

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

## CONSENT DECREE

### Independent Monitor - Nineteenth Quarterly Report

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Independent Monitor  
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NINETEENTH QUARTERLY REPORT  
(July 1, 2021 to September 30, 2021)

**I. EXECUTIVE SUMMARY OF NINETEENTH QUARTER'S ACTIVITIES  
(JULY 1, 2021 – SEPTEMBER 30, 2021)<sup>1</sup>**

This is the Nineteenth Quarterly Report from Monitor Peter C. Harvey regarding the reforms that both the City of Newark (the “City”) and Newark Police Division (“NPD”) agreed to implement as set forth in the Consent Decree. This Quarterly Report covers the period from July 1, 2021 to September 30, 2021.

In this Quarterly Report, the Monitoring Team discusses the results of the Monitoring Team’s *first* Stop audit. This Report also provides an update on the Monitoring Team’s upcoming audits, including:

1. *second* body-worn camera audit;
2. *first* in-car camera audit;
3. *first* property audit; and
4. *third* training records audit.

This Report also discusses the status of NPD’s Data Systems.

**Appendix A** is the Monitoring Team’s Compliance Chart, which shows NPD’s progress with all Consent Decree tasks through the publication of this Quarterly Report.

**Appendix B** provides the status of the Monitoring Team’s audits of the City’s and NPD’s compliance with Consent Decree requirements.

**Appendix C** is the Monitoring Team’s *First Stop Audit Report*, which provides the results of the Monitor’s first audit of NPD’s investigatory stops and detentions practices.

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<sup>1</sup> Unless otherwise stated, the City’s and NPD’s progress with respect to Consent Decree tasks, as described in this Quarterly Report, reflects developments as of September 30, 2021.

## **II. DETAILED STATUS UPDATES**

### **A. First Stop Audit**

The Monitoring Team has completed its *first* audit of NPD's compliance with certain provisions of the Consent Decree relating to investigatory stops and detentions ("Stops"). The audit covered the period from October 1, 2019, to December 31, 2019. It assessed NPD's compliance with Consent Decree requirements relating to NPD's practices with respect to how it conducts Stops of both pedestrians and persons traveling in motor vehicles. (*See* Consent Decree Paragraphs 25-28; 43; 51-54).

The audit was conducted by the following members of the Independent Monitoring Team:

- Robert Haas (Ret.), Commissioner, Cambridge Police Department;
- Lieut. Daniel Gomez (Ret.) of the Los Angeles Police Department;
- Linda Tartaglia, Director of the Rutgers University Center on Policing;
- Rosalyn Parks, Ph.D., Rutgers University Center on Policing; and
- Jonathan Norrell, Rutgers University Center on Policing.

On January 17, 2020, the Monitoring Team notified NPD about its intent to conduct the first Stops audit. On March 20, 2020, in response to growing public health concerns related to the COVID-19 pandemic, NPD's then-Public Safety Director requested that the Monitoring Team discontinue in-person Monitorship activities. Subsequently, the Monitoring Team requested that NPD make copies of the relevant police records and video footage available to the Monitoring Team on a remote basis, using secure file sharing technology. The Monitoring Team and NPD engaged in extensive discussions regarding the provision of this data. It took several attempts before NPD was able to provide the Monitoring Team with the data in a usable



format. In January 2021, NPD provided such remote access. The Monitoring Team completed its review of the relevant materials on July 30, 2021.

For this audit, the Monitoring Team analyzed whether (1) NPD's Stop policy and related First Amendment policy contained the Consent Decree-required provisions; (2) NPD demonstrated routine adherence to its own Stop policies in its day-to-day operations on Newark's streets, described in the audit as "Operational Compliance;" (3) NPD was able to produce police data concerning its Stops that would be sufficient for the Monitoring Team to establish a baseline for the quantitative analysis required by Consent Decree Paragraph 174(a), known as an "outcome assessment;" and (4) NPD has complied with additional Stop-related requirements involving training and data collection and review.

With respect to the first component of the audit, namely, NPD's Stop policy and First Amendment policy, the Monitoring Team previously approved NPD's General Order 18-14, *Consensual Citizen Contacts and Investigatory Stops* and General Order 18-12, *First Amendment Right to Observe, Object to, and Record Police Activity*. The Monitoring Team determined that those General Orders incorporate each of the relevant Consent Decree policy requirements related to Stops and First Amendment activities.

The second component—whether NPD has demonstrated routine adherence to its own Stop policies in its day-to-day operations—was further separately categorized by an assessment of NPD's (a) *substantive compliance* (meaning whether all officers involved in a Stop acted consistently with the NPD's Stop policies) and (b) *documentation compliance* (meaning whether all officers involved in a Stop incident complied with the documentation and reporting requirements found in the NPD policy).

In assessing NPD's substantive compliance, the Monitoring Team considered whether all officers conducting a Stop established the requisite reasonable articulable suspicion prior to initiating the Stop, and whether the officers' actions were within the scope of a lawful citizen investigation. If any Stop was deficient, either substantively or with respect to documentation, that Stop was deemed "Non-Compliant."

Overall, the Monitoring Team found that NPD achieved operational compliance in 71.57% of Stops, well below the 95% threshold for passing the audit.

**Table 1: Summary of Overall Compliance**

Events Reviewed	Overall Compliant	Score
197	141	71.57%

Despite its overall compliance score, NPD achieved a commendable rate of *substantive compliance*. NPD officers' Stops were consistent with its Stop policy, federal and New Jersey law 92.89% of the time, just shy of the 95% threshold for compliance. That is, of the 197 Stops reviewed by the Monitoring Team, 183 were substantively compliant and fourteen (14) were not. The most common reason for noncompliance was a lack of reasonable articulable suspicion, including instances where no reasonable articulable suspicion could be surmised due to missing Stop Reports and relevant body-worn camera video.

**Table 2: Summary of Substantive Compliance**

Events Reviewed	Substantively Compliant	Score
197	183	92.89%

While NPD's compliance with the substantive provisions of its Stop policy was commendable, NPD's documentation compliance was significantly lower. NPD officers complied with Stop reporting requirements in only 78.68% of incidents reviewed by the

Monitoring Team. Of the incidents that were not compliant, most of the deficiencies involved missing body-worn camera footage or incomplete Stop Reports.<sup>2</sup>

**Table 3: Summary of Documentation Compliance**

<b>Incidents Reviewed</b>	<b>Documentation Compliant</b>	<b>Score</b>
197	155	78.68%

With respect to the third objective, NPD was able to produce all three categories of Stop data required by the Consent Decree. However, the data provided was drawn from NPD's Computer-Aided Dispatch ("CAD") system. CAD data is not reliable because it is preliminary and limited in nature, and does not capture all the information required by Stop reports. For instance, unlike the CAD system, Stop reports require that an officer state the number of passengers present inside a vehicle during an encounter. Moreover, information initially entered into the CAD system is subject to alteration, revision and negation, as a result of the subsequent observations and actions of the responding officers. As a result, the Monitoring Team was unable to establish a baseline assessment through use of CAD data.

With respect to the fourth objective, regarding training, the Monitoring Team previously reviewed and approved NPD's training after determining that the training met the requirements set forth in Paragraph 43 of the Consent Decree. Therefore, NPD complied with this requirement.

Additionally, the Monitoring Team audited NPD's compliance with Consent Decree Paragraphs 51-54 that relate to stop, search, and arrest data collection and review. During the audit period (October 1 - December 31, 2019), NPD was not in compliance with any

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<sup>2</sup> The Monitoring Team found that during the audit period, NPD officers were still using an older version of NPD's Stop Report, which did not capture all of the necessary data required by the Consent Decree.

of these paragraphs. With respect to Paragraph 51, for the audit period, NPD did not provide the methodology it would use to accomplish the requirements of this paragraph, relating to data collection about demographic disparities in NPD's Stops, Searches, and Arrests. Nor had NPD (i) developed a method of integrating the data collected into its Early Warning System, as required by Paragraph 52, (ii) developed a protocol for comprehensive analysis of Stop, Search, and Arrest data which had been reviewed and approved by the Monitor and Department of Justice, as required by Paragraph 53 or (iii) submitted to the Monitoring Team a directive that specified that all NPD databases comply with federal and state privacy standards as required by Consent Decree Paragraph 54.<sup>3</sup>

Future audits of NPD's Stops will be conducted during periods in which NPD's *revised* Stop Report is used by officers in the field. The Monitoring Team understands that NPD has implemented its revised Stop Report that captures all Consent Decree-required data fields. Still, the Monitoring Team hopes that NPD will utilize this first audit as a guide toward improvements for the next Stop audit.

## **B. Upcoming Audits**

Consent Decree paragraphs 173 and 174 instruct that the Independent Monitor will audit NPD's police practices and review NPD police data in aggregate to determine (1) whether NPD has adopted Consent Decree reforms and (2) whether implementation of the Consent Decree is resulting in "Constitutional policing that engenders effective cooperation and trust between NPD and the community it serves." (Consent Decree Paragraphs 173, 174.)

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<sup>3</sup> After the Audit Period, in May 2021, NPD completed a protocol for analyzing Stop, Search, and Arrest data pursuant to Consent Decree paragraph 53.



During this reporting period, the Monitoring Team continued its audits of NPD's compliance with Consent Decree provisions related to (i) body-worn, (ii) in-car cameras, (iii) property, (iv) training records, and (v) searches. The following sections summarize the Monitoring Team's progress with respect to these audits during this reporting period.

1. *Second Body-Worn Camera and First In-Car Camera Audit*

Section IX of the Consent Decree requires, among other things, that "NPD will develop, implement, and maintain a system of video recording officers' encounters with the public with body-worn and in-car cameras." Paragraph 103 of the Consent Decree requires NPD to "equip all marked patrol cars with video cameras, and require all officers, except certain officers engaged in only administrative or management duties, to wear body cameras and microphones with which to record enforcement activity."

On May 28, 2021, the Monitoring Team notified the City, NPD, and the United States Department of Justice ("DOJ") (collectively, "the Parties") that it would conduct its *second* audit of NPD's use of Body-Worn Cameras and *first* audit of NPD's use of In-Car Cameras to assess whether NPD is in compliance with Section IX of the Consent Decree. Specifically, the Monitoring Team advised that it would review NPD records and information from June 1, 2021, to June 30, 2021, to determine whether NPD has demonstrated adherence to its own body-worn camera policy (*General Order 18-05*), in-car camera policy (*General Order 18-06*) as well as whether NPD has equipped its patrol cars with cameras as required by Consent Decree Paragraph 103. During this reporting period, the Monitoring Team completed this audit and began analyzing the audit results. The Monitoring Team will comment on the results of this audit during its next Quarterly Report.

2. *First Property Audit*

Section X of the Consent Decree provides, among other things, that NPD “shall take comprehensive efforts to prevent theft of property by officers” and “will conduct and document periodic audits and inspections of the property room and immediately correct any deficiencies.”

On July 9, 2021, the Monitoring Team notified the Parties that it would conduct an audit of NPD’s property and evidence management practices to determine whether NPD was complying with the Consent Decree’s requirements in this subject area. Specifically, the Monitoring Team advised that it would review NPD’s records and information from May 1, 2021, to June 30, 2021, to determine whether, or not, NPD’s practices were consistent with the Consent Decree Paragraphs 105, 110 and 111, federal law, New Jersey law, and NPD’s own policies. During this reporting period, the Monitoring Team had completed its on-site auditing work. The Monitoring Team will comment on the results of this audit in a future Quarterly Report.

3. *Third Training Records Audit*

On July 7, 2021, the Monitoring Team notified the Parties that it would conduct an audit of NPD’s training records to determine whether NPD was complying with the Consent Decree’s requirements. Specifically, the Monitoring Team advised that it would review NPD records and information from March 1, 2020 to December 31, 2020, to determine if NPD’s training records were consistent with the Consent Decree Paragraphs 9, 12 and 173, and NPD’s own policies. As of the end of this reporting period, the Monitoring Team had not yet started this audit. The Monitoring Team will comment on the results of this audit in a future Quarterly Report.

4. *First Searches Audit*

On July 13, 2021, the Monitoring Team notified the Parties that it would conduct an audit of NPD's searches with or without a warrant to determine whether NPD was complying with the Consent Decree's requirements. Specifically, the Monitoring Team advised that it would review NPD records and information from June 1 to July 31, 2021, to determine if NPD's searches were consistent with Consent Decree Sections VI (Paragraphs 29-34, 43, 51-53) and XVI (Paragraph 174(a)), and NPD's own policies. As of this reporting period, the Monitoring Team had not yet started this audit. The Monitoring Team will comment on the results of this audit in a future Quarterly Report.

**C. NPD's Data Systems**

1. *Background*

Under Section XIV of the Consent Decree, NPD is required to "develop, implement, and maintain contemporary records and management systems." As part of this requirement, NPD must enhance its Early Warning System ("EWS") and revise its use and analysis of a Records Management System ("RMS"). (*See* Consent Decree Paragraphs 156 and 162.)

One of the most critical steps toward building a modern, Consent Decree-compliant police force is developing and maintaining quality, integrated data and information technology ("IT") systems. Unfortunately, NPD's IT and data systems still do not meet this standard, largely because NPD lacks the skills and resources needed to enable this kind of progress. Additionally, the City of Newark has failed to acquire both the technology and IT personnel necessary to make progress in these areas.

In November 2018, *Gartner, Inc.* (“Gartner”) issued a detailed report of its assessment of NPD’s data systems (“the Gartner Report”).<sup>4</sup> The Gartner Report identified key deficiencies in NPD’s IT and data systems, and offered a number of recommendations that would improve NPD’s technology infrastructure and are essential to NPD’s ability to meet the requirements set forth in the Consent Decree. The Gartner Report recommended the City and NPD adopt the following nine objectives:

1. Update officers’ technology tools;
  2. Improve records management, transparency and information sharing;
  3. Increase accountability and support for officer performance and wellness;
  4. Create strong foundation for a technology-enabled NPD;
  5. Reduce the number of system silos across NPD;
  6. Reduce NPD’s reliance on paper forms and paper-based information;
  7. Ensure effective IT operating and governance models that align decision makers appropriately based on stakeholder-determined roles;
  8. Increase the depth and breadth of professional IT skills and talent, and improve the technology capability of end-users; and
  9. Improve IT infrastructure – platforms, information sharing capabilities, availability and disaster recovery.
2. *Steps Toward Implementing Recommended IT Improvements*

Implementing the entirety of Gartner’s recommendations proved cost-prohibitive to NPD and the City of Newark. To assist the City with a segmented implementation of the

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<sup>4</sup> See the Independent Monitor’s Ninth Quarterly Report, Section II.A (covering the period January 1, 2019 through March 31, 2019).



recommendations in the Gartner Report, at the Monitoring Team's request, Gartner developed a 12-month plan of action to provide NPD with manageable, fundamental, and incremental steps.

Based upon Gartner's recommendations, in its Ninth Quarterly Report (covering the period from January 1, 2019 to March 31, 2019), the Monitoring Team recommended that NPD take four steps to improve its IT systems:

**Step 1: Hire an IT Leader** immediately to assume ownership of the IT plan set forth in the Gartner Report. NPD has made no progress toward this recommendation. While the Monitoring Team provided NPD with example job descriptions for an IT leader, the City of Newark has yet to post a job opportunity or attempt to fill such a position.

**Step 2: Implement an IT Governance Structure** to enable NPD to prioritize IT needs and make IT-related decisions, lead NPD's IT planning, oversee procurement of data technology, and ensure IT service management is performed according to best practices. NPD has made no progress toward this recommendation. Without the IT leader discussed in Step 1 above, NPD lacks the ability to fully implement this recommendation.

**Step 3: Engage with Subject Matter Experts in Data Analysis** to determine how NPD's current systems of data silos can be easily accessed to produce meaningful reports for police supervisors and analysis to assist with both Consent Decree compliance and the overall management of NPD. NPD has made some progress in this regard.

NPD was able to acquire technical assistance through the United States DOJ Bureau of Justice Assistance, to retain *AH Datalytics*, a data analysis and analytics consulting firm, to assess its data systems and capabilities. *AH Datalytics* engaged stakeholders in documenting requirements and critical uses of data for both Consent Decree compliance and the management needs of NPD. The company also met with Newark IT staff and vendors to

understand NPD's data systems, and it reviewed various reports and action plans developed by NPD, DOJ and the Monitoring Team.

*AH Datalytics* assessed NPD's ability to comply with data requirements of the Consent Decree, as well as with other NPD management data needs. It found that some NPD data systems were incomplete, some areas still require manual data entry to enable even basic analytics, and some data is not easily accessible. *AH Datalytics* ultimately recommended that NPD implement customized reporting and dashboards to analyze its data internally, inform the public, and hasten Consent Decree Compliance. It also recommended specific technologies be implemented to facilitate this process.

*AH Datalytics* provided NPD with a proposal to assist with implementing its recommendations, but the City has yet to execute an agreement for such an implementation.

**Step 4: Contract with Subject Matter Experts to:** (a) develop requirements for an upgraded records management system ("RMS"); (b) perform a "gap analysis" to determine whether, or not, the current RMS can be configured to meet those RMS requirements under the Consent Decree; and (c) either oversee the modifications to the existing RMS, or develop a Request For Proposal for the procurement of a new RMS. NPD has made little to no progress toward this recommendation. While NPD has worked with its current RMS vendor to add some data fields to the RMS (*i.e.*, the Stops Data requirements of the Consent Decree), as of the end of this monitoring period, it has yet to perform a full assessment of its RMS needs, or to make a formal decision as to the direction it will take with its RMS (*e.g.*, will it continue to invest in improvements to the existing RMS, or will it replace its RMS.).<sup>5</sup> Until a full analysis is

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<sup>5</sup> Note that NPD's maintenance contract on its current RMS expires in December 2021, and at a minimum, must be extended an additional year, while NPD completes its RMS analysis.

conducted and a decision is made, NPD will not be in a position to comply with the Consent Decree.

Given that NPD has made progress on only **one** data system recommendation in nearly two years, it is the Monitoring Team's view that NPD will not be in a position to comply with the IT and Data Systems requirements of the Consent Decree in the near future.

The Monitoring Team recommends that the City undertake an immediate assessment and planning of its IT effort immediately to determine the level of funding that will be needed to properly provide the data that NPD needs to support its operational goals and better serve the community. While the costs associated for IT improvement are significant, the benefits to police supervisors is substantial as they can track police behavior on a daily basis. Moreover, the necessary technology can be acquired in phases. To be sure, without the investment in IT staffing, hardware, and software, NPD will not achieve compliance with key provisions of the Consent Decree.

### 3. *Early Warning System*

Consent Decree Paragraphs 156-57 require NPD to implement an Early Warning System ("EWS"). An EWS is not a single source software program that can be purchased from Best Buy or some other retail outlet. Rather, it is a series of data components—a data-driven management tool—used by police departments to identify police officers with potential performance or conduct issues that may require early intervention to address and correct certain behaviors. The ultimate goal for an EWS is for NPD to accurately and timely identify officers who need additional training, support, and/or resources to prevent any adverse outcomes that might impact the Police Division, the community, and/or the officer's career.

Pursuant to Consent Decree Paragraph 157, at a minimum, the EWS will incorporate all relevant information, including the results of any investigation or supervisory review related to:

- a. use of force incidents and allegations of use of force;
- b. all injuries to individuals in the custody or control of an NPD officer or injured as a result of an officer's actions;
- c. all allegations of unlawful arrest;
- d. all allegations of unlawful search or seizure;
- e. all allegations of theft, missing property, or planted evidence;
- f. all complaints of misconduct against officers;
- g. all arrests for disorderly conduct, resisting arrest, and assaulting a police officer;
- h. all disciplinary action taken;
- i. all non-disciplinary or corrective action, including actions taken pursuant to the operation of the EWS;
- j. officer rank, assignment, and training history; and
- k. judicial determinations of officers' credibility.

An EWS requires NPD to understand its current data collection systems and how they integrate with one another. To assist with this complex task, the Monitoring Team originally assessed NPD's current data collection systems and reviewed the content of existing reporting protocols to (i) assess their sufficiency for documenting NPD and officer activity, and (ii) serve as a benchmark for progress through the monitoring process. Specifically, the Monitoring Team created *data dictionaries*, that address all Consent Decree data areas that ultimately must feed into the Early Warning System to identify gaps in NPD's reporting.

NPD must update these data dictionaries/matrices on a regular basis as it works to fill gaps in its reporting practices. Additionally, NPD's current EWS is based on thresholds for



complaints and uses of force found within *IA Pro*, the Internal Affairs database, which does not meet the requirements of the Consent Decree.

The Monitoring Team has met with NPD on several occasions to focus on resources for NPD that will help fill these gaps, including discussions regarding technology purchases to assist with implementing an EWS. While NPD has identified a vendor that can potentially help NPD meet the requirements of the Consent Decree, neither the City nor NPD has yet to begin a formal procurement process to engage the services of the vendor. The concern is that the vendor may accept other projects while it is awaiting engagement by the City and may reach its service capacity with other law enforcement agencies before the City finalizes an agreement with the vendor. In fact, the City has yet to determine which path of formal procurement it might take (*i.e.*, use a process outlined in an existing State of New Jersey contract, or release a Request for Proposals). As such, neither the City nor NPD has made any appreciable progress toward meeting the EWS requirements of the Consent Decree.

#### 4. *The Monitoring Team's Recommendations*

It is the Monitoring Team's view that NPD will not be in a position to comply with Consent Decree requirements concerning its data systems unless the City commits substantial funding and resources to correct these issues. Simply put, NPD needs updated and modern IT and Data Systems to be a modern police agency that provides high quality service to Newark residents.

Regarding overall data and IT systems improvements, the Monitoring Team recommends that the City and NPD immediately begin the implementation of the four steps outlined above: (1) hire an IT leader; (2) implement an IT governance process; (3) contract for and complete the implementation of data analytics improvements; and (4) contract with a firm

qualified to assist NPD with documenting its requirements for an RMS and determining whether NPD's existing RMS vendor can meet those requirements.

Regarding an EWS implementation, the Monitoring Team recommends that the City and NPD immediately:

- a. determine what procurement process it will utilize to contract for an EWS solution/provider;
- b. begin that procurement process and execute an agreement with a selected vendor; and
- c. update the data dictionaries/matrices to reflect current data collection practices and identify any remaining gaps.

The costs associated with IT improvement likely will be significant. Again, some of this technology can be purchased and added in phases. However, without *any* investment in IT hardware and software, NPD will **not** achieve compliance with key provisions of the Consent Decree. Furthermore, the Monitoring Team recommends that the City immediately undertake an assessment of its IT efforts to determine the level of funding that will be needed to properly provide the data that NPD needs to support its operational goals and better serve the community.

### **III. APPENDICES**

- A. Compliance Chart**
- B. Audit Status Chart**
- C. *First Stop Audit Report***

# **Appendix A**

**Consent Decree Compliance and Implementation  
(March 30, 2016 to December 28, 2021)**



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## **I. Definitions**

NPD's compliance with the deadlines set forth in the Consent Decree and the Second-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.

**8. Effective Date**

The “Effective Date” is March 30, 2016. *See* Consent Decree, Section II(4)(s).

**9. Operative Date**

The “Operational Date” is July 12, 2016. *See* Consent Decree, Section II(4)(ff).

**II. General Officer Training**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement<sup>1</sup></b>	<b>Status</b>	<b>Discussion</b>
NPD will provide officers at least 40 hours of in-service training each year.	¶ 9	Within two years of the Effective Date (March 30, 2018) and then annually thereafter	Ongoing	Eight hours of community policing training was provided in 2019.
NPD will provide training to officers regarding the requirements of the Consent Decree, and the timeline for their implementation.	¶ 10	Within 90 days of the Operational Date (October 10, 2016)	Preliminary Compliance	See First Quarterly Report, Section IV(B).
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 individual policies	N/A	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 maintain complete and consistent training records for all officers.	¶ 12	Within two years of the Effective Date (March 30, 2018) <sup>2</sup>	Initial Development	See Sixteenth Quarterly Report, Appendix C.

