

5-1-2019

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Suggested Citation

James Volpe, Comment, Police and Community Relations: Will "To Serve and Protect" be Words the Public Can Ever Trust?, 39 N. Ill. U. L. Rev. 288 (2019).

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Police and Community Relations: Will “To Serve and Protect” be Words the Public Can Ever Trust?

JAMES VOLPE*

In today's society police officers are constantly being criticized as having too much power over the citizens they are sworn to "serve and protect". Unlike before current technological advances, citizens can now see when a police officer uses force. In-squad video cameras, smart phones and police body cameras make it possible for violent encounters with police to be recorded and conveyed to millions of viewers within seconds. And the viewers don't like what they see! Even if the officer's force is well-grounded in the Constitution, there may still be serious negative community reaction to the way the officer handled the incident. This article examines the lost trust between police and the community they serve, and, more importantly, some things that are being done to possibly regain this trust.

I. INTRODUCTION.....	288
II. DEFINING POLICE FORCE	289
A. CASE STUDY ONE:.....	293
B. CASE STUDY TWO:	294
III. THE LOSS OF PUBLIC TRUST	295
IV. POLICE TRAINING BECOMES LAW	297
V. THE CONSENT DECREE	298
VI. CONCLUSION	299

I. INTRODUCTION

The role of a peace officer in today’s society is very complicated and challenging. More than ever, citizens are challenging law enforcement authority and demanding to become part of internal processes, such as policy development, internal investigations for use of force, internal discipline, and officer selection. As of February 23, 2019, the Chicago Police Department is under a draft Consent Decree which places almost all of the de-

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partment's operating procedures under the direct supervision of the courts.¹ Principle Two of *Sir Robert Peel's Nine Principles* states, "The ability of the police to perform their duties is dependent upon public approval of police actions."² It is clear that, at least for the Chicago Police Department, the public does not approve of their actions. Unfortunately, Chicago Police are not the only department in the country that suffers from its citizens' mistrust. One only needs to read any nationally distributed news story concerning police action to see that police officers, and their actions, are highly scrutinized and negatively perceived by the general citizenry.

II. DEFINING POLICE FORCE

One area where police actions are being constantly questioned by the public is "use of force." This term, "use of force," must be broadly defined. It is certainly not limited to the physical force (punching, tasing, shooting, etc.) a peace officer uses to control a person or stop the threat that a person poses to the officer. Police use of force includes anytime a peace officer "seizes" an individual. This definition comes directly from the Fourth Amendment of the United States Constitution, which states, in part, "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated. . . ."³

The way a peace officer can "seize" a citizen was dictated in the case of *California v. Hodari D.*⁴ In *Hodari*, the Supreme Court held that a Fourth Amendment seizure requires some sort of physical force with lawful authority, or submission to an assertion of authority.⁵ Simply put, a citizen can be "seized" by: (1) compliance with a peace officer's lawful command, or (2) physical control by the peace officer.⁶ The physical control can be any type of physical act by the officer, including: grabbing, punching, using pepper spray, using a taser, shooting, and striking with a vehicle.⁷

1. State v. City of Chicago, No. 17-cv-6260, 2018 WL 3920816, at *1 (N.D. Ill. Aug. 16, 2018).

2. Michael Nagle, *Sir Robert Peel's Nine Principles of Policing*, N.Y. TIMES (Aug. 15, 2014), <https://www.nytimes.com/2014/04/16/nyregion/sir-robert-peels-nine-principles-of-policing.html> [<https://perma.cc/S3TN-MXZA>].

3. U.S. CONST. amend. IV. The Fourth Amendment of the United States Constitution states, "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." *Id.*

4. *California v. Hodari D.*, 499 U.S. 621 (1991).

5. *Id.* at 624-25.

