

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 1:15-CV-01046
	)	
Plaintiff,	)	
vs.	)	JUDGE SOLOMON OLIVER, JR.
	)	
CITY OF CLEVELAND,	)	
	)	<b><u>CITY OF CLEVELAND’S</u></b>
Defendant.	)	<b><u>INITIAL STATUS REPORT</u></b>

**I. Introduction**

Section 387 of the Settlement Agreement entered into in this matter by the City of Cleveland (“City”) and the United States of America provides:

Within 180 days of the Effective Date, the City will file with the Court, with a copy to the Monitor and DOJ, a status Report. This report will delineate the steps taken by CDP [Cleveland Division of Police] during the reporting period to comply with this Agreement; CDP’s Assessment of the Status of its progress; plans to correct any problems; and response to concerns raised in the Monitor’s previous semi-annual report. Following this initial status report, the City will file a status report every six months thereafter while this Agreement is in effect.

The “Effective Date” is defined at Section 426 of the Settlement Agreement to mean “the day this Agreement is approved and entered as an order of the Court.” This Court entered an Order approving the Agreement as a Consent Decree on June 12, 2015.

The City provides its Initial Status Report to the Court pursuant to Section 387 to report on the activities undertaken by the CDP and the City to date to comply with the requirements of the Consent Decree. The following discussion identifies milestone events that have been accomplished within the initial six month period following the June

12, 2015 “Effective Date” established with the Consent Decree, and further identifies significant steps that have been undertaken toward meeting other agreed upon goals.

**II. Steps Taken by the CDP and the City of Cleveland During the Reporting Period to Comply With the Consent Decree.**

**A. Appointment of the Monitor**

Pursuant to Section 353 of the Consent Decree, the City and the Department of Justice (“DOJ”) were to select a Monitor subject to the approval of the Court. The Monitor is to assess and report on implementation of the Settlement Agreement. The Court entered an Order on October 1, 2015 approving the selection of the Police Assessment Resource Center (“PARC”) as the Monitor. As noted in the Court’s order approving PARC, “[t]he process included an in-depth review of all final applications, lengthy in-person interviews of a number of teams, multiple follow-up interviews with some of those teams, interviews by the court of the principals of each of the finalist, and consultation by the court with the Parties prior to their final selections.”

The leader of the PARC Monitor team is Matthew Barge. The City and the Monitor team have been actively engaged and working on a variety of issues that are addressed in the Consent Decree in the approximate two month period following the team’s October appointment. Pursuant to Section 357 of the Consent Decree the City has provided the Monitor team with office space and office support at the Justice Center.

Section 356 of the Consent Decree establishes that the “City will bear all reasonable fees and costs of the Monitor.” The Court issued an Order on November 25, 2015 that addresses the process to be used in this matter for review and payment of the Monitor’s monthly expense statements. Payments will be made through the Clerk of

Court. The City's first monthly payment through the Court for the Monitor's October expenses was accomplished on December 7, 2015.

**B. Appointment of the Community Police Commission**

Section 15 of the Consent Decree established that a Community Police Commission ("CPC") was to be established within 90 days of the above referenced Effective Date. In conformance with Section 16, a Selection Panel representing diverse community interests was established for the purpose of receiving and reviewing applications and then recommending ten individuals who reside or work in the City for appointment to the newly created CPC. The ten individuals recommended by the Selection Panel along with three individuals representing the police unions were appointed to the CPC in conformance with the Consent Decree on September 8.

The Commission has held public meetings across the City as required by Section 17 and currently has scheduled meetings for the second and fourth Wednesdays of each month. The Commission's three co-chairs are Dean Craig Boise, Mario Clopton, and Dr. Rhonda Williams. Pursuant to Section 16, the City's Community Relations Board has provided a staff person to attend Commission meetings and to assist the Commission administratively in this early transition period.

