

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

V.

**THE CITY OF FERGUSON,
Defendant.**

Case No. 4:16-cv-180

Hon. Catherine D. Perry

INDEPENDENT MONITOR'S FALL 2024 STATUS REPORT

I. INTRODUCTION

Pursuant to Paragraph 438 of the Consent Decree entered into between the United States Department of Justice (“DOJ”) and the City of Ferguson, Missouri (the “City”) (together, the “Parties”), the Independent Monitor (the “Monitor” or the “Monitoring Team”) submits this Fall 2024 Status Report detailing the City’s progress through October 15, 2024.

After reporting on numerous disruptive transitions over the past two years, the Monitoring Team is pleased to report that the City, Ferguson Police Department (“FPD”), and Ferguson Municipal Court (“FMC”) have experienced, and benefitted from, a period of consistency and progress since our last report. Although not yet finalized, the City made meaningful progress with respect to a number of comprehensive plans that will serve as the foundation of Consent Decree implementation, including: (1) the Community Policing and Engagement Plan; (2) Neighborhood Policing and Crime Prevention Plan; and (3) the Staffing Study/Recruitment Plan. The City also completed a Training Plan, which had been in development for many years. It is apparent that the City now has the resources and skilled personnel in place to oversee completion of these plans, and we look forward to their finalization in the near term. In particular, we express our appreciation and gratitude for Patricia Washington, the City’s Public Information Officer, and

Lisa Stephens, the Training Coordinator, who moved with diligence and haste to assist in the development of these plans since their hirings in 2024. We also note that the City's use of "target deadlines" for key projects has resulted in implementation efforts that are significantly more focused, predictable, and organized than in the past. We acknowledge and appreciate Consent Decree Coordinator Chris Crabel's efforts in managing and overseeing these deadlines and ensuring the City's continued momentum toward meeting key dates. The City has represented to the Monitoring Team and DOJ that it is working to address long-standing requests from the community for greater transparency concerning the Consent Decree tasks it has completed as well as what remains to be done. The City will produce an updated task tracker to the Monitoring Team, DOJ, and the Court on December 6, 2024. This tool will also provide the City with valuable information for internal project planning moving forward.

A. The Monitoring Process

As with prior status reports, this report details the City's progress with respect to the three phases of Consent Decree Implementation—policy development, training, and compliance assessment by the Monitoring Team. In most subject areas, there are two training components: (1) roll call training, a brief overview of a newly-finalized policy to ensure familiarity; and (2) in-service training, a more robust and substantive training that often encompasses an entire subject area rather than a specific policy. To the extent the City has not yet completed policy development or training (roll call or in-service) in a stated area, that area is not yet ripe to be assessed for compliance by the Monitoring Team. In areas comprised of multiple discrete policies, such as Force, the Monitoring Team has initiated compliance auditing even though the in-service training component is still in development.

The below chart details the status of overall implementation as of October 15, 2024 (green highlighting indicates an upward change in status since the Monitor's last report):

Ferguson Consent Decree Implementation Status

| Subject Area | Policy Development | Roll Call Training | In-Service Training | MT Assessment |
|--|--------------------------------------|--------------------|---------------------|--|
| Force | ✓ | ✓ | In progress | Audit 1 complete; Audit 2 In progress |
| First Amendment Protected Activity | ✓ *One policy remains outstanding | ✓ | In progress | Not yet applicable |
| Bias-Free Policing | ✓ | ✓ | ✓ | Ready for assessment |
| Bias-Free Court Practices | ✓ | N/A | X ¹ | Not yet applicable |
| Voluntary Contacts, Stops, Searches, Citations, and Arrests; | In progress | In progress | X | Not yet applicable |
| Body-Worn and In-Car Cameras | ✓ | ✓ | In progress | In progress |
| Accountability | ✓ | ✓ | N/A | In progress |
| Supervisors | X | X | X | Not yet applicable |
| Crisis Intervention | In progress | X | X | Not yet applicable |
| Community Policing and Engagement | In progress | X | X | Not yet applicable |
| Municipal Court Reform | ✓ | ✓ | N/A | Transitioning to City self-assessment model with MT oversight and review |

¹ The "X" designation reflects that the City has not yet begun implementation in this area.

