

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,
Plaintiff,

NO. 16-01731(MCA-MAH)

vs.

CITY OF NEWARK,
Defendant.

**NEWARK POLICE DIVISION
TENTH STATUS REPORT**

INTRODUCTION

Pursuant to paragraph 197 of the Consent Decree entered in this matter, Defendant, the City of Newark (“City”), submits this status report to delineate the many steps taken by the Newark Police Division (“NPD,”) to implement the Consent Decree; plans to correct any issues; and responses to any concerns that have been raised by the Independent Monitoring Team (“IMT”).

EXECUTIVE SUMMARY

NPD has made significant progress toward complying with the Consent Decree and improving overall services to the community. Below are selected highlights for the reporting period of October 28, 2020 to April 30, 2021.

1. During the reporting period, and in the face of a global pandemic that has taken the life of an additional two NPD officers, bringing the total to eight members lost, NPD has had to take on additional responsibilities and come up with innovative ways to continue to make the Consent Decree reform effort a priority while supporting the community during the pandemic.
2. During the reporting period, Deputy Chief Brian O’Hara, Commander of the Accountability, Engagement, and Oversight Bureau of NPD was selected as the next Public Safety Director, succeeding Anthony Ambrose.
3. NPD continues to collaborate with the IMT Subject Matter Experts (“SME”) and members of the U.S. Department of Justice and the U.S. Attorney’s Office to develop and draft high-quality progressive police policies and training in accordance with the Consent Decree.

4. During the reporting period, NPD selected Detective Brian Holmes as the LGBTQ Community Liaison and he will serve as the contact point between the Division and the LGBTQ community in accordance with General Order 2019-03 *LGBTQ Community & Police Interactions*.

5. During the reporting period, NPD continues to make progress in conducting training in substantive areas of the Consent Decree. NPD has conducted training for Division members in Stops, Searches and Arrests, and Fair and Impartial Policing despite challenges posed by the coronavirus pandemic. NPD has leveraged existing technologies such as tablets and smart boards to assist with remote learning and increased social distancing.

6. During the reporting period, the IMT conducted the first audit of use of force. NPD has provided related documentation and materials in electronic format to ease the review and audit of those materials in an effort to minimize the spread of the corona virus.

7. During the reporting period, NPD continued to deploy body worn cameras and in-car cameras with all plain clothes officers mandated to utilize body worn cameras, during the reporting period. Cameras serve as useful tools for recording evidence, more importantly however; they promote professionalism, accountability, and transparency by documenting officer conduct and interactions with the public including interactions made with plain clothes officers, in compliance with the Consent Decree.

8. During the reporting period, the IMT filed the Fifteenth Quarterly Report on January 28, 2021, which included the Suffolk University Political Research Center Probability Community Survey Final Report and summary materials. The report sets forth the results of the IMT's Annual Survey of the Newark community's experiences with and perceptions of NPD and public safety. Overall, the communities' perception of NPD has improved when compared to the 2018 survey results.

9. NPD has made engaging with the community during these difficult times a priority. NPD has participated in events in support of the community, such as the distribution of facemasks to those found without them and educating the public regarding the dangers of the coronavirus pandemic. NPD continues to make collaborative community engagement and the building of public trust a priority.

10. The NJ Attorney General instituted new reporting requirements for the reporting of uses of force. This new reporting methodology is systems based, similar to what NPD has already put in place with the IPro Blue Team software. The Attorney General chose to go with a different system from Benchmark Analytics. Due to this change, NPD officers are now forced to duplicate

their efforts in the reporting of force incidents, as they have to input the same information into two different systems. During the reporting period, NPD has contracted with Benchmark Analytics to eliminate the duplication of efforts by moving to one reporting platform while meeting Consent Decree requirements and the Attorney Generals guidelines.

COVID-19 RESPONSE

The coronavirus pandemic has adversely affected the day-to-day operations of the NPD. Restrictions on gatherings and the need to socially distance to stem the spread of the virus has led to changes in the deployment of personnel and changes in the way training is conducted. New enforcement modalities have also been instituted as NPD members have been tasked with enforcing public health orders.

