

***United States v. City of Newark, et al.,
Civil Action No. 16-1731 (MCA) (MAH)***

CONSENT DECREE

Independent Monitor - Fifth Quarterly Report

**Peter C. Harvey
Independent Monitor
June 28, 2018**



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**FIFTH QUARTERLY REPORT
(January 1, 2018 through March 31, 2018)**

This is the Independent Monitoring Team's Fifth Quarterly Report. It discusses the Newark Police Division's ("NPD") progress with Consent Decree tasks from January 1, 2018 to March 31, 2018.

I. INTRODUCTION

In 2014, the United States Department of Justice ("DOJ") issued a report concluding that NPD officers engaged in a pattern or practice of unconstitutional policing, including: theft by officers, unlawful stops and arrests, excessive use of force and retaliation against individuals who exercise their First Amendment rights. Because of these findings, on March 30, 2016, DOJ, NPD and the City of Newark (the "City") entered into a written settlement agreement – a Consent Decree – that sets forth specific tasks designed to correct NPD's past unconstitutional practices, and transform NPD into a twenty-first century police force. The Consent Decree requires NPD to implement significant reforms, including new policies and procedures, additional trainings, and increased accountability through accurate record keeping and transparency.

On May 5, 2016, Peter C. Harvey was appointed as the Independent Monitor by the Honorable Madeline Cox Arleo, United States District Judge for the District of New Jersey. The Independent Monitor is required to assess the City's and NPD's implementation and compliance with the Consent Decree, and both file with the Court and release to the public quarterly reports describing NPD's progress during each reporting period. Mr. Harvey served as Attorney General and previously, First Assistant Attorney General for the State of New Jersey, while the New Jersey State Police was subject to a consent decree between the State of New Jersey and DOJ. He leads a team of locally and nationally recognized Subject Matter Experts

(“SMEs”), consisting of former law enforcement professionals, community advocates, and leading academics. This Report refers to the Monitoring Team when addressing the work that the Consent Decree requires of the Independent Monitor.¹

Paragraph 183 of the Consent Decree requires “[t]he Monitor [to] file with the [United States District Court for the District of New Jersey] quarterly written, public reports covering the reporting period.” Reports must include:

- a. a description of the work conducted by the Monitor during the reporting period;
- b. a listing of each Consent Decree requirement indicating which requirements have been: (1) incorporated into implemented policy; (2) the subject of sufficient training for all relevant Newark Police Division, Newark Department of Public Safety (“NPD” or “Division”) officers and employees; (3) reviewed or audited by the Monitor to determine whether they have been fully implemented in actual practice, including the date of the review or audit; and (4) found by the Monitor to have been fully implemented in practice, and the date of this finding;
- c. the methodology and specific findings for each audit or review conducted, redacted as necessary for privacy concerns. An unredacted version will be filed under seal with the Court and provided to the Parties. The underlying data for each audit or review will not be publicly available, but will be retained by the Monitor and provided to either or both Parties upon request; and
- d. any requirements that were reviewed or audited, and found not to have been fully implemented in practice, and the Monitor’s recommendations regarding necessary steps to achieve compliance.

This Paragraph also requires the Monitor’s Reports to include “the specific findings for each relevant assessment conducted,” “the Monitor’s recommendations regarding necessary steps to achieve compliance,” “a projection of the work to be completed during the upcoming reporting period,” and “any anticipated challenges or concerns related to implementation of the [Consent Decree].”

¹ For a more detailed introduction to the Monitoring Team, the Consent Decree, and the Parties to the Consent Decree, please see Section III of the Independent Monitor’s First Quarterly Report.

Pursuant to Paragraph 183, the Report (i) summarizes the Monitoring Team's activities during this period, (ii) provides detailed status updates on the City and NPD's progress, (iii) describes the tasks and audits that will be addressed in the upcoming reporting period, (iv) makes recommendations to the City and NPD regarding necessary steps to achieve compliance, and (v) identifies obstacles that may inhibit compliance. For an overview of the events that occurred during the reporting period, please see **Appendix A**.

II. EXECUTIVE SUMMARY OF FIFTH QUARTER'S ACTIVITIES (JANUARY 1, 2018 - MARCH 31, 2018)

A. Overview

This has been NPD's most productive period under the Consent Decree to date. This is a result of the dedication of its Consent Decree & Implementation Unit ("CDPU") – the Unit responsible for implementing the Consent Decree –and the Public Safety Director, to Consent Decree reforms.

NPD made significant progress developing Consent Decree policies. DOJ and the Monitoring Team approved *seven* policies during this period: (1) Consensual Citizen Contacts and Investigatory Stops ("Stop"), (2) Searches With or Without a Search Warrant ("Search"), (3) Arrests With or Without an Arrest Warrant ("Arrest"), (4) Use of Force Reporting, Investigation and Review ("Use of Force Reporting"), (5) Firearms and Other Weapons ("Weapons"), (6) Body-Worn Cameras, and (7) In-Car Cameras. Other policies are near completion. NPD has submitted drafts to DOJ and the Monitoring Team for review of its: (a) Internal Affairs: Complaint Intake and (b) Property and Evidence policies.

Further, NPD hosted *seven* community forums, seeking community input for the purpose of writing its first-ever Community-Oriented Policing policy.

This chart captures NPD's progress with Consent Decree policies as of May 8:

Policy	Status
Bias-Free Policing	Final approval September 19, 2017
Use of Force	Final approval on September 29, 2017
Stop	Approved for community review on March 5, 2018; community forum on April 25, 2018
Search	Approved for community review on March 5, 2018, community forum on May 2, 2018
Arrest	Approved for community review on March 5, 2018, community forum scheduled for May 9, 2018
Use of Force Reporting, Investigation and Review	Approved for community review on March 16, 2018.
Firearms and Weapons	Approved as of March 16, 2018.
Body-Worn Camera	Approved on March 22, 2018.
In-Car Camera	Approved on March 22, 2018.
Internal Affairs - Complaint Intake and Investigation	In development.
Internal Affairs - Discipline	In development.
Property and Evidence Management, Prisoner Property, and Packing and Storage	In development.
Community Engagement	In development.

Training is a critical component of implementing modern, constitutional policing practices. NPD's efforts in addressing Consent Decree training have improved significantly. During this reporting period, NPD began administering the first phase of its Community-Oriented Policing training, the first training on a substantive area of the Consent Decree. NPD also provided DOJ and the Monitor with initial drafts of its training materials for (i) Stop, Search, and Arrest; and (ii) Body-Worn and In-Car Cameras.

The Monitoring Team strongly recommends that NPD retain outside experts to develop its Consent Decree training. At the same time, NPD should hire additional personnel with expertise in developing scenario-based, written training materials, training administration, and modern police instruction, who could update NPD's training materials periodically to reflect

best practices and changes in the law. Such personnel could be civilians. These professionals also will help NPD build a training program necessary to sustain a large, modern police force. In the immediate future, NPD must expedite its selection of external experts or jeopardize its ability to achieve compliance within the Consent Decree's five-year period.

In the event that NPD decides to continue developing training in-house, going forward, it should improve the quality of the training materials it is submitting to DOJ and the Monitoring Team for review. A PowerPoint presentation alone will not meet the Consent Decree's training requirements. As NPD has seen upon its review of training materials developed by other police departments, modern police training requires, at minimum, (1) a curriculum, that is, a list of subject areas to be taught within a course, including a brief description of content; (2) instructional objectives, meaning, specific and measurable behaviors that officer-students can replicate to demonstrate their understanding of the course material; (3) guidance for instructors, including instruction on how to teach the course material, key points to emphasize, sample questions to ask officer-students, and how to use teaching aids; (4) instructional materials, which could include PowerPoint slides and diagrams, that reinforce the instructor's lesson; (5) "scenario-based" examples that teach specific rules outlined in the newly-written or revised policies in the context of real-life situations; and (6) content customized to the community (here, Newark-specific content).² NPD should continue to look to other cities, particularly those under Consent Decrees, for examples of how to satisfy these training requirements.

² On May 22, 2018, the Monitoring Team provided NPD with a list of these minimum training requirements, and definitions of what each requirement entails. However, previously, in 2017, NPD obtained examples of scenario-based training materials from the Seattle Police Department, which also is subject to a federal Consent Decree.

NPD has made little progress in updating its data systems. As the Monitoring Team previously reported, NPD and the City intend to contract an independent consulting firm to assess NPD's current data systems. While the Public Safety Director identified and approved this contractor in December 2017, the contractor has not yet been retained, and thus, the technology assessment has not yet begun.³ The City and NPD report that the contract is in its final stages of review, and should be approved in May 2018. The City's delay in approving and allocating resources for its police department is impeding reforms. While NPD met with some of its technology vendors this reporting period in an attempt to produce police data requested by the Monitoring Team, the Monitoring Team still does not have sufficient information to perform basic audits required by the Consent Decree. This lack of capacity jeopardizes NPD's ability to achieve compliance within the Consent Decree's five-year period.

Overall, the Monitoring Team is pleased with NPD's progress during this reporting period, and the overall pace of its progress in complying with the Consent Decree. As NPD continues to reform its policies and procedures, the Monitoring Team urges NPD to continue to improve its transparency. For example, NPD should focus on the Consent Decree requirements for self-reporting its (i) community engagement, (ii) discipline of officers, and (iii) analyses of its police activities. NPD's CDPU created a new website with information about NPD's work under the Consent Decree [*see* <https://www.npdconsentdecree.org/>] as a first step toward satisfying these requirements. This website is separate from NPD's main website [*see* <http://npd.newarkpublicsafety.org/>], which also comments on the Consent Decree. It should be easier for the Newark community to find crime data, the results of audits of NPD's police activities, and a calendar of public events. The Monitoring Team looks forward to working with

³ As of the close of this reporting period, March 31, 2018, the City was in the process of attaining approval from the City of Newark's Municipal Council.