Section 22 of the Consent Decree requires that the annual operating budget for the Community Police Commission "be visible as a separate line item in the budget proposal submitted annually pursuant to the Charter to the Cleveland City Council with the appropriations ordinance." Cleveland's Charter requires the Mayor to submit to City Council no later than February 1, 2016 an estimate of the expense of conducting the affairs of the City for the 2016 fiscal year. Pursuant to the requirement in Section 22 of

the Consent Decree the budget estimate for the Commission is being prepared and will be included and identified as a separate line item in the Mayor's 2016 submission to City Council.

**C. District Policing Committees**

Section 23 of the Consent Decree requires that the City's Community Relations Board, the CPC, and the CDP work jointly with the newly designated "District Policing Committees." The District Policing Committees referenced in the Consent Decree were previously known as "District Community Relations Committees" and each had worked with the City's Community Relations Board ("CRB") since 1974. The CRB has worked with members of the existing committees to assist them in understanding the changes addressed in the Consent Decree. The Consent Decree envisions both an expanded membership representing a cross-section of the community and a more visible role working with the CDP to identify strategies to address appropriate crime and safety issues in each district. At least one CDP officer will be assigned to each Committee. The CRB staff has met with members of the Monitor's Community Engagement team to discuss the CRB's existing structures within the community and the Board's role in assisting with community engagement strategies and the further development of the District Policing Committees.

The CRB has undertaken a series of community meetings/briefings and presentations to assist the community to better understand the Consent Decree and the community engagement components it contains. In this regard:

- The CRB, in partnership with Cleveland Neighborhood Progress (CNP), convened a meeting of street/block club leaders and community organizers and safety

coordinators on Saturday, November 14, 2015. The purpose of the meeting was to help train and educate community stakeholders on the Consent Decree and the need for broad participation in the District Policing Committees. More than 300 citizens participated in this training, with Mayor Jackson, Chief of Police Williams, City Law Director Langhenry and Community Relations Board Director Griffin discussing the need for the community to be involved with the Committees to ensure the success of the Consent Decree. Deputy Chief of Operations Drummond and all of the District Commanders discussed ways for the community to help the CDP develop safety plans for their respective police districts. Three members of the Cleveland Police Commission also participated.

- On November 17 Mayor Jackson and Director Griffin conducted a meeting with more than 45 street outreach workers, who reach out to gangs, at-risk youth and young adults, marginalized communities and restored citizens (formerly incarcerated individuals and individuals reentering our community) to encourage these individuals to actively participate in the District Policing Committees.

- The City has also separately met with other diverse groups to discuss implementation of the Consent Decree and the District Policing Committees, including the Hispanic Advisory Council, clergy and faith based coalition leaders, and local business owners such as barbershop and beauty salon owners.

**D. Office of Professional Standards/Police Review Board**

**1. Office of Professional Standards**

The City's existing Office of Professional Standards ("OPS") has completed a

variety of requirements that are found within sections 193 to 228 of the Consent Decree. As recognized in the Consent Decree, OPS is tasked with investigating all civilian complaints it receives against CDP officers, excluding criminal conduct. OPS has accomplished the following tasks since the Effective Date: (1) established a centralized electronic numbering and tracking system for all complaints, (2) developed a revised operations manual, (3) established a criteria for assigning complaints to either a standard or complex investigation track, (4) ensured that its complaint forms do not contain language that could be reasonably construed as discouraging the filing of a complaint, and (5) developed complaint forms and related informational materials in English and Spanish.

**2. Police Review Board (“PRB”)**

Section 230 of the Consent Decree provides that “in consultation with the Commission, the Mayor will work with the City Council to develop an ordinance to place a Charter Amendment on the ballot that would ensure that members of the PRB are appointed in a transparent manner, are representative of the diverse communities within Cleveland, and allow the chair and vice chair of PRB, to each serve for a term of one year, to be selected among the members by majority vote of PRB’s membership.” City officials have solicited recommendations from the CPC. The CPC is working on recommendations. An ordinance to place the proposed Charter Amendment on the ballot was introduced in City Council on December 7, 2015. Public hearings on the ordinance are a part of the legislative process.

