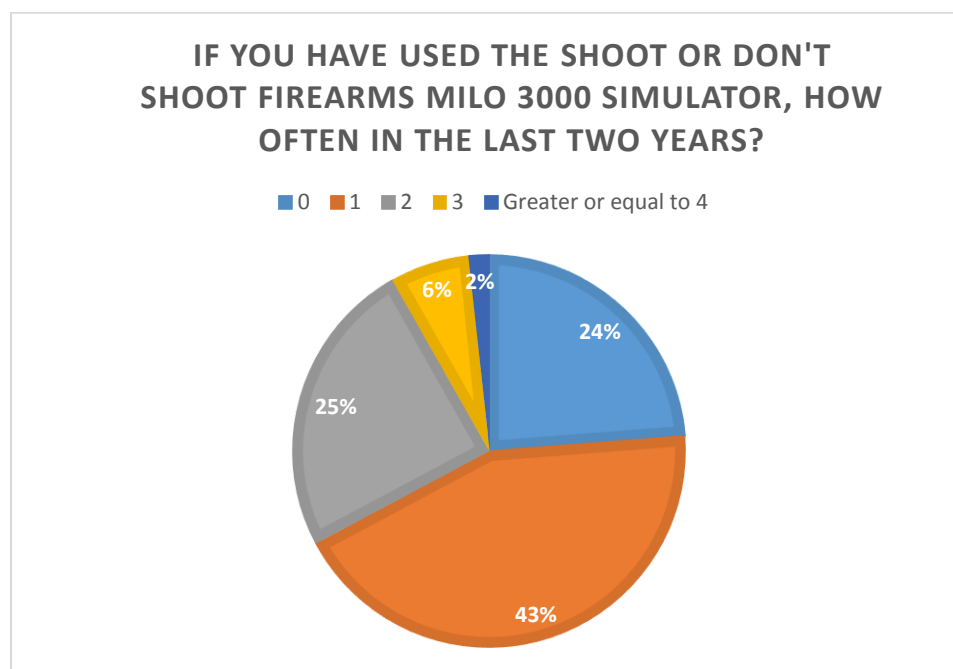
Recommendation for City Management:

Create a procedure for ranking use of force techniques for reporting purposes so that the process is more consistent and always produces the same result, no matter who is doing the report.

Observation C: Milo 3000 Shoot or Don't Shoot Simulator use not maximized

The Operational Skills Unit does not currently document the use of the Milo 3000 so that reviews can be conducted on who and how often the equipment is utilized. During the audit, we created a web-based questionnaire so that sworn officers could anonymously provide feedback about the policies, training, and reporting of the department's use of force. We had 122 sworn officers participate and provide valuable information. A quarter of respondents reported that they had not used the simulator even one time in the last two years. Another 43 percent stated that they have only used the simulator only once in two years (Figure 5). This leaves only 33 percent that have used the equipment two or more times in the past two years.

Figure 5: Two year use of Milo Simulator by sworn officers



Source: Use of force questionnaires on ACL GRC web-based platform

From the same questionnaire, responses were overwhelming, greater than 80 percent, that sworn officers would use the simulator more often if it was open and available (Figure 6). During the audit site visit to the simulator, the Milo 3000 Simulator was locked up and not available for use. A discussion with the Operational Skills Unit indicated that the simulator normally can't be used unless one of Operational Skills Unit members were present to observe then locks it back up.

Figure 6: Desire to use the Milo Simulator by sworn officers



Source: Use of force questionnaires on ACL GRC web-based platform

One needs to look no further than the military to determine that realistic use of force training scenarios provide some of the best training. Many of the training goals can be achieved very inexpensively using the Milo 3000. For example, other than role-playing and force-on-force exercises, using the Milo 3000 provides experience on how to manage rapidly developing incidents. The Milo 3000 can be used to learn how to talk to and approach individuals, or to practice how to respond to an active shooter; and, the Milo 3000 is useful for shoot/don't shoot training. Software upgrades are likely available from time to time in order to provide a re-fresh of experiences (using the same software release over a period of time will naturally enable the user to become familiar with the given scenario and know exactly what to expect).