NPD towards improving its transparency and presentation of information. (Consent Decree Section XV.)

B. Compliance with Consent Decree and Second-Year Monitoring Plan Deadlines

In this Quarterly Report and the Compliance Chart, attached as **Appendix B**, the Monitoring Team has assessed NPD's progress with meeting Consent Decree and Second-Year Monitoring Plan deadlines. NPD's compliance with these deadlines is assigned one of the following categories: (1) not assessed, (2) initial development, (3) preliminary compliance, (4) operational compliance, (5) non-compliance, (6) administrative compliance, and (7) full compliance.⁴ The following is a summary of the Compliance Chart, containing all of the deadlines that elapsed by the end of this reporting period.

Achievement	Consent Decree Para.	Deadline	Compliance Status
Use of Force			
NPD will review and revise its current use of force policy or policies to ensure compliance with Consent Decree.	¶¶ 66-68	March 31, 2018	Preliminary Compliance
NPD will create and implement (1) a General Order establishing the AFIT to ensure sufficient staffing consistent with ¶ 92 of the Consent Decree; and (2) General Orders establishing line supervisors' responsibilities to investigate lower and intermediate use of force incidents.	¶¶ 78, 92	March 31, 2018	Preliminary Compliance

⁴ Please see **Appendix B** for definitions of these categories.

Achievement	Consent Decree Para.	Deadline	Compliance Status
NPD will create a General Order establishing the UFRB, ensure that it is staffed consistent with Consent Decree provisions, and ensure that the responsibilities assigned are consistent with Consent Decree provisions.	¶ 95	March 31, 2018	Preliminary Compliance
Community Policing and Bias-Free Policing			
NPD will submit first drafts of its measurement protocol to the Monitor and DOJ for review.	¶ 17 (Monitoring Plan App'x A at 28.)	March 31, 2018	Initial Development
NPD will conduct review of its current staffing allocation and personnel deployment, and develop a community policing strategy that involves all officers assigned to policing precincts, including the Community Policing Officers.	¶ 15	March 31, 2018	Non-Compliance
NPD will review and revise its current staffing allocation and personnel protocol to ensure compliance with the Consent Decree.	¶ 15	March 31, 2018	Non-Compliance
Stop, Search, and Arrest			
NPD will review and revise its current stop, search, and arrest policy or policies to ensure compliance with Consent Decree.	¶¶ 5, 25-42, 55-62 (Monitoring Plan App'x A at 8.)	March 31, 2018	Preliminary Compliance
General Officer Training			
NPD will compile, and provide Monitor with, all current State and NPD curricula and course materials for new recruits.	Monitoring Plan App'x A at 41	March 31, 2018	Initial Development
NPD will provide the necessary data to allow the Monitoring Team to conduct a baseline assessment of NPD's training records.	¶¶ 9, 12 (Monitoring Plan App'x A at 42.)	March 31, 2018	Non-Compliance

Achievement	Consent Decree Para.	Deadline	Compliance Status
Internal Affairs: Complaint Intake and Investigation			
NPD will review and revise its policies for releasing complaints and misconduct allegations to make such complaints and allegations publicly available, and ensure compliance with the Consent Decree.	¶ 115	March 31, 2018	Initial Development
NPD will implement complaint classification protocol to ensure compliance with the Consent Decree.	¶ 121	March 31, 2018	Preliminary Compliance
NPD will review and revise its current OPS policy to require training of OPS investigators.	¶¶ 147-148	March 31, 2018	Non-Compliance
In-Car and Body-Worn Cameras			
In consultation with the DOJ and Monitor, NPD will develop a policy regarding footage and audio recordings from its in-car and body-worn cameras.	¶ 104	March 31, 2018	Preliminary Compliance
NPD will develop a policy to designate which cars and officers will not be equipped with cameras, or will be equipped with concealed cameras.	¶ 103	March 31, 2018	Preliminary Compliance

C. Amendments to Consent Decree

On January 18, 2018, the Parties sent the Monitoring Team proposed amendments to eleven paragraphs of the Consent Decree, addressing Consent Decree definitions and requirements for stop, search, arrest, and use of force policies. The Monitoring Team closely reviewed the proposal, and had no objection to them. The Parties filed their proposal with the United States District Court for the District of New Jersey and the Honorable Madeleine Cox Arleo approved it on February 2, 2018. These amendments are attached as **Appendix C** to this Report.

III. DETAILED STATUS UPDATE (JANUARY 1, 2018 – MARCH 31, 2018)

A. Policy Development

1. Use of Force

Section VIII of the Consent Decree requires NPD to implement policies and training directing when officers' use of force is appropriate, how uses of force should be documented, and the proper use and maintenance of weapons. NPD decided to address the need for revised policies by (1) writing a new Use of Force policy; (2) revising its Reporting, Investigation and Review ("Use of Force Reporting") policy; and (3) revising its Firearms and Other Weapons ("Weapons") policy. As noted in the previous (Fourth) Quarterly Report, on September 29, 2017 NPD finalized its community-reviewed and DOJ and Monitoring Team-approved Use of Force Policy. These three policies are interrelated, and will be adopted together.⁵

During this reporting period, DOJ and the Monitoring Team approved NPD's drafts for community review on March 16, 2018. NPD will (1) seek community review of these policies by submitting them to the members of Newark's Civilian Complaint Review Board ("CCRB") pursuant to Consent Decree Paragraph 13; (2) post the Weapons and Use of Force Reporting policies on its website (or the Monitoring Team's website) to solicit community feedback; and (3) host a community forum to discuss the Use of Force Reporting policy and solicit in-person feedback on it.⁶

⁵ NPD will also be required to revise an additional six ancillary policies which will supplement or impact the Division's use of force. (Consent Decree ¶¶ 66-67.) The Monitoring Team will report on these developments as they occur.

⁶ The Monitoring Team agrees with NPD that the Weapons policy is akin to a technical manual, and need not be the subject of a standalone community forum.

After NPD collects this community input, NPD will submit a further revised draft to DOJ and the Monitoring Team for review, in order to incorporate and address suggestions raised by the Newark community for revisions to the policy. In connection with these new policies, NPD needs to prepare new forms (or supplement existing ones) to collect data now required by the new Use of Force Reporting policy, including a mechanism to collect witness officers' statements. On March 15, 2018, members of the Monitoring Team and NPD met with one of NPD's data systems vendors to discuss integrating new information fields on this form.

In sum, NPD's three new policies relating to the use of force will be ready for adoption once NPD completes the following steps: (1) NPD solicits and considers community and CCRB feedback on its Use of Force Reporting and Weapons policies; (2) NPD submits revised drafts to DOJ and the Monitoring Team; (3) NPD develops forms to collect information per the Use of Force Reporting policy; and (4) DOJ and the Monitoring Team give final approval for the revised policies and the officer witness form. The Monitoring Team had expected that NPD would implement these policies before May 31, 2018. While NPD has made important progress, as of the close of this reporting period, NPD was still collecting community input on its policy drafts. The Monitoring Team will comment on these developments in its next (Sixth) Quarterly Report.

2. Stop, Search, and Arrest

Consent Decree Section IV requires NPD to, among other things, conduct all investigatory stops, searches, and arrests in a manner consistent with the federal and state constitutions, as well as other applicable state laws. As discussed in the prior (Fourth) Quarterly Report, NPD made significant progress drafting its revised Stop, Search and Arrest policies. (*See* Fourth Quarterly Report § III(C)(1).) During this reporting period, NPD continued working diligently to obtain DOJ and Monitoring Team approval on these three drafts by March 31, 2018,

the deadline that the Parties had agreed to in the Second-Year Monitoring Plan. (*See* Second-Year Monitoring Plan, Ex. A at 8.) NPD completed this task ahead of schedule. By March 5, 2018, DOJ and the Monitoring Team approved these policies for external review. The Monitoring Team commends the Parties on this accomplishment.

NPD decided to host three community fora, one for each policy, to seek the Newark community's review and input, before implementing these draft policies. These events occurred in April and May 2018, and the Monitoring Team will comment on them in its next (Sixth) Quarterly Report.

NPD's revised Stop, Search, and Arrest policies will be ready to be implemented once NPD completes the following steps: (1) NPD solicits and considers community and CCRB feedback on its Stop, Search, and Arrest policies; (2) NPD submits revised drafts to DOJ and the Monitoring Team; and (3) DOJ and the Monitoring Team give final approval for the revised policies. The Monitoring Team had expected that NPD would implement its Stop, Search, and Arrest policies before May 31, 2018. While NPD has made important progress, as of the close of this reporting period, NPD was still collecting community input on its policy drafts. The Monitoring Team will comment on these developments in its next (Sixth) Quarterly Report.

**a. Stops and Searches Involving
LGBTQI Community Members**

As noted in the Fourth Quarterly Report, NPD determined that it did not have an adequate policy regarding stops and searches of transgender individuals. (*See* Fourth Quarterly Report § III(C)(1).) Although the Consent Decree does not expressly require a standalone policy regarding this issue, NPD saw a need and resolved to address it.⁷ On January 2, the Monitoring

⁷ Consent Decree Paragraph 150 *does*, however, require NPD to “conduct integrity audits and compliance reviews to identify all officers who have engaged in . . . bias against lesbian, gay, bisexual, and transgender persons.”

Team, led by SME Kevin Bethel, former Deputy Commissioner of the Philadelphia Police Department, provided NPD with sample policies from Seattle, Boston, Los Angeles and Philadelphia as examples of how other jurisdictions have approached this issue.

The Monitoring Team will continue to report on this policy development as it relates to Section VI of the Consent Decree (Stops, Searches, and Arrests), and NPD's engagement of the community it serves.

b. First Amendment Right to Observe, Object to and Record Officer Conduct

Paragraphs 55 through 62 of the Consent Decree, in part, (i) require that NPD officers respect the legal rights of onlookers or bystanders to witness, observe, record, and comment on or complain about officer conduct; (ii) prohibit NPD officers from detaining, arresting, or threatening to detain or arrest individuals based on activity protected by the First Amendment; (iii) require NPD to permit individuals to record police officer enforcement activities; and (iv) prohibit NPD officers from threatening, intimidating, or otherwise discouraging an individual from remaining in the proximity of or recording law enforcement activities.

