

What Not to Do: UOF Training 101

Description

There are a lot of conversations across the globe today regarding UOF in the US. And one thing that we can all agree on is that police officers making a joke out of training, especially in the area of use of force, is not a good place to start. Today's article focuses on a recent case, *Wright vs. City of Euclid* [i]. To start things off, here's a small snippet of what the court had to say regarding this case:

This appeal involves a Chris Rock video and a cartoon, but it is no laughing matter. In fact, this case raises a gravely important issue—police use of force—that has dominated the nation's attention in recent weeks.

As you might imagine from these remarks, this appeal of a civil case alleging excessive force and false arrest did not end well for the officers or the City of Euclid. More importantly, in many of the cases we review we see the same issue come up over and over — officers often find themselves in trouble when they move too quickly and don't take the time to make sure they have sufficient facts to support an arrest or use of force. Today's case is no exception.

FACTS

Lamar Wright pulled into a friend's driveway and spoke to a friend who was standing outside. The friend never came to the car and Wright never exited his vehicle. The visit lasted less than a minute and then Wright drove off.

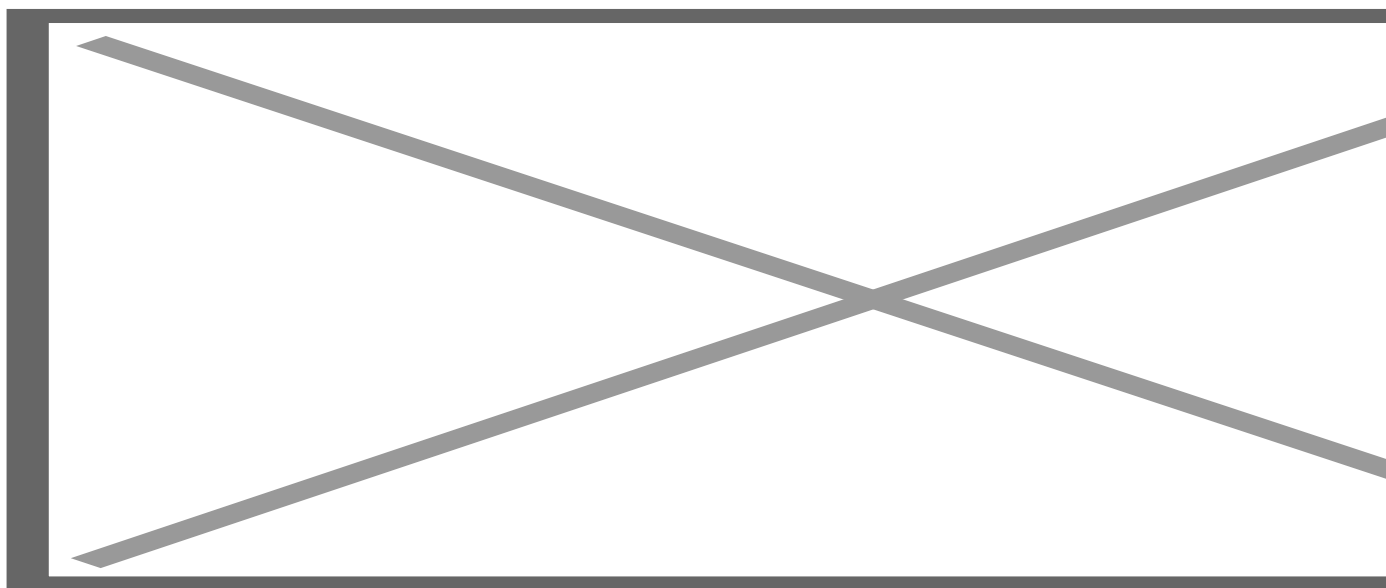
Unknown to Wright, police were surveilling the house based on prior reports of drug sales. Officers followed Wright until he pulled into another driveway at which point an officer exited their vehicle and approached Wright's car with their gun drawn. Fearing he was about to be robbed, Wright put the car in drive, but before he could move, he noticed the badge on one officer and heard the officer identify himself.

Wright then turned the car off as one officer grabbed Wright's arm twisting it behind his back to handcuff him. Wright advised the officers that he recently had abdominal surgery and had a colostomy bag. Because of his weight and recent surgery Wright had difficulty exiting the vehicle. This caused the second officer to deploy a Taser, striking Wright in the abdomen. Wright was then removed from the vehicle and handcuffed.