The virus has also affected the health of numerous members of NPD. During the reporting period, 358 Division members tested positive for COVID-19, two of which succumbed to the disease, bringing the total to eight Division members lost. Detective Brian McAdams, Detective Marcus Thomas, Detective Irving Callender, Officer Michael Connors, Officer Hector Moya, Sgt. Michael Clegg, Criminal Intelligence Analyst Daniel Francis and Newark Special Police Officer Tolbert Furr all lost their lives to the Corona Virus. Many others are still recovering, as of the drafting of this document, with long-term effects, such as difficulty breathing still plaguing them, long after the initial recovery.

In response to the coronavirus pandemic, NPD has instituted new procedures to help stem the spread of the disease within its ranks and still provide effective police services to the community during these difficult times. Personnel regularly assigned to administrative duties, including members of the Consent Decree and Planning Division, have been reassigned, at times, to cover field assignments. NPD has shifted from in person meetings to mostly online video meetings, leveraging existing technologies. Training has been altered by reducing the numbers of participants allowed at one time in a classroom to maximize social distancing. The use of technology has allowed for the remote monitoring of training by members of the IMT, specifically by broadcasting training through Microsoft Teams and the use of a Microsoft Surface Hub with a large touch screen with built-in intelligence for videoconferencing.

Supporting the community during this pandemic remains a priority for NPD and as such, during the reporting period, NPD has partnered with the Newark Department of Health & Community Wellness (“NDOHCW”) to assist with the battle against the Corona Virus Pandemic.

A COVID Notification Unit was created where convalescent members of NPD assisted with making COVID-19 positive test notifications to the public. The number of positive result notifications received exceeded the capacity the NDOHCW was able to make. NPD stepped in, created a database to manage the calls and notified over four thousand seven hundred members of the public of their COVID-19 positive status, during the reporting period. NPD also assisted the NDOHCW with their vaccination effort by providing logistical support, specifically by:

- purchasing and ensuring the proper installation of special refrigeration units to house the COVID-19 vaccines,
- the creation of an online portal to assist community members in enrolling for the COVID-19 vaccine,
- purchasing equipment to deploy the vaccine in locations throughout the community, and
- providing site security to the medical staff at these community locations.

NEW POLICE LEADERSHIP

During the reporting period, City of Newark Mayor Ras Baraka announced that Deputy Chief Brian O'Hara, Commander of the Accountability, Engagement, and Oversight Bureau of the Newark Police Division and former Commander of the Consent Decree and Planning Division, was selected as the next Public Safety Director, succeeding Director Anthony Ambrose. Public Safety Director Brian O'Hara will lead the Division of Police, Division of Fire and the Office of Emergency Management with oversight of more than 1,960 employees, comprising 1,100 sworn police officers, 650 firefighters and over 350 civilian employees and remains deeply committed to the implementation of the Consent Decree. During the reporting period, Mayor Baraka created two additional Deputy Director Positions through an executive order; Deputy Director of Community Relations, Rev. Ronald Slaughter and Deputy Police Director of Operations, Sharonda Morris. Chief of Police Lee Douglas was also promoted during the reporting period, succeeding Chief Darnell Henry.

POLICIES

During the reporting period and in compliance with paragraph 5 of the Consent Decree, the following policies and procedures have been drafted in collaboration with members of the IMT-SME's, the U.S. Department of Justice, and the U.S. Attorney's Office.

- Draft General Order 21-04 *Protocol for Analyzing Stop, Search, and Arrest Data*, outlining NPD's proposed methodology for achieving paragraph 53 compliance.
- Department of Public Safety Memorandum 20-235 *NPD Guiding Principles on Use of Force*, was re-issued to remind Police Division personnel that the Newark Police Division places the highest value on the sanctity of all human life and requires all personnel to treat all persons with dignity and respect as they execute the duties, they have been entrusted to perform in compliance with General Order 18-20 *Use of Force Policy*. Effective April 27, 2021

LGBTQ COMMUNITY LIASON

During the reporting period, NPD selected Detective Brian Holmes as the LGBTQ Community Liaison. He will serve as the contact point between the Division and the LGBTQ community in accordance with General Order 2019-03 *LGBTQ Community & Police Interactions*. He will collaborate with the LGBTQ community on events and issues of interest and monitor the Division's response to LGBTQ related crimes. The LGBTQ Liaison will support NPD's ongoing efforts to foster a strong partnership with the LGBTQ community and provide critical feedback. Additionally, the LGBTQ Liaison will be the point of contact to address the needs, concerns and issues of Division members who are part of the LGBTQ community.