<sup>1</sup> Deadlines in the Compliance Chart reflect the original deadlines set forth in the Consent Decree. The deadlines do not reflect deadlines established as part of the First or Second-Year Monitoring Plans.

<sup>2</sup> Consent Decree Paragraph 5 provides that “NPD will develop comprehensive and agency-wide policies and procedures that are consistent with and incorporate all substantive requirements of this Agreement. Unless otherwise noted, NPD will develop and implement all such policies, procedures, and manuals within two years of the Effective Date.”

**III. Community Engagement and Civilian Oversight (including Community Policing)**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will review and revise its current community policing policy or policies to ensure compliance with Consent Decree.	§ V; ¶ 5	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
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	Administrative Compliance	See Sixteenth Quarterly Report, Appendix C.
<b>Civilian Oversight (¶ 13)</b>				
The City will implement and maintain a civilian oversight entity.	¶ 13	Within 365 days of the Effective Date (March 30, 2017)	Administrative Compliance	See Fifteenth Quarterly Report, Section II(C).
<b>Community Engagement Measures and Training (¶¶ 14-21)</b>				
NPD will provide 8 hours of in-service training on community policing and problem-oriented policing methods and skills for all officers, including supervisors, managers and executives, and at least 4 hours annually thereafter.	¶ 14	July 9, 2017	Administrative Compliance	See Sixteenth Quarterly Report, Appendix C.
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. NPD's assessment and modified strategy must be approved by the DOJ and Monitor.	¶ 15	July 9, 2017	Administrative Compliance	See Eighteenth Quarterly Report, Appendix D.
NPD will assign two officers to each precinct to work with residents to identify and address communities' priorities, and who are not assigned to answer calls for service except in exigent circumstances.	¶ 16	Pending completion of the assessment required in ¶ 15	Non-Compliance	See Eighteenth Quarterly Report, Appendix D.

**Community Engagement and Civilian Oversight (including Community Policing) Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will implement mechanisms to measure the breadth, extent, and effectiveness of its community partnerships and problem-solving strategies, including officer outreach, particularly outreach to youth.	¶ 17	Within 210 days of the Operational Date (February 7, 2017)	Non-Compliance	See Eighteenth Quarterly Report, Appendix D.
NPD will prepare a publicly available report of its community policing efforts overall and in each precinct.	¶ 18	Within 240 days of the Operational Date March 9, 2017	Non-Compliance	See Eighteenth Quarterly Report, Appendix D.
NPD and the City will implement practices to seek and respond to input from the community about the Consent Decree's implementation. Such practices may include direct surveys, comment cards and town hall meetings.	¶ 19	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Eighteenth Quarterly Report, Appendix D.
All NPD studies, analyses, and assessments required by this Agreement will be made publicly available, including on NPD and City websites, in English, Spanish, and Portuguese, to the fullest extent permitted under law.	¶ 20	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Eighteenth Quarterly Report, Appendix D.
NPD will implement a policy to collect and maintain all data and records necessary to facilitate transparency and wide public access to information related to NPD policies and practices, as permitted by law.	¶ 21	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix D.



**Community Engagement and Civilian Oversight (including Community Policing) Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD and the City will cooperate with the design and conduct of the Monitor's surveys by, for example, helping to organize focus groups of officers and obtaining and providing previous survey instruments and data. The reports of the baseline and annual surveys will be provided to the Court and be publicly distributed and available on the City's and NPD's websites.	¶ 24	N/A	Non-Compliance	See Eighteenth Quarterly Report, Appendix D.

**IV. Stops, Searches, and Arrests**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Investigatory Stops and Detentions (§§ 25-28)</b>				
NPD will review and revise its current stop, search, and arrest policy or policies to ensure compliance with Consent Decree, consistent with Paragraphs 25-28.	¶ 5	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Nineteenth Quarterly Report, Appendix C.
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	Administrative Compliance	See Sixteenth Quarterly Report, Appendix C.
NPD will train officers to use specific and individualized descriptive language in reports or field inquiry forms.	¶ 26	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Nineteenth Quarterly Report, Appendix C.
<b>Searches (§§ 29-34)</b>				
NPD will review and revise its current stop, search, and arrest policy or policies to ensure compliance with Consent Decree, consistent with Paragraphs 29-34.	¶ 5	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
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	Preliminary Compliance	See Sixteenth Quarterly Report, Appendix C.

**Stops, Searches, and Arrests Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Arrests (§§ 35-42)</b>				
NPD will review and revise its current stop, search, and arrest policy or policies to ensure compliance with Consent Decree, consistent with Paragraphs 35-42.	¶ 5	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
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	Preliminary Compliance	See Sixteenth Quarterly Report, Appendix C.
<b>Stop, Search, and Arrest Training (§§ 43-50)</b>				
NPD will provide 16 hours of training to all NPD personnel on the First and Fourth Amendments, including the topics set forth in ¶ 43 of the Consent Decree, and at least an additional 4 hours on an annual basis thereafter.	¶ 43	November 1, 2017	Preliminary Compliance	See Nineteenth Quarterly Report, Appendix C.
NPD supervisors will 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.
<b>Stop, Search, and Arrest Data Collection and Review (§§ 51-54)</b>				
NPD will modify its procedures as set out below to collect and preserve stop, search, and arrest data sufficient to determine the nature and scope of demographic disparities in stop and search practices, as well as which stop, search, and arrest practices are most effective and efficient.	¶ 51	Within two years of the Effective Date (March 30, 2018)	Initial Development	See Nineteenth Quarterly Report, Appendix C.

**Stops, Searches, and Arrests Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will implement use of data collection form, in written or electronic report form, to collect data on all investigatory stops and searches, as approved by the DOJ and Monitor.	¶ 52	September 9, 2017	Initial Development	See Nineteenth Quarterly Report, Appendix C. <sup>3</sup>
NPD will develop a protocol for comprehensive analysis of stop, search and arrest data, subject to the review and approval of the DOJ and Monitor.	¶ 53	Within two years of the Effective Date (March 30, 2018)	Initial Development	See Nineteenth Quarterly Report, Appendix C. In May 2021 NPD developed protocol for comprehensive analysis of Stop, Search, and Arrest data.
NPD will ensure that all databases comply fully with federal and state privacy standards governing personally identifiable information. NPD will restrict database access to authorized, identified users who will be permitted to access the information only for specific, legitimate purposes.	¶ 54	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Nineteenth Quarterly Report, Appendix C.
<b>First Amendment Right to Observe, Object to, and Record Officer Conduct (¶¶ 55-62)</b>				
NPD will require or prohibit officer conduct to comply with ¶¶ 55-62 of the Consent Decree.	¶¶ 55-62	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Nineteenth Quarterly Report, Appendix C.

<sup>3</sup> The Monitoring Team understands that after the relevant Audit Period in the First Stop Audit, NPD implemented a revised Stop Report to collect data on all investigatory stops and searches.

**V. Bias-Free Policing**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will review and revise its current bias-free policing policy to ensure compliance with Consent Decree, consistent with Section VII.	¶ 5	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
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	Preliminary Compliance	See Ninth Quarterly Report, Appendix C.
NPD will provide all NPD personnel with a minimum of eight hours of training on bias-free policing, including implicit bias, procedural justice, and police legitimacy, and at least four hours annually thereafter.	¶ 63	July 1, 2017	Preliminary Compliance	See Ninth Quarterly Report, Appendix C.
NPD will prohibit officers from considering any demographic category when taking, or refraining from taking, any law enforcement action, except when such information is part of an actual and credible description of a specific suspect in an ongoing investigation that includes other appropriate non-demographic identifying factors. NPD will also prohibit officers from using proxies for demographic category, including language ability, geographic location, mode of transportation, or manner of dress.	¶ 64	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
NPD will conduct quarterly demographic analyses of its enforcement activities to ensure officer, unit and Division compliance with the bias-free policing policy.	¶ 65	Within two years of the Effective Date (March 30, 2018) and then Quarterly thereafter.	Non-Compliance	See Fourth Quarterly Report, Section III(B)(4).

**VI. Use of Force**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Use of Force Policy (§§ 66-70)</b>				
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 consistent with §§ 66-70. The policy or policies will clearly define each force option and specify that unreasonable use of force will subject officers to discipline.	¶ 66	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the use of force policy or procedure and that the topic is incorporated into the in-service training required.	¶ 11	Within 60 days after approval of policy	Administrative Compliance	See Sixteenth Quarterly Report, Appendix C.
NPD will provide resources for officers to maintain proper weapons certifications and will implement sanctions for officers who fail to do so.	¶ 70	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits/reviews.
<b>Use of Firearms (§§ 71-74)</b>				
NPD will develop and implement a use of firearms policy consistent with §§ 71-74.	¶ 5	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the use of force policy or procedure and that the topic is incorporated into the in-service training required.	¶ 11	Within 60 days after approval of policy	Administrative Compliance	See Sixteenth Quarterly Report, Appendix C.

**Use of Force Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
Officers will be prohibited from using unauthorized weapons 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.	¶ 71	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will prohibit officers from discharging a firearm at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force.	¶ 72	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will prohibit officers from unholstering or exhibiting a firearm unless the officer reasonably believes that the situation may escalate to create an immediate threat of serious bodily injury or death to the officer or another person.	¶ 73	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will require that officers successfully qualify at least twice a year with each firearm they are authorized to use or carry while on duty.	¶ 74	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
<b>Use of Force Reporting and Investigation (¶¶ 75-85)</b>				
NPD will adopt a use of force reporting system and a supervisor Use of Force Report, separate from the NPD's arrest and incident reports, and which includes individual officers' accounts of their use of force.	¶ 75	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will require that officers notify their supervisor as soon as practicable following any reportable use of force.	¶ 76	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.



**Use of Force Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD, in consultation with Monitor and DOJ, will categorize force into levels to report, investigate, and review each use of force. The levels will be based on the factors set forth in ¶ 77.	¶ 77	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
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	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
Every level of force reporting and review will include the requirements set forth in ¶ 79.	¶ 79	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
Upon arrival at the scene, the supervisor will identify and collect evidence sufficient to establish the material facts related to use of force, where reasonably available.	¶ 80	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
All officers who used force above Low Level will provide an oral Use of Force statement in person to the supervisor on the scene prior to the subject’s being booked, or released, or the contact otherwise concluded, unless impractical under the circumstances.	¶ 81	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
Pursuant to policy and as necessary to complete a thorough, reliable investigation, supervisors will comply with the requirements of ¶ 82.	¶ 82	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.

**Use of Force Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
Supervisors will investigate and evaluate in writing all uses of force for compliance with law and NPD policy, as well as any other relevant concerns.	¶ 83	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
Supervisors' documentation of the investigation and evaluation will be completed within 72 hours of the use of force, unless the supervisor's commanding officer approves an extension.	¶ 84	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
NPD will analyze the data captured in officers' force reports and supervisors' investigative reports on an annual basis to identify significant trends, to correct deficient policies and practices, and to document its findings in an annual report that will be made publicly available pursuant to Section XV of the Consent Decree.	¶ 85	Within two years of the Effective Date and annually thereafter (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
<b>Use of Force Review (¶¶ 86-89)</b>				
The chain-of-command supervisor reviewing the investigative report will ensure that the investigation is thorough, complete, and makes the necessary and appropriate findings of whether the use of force was lawful and consistent with policy. Each higher-level supervisor in the chain of command will review the investigative report to ensure that it is complete, the investigation was thorough, and that the findings are supported by a preponderance of the evidence.	¶ 86	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.

**Use of Force Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
A supervisor should ensure that additional investigation is completed when it appears that additional relevant and material evidence may assist in resolving inconsistencies or improve the reliability or credibility of the findings.	¶ 87	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
When the precinct or unit commander finds that the investigation is complete and the evidence supports the findings, the investigation file will be forwarded to the Use of Force Review Board.	¶ 88	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
<b>Reporting and Investigation of Serious Force Incidents (¶¶ 90-94)</b>				
NPD will create a multi-disciplinary Serious Force Investigation Team (“SFIT”) to conduct both the criminal and administrative investigations of Serious Force incidents, and to determine whether these incidents raise policy, training, tactical, or equipment concerns. SFIT will operate consistent with ¶¶ 91-94.	¶¶ 90-94	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C. <sup>4</sup>
NPD will develop and implement a SFIT training curriculum and procedural manual. NPD will ensure that officers have received, read and understand their responsibilities pursuant to the General Order establishing the AFIT and General Orders establishing line supervisors’ responsibilities to investigate lower and intermediate use of force incidents and that the topic is incorporated into the in-service training required.	¶¶ 11, 90	Within 60 days after approval of policies	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.

<sup>4</sup> NPD has created an All Force Investigation Team (“AFIT”) to address this Consent Decree requirement.

**Use of Force Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Use of Force Review Board (§§ 95-102)</b>				
NPD will implement a General Order establishing the Use of Force review Board (“UFRB”), ensure that it is staffed consistent with the Consent Decree provisions, and ensure that the responsibilities assigned are consistent with Consent Decree provisions.	§§ 95-102	Within two years of the Effective Date (March 30, 2018)	Administrative Compliance <sup>5</sup>	See Eighteenth Quarterly Report, Appendix C.
NPD’s UFRB will conduct timely, comprehensive, and reliable reviews of all Intermediate and Serious Force incidents. The UFRB also will conduct the administrative review of incidents in which the ECPO has completed an investigation pursuant to New Jersey Attorney General Directive 2006-05.	§§ 95-102	Ongoing	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
Each member of the UFRB will receive a minimum of eight hours of training on an annual basis, including legal updates regarding use of force and the Training Section’s current use of force curriculum.	§ 97	Within 60 days after approval of policies	Administrative Compliance	See Eighteenth Quarterly Report, Appendix C.
The NPD will include the civilian oversight entity in the review of completed SFIT investigations, as permitted by law.	§ 101	Within two years of the Effective Date (March 30, 2018)	Not Assessed	The Monitor will assess this requirement during a future compliance audit/review.

<sup>5</sup> NPD has not yet been able to implement Consent Decree Paragraph 101, which requires the Division to “include the civilian oversight entity in the review of completed SFIT investigations, as permitted by law.” That deficiency results not from any failure by NPD, but rather due to ongoing litigation brought by the Fraternal Order of Police (FOP), a Newark police union.

**VII. In-Car and Body-Worn Cameras**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will develop, implement and maintain a system of video recording officers' encounters with the public with body-worn and in-car cameras. NPD will develop a policy to designate which cars and officers are exempt from the general in-car and body-worn camera requirements and a policy regarding footage and audio recordings from its in-car and body-worn cameras.	Section IX, ¶¶ 103-104	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.  The Monitor will assess this requirement during compliance audits.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or policies and that the topic is incorporated into the in-service training required.	¶ 11	Within 60 days after approval of policy	Administrative Compliance	See Sixteenth Quarterly Report, Appendix C.
NPD will equip all marked patrol cars with video cameras, and require all officers, except certain officers engaged in only administrative or management duties, to wear body cameras and microphones with which to record enforcement activity.	¶ 103	Within two years of the Effective Date (March 30, 2018)	Initial Development	See Eighth Quarterly Report, Section II(C).  The Monitor will assess this requirement during compliance audits.

**VIII. Theft (including Property and Evidence Management)**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will ensure that in all instances where property or evidence is seized, the responsible officer will immediately complete an incident report documenting a complete and accurate inventory of the property or evidence seized, and will submit the property or evidence seized to the property room before the end of tour of duty.	¶ 105	Within two years of the Effective Date (March 30, 2018)	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will conduct regular, targeted, and random integrity audits to detect and deter theft by officers. NPD will employ tactics such as increased surveillance, stings, and heightened scrutiny of suspect officers' reports and video-recorded activities.	¶ 106	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will conduct periodic reviews of the disciplinary histories of its officers who routinely handle valuable contraband or cash, especially those in specialized units, to identify any patterns or irregularities indicating potential risk of theft by officers.	¶ 107	Ongoing	Non-Compliance	N/A

**Theft (including Property and Evidence Management) Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
To the extent permitted by law and NPD's collective bargaining agreements, NPD will transfer officers with any sustained complaint of theft, or two not sustained or unfounded complaints of theft occurring within one year, out of positions where those officers have access to money, property, and evidence. Aspects of officers' disciplinary histories that relate to honesty and integrity will be considered in making decisions regarding reassignment, promotions, and similar decisions.	¶ 108	Ongoing	Initial Development	See First Quarterly Report, Section V(C)(6).
NPD will report all theft allegations to the New Jersey Department of Law and Public Safety and will continue to report such allegations to the Essex County Prosecutor. Officers who have been the subject of multiple theft allegations will be identified as such in said reports.	¶ 109	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will create a chain of custody and inventory policy or policies to ensure compliance with ¶ 110 of the Consent Decree.	¶¶ 5; 110	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the chain of custody and inventory policy or policies and that the topic is incorporated into the in-service training required.	¶ 11	Within 60 days after approval of policies	Non-Compliance	See Ninth Quarterly Report, Appendix C.

**Theft (including Property and Evidence Management) Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will conduct and document periodic audits and inspections of the property room and immediately correct any deficiencies.	¶ 111	Ongoing	Initial Development	See Seventh Quarterly Report, Section II(B)



**IX. Internal Affairs: Complaint Intake and Investigation**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Complaint Process (¶¶ 112-120)</b>				
NPD will create an Internal Affairs: Complaint Intake and Investigation policy or policies to ensure compliance with Section XI of the Consent Decree.	¶ 5, Section XI	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	
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.	¶ 11	Within 60 days after approval of policy	Non-Compliance	See Ninth Quarterly Report, Appendix C.
The City and NPD, in collaboration with the civilian oversight entity or other community input, will develop and implement a program to effectively publicize to the Newark community how to make misconduct complaints.	¶ 112	Within 365 days of the Operational Date (July 12, 2017)	Not Assessed	
NPD and the City will revise and make forms and other materials outlining the complaint process and OPS contact information available on their website and appropriate government properties.	¶ 113	Within two years of the Effective Date (March 30, 2018)	Initial Development	See Fifth Quarterly Report, Section III(C)(4).
NPD will accept all complaints, by all methods and forms detailed in ¶ 114.	¶ 114	Ongoing	Initial Development	See Fifth Quarterly Report, Section III(C)(4).

**Internal Affairs: Complaint Intake and Investigation Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will provide civilians, including complainants and witnesses to alleged police misconduct, with full access to NPD's complaint process. 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	Ongoing	Initial Development	See Eighth Quarterly Report, Section II(D)(2).
NPD will train all police personnel, including dispatchers, to properly handle complaint intake; the consequences for failing to take complaints; and strategies for turning the complaint process into positive police-civilian interaction.	¶ 116	Within 180 days of the Operational Date (January 8, 2017)	Non-Compliance	
NPD will conduct regular, targeted, and random integrity audits to identify officers or other 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.	¶ 117	Ongoing	Non-Compliance	See Seventh Quarterly Report, Section II(C).
NPD will review the results of the audits conducted pursuant to ¶ 117 and take appropriate action to remedy any problematic patterns or trends.	¶¶ 117-118	Ongoing	Not Assessed	See Sixth Quarterly Report, Section III(F)(2)(a).

**Internal Affairs: Complaint Intake and Investigation Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
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	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	See Ninth Quarterly Report, Appendix D.
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.
<b>Complaint Classification and Assignment of Investigative Responsibility (¶¶ 121-125)</b>				
NPD will adopt and implement 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	Within two years of the Effective Date (March 30, 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 policy or procedure and that the topic is incorporated into the in-service training required.	¶ 11	Within 60 days after approval of protocol	Non-Compliance	
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**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD shall develop a protocol for determining whether other complaints will be assigned to the subject officer's supervisor, the precinct's Integrity Compliance Officer, or retained by OPS for an administrative investigation. OPS will also determine whether the misconduct complaint warrants a referral to federal or state authorities for a criminal investigation.	¶ 123	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	
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 identify trends in investigative or leadership deficiencies.	¶ 124	Ongoing	Non-Compliance	See Sixth Quarterly Report, Section III(B)(6).
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 maintain a centralized numbering and tracking system for all misconduct complaints.	¶ 125	Within two years of the Effective Date (March 30, 2018)	Initial Development	See Fifth Quarterly Report, Section III(C)(4).
<b>Misconduct Complaint Investigation (¶¶ 126-136)</b>				
NPD will review and revise its policies for releasing complaints and misconduct allegations to incorporate the requirements set out in ¶¶ 126-136.	¶¶ 126-136	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	

**Internal Affairs: Complaint Intake and Investigation Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
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 protocol	Non-Compliance	
<b>Parallel Administrative and Criminal Investigations of Officer Misconduct (¶¶ 137-140)</b>				
If after a reasonable preliminary inquiry into an allegation of misconduct, or at any other time during the course of an administrative investigation, the OPS has cause to believe that an officer or employee might have engaged in criminal conduct, the OPS will refer the matter to the ECPO, DOJ, or other law enforcement agency as appropriate.	¶ 137	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
Notwithstanding the referral and unless otherwise directed by the prosecutive agency, NPD will proceed with its administrative investigations. Under no circumstances will OPS compel a statement from the subject officer without first consulting with the Chief or Director and with the prosecuting agency.	¶ 138	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will not automatically end its administrative investigation in matters in which the prosecuting agency declines to prosecute or dismisses after initiation of criminal charges. Instead, NPD will require investigators to conduct a complete investigation and assessment of all relevant evidence.	¶ 139	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will work with DOJ, the ECPO, and the New Jersey Attorney General's Office as appropriate to improve its processes for investigations of use of force incidents and referrals of complaints of police misconduct for criminal investigation.	¶ 139	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.

**Internal Affairs: Complaint Intake and Investigation Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Review and Analysis of Investigations (§§ 141-143)</b>				
NPD will train OPS supervisors to ensure that investigations are thorough and complete, and that investigators' conclusions and recommendations that are not adequately supported by the evidence will not be approved or accepted.	¶ 141	Within 60 days after approval of policy	Non-Compliance	
NPD will develop and implement a protocol for regular supervisory review and assessment of the types of complaints being alleged or sustained to identify potential problematic patterns and trends.	§§ 142-143	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	
<b>Staffing and Training Requirements (§§ 144-149)</b>				
Within 30 days of the Operational Date, NPD will review staffing of OPS and ensure that misconduct investigators and commanders possess appropriate investigative skills, a reputation for integrity, the ability to write clear reports with recommendations supported by the evidence, and the ability to assess fairly and objectively whether an officer has committed misconduct.	§§ 144, 145	Within 30 days of the Operational Date (August 11, 2016)	Operational Compliance (achieved after deadline)	See Second Quarterly Report.
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	Within two years of the Effective Date (March 30, 2018)	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	Within 60 days after approval of protocol and annually thereafter	Non-Compliance	

**Internal Affairs: Complaint Intake and Investigation Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will improve OPS' complaint tracking and assessment practices in accordance with ¶ 149.	¶ 149	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Eighth Quarterly Report, Section II(C).

**X. Compliance Reviews and Integrity Audits**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<p>NPD will conduct integrity audits and compliance reviews to identify and investigate all officers who have engaged in misconduct including unlawful stops, searches, seizures, excessive uses of force; theft of property or other potential criminal behavior; racial or ethnic profiling and bias against lesbian, gay bisexual and transgender persons.</p> <p>The integrity audits will also seek to identify officers who discourage the filing of complaints, fail to report misconduct or complaints, or otherwise undermine NPD's integrity and accountability systems.</p>	¶¶ 150, 151	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	NPD has begun to conduct some integrity audits (e.g., body-worn cameras, and stops). See Seventh Quarterly Report, Section II(D)(2).