6. See generally *Hodari*, 499 U.S. at 626-32.

7. *Id.* at 624-27; see *Scott v. Harris*, 550 U.S. 372, 383-86 (2007) (discussing that an officer's act was reasonable where he terminated a car chase by striking the vehicle with his squad car, and the Court specifically justified this through a balancing test by balancing

A third way a peace officer can “seize” a person was recently decided in *Baird v. Renbarger*.⁸ In *Baird*, police officers pointed their firearms at citizens who posed no threat to the officers and were compliant with the officers’ direction.⁹ The Seventh Circuit stated, “‘Pointing a gun’ encompasses far too great a variety of behaviors and situations. [Officer] Renbarger pointed a submachine gun at various people when there was no suggestion of danger, either from the alleged crime that was being investigated or the people he was targeting.”¹⁰ “The Fourth Amendment protects against this type of behavior by the police.”¹¹ The Court went on to state that an officer who threatens a citizen with a firearm must have a “suggestion of danger.”¹² Accordingly, police officers can seize a citizen using three different types of force: actual (physical) force, constructive (verbal, non-verbal direction) force, and coercive (pointing a gun) force.¹³

Citizens must also understand that police officers can seize them at two different levels. To understand the first level seizure we need not look further than the landmark case of *Terry v. Ohio*.¹⁴ In *Terry*, the High Court ruled that officers have authority to “stop” a person and detain him briefly for questioning upon suspicion that he may be connected with criminal activity.¹⁵ Additionally, upon suspicion that the person may be armed, the police have the power to “frisk” (pat-down) him for weapons.¹⁶ The Court states, “If the ‘stop’ and the ‘frisk’ give rise to probable cause to believe that the suspect has committed a crime, then the police should be empowered to make a formal ‘arrest,’ and a full incident ‘search’ of that person.”¹⁷ Under this Constitutional parameter, once an officer has developed reasonable suspicion that a crime has been committed, is being committed, or is about to be committed, the officer can stop and detain the person to conduct an investigation.¹⁸ This detention can be for a reasonable length of time based upon the facts and circumstances of the incident.¹⁹

the nature of the acts of the officer and their intrusion on an individual’s Fourth Amendment against the government interests that justify the act) (“A police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.”).

8. *Baird v. Renbarger*, 576 F.3d 340 (7th Cir. 2009).

9. *Id.* at 344.

10. *Id.* at 345-46.

11. *Id.*

12. *Id.* at 346.

13. *See Hodari*, 499 U.S. at 621, 625-27, 645-46.

14. *Terry v. Ohio*, 392 U.S. 1 (1968).

15. *Id.* at 10.

16. *Id.*

17. *Id.*

18. *Id.*

19. *Terry*, 392 U.S. at 28.

The next level, where an officer can seize a citizen, is a formal arrest. In *United States v. Parr*, the court stated, "There is clearly no mechanical checklist to distinguish between *Terry* stops and formal arrest or the equivalent of arrest."²⁰ While there are a plethora of cases which discuss when a detention turns into a custodial arrest, the *Parr* court reasoned that placing a person in the back seat of the squad car did not automatically amount to formal arrest, but transporting the subject to the police station (for further processing) did.²¹ The United States Supreme Court case of *Dunaway v. New York* supported this distinction of transport equals formal arrest.²² The important thing for citizens to know, however, is a police officer can detain them based on reasonable suspicion of criminal activity and can formally arrest them with probable cause. These are the only two ways an officer can seize them, and an officer can make these seizures with his or her discretion.²³

Under the Constitutional parameters set by the courts, a police officer can seize a citizen either by stopping (detaining) or arresting them.²⁴ To effect either of these seizures, an officer can use actual (physical) force, constructive (verbal/ non-verbal) force, or coercive force.²⁵

Constructive force and coercive force, as explained above, have Constitutional requirements which are relatively easy to understand. If an officer wants to make an investigative stop, she must have reasonable suspicion.²⁶ If she wants to make an arrest, she must have probable cause.²⁷ If she wants to point her firearm at a person, she must have a "suggestion of danger."²⁸ All of these seizures would occur simply with the officer's verbal or non-verbal direction or commands.

How are citizens to know when a police-initiated actual (physical) force seizure is reasonable? This was the issue in the landmark case of

20. *United States v. Parr*, 843 F.2d 1228, 1230-32 (9th Cir. 1988).

21. *Id.*

22. *Dunaway v. New York*, 442 U.S. 200 (1979). Here, police officers stopped Dunaway to talk to him about a murder he was suspected of committing. *Id.* at 205-06. During the stop they transported Dunaway to the station to continue their interrogation. *Id.* at 206. The Court ruled that once they transported Dunaway, they "arrested" him. *Id.* Lacking probable cause at the time of the transport, the Court ruled that the arrest was unlawful and reversed the conviction. *Id.* at 219.