1. Policy Revision and Review

The Parties continue to develop policies by following the below protocol:

- i. ***Kick-off/Announcement of Policy Area:*** FPD notifies DOJ and the Monitor of its intent to begin drafting or revising policies in an identified subject area.
- ii. ***Technical Assistance:*** The appropriate Subject Matter Expert on the Monitoring Team provides FPD and DOJ with technical assistance in the form of model policies and/or initial guidance as to best practices in the identified subject area.
- iii. ***Gap Analysis:*** FPD and DOJ conduct an assessment or gap analysis of FPD's current state of affairs (i.e., ascertain how FPD's existing policies, practices, and systems differ from the Consent Decree's requirements and best practices).
- iv. ***Solicitation of Community Input:*** Several provisions of the Consent Decree require community involvement in the implementation of specific policies, including those designed to improve police/community relations. The Parties are committed to soliciting community feedback on other policies as well, even where not explicitly required by the Consent Decree.
- v. ***Policy Revision:*** FPD and DOJ revise policies, practices, and systems in the target subject area to the extent required under the gap analysis.
- vi. ***Return to Monitor/SME:*** Upon completion of a draft policy, the Parties submit the policy to the Monitor and/or appropriate Subject Matter Expert for review. The Subject Matter Expert will review the policy and either provide approval or arrange for a conference call to discuss additional revisions.
- vii. ***30-Day Comment Period:*** In certain designated subject areas, after the Monitoring Team has approved a draft policy, the City will email the policy to FPD officers from varying ranks and units. Officers will have a meaningful opportunity to review and comment on the new or revised policy or procedure during a 30-day period. At the same time, FPD will post the policy to the FPD website for review by the community. Community members will also have 30 days to provide comment on the draft policy or procedure. At the close of the 30-day period, the Parties will determine whether any modifications to the draft policy are appropriate. If modifications are made, the revised policy is submitted to the Monitor for review and final approval. After the Monitor has approved the final policy, officers will be provided roll call training and the finalized policy will be implemented and published.
- viii. ***Public Access:*** Once the policy has been finalized, FPD will post it to its website along with the "status" of the policy (e.g., finalized, awaiting training, etc.). If and when a policy is later updated, its status will read: "new updated policy," and the changed provisions in the policy will be highlighted so that the public may easily review the amended provisions.

2. Training and Implementation

Both roll call and in-service training are required in order to implement finalized policies. As discussed during the July 2024 Status Hearing, FPD has remained slow to develop and implement a regular cadence of in-service trainings. However, there was significant progress in the area of training since the hiring of Training Coordinator, Lisa Stephens, who has collaborated with the FPD's Training Committee, a group of community volunteers, to foster and maintain a robust process for eliciting and responding to feedback from the committee. Indeed, FPD met its target dates for submission of a draft Training Plan in March and April 2024. FPD has also proposed meeting many of its training obligations under the Consent Decree by contracting with external subject-matter experts and consultants who can assist in developing certain trainings. Before engaging any third-party contractor, FPD has agreed to submit the proposed trainer's qualifications to the Training Committee, DOJ, and Monitoring Team for review. Once these contractual relationships are in place, and draft training materials are developed, they will be reviewed and approved by the Training Committee, DOJ, and Monitoring Team. Additionally, the City is encouraged to continue to build out its Training Plan over time, including by adding specifics with respect to how it will maintain adequate staffing levels for patrol while officers are in training.

3. Auditing and Assessing Compliance

Once the City completes in-service training, a subject area is ripe for auditing to assess compliance with the Consent Decree's terms. In consultation with the Parties, the Monitoring Team has determined that auditing is appropriate in some areas even though the in-service training component is still in development. During this reporting period, the Monitoring Team has expanded to include additional subject matter experts. These new members—Dan Gomez, Roger Nunez, and Julio Thompson—will enhance the Monitoring Team's ability to fulfill its auditing

responsibilities in several areas.² As discussed in more detail below, the Monitoring Team either completed or commenced audits in the areas of Force, Accountability, and Body-Worn and In-Car Cameras during the reporting period.

II. Subject Matter Updates

A. Community Policing and Engagement

As noted in the Fall 2023 Status Report, the Monitoring Team provided feedback to the City with respect to its Community Policing and Engagement Plan that directed the City to address its approach to community and problem oriented policing. The City continued to develop this plan over the course of 2024 and resubmitted a revised Community Policing and Engagement Plan for the Monitoring Team's review on October 7, 2024. The plan is now under review by the Monitoring Team.