**XI. Discipline**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will adopt policies that are consistent and fair in their application of officer discipline, including establishing a formal, written, presumptive range of discipline for each type of violation.	Section XIII	Within two years of the Effective Date (March 30, 2018)	Preliminary Compliance	
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 guidance	Non-Compliance	See Ninth Quarterly Report, Appendix C.
NPD will apply discipline for sustained allegations of misconduct based on the nature and severity of the policy violation and defined mitigating and aggravating factors, rather than the officer's identity, rank or assignment; relationship with other individuals; or reputation in the broader community.	¶ 152	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will implement disciplinary guidance for its personnel that addresses the topics addressed in ¶ 153 of the Consent Decree.	¶ 153	Within 90 days of the Operational Date (October 10, 2016)	Non-Compliance	
NPD will establish a unified system for reviewing sustained findings and applying the appropriate level of discipline pursuant to NPD's disciplinary guidance.	¶ 154	Within two years of the Effective Date (March 30, 2018)	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will conduct annual reviews of its disciplinary process and actions.	¶ 155	Annually	Non-Compliance	

**XII. Data Systems Improvement**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Early Warning System (¶¶ 156-161)</b>				
NPD will enhance its Early Warning System (“EWS”) to support the effective supervision and management of NPD officers.	¶ 156	Within one year of the Effective Date (March 30, 2017)	Non-Compliance	See Ninth Quarterly Report, Section II(A).
City will provide sufficient funding to NPD to enhance its EWS.	¶ 156	Within one year of the Effective Date (March 30, 2017)	Non-Compliance	See Ninth Quarterly Report, Section II(A).
NPD will develop and implement a data protocol describing information to be recorded and maintained in the EWS.	¶ 157	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Ninth Quarterly Report, Section II(A).
NPD will revise its use of EWS as an effective supervisory tool. To that end, the EWS will use comparative data and peer group analysis to identify patterns of activity by officers and groups of officers for supervisory review and intervention.	¶ 158-160	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Ninth Quarterly Report, Section II(A).
NPD will continue to use its current IAPro software's alert and warning features to identify officers for intervention while further developing and implementing an EWS that is fully consistent with this Agreement.	¶ 161	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
<b>Records Management System (“RMS”) (¶¶ 162-163)</b>				
NPD will revise its use and analysis of its RMS to make efficient and effective use of the data in the System and improve its ability to interface with other technology systems.	¶ 162	Within two years of the Effective Date (March 30, 2018)	Non-Compliance	See Ninth Quarterly Report, Section II(A).

**Data Systems Improvement Continued**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
City will provide sufficient funding and personnel to NPD so NPD can revise its use and analysis of its Record Management System.	¶ 163	N/A	Non-Compliance	See Ninth Quarterly Report, Section II(A).

**XIII. Transparency and Oversight**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
NPD will make its policies publicly available, and will regularly report information regarding officer use of force; misconduct complaints; and stop/search/arrest data.	¶ 164	Ongoing	Not Assessed	
NPD will work with the civilian oversight entity to overcome impediments to the release of information consistent with law and public safety considerations.	¶ 165	N/A	Not Assessed	
On at least an annual basis, NPD will issue reports, summarizing and analyzing the stop, search, arrest and use of force data collected, the analysis of that data, and the steps taken to correct problems and build on successes.	¶¶ 85, 168	Annually	Non-Compliance	

**XIV. Consent Decree Implementation and Enforcement**

<b>Achievement</b>	<b>Consent Decree Paragraph</b>	<b>Consent Decree Deadline for Achievement</b>	<b>Status</b>	<b>Discussion</b>
<b>Consent Decree Implementation Unit</b>				
The City and NPD will form an interdisciplinary unit to facilitate the implementation of the Consent Decree.	¶ 196	Within 180 days after the Effective Date (September 26, 2016)	Operational Compliance	
The City implementation unit will file a status report with the Court, delineating the items set forth in the Consent Decree.	¶ 197	Within 180 days after the Effective Date (September 26, 2016) and every six months thereafter	Operational Compliance	

# **Appendix B**

**STATUS OF CONSENT DECREE AUDITS****Monitoring Team's Nineteenth Quarterly Report — July 1 to September 30, 2021**

The following chart notes the status of the Monitoring Team's Consent Decree audits that are either in progress or have been completed.

<b>Audit</b>	<b>Status</b>	<b>Audit Result</b>
<b>Training Records</b>  Audited Consent Decree Area(s): Paragraphs 9, 12 and 173	October 15, 2019: First audit report is issued in the Monitor's Tenth Quarterly Report.  January 28, 2021: Second audit report is issued in the Monitor's Fifteenth Quarterly Report.  July 9, 2021: Amended Second audit report is issued in the Monitor's Sixteenth Quarterly Report.  July 7, 2021: 45-day notice is issued for third audit.	<i>First</i> Training Records Audit: See Tenth Quarterly Report.  <i>Second</i> Training Records Audit: See Sixteenth Quarterly Report. <sup>1</sup>
<b>Community-Oriented Policing and Engagement</b>  Audited Consent Decree Area(s): Paragraphs 14-21, 24, and 174(e)	March 6, 2020: 45-day notice is issued for first audit.  June 27, 2020: First audit report is complete.	<i>First</i> Community-Oriented Policing and Engagement Audit: See Eighteenth Quarterly Report, Appendix D.
<b>Body-Worn Cameras</b>  Audited Consent Decree Area(s): Paragraphs 103 and 104	May 24, 2019: 45-day notice is issued for first audit.  April 27, 2020: First audit report is issued in the Monitor's Twelfth Quarterly Report.  February 3, 2020: 45-day notice is issued for second audit.	<i>First</i> Body-Worn Camera Audit: See Twelfth Quarterly Report.  The results from the <i>Second</i> Body-Worn Camera Audit will be included in the

<sup>1</sup> The Monitoring Team concluded that NPD made significant progress implementing recommendations included in the *First* Training Records audit; however, the Monitoring Team was unable to assess compliance with Paragraph 12 during the *Second* Training Records audit because restrictions on in-person Monitorship activities prevented the Monitoring Team from determining whether training materials, including curricula, lesson plans and related course documents were being properly maintained at the Police Academy. The Monitoring Team's next (third) training records audit will assess compliance with Consent Decree Paragraphs 12 and 173. Additionally, the Monitoring Team's third training records audit will assess whether NPD has trained all relevant personnel with respect to Bias-Free Policing, which was administered after completion of the second training records audit.

Audit	Status	Audit Result
	The <i>Second</i> Body-Worn Camera audit was completed in September 2021.	Monitoring Team's next Quarterly Report.
In-Car Cameras  Audited Consent Decree Area(s): Paragraphs 103 and 104	February 3, 2020: 45-day notice is issued for first audit.  The <i>First</i> In-Car Camera audit was completed in September 2021.	The results from the <i>First</i> In-Car Camera Audit will be included in the Monitoring Team's next Quarterly Report.
Use of Force  Audited Consent Decree Area(s): Paragraphs 66-102; 174 (b)	October 15, 2019: 45-day notice is issued for first audit.  The <i>First</i> Use of Force audit has been completed.	<i>First</i> Use of Force Audit: See Eighteenth Quarterly Report, Appendix C.
Stops  Audited Consent Decree Area(s): Paragraphs 25-28, 43, 51-54 and 174 (a), (d), and (e)	January 17, 2020: 45-day notice is issued for first audit.  September 30, 2021: First audit report is issued to the Parties.	<i>First</i> Stops Audit: See Nineteenth Quarterly Report, Appendix C.
Property  Audited Consent Decree Area(s): Paragraphs 105, 110 and 111	July 9, 2021: 45-day notice is issued for first audit.	
Searches With or Without A Warrant  Audited Consent Decree Area(s): Paragraphs 29-34, 43, 51-53, 55-62 and 174(a)	July 13, 2021: 45-day notice is issued for first audit.	



The following chart notes the remaining Consent Decree audits that the Monitoring Team will conduct in the future.

Subject Matter Area	Status
Internal Affairs: Complaint Intake	The Monitoring Team is currently working with NPD on its Internal Affairs Procedural Manual. The Monitoring Team will provide anticipated timing for audits in this area once NPD has completed its Manual and related training.
Internal Affairs: Discipline	Portions of the Discipline audit are linked to the Complaint Intake requirements. The Monitoring Team will provide an anticipated timing for these portions of the Discipline audit once we are able to provide dates for the Complaint Intake audit, as described above.
Arrests With or Without A Warrant	The Monitoring Team expects to complete the first audit in this area by April 2022.
Bias-Free Policing	The Monitoring Team expects to complete the first audit in this area by March 2022.
Supervision, including All Force Investigations Team	The Monitoring Team will administer this audit following the initial completion of audits in other subject areas.

# Appendix C

**Report of the Independent Monitor's First Audit of the City of Newark and Newark  
Police Division's Investigatory Stops and Detentions**

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This report presents the findings of the Independent Monitor, Peter C. Harvey, regarding the Independent Monitoring Team's *first* audit of the City of Newark's (the "City") and Newark Police Division's ("NPD") compliance with Consent Decree requirements relating to Investigatory Stops and Detentions ("Stops").

## **I. Reviewers**

The following members of the Independent Monitoring Team participated in this audit:

Linda Tartaglia, Rutgers University Center on Policing  
Daniel Gomez, Lieutenant, Los Angeles Police Department (ret.)  
Robert Haas, Commissioner, Cambridge Police Department (ret.)  
Roselyn Parks, Ph.D., Rutgers University Center on Policing  
Jonathan Norrell, Rutgers University Center on Policing

## **II. Introduction**

Paragraph 173 of the Consent Decree instructs the Independent Monitoring Team, led by Independent Monitor Peter C. Harvey, to audit the City's and NPD's compliance with Consent Decree reforms. Pursuant to Paragraph 180 of the Consent Decree, the Independent Monitor issued notice to the City, NPD, and United States Department of Justice ("DOJ") (collectively, the "Parties"), by letter on January 17, 2020, that the Monitoring Team would begin its first audit of NPD's compliance with certain provisions of the Consent Decree relating to investigatory stops and detentions, and specifically, Section VI (Paragraphs 25-28, 43, 51-62); and Section XVI (Paragraph 174(a)).<sup>1</sup> See **Appendix A** (January 17, 2020 notice letter).

As a general matter, the above-referenced paragraphs of the Consent Decree require NPD to, in part:

- Implement policies and training directing that the use of investigatory stops and detentions by NPD officers accords with the rights secured and protected by the Constitution, federal law and New Jersey law.
- Implement policies that guide NPD officers on how to comply with reporting procedures related to Investigatory Stops and Detentions. Such reporting procedures include implementation of an electronic report format to collect data on all investigatory stops and searches, even if they do not result in an arrest or issuance of a summons or citation, as well as requirements related to Body-Worn Camera activation during stops.
- Conduct demographic analyses of enforcement activities to ensure officer compliance with NPD policy and issue reports summarizing and analyzing Investigatory Stop and Detention data.

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<sup>1</sup> Consent Decree Paragraph 174(d) and 174(e) relate to Outcome Assessments for training and supervision, respectively. NPD's ability to provide data for outcome assessments in those areas will be covered in future audits conducted by the Monitoring Team. Although Paragraphs 65, 164 and 168 are referenced in the Monitor's January 17 letter, these paragraphs will not be covered in this audit. Instead, they will be the subject of future audits or compliance reviews in other subject areas.

See Consent Decree Sections VI, and XVI.

### III. Review Period

In this audit, the Monitoring Team reviewed NPD's police activities and records for a three-month period, specifically, from October 1, 2019 through December 31, 2019 (the "Audit Period").

On January 17, 2020, the Monitoring Team provided NPD with notice of its intent to conduct this audit. See **Appendix A**. On March 20, 2020, in response to growing public health concerns related to the COVID-19 pandemic, NPD's then-Public Safety Director requested that the Monitoring Team discontinue in-person Monitorship activities. Subsequently, the Monitoring Team requested that NPD make copies of the relevant police records and video footage available to the Monitoring Team on a remote basis, using secure file sharing technology. The process of uploading video footage to enable remote access was complex, time consuming and involved NPD, the City of Newark's information technology personnel and multiple vendors.<sup>2</sup> The Monitoring Team completed its review of the relevant materials on July 30, 2021.

At the outset, NPD faced a notable obstacle in achieving compliance for this audit. During the Audit Period, NPD officers had not yet begun using its revised Stop Report. The revised Stop Report had been updated to allow officers conducting stops to collect all of the data elements required by the Consent Decree. Instead, this audit analyzed officers' use of an outdated version of the Stop Report that did not capture all relevant data required by the Consent Decree.<sup>3</sup> Prior to the start of the audit, there was considerable discussion amongst the parties and the Monitoring Team regarding the efficacy of undertaking an audit based on NPD's outdated Stop Report given the limited data collected in those reports. Ultimately, the Monitoring Team conducted the audit during an Audit Period in which the outdated Stop Report was in use despite the report's data limitations and the parties' understanding that NPD would not be in compliance with several provisions of the Consent Decree.<sup>4</sup>

### IV. Executive Summary

This report contains the results of the Monitoring Team's first audit of NPD's compliance with Consent Decree requirements relating to Stops of people whether on the

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<sup>2</sup> While one member of the Monitoring Team responsible for conducting this audit was able to participate in on-site audit activities during July and August 2020, due to technology-related challenges, NPD was compelled to provide the Monitoring Team with the necessary body-worn camera videos and relevant documentation in phases. First, NPD provided a portion of the required body-worn camera videos to the Monitoring Team on June 4, 2021. On June 9, 2021, NPD made a second production, comprised of missing videos not included in the original June 4 production. Finally, on July 16, 2021, NPD produced to the Monitoring Team additional Stop Reports required for the Monitoring Team to conduct this audit.

<sup>3</sup> NPD's General Order 18-14, *Consensual Citizen Contacts and Investigatory Stops* was issued under the then Public Safety Director's Memorandum dated January 10, 2019 (see **Appendix B**). In the memorandum, the then-Public Safety Director acknowledged "data collection limitations" of the outdated Stop Report (formerly known as the Field Inquiry report) still in use during the Audit Period. The memorandum explained that once the new Stop Report was ready for use, it would be made available to the Newark Police Records Management System (RMS) and that officers would then be able to collect all necessary data fields required by NPD's policy.

<sup>4</sup> NPD failed to respond to certain requests for information made by the Monitoring Team in its January 17, 2020 notice letter. For a list of information the Monitoring Team requested, but which NPD did not provide (see **Appendix C**).

street or vehicles. To that end, the Monitoring Team analyzed whether: (1) NPD's Stop policy and related First Amendment policy contained the Consent Decree-required provisions; (2) NPD demonstrated routine adherence to its own Stop policy in its day-to-day operations, described here as "Operational Compliance;" (3) NPD was able to produce police data concerning its Stops that would be sufficient for the Monitoring Team to establish a baseline for the aggregate data analysis required by Consent Decree Paragraph 174(a), known as an "outcome assessment;" and (4) NPD has complied with additional Stop-related requirements involving training and data collection and review.

On the first component of this audit—NPD's Stop-related policies and procedures—the Monitoring Team previously approved NPD's General Order 18-14, *Consensual Citizen Contacts and Investigatory Stops* (see **Appendix D**). and General Order 18-12, *First Amendment Right to Observe, Object to, and Record Police Activity* (see **Appendix E**). Those NPD General Orders incorporate each of the relevant Consent Decree policy requirements related to stops.

For the second component of this audit—whether NPD had demonstrated routine adherence to its Stop policy, federal and state law in its day-to-day operations, thereby achieving Operational Compliance—the Monitoring Team considered whether all officers conducting a Stop (a) established the requisite reasonable articulable suspicion prior to initiating the Stop, and whether the officer's attendant actions were within the scope of a lawful and procedurally adherent citizen investigation, described in this audit as *substantive compliance*; and (b) complied with the reporting and documentation requirements contained in NPD's policy, described in this audit as *documentation compliance*. If any stop was deficient, either substantively or with respect to documentation, that Stop was deemed "Non-Compliant." NPD achieves Operational Compliance only when it satisfies *both* substantive and documentation compliance for 95% of the stops in the sample reviewed by the Monitoring Team.<sup>5</sup>

The Monitoring Team found 71.57% of the Stops reviewed to be both substantively and documentation compliant. In other words, 141 out of 197 stops reviewed by the Monitoring Team were Operationally Compliant. When further separated by substantive and documentation compliance, the audit revealed that in terms of *substantive* compliance, NPD nearly reached the 95% compliance score, scoring 92.89% compliance. In contrast, NPD's *documentation* compliance score was only 78.6%.<sup>6</sup>

With respect to the third component of this audit—collecting and analyzing NPD's Stop data on an aggregate level as required by Consent Decree Paragraph 174(a)—the Monitoring Team considered whether NPD had provided the Monitoring Team with the three categories of Stop data required in Paragraph 174(a)(i)-(iii). NPD was able to produce all three categories of data. However, because the data was drawn from NPD's Computer Aided Dispatch (CAD) System rather than a qualified and reliable source, NPD has not complied with this aspect of the Consent Decree.

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<sup>5</sup> The Monitoring Team further separately categorized compliance by considering NPD's substantive compliance and documentation compliance separately. This practice allows NPD to more easily identify areas in which it may focus its resources to address deficiencies, if any, in its operations with respect to stops.

<sup>6</sup> In events where both substantive and documentation deficiencies were noted, the SMEs included this event in the substantive category score only.

NPD's compliance with respect to additional Stop-related Consent Decree requirements involving training and Stop, Search and Arrest Data Collection and Review are summarized in the table below. This table presents an overview of NPD's compliance in the Monitoring Team's First Audit of NPD's Stops.

Overview of First Stop Audit Results		
Audit Subject	Consent Decree Paragraph(s)	Compliance?
<b>Stop Policy</b>	Paragraphs 25-28	Yes.
<b>First Amendment Policy</b>	Paragraphs 55- 62	Yes.
<b>Operational Compliance</b>  <i>Whether NPD officers complied with NPD's Stop policy, including reporting requirements.</i>	Paragraphs 25-28	No. Overall, 71.57% of Stops were compliant both substantively and with respect to documentation.  <b>(Requirement: 95%)</b>
<b>Outcome Data</b>  <i>NPD's production of aggregate Stop data required by the Consent Decree</i>	Paragraph 174(a)(i)-(iii)	No. CAD data provided by NPD is preliminary in nature and is not a sufficiently accurate source.
<b>Training</b>	Paragraph 43	Yes. The Monitoring Team previously reviewed and approved NPD's Stops Searches and Arrests training.
<b>Stop, Search, and Arrest Data Collection and Review</b>	Paragraphs 51-54	No. NPD did not provide the Monitoring Team with the required materials for this audit.

## V. Analysis

### A. NPD's Stop Policy and First Amendment Policy

The Consent Decree requires NPD to implement policies directing officers to conduct investigatory stops and detentions in accord with the rights secured and protected by the Constitution and state and federal law and that guide officers on correct reporting procedures. (See Paragraphs 25-28). The Consent Decree also requires NPD personnel to respect the public's First Amendment right and prohibits officers from taking certain actions to discourage the exercise of these rights. (See Paragraphs 55-62).<sup>7</sup>

Prior to this audit, the Monitoring Team reviewed and approved NPD's Stop policy, General Order 18-14, *Consensual Citizen Contact and Investigatory Stops* (see **Appendix D**) and First Amendment policy, General Order 18-12, *First Amendment Right to Observe, Object to, and Record Police Activity*. (See **Appendix E**).<sup>8</sup>

<sup>7</sup> The Consent Decree does not expressly require NPD to create a standalone First Amendment policy, but NPD endeavored to do so.

<sup>8</sup> NPD's General Order 18-05, *Body-Worn Camera policy* (see **Appendix F**), is also relevant to this audit.



Before approving these policies, the Monitoring Team conducted a formal review to determine whether the policies, collectively, contain each of the Consent Decree policy requirements related to Stops and First Amendment activities. The full list of these requirements can be found in **Appendix G**. The Monitoring Team determined that all of the requirements are embodied therein.

## **B. Operational Compliance: Substantive and Documentation**

The Monitoring Team initially generated a random sample of 200 events or “Stops” from the Audit Period (October 1 through December 31, 2019) to analyze for this audit. This random sample of 200 events was drawn from a total population of 13,947 events for the Audit Period. Two (2) events in the random sample were removed from the final sample because they were duplicate events. A third event (dated January 1, 2019) fell outside of the Audit Period and was removed from the final audit sample. The final audit sample contained 197 events (*see Appendix H* for the complete list of events).

To determine whether NPD is complying with its Stop policy, federal and state law, the Monitoring Team analyzed (i) body-worn and in-car camera videos, (ii) Stop Reports and (iii) to the extent relevant, additional associated reports, for the 197 stops in the sample. A Stop was compliant only if it was compliant both substantively and with respect to documentation. If a Stop was deficient on *either* metric it was deemed non-compliant.

To assess Substantive Compliance for each Stop, the Monitoring Team evaluated whether officers involved in a Stop had the requisite reasonable articulable suspicion prior to initiating the stop, and whether the officers’ subsequent actions were within the scope of a lawful and procedurally adherent citizen investigation as set forth in General Order 18-14, *Consensual Citizen Contact and Investigatory Stops*. For example, the Monitoring Team reviewed officers’ narrative descriptions included in Stop Reports and compared these descriptions to the actions observed on videos captured by associated body-worn cameras and in-car cameras to determine if officers conducted Stops in accordance with NPD policy.

To assess Documentation Compliance for each Stop, the Monitoring Team evaluated whether officer involved in a Stop accurately completed all written reporting requirements and followed NPD procedure for activating his or her body-worn camera.

For Stops involving multiple officers, the Monitoring Team analyzed the actions of *every* officer involved in the Stop and/or on the scene during the Stop. A Stop was only Operationally Compliant if *every* officer involved complied both substantively and with respect to documentation. A failure by any officer involved in a Stop resulted in non-compliance.

### *1. Operational Compliance*

NPD achieved an Operational Compliance score of 71.57%. In total, 141 of the 197 stops reviewed by the Monitoring Team were compliant both substantively and with respect to documentation. NPD needed 46 more compliant stops to meet the 95% compliance score.

<b>Events Reviewed</b>	<b>Overall Compliance Assessed</b>	<b>Score</b>
197	141	71.57%

## 2. *Substantive Compliance*

To determine whether NPD achieved Substantive Compliance, the Monitoring Team analyzed whether NPD officers' actions were lawful and complied with the requirements of General Order 18-14. If an event lacked body-worn camera video (excluding events involving plainclothes officers), the Monitoring Team was unable to adequately assess whether officers conducting the stop established requisite reasonable articulable suspicion prior to initiating the Stop and acted within the scope of a lawful and procedurally adherent citizen investigation. Accordingly, the Stop was substantively non-compliant.<sup>9</sup>

In total, 183 of the 197 (92.89%) events reviewed were substantively compliant.

Events Reviewed	Substantively Compliant	Score
197	183	92.89%

Of the 56 non-compliant Stops reviewed by the Monitoring Team, 14 (25.00%) were non-compliant due to substantive deficiencies.

Below is a summary of the 14 substantively non-compliant events reviewed by the Monitoring Team, including the relevant circumstances surrounding each event.