Risks:

- Officers are not prepared to shoot at moving targets in real-life type incidents
- Funds spent to provide simulation engagement are effectively wasted

Criteria:

- The Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control – Integrated Framework (2013 Framework)*, Control Activities – Principle 16 - “The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.”

Recommendation for City Management:

Devise a process whereby officers can access the simulator at any time of day. This could be accomplished by checking out a key, using a swipe card, having supervisors conduct short sessions before, during, or after shifts.

GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.



AUDIT TEAM

Carlos L. Holt, CPA, CFF, CIA, CGAP, CFE, City Auditor
Brecka Anderson, CIA, CGAP, Senior Auditor
Ronald Ison, IT Staff Auditor

APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN



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DATE: July 31, 2017
TO: Carlos Holt
City Auditor
VIA: Anthony Lyons 
City Manager
FROM: Tony Jones 
Chief of Police
SUBJECT: GPD Use of Force Audit Response

This is to acknowledge receipt of the Gainesville Police Department Audit of Use of Force Final Report. Our responses to the audit findings are attached to this memorandum.

Please do not hesitate to call if you have any questions regarding our response.

OUR VISION: *The City of Gainesville will set the standard of excellence for a top ten mid-sized American city; recognized nationally as an innovative provider of high-quality, cost-effective services.*

APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN

We believe that management is in a unique position to best understand their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing responses to our recommendations.

As the Chief of Police of the Gainesville Police Department I appreciate the efforts of the Office of the City Auditor. This is a comprehensive report and the auditor was given complete access to the department's general orders and department staff. Having the Office of the City Auditor attend the work-group meetings to rewrite the Use of Force General Order was extremely helpful and their input was welcomed and appreciated. The recommendations of this report are clear and useful and GPD will work diligently to meet the completion dates for our action in response to the recommendations. Again, I thank the City Auditor for his detailed audit and look forward to working with his office in the future. -Chief Tony Jones-

| Recommendation | Concurrence and Corrective Action Plan | Proposed Completion Date |
|---|--|---|
| <i>Recommendations for GPD:</i> | | |
| A. 1. Have GPD IT run a query to identify delinquencies after each training class. | Agree/Partially Agree/Disagree | Agree – Our current system does identify FTA for each training class. Supervisors are immediately notified and missing students are counseled. Make up class is scheduled and any additional FTA follows progressive discipline. Completed |
| A. 2. Schedule make up classes as needed throughout the calendar year. | Agree/Partially Agree/Disagree | Agree – All classes currently include scheduled make up dates at end of training calendar quarter. Completed |
| B. Create a procedure for ranking use of force techniques for reporting purposes so that the process is more consistent and always produces the same result, no matter who is doing the report. | Agree/Partially Agree/Disagree | Agree – GPD has purchased a robust tracking software system (IAPro) for use-of-force and other reportable police actions. This system utilizes a drop-down menu for each option for use-of-force with easy to follow instructions for the supervisor to follow. IAPro is considered the leader in internal affairs reporting and tracking of use-of-force incidents. We anticipate full implementation of the reporting module of IAPro (Blue Team) with the next few months. Completion Date January 2018 |

APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN

| Recommendation | Concurrence and Corrective Action Plan | Proposed Completion Date |
|--|--|--|
| C. Devise a process whereby officers can access the simulator at any time of day. This could be accomplished by checking out a key, using a swipe card, having supervisors conduct short sessions before, during, or after shifts. | Agree/Partially Agree/Disagree | Partially Agree – Unfortunately the system we use requires multiple trained officers to operate. Therefore, we are unable to utilize this at the shift level. However, our new shift schedule will permit one training day a week and the Training & Education Division has been instructed to tailor training to shifts and utilize “real-world” incidents. The simulator will be part of these shift specific training days. Completion October 2017 |