TRAINING

During the reporting period, NPD continues to integrate new technology and leverage existing systems and technology to improve the training record retention process. NPD has acquired computer tablets, which has been used to administer all Consent Decree related trainings, and associated tests. The use of the tablets to administer tests automatically creates a training entry into the PowerDMS system. This electronic record keeping process has been effective at accurately tracking all Consent Decree related training. The auditing of training records has been streamlined as all records exist electronically in a web-based program (Power DMS) that is accessible from any internet-connected computer.

In compliance with paragraph 63, NPD conducted training on Bias-Free Policing to its officers during the reporting period. A renowned independent contractor "Fair and Impartial Policing LLC" ("FIP") was selected after an exhaustive selection process. As of the drafting of this document, 1038 members of NPD have been trained.

BODY WORN CAMERA

During the reporting period, all NPD personnel assigned to work street-level enforcement in a plainclothes capacity have been ordered to utilize body-worn cameras at all times while assigned to those duties in the field. NPD developed the body-worn and in-car camera policies addressing the requirements in paragraph 104.

As of April 2021, body-worn cameras have been deployed in all seven Precincts and have been issued to all NPD personnel. By deploying body worn cameras to all NPD personnel, including those officers working in a plain clothes capacity, NPD makes a statement in that it believes that the interactions of all of its personnel and the public are a matter of public record. Body-worn cameras have helped improve the quality of public service expected of NPD officers and have promoted legitimacy and a sense of procedural justice.

In an effort to improve officer performance, identify instances where officers abuse their authority and/or commit other misconduct and recognize officers for a job well done, NPD regularly reviews body worn camera footage. Supervisors at the officer's command conduct video reviews. These supervisors review videos involving stops, searches and arrests. This gives the immediate supervisor an understanding of how his/her officers are policing and the ability to identify and correct minor issues before they escalate.

All use of force-recordings are reviewed by the All-Force Investigation Team ("AFIT"). This automatic review process has exposed instances where officers use force that is excessive, but the arrestee does not file a formal complaint. Before this automatic review, instances of excessive force would have gone unnoticed by leadership. Because of these reviews, NPD is able to hold its officers to a higher standard. The Office of Professional Standards regularly reviews body worn camera footage as it relates to complaints made against officers. These reviews help investigators confirm or dispel the allegations made against the officer. In many instances, these reviews have exonerated officers from fabricated or malicious complaints. The Consent Decree and Planning Division regularly reviews body worn camera footage selected randomly for compliance with policies and procedures, including a review of all critical incidents. Body-worn cameras have helped improve the high-quality public service expected of NPD officers and have helped promote the perceived legitimacy and sense of procedural justice that the community has about the NPD.

SUFFOLK UNIVERSITY COMMUNITY SURVEY

During the reporting period, the IMT filed the Fifteenth Quarterly Report on January, 28, 2021, which included the Suffolk University Political Research Center Probability Community Survey Final Report and summary materials. The following is a synopsis of the survey results as reported by the IMT:

The Suffolk University Community Survey that was initiated by the IMT was conducted between May 27 through May 31, 2020. The Suffolk University Political Research Center (“Suffolk”), led by Director David Paleologos, conducted phone interviews with 700 Newark residents out of a sample pool of over 51,000 people. From the pool of over 51,000 people, Suffolk randomly selected a stratified sample of survey respondents that matched Newark’s census demographics with respect to age, sex, level of education, race/ethnicity, and ward. The context surrounding the Third Community Probability Survey deserves mention. George Floyd was killed on May 25, 2020 by police officers in Minneapolis, Minnesota, just two days before the survey fieldwork began in Newark. As the surveyors from Suffolk University noted, while one might have expected this year’s survey results to reflect jaded respondents or particularly critical responses about NPD, instead, the survey responses show at least some signs of improvement in the Newark community’s perception of NPD. For example, one of the most notable shifts from the survey conducted in 2018 to the Third Community Probability Survey conducted in 2020 is the large decrease in the number of residents who answered that they had “never had a positive experience” with a Newark police officer when asked about their most memorable experience with NPD. In the Third Community Probability Survey, just 37% of respondents answered that they have never had a positive experience with NPD. This information reflects a 46-percentage point decrease in respondents who have never had a positive experience with NPD as compared to the same question asked in the Second Community Probability Survey, where an overwhelming 83% of respondents reported never having had a positive experience with NPD. Suffolk also identified an 18-point increase in the number of respondents who answered that an officer was “helpful, even when s/he didn’t have to be.”