Summary of Substantively Non-Compliant Events	
Event Number	Circumstances
P19456263	No reasonable articulable suspicion
P19483263	No reasonable articulable suspicion
P19440197	No reasonable articulable suspicion and no body-worn camera video
P19475479	Two different traffic stops observed but only one Stop Report completed (there should have been two Stop Reports completed)
P19478396	No reasonable articulable suspicion
P19491631	Missing Stop Report and no body-worn camera video
P19499406	Missing Stop Report and missing Stop Report fields
P19509804	No reasonable articulable suspicion and no body-worn camera video
P19525821	No reasonable articulable suspicion
P19528437	Incomplete Stop Report: Pat down observed but not indicated
P19550141	Incomplete Stop Report: Search and arrest not indicated on the Stop Report
P19551310	No body-worn camera video
P19553385	Missing Stop Report: Two persons detained, but only one Stop Report created
P19573727	No reasonable articulable suspicion and no body-worn camera video

<sup>9</sup> A Stop with a missing body-worn camera video was deemed non-compliant with respect to documentation if, despite missing a body-worn camera video, the Monitoring Team was able to determine through review of other videos captured from body-worn or in-car cameras, whether officers conducting the stop established requisite reasonable articulable suspicion prior to initiating the Stop and acted within the scope of a lawful and procedurally adherent citizen investigation.

### 3. Documentation Compliance

The Monitoring Team assessed whether each officer involved in the 197 Stops reviewed had fulfilled the documentation requirements in NPD's General Order 18-14, *Consensual Citizen Contacts and Investigatory Stops* (see **Appendix D**).<sup>10</sup> Documentation Compliance was also assessed according to General Order 18-05, *Body-Worn Cameras* (see **Appendix F**, which requires NPD officers to activate their body-worn camera during all Stops.

NPD's Documentation Compliance score was 78.68%. In 155 of 197 events reviewed, the officers involved in the Stop documented their actions consistent with applicable NPD policies.

Events Reviewed	Documentation Compliant	Score
197	155	78.68%

Of the 56 non-compliant Stops reviewed by the Monitoring Team, 42 (75.00%) were non-compliant due to documentation-related deficiencies.

Below is a summary of the 42 events that were determined to be non-compliant because of documentation deficiencies, and the relevant circumstances surrounding each event.

Summary of Documentation Non-Compliant Events	
Event Number	Circumstances
P19446576	Missing body-worn camera video
P19448606	Missing body-worn camera video
P19449635	Missing body-worn camera video
P19449920	Missing body-worn camera video
P19456158	Missing body-worn camera video
P19458293	Missing body-worn camera video
P19460128	Missing body-worn camera video
P19460410	Incomplete Stop Report
P19463815	Missing body-worn camera video
P19468841	No body-worn camera video; Unknown Plainclothes <sup>11</sup>
P19473292	Missing body-worn camera video
P19483149	Missing body-worn camera video
P19486323	Missing body-worn camera video
P19487341	Missing body-worn camera video
P19489578	Missing body-worn camera video
P19496161	Missing body-worn camera video
P19498404	Missing body-worn camera video
P19506882	Missing body-worn camera video
P19511420	Missing body-worn camera video

<sup>10</sup> As noted in this report the Monitoring Team's assessment was limited to reviewing information captured on NPD's previous Field Inquiry Report rather than its revised Stop Report.

<sup>11</sup> For Event Number P19468841, the Monitoring Team was unable to determine through review of the documentation provided if the involved officers were deployed in a uniformed or non-uniform assignment.

Summary of Documentation Non-Compliant Events	
Event Number	Circumstances
P19514788	Missing body-worn camera video
P19517627	Missing body-worn camera video
P19519270	Missing body-worn camera video
P19520612	Missing body-worn camera video
P19523279	Missing body-worn camera video
P19529014	Missing body-worn camera video
P19531936	Missing body-worn camera video
P19537991	Incomplete Stop Report
P19540300	Missing body-worn camera video
P19541785	Missing body-worn camera video
P19544957	Missing body-worn camera video
P19548373	Incomplete Stop Report
P19549517	Missing body-worn camera video
P19552463	Missing body-worn camera video
P19556664	Incomplete Stop Report
P19565148	Missing body-worn camera video
P19570637	Missing body-worn camera video
P19573282	Missing body-worn camera video
P19580292	Missing body-worn camera video
P19581003	Missing body-worn camera video; incomplete Stop Report
P19582201	Missing body-worn camera video
P19587017	Missing body-worn camera video
P19587114	Incomplete Stop Report

### C. Outcome Data

Consent Decree Paragraph 174(a)(i)-(iii) requires NPD to provide the Monitor with three (3) categories of Stop data to allow the Monitoring Team to undertake Stop-related outcome assessments. NPD will be compliant when it provides each of the three (3) categories of data to the Monitoring Team.

NPD provided the Monitoring Team with all three categories of data required by the Consent Decree. However, the data provided was drawn from NPD's Computer-Aided Dispatch ("CAD") system. CAD data is not a qualified or reliable source for use in outcome assessments because it is inherently preliminary and limited in nature. Moreover, information initially entered into the CAD system is subject to alteration, revision and negation, as a result of the subsequent actions by responding officers. In addition, CAD does not capture certain data that is required to be completed in a Stop Report.

For instance, unlike the CAD system, the Stop Report requires that officers indicate the number of passengers present inside a vehicle during an encounter. The CAD system does not include this data. As a result, the Monitoring Team was unable to establish a baseline assessment through use of CAD data. The data that NPD provided to the Monitoring Team is included as **Appendix I**.

Data Required by the Consent Decree	Paragraph	Compliant?
Stop rates by subject(s) race or	174(a)(i)	No.

<b>Data Required by the Consent Decree</b>	<b>Paragraph</b>	<b>Compliant?</b>
ethnicity, gender, and age per sector, precinct, shift, and unit.		
Post-Stop activity rates, such as frisks, searches, requests for consent to search; in-car detentions, citations issued, by subject(s) race or ethnicity, gender and age per sector, precinct, shift and unit.	174(a)(ii)	No.
Analyses of the frequency and effectiveness of Stop and post-Stop activities, including rates at which contraband is discovered pursuant to a search, by type of search, race or ethnicity, gender, and age per sector, precinct, shift, and unit.	174(a)(iii)	No.

#### **D. Training**

Consent Decree Paragraph 43 requires NPD to “provide all officers with at least 16 hours of training on stops, searches, arrests . . . and at least an additional 4 hours on an annual basis thereafter. Such training will be taught by a qualified legal instructor with significant experience in First and Fourth Amendment issues.” Furthermore, NPD’s training must address the requirements outlined in Paragraph 43(a)-(d).

With respect to Paragraph 43, the Monitoring Team previously reviewed and approved NPD’s training after determining that the training met the requirements of the Consent Decree. Thus, NPD is in compliance with Paragraph 43.<sup>12</sup>

#### **E. Stop, Search, and Arrest Data Collection and Review**

Paragraph 51 requires NPD to “modify its procedures . . . to collect and preserve stop, search, and arrest data sufficient to determine the nature and scope of demographic disparities in stop and search practices, as well as which stop, search, and arrest practices are most effective and efficient.”

With respect to Paragraph 51, for the Audit Period, NPD did not provide the methodology it would use to accomplish the requirements of this paragraph. Also, during the Audit Period, NPD used a Stop Report form which did not capture the required data elements to perform this type of analysis. Thus, NPD was not in compliance with Paragraph 51.

Paragraph 52 requires NPD to “modify or develop a written or electronic report format to collect data on all Investigatory Stops and Searches, whether or not they result in an arrest or issuance of a summons or citation. This system will be integrated into NPD’s EWS and allow for the information in Stop and Search records to be searched and summarized

<sup>12</sup> In the Monitor’s Second Training Records Audit, the Monitoring Team determined that NPD had administered its Stops, Searches and Arrests training to 100% of the relevant NPD personnel. *See* Independent Monitor’s Sixteenth Quarterly Report, **Appendix J**.

electronically.” NPD’s Stop and Search data collection system will document the categories of information identified in Paragraph 52(a)-(l).

With respect to Paragraph 52, during the Audit Period, NPD had not yet developed a method of integrating the data collected into its Early Warning System. Additionally, as explained in this audit report, specific data elements were not incorporated into the version of the Stop Report use by NPD during the Audit Period. Specifically, the Stop Report used by NPD during the Audit Period could not collect data required under Paragraph 52(a)-(f). Therefore, NPD was not in compliance with Paragraph 52.

Paragraph 53 requires NPD to develop a protocol for comprehensive analysis of Stop, Search, and Arrest data.

With respect to Paragraph 53, during the Audit Period NPD had not yet developed a protocol which had been reviewed and approved by the Monitor and Department of Justice.<sup>13</sup> Thus, NPD was not in compliance with Paragraph 53 for this audit.

Paragraph 54 requires NPD to “ensure that all databases comply fully with federal and state privacy standards governing personally identifying information” and “restrict database access to authorized, identified users who will be permitted to access the information only for specific, legitimate purposes.”

With respect to Paragraph 54, NPD did not submit to the Monitoring Team a directive that specified that all databases comply with federal and state privacy standards at the time of this audit. Thus, NPD was not in compliance with Paragraph 54 for this audit.

## **VI. Observations and Recommendations**

The Monitoring Team made four (4) principal observations and corresponding recommendations during this audit.

*First*, future audits by the Monitoring Team of NPD’s Stops must be conducted during periods in which NPD’s *revised* Stop Report is in use by officers in the field. The Monitoring Team understands that NPD has put into effect its revised Stop Report that captures all Consent Decree-required data fields. Still, NPD should utilize the first audit as a guide toward improvements for the next stop audit.

*Second*, the Monitoring Team identified serious deficiencies in the narrative sections of completed Stop Reports. The Monitoring Team noted that some officers failed to clearly and completely articulate the fact patterns that led to the Stops, along with events that transpired during the Stops. In some of these cases, the presence of Body-Worn Camera video greatly assisted the Monitoring Team in evaluating the accuracy of the Stop Report. Accordingly, the Monitoring Team recommends that NPD (1) emphasize the importance of accuracy and completeness in documentation, (2) clearly convey the heightened expectations throughout all ranks within the organization, and (3) implement accountability measures to promote compliance.

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<sup>13</sup> After the Audit Period, in May 2021, NPD developed a protocol pursuant to Paragraph 53.



*Third*, the Monitoring Team identified procedural inconsistencies in officers' use of body-worn cameras. The Monitoring Team observed inconsistencies including officers' failure to activate cameras and delayed activation of cameras. These deficiencies violated General Order 18-05, *Body-Worn Cameras* and resulted in incomplete depictions of Stop events. In cases where the fact pattern described in the written narrative is deficient, accurate and comprehensive body-worn camera footage can assist reviewers in examining important details related to the stop event. Conversely, in cases where both body-worn camera footage and written documentation are missing or incomplete, an accurate and comprehensive assessment of the event cannot be made without relying on subjective inference and speculation. Given these findings, the Monitoring Team recommends that NPD emphasize to officers and front-line supervisors the need for timely activation of body-worn cameras during all Stops.

*Fourth*, throughout its review, the Monitoring Team noted deficits in the recording of passenger information. In several instances, while reviewing body-worn camera footage of vehicle Stops, the Monitoring Team observed passengers in the stopped vehicles. However, the presence of the passengers was not always documented in corresponding Stop Reports. This lapse in documentation could create significant challenges for finders-of-fact in criminal, civil and departmental investigations and proceedings, and could give the appearance of a deliberate lack of transparency. Accordingly, the Monitoring Team recommends that NPD emphasize to its officers the need to provide as much documentation as possible (and legally permissible) about passengers present during a motor vehicle Stop. Also, the Monitoring Team notes that the current NPD Stop policy warrants further revision to clarify the practice of only one officer complete a Stop Reports when there is more than one officer present. We believe that clear guidance in this key area is lacking within the policy.

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The Consent Decree requires that both the City and NPD post this report on their websites. *See* Consent Decree Paragraph 20 ("All NPD studies, analyses, and assessments required by this agreement will be made publicly available, including on NPD and City websites...to the fullest extent permitted under law."); Paragraph 166 ("all NPD audits, reports, and outcomes analyses...will be made available, including on City and NPD websites, to the fullest extent permissible under law.").

The Monitor expects the City and NPD to do so expeditiously.

Dated: September 30, 2021

Peter C. Harvey  
Independent Monitor

# **Appendix A**



## **Patterson Belknap Webb & Tyler LLP**

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January 17, 2019

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### **Re: First Audit: Investigatory Stops and Detentions 45-Day Notice**

Dear City of Newark and Newark Department of Public Safety's Newark Police Division ("NPD"):

Pursuant to Consent Decree Paragraphs 173 and 180, I write to provide notice that, starting no sooner than 45 days from the date of this letter, the Monitoring Team will conduct its first audit of NPD's Investigatory Stops and Detentions (also referred to as "Stops"). This audit will cover the period from October 1, 2019 up to and including December 31, 2019 (the "audit period"). The purpose of this audit is to assess whether NPD has complied with certain sections of the Consent Decree, including: Section VI (specifically, ¶¶ 25-28, 43, & 51-62); Section VII (specifically, ¶ 65); Section XV (specifically, ¶¶ 164 and 168); and Section XVI (specifically, ¶ 174 (a), (d), and (e)).

This first audit of Investigatory Stops and Detentions will be carried out by the following Monitoring Team Subject Matter Experts: Cambridge Police Commissioner Robert Haas (Ret.)

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and Lieut. Daniel Gomez (Ret.) of Los Angeles Police Department.

## I. SCOPE

As agreed upon by the City of Newark (the "City"), the Newark Police Division ("NPD") and the United States Department of Justice ("DOJ") (collectively, the "Parties") and the Independent Monitor, this audit will focus on the relevant paragraphs as they pertain to Investigatory Stops and Detentions.

The topical areas of Searches and Arrests will *not* be the subject of this audit, but will be the subject of separate audit(s). This audit, however, will include Consent Decree Section VI.D, *Stop, Search, and Arrest Training* (specifically, ¶ 43), which encompasses all three topical areas, and has already been subject to Monitoring Team review prior to this auditing period.

Additionally, the Monitoring Team will not audit supervisory reviews of Stops during this initial stop audit. It is the Monitoring Team's intention, however, to complete a subsequent audit of supervisory reviews of Stops in the quarter following completion of this audit. While the Monitoring Team will not be auditing supervisory reviews of stops during this initial stop audit, it is our intention to complete a follow-up audit of this area within the next quarter (between April and June 2020).

## II. METHODOLOGY

To assess compliance, the Monitoring Team will evaluate whether NPD is following its own policy, protocols, procedural guidelines, notification(s), and reporting requirements as outlined in NPD's Memorandum #19-18, entitled *Implementation of G.O. 18-14, 18-15, 18-16 – RE: Stop, Search and Arrest Policies*, dated, January 11, 2019 (specifically focusing on the paragraphs addressing Stops); G.O. #18-14 – *Consensual Citizen Contacts and Investigatory Stops*, dated December 31, 2018; and related In-Service Training Bulletins.

The Monitoring Team will draw a randomized sample from all stops conducted by NPD officers during the audit period. The Monitoring Team will randomly select twenty percent (20%) of the stop reports produced by NPD officers during the audit period ("initial sample") to assess for completeness — ensuring that data elements collected on stop report forms are actually being captured. From this initial sample, a subset of twenty percent (20%) of the stop reports will be randomly selected ("secondary sample"). The Monitoring Team will review all forms associated with stops in the secondary sample to assess their content (*e.g.*, whether officers have articulated reasonable suspicion or used *pro forma* or conclusory language without supporting detail).

Finally, the Monitoring Team will identify and review videos associated with, an additional number of stops, in order to verify the veracity of the reports.

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For further information regarding the Monitoring Team's methodology with respect to the audit of NPD's Investigatory Stops and Detentions, please see **Appendix A**.

### III. REQUIRED DATA

In preparation for the audit, at least two (2) weeks prior to the start of the audit, and no later than February 15, 2020, the Monitoring Team requires that NPD provide it with the following data and records for the audit period:

- A. a spreadsheet consisting of information related to all stops conducted by NPD officers during the audit. This spreadsheet should include all data elements required by Consent Decree Paragraph 52 (listed below) and collected on the stop report form.
- B. the methodology NPD uses to determine the nature and scope of demographic disparities in stop and search practices, as well as which stop, search, and arrest practices are most effective and efficient (§ 51).
- C. the cumulative and quarterly demographic analyses of the enforcement activities of NPD officers, which is conducted by the Commander of the Office of Professional Standards, or his/her designee (G.O. #18-14 – IX. Administrative Review).
- D. NPD should identify whether the electronic stop report was in use throughout the entire audit period and if it was not, provide a written explanation of (1) why the electronic stop report was not in use and (2) an estimated date by which NPD expects that it will be used by NPD officers in the field.
- E. a blank copy of the electronic stop report for the audit period which captures the following data elements (§ 52):
  - 1. the officer's name and badge number;
  - 2. date and time of the stop;
  - 3. location of the stop;
  - 4. duration of the stop;
  - 5. subject's apparent gender, race, ethnicity or national origin, and age;
  - 6. if a vehicle stop, the presence and number of any passengers and the apparent gender, race, ethnicity, national origin, and age of each passenger;

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7. if the stop is a non-vehicle stop (e.g., pedestrian or bicycle), the number of individuals stopped and apparent gender, race, ethnicity, national origin, and age of each person;
  8. if a vehicle stop, whether the driver or any passenger was required to exit the vehicle, and the reason for doing so;
  9. reason for the stop, including a description of the facts creating reasonable suspicion and whether it was a pretext stop;
  10. whether any individual was asked to consent to a search and whether such consent was given; whether a pat-down frisk, or other search was performed on any individual, including a description of the facts justifying the action;
  11. a full description of any contraband or evidence seized from any individual;
  12. whether probable cause search was performed on any individual, including a brief description of the facts creating probable cause; and
  13. disposition of the stop, including whether a citation or summons was issued to an arrest made of any individual.
- F. a demonstration of the integration of the aforementioned data elements into NPD's Early Warning System ("EWS"), allowing for the information in stop and search records to be searched and summarized electronically (§ 52).
- G. NPD's written protocol describing how it ensures that all databases comply fully with federal and state privacy standards governing personally identifying information (§ 54).
- H. copies of its publicly available reports containing NPD's cumulative and quarterly demographic analyses of its enforcement activities to ensure officer, unit, and Division compliance with the bias-free policing policy through the identification of trends, outliers, or other relevant indicators (§ 65).
- I. copies of its integrity audits and compliance reviews that identify and investigate all officers who have engaged in misconduct, including unlawful stops, searches, seizures (including false arrests); excessive uses of force; theft of property or other potential criminal behavior; racial or ethnic profiling, and bias against lesbian, gay, bisexual, and transgender persons (§ 150).
- J. provide a copy of NPD annual reports that summarizes and analyze the stop, search, arrest, and use of force data collected, the analysis of that data, and the steps taken to correct problems and build on successes (§ 168).

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NPD should also provide the Monitoring Team with data sufficient to enable the Monitoring Team to conduct outcome assessments pursuant to ¶ 174 (a), (d), and (e) as it relates to Investigatory Stops and Detentions. The Monitoring Team understands that the rates referenced in ¶ 174 (a) will be compiled and computed from data provided by NPD from IA Pro which is utilized by the Office of Professional Standards and the Auditing Unit.

One week after receiving the requested information, the Monitoring Team will provide the City and NPD with the Investigatory Stops and Detention incident numbers of cases it seeks to review. All reports and body-worn camera video associated with the requested events will be made available to the Monitoring Team on the day(s) of the audit in the workplace provided to the Monitoring Team.

Best regards,

/s/ Peter C. Harvey

Peter C. Harvey

CC: Steven H. Rosenbaum  
Chief – Civil Rights Division  
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District of New Jersey

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Rodino Federal Building  
970 Broad Street  
Newark, NJ 07102

# Appendix A\*

\* This Appendix A was included as an appendix the the Monitoring Team's 45-day notice letter.

## **Stop Audit Methodology**

### **Audit Responsibility**

Paragraph 173 of the Consent Decree requires the Monitor to “conduct compliance reviews or audits as necessary to determine whether the City and NPD have implemented and continue to comply with the requirements of [the Consent Decree].” The Monitoring Team must assess whether the City and NPD have “implemented the [Investigatory Stops and Detentions] requirement[s] in practice.” Additionally, Consent Decree Paragraph 174 (a) and (d) requires the Monitor to collect and analyze the following data as part of its Investigatory Stops and Detentions outcome assessments:

- a. Stops, Search, and Arrest:
  - i. stop rates by subject(s) race or ethnicity, gender, and age per sector, precinct, shift, and unit;
  - ii. post-stop activity rates, such as frisks, searches, requests for consent to search; in-car detentions, citations issued, by subject(s) race or ethnicity, gender and age per sector, precinct, shift, and unit; and
  - iii. analyses of the frequency and effectiveness of stop and post-stop activities, including rates at which contraband is discovered pursuant to a search, by type of search, race or ethnicity, gender, and age per sector, precinct, shift, and unit.
- d. Training (as it relates to Investigatory Stops and Detentions):
  - i. training effectiveness; and
  - ii. modifications or improvements to training resulting from review and analysis of uses of force, stops, searches, arrests, citizen complaints, community input or oversight, and other sources as required by the Agreement.

### **Methodology**

As part of its audit, the Monitoring Team requests from NPD a spreadsheet containing information related to all stops conducted by NPD officers during the audit period. This spreadsheet should incorporate all data elements collected on the Stop Report form. The Monitoring Team will select for review, a randomized sample from all of the stops conducted. Of this population of stops, twenty percent (20%) will be randomly selected and associated data will be reviewed in the spreadsheet for completeness. From this initial sample, twenty percent (20%) of these records will be selected and the Monitoring Team will review all forms associated with those stops to assess their content (e.g., whether officers have articulated reasonable suspicion or used pro forma or conclusory language without supporting detail). Finally, the Monitoring Team will identify and review videos associated with an additional number of stops to verify the veracity of the written reports.



The Monitoring Team may request additional documentation based on questions developed during the evaluation of the provided data and information, or where there have been noted deficiencies. NPD should designate a member of its staff to be responsive to any such additional requests.

The Monitoring Team will use the following to determine compliance with the listed Consent Decree requirements associated with Investigatory Stops and Detention:

- ¶ 25: Based on the review of the reasonable articulable suspicion narrative on the selected Stops Report forms (D1:1388), the Monitoring Team will determine if the stated reason for the stop meets the required threshold for the stop and/or detention (Y/N).
- ¶ 27: Based on the review of the three narrative sections of the selected Stops Report forms (D1:1388), the Monitoring Team will identify any of the prohibited practices listed in NPD's G.O. #18-14 – V. *Prohibited Actions*. In addition to the review of the narrative sections, members of the Monitoring Team will review the following:
  - All Stop Report forms (D1:1388) and associated documentation for all stops or detentions within the audit period which were conducted as a pretext to achieve another purpose.
  - Where there appears to be *pro forma* or conclusionary language used in the narrative sections of the Stop Report forms (D1:1388), members of the Monitoring Team may request additional documentation.
- ¶ 28: Based upon a random sampling of incidents coded during the audit period involving a stop and/or detention, the Monitoring Team will determine whether the fields on the Stops Report forms (D1:1388) were completed. In addition to the random sampling of Stops Report forms, members of the Monitoring Team will review the following:
  - A list of all stops or detentions during the audit period that exceeded 45 minutes in duration. Members of the Monitoring Team may request associated documentation for specific cases, which might include a random sampling of the data, depending upon the database size.
- ¶ 43: Review of the Stops, Searches, and Arrests training curricula for years one and two as required by this Paragraph will have been completed prior to the submission of the 45-Day Notice by members of the Monitoring Team.
- ¶ 51: The Monitoring Team will review all cumulative and quarterly demographic analyses of enforcement activities of NPD officers completed by the Commander of OPS or his/her designee, identifying and evaluating trends, outliers, or other relevant indicators in accordance with G.O. #18-14 – VIII. *Administrative Review*.