**E. Cleveland Division of Police (“CDP”)**

**1. Crisis Intervention**

Section 131 of the Consent Decree recognizes the City will build and improve its existing Crisis Intervention Program with the goals of (a) assisting individuals in crisis, (b) improving the safety of officers, family members, and other community members, (c) providing a foundation for promoting community and statewide solutions to assist individuals with mental illness, and (d) reducing the need for individuals with mental illness to have further involvement with the criminal justice system.

Section 132 of the Consent Decree requires that CDP and the City ensure that a Mental Health Response Advisory Committee (“Committee”) be established within 180 days of the Effective Date to “foster relationships and build support between the police, the community, and mental health providers and to help identify problems and develop solutions designed to improve outcomes for individuals in crisis.” The City announced the establishment of the Committee on September 23, 2015 pursuant to a memorandum of understanding entered into between the City and the Cuyahoga County’s Alcohol, Drug Addiction, and Mental Health Services Board (“ADAMHS Board”).

Section 137 of the Consent Decree requires that CDP “designate an officer, at the rank of captain or above, to act as a Crisis Intervention Coordinator to better facilitate communication between CDP and members of the mental health community and to increase the effectiveness of CDP’s Crisis Intervention Program.” Captain James Purcell has been designated as CDP’s Crisis Intervention Coordinator. As noted in Section 137 the Coordinator is “responsible for coordinating implementation of the changes and recommendations made by the Advisory Committee, as appropriate.”

Section 143 of the Consent Decree requires that all new recruits receive at least 16 hours of crisis intervention training while in the Academy. The new recruits in the CDP

cadet class that graduated on October 16, 2015 exceeded this standard and received 40 hours of crisis intervention training from the ADAMHS Board before graduating.

**2. CDP Recruitment and Hiring**

Section 300 of the Consent Decree states, “To maintain high-level, quality service, ensure officer safety and accountability, and promote constitutional, effective policing, CDP will review and revise as necessary its recruitment and hiring program to ensure that CDP successfully attracts and hires a diverse group of qualified individuals.”

**a. Charter Amendment**

Section 301 requires that the “Mayor will work with the City Council to develop an ordinance to place a Charter Amendment on the ballot to give the appointing authority greater flexibility in the selection of candidates from the certified eligibility list for the CDP.” The required Charter Amendment ordinance was developed with City Council and the Amendment allows the City greater flexibility in the selection of qualified individuals from a certified eligibility list by allowing selection from the top ten (10) eligible candidates, instead of selecting from the top three (3) eligible candidates as before. The Charter Amendment was placed on the November 3, 2015 ballot and was approved by the City’s voters. The Charter Amendment became effective on that date.

**b. Recruitment Policy and Plan**

Section 302 of the Consent Decree requires the development of a recruitment policy and strategic recruitment plan that includes “clear goals, objectives, and actions steps for attracting qualified applicants from a broad cross-section of the community.” The City is developing a recruitment policy and plan for the Department of Safety that addresses the goal of successfully attracting a diverse group of qualified applicants for



CDP within an action plan that also addresses the recruitment of qualified applicants for Fire and EMS from a broad cross-section of the community. The recruitment plan will be provided to the Monitor and DOJ for review as required by Section 302. The City has reached out to the CPC and other community stakeholders seeking their input concerning “strategies to attract a diverse pool of applicants” as set out at section 305. The Consent Decree further provides at Section 305 that the City is to “implement the recruitment plan within 60 days of its being approved by the Monitor.”