23. In other words, a police officer can make "on-view" stops and arrests based upon the requisite justification and need not obtain a warrant before doing so. *See Atwater v. Cty. of Lago Vista*, 532 U.S. 318 (2001).

24. *See United States v. Drayton*, 536 U.S. 194 (2002); *see also Bredlin v. California*, 551 U.S. 249 (2007); *Terry*, 392 U.S. at 35-38.

25. *See Hodari*, 499 U.S. at 625-46.

26. *See Terry*, 392 U.S. at 37.

27. *See Beck v. Ohio*, 379 U.S. 89, 91 (1964).

28. *See generally Graham v. Connor*, 490 U.S. 386 (1989).

Graham v. Connor.²⁹ On November 12, 1984, Dethorne Graham, a diabetic, asked a friend, William Berry, to drive him to a convenience store to get some orange juice to counteract the onset of an insulin reaction.³⁰ When Graham went into the store he was met with a long line at the cash register.³¹ Graham then rushed out of the store and he and Berry sped away.³² Officer Connor, a Charlotte, North Carolina police officer, saw this and, suspecting a possible robbery, made a traffic stop on Berry's car.³³ Graham was acting "drunk" and back-up officers arrived to assist Officer Connor.³⁴ Officers on the scene used physical force while controlling the agitated and disoriented Graham, which included handcuffing Graham, forcing him facedown onto the hood of Berry's car (causing Graham to lose consciousness), and placing him facedown onto the backseat of a squad car.³⁵ Officers refused to give Graham orange juice even though they were told he was a diabetic.³⁶ They eventually released Graham when it was determined that nothing had occurred at the convenience store.³⁷ During this police-initiated seizure, Graham suffered a broken foot, cuts on his wrist, a bruised forehead, an injured shoulder, and a "ringing" in his right ear.³⁸ It is important to note that at no time was Graham placed under arrest for any crime.³⁹ He was merely "detained" while the officers investigated a possible crime at the convenience store.⁴⁰

Graham sued the officers under 42 U.S.C. § 1983 and alleged the officers violated his Fourteenth Amendment right.⁴¹ The District Court granted a directed verdict for the officers and Graham appealed to the Fourth Circuit, who affirmed the District Court's ruling.⁴² The United States Supreme Court granted certiorari and reversed.⁴³ In its ruling, the High Court stated that a "claim[] that law enforcement officials have used excessive force—deadly or not—in course of arrest, investigatory stop, or other 'seizure' of a [person is] properly analyzed under Fourth Amendment's 'objective reasonableness' standard, rather than under substantive due process

29. *Id.* at 388.

30. *Id.*

31. *Id.*

32. *Id.*

33. *Graham*, 490 U.S. at 389.

34. *Id.* at 389.

35. *Id.* at 389-90.

36. *Id.*

37. *Id.*

38. *Graham*, 490 U.S. at 389-90.

39. *Id.*

40. *Id.*

41. *Id.* at 388.

42. *Id.* at 390-91.

43. *Graham*, 490 U.S. at 392.

standard.”⁴⁴ It is *Graham* that gives peace officers guidance as to the reasonableness of actual force in a seizure encounter with a citizen.

The *Graham* court stated, in explaining their “objective reasonableness” test, that determining whether force used to effect a particular seizure is reasonable under the Fourth Amendment requires careful balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interest (i.e. amount of Actual Force used) against countervailing government interests at stake (i.e. facts and circumstances confronting the officer).⁴⁵ The *Graham v. Connor* “balancing test” has been used by courts since 1989 and guides officers to escalate or de-escalate actual force based upon what they reasonably perceive to be the facts and circumstances confronting them. An officer can consider the severity of the crime, the threat level posed by the citizen, the resistance level posed by the citizen, and how much time the officer has to react to these factors before making his or her “force” decision.⁴⁶ Accordingly, this balancing test has force used on one side and the four noted factors on the other. If the “weights” balance, the officer’s actual force is reasonable under the Fourth Amendment.

The above-noted Constitutional parameters have been in place for many years and most courts consider these cases and their rules clearly established. Peace officers are trained to adhere to these Constitutional parameters while using any of the three types of force to make either an investigative stop (detention) or an arrest. Using these Constitutional parameters, consider the following two case studies.