NPD decided to draft a standalone policy to address these requirements. Institutionalizing sound policing practices will ensure that Consent Decree reforms last beyond the duration of the Consent Decree. On March 12, 2018, NPD provided a draft policy to DOJ and the Monitoring Team, requesting feedback. The Monitoring Team will provide feedback, and report on the development of this policy in its next (Sixth) Quarterly Report.

3. Community-Oriented Policing

As discussed in the previous (Fourth) Quarterly Report, while NPD normally seeks community review and input once it has a working draft policy, for Community-Oriented

Policing, it correctly decided to seek community input on the front end – *before* it had created a draft policy. NPD chose this approach to ensure the policy reflects the Newark community’s public safety priorities.

On November 30, 2017, members of the Monitoring Team, led by the New Jersey Institute for Social Justice (“NJISJ”), met with members of NPD’s CDPU to discuss how NPD could gather community input. NPD, at the Monitoring Team’s suggestion, decided to host precinct-by-precinct meetings, that is, meetings in locations within areas covered by each of NPD’s police precincts. NPD and members of the Monitoring Team met again on January 31, 2018, to develop a schedule that would allow NPD to host the meetings, collect feedback, and incorporate that feedback into a draft Community-Oriented Policing policy by March 31, 2018.

At this January 31 meeting, the Monitoring Team proposed that precinct-by-precinct meetings would begin with a short introduction to (i) the Consent Decree, (ii) the purpose of the meetings, and (iii) the goals of the Community-Oriented Policing policy. The Monitoring Team offered its technical assistance in the form of facilitating dialogue, breakout sessions, and by reviewing NPD’s feedback form that would collect community input.⁸ Instead of hosting standalone meetings only for the Community-Oriented Policing policy, NPD decided to add these precinct meetings onto already-scheduled community meetings. On February 7, 2018, NPD sent the Monitoring Team a flyer that it had created to promote its meetings and told the Monitoring Team that meetings were scheduled for February 14, 15, 20, 21, and 27.

Community member attendance at these five meetings ranged from 10 to 50 people. This wide range of attendance was due, in part, to the short period of event promotion and confusion surrounding logistics. To collect additional community member input, NPD

⁸ The feedback form is appended to this Report as **Appendix D**.

hosted two city-wide meetings, inviting community members from all of NPD's precincts.⁹ Approximately thirteen community members came to the first meeting, and approximately fifteen attended the second. All told, NPD's meetings were attended by approximately 145 community members in a city with a population of approximately 281,000 residents. NPD received 83 community feedback forms from these meetings. This means that a little over half of the attendees from the seven meetings filled out questionnaires. NPD also presented feedback forms to community members attending its March 6 citizen/clergy public safety academy, and received an additional 16 additional forms from this meeting. On April 17, 2018, after the close of this reporting period, NJISJ sent NPD a memorandum summarizing community feedback in a manner that can be easily translated into policy and appending the completed forms themselves.

The Monitoring Team commends NPD on seeking out community members' public safety priorities in advance of developing the Community Policing policy, which will shape how NPD engages with the community it serves. Organizing, promoting, and hosting seven meetings in a relatively short period of time was no small feat. Plus, it appears that this was one of the first times that NPD conducted a systematic poll of the Newark community. The Monitoring Team recognizes the significant efforts that NPD made towards this endeavor.

The Monitoring Team encourages NPD to continue this outreach on a regular basis, and offers the following suggestions to NPD, which the Monitoring Team believes will improve community participation, NPD's ability to synthesize community feedback, and the community's perception of NPD. First, NPD should publicize the location, availability, agenda, and publicity materials for an event at least three weeks before it is scheduled to occur. Second, NPD should make deliberate choices about the location of the events. Community centers and

⁹ The last city-wide meeting was on April 4, 2018, just after the March 31, 2018 close of this reporting period.

other public locations are less intimidating to the public than hosting a meeting in a police precinct. Moreover, an existing community facility will have more space to accommodate the number of expected attendees, including those with disabilities. Third, NPD should consider using methods in addition to feedback forms to collect feedback, such as notes from facilitated discussions, its website, and social media. With regard to this last point, the Monitoring Team notes that NPD has already demonstrated its ability to facilitate discussions when it hosted a meeting with representatives from the Newark LGBTQI community on March 26, 2018, which is discussed in greater detail below.

4. Property and Evidence Management

Section X of the Consent Decree requires, in part, NPD to take “comprehensive efforts to prevent theft of property by officers.” These efforts include “maintaining policies and procedures for the intake, storage, and release of property.” (Consent Decree ¶ 110.) NPD is also required to conduct periodic audits of its property room. (*See* Consent Decree ¶ 111.) During this reporting period, NPD continued to finalize drafts of three property and evidence policies and conduct an inventory of all items stored at a permanent facility.

As discussed in the prior (Fourth) Quarterly Report, the Parties and Monitoring Team agreed that NPD would complete drafts of the following policies by March 31, 2018: (1) Property and Evidence Packaging and Storage, (2) Custody and Inventory of Prisoner’s Personal Property, and (3) Property and Evidence Management. On January 26, NPD sent drafts to DOJ for review, and on February 15, DOJ approved the policies. After reviewing these policies, members of the Monitoring Team visited NPD’s property units to observe officers logging and tracking property and evidence. The Monitoring Team observed that NPD officers did not use uniform practices, and that many of these officers did not understand the requirements of NPD’s current property and evidence policies. At present, NPD’s policies in this area are too difficult to

follow, and have resulted in officers creating their own workarounds or deviating from standard practices. NPD officers should know what is expected of them, and how to meet this expectation.

The Monitoring Team recommended that, NPD consolidate its policies and clarify the language so that officers could have simple, one-stop resources. The Monitoring Team believes that by remedying these issues, the policies will be clearer, easier to use, and ready for final approval and adoption. On March 28, the Monitoring Team met with DOJ and NPD to discuss its recommendations. The Monitoring Team, DOJ, and NPD agreed to extend the deadline for completion of these policies from March 31, 2018 to May 31. NPD committed to forming a working group dedicated to these policies that will confer regularly in April to meet the deadline.

5. Internal Affairs: Complaint Intake and Investigation

Section XI of the Consent Decree requires NPD and the City to establish policies and procedures for the investigation of officer misconduct allegations. During this reporting period, NPD, DOJ, and the Monitoring Team, led by SME Natasha Tidwell, continued to work on NPD's complaint intake and investigation policy (G.O. 05-04: Complaint Intake & Investigation Process). As reported in the prior (Fourth) Quarterly Report, on November 30, 2017, NPD sent a revised version of this policy, which incorporated the Monitoring Team's comments, to DOJ for review and approval. In January 2018, DOJ provided comments to NPD and approved the policy. NPD sent a revised version of the policy, incorporating DOJ's comments, to the Monitoring Team on January 25. Since that time, the Monitoring Team has undertaken a careful review of the policy. The Monitoring Team believes the policy is close to being finalized, but a few issues need to be resolved before it can be approved.

First, Paragraph 115 of the Consent Decree requires NPD to “revise its policies to prohibit practices that discourage complainants and witnesses from coming forward.” To comply with this provision, NPD should develop a Complaint Intake policy that expressly permits members of the public to submit complaints at police precincts, other locations around Newark, or online. Complainants should be able to control the level of interaction with NPD he or she wishes to have, when filing a complaint. Requiring a complainant or witness to drop off hard copy complaint forms at police precincts, and officers to interview those people at the police precinct in order to complete an Investigation of Personnel form could discourage complainants from coming forward to lodge a complaint, and could also result in potential complainants sitting in precinct waiting areas until a supervisor is available.

Second, as noted in the prior (Fourth) Quarterly Report, NPD’s draft internal affairs policy lacks a clear description of the complaint intake and classification process, and does not align with NPD’s draft Discipline policy, as discussed in greater detail below.¹⁰ These issues persist. For example, the Complaint Intake policy requires NPD’s complaint intake officer to designate complaints as alleging “Major” or “Minor” offenses. However, the policy provides that the Commander of NPD’s Internal Affairs Unit (Office of Professional Standards) also should make this determination. That conflicting language concerning who will designate an offense as Major or Minor is confusing to the officer and public. In addition, neither the Complaint Intake policy, nor NPD’s draft Discipline Policy provided guidance for classifying offenses as Major or Minor.

Third, NPD should reconcile its draft policy with the Public Safety Director’s memorandum requiring event tracking numbers for all citizen complaints. Currently (and under

¹⁰ The Disciplinary Matrix is a chart of officer infractions and corresponding discipline located in a different policy. (See Consent Decree § IV.F(1).)

the draft policy), complaints are assigned an Investigation of Personnel form number upon receipt at a precinct by an officer. The Public Safety Director's memorandum requires NPD to assign a *second* number, intended to cross reference with the Investigation of Personnel form number. In short, complaints could be assigned *two separate numbers*. The Monitoring Team suggests NPD consolidate its tracking systems, and use **one number** for each complaint. This will help NPD manage the progress of its complaints, investigations, and findings. It also will make it easier for NPD to retrieve information for Consent Decree audits.

The Monitoring Team will continue to meet with NPD to discuss these and other changes to the internal affairs policy.

6. Internal Affairs: Discipline

Consent Decree Paragraph 153(a) requires NPD to "implement disciplinary guidance that . . . establishes a presumptive range of discipline for each type of violation." Paragraph 154 requires NPD to establish a unified system for reviewing sustained findings, and applying the appropriate level of discipline. Under Paragraph 155, NPD is further required to conduct annual reviews of its disciplinary process and actions.