COMMUNITY ENGAGEMENT

NPD has participated in numerous community engagements during the reporting period. Most engagements have been centered around supporting community members during these difficult times. NPD members have distributed masks, participated in food giveaways and have

distributed educational materials stressing the importance of social distancing and hand washing techniques to help curb the spread of the coronavirus. Precinct commanders host community events where feasible while promoting social distancing, in an effort to foster the partnerships established with community stakeholders such as residents, business owners, faith-based organizations, school employees, social services, and community groups. Precinct commanders are also tasked with ensuring that the precinct Community Service Officers (“CSO”), and precinct School Resource Officers (“SRO”) are active participants in these events, in accordance with DPS Memorandum: 18-313A, Re: Neighborhood Policing Plans. NPD continues to make collaborative community engagement and the building of public trust a priority.

The Community Affairs and Clergy Unit in collaboration with Precinct CSO’s and SRO’s engage further with the community by hosting a number of events. During the reporting period the Hope One Mobile Outreach Vehicle was deployed by the Community Affairs and Clergy Unit throughout the city 24 times. The vehicle is equipped with Naloxone, overdose prevention materials, literature on recovery assistance, a cell phone charging station, toiletry items, a laptop computer, and equipment used to present training videos. The vehicle is deployed with two Newark Police Division detectives attired in plainclothes, a Newark Police Clergy Alliance member, as well as certified outreach professionals from Integrity House, Mental Health Association of Morris and Essex, and the Center for Addiction Recovery Education and Success. The Hope One Team provides individuals struggling with opiate addiction access and information to:

- Detoxification, rehabilitation or recovery support;
- Mental health services;
- Housing assistance;
- City of Newark Identification card (when needed);
- Transportation to a treatment facility (when necessary);
- NARCAN and overdose response training; and
- Fentanyl detection test strips.

In compliance with Paragraph 18 of the Consent Decree, the CDPD continues to submit the Community Policing Quarterly Report, which is posted to the NPD Consent Decree website, www.npdconsentdecree.org. NPD is currently working to finalize the 2021 First Quarter Report.

USE OF FORCE REPORTING

The NJ Attorney General instituted new requirements for reporting the use of force by police. Through Benchmark Analytics, the NJ Attorney General has created a portal for all law enforcement officers in New Jersey to complete a report on a reportable use of force, submit it to their supervisor(s) for review, and submit it to the Office of the Attorney General. NPD Command Staff will have access to reporting and analytic features. The Essex County Prosecutors office will also have access to these features for NPD officers. This new reporting methodology is systems based, similar to what NPD has already put in place with the IPro Blue Team software.

Due to this change, NPD officers are now forced to duplicate their efforts in the reporting of force incidents, as they have to input the same information into two different systems. During the reporting period, NPD contracted with Benchmark Analytics to eliminate the duplication of effort by moving to one reporting platform while meeting Consent Decree requirements and the Attorney Generals guidelines. It is worth mentioning that through an analysis of the reporting systems during the reporting period it was determined that Newark Police officers did not fire their weapons during the course of their duties during the calendar year of 2020.

Respectfully submitted,
By: /s/ Gary S. Lipshutz
Gary S. Lipshutz
First Assistant Corporation Counsel
City of Newark

CERTIFICATE OF SERVICE

The undersigned certifies that the City of Newark's Tenth Status Report was filed electronically on October 15, 2021. Notice of this filing will be sent to all parties via the Court's electronic filing system. Parties may access this filing through the Court's system.

By: /s/ Gary S. Lipshutz
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