Additionally, during the reporting period, the City submitted, and the DOJ and Monitoring Team each reviewed and commented on, a draft Crime Prevention Plan. The Monitoring Team's October 7, 2024 feedback suggested that the City build out additional concrete and practical guidance for how it plans to engage the community in reducing and preventing crime. Paragraph 26 of the Consent Decree requires the City to develop both a Crime Prevention Plan and a Community-Policing Plan that are interconnected, working in tandem to ensure that policing "is oriented around community priorities and partnerships, and based on problem-solving models." Thus, in addition to including the roles that patrol officers, detectives, and technology will have in the draft plan's execution, we have asked the City to further articulate how the community will be informed, engaged, and impacted through implementation of the plan. The City has been receptive to this feedback and is working to incorporate it into a revised draft plan.

² Professional biographies for Messrs. Gomez, Nunez, and Thompson are attached as **Exhibit A**.

Finally, the Monitoring Team has consistently reported that the crime-prevention and neighborhood policing plans are dependent upon FPD's shift schedules. On September 20, 2024, the City submitted a Staffing Study completed by the National Policing Institute as well as the City's analysis of how that study compares with FPD's budgeted structure. DOJ provided feedback to the City on October 11, 2024. Pending some revisions by FPD to ensure that it is responding to the recommendations in the staffing study, this project should soon be complete.

FPD's policy for responding to NPSC's recommendations has remained outstanding since 2021. This policy is closely tied to the Community Engagement and Policing Plan as it speaks directly to the community's ability to provide feedback to FPD.

The Monitoring Team notes that over the course of 2024, the City has demonstrated its commitment to moving comprehensive, foundational plans in this area substantially closer to finalization. We hope that through continued focus and incorporation of the DOJ and Monitoring Team's feedback, the City will be able to finalize these plans by the end of 2024 or early 2025.

1. Community Dialogues & Mediations

The City has made significant progress implementing community dialogues in partnership with Community Mediation Services of St. Louis ("CMS"). These dialogues are critical to implementing an engagement program that allows for regular community interactions. Dialogues create a neutral space for the exchange of information regarding the role of police officers in the community and how officers, both individually and collectively, can continue to address the topics of most concern to the community. The City received feedback from the various dialogue sessions held in 2021 and 2023 suggesting that certain changes to format and style should be incorporated in the future. The City is currently designing a renewed approach to the next round of community dialogues—incorporating this feedback—but has not yet set a firm launch date.

B. Use Of Force

The City has completed development of all force policies, with the exception of the Force Review Board (FRB) policy, which remains outstanding. On October 7, 2024, the Monitoring Team also approved FPD's revised General Order on Electronic Control Weapons (ECW).

The Monitoring Team's Fall 2023 Status Report summarized its findings with respect to Phase Two of its First Force Audit assessing compliance with the Consent Decree's use of force reporting and investigation provisions, including Consent Decree Paragraphs 171-184, 186-188, for 2019 and 2020 force incidents. Dkt. 179, Appendix A. As a reminder, the Monitoring Team's audit in this area consists of two phases: (1) Phase One assesses the timeliness, thoroughness, and accuracy of FPD's use-of-force reports and the quality of its investigations as required in the Consent Decree and FPD policy; and (2) Phase Two assesses FPD's compliance with Consent Decree ¶173, which requires "all officers using force above unresisted handcuffing" to document the use of force in writing.

On March 4, 2024, the Monitoring Team provided the Parties with a draft notice of its Second Audit assessing compliance with the Use of Force provisions of the Consent Decree for 2022 and 2023 force incidents. After receiving input from the Parties, the Monitoring Team issued its final notice of audit on April 15, 2024. FPD timely provided responsive materials for the audit. As with the Monitoring Team's first force audit, the second audit will proceed in stages.

During an in-person July 8, 2024 meeting, FPD, DOJ, and members of the Monitoring Team met to discuss the Monitoring Team's preliminary feedback, as well as additional analysis that would be conducted prior to finalizing and publishing audit results. The Parties also engaged in discussion concerning how FPD could improve the quality of its own force investigations and use of the computer program, Benchmark, to better support its work in this area. Following a very productive conversation, FPD held strategic internal meetings designed to address specific

documentation lapses and procedural deviations raised by the Monitoring Team's audit, as well as comprehensive strategies to improve compliance in this area.

To support FPD in its efforts to develop an action plan for the Department, DOJ held a technical assistance session on September 4, 2024, during which the Parties discussed areas where training and supervisory interventions could be of further assistance in enhancing the quality of FPD's force reporting and investigations. DOJ engaged its own subject matter expert to offer additional insight. The Monitoring Team appreciates the Parties' willingness to collaborate to improve FPD's processes. Findings associated with Phase I of the Monitoring Team's Second Force Audit are attached as **Exhibit B**.