- ¶ 52: The Monitoring Team will review an electronic report generated through NPD's EWS for those incidents where an officer failed to capture the required data on Stops Report forms (D1:1388) in accordance with G.O. #18-14.
- ¶ 53: Based upon the approved protocol for comprehensive analysis of stop, search, and arrest, which establishes steps for determining the nature and scope of demographic disparities in stop and search practices, members of the Monitoring Team will request all documentation relative to NPD's analyses performed.
- ¶ 54: Based upon the review of NPD's policy and procedures, the Monitoring Team will determine if NPD is adequately ensuring that all databases comply fully with federal and state privacy standards governing personally identifying information.

# **Appendix B**



# DEPARTMENT OF PUBLIC SAFETY

## MEMORANDUM



<b>TO:</b>	<b>POLICE DIVISION</b>	<b>DATE:</b>	<b>JANUARY 10, 2019</b>
<b>FROM:</b>	<b>ANTHONY AMBROSE PUBLIC SAFETY DIRECTOR</b>	<b>NUMBER:</b>	<b>19 - 18</b>
		<b>TICKLER:</b>	<b>None</b>
<b>SUBJECT:</b>	<b><u>IMPLEMENTATION OF G.O. 18-14, 18-15, 18-16</u></b>		
	<b><u>RE: STOP, SEARCH AND ARREST POLICIES</u></b>		

The purpose of this memorandum is to announce the issuance of the Newark Police Division's new *General Order 18-14 Consensual Citizen Contacts and Investigatory Stops*, *General Order 18-15 Searches With or Without a Search Warrant*, and *General Order 18-16 Arrests With or Without An Arrest Warrant*.

**ALL THREE GENERAL ORDERS WILL BECOME EFFECTIVE IMMEDIATELY.**

The new Consensual Citizen Contacts and Investigatory Stops General Order #18-14 supersedes **Procedures for the Execution, Distribution and Storage of Field Inquiry Reports General Order #97-8** which is hereby rescinded immediately.

The new Searches With or Without a Search Warrant General Order #18-15 supersedes **Search & Seizure General Order #14-12 and Consent to Search Form General Order # 63-26** which are hereby rescinded immediately.

The three General Orders were developed based on the requirements of the Consent Decree, police best practices, Attorney General Guidelines, and the law. Review and feedback from the community, U.S. Department of Justice, Newark Police Division Independent Monitor, NPD members, CCRB, and Police Unions was also received, considered, and included.

The new *Consensual Citizen Contacts and Investigatory Stops General Order #18-14* encompasses most of the provisions contained in the old Procedures for the Execution, Distribution and Storage of Field Inquiry Reports General Order #97-8, however, there are data collection limitations caused by the current version of the Stop Report (DP1:1388), formerly known as the Field Inquiry Report.

Officers will continue to collect only the data allowed by the fields contained within the current version of the Stop Report (DP1:1388). An updated version of the Stop Report (DP1:1388) has been developed and is awaiting Department of Justice and Independent Monitoring Team approval based on the reporting requirements dictated by the Consent Decree, which were incorporated into the new policy. Once the Stop Report (DP1:1388) has been updated, it will be made available in the Newark Police Division Records Management System (RMS), and officers will begin to collect all the data fields available to them which are required by the new policy.

The new *Searches With or Without a Search Warrant General Order #18-15* encompasses most of the provisions contained in the old Search & Seizure General Order #14-12 and Consent to Search Form General Order # 63-26, however, the new general order contains updated case law guidance and mandatory Consent Decree provisions.

For every search with or without an arrest involving the recovery of contraband evidence, the desk lieutenant or unit commander will review the circumstances of the encounter, including video from body-worn cameras, to assess the adequacy of the seizure. The supervisor will memorialize that review in writing and will include an assessment of the circumstances under which the search was conducted, the evidence was recovered, and / or the probable cause for the arrest. Detective Supervisors are responsible for the review of every search or arrest involving the recovery of contraband evidence directed by Detectives.

The Office of Professional Standards has enabled a Non-Disciplinary Corrective Action tracking mechanism within the Blue Team / IAPro system to allow for the documentation of any deficiencies in compliance with Consent Decree mandates. Supervisors shall submit all Non-Disciplinary Corrective Actions to their respective Commander via Blue Team. Commanders shall then evaluate the supervisors assessment and recommendations and take all appropriate corrective action, including referring the incident to the OPS for investigation if warranted. The commander will also take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of officers' investigatory detentions, searches, and arrests. Commanders shall memorialize this review in Blue Team within seven days.

The **Commander of the Consent Decree and Planning Division** shall ensure that the Compliance Unit conducts inspections and audits for compliance with this directive.

**Commanders** shall ensure that this memorandum is the subject of roll call training for as long as needed until the policies have been fully implemented.

**All Police Division members** shall acknowledge receipt, understanding, and compliance with the tenets of this Memorandum via PowerDMS by **January 31, 2019**.

**BY ORDER OF:**

  

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**ANTHONY F. AMBROSE**  
**PUBLIC SAFETY DIRECTOR**

AFA/BO:jg

Attachment:

c: Darnell Henry, Chief of Police

# Appendix C

NPD failed to respond to certain requests made by the Monitoring Team in its January 17, 2020 notice letter (see **Appendix A**). The following is a list of information requested by the Monitoring Team that NPD did not provide for this audit.

Specifically, NPD failed to:

- Provide the methodology NPD uses to determine the nature and scope of demographic disparities in stop and search practices, as well as which stop, search, and arrest practices are most effective and efficient;
- Provide the cumulative and quarterly demographic analyses of the enforcement activities of NPD officers, which is conducted by the Commander of the Office of Professional Standards, or his/her designee;
- Notify the Monitoring Team of whether the electronic stop report was in use throughout the entire audit period and if it was not, provide a written explanation of why it was not in use, and an estimated date by which NPD expects that it would be used by the officers in field;
- Demonstrate the integration of required data elements into NPD's Early Warning System ("EWS"), allowing for the information in stop and search records to be searched and summarized electronically;
- Provide NPD's written protocol describing how it ensures that all databases comply fully with federal and state privacy standards governing personally identifying information;
- Provide copies of publicly available reports containing NPD's cumulative and quarterly demographic analyses of its enforcement activities to ensure officer, unit, and Division compliance with the bias-free policing policy;
- Provide copies of NPD's integrity audits and compliance reviews that identify and investigate all officers who have engaged in misconduct, including unlawful stop, searches, seizures (including false arrests).

# **Appendix D**





# NEWARK POLICE DIVISION GENERAL ORDER



<b>SUBJECT:</b> <b>Consensual Citizen Contacts and Investigatory Stops</b>		<b>GENERAL ORDER NO.</b> <b>18-14</b>
<b>SUPERCEDES:</b> <b>97-8</b>	<b>DATED:</b> <b>12/31/2018</b>	<b>SECTION CODE:</b>

## **Related Policies:**

General Order 17-06 "Bias-Free Policing"

This Order contains the following numbered Sections:

- I. PURPOSE**
- II. POLICY**
- III. RESPONSIBILITY FOR COMPLIANCE**
- IV. DEFINITIONS**
- V. PROHIBITED ACTIONS**
- VI. PROCEDURES**
- VII. REPORTING REQUIREMENTS**
- VIII. SUPERVISOR RESPONSIBILITIES**
- IX. ADMINISTRATIVE REVIEW**
- X. TRAINING**
- XI. EFFECT OF THIS ORDER**



# NEWARK POLICE DIVISION GENERAL ORDER



## I. PURPOSE

To ensure all officers of the Newark Police Division engage in best practices when interacting with people in the community at all times. All officers are guided by this General Order when they either informally come into contact with people in the community as part of a consensual contact or part of an investigatory stop.

Conducting investigative stops of people without proper supporting justification is a violation of the 4<sup>th</sup> Amendment to the United States Constitution and Article 1, Paragraph 7 of the New Jersey Constitution. Such violations are a detriment to the positive relationship the Newark Police Division needs to have with the community.

## II. POLICY

NPD will conduct all investigatory stops, searches, and arrests in accordance with the United States Constitution, the Constitution of the State of New Jersey, federal and state law. NPD will conduct investigatory stops, searches, and arrests fairly and respectfully as part of an effective overall crime prevention strategy that is consistent with community priorities for enforcement.

Investigatory stops must be supported by reasonable and articulable suspicion that a person is about to commit a crime, is in the middle of committing a crime, or has just committed a crime. Even with appropriately established reasonable suspicion, investigatory stops have limitations and are intended for police to confirm or dispel their suspicions.

Investigative stops are lawful to the extent they meet the requirements of the 4<sup>th</sup> Amendment to the U. S. Constitution, which provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Unlawful investigative stops can never be justified.

Article 1, Paragraph 7 of the New Jersey Constitution states: "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized."

The U.S. Supreme Court has set the investigative stop case law standard to be *Terry v. Ohio*, 392 U.S. 1 (1968). Pursuant to *Terry v. Ohio*, an officer can briefly detain a person, based upon reasonable suspicion of criminal activity, long enough to dispel the suspicion or to allow it to rise to the level of probable cause for an arrest. The officer in some circumstances is also permitted to conduct a limited "frisk" of the person without a warrant. Before the officer can frisk the subject, the officer must:



# NEWARK POLICE DIVISION GENERAL ORDER



1. Have reasonable grounds, based on specific and articulable facts that the person is armed and presently dangerous.
2. Limit the search to **patting down the outer garments** of the suspect to feel for objects that are believed to be weapons and only reach inside the clothing after feeling such objects.

The stopping of citizens based solely on a demographic category is illegal and morally wrong. It also constitutes bias-based policing and violates NPD's policies. (See Newark Police General Order 17-06 Bias-Free Policing). Any officer who engages in this activity is subject to discipline, civil liability, and/or criminal prosecution.

### III. RESPONSIBILITY FOR COMPLIANCE

All Division personnel are responsible for complying with this Order. Supervisory and Command Officers shall ensure that subordinates are aware of, understand, and comply with this Order. All sworn officers will be subject to discipline for a violation of the contents of this Order.

### IV. DEFINITIONS

- A. Bias-Based Policing** - The differential treatment of any person by members motivated by the specific characteristics, perceived or actual, of that person. This conduct is specifically prohibited. (See Newark Police General Order 17-06 Bias-Free Policing for more information).
- B. BlueTeam** - A computer application extension of IAPro. The application allows users to enter collected data from incidents, such as police pursuits, citizen contacts or stops, events where force is used, complaints regarding police, police involved accidents and administration of discipline to facilitate a complete capture of activities and allow for tracking.
- C. Community Policing** - A philosophy that promotes organizational strategies that support the systematic use of community partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.
- D. Conclusory** – Consisting of or relating to writing a conclusion without providing the explanation or justification for how the conclusion was reached.
- E. Consensual Citizen Contact** - A voluntary and consensual conversation between a person and the police that can be used to gather information about crime or quality of life issues. Under this type of contact an officer has no reasonable suspicion or probable cause, and the officer therefore has no power to stop or detain an individual who chooses not to participate in the contact.



# NEWARK POLICE DIVISION

## GENERAL ORDER



- F. Demographic Category** - A shared common characteristic of a population, including but not limited to, age, race, ethnicity, national origin, gender, gender identity, language ability, disability, political belief, sexual orientation, immigration status, economic status, or housing status.
- G. Event Number** – A number used by the Newark Police Division that is either linked to a particular call received from a member of the public requesting police services or can be generated by an officer of the Division to record that they are taking an action.
- H. Investigatory Stop / Detention** - A seizure of a person for investigative purposes. This seizure occurs when a police officer stops a citizen from moving about freely, by means of physical force or show of authority, in order to investigate a matter. The seizure may also occur if an officer uses words, actions or demeanor that would make a reasonable person believe that he or she is not free to leave. Stops of this manner need to be based on reasonable and articulable suspicion that a violation of law has just occurred, is occurring or is about to occur. An investigatory stop can come in different forms (i.e. pedestrian, motor vehicle, bicycle, etc.). Also known as a “Terry Stop.”
- I. Pretext Stop** – An investigatory stop or detention for a violation of law that an officer has reasonable and articulable suspicion for, but the officer's true motivation is to investigate a different offense, for which there is no reasonable suspicion at the outset of the investigatory stop or detention. A pretext stop can also mean that reason an officer presents for conducting a stop of a person is false and the justification is offered to mask the true motivation for conducting the stop.
- J. Pro Forma** – A standard use of wording, document or form used to justify an action that does not tie to the underlying events.
- K. Probable Cause** – Specific, and articulable facts to permit a reasonable person to believe that a subject committed a violation of the law or that evidence of a crime would be found in a search. Probable cause is a higher standard of evidence than having reasonable suspicion, but is less than then the beyond a reasonable doubt standard needed for conviction. Probable cause is a practical, non-technical probability.
- L. Reasonable Suspicion** – Specific, and articulable facts that, within the totality of the circumstances, would lead an officer to reasonably believe that a person has, is in the process of, or is about to engage in criminal activity. A person’s mere presence in an identified high crime neighborhood or area taken alone, does not rise to the level of reasonable suspicion. Reasonable suspicion is a lower standard than probable cause.



# NEWARK POLICE DIVISION

## GENERAL ORDER



**M. Terry Frisk** - A limited frisk or pat-down of the outer clothing of legally stopped subjects to determine whether the subjects possess weapons if officers reasonably suspect the subject(s) is armed and presently dangerous. It is not a generalized search of the entire person. The frisk for weapons is **strictly limited** to what is necessary to discover weapons that might be used to harm the officer or others nearby. **The frisk must be limited to a pat-down of outer clothing.** Once the officer ascertains that no weapon is present after the frisk is completed, the officer's limited authority to frisk is completed and the frisk must stop.

### V. PROHIBITED ACTIONS

Newark Police Officers are prohibited from:

- A. Conducting a stop of a person when an officer lacks reasonable suspicion that the person has committed, is about commit, or is in the process of committing a violation of law;
- B. Conducting "pretext stops / detentions" of people or vehicles without prior approval of a Supervisor, unless it is not reasonably practical to obtain such 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;
- C. Using *pro forma* or conclusory language in a report, such as wording that makes claims without supporting evidence, or has little true meaning or importance. All supporting details shall be clearly documented for all investigatory stops or detentions. Examples of *pro forma* or conclusory language are "the suspect was frisked for officer safety" or "the suspect was detained based upon reasonable suspicion;"
- D. Using information known to be materially false or incorrect in effecting an investigatory stop or detention, in documenting the stop or detention, and in stating the reason for the stop or detention to the person was not free to leave;
- E. Using an individual's geographic location, without any other reliable indicator(s) that when added together in examining the totality of the circumstances amounts to reasonable suspicion, as a basis for an investigatory stop / detention. Examples of such include, but are not limited to, presence of a person in a high crime area or proximity of a person to the scene of suspected or reported crime;
- F. Basing investigatory stops / detentions solely on an individual's response to the presence of police officers, such as an individual's attempt to avoid contact with an officer;



# NEWARK POLICE DIVISION GENERAL ORDER



- G. Basing investigatory stops / detentions solely on information or evidence discovered after the stop was initiated (e.g. open warrants) or the fact that the individual was ultimately arrested. Information learned during the stop can lead to additional reasonable suspicion or probable cause that a crime has occurred and may lengthen the legally allowed time for the stop, but cannot provide justification for the original stop;
- H. Basing investigatory stops / detentions solely upon the fact that a person is in close proximity to someone who is suspected of criminal activity;
- I. Using any demographic category as a factor to any degree in establishing reasonable suspicion or probable cause during an unplanned enforcement activity. This conduct will be considered bias-based policing. The only exception to this is in circumstances where the specific suspect's description is from a trustworthy source relevant to place and time, and then only in combination with other detailed descriptors.
- J. Taking any steps, through words or conduct, that would make a person feel he/she is not free to leave during a voluntary citizen contact.
- K. Relocating someone who is the subject of an investigative stop / detention, and is not under arrest, a significant distance away from where they were stopped in order to conduct a show-up identification for a suspected offense. An officer conducting an investigative detention for eyewitness identification should "use the least intrusive investigative techniques reasonably available to verify or dispel his suspicion in the shortest period of time reasonably possible" (See *State v. Davis*, 104 N.J. 490, 504, 517 A.2d 859, 867 (1986));
- L. Asking for consent to search a motor vehicle unless the officer has a reasonable and articulable suspicion that the search will turn up evidence of a crime. Officers will document in writing the basis for this suspicion or other legal authority (See *State v. Carty*, 170 N.J. 632 (2002));
- M. Detaining, arresting, using force against, or threatening to detain, arrest or use force against individuals in response to activity protected by the First Amendment, including verbal criticism, questioning police actions, or gestures that do not give rise to reasonable fear of harm to officers or others; and
- N. Detaining, prolonging the detention of, arresting, using force against or threatening to detain, prolong the detention of, arrest, or use of force against an individual for remaining in the proximity of, recording or verbally commenting on officer conduct unless it violates the law, incites others to violate the law or refuses to comply with an officer's lawful order to observe or record from an alternate location because the bystander's presence would jeopardize a crime scene or the safety of an officer, the suspect or others.



# NEWARK POLICE DIVISION GENERAL ORDER



## VI. PROCEDURES

### A. Consensual Citizen Contact

Consensual citizen contact occurs when an officer comes into contact with a person within the community, either by chance or after responding to a specific call for service, who is not under suspicion of committing a crime and is free to leave at any point. Consensual citizen contacts can be a valuable opportunity to strengthen our bonds with the community and gather information that may help the Police Division act more effectively.

Citizen contacts may:

- be initiated when the officer believes that it may serve the interests of a community as a whole,
- occur absent any type of suspicion or probable cause and should not be treated as an investigatory stop, detention or arrest,
- occur wherever the officer has a legal right to be, such as in a public space, or somewhere the officer was freely invited into, or a place where a legal document (such as an arrest warrant or search warrant) grants them access.

**During any type of voluntary citizen contact, a person may lawfully refuse to speak to officers, refuse to identify themselves, or otherwise not cooperate without consequence.**

“The Fourth Amendment proscribes unreasonable searches and seizures; it does not proscribe voluntary cooperation,” as noted in *Florida v. Bostick* 501 U.S. 429, 437 (1991). Absent reasonable suspicion and/or probable cause, people have a constitutional right not to engage the police. Under these circumstances, people can choose to engage with officers, but can also decide to end the contact at any point.

**If an officer perceives that a person’s action indicates an attempt to avoid police interaction (e.g. refusal to stop, failure of a person to respond to officer’s questions, remaining silent, not providing identification, or not wishing to give specific details during a citizen contact), the officer cannot use that behavior alone to justify transforming a citizen contact into an investigatory stop or detention.**

During a consensual citizen contact, an officer may not take any steps, through words or conduct, that would make a reasonable person feel he/she is not free to leave during a voluntary citizen contact. Any such steps would convert the contact into an investigatory stop, or in some cases, an arrest. Both of which would require adequate levels of suspicion and would require an officer to document the specific facts that support that suspicion in the officer’s report.





# NEWARK POLICE DIVISION GENERAL ORDER



After coming into contact with a person in the community, either initiated by the officer or by the person, the officers shall be courteous, respectful, and professional.

During consensual citizen contacts officers should keep in mind and utilize de-escalation techniques during all situations where appropriate.

## **B. Investigatory Stop / Detention**

During an investigatory stop and where the subject of the stop is not under arrest, an officer may not relocate the subject of an investigatory stop / detention a significant distance away from the stop location to conduct a show-up identification for a suspected offense.

In order to conduct an investigatory stop / detention an officer must be able to articulate facts amounting to reasonable suspicion that the person they wish to stop has just committed a violation of the law, is about to violate the law, or is currently violating of the law.

These facts must be documented in the officer's report. The report cannot simply include *pro forma* or conclusory language, but rather must contain specific, individualized descriptive language that establishes the existing reasonable suspicion. If officers wish to stop or detain multiple people, then the officer needs individualized reasonable and articulable suspicion for each person who is stopped.

The purpose of an investigatory stop or detention is to determine, within a reasonable amount of time, that an officer can establish enough facts to determine if there is probable cause that the person has committed a crime.

- If probable cause is not established, then the person is free to leave and the stop will be reported in a "Stop Report" (DP1:1388) within the Newark Police Division Records Management System.
- If probable cause is established, then the officer will take the appropriate enforcement action, such as issuing a summons or executing an arrest, and will document the investigatory stop accordingly.

The reasonableness of an investigatory stop is based on the totality of the circumstances, the officer's training and experience, and what the officer knew **before** the stop was initiated. Information learned during the stop cannot provide justification for the original stop, but can lead to additional reasonable suspicion or probable cause that a crime has occurred.

When an officer has reasonable and articulable suspicion that a person(s) is about to violate the law, has violated the law or is in the process of violating the law, the officer may stop the person and:

1. Will be courteous, respectful, and professional.





# NEWARK POLICE DIVISION GENERAL ORDER



2. As early in the contact as safety permits, officers shall introduce him or herself to the citizen (providing name, rank or title, agency affiliation and that the stop is being recorded, if applicable), and state the reason for the stop. This information shall be provided to the subject prior to requesting their information.
3. Request identification. If the person does not have available identification or refuses to provide identification, the officer shall obtain all the available information necessary to complete a "Stop Report" (DP1:1388) within the Newark Police Division Records Management System in accordance with section "VI. Reporting Requirements" of this General Order.
4. Upon belief and reasonable and articulable suspicion that the person stopped is carrying something that could be used as a weapon and is a danger to officers or others, officers should conduct a protective "Terry Frisk" of the person they believe may be armed.
5. Detain the person for only the reasonable amount of time that is needed to confirm or dispel the officer's suspicion for the violation of law. Any delays or extension of the detention period in order for officers to complete necessary actions must be objectively reasonable; officers may not extend the detention of a person solely to await the arrival of a supervisor. Officers will take all reasonable measures to ensure the citizen understands the purpose of reasonable any delays.
6. If an officer has reasonable and articulable suspicion to believe a weapon or contraband is present and wishes to obtain consent from a citizen to conduct a search, officers will affirmatively inform the subject of their right to refuse and to revoke consent at any time. The Consent to Search form (DP1:1493-10M) will be used and explained to the consenting party and completed by the officer. Officers will have the consenting party, if they wish, sign the Consent to Search form only if the person affirms that they understand the waiver of their rights.

The officer will make every possible attempt to record this interaction on an issued Body Worn Camera, In Vehicle Camera or other authorized electronic recording device. If the officer is unable to capture the interaction in a recording then the officer shall articulate, in writing or on camera, all the reasons why they were unable to record the event.

7. If a vehicle is involved in the investigatory stop, an officer is prohibited from asking for consent to search the motor vehicle unless the officer has a reasonable and articulable suspicion that the search will turn up evidence of a crime. Officers will document in writing the basis for this suspicion or other legal authority. (*State vs. Carty*, 170 N.J. 632 (2002)).



# NEWARK POLICE DIVISION GENERAL ORDER



8. If probable cause is found to exist before the end of the investigatory stop / detention, then the officer will execute the appropriate enforcement action(s) and complete the necessary reports to document the incident.
9. Officers will answer any questions the citizen may have, including explaining options for traffic summons dispositions, if relevant.
10. Officers will provide his or her name, badge number and Event Number for the investigative stop / detention when requested, in writing or on a business card (if authorized).
11. Officers will offer an explanation for the circumstances and reasons for the stop.
12. Officers will fully document all stops as soon as possible, but no later than by the end of the officer's workday.

Information or descriptions resulting from an anonymous tip is **not sufficient**, by itself, to establish reasonable suspicion or probable cause that could justify a stop, frisk, detention, or arrest. If acting on an anonymous tip, the officer must further develop the information provided in the tip into reasonable and articulable suspicion prior to stopping a subject. An officer's observations at the scene, additional information secured from the anonymous caller and other circumstances can establish reasonable suspicion that the subject has violated or is about to violate the law, but such information must be collected before a stop is conducted.