### **3. CDP Consent Decree Implementation Unit**

Section 385 of the Consent Decree requires that the City and CDP establish a unit to facilitate compliance with the Settlement Agreement. This unit has been established under the leadership of Commander Brian Heffernan and it is to coordinate “compliance and implementation activities, facilitate the provision of data, documents, materials, and access to the City’s and CDP’s personnel to the Monitor and DOJ, as needed; ensure that all data documents and records are maintained as provided in the Agreement, and assist in assigning implementation and compliance related tasks to CDP personnel, as directed by the Chief or the Chief’s designee.” The implementation unit is fulfilling the role assigned by the Consent Decree and facilitates ongoing communications, meetings, and the exchange of information with the Monitor team members.

Section 292 of the Consent Decree requires the CDP to complete a comprehensive equipment and resource study to assess its current needs and priorities to perform the functions necessary for CDP to fulfill its mission and satisfy the requirements of the Consent Decree. Section 319 of the Consent Decree requires the CDP to complete a comprehensive staffing study to assess the appropriate number of sworn and civilian

personnel to perform the functions necessary for CDP to fulfill its mission and meet the requirements of the Consent Decree. Both the equipment/resource and staffing studies are to be completed within 365 days of the Effective Date —June 11, 2016. CDP has initiated work on both studies.

#### **4. CDP Data Collection and Analysis**

Section 257 of the Consent Decree provides that “CDP will collect and maintain all data and records necessary to accurately evaluate its use of force practices and search and seizure practices and facilitate transparency and, as permitted by law, broad public access to information related to CDP’s decision making and activities. To achieve this outcome, CDP will designate an individual or individuals as the ‘Data Collection and Analysis Coordinator’.” Section 263 establishes that within 365 days of the Effective Date — June 11, 2016, the Data Collection and Analysis Coordinator will have developed a protocol that will allow for accurate analysis of the collected data and the various data assessments required in the Consent Decree. CDP has established the minimum qualifications and special requirements for filling the Coordinator position and is presently working with the City’s Information Technology Services staff to implement an expanded, reliable, and accurate electronic system to collect and track the increased data collection requirements established in the Consent Decree.

#### **5. CDP Police Inspector General**

Section 250 of the Consent Decree requires the City to “hire an individual or individuals with significant experience in law enforcement practices and civil rights law to serve as Police Inspector General.” The City is presently developing the minimum qualifications and experience necessary to fill the Inspector General position. As required

in Section 250, the City has asked for the Commission's input on the minimum qualifications and experience for the position. The Mayor is to appoint the Inspector General with the position being in the classified service. The Inspector General will work in the Office of the Mayor and will report to the Chief of CDP. The Inspector General's authorized duties are set out at Section 253 and include: review of CDP policies and procedures, the audit of compliance with policies and procedures, conducting investigations, analyzing trends, developing specific recommendations for reform, analyzing investigations conducted by OPS, analyzing findings and discipline imposed, and making reports and recommendations for reform publicly available. Section 255 requires that the annual budget for the Inspector General "be visible as a separate line item in the budget proposal submitted annually pursuant to the Charter to the Cleveland City Council with the appropriations ordinance." The budget estimate for the Inspector General is being prepared and will be included and identified as a separate line item in the Mayor's 2016 submission to City Council.

**6. Internal Affairs**

Section 178 of the Consent Decree establishes that CDP's Internal Affairs unit "will be headed by a qualified civilian who is not a current or former employee of CDP, and who is not a current or retired law enforcement officer. The civilian head of Internal Affairs will report directly to the Chief of Police." The City has finalized the job description and minimum qualifications and experience necessary for filling the Internal Affairs position.

**7. Training and Policies**

Section 278 of the Consent Decree establishes, "Unless otherwise noted, the

training required under this Agreement, including training on all policies revised or developed pursuant to this Agreement, will be delivered within two years of the Effective Date—June 12, 2017. CDP is presently engaged in ensuring that all training requirements outlined in the Consent Decree are accomplished within the time frames established.

Section 270 of the Consent Decree requires expanded membership of its Training Review Committee (“TRC”) to include “Training Section Staff members, the District training coordinators, union representatives, and members of the Commission.” CDP is in the process of identifying the required expanded membership and has reached out to CPC for identification of who on the Commission will serve on the TRC.