A. CASE STUDY ONE:

Officers respond to a group home where it is reported that a woman is threatening her social worker with a knife. When they enter the woman’s room, she threatens the officers and they retreat. In Illinois, 405 ILCS 5/3-606 states that a peace officer can take a person into custody and transport the person to a mental health facility if that person gives the officer reasonable cause to believe that they are a threat to themselves or others.⁴⁷ Here, the officers’ goal is to take the victim into custody and get her to a mental health professional as the woman is suffering from schizophrenia and is allegedly off of her medication. The officers then re-enter to try and convince the woman to put the knife down. The woman attacks the officers, and, once one of the officers is cornered by her with the knife, they shoot several times in response. Under a *Graham* analysis, the Court will find that

44. *Id.* at 388.

45. *Id.* at 396.

46. *Id.*

47. 405 ILL. COMP. STAT. 5/ 3-606 (West 2008).

the officers' use of deadly force was reasonable under these circumstances.⁴⁸

B. CASE STUDY TWO:

Officers respond to a park where it is reported that a subject has a gun. When they arrive, they start walking through the park in search of this possible dangerous offender. As they walk into a picnic-area they see a young male subject holding what appears to be a black handgun. The gun looks like the gun they carry as their duty firearm, a Glock 9mm semi-automatic handgun. They are approximately 50 feet away from the subject when they identify themselves as police officers and yell for him to drop the gun. He refuses. They yell again for him to drop the gun and the youth starts walking toward the officers with the gun down at his side. The officers point their guns at the youth and yell, "Drop the gun." The youth starts to raise the gun and the officers fire their guns, striking and killing the youth. It is later determined that the so-called gun is a pellet gun that looks like a Glock 9mm handgun, and the youth is a 13-year-old boy.⁴⁹

Both of the above-noted cases resulted in millions of social media views and significant public criticism of police conduct. But, in both cases, the police force used was within Constitutional parameters and considered reasonable under a Fourth Amendment analysis.⁵⁰ Countless other cases exist with the same recipe: police use of force, constructive, coercive or actual, that is within Constitutional parameters, but criticized by the citizens as being excessive.

More importantly, both of the above scenarios leave citizens extremely upset with the police officers' conduct. Words such as "excessive force" and "police brutality" permeate the media. Even though both of the above cases are reasonable seizures and well within the Fourth Amendment Constitutional parameters set by the courts, it does not matter to the public, who only see the end result of the officers' force.

And the public does not like what it sees.

48. See generally *San Francisco v. Sheehan*, 135 S.Ct. 1765, 1775-76 (2015). The Court in *Sheehan* chose not to decide the issue of accommodating mental illness in the context of violating the Constitution, but rather decide this case in terms of qualified immunity. *Id.* at 1769, 1778. However, Justice Alito does determine that the officer's use of force was reasonable by stating, "We also agree with the Ninth Circuit that after the officers opened Sheehan's door the second time, their use of force was reasonable. . . . Nothing in the Fourth Amendment barred [the officers] from protecting themselves, even though it meant firing multiple rounds." *Id.* at 1775.

49. See generally *In re Affidavits for Probable Cause*, No. 103255, 2016 WL 853396 at *1 (App. Ct. Ohio, 8th Dist. 2016).

50. See *id.*; see also *Sheehan*, 135 S.Ct. at 1775.

From being detained to arrested, citizens perceive that police officers exceed their authority and seize them unreasonably. From being ordered to do something (i.e. get out of the car) to being physically controlled (i.e. pulled out of a car), citizens are not complying with police officers' Constitutional commands. This defiant attitude from the public they serve frustrates police officers and drives a wedge between police and the citizens they are sworn to serve and protect.

III. THE LOSS OF PUBLIC TRUST

Why are citizens across the country looking at police officers' force and, even though it is Constitutional, violently criticizing this force as unreasonable? There are two primary reasons why this is occurring in society today.

