

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, : NO. 16-01731(MCA-MAH)
: Plaintiff,
v. :
: CITY OF NEWARK'S
: INITIAL STATUS REPORT
CITY OF NEWARK, :
: Defendant.
:

I. Introduction

Within 180 days of the Effective Date, and every six months thereafter as long as this Agreement is in effect, the City implementation unit will produce a status report that will be filed with the Court, with a copy to the Monitor and DOJ, and shall be a public record. This report shall delineate the steps taken by NPD during the reporting period to implement this Agreement; the City's assessment of the status of its progress; plans to correct any problems; and response to any concerns raised in the Monitor's previous quarterly reports.

The "Effective Date" is defined in Section II, Paragraph 4(s) as followed: "Effective Date" means the day this Agreement is signed by the Parties and submitted to the Court for approval." The Consent Decree was approved on April 29, 2016. The Initial Status Report is due on October 26, 2016.

Response:

This document is a status report that explains the progress the City of Newark and the Newark Police Division made for the reporting period of March 30, 2016 to October 26, 2016 to be in compliance with the Consent Decree. This Initial Status Report will provide an update on all the activities undertaken by Newark Police Division ("NPD") and the City to date.

II. CONSENT DECREE IMPLEMENTATION UNIT

The City and the NPD agree to hire and retain, or reassign current City or NPD employees to form an inter-disciplinary unit with the skills and abilities necessary to facilitate implementation of this Agreement. This unit will serve as a liaison between the Parties and the Monitor and will assist with the implementation of and compliance with this Agreement. At a minimum, this unit will coordinate the City and NPD's compliance and implementation activities; facilitate the provision of data, documents, materials, and access to the City and NPD personnel to the Monitor and DOJ, as needed; direct all that data, documents, and records required by this Agreement and maintained in an auditable format; and assist in assigning implementation and compliance related tasks to NPD personnel, as directed by the Police Director or his designee. **(Page 64, Paragraph 196)**

Response:

In response to the Consent Decree, the Newark Police Division established a Consent Decree and Planning Unit (CDPU) and a Consent Decree Advisory Committee (CDAC) on July 15, 2016 to facilitate the mandates set forth therein. (See Department of Public Safety Memorandum 16-537, dated July 15, 2016 attached hereto). The CDPU and CDAC work in conjunction to gather information, prepare documentation and implement any procedure or training that is requested by the Federal Monitor.

The CDPU is responsible for implementing mandates and/or reforms of the Consent Decree in conjunction with the CDAC. The CDPU is responsible for the following:

- Serving as a liaison to the Federal Monitor.
- Participating in work groups and/or committees partnered with the Federal Monitor.
- Developing and implementing organizational policies and procedures.
- Accepting, prioritizing and documenting all projects mandated by the Consent Decree and/or the Federal Monitor to all division members via written communication.
- Reviewing projects assigned to division personnel to ensure goals and objectives are met.

- Monitor compliance of any project or standard initiated by the Federal Monitor.
- Providing supervision and support for any new, modified and/or ad hoc division report or tactic mandated by the Federal Monitor.
- Maintaining a repository for data storage related to the Consent Decree.
- Submitting weekly reports to the Office of the Public Safety Director.
- Attending weekly strategic planning sessions with the Public Safety Director, Police Executives and the CDAC to provide a status on all projects.

This unit consists of the following members:

Michael Bramhall – *Special Assistant to the Public Safety Director, Consent Decree and Training Coordinator*
Captain Julio Rubbet
Lieutenant Mathew Milton
Lieutenant Robert Henningsen
Sergeant Jose Alvarez
Sergeant Rory Murphy
Detective David Dos Santos

The CDAC is a group of subject matter experts from the Newark Police Division. Members of the CDPU confer with the advisory committee to assist in completing tasks relative to their area of expertise. The CDAC is responsible for the following:

- Discussing mandates/reforms with members of the CDPU relative to their area of expertise.
- Reviewing information disseminated to and feedback received from commanders to ensure proper implementation.
- Providing an analysis of the Division's progress.