If a person who has been stopped lawfully refuses to identify him/herself, the officer will still attempt to confirm the reasonable and articulable suspicion for which the stop was originally based upon. If probable cause is **not** established within a reasonable amount of time, officers will allow the person to depart and will document the stop just as any other. The officer reporting the information about the stop shall then:

- a. enter REFUSED in the appropriate spaces of the report generated for the subject's information which was unable to be obtained.
- b. record all physical description information of the subject of the report.
- c. record information of a motor vehicle, if involved.
- d. enter the time, date, location, and duration of the stop.
- e. enter any necessary remarks, and submit the information for approval by the supervisor.



# NEWARK POLICE DIVISION GENERAL ORDER



While performing investigatory stops / detentions officers should keep in mind and utilize de-escalation techniques during all situations where appropriate to assist agitated or anxious people understand, manage and resolve their concerns.

## VI. REPORTING REQUIREMENTS

- A. Documentation of an interaction between a person and the police is **required when the person stopped does not feel free to leave**. Because a stopped person's perception should be considered in determining what must be reported, it is incumbent on the officer to make sure that people know that they are free to leave, or are being stopped / detained.
- B. Information for each person stopped must be documented by completing a "Stop Report" (DP1:1388) within the Newark Police Division Records Management System. If a motor vehicle was involved as part of the stop, the registration, make, model and vehicle identification number information shall be included in the entry. A separate record shall be generated for each person that was stopped. The entries shall be cross referenced under the same Event Number if multiple people were stopped during or surrounding one specific incident.
- C. All data entries of stop information must have a corresponding Event Number. If an officer is on a dispatched assignment and conducts an investigatory stop/detention, the officer will use the Event Number from the dispatched assignment; otherwise, the officer will generate a new Event Number for the appropriate type of police action taken in order to complete the entry of the stop data.
- D. The following information is required to be entered in an officer's report for all stops:
  - 1. date and time of the stop;
  - 2. the officer's name and badge number;
  - 3. location of the stop;
  - 4. start time, end time and duration of the stop;
  - 5. clearly articulated reasonable suspicion justifying the investigative stop;
  - 6. if a vehicle stop results in a search, the presence and number of any passengers and the officer's perception of the gender, race, ethnicity, national origin, and age of each passenger, unless such data collection creates an undue delay by prolonging the stop (i.e. passenger bus filled with people);
  - 7. if a vehicle stop, whether the driver or any passenger was required to exit the vehicle, and the reason for doing so, unless such data collection creates an undue delay by prolonging the stop (i.e. passenger bus filled with people);



# NEWARK POLICE DIVISION GENERAL ORDER



8. if a non-vehicle stop such as a pedestrian or bicycle, the number of individuals stopped and the officer's perception of the gender, race, ethnicity, national origin, and age of each person;
9. reason for the stop, including a description of the facts creating reasonable suspicion and whether it was a pretext stop;
10. whether any individual was asked to consent to a search and whether such consent was given; whether a pat-down, frisk or other search was performed on any individual, including a description of the facts justifying the action;
11. a full description of any contraband or evidence seized for any individual;
12. whether a probable cause search was performed on any individual, including a brief description of the facts creating probable cause; and
13. disposition of the stop, including whether a citation or summons was issued to or an arrest was made of any individual.
14. If a person has been stopped lawfully refuses to identify him/herself, the officer will still attempt to confirm the reasonable and articulable suspicion for which the stop was originally based upon. If probable cause is not established within a reasonable amount of time, officers will allow the person to depart and will document the stop just as any other. The officer reporting the information about the stop shall then enter "REFUSED" in the appropriate spaces of the report generated for the subject's information that this officer could not obtain. The officer will record the subject of the report's physical description information.

## VII. SUPERVISOR RESPONSIBILITIES

All entered investigative stop data information will be reviewed and approved by the appropriate desk, MAPS, or specialized Unit Supervisor by the end of the submitting officer's tour of duty, who will ensure that the entry is properly completed. The entry must show sufficient facts exist to justify the investigative stop and, if necessary, protective frisk.

Investigative stop entries failing to meet the reasonable suspicion standard shall be rejected and returned to the officer so the reporting person can include all necessary factual information from the stop. The Supervisor will ensure the officer(s) who conducted the investigative stop and are completing the required report(s) fully understand the legal standards and reporting requirements surrounding such an action.

Supervisors approving reports will review all written documentation of investigatory stops and detentions, searches, and arrests for boilerplate language, accuracy, completeness and adherence to law and division policy.



# NEWARK POLICE DIVISION GENERAL ORDER



Supervisors will also review all relevant video recordings for all incidents where the supervisor suspects that the officers' conduct may not have complied with law and Division policy.

On a continuous basis, supervisors will also review a random selection of video recordings of stops and detentions, searches and arrests amounting to a minimum of 10 percent of all stops and detentions, searches, and arrests.

Upon reviewing videos of investigatory stops and detentions, searches, and arrests, Supervisors shall submit an administrative report (DP1:1001) filed under the event number for the corresponding video reviewed by the end of their tour of duty, listing:

- The event number
- The name(s) of the officer(s) who recorded the video(s) and type of video they recorded (e.g. body worn camera video, in-car video, or both)
- The reason for reviewing the video (e.g. random review, recovery of contraband, stop, search, detention, arrest, suspected non-compliance with NPD policy or law)

Supervisor reviews will also identify the following:

- investigatory stops and detentions that appear unsupported by reasonable and articulable suspicion, or that are otherwise in violation of Division policy;
- searches that appear to be without legal justification or are in violation of Division policy;
- stops or searches that, while comporting with law and policy, indicate a need for corrective action or review of agency policy, strategy, tactics, or training to support effective and legitimate policing principles.

All Supervisors, in consultation with the Unit Commander (or command-level official) of the officer who submitted an inadequate report, will take appropriate action to address all apparent violations or deficiencies in investigatory stops or detentions, searches, and arrests. The nature of some errors may require retraining while others may warrant initiating disciplinary action. Appropriate action may include recommending non-disciplinary corrective action for the involved officers, or referring the incident for administrative or criminal investigation.

For each subordinate, the supervisor will maintain a record of each violation or deficiency and any corrective action taken in BlueTeam. The supervisor will document each violation or deficiency in the officer's performance evaluations and Newark Police Division's Early Warning System to identify officers needing repeated corrective action. Supervisors shall submit their reviews to the unit commander for additional review.



# NEWARK POLICE DIVISION GENERAL ORDER



The approving supervisor will document for review by their chain of command in an Administrative Report (D.P.I. 1001) and in BlueTeam:

- investigatory stops and detentions that appear unsupported by reasonable and articulable suspicion, or that are otherwise in violation of Division policy;
- searches that appear to be without legal justification or are in violation of Division policy;
- stops or searches that, while comporting with law and policy, indicate a need for corrective action or review of agency policy, strategy, tactics, or training to support effective and legitimate policing principles.

Within seven days of receipt, a command-level official will confirm in writing that he or she has reviewed any stop or detention, search, and arrest conducted by the officer under their command that another Supervisor determined were: not supported by probable cause; were in violation of NPD policy or this Agreement; or that indicated a need for corrective action or review of agency policy, strategy, tactics, or training.

The Commander will evaluate the Supervisor's assessment and recommendations and take all appropriate corrective action, including referring the incident to the Office of Professional Standards for investigation, if warranted. The Commander will also take appropriate corrective or disciplinary action against Supervisors who fail to conduct complete, thorough, and accurate reviews of officers' investigatory detentions, searches, and arrests.

Supervisory and Commander performance evaluations will take into account the quality and completeness of Supervisor and Commander reviews of officer stops, searches, and arrests.

## **VIII. ADMINISTRATIVE REVIEW**

Cumulative and quarterly demographic analyses of the enforcement activities of Newark Police Division officers will be conducted by the Commander of the Office of Professional Standards, or his/her designee, to ensure that the tenets of this General Order are implemented and adequately monitored.

The Commander of the Office of Professional Standards, or his/her designee, to identify and evaluate trends, outliers, or other relevant indicators. This data will be analyzed and weighed based on the type of enforcement activities, officer unit or assignment, demographics of subjects, shift or time of day, force used and resistance encountered, and peer comparisons.

This data shall be based on accurate, complete, and reliable information, including but not limited to:

- a) Misconduct complaints;
- b) Stop, detention and arrest data;
- c) Use of force analysis; and



# NEWARK POLICE DIVISION GENERAL ORDER



d) Enforcement practices based on community input.

Officers, including supervisors found to have violated this Order will be subject to disciplinary action (including counseling, mediation and training) up to and including termination.

## **IX. TRAINING**

Newark Police Division shall provide training on this topic to all new recruits and current officers of the Newark Police Division.

NPD will ensure that all officers receive, at a minimum, an initial sixteen (16) hours of comprehensive and interdisciplinary training on stops, searches and arrests, which includes voluntary police citizen contacts and investigatory stops.

Thereafter, a minimum of four (4) hours of training shall be given annually based on New Jersey law, federal law and/or NPD policy. Training will include:

- A. The requirements of the 4th Amendment to the United States Constitution, Article 1, Paragraph 7 of the New Jersey Constitution, Attorney General Directives and related law, NPD policies (General Orders), and the Consent Decree regarding investigatory stops and detentions, searches and seizures, including:
  - 1. the differences among the scope and degree of intrusion of various police contacts; between probable cause, reasonable and articulable suspicion and mere speculation; and between voluntary consent and mere submission to police authority;
  - 2. the types of facts and circumstances that may be considered in initiating, conducting, terminating, and expanding an investigatory stop or detention;
  - 3. the level of permissible intrusion when conducting searches, such as "pat-downs" or "Terry Frisks";
  - 4. the permissible nature and scope of other pre-arrest searches, including those conducted pursuant to probation or parole release provisions; and
  - 5. the permissible nature and scope of searches incident to arrest.
- B. The effect that differing approaches to stops, searches, and arrests can have on community perceptions of police legitimacy and public safety.





# NEWARK POLICE DIVISION GENERAL ORDER



## **XI. EFFECT OF THIS ORDER**

All previous Orders and Memorandums which are inconsistent or in conflict with this Order are hereby repealed.

**BY ORDER OF**

A blue ink signature of Anthony F. Ambrose, consisting of stylized, overlapping letters.

---

**ANTHONY F. AMBROSE  
PUBLIC SAFETY DIRECTOR**

AFA/BO/jg

Attachment A – Stop Report (DP1:1388)

Attachment B – Consent to Search Form (DP1:1493-10M)



# Appendix E



DEPARTMENT OF PUBLIC SAFETY  
MEMORANDUM



TO: POLICE DIVISION DATE: JUNE 12, 2019

FROM: ANTHONY AMBROSE PUBLIC SAFETY DIRECTOR NUMBER: 19 - 276

SUBJECT: IMPLEMENTATION OF G.O. 18-12 FILE REF: PUB 4  
RE: FIRST AMENDMENT RIGHT TO OBSERVE, OBJECT  
TO, AND RECORD POLICE ACTIVITY

The purpose of this memorandum is to announce the issuance of the Newark Police Division's new *First amendment right to observe, object to, and record police activity; General Order 18-12*. This General Order shall take effect immediately.

This policy provides officers with guidance for dealing with situations in which members of the public comment on or object to an officer's conduct and situations in which members of the public or press are observing and/or recording officer conduct, which includes photographing, videotaping, audiotaping, or any combination thereof.

Officers are prohibited from detaining, arresting, or threatening to detain or arrest, individuals based on activity protected by the First Amendment to the U.S. Constitution and by Article I, Paragraph 6 of the New Jersey Constitution, including verbal criticism, questioning police actions, or gestures. Officers are also prohibited from using or threatening force in response to mere verbal criticism or gestures that do not give rise to reasonable fear of harm to the officers or others.

This policy also provides officers with guidance for when a recording device may be seized and/or searched. The seizure of a bystanders recording device, the subsequent search and viewing of the contents, without a warrant (e.g. **Communications Data Warrant - CDW**) is not pennitted and is presumed to be illegal under the Fourth Amendment.

Recording the actions and activities of police officers in the performance of their public duties is a fonn of protected speech, through which individuals may gather and disseminate infonnation of public concern. This right is extended to video and audio recording of any police activity performed in public or where an individual otherwise has a legal right to be present.

All Police Division members shall become familiar with the tenets of General Order 18-12. Police Division members shall acknowledge receipt and compliance with this memorandum and General Order 18-12 via PowerDMS by Thursday, July 25, 2019.

BY ORDER OF: 

ANTHONY F. AMBROSE  
PUBLIC SAFETY DIRECTOR

AFA/BO:tc

Attachment: General Order 18-12

c: Darnell Henry, Chief of Police



# NEWARK POLICE DIVISION GENERAL ORDER



**SUBJECT:**  
**FIRST AMENDMENT RIGHT TO OBSERVE, OBJECT  
TO, AND RECORD POLICE ACTIVITY**

**GENERAL ORDER NO.**  
**18-12**

**SUPERSEDES:**  
**NEW**

**DATED:**  
**JUNE 12, 2019**

**Related Policies:**

1. General Order 18-15 – Searches With or Without a Search Warrant
2. General Order 63-26 – Consent to Search Form
3. General Order 65-14 – Department Press Relations and Issuance of Press Cards
4. General Order 18-25 – Complaint Intake and Investigation Process
5. General Order 18-24 – Property and Evidence Division
6. General Order 18-23 – Property and Evidence Management

**This order contains the following numbered Sections:**

- I. PURPOSE**
- II. POLICY**
- III. RESPONSIBILITY FOR COMPLIANCE**
- IV. DEFINITIONS**
- V. PROCEDURES**
- VI. RESPONSIBILITIES OF THE FIELD SUPERVISOR**
- VII. RESPONSIBILITIES OF THE INVESTIGATIVE SUPERVISOR**
- VIII. EFFECT OF THIS ORDER**



# NEWARK POLICE DIVISION GENERAL ORDER



## I. PURPOSE

This policy provides officers with guidance for dealing with situations in which members of the public (i) comment on or object to an officer's conduct and (ii) situations in which members of the public or press are observing and/or recording officer conduct, which includes photographing, videotaping, audiotaping, or any combination thereof.

## II. POLICY

The First Amendment enshrines five of the most essential liberties guaranteed by both the United States Constitution and the Constitution of the State of New Jersey; freedom of religion, freedom of speech, freedom of the press, freedom of assembly and the right to petition government. Both the First Amendment to the U.S. Constitution and Article I, Paragraph 6 of the New Jersey Constitution are the core of all free speech and free association rights. As such, the Newark Police Division recognizes that members of the public have a constitutionally protected right to witness, observe, video-record, photograph, audio-record and comment on or complain about Newark Police Officers while they are conducting official business or while acting in an official capacity in any public setting. Division personnel are prohibited from interfering with a person's exercise of her/his First Amendment and Article I, Paragraph 6 rights, except in the limited circumstances outlined in Section V of this Order. Additionally, Division members violate Fourth and Fourteenth Amendment rights when they seize, search, and/or destroy recordings without a warrant or due process. Division personnel should assume and comport themselves as if they are being recorded at all times when on duty.

In its decision, *Fields v. City of Philadelphia*, 862 F.3d 353 (2017), the United States Court of Appeals for the Third Circuit decided that First Amendment's protections extended to two people who used their smartphones to record police interactions with another person. The Court ruled: "Simply put, the First Amendment protects the act of photographing, filming or otherwise recording police officers conducting their official duties in public."



# NEWARK POLICE DIVISION GENERAL ORDER



## III. RESPONSIBILITY FOR COMPLIANCE

All Division personnel are responsible for complying with this Order. Supervisory and Command Officers shall ensure that subordinates are aware of, understand, and comply with this Order. All sworn officers will be subject to discipline for a violation of the contents of this Order.

## IV. DEFINITIONS

- A. **BYSTANDER:** a member of the public who is present but not taking part in a situation or event.
- B. **EXIGENT CIRCUMSTANCES:** A compelling urgency or true emergency that a member can specifically describe not using vague terms or boilerplate language. Circumstances that cause a reasonable person to believe that prompt action is necessary which can be an immediate threat to public safety, an active attempt by a suspect to destroy evidence of a crime or escape, or in instances of community caretaking.
- C. **FIELD SUPERVISOR:** A Lieutenant or Sergeant assigned to the field to supervise field personnel.
- D. **INVESTIGATIVE SUPERVISOR:** A Lieutenant or Sergeant assigned to an investigative unit to supervise investigative personnel.
- E. **MEDIUM:** The storage source for visual and/or audio recordings, whether by film, analog, or digital means.
- F. **PROBABLE CAUSE:** Specific, and articulable facts to permit a reasonable person to believe that a subject committed a violation of the law or that evidence of a crime would be found in a search. Probable cause is a higher standard of evidence than having reasonable suspicion, but is less than the beyond a reasonable doubt standard needed for conviction. Probable cause is a practical, non-technical probability.
- G. **PUBLIC SETTING:** An indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not.
- H. **RECORDING:** Capturing of images, audio and/or video by means of a camera, cell phone, audio recorder, or other device.





# NEWARK POLICE DIVISION GENERAL ORDER



## V. PROCEDURES

A bystander has the right under the First Amendment and Article I, Paragraph 6 to witness, observe, record, photograph, audio record and comment on or complain about Newark Police Division officers in the public discharge of their duties.

### A. A Bystander's right to record an Officer's conduct.

1. A bystander has the same right to make recordings as a member of the press, as long as the bystander has a legal right to be present where he or she is, such as on a public street or in public settings.
2. Public settings include parks, sidewalks, streets, locations of public protests, common areas of public and private facilities and buildings, and any other public or private facility at which the bystander has a legal right to be present, including a bystander's home or business.
3. The fact that a bystander has a camera or other recording device does not entitle the bystander to cross a police line, to enter an area that is closed to the public, or to enter any area designated as a crime scene.
4. As long as the recording takes place in a setting in which the bystander has a legal right to be present and does not interfere with an officer's safety or lawful duties, the officer shall **not**:
  - a. Tell or instruct a bystander that the recording of police officers, police activity, or persons who are the subject of a police action; is not allowed; that recording police activity requires a permit; or that recording requires the officer's consent.
  - b. Subject a bystander to a *Terry* stop (*Terry v. Ohio*, 392 U.S. 1 (1968)) or arrest solely on the basis that the bystander is recording police conduct;
  - c. Order the bystander to cease such activity;
  - d. Demand that bystander's identification;
  - e. Demand that the bystander state a reason why he or she is taking photographs or recording;



# NEWARK POLICE DIVISION GENERAL ORDER



- f. Detain, arrest, or threaten to arrest bystanders based on activity protected by the First Amendment, including the bystander's verbal criticism, questioning police actions, or gestures;
- g. Intentionally block or obstruct cameras or recording devices; or
- h. In any way threaten, intimidate, or otherwise discourage a bystander from remaining in the proximity of, recording or verbally commenting on officer conduct directed at the officer's enforcement activities.

## B. Limitations on a Bystander's Right to Record an Officer's Conduct

- 1. Nothing in this General Order prohibits officers from questioning or detaining for a reasonable period of time any individual they reasonably suspect has committed, is committing, or is about to commit a crime or incite others to violate the law.
- 2. Officers are reminded that a person commits an offense under N.J.S.A. 2C:29-1 if the person purposely (a) obstructs, impairs or perverts the administration of law or other governmental function, or (b) prevents or attempts to prevent a public servant from lawfully performing an official function by means of flight, intimidation, force, violence, or physical interference or obstacle, or by means of any independently unlawful act.
- 3. If a bystander is recording police activity from a position that materially impedes or interferes with the safety of officers or their ability to perform their duties, or that threatens the safety of members of the public, an officer may direct the bystander to move to a position that will not interfere. However, an officer shall **not** order the bystander to stop recording.
- 4. Credentialed media personnel may be granted closer access to incident scenes or be allowed to cross police lines with the approval of the public information officer and the highest investigative supervisor on the scene, refer to **General Order 65-14 - Department Press Relations and Issuance of Press Cards**. This right does **not** extend to a bystander.

## C. A Bystander's Right to Complain about or Criticize an Officer's Conduct

Newark Police Officers shall not use or threaten to use force or their arrest authority in response to mere criticism or gestures so long as that expression neither gives rise to an objectively reasonable fear of harm to the officer(s) or others, violates the law or incites others to violate the law.



# NEWARK POLICE DIVISION GENERAL ORDER



## D. Seizure of a Bystander's Recording Device or Medium

1. An officer's seizure of a recording device, without a warrant, is not permitted and is presumed to be illegal under the Fourth Amendment, except in the narrowly defined exceptions outlined below.
2. An officer may seize a bystander's recording device incident to the lawful arrest of the bystander. However, the seizure of a recording device incident to a lawful arrest does not allow an officer to search or view the contents of the recording device without a warrant (e.g. Communications Data Warrant).
3. If an officer has probable cause to believe that a recording device contains images or sounds that are evidence of a crime (i.e., First, Second, and Third degree), the officer shall immediately notify a Field Supervisor and request that the recording bystander, where possible and practical, and in the presence of the officer, voluntarily consent to transmitting the recording via electronic mail to the officer's official city electronic mail account. If the bystander cannot or will not transmit the recording via electronic mail, the officer should request that the recording party voluntarily consent to providing the device or recording medium (e.g., the memory chip) to the officer.
4. Consent to take possession of a recording device or medium must be given voluntarily. A Field Supervisor must be present and a Consent to Search form must be completed. For additional information on Consent to Search forms, refer to **General Order 18-15 - Searches with or without a Search Warrant** (Section VI).
5. If the person voluntarily consents to providing the recording device to the officer, the officer shall:
  - a. Contact the On-Call Detective responsible for the highest charge (i.e., most serious crime) and the Field Supervisor and notify them of the evidence; and
  - b. Submit the recording device into evidence, consistent with **General Order 18-24 – Property and Evidence Division** and **General Order 18-23 – Property and Evidence Management**.
  - c. Absent the exigent circumstances outlined below in V.I.E.3, officers **shall not** attempt to download, or otherwise access any material contained within the device without a warrant.





# NEWARK POLICE DIVISION GENERAL ORDER



6. If the bystander refuses to consent to providing the recording device, the officer may seize the recording device without a warrant under certain "exigent circumstances." Specifically, it is appropriate for an officer to seek the warrantless seizure of a bystander's recording device when the officer has:
  - a. probable cause to believe that a serious crime involving violence that may result in serious bodily injury or death has been committed;
  - b. a good-faith belief that there is evidence of that crime on the recording device or medium; **and**
  - c. a good-faith belief that evidence will be lost or destroyed absent seizure.
7. When an officer reasonably believes that these exigent circumstances exist, the officer may request the recording bystander remain on the scene **voluntarily** with the recording device, for a reasonable amount of time, until a Field Supervisor arrives on the scene. If the bystander refuses to wait to speak with the Supervisor then they must be allowed to leave the scene unless the officer reasonably believes the bystander has committed, is committing, or is about to commit any crime or has incited others to violate the law. If an officer seeks to seize a recording device without a warrant and requests the recording bystander to remain on the scene, the officer must request the assistance of a Field Supervisor. Once on the scene, the Field Supervisor will determine if a warrantless seizure of the recording device is necessary.

All Division members are reminded, however, that the detention of a bystander without proper supporting justification is a violation of the 4<sup>th</sup> Amendment to the United States Constitution, Article 1, Paragraph 7 of the New Jersey Constitution and **General Order 18-14 - Consensual Citizen Contacts and Investigatory Stops**.

8. If a recording device or medium is seized, due care must be exercised in its safekeeping. It should be properly identified by serial number or other identifier on a Property and Evidence Receipt (D.P.1: 152), with a copy given to the owner when feasible. (See **General Order 18-24 – Property and Evidence Division** and **General Order 18-23 – Property and Evidence Management**). Information shall be provided to the owner concerning where, when, and how to recover the property.