On March 30, 2018, NPD sent DOJ and the Monitoring Team a draft of its Discipline Policy. The Monitoring Team will review this policy and report back to NPD. NPD began posting officer discipline data for April 2018 on its website. However, this information does not satisfy the requirements of an annual review or self-analysis required by Paragraph 155 of the Consent Decree. To avoid further delay, the Monitoring Team urges NPD to consider how it will report on its disciplinary process, as required by Paragraph 155, while the Monitoring Team and DOJ review the policy.

7. In-Car and Body-Worn Camera

Paragraph 103 of the Consent Decree requires NPD to equip all marked patrol cars with video cameras and officers with body cameras and microphones. Paragraph 104 requires NPD to develop policies regarding the proper use of these cameras, as well as appropriate retention of video and audio recordings.

On January 9, 2018, DOJ approved NPD's draft policies and, on February 2, the Monitor provided comments to both policies, and granted approval contingent on NPD incorporating certain revisions. After NPD's policies were approved, the Attorney General of the State of New Jersey issued Attorney General Law Enforcement Directive No. 2018-1 concerning the public release of video recordings depicting police deadly force incidents. NPD proactively reviewed its DOJ and Monitoring Team-approved policies to ensure compliance with Directive No. 2018-1. NPD submitted another round of revisions to DOJ and the Monitoring Team, and these two policies were approved for implementation as of March 22, 2018.

Starting in February 2018, NPD's CDPU began reviewing body-camera footage to assess internal compliance with the new policy. NPD concluded that several officers had (1) not logged into their cameras at the beginning of their shifts, (2) did not always enter an event number for each service call, and (3) had improperly "tagged" recorded events, that is, incorrectly identifying the type of interaction that the officer had with a civilian. Also, supervisors did not always review two camera videos per shift, as the policy requires. NPD's CDPU sent department-wide notices to address these issues, and is attempting to rectify them through NPD's body-worn camera training, which it submitted to DOJ and the Monitoring Team for review.

Internal reviews like this one will help NPD properly use this new technology and assist NPD officers comply with these new policies. Ultimately, they will strengthen NPD's

Body and Car Camera programs. The Monitoring Team will be conducting its own audit of NPD's camera footage, as NPD's equips additional officers with body and in-car cameras.

As reported in the prior (Fourth) Quarterly Report, NPD expanded its pilot program during that period, equipping 73 officers with body-worn cameras and 16 marked patrol vehicles with in-car cameras in the Fifth Precinct, and 84 body-worn cameras in the Second Precinct. During this reporting period, NPD experienced technical issues while uploading video from cameras. While NPD's camera vendor worked to resolve the issues, NPD decided to pause expansion of its pilot program to additional officers. However, NPD continued installing in-car cameras in marked patrol vehicles in the First, Third, and Fourth Precincts. Those newly-installed in-car cameras will not be activated until NPD trains officers in those precincts on the policies and the proper use of these cameras. Despite the delay caused by technical difficulties, at the end of this reporting period, NPD had increased its use of cameras to 90 body-worn cameras and 19 in-car cameras in the Fifth Precinct and in the Second Precinct, 101 body-worn cameras and 14 in-car cameras.¹¹

B. Training

During this reporting period, NPD made important progress towards meeting the Consent Decree's training requirements. Achievements include (1) beginning Community-Oriented Policing training and (2) submitting initial drafts of training curricula for Stop, Search, and Arrest, and Body-Worn and In-Car Camera training to DOJ and the Monitoring Team for review. NPD's progress in developing and implementing Consent Decree training is trending in the right direction.

¹¹ As of January 18, 2018, the Second Precinct had 16 marked patrol vehicles equipped and using in-car cameras. However, two of those units were redeployed to a new precinct.

However, based on NPD's progress to date, the Monitoring Team does not believe NPD has the capacity or experience to develop sophisticated, modern, scenario-based training materials, especially within the Consent Decree's deadlines. The City **must** expend the resources to hire external experts to create the first generation of Consent Decree training materials. This expenditure will be a one-time cost to help NPD policy writers learn how to develop the first set of modern, scenario-based training materials that capture the key points of new and revised NPD policies, as well as constitutional principles. Using outside experts also will assist NPD in administering and instructing modern police training. Thereafter, NPD should hire additional personnel with expertise necessary to write new content, and update existing training materials.

1. Use of Force

Under Section VIII of the Consent Decree, NPD must, among other things, develop and implement training "directing that the use of force by NPD officers accords with the rights secured and protected by the Constitution and state and federal law." Paragraph 11 of the Consent Decree requires NPD to provide the Monitor and DOJ with drafts of proposed training plans or training curricula.

As noted in prior Quarterly Reports, NPD is seeking external funds to retain an expert to develop its use of force training plans and curriculum. Although well-intentioned, due to factors outside of NPD's control, this process turned into nearly a two-year delay to the development of this training, as reported previously.

The Monitoring Team will comment on NPD's progress in developing this training curriculum in its next (Sixth) Quarterly Report.

2. Stop, Search, and Arrest

Paragraph 43 of the Consent Decree requires NPD to provide all officers with at least 16 hours of training on stops, searches, and arrests. (*See also* Second-Year Monitoring Plan, Ex. A at 8-12.) Consent Decree Paragraph 43 requires training to be administered by a legal instructor with significant experience in First and Fourth Amendment issues.

During this reporting period, NPD made progress developing its Stop, Search and Arrest training materials, and submitted a PowerPoint presentation to DOJ and the Monitoring Team for review on March 19, 2018. As noted above, NPD will need to: (1) develop a curriculum, (2) develop instructional objectives, (3) develop guidance for instructors, (4) refine its instructional materials, and (5) create post-training assessment. The final form of the training materials must include Newark-specific content to properly inform officers on the law, procedures and the effect that differing approaches to stops, searches, and arrests can have on community perceptions of police legitimacy and public safety.

NPD also began searching for an instructor to facilitate its training on Stop, Search and Arrest. The Monitoring Team will report on NPD's progress in this area in the next (Sixth) Quarterly Report.

3. Community-Oriented Policing and Bias-Free Policing

Paragraphs 14 and 63 of the Consent Decree require NPD to provide training to its officers on community-oriented policing and bias-free policing. NPD elected to address these two areas simultaneously, but in two training phases. For the first phase of training, NPD used a modified version of a curriculum created by the Virginia Center for Policing Innovation ("VCPI").

NPD plans to contract an external expert for the second phase of its training, but has not yet done so. The Monitoring Team urges NPD to finalize its plans as soon as possible. Delays in retaining an expert will lead to continued delays in implementation.

On March 12, 2018, NPD held its first eight-hour session of community policing training at Berkeley College in Newark. Monitoring Team SME Robert Haas observed the session, which was attended by twenty-three (23) officers, including deputy chiefs, captains, lieutenants, sergeants, and patrol officers. The three NPD instructors were well-versed in the training materials. They engaged the class in discussion, incorporating officers' personal experiences in the city.

NPD treated the first training sessions as pilots, so that it could continue to develop and improve the content and delivery of the course. Members of the Monitoring Team audited five of NPD's training sessions, identifying several areas where NPD could improve its curriculum. The Monitoring Team made the following observations. First, the curriculum was missing several components of Consent Decree Paragraph 14.¹² NPD plans to incorporate these requirements in Phase II of its training. Second, NPD should remove several PowerPoint slides to allow more time for classroom discussion of Police Legitimacy, Procedural Justice, Bias-Free Policing, and the operational aspects of Community Policing. Third, NPD should modify pre- and post-training tests to emphasize the practical application of community-oriented policing as opposed to theories. The Monitoring Team provided a sample test for NPD to consider using during the training, to measure the officers' comprehension of the training.

¹² These include training officers on: (i) police tactics and strategies that are more likely to alienate community members; (ii) establishing formal partnerships with community organizations; (iii) creating opportunities for positive interactions with youth; (iv) scenario-based training that promotes the development and strengthening of partnerships between the police and community; (v) leadership, ethics, and interpersonal skills; and (vi) conflict resolution, including de-escalation of conflicts. *See* Consent Decree ¶ 14.

On March 26, 2018, members of the Monitoring Team, NPD, and DOJ met to discuss the early training sessions and revisions to the training curriculum. After the close of this reporting period, NPD incorporated DOJ's and the Monitoring Team's feedback, and began instruction on a revised curriculum. The Monitoring Team will continue to report on NPD's administration of this training.

During this reporting period, NPD trained 329 of the 1250 officers currently on its police force. This is NPD's *first* training on a substantive area of the Consent Decree. The Monitoring Team commends NPD on its hard work (with members of the Monitoring Team, led by SMEs Robert Wasserman and Robert Haas, former Commissioner of the Cambridge Police Department) to improve the coherence and efficacy of its PowerPoint presentation, and addresses the Consent Decree's requirements.

4. Body-Worn and In-Car Cameras

Paragraph 11 of the Consent Decree requires NPD to train officers on any new or revised policy or procedure, including Body-Worn Camera and In-Car Camera policies. During this reporting period, NPD made important progress toward developing its body-worn and in-car camera training curriculum, as discussed above. On March 17, 2018, NPD provided DOJ and the Monitoring Team with a draft curriculum. At the Monitoring Team's urging, NPD developed the initial draft of its training curriculum concurrently with its development of policies on this subject. Working on policy and training simultaneously improves efficiency of efforts, and shortens the time required to implement training.

As reported in the prior (Fourth) Quarterly Report, NPD officers in the Fifth and Second precincts have already been trained on the Attorney General's 2015 Directive concerning body-worn cameras, and also received technical training from NPD's camera vendor. Next, NPD will implement training that incorporates its revised policies, as well as technical aspects of

using the equipment. This training will be interactive, include scenarios, and involve hands-on use of body-worn cameras and NPD camera-equipped vehicles.