First, citizens are now "seeing" actual force used by police officers. Just ten years ago the only information citizens received regarding an officer's use of force came from a written document, usually the officer's police report. Now, technology (i.e. most cellular phones) makes it very easy for citizens to record incidents at a moment's notice. The courts have followed in step with First Amendment decisions that allow citizens to record a police officer's activity while on-duty in a public place. For example, in *American Civil Liberties Union of Illinois v. Alvarez*,⁵¹ the Seventh Circuit ruled that the state's attorney could not apply Illinois' eavesdropping statute against the ACLU who openly record the audible communications of law-enforcement officers when the officers are engaged in their official duties in public places.⁵² Many states have similar rulings from their respective federal courts.⁵³ Even without the courts allowing citizen recordings, police officers record themselves. Many police departments have high-definition in-car cameras that will record traffic stops and more police officers across the country are wearing body cameras.⁵⁴ Accordingly, people see police officer force and many times it is not a pleasant sight to see.

Second, citizens do not like the end-result of force that is reasonable under the *Graham* balancing test. In "Case Study Two" above, the officers can reasonably articulate a deadly force threat from the youth. It does not matter that the gun was not real.⁵⁵ Officers do not have to be "right" in their

51. *Am. Civil Liberties Union of Ill. v. Alvarez*, 679 F.3d 583 (7th Cir. 2012).

52. *Id.* at 586.

53. *See generally* *Turner v. Lieutenant Driver*, 848 F.3d 678 (5th Cir. 2017); *see also* *Glik v. Cunniffe*, 655 F.3d 78, 88 (1st Cir. 2011).

54. THE IMPACT OF VIDEO EVIDENCING ON MODERN POLICING 1-2, U.S. DEPT. OF JUSTICE (William Albright et al. eds., 2003).

55. *See supra* Section II.B.

perception of a deadly force threat, only reasonable.⁵⁶ So the officer's force (deadly) balances with the factors facing the officer at the moment the seizure was made (i.e. the bullet strikes and there is physical control). The officer's reasonable perception is a high-level threat, a high-level resistance, and a split-second to make a force decision. Those factors, set on one side of the balancing test, with the force on the other side, *Graham* would conclude that the force was reasonable because it balances with the factors the officer faced.⁵⁷ All citizens see, however, is a dead 13-year-old boy who had a fake gun. And they ask, "Why did the officer have to shoot him?"⁵⁸

Because of the citizens' perception that police officers across the country are using excessive force, there is a public demand for police officer reform.⁵⁹ Citizens demand that officers treat people, even violently resistive people, different than what many of the videos illustrate. They do not like seeing mentally ill people shot and killed, even if they did pose a deadly force threat to the officer.⁶⁰ They do not like seeing female drivers being forcefully dragged out of their car, even if the law gives the police officer the authority to do so.⁶¹

Police officers, on the other hand, hold firm in their position that their conduct, even in the deadly force situations, is within the Constitutional parameters set by the United States Supreme Court. Additionally, officers say that they must react the way they do to effectively enforce the law and stay safe.

Who is correct?

Both the citizens and law enforcement officers have valid positions that society should respect. Citizens must trust law enforcement to keep them safe while enforcing laws. Law enforcement must follow the Fourth Amendment dictate of keeping every seizure reasonable while handling situations that threaten the community's safety and, just as important, stay as safe as possible while doing so.

56. See *Graham*, 490 U.S. at 388.

57. *Id.*

58. See generally Philip Holloway, *Tamir Rice's Death: A Lawful Tragedy*, CNN (Dec. 28, 2015, 6:43 PM), <https://www.cnn.com/2015/12/28/opinions/holloway-tamir-rice-case/index.html> [<https://perma.cc/BXE4-2NQK>].

59. See Annie Sweeney, *Community Activists Demand to be Part of the Chicago Police Reform*, CHI. TRIBUNE (Sept. 14, 2017, 6:45 PM), <https://www.chicagotribune.com/news/local/breaking/ct-chicago-police-consent-decree-community-involvement-met-20170914-story.html> [<https://perma.cc/GCJ6-FGRT>].

60. See *supra* Section II.A.

61. Jennifer Abbey, *Elderly Woman Dragged From Car by Texas Cop*, ABC NEWS (Sep. 13, 2012, 9:28 AM), <https://abcnews.go.com/US/elderly-woman-dragged-car-texas-cop/story?id=17226298> [<https://perma.cc/Z58W-BDUR>].

Citizens are really demanding one thing from law enforcement: develop more effective tactics while handling use of force incidents.⁶²

IV. POLICE TRAINING BECOMES LAW

The tactical approach that an officer makes to any seizure situation can dramatically affect its outcome. From “routine” traffic stops to handling dangerous mentally ill victims, citizens now not only see the outcome of the event, but how the officer addressed the situation. Citizens demand not only that the officer stay within the Constitutional parameters set by our courts, but also that the officer follow accepted tactics and police protocol for interacting with people from all races, religions, cultural backgrounds, etc. There is no “one-size fits all” approach to law enforcement anymore.