# NEWARK POLICE DIVISION GENERAL ORDER



## E. Searching a Bystander's Recording Device or Medium

1. An officer's search of a recording device or medium is not permitted and presumed to be illegal under the warrant requirement of the Fourth Amendment to the U.S. Constitution and Article I, Paragraph 7 of the New Jersey Constitution, except in the narrowly defined exceptions outlined below.
2. If an officer has probable cause to believe that a recording device contains images or sounds that are evidence of a Crime (First, Second, and Third degree), the officer shall immediately notify a Field Supervisor and request that the recording bystander, where possible and practical, and in the presence of the officer, voluntarily consent to transmitting the recording via electronic mail to the officer's official city electronic mail account. If the bystander cannot or will not transmit the recording via electronic mail, the officer should request that the recording party voluntarily consent to providing the device or recording medium (e.g., the memory chip) to the officer.
3. Recordings obtained by consent shall be viewed by the Detective responsible for investigating the crime believed to be captured on the device. Otherwise, an officer shall obtain a search warrant before viewing photographs or listening to recordings on a camera or memory chip that has been seized as evidence.
4. However, if it is objectively reasonable for an officer to believe information contained in a recording device or medium could **prevent imminent death or serious bodily harm**, an officer **shall** contact the highest ranking Investigative Supervisor available to receive authorization to immediately review recordings that have been seized without a warrant. If the Investigative Supervisor grants authorization, the officer may immediately search the recording device or medium for photographs and recordings that are related to the exigent purpose.
5. Recordings that have been seized as evidence and are not directly related to the exigent purpose shall not be reviewed until a warrant has been secured.
6. Recordings that have been seized as evidence that are not directly related to the exigent purpose shall be reviewed by the Detective responsible for investigating the crime believed to be on the device after a warrant has been secured.



# NEWARK POLICE DIVISION GENERAL ORDER



7. Any recording devices or recording medium taken into custody shall be returned as soon as practicable.
- F. Safekeeping and Preservation of Recording Device or Recording Medium contained therein
  1. Officers shall not under any circumstances intentionally damage or destroy, or instruct any other person to damage or destroy any recording device or medium being used to record police activity.
  2. Officers shall not, under any circumstances, intentionally erase or delete, or instruct any other person to erase or delete, any recorded images or sounds from any camera or other recording.
- G. Recordings that may contain evidence of Police misconduct.
  1. It is the policy of the Newark Police Division to accept and investigate all complaints of alleged Police misconduct from any individual or organization including complaints that have accompanying recorded evidence. Refer to **General Order 18-25 Complaint Intake and Investigation Process** (Section IX-F), for more information on the handling of recordings that may contain evidence of police misconduct.
  2. If a complainant expresses fear or concerns about turning over recordings that may contain evidence of Police misconduct when making a complaint about a member of the Newark Police Division directly to the Newark Police Division, he or she should be referred to the Essex County Prosecutor's Office, Professional Standards Bureau. Refer to **General Order 18-25 Complaint Intake and Investigation Process** (Section IX-O), for more information on complaint referrals.

## VI. RESPONSIBILITIES OF THE FIELD SUPERVISOR

- A. A Field Supervisor shall respond to the scene where any bystander recording of police officers engaged in the public discharge of their duties:
  1. has become confrontational, provoking, or otherwise adversarial with the officers;
  2. may possess evidentiary material;
  3. has her/his recording or recording device or medium seized by officers based upon probable cause; or



# NEWARK POLICE DIVISION GENERAL ORDER



4. has jeopardized the safety of the officer, the suspect or others in the immediate vicinity, violated the law, incited others to violate the law, or actually obstructed an officers official duties.
- B. Once on scene, the Field Supervisor shall:
1. Consult with the on-scene officers and gather all available facts.
  2. Attempt to de-escalate or otherwise intercede to prevent the incident from escalating.
  3. If it was necessary to detain the recording party before the Field Supervisor's arrival, review the facts and circumstances to determine if the detention was appropriate in that the officers reasonably believed the recording party has committed, is committing, or is about to commit any crime or incite others to violate the law.
  4. If responding to the scene because an officer believes exigent circumstances require that the recording device or medium be seized without a warrant, the Field Supervisor shall:
    - a. In consultation with the highest-ranking Investigative Supervisor available at that time, determine whether exigent circumstances permit the seizure of the device without a warrant. A warrantless seizure is permissible only when there is:
      - i. probable cause to believe that a serious crime involving violence that may result in serious bodily harm or death has been committed;
      - ii. a good faith belief that there is evidence of that crime on the recording device or medium; **and**
      - iii. a good faith belief that evidence will be lost or destroyed absent seizure.
    - b. If there is no immediate law enforcement need to view the recording device and/or media, ensure that the recording device and/or media is not viewed by officers until a search warrant has been obtained.
    - c. If the immediate seizure was not based upon the narrowly defined exigent circumstances outlined above in VI.B.4., immediately





# NEWARK POLICE DIVISION GENERAL ORDER



return the recording device and/or media to the owner. The Field Supervisor shall contact the Detective responsible for the highest charge (most serious crime) and his or her Supervisor (i.e., Investigative Supervisor) with all pertinent information for the assigned detective to begin an application for a search warrant.

5. If responding to a scene where any media or recording device or medium was voluntarily provided to the police, the Field Supervisor shall review the circumstances of any consent provided confirming that the consent to search was made voluntarily and that the proper documentation of such consent was completed by the officer in accordance with **General Order 18-15 Searches with or without a Search Warrant**.
6. Ensure officers do not copy and/or disseminate any information or images from seized or provided devices or media that are not evidence of a crime or otherwise required for any official purpose.

## VII. RESPONSIBILITIES OF THE INVESTIGATIVE SUPERVISOR

- A. Upon being notified that possible evidence of a crime was captured on a recording device and/or medium, which was voluntarily provided to police, the Investigative Supervisor shall assign a Detective to take the necessary actions to copy/preserve the evidence and return the recording device and/or media to the owner as soon as possible. While the evidence was voluntarily provided, it shall be at the discretion of the Investigative Supervisor, based on the facts and circumstances, whether a search warrant (e.g. Communications Data Warrant) will also be obtained.
- B. Upon being notified by a Field Supervisor that probable cause exists that evidence of a crime was captured on a recording device and/or media and the evidence was properly seized by Police, the Investigative Supervisor, shall nonetheless, assign a Detective to apply for a search warrant (e.g. Communications Data Warrant).
- C. Ensure Detectives do not copy and/or disseminate any information or images from such devices or media seized or provided, that is not evidence of a crime or otherwise required for any official purpose.



# NEWARK POLICE DIVISION GENERAL ORDER



## VIII. EFFECT OF THIS ORDER

This order shall become effective immediately. All previous Division orders and memoranda governing the First Amendment right to observe, object to, and record police activity, which are inconsistent or in conflict with this order are hereby rescinded.

**BY ORDER OF:**

A handwritten signature in blue ink, appearing to read "A. Ambrose", written over a horizontal line.

**ANTHONY F. AMBROSE  
PUBLIC SAFETY DIRECTOR**

AFA:BO/lc

# Appendix F



**DEPARTMENT OF PUBLIC SAFETY  
MEMORANDUM**



**TO: POLICE DIVISION**

**DATE: June 05, 2018**

**FROM: ANTHONY F. AMBROSE  
PUBLIC SAFETY DIRECTOR**

**NUMBER: 18-321  
TICKLER: 18-446**

**SUBJECT: BODY WORN CAMERAS  
RE: GENERAL ORDER 18-05**

**FILE REF: PUB 4  
x PTL 1**

General Order 18-05, Body-Worn Cameras, has been created to serve as the Newark Police Division's policy governing the use of body-worn cameras (BWC). This order establishes a uniform procedure for activation, deactivation, tagging and management of video.

Prior to use, members will receive an eight-hour training course. The training course will consist of a classroom session covering policy and hands-on training for the use of the BWC.

All commanders shall sign a copy of this directive. The signed copy shall be forwarded to the Office of the Public Safety Director no later than June 22, 2018.

**By order of:**

**Anthony F. Ambrose  
Public Safety Director**

AFA/BO:dd

Rank	Name	ID#	Command	Date
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# NEWARK POLICE DIVISION GENERAL ORDER



<b>SUBJECT:</b> <b>Body-Worn Cameras</b>		<b>GENERAL ORDER NO.</b> <b>18-05</b>
<b>SUPERSEDES:</b> <b>New</b>	<b>DATED:</b> <b>April 13, 2018</b>	<b>SECTION CODE:</b>

## I. PURPOSE

This purpose of this policy is to maintain public trust, enhance safety, and provide members with instructions on when and how to use body-worn cameras (BWCs) in order to record their interactions with the public. This technology will allow the Newark Police Division (NPD) to produce effective material for training and additional evidence of an incident. Within this policy, there are guidelines for the use, management and storage of video recordings.

## II. POLICY

The Newark Police Division will issue all officers, detectives, and sergeants a BWC. Uniformed members will be required to use the BWC during the performance of their duties. The Public Safety Director may authorize use of a BWC to members in plain clothes or assigned to a specialized unit.

NPD uniformed officers will record police-citizen contacts using BWCs in order to assist personnel in the performance of their duties, provide an unbiased recorded account of an incident, and hold officers along with members of the public accountable for their actions.

The NPD recognizes that recordings may not always illustrate the entire circumstance of police-citizen contact, nor do video recordings always capture the entire scenario. A BWC recording is only one piece of evidence, providing one perspective of the incident. This technology does not eliminate the requirement of officers, detectives and sergeants to provide written documentation of an incident.

Members shall activate and deactivate their BWC in accordance with Section IX, Procedure, of this policy. All images, video, metadata, and audio recordings captured or otherwise produced are the exclusive property of the NPD and subject to disclosure under the law.

## III. DEFINITIONS

1. **Activate** – Turn on the recording mode/function of a BWC.
2. **Deactivate** – Turn off the recording mode/function of a BWC.



# NEWARK POLICE DIVISION GENERAL ORDER



3. **Body-Worn Camera (BWC)** – Device worn by a law enforcement officer that makes an electronic audio and visual recording. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., dash cam). The term also does not include any other form of an electronic recording device worn by a law enforcement officer while acting in an undercover capacity, or electronic recording devices used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).
4. **Investigation of a Criminal Offense** – Any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area for potential witnesses to a criminal offense.
5. **Law Enforcement Agency, Agency or Department** – A law enforcement body operating under the authority of the laws of New Jersey.
6. **Law Enforcement Officer or Officer** – A sworn member employed by a Law Enforcement Agency.
7. **Tagging Video** - A notation or indicator placed on specific video that may raise special privacy or safety issues.

## IV. NOTIFICATION TO THE PUBLIC AND POLICY REVIEW

A written announcement regarding the implementation of the BWC program and which members will be mandated to use the BWC must be posted on the website, [www.newarkpdonline.org](http://www.newarkpdonline.org). In addition to the written announcement, the following information must be available on the website:

- BWC policy
- A picture of the BWC along with a picture showing where the BWC will be positioned on the member's uniform.
- Electronic survey regarding the BWC policy for community feedback (temporarily).

The online BWC community survey and the “comment” section of the policy will allow residents to express their opinions, concerns or recommendations with the deployment and policy governing the use of BWCs.

The Consent Decree and Planning Unit shall review this policy quarterly during the pilot phase and on an annual basis after full deployment.





# NEWARK POLICE DIVISION GENERAL ORDER



## V. AUTHORIZED USE

1. Only BWCs and storage servers that are issued and approved by the Division shall be used. All BWCs, related equipment, data, images, video, and metadata captured, recorded or otherwise produced are the sole property of the Newark Police Division.
2. No member shall wear or operate a BWC without receiving training on the proper care and use of the device.
3. Members working in an administrative, investigative, or plain clothes capacity shall not wear BWCs. Members assigned to uniformed patrol duty must use the BWC. The Public Safety Director, at his/her discretion, may direct members in plain clothes or assigned to a specialized unit to use a BWC.
4. Members shall only use the police division issued BWC.
5. Members assigned to a task force, team, or unit composed of officers from more than one law enforcement agency shall be authorized to use the BWC if the chief law enforcement officer overseeing the task force authorizes the use.
6. Members who are not issued a BWC may voluntarily request one by submitting an administrative report through the chain of command.

## VI. TRAINING

1. Members shall receive training on this policy and complete the BWC training course before using the BWC. This will ensure the BWC is used in accordance with policy.
2. The commander of the Training Division is responsible for scheduling BWC training for all newly hired officers during their in-service training. In addition, a curriculum shall be established to provide initial and bi-annual "refresher" training.

## VII. INSPECTION, MAINTENANCE and USE

1. BWC equipment is the responsibility of the assigned member and shall be used with reasonable care. An inspection of the BWC must be done at the commencement of each shift to ensure both video and audio recording capabilities are working. The inspection shall include, but not be limited to:
  - a. Ensuring the BWC is turned on;
  - b. Ensuring the battery is fully charged; and
  - c. Ensuring the lens is not obstructed in any manner.
2. The BWC must be affixed to the outermost garment in the middle of the torso. The magnet, clip and/or bracket must be used to secure the BWC in an upright, forward facing position in the center of the torso without any obstruction of view.
3. Malfunctioning BWCs shall be documented in an administrative report and the camera must be returned to the desk supervisor.
4. The desk supervisor is responsible for issuing a replacement camera to the member.





# NEWARK POLICE DIVISION GENERAL ORDER



5. The administrative report must indicate the issues, the BWC number and the replacement BWC number that was issued.
6. Reports shall be forwarded through the chain of command and sent to the Technology Division.
7. When a report is generated documenting criminal activity or a police action where the BWC captured video of the event, an indication must be typed at the end of the Incident Report, Field Interview Report, Continuation Report, Towed Vehicle Report, etc. The indication must state "BWC Recording".

## VIII. REPLACEMENT CAMERAS

1. The Technology Unit is responsible for coordinating with the BWC vendor for replacement or repair.
2. Replacement cameras will be distributed to each command by the Technology Division.

## IX. PROCEDURE

### A. Notice of Activation

1. When activation of a BWC is required, members shall notify the subject that the camera is recording at the earliest opportunity that is safe and feasible.
2. If it is not safe and/or feasible to notify the subject, the officer shall document the reason in their report or by narrating the reason on the BWC recording.
3. If a civilian inquires if an officer is equipped with a BWC or inquires if the device is activated, the member shall answer truthfully unless the Public Safety Director or the Chief of Police has expressly authorized a covert recording.

### B. Activation of BWC is Required

Members shall activate the BWC to record police-related interactions with citizens in the performance of their duties. Activation is required immediately upon receiving a dispatched assignment or the initiation of a police action. When activation is required upon entering any residence, members shall notify the subject(s) that the camera is recording at the earliest opportunity that is safe and feasible. The following circumstances require the BWC to be activated:

1. Motor vehicle stop, from the time the violation is observed until the stop is concluded, to include:
  - a. Car/truck inspection
  - b. Motor vehicle pursuit
  - c. Motor Vehicle Safety Checkpoint
  - d. Vehicle pursuit
2. Call for service (activate upon receipt of the assignment).
3. Aiding a motorist or a pedestrian (community caretaking check).





# NEWARK POLICE DIVISION GENERAL ORDER



4. Interviewing a witness or a victim in the course of investigating a criminal offense. Ensure the witness or victim is aware the BWC is activated.
5. Conducting a custodial interrogation of a suspect, unless the interrogation is otherwise
6. being recorded in accordance with N.J. Court Rule 3:17 (electronic recordation of station house interrogation). Making an arrest.
7. During a search (consensual or otherwise, including a protective frisk for weapons). The member must record the notification to the subject of the right to allow or refuse a consent to search.
8. Civil disorder, strike, picket line, demonstration or protest in circumstances where the member is engaged with or in the presence of civilians and the member or any other officer on the scene may be required to employ constructive authority or force.
9. Investigative detention/field interview (e.g., *Terry v. Ohio* criminal suspicion stop).
10. Pedestrian stop, which includes a stop that falls short of a *Terry* stop because the pedestrian is free to walk away, such as a "mere inquiry" (e.g. asking where someone is going).
11. Use of constructive authority or force, or reasonable belief that constructive authority may be used in an encounter or situation.
12. Transporting an arrestee to a police station, county jail, other place of confinement, hospital or other medical care/mental health facility. The BWC shall remain activated until the arrestee is secured in the holding cell, processing room or until the arrestee is with hospital/medical/mental health personnel. During a prisoner watch at the hospital, the BWC shall be reactivated when there is movement of the arrestee (e.g., moving to a different room, escort to the bathroom, etc.) or if the arrestee becomes verbally or physically aggressive.
13. When the member is involved in any police action/encounter where departmental policy requires a report and/or notation on a log sheet is required.
14. When responding to an active scene where knowing or reasonably believing that police deadly force has been or is being used, or to a scene where a member has requested emergency assistance (e.g., officer in distress, shots fired, etc.) While at the scene of a police deadly-force event or the on-scene investigation of that event the member shall not deactivate the BWC unless instructed to do so by the investigator that is investigating the deadly force incident.
15. In a school, healthcare facility or house of worship only when:
  - a. Investigating a criminal offense;
  - b. Responding to an emergency;
  - c. Reasonably believing constructive authority or force will be required.
  - d. Or as otherwise noted in section IX, B 12 of the policy (transporting arrestees).
16. In any situation where the member deems a recording to be necessary.

## **C. Continuous Operation of a BWC, Once Initiated.**

1. Except as stipulated in this policy, BWCs shall remain activated for the entire duration of each event/encounter, and shall not be deactivated until either the member(s) or all citizens have departed the scene.
2. When providing assistance or backup to another officer, all members responding to the scene are required to have their BWC activated until all citizens have departed or assistance is no longer required.





# NEWARK POLICE DIVISION GENERAL ORDER



## **D. Tagging**

To identify BWC recordings that may raise special, privacy or safety issues, members shall tag recordings by pressing the "1" button on the side of the BWC. This will place an indicator on the video when viewed/stored. An indication must be typed in the "Notes" field, during the classification of the video, listing the reason the video was tagged. Recordings containing any of the following shall be tagged:

1. Image of a victim of a criminal offense;
2. Image of a child;
3. Images in a residential premises (e.g., home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, healthcare facility or medical office, substance abuse or mental health treatment facility, or a place of worship.);
4. Conversation with a person whose request to deactivate the BWC was denied;
5. Non-investigatory Special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded;
6. Image of an undercover officer or confidential informant;
7. Screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.

## **E. Activation of BWC is Prohibited**

1. BWCs shall be used only in conjunction with official law enforcement duties. Activating a BWC is prohibited, unless a law enforcement action is required, during the following:
  - When on break (e.g. meal, using a restroom, etc.) or not actively performing law enforcement duties.
  - For a personal purpose or when engaged in police union business.
  - During any form of disciplinary proceedings (e.g. counseling, police trial, inspections, evaluations, etc.) or any similar supervisory interaction.
  - In any location where there is a reasonable expectation of privacy (e.g., restroom, locker room, break room, etc.), unless enforcement action is required.
  - Courtroom proceedings, unless associated with a call for service or incident.

## **F. Deactivation of BWC**

If a member fails to activate the BWC when required, fails to record the entire event/contact, or interrupts the recording, the member shall document the reason in the applicable investigation and/or incident report. If an incident report is not required, that fact must be documented on an administrative report referencing the time, date, location and event number, if applicable.

In any instance where a BWC was deactivated, the device shall be reactivated as soon as it is safe and practical and when the circumstances justifying deactivation no longer exist.

1. Members may deactivate a BWC when a civilian conversing with the officer requests that the device be turned off under the circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected.





# NEWARK POLICE DIVISION GENERAL ORDER



- a. Members shall not suggest to a person that the BWC should be deactivated or ask whether they would prefer the BWC be deactivated. The request for de-activation must be self-initiated by the civilian.
- b. In deciding whether to deactivate the BWC, the member shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation, yet is not critical to require recording.
- c. If a civilian asks a member if they are equipped with a BWC or asks if the device is activated, the member shall answer truthfully unless the Public Safety Director has expressly authorized to make a covert recording.
2. When a member deactivates a BWC at the request of a civilian, the following procedures shall be followed:
  - Conversation requesting the deactivation shall be recorded.
  - Member shall narrate the circumstances of deactivation on the BWC prior to deactivating (e.g., "I am now turning off my BWC as per the victim's request").
  - Member shall report the circumstances concerning deactivation to their immediate supervisor.
  - Member shall document the circumstances of the deactivation in any investigation or report concerning the incident.
3. If a member declines a request to deactivate a BWC, the reasons for declining the request (e.g. officer believes that it may be necessary to use constructive authority during encounter) must be narrated on the recording and shall be reported to the officer's immediate supervisor as soon as it is safe and practicable to do so.
4. When declining a deactivation request, the member must immediately inform the person making the request of that decision. Members shall not mislead the person into believing that the BWC has been turned off unless a covert recording has been authorized by the Public Safety Director.
5. Members shall deactivate a BWC when participating in any discussion of a criminal investigation strategy or plan except in circumstances where the strategy/plan is discussed in the immediate presence of a civilian, or where that the member wearing the BWC is actively engaged in the collection of physical evidence. Before a BWC is deactivated, the member must narrate the circumstances of the deactivation.
6. Members must deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests deactivation.
7. Members shall deactivate a BWC when specifically authorized to do so by an assistant prosecutor or their assistant or deputy attorney general. Prior to deactivation, the member shall narrate, on the BWC, the circumstances for deactivation indicating the name of the person who authorized the deactivation.
8. Members shall not use a BWC when in a school, healthcare facility, house of worship, or courtroom unless:
  - a. investigating a criminal offense;
  - b. responding to a call for service;
  - c. reasonably believing constructive authority or force will be required.





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In the event a BWC captures the image of a patient in a healthcare treatment facility, the member's immediate supervisor shall be notified and a notification to the BWC Administrator and the Public Safety Director shall be made to ensure compliance with all applicable federal laws and regulations that require the confidentiality of health care information, or that provide for the confidentiality of information for substance abuse treatment. The recording shall be tagged and a notation documenting the date, time, person notified and details of the notification shall be documented in the BWC record-keeping system. The recording shall not be accessed without the express approval of the Public Safety Director or designee. (Destruction of the recording is inappropriate until it is determined that exculpatory information was not captured.).

9. If the BWC radio-frequency interferes with an electronic alcohol breath testing device, the BWC shall be deactivated or removed from the area while the alcohol breath test device is being used. The member must narrate the reason for deactivation (e.g., "I am deactivating the BWC because the suspect is about to take a breath test."). The BWC must be reactivated once the test is complete.
10. Members shall deactivate when an arrestee is secured in the holding cell, processing room or in the care of the hospital/medical/mental healthcare personnel.
11. Members shall deactivate upon entering a police facility when transporting a victim or witness.
12. The BWC shall be deactivated when the member and all civilians have departed the scene.