5. Internal Affairs Complaint Intake and Discipline

Paragraph 11 of the Consent Decree requires NPD to train officers on any new or revised policy or procedure, and Paragraph 116 requires NPD to train its personnel to properly handle complaint intake, including “strategies for turning the complaint process into positive police-civilian interaction.” NPD has not yet begun preparing to train its officers on its revised disciplinary process or complaint intake procedures. As noted above, the corresponding policies are still in development, and will require additional modifications before NPD can adopt them.

The Monitoring Team urges NPD to begin drafting training curriculum for the new complaint intake and disciplinary process, and determine whether it will retain an outside expert(s).

C. Community Engagement

1. Civilian Oversight

Under Paragraph 13 of the Consent Decree, the City is required to implement and maintain a civilian oversight entity to review internal investigations, monitor trends in complaints, and review and recommend changes to NPD’s policies or procedures. (Consent Decree ¶ 13.) The Mayor and City Council of Newark established a Civilian Complaint Review Board (“CCRB”) by ordinance on March 16, 2016. As noted in prior reports, the Fraternal Order of Police, Newark Lodge No. 12 (“FOP”) brought an action against the City, challenging the CCRB’s lawful authority. As a result of this litigation, the CCRB was prohibited from fulfilling all of its duties as set forth in the municipal ordinance creating the CCRB. The litigation also initially curtailed the ability of the CCRB to perform some of its responsibilities under the Consent Decree. On March 14, 2018, the Superior Court of New Jersey resolved this litigation,

permitting the CCRB to serve “strictly in an oversight capacity in accordance with Paragraph 13 of the [Consent Decree].” (Order at 1-2.)¹³ The Monitoring Team looks forward to the CCRB’s involvement in the Consent Decree process, which will include, among other tasks, (1) reviewing NPD’s policies relating to the use of force; stops, searches, and arrests; and internal affairs complaint intake;¹⁴ and (2) monitoring trends in complaints, findings of misconduct, and the imposition of discipline. (*See* Consent Decree ¶ 13.)

2. NPD’s Staffing Allocation and Personnel Protocol

Paragraph 15 of the Consent Decree requires that by July 9, 2017, NPD assess and revise its officer staffing assignments to support community-oriented policing. NPD missed this deadline. Under the Second-Year Monitoring Plan, NPD was to assess and revise its officer staffing assignments by March 31, 2018. NPD missed this deadline, too.

As noted in the Second Quarterly Report, (covering February 1, 2017 to May 31, 2017), NPD retained an outside consultant in Spring 2017 to conduct this study. The consultant submitted a draft of the study to the Newark Public Safety Director on December 23, 2017. This project has been underway for more than a year, but it still has not been completed. The Monitoring Team does not understand why NPD has not yet completed this staffing study, and NPD has not identified any technical impediment to completing this task.

This staffing study is critical to NPD’s operations and service to Newark residents. Once completed, the staffing study will help NPD (i) maximize the impact of its human resources, (ii) use its personnel in a manner that advances community-oriented policing,

¹³ The City intends to appeal the Superior Court’s decision. However, the appeal process does not prohibit the CCRB from working on Consent Decree tasks.

¹⁴ The City sought—and obtained—permission from the Superior Court of New Jersey for the CCRB to review NPD’s draft Use of Force and Bias-Free Policing policies even while the CCRB was enjoined from performing the other tasks required by Paragraph 13 of the Consent Decree.

improve staffing of its training and data areas, and (iii) demonstrate its personnel requirements.

In other words, it will help NPD transition to a modern police force.

NPD should provide its consultant with whatever resources he needs to complete this assessment, to the extent it has not done so already, so that the assessment can be completed as soon as possible, and sent to DOJ and the Monitoring Team immediately thereafter.

3. NPD's Outreach to LGBTQI Community

On its own initiative, NPD resolved to improve its outreach to the LGBTQI community. On March 26, 2018, members of NPD's CDPU met with leaders of the Newark LGBTQI community to begin a dialogue and build trust. At this two-hour meeting, community leaders sat with several of NPD's CDPU officers and discussed some of the LGBTQI community's public safety concerns, including violence against members of the Newark LGBTQI community, and discomfort with the treatment of LGBTQI people by some NPD officers. Meeting participants discussed a number of suggestions, such as NPD creating an affinity group within its own ranks for LGBTQI officers, inviting community members to help train NPD officers on how to engage the LGBTQI community, and increasing NPD weekend patrols of the areas around Newark Penn Station to protect LGBTQI people travelling back to Newark from New York City.

NPD was receptive to this feedback. This meeting was framed as a fresh start, and it was clear that LGBTQI community leaders were interested in continuing the dialogue.

4. Complaint Tracking and Access to Complaint Process

During this quarter, NPD created, and began to publicize, a citizen complaint tracking process pursuant to Consent Decree Paragraphs 113 and 125. On March 13, 2018, the Public Safety Director issued a memorandum (No. 18-161) requiring NPD to "generate an event number upon receipt of a complaint." This memorandum applies to all citizen complaints,

whether made by phone, mail, or in person, and will allow NPD and the complainant to more-easily determine the status and disposition of each complaint. The memorandum was the subject of roll-call training over the course of a three-week period. This effort brings NPD closer to compliance in the area of complaint intake and tracking. NPD should institutionalize this progress by incorporating the substance of the memorandum into its Internal Affairs: Complaint Intake policy.

During this quarter, NPD also distributed brochures in English, Spanish, and Portuguese to city buildings, libraries, and police precincts, which describe NPD's Internal Affairs Unit (the Office of Professional Standards). The Monitoring Team notes that the Consent Decree requires NPD to make multi-lingual complaint forms, in addition to informational brochures, available at these locations, a task that NPD has not undertaken. (Consent Decree ¶ 113.) Under the current draft of the Internal Affairs policy, discussed above, hard copy complaint forms are only available at police precincts.¹⁵

5. Monitoring Team's Community Engagement

Pursuant to Paragraph 186 of the Consent Decree, on March 15, 2018, the Monitor hosted a community event to discuss the Third Quarterly Report, and NPD's current compliance with the Consent Decree. The event was coordinated by NJISJ and held at the Willing Heart Community Care Center. There were approximately 50 community members in attendance, as well as members of the DOJ, NPD, and the Monitoring Team. The Monitoring Team will host a similar event in the next quarter to discuss the Fourth Quarterly Report.

¹⁵ Complaints may be submitted on NPD's Complaint Against Personnel Website: <http://npd.newarkpublicsafety.org/professionalstandards/cap>.

D. Transparency

1. Self-Reported Community Engagement

Consent Decree Paragraph 17 requires NPD to “implement mechanisms to measure the breadth, extent, and effectiveness of community partnerships and problem-solving strategies, including officer outreach, particularly outreach to youth. Paragraph 18 requires NPD to prepare “quarterly reports on its community policing efforts,” and Paragraph 19 requires NPD and the City to implement practices to seek and respond to input from the community about this Agreement’s implementation.” Pursuant to Paragraph 20, all of these studies and reports must be made publicly available, and posted on NPD and City websites. Under the Second-Year Monitoring Plan, NPD was to submit first drafts of its measurement protocol to the Monitoring Team and DOJ for review by March 31, 2018. (*See* Ex. A at 28.)

The Monitoring Team appreciates that NPD has been engaging the Newark community and listing community engagement events on its NPD CDPU website. As of the close of this reporting period, NPD has not yet begun to address the other requirements of Paragraphs 18, 19, and 20. Compliance with these Consent Decree Paragraphs would help ensure that NPD’s community engagement becomes an institutionalized component of NPD’s operations. Regular self-evaluation is critical for sustained progress.

The Monitoring Team urges NPD to give Paragraphs 18 and 20 of the Consent Decree focused attention in the near future.

2. Self-Reported Demographic Analyses

Under Paragraph 65 of the Consent Decree, NPD is required to conduct “demographic analyses of its enforcement activities to ensure officer, unit, and Division compliance with the bias-free policy through the identification of trends, outliers, or other relevant indicators.” By September 30, 2018, NPD must update its data systems to collect and

analyze the data necessary to perform these analyses. (*See* Second-Year Monitoring Plan Ex. A at 32-36.)

The Monitoring Team urges NPD to begin developing its methodology for this report, so that NPD can meet the September 30, 2018 deadline.

E. Data Systems Improvements

Under Section XIV of the Consent Decree, NPD is required to “develop, implement, and maintain contemporary records and management systems.” NPD is required to enhance its Early Warning System and revise its use and analysis of a Records Management System. (*See* Consent Decree ¶¶ 156, 162.)

As noted in prior Quarterly Reports, NPD’s data systems contain critical deficiencies, and will require a comprehensive review, assessment, and improvements. NPD has retained an independent consultant to recommend changes, but the consultant has not yet begun its work. During this reporting period, on March 14, 15, and 22, 2018, NPD and members of the Monitoring Team met with some of NPD’s data system vendors to (i) determine whether its current systems have the capacity to generate reports of NPD’s policing activities, (ii) develop custom queries to produce data requested by the Monitoring Team, and (iii) consider software updates and upgrades. The Monitoring Team will report on NPD’s progress.

F. Audits

1. Review of NPD’s Stops and Arrests

As noted in the Monitoring Team’s Second Quarterly Report, in May 2017, the Monitoring Team requested that NPD provide: (i) Field Inquiry Reports, (ii) Consent to Search Forms, (iii) Arrest Reports, (iv) Tour Assignment Sheets, and (v) Incident Reports for the period from May 1, 2017 through May 31, 2017. The Monitoring Team intended to use this data to conduct a baseline assessment of whether NPD officers are (a) properly reporting stop, search

and arrest activity; (b) articulating reasonable suspicion for stops; and (c) documenting probable cause for an arrest by the end of their shifts.