If law enforcement knows that they need to change their tactics so they can “custom fit” their performance to a multitude of different situations, should they be left to their own devices to make this paradigm change a reality? Unfortunately, the citizens are not willing to wait for this change to happen voluntarily.⁶³

Many states are now enacting statutes that require certain types of police training to ensure that police officers are adequately trained in use of force scenario-based training, Constitutional law, Criminal Law, Cultural Competency, Procedural Justice, and Human and Civil Rights. One such statute in Illinois is 50 ILCS 705/7 (g)-(h).⁶⁴ This in-service training requirement is meant to ensure that officers get the necessary training they need, either annually or every three years, to be able to tactically handle situations with all of the above-referenced topics in mind.⁶⁵

62. *Id.*

63. See Monica Davey & Julie Bosman, *Protests Flare After Ferguson Police Officer is Not Indicted*, N.Y. TIMES (Nov. 24, 2014), <https://www.nytimes.com/2014/11/25/us/ferguson-darren-wilson-shooting-michael-brown-grand-jury.html?login=smartlock&auth=login-smartlock> [https://perma.cc/6X7D-HBQV]; see also Oliver Laughland & Kayla Epstein & Jessica Glenza, *Eric Garner Protests Continue in Cities Across America Through Second Night*, THE GUARDIAN (Dec. 5, 2014, 8:09 AM), <https://www.theguardian.com/us-news/2014/dec/05/eric-garner-case-new-york-protests-continue-through-second-night> [https://perma.cc/XA2V-B2G9].

64. 50 ILL. COMP. STAT. 705/7 (g)-(h) (2018).

65. 50 ILL. COMP. STAT. 705/7 (g)-(h) (2018). The Illinois Police Training Act contains the following:

g. Minimum in-service training requirements, which a police officer must satisfactorily complete every 3 years. Those requirements shall include constitutional and proper use of law enforcement authority, procedural justice, civil rights, human rights, mental health awareness and response, and cultural competency.

h. Minimum in-service training requirements, which a police officer must satisfactorily complete at least annually. Those requirements shall

Another Illinois statute that is critical to meeting society's demand for law enforcement handling critical incidents with a more acceptable tactical plan is 50 ILCS 705/10.17.⁶⁶ This 2016 statute states:

The Illinois Law Enforcement Training and Standards Board shall develop and approve a standard curriculum for a certified training program in crisis intervention addressing specialized policing responses to people with mental illnesses. The Board shall conduct Crisis Intervention Team (CIT) training programs that train officers to identify signs and symptoms of mental illness, to de-escalate situations involving individuals who appear to have a mental illness, and connect that person in crisis to treatment. Officers who have successfully completed this program shall be issued a certificate attesting to their attendance of a Crisis Intervention Team (CIT) training program.⁶⁷

V. THE CONSENT DECREE

The cry for police reform has gone even further than mere legislative acts. In 2017, Illinois Attorney General Lisa Madigan filed a complaint against the City of Chicago, pursuant to 42 U.S.C. § 1983, alleging that the Chicago Police Department engaged in a pattern and practice of civil rights violations and unconstitutional policing.⁶⁸ While the City of Chicago denied the claims made in Madigan's complaint and did not admit any liability of any sort, the City did commit to a formal agreement called a Consent Decree.⁶⁹ In this Agreement, the City of Chicago commits to delivering police services to the people of Chicago in a manner that fully respects the rights of the people, builds trust between officers and communities, and promotes community and officer safety.⁷⁰ The City also commits to providing Chicago Police Officers with the resources, support, training, supervision, and wellness resources they need. This Consent Decree is approximately 225 pages long and includes court-enforced guidance in the areas of Problem-

include law updates and use of force training which shall include scenario based training, or similar training approved by the Board.

Id.

66. 50 ILL. COMP. STAT. 705/10.17 (a)-(b) (West 2018).

67. 50 ILL. COMP. STAT. 705/10.17 (a) (West 2018).

68. *State v. City of Chicago*, 912 F.3d 979 (7th Cir. 2019).