The CDAC consists of the following members and their respective areas of expertise:

S.A. Desha Jackson, Esquire – *Legal Consultant*
Finance Director Daniel Gonzalez – *Finance & Grants*
Captain Marvin Easter, Department of Public Safety – *Administration*
Captain Derek Glenn, Department of Public Safety – *Community Affairs*
Captain Adolph Perez, Department of Public Safety – *Operations*
Captain Lorenzo Maldonado, Information and Technology – *Technology*
Captain Antonio Domingues, Office of Professional Standards – *Internal Affairs*
Lieutenant Michele MacPhee, Policy and Planning – *Policy*
Lieutenant Richard Casale, Special Operations Division – *Special Operations*
Lieutenant John Zutic, Criminal Investigations – *Investigations*
Lieutenant Louis Forst, Training Division – *Training*
Lieutenant John Evangelista, Crime Scene Unit - *Use of Force*

Since inception, the CDPU worked diligently to meet the mandates of the Consent Decree and of the Federal Monitor. On July 27, 2016 members of the CDPU and CDAC met the Federal Monitor and his team at the Prudential Tower, located at 655 Broad Street Newark, NJ 07102. This meeting was an introduction of all involved parties and consisted of a general overview of the mandates/ requirements. The Federal Monitor provided his thoughts on his vision for the Newark Police Division and the City of Newark. The CDPU was informed that requests would be sent electronically and a response is required within an allotted period of time. The following are the requests that have been received:

1. Use of Force by Police Officers
2. Firearms and Ammunition
3. Less than Lethal Weaponry
4. Use of Force Incident Review
5. Use of Force Training
6. Off Duty Firearms
7. Complaint Tracking, Internal Investigations, and Discipline
8. Collective Bargaining Agreements
9. Police Trial Board Rules and Regulations
10. Office of Professional Standards Selection Criteria
11. Precinct-level Complaint Tracking, Internal Affairs, and Discipline Documents
12. Baseline Aggregative Quantitative Data Relating to Complaints
13. General Orders and Supporting Data Collection
14. Documentation Related to Current Early Warning System
15. Documentation Related to Current Records Management System
16. Policies and Procedures Related to Data and System Management and Security
17. Definition of Current Methodology of Collecting Stop and Search Data
18. Inventory of Current Systems or Tools Currently Supporting the Data Sharing needs and Stop/Search Activities; Network Schematics
19. Investigator's Manual for Internal Affairs
20. 2014 and 2015 Annual Report
21. Comstat Reports
22. Year-End Reports
23. Public Use of Forms
24. Current Forms Used by Office of Professional Standards
25. Executive Summary of Internal and External Complaints for the Month of July
26. Policy, Procedures, and Directives Relating to Evidence Management System and Control
27. County Prosecutor's Policies, Procedures, General Orders, Directives, Forms, and Corresponding Instructional Material
28. Quarterly or Periodic Audits of Evidence and Property
29. Listing of Internal Complaints/Investigations Involving Property and Evidence
30. NPD Investigations Regarding Physical Security of Evidence and Property Storage
31. Consent to Search Form General Order, dated 7/1/02

32. Control of Movements and Activities of Prisoners General Order, dated 5/18/64
33. Arrest Warrant General Order
34. Responsibilities of Command and Supervisory Personnel General Order, dated 2/15/16
35. Duties and Responsibilities of the Command Operations Captain General Order, dated 5/1/2003
36. Strip Search/ Body Cavity Searches General Order, dated 2/28/02
37. Operations of Record Management General Order, dated 8/26/04
38. Search and Seizure General Order, dated 4/5/06
39. Field Training Officer Program General Order, dated 6/22/07
40. Arrest Procedures General Order, dated 12/05/14
41. Gun Violence Reduction Strategy General Order, dated 10/27/09
42. Procedures for Execution, Distribution and Storage of Field Inquiry Reports General Order, dated 7/1/2000
43. Stationhouse Adjustment General Order, dated 7/15/16
44. Procedures Regarding Establishment of Vehicle Safety Road Checkpoints General Order, dated 4/1/16
45. Processing of Adult Females General Order, dated 1/22/74
46. Juvenile Curfew Violations General Order, dated 10/20/09
47. Mobile Digital Video Recorder General Order, dated 12/16/13
48. Wireless Digital Video Recorder General Order, dated 9/2/08
49. Biased-Based Policing General Order, dated 7/18/03
50. Police Recruit Curriculum
51. Curriculum for Post-Academy Follow-On Training
52. List of In-Service Training Programs
53. Tests during or at the Conclusion of Training Programs
54. List of Training Bulletins issued by the Department during the Last 3 Years
55. Paperwork pertaining to Body-Worn Camera Department of Justice Award