NPD has neither developed a report format to collect data on all investigatory stops and searches, nor complied with the Monitoring Team's request for data necessary to conduct an audit. NPD still lacks capacity to export this data from its data systems and produce it in a format that is usable. The Monitoring Team acknowledges that reforming data systems is a time-intensive and costly process. However, the Monitoring Team remains concerned about (1) our inability to audit NPD's practices, (2) NPD's inability to self-audit and, therefore, use data to drive police strategy, (3) the CCRB's inability to systematically review NPD's practices pursuant to Consent Decree Paragraph 13, (4) the lack of data available to the public, and (5) NPD's ability to achieve compliance within the five years provided by the Consent Decree, given its data systems limitations.

2. Internal Affairs Case Review

The Monitoring Team continued review of NPD's Internal Affairs case files. As previously reported, the review encompassed complaints initiated by both citizens and officers that were investigated by NPD's Internal Affairs Unit (the Office of Professional Standards), and either dismissed or sustained between January 1, 2015, and December 31, 2016. The review spanned a variety of complaint categories, with particular emphasis on investigations of alleged domestic violence and discrimination by NPD officers on the basis of race, gender, and sexual orientation. The purpose of this review was to create a baseline from which NPD's progress in this area can be compared over time. As of March 31, 2018, members of the Monitoring Team were beginning to compile and analyze the resulting data. The Monitoring Team will provide the conclusions of its audit in its next (Sixth) Quarterly Report.

IV. NEXT QUARTER ACTIVITIES (APRIL 1, 2018 – JUNE 30, 2018)

A. Review and Revision of NPD Policies

During this reporting period, NPD has continued its progress on the nine remaining Consent Decree policies. The Monitoring Team anticipated that NPD would have obtained DOJ and Monitoring Team approval of all Consent Decree policies by May 31, 2018, but as of the date of this report, several Consent Decree policies were still in development, and in particular, undergoing community review. The Monitoring Team is confident that NPD will implement all Consent Decree policies in advance of the second anniversary of the Consent Decree.

B. Training

During the next quarter, NPD will continue to administer Phase I of the Community-Oriented Policing training, and develop its Stop, Search, and Arrest, and Body-Worn and In-Car Camera trainings. NPD will also need to retain an expert to develop its bias-free training, and work with the BJA-approved expert to develop a use of force training.

C. Audits, Compliance Reviews, and Outcome Assessments

Next quarter, the Monitoring Team will finalize its review of NPD's Internal Affairs case files, and report on its results.

The Monitoring Team's audits and baseline assessments will continue to depend on NPD's ability to provide the necessary data, which it has been unable to do thus far.

On July 12, 2018, the two-year anniversary of the Consent Decree's operational date, the Monitoring Team will publish a comprehensive re-assessment regarding (1) the City's and NPD's greatest achievements, (2) the Monitoring Team's greatest concerns, and (3) potential recommendations for achieving and sustaining police reforms. This re-assessment is pursuant to Consent Decree Paragraph 182.

V. CONCLUSION

NPD is making progress with policy development, training, efforts to review and revise its data systems. The Monitoring Team looks forward to working with the Parties during the next reporting period.

VI. APPENDICES

- A. Chronology of Key Events**
- B. Compliance Chart**
- C. Consent Decree Amendments**
- D. Feedback Form**

Appendix A

Timeline (Meetings, Milestones and Events)**Monitoring Team's Fifth Quarterly Report — January 1, 2018 through March 31, 2018.**

Date	Event
Recurring	Weekly meeting with Monitoring Team Liaison and NPD CDPU.
January 15, 2018	The Monitoring Team files its Third Quarterly Report with the United States District Court for the District of New Jersey, and publishes it on the Monitoring Team's website.
January 31, 2018	Members of the Monitoring Team, led by the New Jersey Institute for Social Justice ("NJISJ"), meet with NPD to discuss precinct-specific community outreach events intended to garner feedback for NPD's Community-Oriented Policing policy.
February 2, 2018	The Honorable Madeline Cox Arleo, United States District Court Judge for the District of New Jersey, approves the Parties' stipulated amendments to the Consent Decree.
February 14, 2018	NPD hosts community meeting in the Second Precinct.
February 15, 2018	NPD hosts community meeting in the Fourth Precinct.
February 20, 2018	NPD hosts community meeting in the Fifth Precinct.
February 21, 2018	NPD hosts community meeting in the Third Precinct.
February 27, 2018	NPD hosts precinct meeting in the First Precinct.
February 28, 2018	Attorney General issues Attorney General Law Enforcement Directive No. 2018-1 concerning public release of video recordings depicting police deadly force incidents.
March 5, 2018	DOJ and Monitoring Team approve NPD's Stop, Search and Arrest policies for external review.
March 6, 2018	NPD hosts sessions of its Citizen Clergy Academy, a program designed to allow Newark residents to observe NPD's functions and operations, and seeks feedback for NPD's Community-Oriented Policing policy through questionnaires.
March 12, 2018	NPD begins Community Policing Training, holding its first eight-hour session of training at Berkeley College in Newark.

March 13, 2018	Director Ambrose issues memorandum (No. 18-161) requiring NPD to “generate an event number upon receipt of a complaint.”
March 14, 15, and 22, 2018	NPD, DOJ, and members of the Monitoring Team meet with NPD’s data systems vendors to discuss extracting policing data from NPD’s systems.
March 15, 2018	The Monitoring Team, led by NJISJ, holds a “Meet the Monitor” event at The Willing Heart Community Care Center to speak with Newark community members about the Consent Decree and discuss the Monitor’s Third Quarterly Report. NPD’s CDPU also attended, and the Commander of that Unit spoke with community members about NPD’s ongoing reforms.
March 16, 2018	DOJ and the Monitoring Team approve NPD’s Use of Force Reporting, Investigation and Review and Firearms and Weapons policies for external review.
March 19, 2018	Superior Court of New Jersey issues a Final Order in Civilian Complaint Review Board litigation.
March 22, 2018	DOJ and Monitoring Team approve NPD’s In-Car and Body-Worn Camera policies.
March 26, 2018	NPD holds a meeting at Rutgers University—Newark with leaders from the Lesbian, Gay, Bisexual, Transgender, Queer/Questioning or Intersex (“LGBTQI”) community.
March 26, 2018	Meeting between NPD Consent Decree Planning Unit, U.S. Attorneys’ Office and Monitoring Team to discuss Community Policing training sessions and potential revisions to the training curriculum.
March 28, 2018	Meeting between NPD, DOJ and the Monitoring team to discuss Property and Evidence policies.
March 28, 2018	Status conference before the Honorable Madeline Cox Arleo, United States District Court Judge for the District of New Jersey.
March 28, 2018	NPD hosts city-wide community meeting to seek feedback for NPD’s Community-Oriented Policing policy.
April 4, 2018	NPD hosts city-wide community meeting to seek feedback for NPD’s Community-Oriented Policing policy.

Appendix B

**Consent Decree Compliance and Implementation
(through March 31, 2018)**

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I. DEFINITIONS

NPD's compliance with the deadlines set forth in the Consent Decree and the First-Year Monitoring Plan will be assessed using the following categories: (1) not assessed, (2) initial development, (3) preliminary compliance, (4) operational compliance, (5) non-compliance, (6) administrative compliance, and (7) full compliance. Each of these terms is defined below.

1. Not Assessed

"Not Assessed" means that the Monitoring Team did not assess the Consent Decree provision during this reporting period. Acceptable reasons for why a requirement was not assessed may include that the deadline has not passed or some other substantive reason.

2. Initial Development

"Initial Development" means that during the auditing period, NPD has taken meaningful steps toward achieving compliance with a Consent Decree requirement that is not yet scheduled for completion. Initial Development will be noted only if NPD's efforts are consistent with established timeframes in the Monitoring Plan or Consent Decree. Where NPD was expected to have achieved at least Initial Development during the auditing period, and has not, NPD has been found not to be in compliance.

3. Preliminary Compliance

"Preliminary Compliance" means that during the reporting period, NPD has developed, and the Independent Monitor, DOJ, and City have approved, respective policies or standard operating procedures ("SOPs") and related training materials that are consistent with a Consent Decree requirement. This category only applies to SOPs and training.

4. Operational Compliance

“Operational Compliance” means that NPD has satisfied a Consent Decree requirement by demonstrating routine adherence to the requirement in its day-to-day operations or by meeting the established deadline for a task or deliverable that is specifically required by the Consent Decree or Monitoring Plan. NPD’s compliance efforts must be verified by reviews of data systems, observations from the Monitoring Team, and other methods that will corroborate its achievement. In this report, the Monitoring Team only will assess NPD for compliance with established deadlines.

5. Non-Compliance

“Non-Compliance” means that NPD has either made no progress towards accomplishing compliance, or has not progressed beyond Initial Development at the point in time when NPD is expected to have at least achieved Preliminary Compliance for the reporting period.

6. Administrative Compliance

“Administrative Compliance” means that during the auditing period, NPD has completed all necessary actions to implement a Consent Decree requirement, but General Compliance has not yet been demonstrated in NPD’s day-to-day operations.

7. Full Compliance

“Full Compliance” means that all Monitor reviews have determined that NPD has maintained Operational Compliance for the two-year period.

I. USE OF FORCE

Achievement	Deadline for Achievement	Status	Discussion
Develop Use of Force Policy: NPD will develop and implement a use of force policy or set of policies that cover all force techniques, technologies, and weapons that are available to NPD officers. The policy or policies will clearly define each force option and specify that unreasonable use of force will subject officers to discipline. (§§ 66-74)			
NPD will review and revise its current use of force policy or policies to ensure compliance with Consent Decree.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(1).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide the proposed testing for review.	30 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Monitor, DOJ and City will provide NPD with feedback on proposed testing.	15 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a

USE OF FORCE Continued

Achievement	Deadline for Achievement	Status	Discussion
			future report.
Audit of NPD Firearms Certification Oversight (§§ 70-71, 74)			
NPD will provide resources for officers to maintain proper weapons certifications and will implement sanctions for officers who fail to do so. Officers will be prohibited from using unauthorized weapons or ammunition. (§§ 70-71, 74)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will establish a Serious Force Investigation Team (“SFIT”) to review Serious Force Incidents, conduct criminal and administrative investigations of Serious Force incidents, and determine whether incidents raise policy, training, tactical, or equipment concerns. Lower or intermediate force incidents will be investigated by line supervisors. (§§ 78-84, 86-94)			
NPD will create and implement (1) a General Order establishing the AFIT to ensure sufficient staffing consistent with § 92 of the Consent Decree; and (2) General Orders establishing line supervisors’ responsibilities to investigate lower and intermediate use of force incidents.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(1).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of General Orders (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of General Orders (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.