C. Bias-Free Police & Court Practices

The City has been working to finalize its in-service training program in this area since 2021, and specifically, to incorporate feedback provided by the DOJ and the Monitoring Team. The City finalized training materials for the bias-free training for police officers after the Training Committee, DOJ, and the Monitoring Team each reviewed and approved the contents. FPD rolled out its "Understanding and Mitigating Implicit Bias in Policing" course in July and August 2024.

The City has not yet completed training in this area with respect to court personnel. Although DOJ and the Monitoring Team approved FPD's plans for external subject matter experts to co-facilitate the bias-free court practices training, the City continues to work to finalize the lesson plan and develop a timeline for its rollout.

Under the Consent Decree, the City must also provide timely and meaningful access to police and court services to all, including individuals who have a limited ability to speak, read, write, or understand English (LEP individuals). CD, ¶ 67. The Monitor approved an FPD policy on this matter in May 2023 and a companion municipal court policy on February 1, 2024, but these policies have not yet gone through the public comments or training processes.

D. Municipal Court Reform

The Ferguson Municipal Court (FMC) makes its finalized policies available for review by the public through the Court's website: <https://www.fergusoncity.com/538/Court-Policies-Procedures>. During the reporting period, the City finalized its policy for the review and audit of charging documents (i.e., citation, summons, arrest notifications) pursuant to Paragraph 334 of the Consent Decree. The City has been working toward developing a public education program on municipal court processes and operations as required by Paragraphs 329-330 of the Consent Decree, but has not yet launched this campaign.

As reported in 2023, the Monitoring Team determined that the City had successfully achieved substantial compliance with Consent Decree Paragraphs 326 and 327, the Comprehensive Amnesty Program ("CAP"). Through the CAP, the Parties sought to address, reduce, and remediate the effects of Ferguson Municipal Court practices that imposed unnecessary barriers to prompt disposition of a significantly large number of cases. The City's completion of the program represents a major milestone in Consent Decree implementation and signals the City's preparedness to assume responsibility for its own compliance auditing going forward. Paragraph 360 requires the City to conduct regular assessment of court practices to ensure that municipal court proceedings are administered fairly and in accordance with policy, state, and federal law. Since February 2024, the City has been working to develop a comprehensive self-assessment methodology for operations within FMC. The Monitoring Team and DOJ have provided technical support during this process. Once established, the Monitoring Team will review the City's self-assessment and report its findings.

E. Voluntary Contacts, Stops, Searches, Citations, and Arrests

Although the City finalized primary policy development in these areas in 2023, there has been limited progress in moving this area into the implementation phase since that time. FPD must

still deliver training on its Strip and Cavity Search, Correctable Violations, and Citation Audit policies. Additionally, finalization of FPD's "wanted" policy (CD, ¶¶ 96-98) remains outstanding.

With the exception of a form for documenting strip and cavity searches, FPD still must finalize forms (e.g., Field Interview Report) related to stops, searches, and arrests, and further demonstrate that it has implemented appropriate tracking and compliance for all voluntary encounters, investigatory stops and detentions, searches, citations, and arrests.

F. First Amendment Protected Activity

FPD has substantially completed policy development in this area and delivered roll call training on its revised General Order on the Right to Observe and Record Police Activity. The Parties worked collaboratively on a draft of FPD's General Order on Response to Public Protests/Demonstrations, which was finalized and approved by the Monitoring Team in July 2024. The Parties have also engaged in multiple productive discussions regarding how the City and FPD can address provisions of the Consent Decree governing the enlistment of outside law enforcement agencies when responding to public protests and demonstrations within Ferguson. *See* CD, ¶¶ 119(f), 121, 122 and 180. The City and FPD are currently drafting a policy to address these requirements, which they will then submit to DOJ for review.

Delivering in-service training on First Amendment Protected Activity remains a priority for the City for 2024. In August 2024, the DOJ and Monitoring Team approved of FPD's plan for its external consultants to co-facilitate FPD's in-service training program in this area. The Monitoring Team is hopeful that the City can continue to work with these subject matter experts to develop, finalize, and deliver this training in the coming months.