The following are requests (either verbal or electronic) that were not assigned a formal request number by the Monitoring Team:

- Curriculum for Consent Decree Training
- Video of Public Safety Director Anthony Ambrose's Introduction of the Consent Decree
- Draft Copy of the Body-Worn Camera General Order
- Comstat Workflow Chart
- Documentation Pertaining to a Use of Force Incident on August 11, 2016 (cc# 41066)
- Various Memorandums and Training Orders issued by the NPD
- Disciplinary Matrix
- Documentation Pertaining to a Police Involved Firearm Discharge on September 30, 2016 (cc#49721)

In addition to the requests listed above, the CDPU has completed the following mandates of the Consent Decree:

- NPD issued a memorandum, PSD 2016-616, indicating procedures for recusal from criminal and administrative investigations where there is a past or present personal or working relationship between the investigator and person being investigated.
- NPD has assigned a subject matter expert in Use of Force to the CDAC, Lieutenant John Evangelist.

III. CIVILIAN OVERSIGHT

Within 365 days of the Operational Date, the City shall implement and maintain a civilian oversight entity. The duties and responsibilities of that entity shall, at a minimum, include the substantive and independent review of internal investigations and the procedures for resolution of civilian complaints; monitoring trends in complaints, findings of misconduct, and the imposition of discipline; and reviewing and recommending changes to NPD's policies and practices, including, but not limited to, those regarding use of force, stop, search, and arrest. The Monitor will evaluate and report on the City's implementation and maintenance of this civilian oversight entity to determine if it is helping to achieve the goals of this Agreement. This decree shall not be deemed to confer on the civilian oversight entity any powers beyond those permitted by law, including by civil service rules and collective bargaining agreement. **(Page 10, Paragraph 13)**

Response:

On April 30, 2015, the City of Newark issued an Executive Order, MEO-15-0005, establishing a Civilian Complaint Review Board. The City passed an Ordinance which sets forth the duties and responsibilities of the Civilian Complaint Review Board. (See Civilian Complaint Review Board Ordinance attached hereto).

IV. TRAINING

- A. Within 90 days of the Operational Date, NPD will provide training to officers regarding the requirements of the Agreement, and the timeline for their implementation. **(Page 9, Paragraph 10)**

Response:

The content pertaining to this topic was approved by the Monitoring Team and the USDOJ. Training commenced on September 14, 2016 and will continue until October 28, 2016 in order to train all members.

- B. NPD will maintain complete and consistent training records for all officers.
(Page 9, Paragraph 12)

Response:

A Public Safety Director's Memorandum, 2016-684, was issued instructing the Training Division to maintain an accurate training database for all officers. Additional responsibilities are included in the memorandum to ensure a tracking system is established.

V. COMMUNITY ENGAGEMENT MEASURES AND TRAINING

- A. Within 180 days of the Operational Date, NPD will assess and revise its staffing allocation and personnel deployment to support community policing and problem-solving initiatives, and will modify any deployment strategy that is incompatible with effective community-oriented policing. This assessment and modified deployment strategy will be provided to the Monitor and DOJ for review and approval. **(Page 11, Paragraph 15)**

Response:

An internal assessment of personnel and their current assignment was conducted but Public Safety Director Ambrose is seeking a private entity to conduct an independent assessment for additional recommendations. Any modified deployment will be provided to the Monitor and USDOJ for review prior to implementation.

- B. NPD and the City will implement practices to seek and respond to input from the community about this Agreement's implementation. Such practices may include direct surveys, comment cards, and town hall meetings. **(Page 12, paragraph 19)**

Response:

The City of Newark and the Monitor are currently working with the Police Institute of Rutgers University to develop direct surveys to seek input from the community regarding the implementation of this Agreement. In addition, Public Safety Director Anthony Ambrose attended two town hall meetings with Peter Harvey to inform the community and seek their feedback.