69. *State v. City of Chicago*, No. 17-cv-6260, 2018 WL 3920816 at *2-*3 (N.D. Ill., E. Div. 2018) (discussing the "Chicago Police Consent Decree"); *see also* CHICAGO POLICE CONSENT DECREE, <http://chicagopoliceconsentdecree.org/faq/> [<https://perma.cc/D3N5-GR26>].

70. *Id.*

solving Measures, Community Partnerships, Youth Interactions, Crisis Intervention Training, Police Recruitment and Promotion, and ongoing assessments and improvements.⁷¹

The City of Chicago Consent Decree is a harsh realization that meeting the policing needs of the community will not be left to the discretion of law enforcement. In fact, with Chicago's Consent Decree comes a five-year compliance date wherein the court will hold a hearing to determine if the Agreement should be terminated. The Agreement will be terminated when/if the court finds that the City has achieved full and effective compliance with the Agreement and has maintained such compliance with the material requirements for at least one year for specified sections and two years for other sections.⁷²

VI. CONCLUSION

The manner in which police officers treat citizens is very highly scrutinized in today's society. Technology that allows instantaneous high definition recordings, laws that allow the public to record police conduct, social media sites that allow millions to view recordings easily, and the negative visual impression that is left with citizens after viewing a police officer's Constitutional use of actual force all contribute to society's negative perception of police conduct. It does not matter that officers use force that is reasonable under the facts and circumstances. If the public does not trust its police officers, the public will demand reform.⁷³

The Constitutional parameters that dictate when a police officer's seizure is reasonable have been in place since 1989 and officers are generally within these parameters. But police officers must realize that just being within these Constitutional parameters is not enough. It is not just the community that is not happy when an officer uses deadly force on a 13-

71. *Id.*

72. *Id.* at 215-17.

73. *State v. City of Chicago*, No. 17-cv-6260, 2018 WL 3920816 (N.D. Ill., E. Div. 2018). Judge Robert Dow wrote that the decree "is not a panacea, nor is it a magic wand." *State v. City of Chicago*, No. 17-cv-6260, 2019 WL 398703 (N.D. Ill., E. Div. 2019); see also Michael Tarm, *Judge Oks Chicago's Historic Monitored Police Reforms*, CHI. TRIBUNE (February 3, 2019, 8:30 AM), <https://www.chicagotribune.com/news/sns-bc-us--chicago-police-oversight-20190131-story.html> [<https://perma.cc/52TD-9KX3>]. But he expressed optimism in his 16-page order that it could be a useful tool for a city that's police department has been beset by allegations of mistreatment and brutality against its black and Hispanic communities. See *id.*; see also *State v. City of Chicago*, 2018 WL 3920816 at *1. The sides negotiated the deal, Dow wrote, with the goal of solving problems "in a manner that defuses tension, respects differences of opinion, and over time produces a 'lawful, fair, reasonable, and adequate' result for everyone involved." *State v. City of Chicago*, 2019 WL 398703 at *7. The decree mandates dozens of policy changes. It will go into effect when Dow appoints an independent monitor to oversee it. *Id.*

year-old youth who threatens the officer with a fake gun.⁷⁴ No one is satisfied with this result! The public is clearly demanding officers change the way they enforce the laws. We know the Fourth Amendment of the Constitution and *Graham*, the landmark case that interprets an officer's reasonable use of force, is not apt to change in the near future. Law enforcement training and tactics, which are under the police department's immediate and direct control, are the critical factor police officers must focus on to win back public trust.

The public is not willing to wait and see if law enforcement will embark on more effective tactical training. State legislatures are promulgating statutes that mandate training in the areas of Crisis Intervention Training, Use of Force, Civil and Human Rights, and Cultural Diversity. And if that is not enough, states are filing complaints against police departments to obtain court-enforced Consent Decrees that will require police departments to change their protocols as they relate to hiring, training, promotions, and effectively changing the community relations.⁷⁵

Hopefully all of this will result in a regained trust between law enforcement and the community they serve. Not just trust that officers will perform within the Constitutional parameters set by the courts, but trust that they will perform with the best training principles and tactics possible to produce the best outcome possible. When the public sees this, on any one of the multitude of social media arenas available, trust in law enforcement may be renewed.

74. See *supra* Section II.B.

75. See *supra* note 73.