Section 342 of the Consent Decree provides that within 365 days of the Effective Date—June 11, 2016, “[a]s needed, CDP will develop, revise, and implement policies and procedures to fully incorporate the terms of this Agreement and comply with applicable law. CDP will ensure that its policies and procedures are plainly written, logically organized, and use terms that are clearly defined.” CDP has begun work on reviewing and revising, as necessary, its policies and General Police Orders. Section 344 requires that policies related to bias-free policing, use of force, search and seizure, and data collection and retention are to be provided to the CPC for review and comment prior to submission to the Monitor and DOJ.

The Consent decree at Section 17 envisioned that CPC would “complete an assessment of CDP’s bias-free policing policies, practices, and training and make recommendations” within 90 days of appointment. At the request of the CPC, the City and DOJ filed a joint motion (Dkt # 30) requesting that the Commission’s time for

completing the assessment of CDP's bias-free policing policies, practices, and training be extended for three (3) months to March 7, 2016. This Court issued an Order (Dkt # 33) approving the requested extension on December 8, 2015. Pursuant to Sections 38 and 39 of the Consent Decree, CDP is required to develop bias-free policing policies and training within 18 months of the Effective Date —December 12, 2016. Section 39 further requires that the Monitor is to then review the developed bias-free training to assess whether it is “adequate in quality, quantity, scope, and type.”

In August the CDP entered into a Memorandum of Understanding (“MOU”) with Ohio Department of Public Safety and the Ohio State Highway Patrol (OSHP). Pursuant to the MOU, the OHSP is to provide, at no cost to the City, the Basic Police Officer Certification Course training to the CPD's 136<sup>th</sup> recruit class beginning on December 9, 2015 at the OSHP Academy in Columbus. The MOU recognizes the commitment of the OHSP to providing the most advanced training possible for law enforcement across the State of Ohio.

The training has been delayed as the result of an ex-parte temporary restraining order (“TRO”) that was entered by the Court of Common Pleas for Cuyahoga County, Case No. CV-15-855190, at the request of the Cleveland Police Patrolman's Association (“CPPA”) on December 4. The TRO remains in effect at the time of this filing and is being contested, with a hearing being set for December 9, 2015 at 1:00 PM on the City's motion to dissolve the TRO.

#### **8. CDP E-Mail System**

Section 297 of the Consent Decree requires that “[w]ithin 180 days of the Effective Date, CDP will utilize a department-wide e-mail system to improve

communication and information sharing among all department personnel, including command staff, supervisors, and patrol officers.” CDP has timely established the department-wide e-mail system required in the Consent Decree.

**III. CDP’s Assessment of the Status of its Progress**

The CDP continues its ongoing goals of serving and protecting the public, while continuing its timely efforts to adopt the reforms addressed in the Consent Decree. In addition to the progress addressed above, the CDP has established a professional and ongoing working arrangement with the Monitor team. The CDP has effectively communicated and interacted with the newly formed Community Police Commission on a number of issues. The CDP continues to work actively to meet and exceed the many goals that have been established in the Consent Decree.

**IV. CDP’s Plans to Correct Any Problems**

The City is presently addressing the TRO entered by the Court of Common Pleas that has delayed the start of training of the CDP’s most recent recruit class by the OSHP. The State’s training of the new recruit class would assist in the CDP’s effective use of the Academy training officers in meeting the training and planning requirements contained in the Consent Decree, while also assisting in meeting training requirements associated with the City’s hosting of the Republican National Convention in 2016.

CDP otherwise remain focused on effectively addressing and completing the agreed upon requirements in the Consent Decree. The CDP will continue its ongoing cooperation and professional interactions with the newly appointed Monitor team and with members of the Community Police Commission as it proceeds with agreed upon reforms.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the City of Cleveland's Initial Status Report was filed electronically on December 9, 2015. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. Pursuant to the requirements of the Consent Decree the Monitor Team has been delivered a copy of this filing.

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