G. Recruitment

As stated in each of the Monitoring Team's prior reports, staffing deficits present a significant impediment to FPD's ability to achieve substantial compliance with the Consent Decree, particularly as related to its Community Policing efforts. Development of a robust recruitment strategy remains critical to FPD's ability to return to full staffing levels. The Parties have long since completed a draft Recruitment Plan for attracting and retaining a high-quality and diverse workforce. The City has not yet established that it is in compliance with Paragraph 283(a) of the Consent Decree (requiring the City to offer salaries that will place FPD among the most competitive of similarly sized agencies in St. Louis County), and as a result, cannot yet submit this plan to the Monitoring Team for approval. In 2022, the City completed negotiations with the Collective Bargaining Unit (CBU) on a contract that established salary raises for positions in the CBU, effective beginning in the 2024-2025 fiscal year. And in 2023, the City Council approved a pay ordinance that established salary raises for the remaining FPD positions. On September 27, 2024, the City submitted its analysis to the DOJ establishing that these improved salaries place FPD among the most competitive of similarly sized agencies. DOJ provided feedback on October 16, 2024. With a few minor revisions to be implemented by the City, this analysis should soon be ready for review by the Monitoring Team.

Over the course of 2024, the City made significant strides in recruiting not only officers, but also personnel to fill key leadership positions within FPD. The addition of a Training Coordinator and Public Information Officer has resulted in more streamlined and efficient operations within the City, and significantly enhanced the City's compliance efforts. The City also hired a Captain of Administration for FPD in April 2024. After many years of struggling to maintain sufficient staffing levels, the City reported in its March 2024 Annual Report that FPD had reached 76% of its allocated staffing levels, inclusive of patrol. At the time of this report,

FPD's staffing levels were at 80%. The Monitoring Team applauds these efforts and encourages the City to maintain its programming, innovative thinking, and momentum in this area so that it may soon reach capacity with respect to total staffing levels.

H. Accountability

The Parties engaged in meaningful conversations during the reporting period with respect to enhancing accountability and supervisory review. FPD Lt. Dewey Rice, who oversees Professional Standards, has been a welcome addition to FPD. FPD has continued to work with Benchmark Analytics to finalize its centralized electronic tracking system for all complaints of misconduct. *See* CD ¶¶ 377-79. Once established, Benchmark will become the Department's sole repository for complaint-related evidence, approvals, and tracking information.

On April 1, 2024, the Monitoring Team initiated an audit of the City's compliance with the accountability and civilian oversight provisions of the Consent Decree. The ongoing audit will assess whether the City has (1) successfully incorporated the Consent Decree's accountability provisions into policy; (2) implemented a Civilian Review Board as contemplated by the Ferguson Municipal Code; and (3) carried out the requirements of the policies and ordinances in this area in practice. The audit will assess whether FPD's accountability systems are effective, fair, and transparent as required by Paragraph 361 of the Consent Decree. It will also assess whether the City has fulfilled its commitment to establishing meaningful civilian oversight as required by Paragraph 402. During the July 2024 site visit, the Monitor commenced this process by reviewing important documentation pertaining to the Civilian Review Board. This audit, led by Mr. Thompson, is currently in progress; the Monitoring Team will report on its analysis and findings at the conclusion of the audit.

I. Body-Worn and In-Car Cameras

The City has completed development, and received approval from the Monitoring Team, on the suite of body-worn and in-car camera policies, and the secondary policy for off-duty officers. On August 20, 2024, DOJ also approved training in this area that satisfies Paragraph 316's requirement that FPD conduct annual in-service body worn camera training. These training materials are under review by the Monitoring Team. Separately, the City is developing an annual in-service training with respect to in-car camera equipment, which will be reviewed and approved by both DOJ and the Monitoring Team. The Monitoring Team, led by Messrs. Gomez and Nunez, has notified the Parties of its intent to conduct compliance audits in these areas. The Monitoring Team will report on its analysis and findings at the audit's conclusion.

J. FPD's Field Training Officer Program (PTO)

Police Training Officers (PTOs) are highly qualified officers who provide field training to new recruits during their first months serving as police officers. CD ¶¶ 58, 59. FPD determined that the PTO program would benefit from a comprehensive review, including revisions to the Department's PTO policy. FPD submitted a draft PTO policy to DOJ on October 4, 2024, and DOJ provided feedback on October 16, 2024. The status of the PTO training modules remains unchanged since the Monitor's Fall 2023 Status Report:

- **Modules 1-7, 11-14:** A working draft of these modules, reflecting feedback from the Training Committee and the DOJ, is currently awaiting finalization by the City and submission to the Monitoring Team for approval.
- **Modules 8-10:** Under review by the Training Committee.