VI. USE OF FORCE REVIEW BOARD

- A. The UFRB will include the Chief of Police or the Chief's designee (who will chair the UFRB); supervisors from the Training Section; one representative from each involved precinct, selected by each precinct captain; and a representative from the OPS. The UFRB may consult with any subject matter experts the UFRB feels would be helpful in reviewing particular incidents and other advisors as necessary. **(Page 37, Paragraph 96)**

Response:

The Use of Force Review Board was established in March of 2013 in General Order 63-02, Use of Force by Police Officers. The board meets bi-monthly to review incidents where force has been used. Representatives of the board include:

- Public Safety Director or designee
- Chief of Police or designee
- Office of Professional Standards
- Commanding Officers of all Precincts
- Commanding Officer of the Training Division
- Operations Bureau Deputy Chiefs

- B. The UFRB will not make recommendations concerning discipline; however, the Chair of the UFRB is obligated to ensure a referral to OPS if potential misconduct is discovered in the review process. Should policy, equipment, or training deficiencies be noted in the review process, the UFRB Chair will ensure that they are brought to the attention of the relevant commanding officer for appropriate action. The unit commander of the officer involved with the use of force will have the final responsibility regarding retraining or recommending discipline to the Director.

(Page 37, Paragraph 102)

Response:

The UFRB and their responsibilities are established in General Order 63-02, Use of Force by Police Officers. The representative from the Office of Professional is the chairperson of board and prepares a summary report which includes the following:

- Summary of each Use of Force report reviewed
- Summary of any procedures violated
- Recommendation for corrective action
- Any incident that was directed to the Office of Professional Standards for further investigation

- C. In conjunction with the Monitor and DOJ, NPD will develop and implement policy regarding body-worn camera video and audio recording that will address issues including use, retention, privacy issues, the use of recordings as evidence in force and complaint reviews, and the use of recordings for other criminal justice purposes (such as evidence in prosecutions). At a minimum, NPD's body-worn camera policy will:

- Clearly state which officers are required to use body-worn cameras and under which circumstances;
- Specify the location(s) on the body where the camera should be worn;
- Require officers to activate their cameras when responding to calls for service and during all law enforcement-related encounters and activities, with appropriate exceptions (e.g., interviews with crime victims) that occur while on duty, and to continue recording until the conclusion of the incident(s) or encounter(s);
- Require officers to articulate in writing or on camera their reasons for failing to record an activity that NPD policy otherwise requires to be recorded;
- Require officers to inform subjects that they are being recorded unless doing so would be unsafe, impractical, or impossible;
- Establish a download and retention protocol;
- Permit officers to review video of incidents in which they were involved;
- Require periodic random review of officers' videos; and
- Require supervisors to review videos of incidents involving use of force and consent searches.

(Page 38, Paragraph 104)

Response:

On September 20, 2016, Kevin Bethel, from the Monitoring Team, along with Maggie Goodrich, Chief Information Officer from Los Angeles Police Department, met with members of the NPD regarding the implementation of the body worn cameras. We are currently reviewing body-worn cameras from various vendors to decide what meets the needs of the division. A draft body worn camera policy has been prepared and is currently in review by the Monitoring Team.

An additional meeting on October 14, 2016 was held with Kevin Bethel, Robert Hass, Leigh Grossman (Rutgers University) and representatives of the New Jersey Institute for Social Justice to discuss the recently awarded body camera grant from the Bureau Justice of Assistance. This grant pertains to the purchase and implementation of body worn cameras.

VII. STAFFING AND TRAINING REQUIREMENTS

- A. Within 30 days of the Operational Date, NPD will review staffing of OPS and ensure that misconduct investigators and commanders possess appropriate investigative skills, a reputation for integrity, the ability to write clear reports with recommendations supported by evidence, and the ability to assess fairly and objectively whether an officer has committed misconduct. **(Page 47, Paragraph 144)**

Response:

All personnel assigned to the Office of Professional Standards (OPS) have been reviewed for appropriate investigative skills, integrity and writing ability. The disciplinary history of those currently assigned was reviewed and there were no disqualifiers.

- B. NPD will require and provide appropriate training for OPS investigators upon their assignment to OPS, with refresher training at periodic intervals. At a minimum, NPD will provide 40 hours of initial training and eight hours additional in-service training on an annual basis. **(Page 48, Paragraph 147)**

Response:

Personnel assigned to the Office of Professional Standards receive necessary training upon assignment. Additionally, investigators attend Internal Affairs training provided by the Essex County Prosecutor's Office bi-annually. The training records of investigators assigned were reviewed by Gerald LaSalle, PhD of the monitoring team.