USE OF FORCE Continued

Achievement	Deadline for Achievement	Status	Discussion
NPD will maintain a Use of Force Review Board (“UFRB”) to conduct timely, comprehensive and reliable reviews of all Intermediate and Serious Force incidents, in accordance with the requirements set forth in the Consent Decree. (§§ 88, 95, 96, 98, 102)			
NPD will create a General Order establishing the UFRB, ensure that it is staffed consistent with Consent Decree provisions, and ensure that the responsibilities assigned are consistent with Consent Decree provisions.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(1).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required, which will provide the UFRB with 8 hours of training. (§§ 11, 97)	Within 60 days after approval of General Order (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of General Order (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD’s UFRB will conduct timely, comprehensive, and reliable reviews of SFIT and Intermediate Force incidents and document its findings and recommendations. (§§ 13, 96-101)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.

II. COMMUNITY POLICING AND BIAS-FREE POLICING

Achievement	Deadline for Achievement	Status	Discussion
Evaluation of Community Policing Protocol: By February 7, 2017, NPD will implement a protocol to periodically measure the breadth, extent, and effectiveness of its community partnerships and problem-solving strategies, including officer outreach, particularly outreach to youth.			
NPD will submit first drafts of its measurement mechanisms to the Monitor and DOJ for review.	March 31, 2018	Initial Development	See Fifth Quarterly Report, Section III(D)(1).
NPD will assess and revise its staffing allocation and personnel deployment to support community policing and problem-solving initiatives, and will modify deployment strategies that are incompatible with community policing, such assessment and modified strategy to be provided to the DOJ and Monitor for approval. (§ 15)			
NPD will conduct review of its current staffing allocation and personnel deployment and develop a community policing strategy that involves all officers assigned to policing precincts, including the Community Policing Officers.	March 31, 2018	Non-Compliance	See Fifth Quarterly Report, Section III(C)(2).
NPD will review and revise its current staffing allocation and personnel protocol to ensure compliance with the Consent Decree.	March 31, 2018	Non-Compliance	See Fifth Quarterly Report, Section III(C)(2).

III. STOP, SEARCH AND ARREST

Achievement	Deadline for Achievement	Status	Discussion
NPD will revise policies in accordance with ¶¶ 25-42, 55-62 of the Consent Decree.			
NPD will begin training modules for the revised policies upon the Monitor and DOJ's approval of the revised policies.			
NPD will review and revise its current stop, search, and arrest policy or policies to ensure compliance with Consent Decree.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(2).
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (¶ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Initial Development	See Fifth Quarterly Report, Section III(B)(2).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the stop, search, and arrest policies or procedure and that the topic is incorporated into the in-service training required. (¶ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will develop a protocol to gauge retention of stop, search, and arrest training and approve testing mechanisms to ensure compliance with Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide the proposed testing to the Monitor, DOJ and the City for review.	30 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Monitor, DOJ and the City will provide NPD with feedback on proposed testing.	15 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future

STOP SEARCH AND ARREST Continued

Achievement	Deadline for Achievement	Status	Discussion
			report.
NPD supervisors will take appropriate action to address any violations or deficiencies related to stop, detentions, searches, and arrests; maintain records; and identify repeat violators. (§ 48)			
NPD supervisors to take appropriate action to address violations or deficiencies in stops, detentions, searches, and arrests; maintain records; and identify repeat violators. (§ 48)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.

IV. GENERAL OFFICER TRAINING

Achievement	Deadline for Achievement	Status	Discussion
NPD will provide officers at least 40 hours of training to address changes in the law, or issues identified in complaints, or other means. NPD will provide additional training as necessary to address changes in the law, or issues identified through its review of use of force incidents, arrest reports, misconduct complaints, or other means. All training will be consistent with and incorporate current law, professional police standards and best practices. (§§ 9, 14)			
Note: The timelines for training requirements in other Sections of the Consent Decree (e.g., use of force, bias-free policing), are located in those Sections of this Chart.			
NPD will compile, and provide Monitor with, all current State and NPD curricula and course materials for new recruits.	March 31, 2018	Initial Development	NPD has provided some requested materials to the Monitor.
NPD will maintain complete and consistent training records for all officers. (§ 12)			
NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with Consent Decree.	45 days before training is implemented		The status for training requirements for each Consent Decree area (e.g., use of force, bias-free policing), are located in those sections of this Chart.
NPD will implement any necessary updates to its data storage system to retain training records as set forth in the protocol.	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will provide the necessary data to allow the Monitoring Team to conduct a baseline assessment of NPD's training records.	March 31, 2018	Non-Compliance	See Fifth Quarterly Report, Section IV(C).

V. PROPERTY AND EVIDENCE MANAGEMENT

Achievement	Deadline for Achievement	Status	Discussion
Transfer of NPD officers: To the extent permitted by law and NPD's collective bargaining agreements, NPD officers identified as having a sustained complaint of theft, or two not sustained or unfounded complaints of theft occurring within one year, will be moved out of positions where those officers have access to money, property, and evidence. (§ 108)			
City legal department to review legal requirements and collective bargaining agreements regarding transfer of NPD officers consistent with § 108 of the Consent Decree.	Ongoing	Initial Development	See First Quarterly Report, Section V(C)(6).

VI. INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION

Achievement	Deadline for Achievement	Status	Discussion
Transparent Complaint Process: NPD will revise its policies to prohibit practices that discourage complainants and witnesses from coming forward, including the requirements set forth in ¶ 115.			
NPD will review and revise its policies for releasing complaints and misconduct allegations to make such complaints and allegations publicly available and ensure compliance with the Consent Decree.	March 31, 2018	Initial Development	See Fifth Quarterly Report, Section III(A)(5).
NPD will provide drafts of new or revised training plans or training curricula the Monitor and DOJ for review and approval prior to implementation. (¶ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the Internal Affairs: Complaint Intake and Investigation policy or procedure and that the topic is incorporated into the in-service training required.	Within 60 days after approval of policy (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will take appropriate disciplinary actions against officers/employees who refuse to accept or discourage the filing of misconduct complaints, fail to report misconduct or complaints, or provide false or misleading information about filing a misconduct complaint, as set forth in ¶¶ 117-118.	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD and City, in collaboration with the civilian oversight entity or other community input, will develop and implement a program to publicize to the Newark Community how to make police misconduct complaints. (¶ 112)			
NPD will accept all complaints, by all methods and forms detailed in ¶ 114.	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will provide civilians, including complainants and witnesses to	Ongoing	Initial	See Fifth Quarterly Report,

INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION Continued

Achievement	Deadline for Achievement	Status	Discussion
alleged police misconduct, with full access to NPD's complaint process. (§ 115)		Development	Section III(C)(4).
NPD Misconduct Reporting and Investigation Process: NPD will require that all officers and employees report allegations of criminal behavior or administrative misconduct by another NPD officer toward a member of the public, that they may observe themselves or receive from another source, to a supervisor or directly to OPS for review and investigation. When a supervisor receives such allegations, the supervisor will promptly document and report this information to OPS. (§ 119)			
NPD will investigate as a misconduct complaint any information or testimony arising in criminal prosecutions or civil lawsuits that indicate potential officer misconduct not previously investigated by NPD. (§ 120)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
Complaint Classification Protocol: NPD will adopt a complaint classification protocol that is based on the nature of the alleged misconduct, in order to guide OPS in determining where a complaint should be assigned for investigation. (§ 121)			
NPD will implement complaint classification protocol to ensure compliance with the Consent Decree.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(5).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the protocol or procedure and that the topic is incorporated into the in-service training required.	Within 60 days after approval of protocol (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of protocol (No later than May 30, 2018)	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD's OPS will investigate all allegations of Serious Misconduct as defined in the Consent Decree. (§§ 122)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.

INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION Continued

Achievement	Deadline for Achievement	Status	Discussion
NPD's OPS will routinely monitor investigations referred to officers' precincts and specialized units for quality, objectivity and thoroughness, and take appropriate action if investigations are deficient. OPS will also identify trends in investigative or leadership deficiencies. (¶ 124)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will use a case management system to ensure appropriate caseloads for OPS investigators and timely completion of investigations. (¶ 146)			
NPD will use a case management system to track and maintain appropriate caseloads for OPS investigators and promote the timely completion of investigations by OPS. (¶ 146)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
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. (¶¶ 147-148)			
NPD will review and revise its current OPS policy to require training of OPS investigators.	March 31, 2018	Non-Compliance	See Third Quarterly Report, Section II(F)(1), (2).

VII. IN-CAR CAMERAS AND BODY-WORN CAMERAS

Achievement	Deadline for Achievement	Status	Discussion
In consultation with the DOJ and Monitor, NPD will develop a policy regarding footage and audio recordings from its in-car and body-worn cameras. (§ 104)			
NPD will review and revise its current policy or policies to ensure compliance with the Consent Decree.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(7).
NPD will create a training curriculum for (1) NPD personnel who are responsible for storing body and car camera footage and audio on, and (2) officers on the revised policy, upon the Monitor and DOJ's approval of the policy. (§ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Preliminary Compliance	See Fifth Quarterly Report, Section III(B)(4).
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policy (No later than May 30, 2018)	Preliminary Compliance	See Fifth Quarterly Report, Section III(B)(4).
NPD will develop a policy to designate which cars and officers will not be equipped with cameras or will be equipped with concealed cameras. (§ 103)			
NPD will review and revise its current policy or policies to ensure compliance with the Consent Decree.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(7).
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of the policy (No later than May 30, 2018)	Preliminary Compliance	See Fifth Quarterly Report, Section III(B)(4).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the Body-Worn Cameras and In-Car Cameras policies and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of the policy (No later than May 30, 2018)	Preliminary Compliance	See Fifth Quarterly Report, Section III(B)(4).