## X. RESPONSIBILITIES

### A. Officer Responsibilities

1. Ensure the BWC issued during roll-call is the camera that was issued to you (refer to the serial number and division identification number).
2. Ensure that the BWC is operational and in good working order.
3. BWC must be positioned in the center of the torso, on the outermost garment.
4. Pair the BWC to the vehicle (refer to the BWC Training Manual).
5. Launch the Arbitrator Front-End Client and log-on. This will ensure all video recorded is associated with the officer.
6. Pair the BWC of the second officer, if applicable (refer to BWC Training Manual).  
**\*\*\*\*If an issue occurs with pairing or launching the Arbitrator Front-End Client,\*\*\*  
restart the mobile data computer. Repeat the steps.**
7. If the BWC does not pair to the emergency lights, the BWC must be activated independently from the in-car camera.
8. During vehicle inspection, activate the BWC and record all sides of the vehicle. Ensure video is categorized properly (vehicle inspection/test). This video footage does not replace reporting requirements when damage to a city vehicle is observed.
9. Activate, deactivate and tag video in accordance with this policy.
10. Ensure an event number is entered for each video (dispatched assignment or stop).
11. Categorize each video with all proper classifications from the "drop down" selection:
  - Vehicle Inspection/ Test (inspection of vehicle for damage at beginning of tour)





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- Call for service (no arrest)
  - Special Detail (protest, civil disturbance)
  - Traffic Matter (use of emergency light; non-call for service or stop)
    - e.g., activating lights to move a vehicle along.
  - Motor Vehicle Stop
  - Motor Vehicle Accident
  - Motor Vehicle Aid
  - Pedestrian Stop
  - Frisk or Search
  - Arrest
  - DB Investigation (follow-up investigation by a detective, statements, etc.)
  - Critical Incident (homicide, serious bodily injury, suspicious death, serious use of force)
  - Internal Affairs (**Office of Professional Standards use only**)
12. Ensure vehicles are parked within range of the wireless access point. This will allow in-car video to upload automatically.
  13. Ensure you are logged-off from the Arbitrator Front-End Client, within the vehicle, upon completion of the tour of duty. This will not allow another user to record video with your credentials.
  14. BWC must be docked in the charging station, in the "on" position, to upload video.
  15. BWC must be docked, in the "on" position, and left in the charging station at the end of the tour. This will ensure:
    - BWC has a fully charged battery for the commencement of the tour of duty.
    - All BWC video is uploaded to the server.
    - BWC receives the latest firmware update.
    - BWC is able to be serviced, if needed, in a timely fashion.
  16. Ensure all video is of official police business.
  17. If an issue occurs with the BWC, the member's immediate supervisor must be notified to attempt to resolve the issue.
  18. If the BWC requires service, notify the desk supervisor to email the Technology Division to have the camera repaired:  
The email must:
    - Be addressed to [mis2@ci.newark.nj.us](mailto:mis2@ci.newark.nj.us), the member's commanding officer, executive officer and principal clerk.
    - Indicate the member name, identification number, command and BWC serial number.
    - Indicate the problem/ malfunction.
    - Indicate the replacement BWC issued to the member, if applicable.



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19. If a BWC is in need of repair and a replacement camera is not immediately available, the member must submit an administrative report indicating they are without a BWC until the camera is serviced/repaired.
20. Refer to your immediate supervisor for any questions or concerns.

## **B. Supervisor Responsibilities**

1. Desk supervisor shall issue BWCs that are operational and in good working order to all trained on-duty personnel during roll-call.
2. Desk supervisors shall inspect personnel to ensure BWCs are positioned in the center of the torso, on the outermost garment.
3. Supervisors using a BWC shall activate, deactivate and tag video in accordance with this policy.
4. Field supervisors shall ensure members are all logged-on to the Arbitrator Front-End Client in the vehicle during field inspections and that the BWCs are positioned in the center of the torso on the outermost garment of all personnel.
5. Desk supervisors shall log-on to the Arbitrator Back-End Client, during their tour of duty from the precinct computer at the desk, to ensure officers/supervisors are properly logging-on to the Arbitrator Front-end Client and that video has:
  - An event number.
  - A proper classification from the "drop down" selection.
6. On a daily basis, the supervisors shall randomly select two videos of officers and/or the supervisor from their tour of duty, pertaining to Stops, Detentions and Searches. The supervisors shall review the Arbitrator Back-End Client "Main" page and view video to determine if the member complied with law and NPD policy. The "Main" page will provide a list of all uploaded video (body-worn and in-car video).
7. An email shall be sent to the commander, executive officer and principal clerk by the end of the tour of duty indicating:
  - The name of the member(s).
  - The date and period of time the audit of video was conducted.
  - List the videos, from the "Main" page selected (date, time, event#, etc.).
  - If the officer(s)/ supervisors are in compliance.
  - Actions taken to address any deficiency.
8. The desk supervisor shall ensure an email is sent to the Technology Division to have the camera repaired when notified of a malfunctioning BWC. The email must:
  - Be addressed to [mis2@ci.newark.nj.us](mailto:mis2@ci.newark.nj.us), the member's commanding officer, executive officer and principal clerk.
  - Indicate the member name, identification number, command and BWC serial number.
  - Describe the problem/ malfunction.
  - Identify the replacement BWC issued to the officer, if applicable.
9. During normal business hours, the commanding officer must make a follow-up telephone call to the Technology Unit.





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10. Supervisors shall review investigatory stops and detentions, searches, and arrests for completeness and adherence to law and NPD policy. Supervisors will:
  - Review all written documentation;
  - Review all 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
  - 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.
11. For every search or arrest involving the recovery of contraband evidence, the desk lieutenant will review the circumstances of the encounter, including BWC video, to assess the adequacy of the seizure.
12. Desk and field supervisors shall ensure BWCs are docked and left in the charging station at the end of the tour of duty.
13. Upon reviewing reports and video for investigatory stops and detentions, searches and arrests, supervisors shall submit an administrative report for each event reviewed, by the end of their tour of duty, listing:
  - An event number for each video viewed when prompted in RMS (e.g., P18012345)
  - Name(s) of the officer(s) for each event reviewed.
  - Type of video reviewed (body camera video, in-car video, or both).
  - Reason for reviewing video (recovery of contraband, stop, search, detention, arrest, suspected non-compliance with policy or law)

## C. Command Responsibilities

1. Commanders shall ensure all members sign for and receive a BWC and a BWC Training Manual.
  2. Commanders shall coordinate to have malfunctioning BWCs delivered to the Technology Division by the following business day.
- \*\*\*Notification of a malfunctioning BWC will be sent by the desk supervisor via email\*\*\***
3. Commanders shall ensure all personnel comply with the mandates of this policy.
  4. Commanders shall coordinate to schedule members for retraining based on the assessment of the desk supervisor.

## D. Technology Unit

1. Distribute/ coordinate distribution of operational and properly functioning BWCs and related equipment to personnel.
2. Ensure each BWC is fully charged upon issuance.
3. Maintain a database of all equipment and to whom the equipment is assigned.
4. Provide all personnel a user name and password for the Arbitrator software.
5. Install a configuration file for each BWC.





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6. Setup and maintain the BWC Active Directory to ensure user privileges are granted for each member.
7. Ensure newly hired, promoted or separated personnel are added, deleted or adjusted accordingly within the active directory.
8. Assess malfunctioning BWCs and/or related equipment prior to being sent for repair/replacement.
9. Retrain members in the use of the BWC, in-car camera and Arbitrator software. Coordinate with each command to schedule multiple personnel for training at one time.
10. Ensure a signature roster is generated and signed by each member for every training session. Signature rosters must be forwarded to the Training Division.
11. Conduct a weekly inspection of the Arbitrator Back-End Client to determine if BWC video is uploading properly and correct any deficiencies observed/ coordinate with the vendor.

## **E. BWC/ In-Car Video Training (Applicable to all personnel)**

1. All members are responsible for bringing the following to training:
  - Fully charged BWC and mount.
  - Body-Worn Camera Training Manual.

## **F. Office of Professional Standards**

1. Investigators shall review BWC and in-car camera video when an Investigation of Personnel complaint is received.
2. Investigators shall ensure videos, if available, are reclassified to "Internal Affairs" within the Arbitrator Back-End Client. This classification is within the "drop down" selection.
3. The commander of the Office of Professional Standards shall ensure Integrity Control Officers are reviewing video, as delineated within this policy.
4. Include the number of complaints that have body-worn and in-car camera video in the monthly report. In addition, include the following:
  - Number of complaints that were unfounded/exonerated because of video.
  - Number of complaints that were justified because of video.

## **G. Integrity Control Officers and Compliance Unit**

1. Review twelve BWC/ in-car videos, four per tour, on a monthly basis.
2. When reviewing video, ensure members are:
  - Activating, deactivating and tagging video in accordance with policy.
  - Logging-in to the Arbitrator Front-End Client.
  - Assigning an event number to all videos.
  - Classifying video from the "drop down" selection.
3. Include a recommendation to correct any deficiency in the audit report.



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4. Ensure the outcome of the audit/review of video is included in the monthly report.

## **H. Training Division**

1. Ensure all BWC training signature rosters are maintained at the division.

## **I. Advocate Unit**

1. Video must be provided to the collective bargaining entity, for each case, prior to the date of the hearing.

## **XI. DATA UPLOAD and FIRMWARE UPDATES**

1. Members using a BWC shall upload data by docking the device in the docking station at any command. The BWC shall be placed in the docking station, which will automatically upload data and charge the battery. All video shall be uploaded by the end of shift.
2. BWC firmware updates are distributed through the server. In order to receive the latest update, the BWC must be placed in the docking station. When the indicator on the BWC continuously flashes at the same time, an update is taking place.

## **XII. RETENTION OF BWC RECORDINGS**

The retention period for BWC recordings shall not be less than 90 days. The Technology Unit is responsible for coordinating with the BWC vendor to establish a retention and disposition schedule, in accordance with requirements set forth by the State of New Jersey. The following shall be subject to the following additional retention periods:

- When a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.
- When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency. If a civil action relating to the incident depicted on the recording is filed the recording shall be maintained until the conclusion of the civil action. NPD personnel responsible for the disposal of video images shall contact the office of the Newark Corporation Counsel for guidance regarding the destruction of the video images.





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- When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
- When a civilian who is the subject of the video makes a written request that footage be retained, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.

The following is list of video categories and their retention period:

- Vehicle Inspection/ Test – 90 days
- Call for service (no arrest) - 90 days
- Special Detail – 90 days
- Traffic Matter – 90 days
- Motor Vehicle Stop – 3 years
- Motor Vehicle Accident – 3 years
- Motor Vehicle Aid - 3 years
- Pedestrian Stop - 3 years
- Frisk or Search – 3 years
- Arrest - 7 years
- DB Investigation – 7 years
- Critical Incident (homicide, serious bodily injury, suspicious death, serious use of force) - Indefinite
- Internal Affairs - Indefinite

### **XIII. ACCESS TO, DISSEMINATION OF BWC RECORDINGS AND RELATED RESTRICTIONS**

Viewing of BWC events is strictly limited to authorized employees of this Division. Viewing by any other person is prohibited unless authorized by the Public Safety Director. No law enforcement officer or civilian employee of this Division shall access, view, copy, disseminate or otherwise use a BWC recording except for an official purpose. Access to and use of a BWC recording is permitted only in the following situations:

1. When relevant to and in furtherance of a criminal investigation or prosecution.
2. When relevant to and in furtherance of an internal affairs investigation which shall include an investigation of any use of force.
3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern of possible misconduct.
4. To assist the member whose BWC made a recording to prepare his or her own police report, except as delineated in number 16 of this section.





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5. When relevant to a supervisor's review of a member's actions as part of the supervisory responsibility authorized by the division.
6. To show a civilian who intends to file a complaint against a member to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint.
7. To comply with the state's discovery obligations in criminal prosecutions pursuant to the Rules of Court;
  - a. Such request must be specific and on the proper instrument (e.g., subpoena, discovery request etc.)
  - b. Only those portions pertinent to the request shall be forwarded.
  - c. The NPD reserves the right to redact video as applicable by law (minor, victim, witness etc.)
  - d. All request for copies or review of BWC recordings are subject to fee.
8. To comply with any other legal obligation to turn over the recording to a person or entity.
9. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate to the public, when approved by the Public Safety Director, to determine that the disclosure to that particular person/entity or the public is warranted because the person's/entity's/public's need or access outweighs the law enforcement interest in maintaining confidentiality.
10. For training purposes provided that the recording is redacted so that the identity of the individuals depicted in the recording cannot be determined by any person viewing the training video unless the depicted individuals have consented to the recording being used for training purposes.
11. To conduct an audit to ensure compliance with this policy.
12. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution, when such use is approved by the Public Safety Director.
13. Any other specified official purpose where the Public Safety Director, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
14. Within one business day of receiving requests for BWC video, the Legal Affairs Unit, in conjunction with the Office of the City Clerk, shall be responsible for providing notice to the Essex County Prosecutor's Office representative assigned to O.P.R.A. requests in the following manner:
  - Subpoena
  - Court Order
  - Open Public Records Act
  - Common Law Right to KnowA database record of all requests for BWC video shall be maintained by Legal Affairs.
15. The Legal Affairs Unit is responsible for video redaction.
16. When a police related use-of-force incident investigated by the County Prosecutor's Office or any other agency with equivalent or a greater authority, department members and civilians shall not have access to any BWC recording until authorized by that lead investigative agency.
17. A BWC recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency, officer or authorized civilian employee of such agency, unless





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such disclosure is expressly approved by the Public Safety Director.

18. A BWC recording tagged pursuant to Section IX, Subsection D, of this policy shall not be accessed, viewed, copied, disseminated, or otherwise used without the express permission of the Public Safety Director, in accordance with the Attorney General directive.

## XIV. DATA CONTROL AND MANAGEMENT

**Members shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings, and shall not alter, remove, obstruct or disable any camera. Any such tampering is a violation of NJSA 2C:28-7, and is a 4<sup>th</sup> degree crime. In addition, members may also be subject to internal discipline.**

1. Data uploaded from BWCs will be stored on storage servers located at 480 Clinton Avenue, or any other secure storage location ordered by the Public Safety Director. Accessing, copying, releasing, tampering with, destroying video and transmitting files for non-law enforcement purposes is strictly prohibited.
2. Events captured on BWCs shall not be released to other law enforcement entities other than the Essex County Prosecutor's Office, the New Jersey Division of Criminal Justice or U.S. Department of Justice without the express permission of the Public Safety Director.
3. The commander of the Technology Division shall manage the integrity and storage of all BWC recordings. The commander shall prevent unauthorized access to all BWC recordings and must establish and maintain rules within the system to document the following information:
  - a. Date and time of access;
  - b. Specific BWC recordings that were accessed;
  - c. Member who accessed the stored BWC recording;
  - d. Person who approved access, where applicable;
  - e. Reason(s) for access, specifying the purpose or purposes for access and the relevant case/investigation number, where applicable;
  - f. Groups of NPD members with specific user privileges.
  - g. A BWC recording that has been "tagged" for special privacy or safety issues, Section IX, Subsection D, shall not be accessed, viewed, copied, disseminated or otherwise used without first obtaining the permission of the Public Safety Director or County Prosecutor.





# NEWARK POLICE DIVISION GENERAL ORDER



## XV. REFERENCES

1. Bureau Justice of Assistance National Body Worn Camera Tool Kit.
2. U.S. Department of Justice C.O.P.S./ Police Executive Research Forum "Implementing a Body-Worn Camera Program, Recommendations and Lessons Learned" report.

**BY ORDER OF:**

A blue ink signature of Anthony F. Ambrose, consisting of stylized, overlapping loops and lines.

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**ANTHONY F. AMBROSE  
PUBLIC SAFETY DIRECTOR**

AA/BO:dd

# Appendix G

#	Consent Decree Paragraph	NPD Policy
1	25	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Sections II and V.A
2	26	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Sections II and V.B
3	27(a)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.B
4	27(b)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.C
5	27(c)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.D
6	27(d)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.I
7	27(e)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.E
8	27(f)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.F
9	27(g)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.G
10	27(h)	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section V.H
11	28	General Order 18-14, <i>Consensual Citizen Contacts and Investigatory Stops</i> : Section VI.A
12	55	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Sections II and V.
13	56	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Sections II and V.A.4.f
14	57	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Section V.
15	58	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Section V.
16	59	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Section V.A.
17	60	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Sections II and V.A.4.
18	61	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Sections II and V.A.4.
19	62	General Order 18-12, <i>First Amendment Right to Observe, Object to, and Record Police Activity</i> : Sections II, V.D. and V.F

# Appendix H

**List of Events**

1. P19440197
2. P19442510
3. P19443082
4. P19443740
5. P19444020
6. P19444762
7. P19446148
8. P19446493
9. P19446576
10. P19448606
11. P19449236
12. P19449635
13. P19449920
14. P19450122
15. P19451053
16. P19455376
17. P19456158
18. P19456263
19. P19458293
20. P19458308
21. P19458342
22. P19459138
23. P19460125
24. P19460128
25. P19460410
26. P19461243
27. P19462271
28. P19463815
29. P19464152
30. P19467089
31. P19467249
32. P19467268
33. P19467606
34. P19467920
35. P19468513
36. P19468841
37. P19470096
38. P19470554
39. P19471161
40. P19472008
41. P19472312
42. P19472772
43. P19473292
44. P19474891

45. P19475479  
46. P19477090  
47. P19477830  
48. P19477900  
49. P19478396  
50. P19479025  
51. P19479805  
52. P19481104  
53. P19481530  
54. P19483149  
55. P19483263  
56. P19483277  
57. P19483669  
58. P19485949  
59. P19486323  
60. P19486543  
61. P19486972  
62. P19487341  
63. P19487743  
64. P19488024  
65. P19488794  
66. P19489578  
67. P19490267  
68. P19491461  
69. P19491631  
70. P19492240  
71. P19492939  
72. P19493224  
73. P19494280  
74. P19495166  
75. P19495814  
76. P19496161  
77. P19498404  
78. P19499017  
79. P19499092  
80. P19499406  
81. P19500019  
82. P19500027  
83. P19500203  
84. P19501196  
85. P19502346  
86. P19503095  
87. P19503174  
88. P19504953  
89. P19505307  
90. P19506882



91. P19507685  
92. P19509804  
93. P19510353  
94. P19511420  
95. P19513742  
96. P19514615  
97. P19514788  
98. P19516330  
99. P19517168  
100. P19517337  
101. P19517627  
102. P19517690  
103. P19519270  
104. P19520612  
105. P19521917  
106. P19523279  
107. P19523943  
108. P19523978  
109. P19525821  
110. P19526159  
111. P19527035  
112. P19527491  
113. P19527856  
114. P19528437  
115. P19529005  
116. P19529014  
117. P19531590  
118. P19531936  
119. P19533119  
120. P19533287  
121. P19533396  
122. P19535418  
123. P19535583  
124. P19537991  
125. P19538018  
126. P19538383  
127. P19538790  
128. P19539763  
129. P19540300  
130. P19540814  
131. P19541331  
132. P19541600  
133. P19541785  
134. P19544663  
135. P19544774  
136. P19544957

137. P19545988  
138. P19547716  
139. P19547721  
140. P19548205  
141. P19548373  
142. P19549366  
143. P19549517  
144. P19550010  
145. P19550141  
146. P19550238  
147. P19550721  
148. P19551310  
149. P19551852  
150. P19552463  
151. P19552489  
152. P19552768  
153. P19553385  
154. P19553409  
155. P19554044  
156. P19554054  
157. P19554988  
158. P19555806  
159. P19556664  
160. P19557778  
161. P19559674  
162. P19559755  
163. P19560549  
164. P19560657  
165. P19562559  
166. P19562615  
167. P19563027  
168. P19565148  
169. P19566133  
170. P19566289  
171. P19566355  
172. P19570637  
173. P19570889  
174. P19570915  
175. P19572635  
176. P19573282  
177. P19573727  
178. P19574864  
179. P19578575  
180. P19580292  
181. P19580602  
182. P19580837

183. P19581003  
184. P19581008  
185. P19581522  
186. P19581618  
187. P19582201  
188. P19582242  
189. P19582357  
190. P19582502  
191. P19582718  
192. P19583096  
193. P19583376  
194. P19584446  
195. P19586678  
196. P19587017  
197. P19587114

# Appendix I

## I. Outcome Data

Paragraph 174 (a)(i)-(iii) of the Consent Decree requires NPD to provide the Monitor with three (3) categories of Investigatory Stop and Detention data to allow the Monitoring Team to undertake related outcome assessments.

NPD provided the Monitoring Team with categories of data required by Consent Decree Paragraph 174(a)(i)-(iii). The data that NPD provided to the Monitoring Team is included below.

This table identifies data required by the Consent Decree, the corresponding paragraph number, and the SMEs compliance assessment for each requirement.<sup>1</sup>

<b>Data Required by the Consent Decree</b>	<b>Paragraph</b>	<b>Compliance Assessment</b>
Stop rates by subject(s) race or ethnicity, gender, and age per sector, precinct, shift, and unit.	174(a)(i)	Non-Compliant
Post-stop activity rates, such as frisks, searches, requests for consent to search; in-car detentions, citations issued, by subject(s) race or ethnicity, gender and age per sector, precinct, shift and unit.	174(a)(ii)	Non-Compliant
Analyses of the frequency and effectiveness of stop and post-stop activities, including rates at which contraband is discovered pursuant to a search, by type of search, race or ethnicity, gender, and age per sector, precinct, shift, and unit.	174(a)(iii)	Non-Compliant

The following outcomes reflect the Monitoring Team's collection and analysis of data pursuant to Paragraph 174(a) of the Newark Consent Decree. All findings were derived from the total population of data that NPD provided to the Monitoring Team for the audit period, unless otherwise indicated. Because NPD was still utilizing an "old" stop report, the Monitoring Team could not obtain accurate and complete NPD Stop data.

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<sup>1</sup> The Monitoring Team was given data information from NPD's Computer-Aided Dispatch system (CAD). As explained in the audit report, this is not a qualified and reliable source to use for outcome assessments.

This table shows the total amount of events provided via CAD from NPD by reported age.

<b>Stops by Age During Audit Period</b>		
<b>Age</b>	<b>Event Numbers</b>	<b>Percentage</b>
<18	220	1.58%
18-30	5569	39.93%
31-40	3573	25.62%
41-50	2360	16.92%
51+	2224	15.95%
Unidentified	1	0.01%
<b>Total</b>	<b>13947</b>	<b>100.00%</b>

This table shows the total amount of events provided via CAD from NPD by reported gender.

<b>Stops by Gender During Audit Period</b>		
<b>Gender</b>	<b>Event Numbers</b>	<b>Percentage</b>
Male	10004	71.73%
Female	3938	28.24%
Unspecified	5	0.04%
<b>Total</b>	<b>13947</b>	<b>100.00%</b>

This table shows the total amount of events provided via CAD from NPD by reported race.

<b>Stops by Race During Audit Period</b>		
<b>Race</b>	<b>Event Numbers</b>	<b>Percentage</b>
Black	9547	68.45%
White Hispanic	2409	17.27%
White	1047	7.51%
Black Hispanic	443	3.18%
Unknown	296	2.12%
Asian or Pacific Islander	97	0.70%
Native Hawaiian or Other Pacific Islander	30	0.22%
American Indian or Alaskan Native	44	0.32%
Group of Multiple Races	34	0.24%
<b>Total</b>	<b>13947</b>	<b>100.00%</b>

This table shows the total amount of events provided via CAD from NPD by reported disposition.



<b>Stops by Disposition During Audit Period</b>		
<b>Disposition</b>	<b>Event Numbers</b>	<b>Percentage</b>
Motor Vehicle Stop	10257	73.54%
Suspicious Person	2056	14.74%
Witness	117	0.84%
F/I Resulted from Arrest	1517	10.88%
Total	13947	100.00%

This table shows the total amount of events provided via CAD from NPD by reported geographic area.

<b>Stops by Geographic Area</b>		
<b>Location</b>	<b>Event Numbers</b>	<b>Percentage</b>
PREC1	2131	15.28%
PREC2	1625	11.65%
PREC3	2287	16.40%
PREC4	1835	13.16%
PREC5	2532	18.15%
PREC6	2269	16.27%
PREC7	1011	7.25%
CITY	11	0.08%
OOT	39	0.28%
TRU	3	0.02%
Unidentified	204	1.46%
Total	13947	100.00%