- C. Training for OPS investigators will include instruction in:
- Investigative skills, including proper interview techniques and gathering and objectively analyzing evidence;
 - The particular challenges of administrative police misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation; properly weighing the credibility of civilian witnesses and officers; using objective evidence to resolve inconsistent statements; and the proper application of the preponderance of the evidence standards; and
- NPD rules and policies, including the requirements of this Agreement, and protocols related to criminal and administrative investigations of alleged officer misconduct. **(Page 48, Paragraph 148)**

Response:

Investigators receive training listed in paragraphs (a) and (b) by an outside vendor upon assignment. Training pertaining to the rules and policies of the NPD are provided to each investigator by the NPD Training Division upon assignment.

VIII. EARLY WARNING SYSTEM

- A. Within 90 days of the Effective Date, NPD will implement disciplinary guidance that:
- Establishes a presumptive range of discipline for each type of violation;
 - Increases the presumptive discipline based on an officer's prior violations of the same or other rules;
 - Sets out defined mitigating or aggravating factors;
 - Requires that any departure from the presumptive range of discipline must be justified in writing;
 - Prohibits taking only non-disciplinary corrective actions when the disciplinary matrix calls for the imposition of formal discipline; and

- Provides that NPD will consider whether additional non-disciplinary corrective action may be appropriate in a case where discipline is also imposed.
(Page 50, Paragraph 153)

Response:

A disciplinary matrix (matrix) was developed and reviewed. The matrix was forwarded to the Monitor and DOJ for approval.

- B. Within one year of the Effective Date, and consistent with applicable law and best practices, NPD will enhance its Early Warning System (EWS) to support the effective supervision and management of NPD officers. NPD will use the EWS to promote constitutional policing and professional police practices. The EWS will use a relational database to track and analyze information regarding the activities of all NPD personnel. The City will provide NPD with sufficient funding levels to implement and maintain the EWS, including its ongoing hardware and support requirements.

(Page 51, Paragraph 156)

Response:

The NPD utilizes an Early Warning System, IAPro, to track and analyze information regarding the activities of all personnel. This system has been in effect for approximately ten years. We are in the process of analyzing and reviewing a software enhancement to IAPro - BlueTeam. This software will allow an incident to be managed from the field and ensures consistency of data. A demonstration of BlueTeam was provided to members of the division by Mr. Steven Kenney, representative from IAPro, on September 21, 2016.

IX. PARALLEL ADMINISTRATIVE AND CRIMINAL INVESTIGATIONS OF OFFICER MISCONDUCT

If after a reasonable preliminary inquiry into an allegation of misconduct, or at any other time during the course of an administrative investigation, the OPS has cause to believe that an officer or employee might have engaged in criminal conduct, the OPS will refer the matter to the ECPO, DOJ, or other law enforcement agency as appropriate. **(Page 46, Paragraph 137)**

Response:

Any allegation of criminal activity or any belief that an officer has engaged in criminal conduct is referred to the Essex County Prosecutor's Office. This procedure is delineated within the Internal Affairs policy, General Order 05-04, Section IV, Subsection D3.

STRATEGIC PLAN

A Strategic Plan was created to outline the vision of the NPD in the coming years to achieve the objects of the Consent Decree and build upon our community policing effort. This document provides an overview of the City of Newark including population and the history of the city. There are five main strategic goals identified:

1. Community Partnerships
2. Public Safety
3. Personnel Development/ Leadership Training
4. Resource Management
5. Technological Advancement

There are multiple topics within each goal that detail the method in which the Newark Police Division intends to achieve each objective. These objectives will provide the people of Newark with professional service and make the citizens join with the police division in addressing crime and the needs of the community.

Public Safety Director Anthony Ambrose created a video outlining the Strategic Plan and the vision the Newark Police Division has for the five strategic goals. This video was integrated in the Consent Decree Training power point presentation which all members of the division are required to receive.

Respectfully Submitted,

WILLIE L. PARKER
CORPORATION COUSNEL
CITY OF NEWARK

By: /s/ Avion M. Benjamin
First Assistant Corporation Counsel
City of Newark

CERTIFICATE OF SERVICE

The undersigned certifies that the City of Newark's Initial Status Report was filed electronically on October 26, 2016. 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. Hard copies were also hand-delivered to the Monitor and the Department of Justice on October 26, 2016.

/s/ Avion M. Benjamin
Avion M. Benjamin
First Assistant Corporation Counsel
City of Newark