Finding no drugs or weapons in the vehicle, officers charged Wright with resisting arrest, obstructing official business, failure to use a turn signal, and criminal trespass. A subsequent full-body scan at the detention center also proved negative for drugs. Seven months later all charges were dismissed.

There are several facts related to the *Monell* [ii] claims against the City that are worth mentioning. Wright alleged that their Defensive Tactics training evidences — a policy or custom of indifference to improper use of force by officers —. In support of this claim Wright offered the following:

- During the Defensive Tactics training the training officer played a Chris Rock comedy skit entitled “How To Not Get Your Ass Kicked By The Police”. The video shows various fictional clips where white officers are beating black suspects. The Training Sergeant testified that he thought the video was humorous and depicted things that Euclid officers have experienced.
- The first page of the PowerPoint presentation includes a stick figure cartoon displaying a police officer in tactical gear standing over a prone unarmed citizen. The officer is raising a club and the caption reads “Protecting and serving the poop out of you”.



A federal judge criticized Euclid Police for its Use of Force training protocol (court filings)

- The Training Sergeant developed the PowerPoint and training and also reviews all use of force incidents. The Sergeant testified that he approved the use of force report in this incident and has never found a use of force to be “inappropriate”.

Wright filed a Section 1983 claim alleging false arrest, excessive force, and failure to intervene claims against the officers and a *Monell* claim against the City of Euclid. Following the close of discovery, the defendant officers and City of Euclid filed a Summary Judgment motion seeking all claims be dismissed. The trial court granted the motion, dismissed all charges, and this appeal followed.

6th Circuit Findings

The court first reviewed the officers’ actions with respect to the use of force claims. Wright claimed the officers used excessive force by drawing their weapons when approaching his car and their use of the Taser. The court reviewed the facts in the context of the three *Graham*^[iii] factors finding that:

- Officers had very little if any reason to think Wright had committed a crime or possessed drugs. All the officers had was an observation that Wright had a momentary conversation with an acquaintance.
- Wright posed little if any threat to the officers at the time he was Tased and officers had no reason to believe he was armed.

- Wright was not actively resisting at the time he was Tased.

Construing the incident in a light most favorable to the plaintiff, the genuine factual disputes demand that the factual issues be decided by a jury.

The court then turned to the question of whether constitutional protections were clearly established at the time of the incident. Under the circumstances presented, it was clearly established that drawing a weapon on a suspect who was not fleeing or posing a safety risk and Tasing a suspect who was not actively resisting was constitutionally prohibited. The court also reversed the trial court's findings on the Section 1983^[iv] false arrest claims and the state tort claims.

The court then turned to the *Monell* claims brought against the City. The court determined that the Chris Rock video, PowerPoint cartoon, and the fact that no use of force review ever found an inappropriate use of force "gave rise to a culture that encouraged, permitted, or acquiesced to the use of excessive force."

The following quote concludes the court's opinion:

It is very troubling that the City of Euclid's law-enforcement training included jokes about Rodney King who was tased and beaten in one of the most infamous police encounters in history and a cartoon with a message that twists the mission of police. The offensive statements and depictions in the training contradict the ethical duty of law enforcement officer to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

TAKEAWAYS

It is not often that we get to include a *Monell* claim in our case reviews. While I enjoy a joke or comic relief as much as the next person, the Chris Rock video and other unprofessional materials included in the training programs depicted here have no business in any training lesson plan. Having a cavalier attitude towards use of force is recipe for disaster.

Following this case many articles were published regarding Euclid's use of force training. Some key takeaways include their passive attitude towards use of force training and their lack of check-ins to ensure that training is fresh in officers' minds. They also have no review process regarding proper training or current training needs in their department. The same old outdated test was being given each year to "prove" that officers were still using the right amount of force (even though there have been several incidents where Euclid's UOF is questioned). As the court said excessive force has never been cited which raised question in their minds. It is important to not only train your department in use of force policy, but to maintain that training with frequent reviews and check ins with your officers.

If you come away with nothing else from this case, at least take this opportunity to review your use of force training lesson plans and documents and assure the documents will stand up to scrutiny when they are turned over to the plaintiff's counsel during discovery.

We will cover cases like Euclid's and more at our [2020 Virtual Use of Force Summit](#). Be sure to [register now](#) to take advantage of early bird pricing.

[A full list of courses for the Summit can be found here.](#)

[i] [Wright v. City of Euclid, No. 19-3452 \(6th Cir. 2020\)](#)

[ii] [Monell Claims](#)

[iii] [Graham vs Connor](#)

[iv] [42 U.S. Code Â§â1983.Civil action for deprivation of rights](#)

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