IN-CAR CAMERAS AND BODY-WORN CAMERAS Continued

Achievement	Deadline for Achievement	Status	Discussion
NPD will begin the work required to equip all marked patrol cars with video cameras and require all officers, except those set forth in ¶¶ 103-104, to wear body cameras and microphones with which to record enforcement activity. (¶ 103)			
NPD will conduct pilot program on body-worn cameras and develop recommendations for possible device implementation based on the results of the pilot.	Ongoing	Initial Development	See Fifth Quarterly Report, Section III(A)(7).

Appendix C

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF NEWARK,

Defendant.

CIVIL NO: 16-1731 (MCA)(MAH)

STIPULATED ORDER TO AMEND CONSENT DECREE

The Parties have stipulated to the following amendments to the Consent Decree in this case, and the Court, having fully considered the stipulation and proposed amendments hereby amend the Consent Decree in the following manner (additions in bold and deletions in double strikethrough):

Paragraph 4(c)

The provision in Paragraph 4(c) currently defines “aggressive resistance” as follows:

“Aggressive Resistance” means the intent to harm an officer, the subject, or another person, and to prevent an officer from taking control and placing a subject in custody. The aggression may manifest itself through a subject’s taking a fighting stance, or punching, kicking, striking, attacks with weapons, or other actions that present an imminent threat of physical harm to the officer or another person

The amended provision shall read as follows:

“Aggressive Resistance” means the intent to harm an officer, the subject, or another person, and to prevent an officer from taking control ~~and placing a subject in custody~~ **while achieving a lawful objective**. The aggression may manifest itself through a subject’s taking a fighting stance, or punching, kicking, striking,

attacks with weapons, or other actions that present an imminent threat of physical harm to the officer or another person.

Paragraph 4(m)

The provision in Paragraph 4(m) currently defines “deadly force” as follows:

“Deadly Force” means any use of force likely to cause death or serious injury, including the use of a firearm, neck hold, or strike to the head, neck, or throat with a hard object, including a fist.

The amended provision shall read as follows:

“Deadly Force” means any use of force likely to cause death or serious injury, including the use of a firearm, neck hold, or strike to the head, neck, or throat with a hard object. ~~including a fist.~~

Paragraph 4(x)

The provision in Paragraph 4(x) currently defines “Intermediate Force” or “Intermediate Use of Force” as follows:

“Intermediate Force” or “Intermediate Use of Force” includes the use of chemical spray; use of an impact weapon to strike a person but where no contact is made; use of a baton for non-striking purposes (e.g., prying limbs, moving or controlling a person); or weaponless defense techniques (e.g., elbow strikes, kicks, leg sweeps, and takedowns).

The amended provision shall read as follows:

“Intermediate Force” or “Intermediate Use of Force” includes the use of chemical spray; use of an impact weapon to strike a person but where no contact is made; use of a baton for non-striking purposes (e.g., prying limbs, moving or controlling a person); **fist strikes not likely to cause death or serious injury**; or weaponless defense techniques (e.g., elbow strikes, kicks, leg sweeps, and takedowns).

Paragraph 4(xx)

The provision in Paragraph 4(xx) currently defines “Training” as follows:

“Training” means traditional lecture formats, as well as methods incorporating role-playing scenarios and interactive exercises that instruct officers about how to exercise their discretion. Training also includes testing, writings, or other measures that assess whether officers comprehend the material taught.

The amended provision shall read as follows:

“Training” means traditional lecture formats, **roll-call training, distance training, and field training** as well as methods incorporating role-playing scenarios and interactive exercises that instruct officers about how to exercise their discretion. Training also includes testing, writings, or other measures that assess whether officers comprehend the material taught.

Paragraph 27(a)

The provision in Paragraph 27(a) that currently reads as follows:

NPD will prohibit NPD officers from:

- a. Conducting ‘pretext’ vehicle stops or detentions without prior approval of a supervisor.”

The amended provision shall read as follows:

NPD will prohibit NPD officers from:

- a. Conducting ‘pretext’ vehicle stops or detentions without prior approval of a supervisor, **unless it is not reasonably practical to obtain such prior approval. If officers cannot obtain supervisory approval prior to a “pretext” vehicle stop, they will obtain such approval as soon as possible after conducting the stop and will document why it was not practical to obtain prior approval.**

Paragraph 31

The provision in Paragraph 31 that currently reads as follows:

NPD will prohibit officers from seeking consent to search a motor vehicle unless the officer has a reasonable and articulable suspicion that the search will reveal evidence of a crime, or the officer has legal authority for the search that is independent of consent. Officers will document in writing the basis for this suspicion or other legal authority.

The amended provision shall read as follows:

NPD will prohibit officers from seeking consent to search a motor vehicle unless the officer has a reasonable and articulable suspicion that the search will reveal evidence of a crime, ~~or the officer has legal authority for the search that is independent of consent.~~ Officers will document in writing the basis for this suspicion or other legal authority.

Paragraph 32

The provision of Paragraph 32 that currently reads as follows:

NPD will require that officers obtain the approval of a supervisor on the scene prior to conducting a search of an individual or a home based upon consent.

The amended provision shall read as follows:

NPD will require that officers obtain the approval of a supervisor ~~on the scene~~ prior to conducting a search of an individual or a home based upon consent.

Paragraph 44

The provision in Paragraph 44 that currently reads as follows:

NPD's first-line supervisors will review all documentation, including video from body- worn cameras as appropriate, of investigatory stops and detentions, searches, and arrests for completeness and adherence to law and NPD policy.

The amended provision shall read as follows:

NPD will ensure supervisors review investigatory stops and detentions, searches, and arrests for completeness and adherence to law and NPD policy. NPD's supervisors will:

- a. Review all written documentation;**
- b. Review relevant video recordings for all incidents in which the supervisor suspects, for any reason, that an officer's conduct may not have complied with law or NPD policy; and**
- c. On an ongoing basis, review a random selection of video recordings of stops and detentions, searches, and arrests amounting to at least 10 percent of all stops and detentions, searches, and arrests."**

Paragraph 62

The provision in Paragraph 62 that currently reads as follows:

NPD will prohibit officers from destroying, seizing, or otherwise coercing a bystander to surrender recorded sounds or images made of officers in the course of their duties, without first obtaining a warrant. Nor may officers order a bystander to destroy any such recording. Where an officer has a reasonable belief that a bystander or witness has captured a recording of critical evidence related to a felony crime, the officer may secure such evidence only as long as necessary to obtain a subpoena, search warrant, or other valid legal process or court order.

The amended provision shall read as follows:

NPD will prohibit officers from destroying, seizing, or otherwise coercing a bystander to surrender recorded sounds or images made of officers in the course of their duties, without first obtaining a warrant. Nor may officers order a

bystander to destroy any such recording. Where an officer has a reasonable belief that a bystander or witness has captured a recording of critical evidence related to a ~~felony~~ **serious** crime, the officer may secure such evidence only **(1) in exigent circumstances where it is reasonable to believe that the recording will be destroyed, lost, tampered with or otherwise rendered useless as evidence before a warrant can be obtained, and (2) only for** as long as necessary to obtain a subpoena, search warrant, or other valid legal process or court order as long as necessary to obtain a subpoena, search warrant, or other valid legal process or court order.

Paragraph 67(g)

The provision in Paragraph 67(g) that currently reads as follows:

NPD will explicitly prohibit using force against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to an officer or another person or persons, or, as objectively reasonable, where physical removal is necessary to overcome passive resistance;

The amended provision shall read as follows:

NPD policy will explicitly prohibit the gratuitous use of using force against restrained individuals. The use of force against a restrained individual is presumptively unreasonable. An officer may overcome the presumption by showing that the force used was necessary to protect the safety of the subject or another individual. ~~persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to an officer or another person or persons, or, as objectively reasonable, where physical removal is necessary to overcome passive resistance;~~

Paragraph 71

The provision in Paragraph 71 that currently reads as follows:

NPD will prohibit officers from possessing or using unauthorized firearms or ammunition. In addition, all authorized firearms carried by officers will be loaded with the capacity number of rounds of authorized ammunition.

The amended provision shall read as follows:

NPD will prohibit officers from possessing or using unauthorized firearms or ammunition **in connection with or while performing policing duties.** In addition, all authorized firearms carried by officers will be loaded with the capacity number of rounds of authorized ammunition.

IT IS HEREBY ORDERED.

1/31/18



HONORABLE MADELINE COX ARLEO
United States District Court

Appendix D



Newark Police Division

Consent Decree & Planning Unit Community Policing Policy Input Collection Form

Date: _____

Location: _____

1. What does the term “community policing” mean to you? Based on this definition, how do you think the Newark Police could best practice community policing?

2. How can Newark Police have better community partnerships/relationships?

3. What has been your most positive experience with a member of the Newark Police? What made it positive?

4. What has been your most challenging experience with a member of the Newark Police? What made it challenging?

5. What are the biggest crime-related or quality of life issues in your neighborhood? What do you think the Newark Police could do to better address these issues?



Newark Police Division

Consent Decree & Planning Unit Community Policing Policy Input Collection Form

6. What is your preferred method of receiving communication from the Newark Police?

7. To what extent does your law enforcement agency work together with community members to solve local problems? Why do you think this is?

8. Do you think that improvements can be made in how the Newark Police communicate with the public? If so, what?

9. Do you think it is easy or difficult to provide input to the Newark Police (e.g. comments, suggestions, and concerns)? If you find it difficult, what would you change?

10. If there was one thing you would want to see in a Newark Police community policing policy, what would it be?