III. CONCLUSION

The City's implementation efforts have steadily progressed throughout 2024, and should serve as the foundation for continued momentum for the end of 2024 and into 2025. Specifically, the Monitoring Team would like to see the City finalize the few remaining policy

areas that have lingered since 2023. The Monitoring Team also notes that the City has commenced discussions with the DOJ regarding the requirements and components of a successful and compliant Crisis Intervention program in Ferguson. The Monitoring Team looks forward to the City's formalization of those discussions into policy and trainings that can be implemented in 2025. As discussed during the July 2024 Court hearing, we also encourage the City to increase its efforts to track and report publicly on its progress with respect to the Consent Decree. Although a dashboard has been in development for some time, the City should take intermediary steps to regularly and publicly share its Consent Decree-related activities and milestones for the community's awareness.

Date: October 30, 2024

Respectfully submitted,

/s/ Natasha Tidwell

Natashia Tidwell

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

One Financial Center

Boston, MA 02111

ntidwell@mintz.com

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that the foregoing was filed electronically on October 30, 2024 with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, and was served by ECF notice by operation of the Court's electronic filing system.

/s/ Natasha Tidwell

EXHIBIT A

2024 Additions to the Ferguson Monitoring Team



ROGER NUNEZ

Roger Nunez is a police consultant and advisor for several law enforcement and public safety consulting firms. He has a prestigious 32-year law enforcement career with the Los Angeles Police Department (LAPD), and provides a valuable perspective for technology integration, and operational assessment practice using his deep knowledge and experience implementing enterprise-wide technology solutions for public safety agencies.

Roger has extensive experience and expertise in a wide variety of public safety and homeland security technology applications and equipment including the development and deployment of the LAPD's Body Worn Camera Program. He has extensive knowledge in the use of Police Early Intervention Systems, Automated License Plate Recognition and Digital In-Car Video Systems, and artificial intelligence for crime fighting.

Roger has distinguished himself by deploying, integrating, and teaching technology applications and equipment to the LAPD's 13,000 sworn and civilian employees. He has worked in various geographic divisions as a patrol officer and supervisor and gained invaluable knowledge working coveted assignments such as Professional Standards Bureau, Force Investigation Group, Traffic Group, Detective Bureau, and Information Technology Bureau.

2024 Additions to the Ferguson Monitoring Team



DAN GOMEZ

Dan Gomez is Chief Technology Officer and a co-founder of Taclogix, Inc. He leads the company's product evaluation, technology integration, and operational assessment practice using his deep knowledge and experience implementing enterprise-wide technology solutions for public safety agencies.

Dan is a 27-year veteran of the Los Angeles Police Department (LAPD) where he rose through the ranks to serve as the Department's Chief Technology Officer, led its Tactical Technology Section, and established the LAPD's first Innovation and Strategic Planning Division. Dan has extensive expertise in a wide variety of public safety and homeland security technology applications and equipment. He was responsible for deploying and integrating technology applications and equipment for the LAPD's 13,000 sworn and civilian employees deployed in 21 geographic areas and within numerous specialized and administrative divisions. He was also responsible for the successful deployment of over 7,000 body worn cameras and smartphone deployment after conducting extensive research and field testing. Dan and his team trained over 10,000 officers on the use of the cameras, managed the collection of millions of recordings, and coordinated the integration and distribution of digital evidence with local agencies.

Dan is a nationally recognized subject matter expert in a wide variety of public safety technologies. He is on the Newark Police Department's federal monitorship and also provides expert witness/litigative consultant services to the U.S. Department of Justice for work on the Commonwealth of Puerto Rico Consent Decree. Early in Dan's distinguished career, he was a certified firearms instructor, worked as a patrol officer and supervisor, volunteered for undercover assignments, and worked with detectives investigating child abuse and exploitation cases.

2024 Additions to the Ferguson Monitoring Team



JULIO A. THOMPSON

Julio A. Thompson is an Assistant Attorney General in the Office of the Vermont Attorney General, where he serves as Co-Director of the Office's Civil Rights Unit, which enforces the state's hate crimes and anti-discrimination laws. Julio is also an instructor at the Vermont Police Academy.

Julio has over 30 years of experience in policing oversight nationwide, focusing on areas such as use of force, internal affairs investigations, and training. His work on law enforcement-related Consent Decrees includes Baltimore; Newark; Seattle; Springfield, MA; and Washington, D.C.

EXHIBIT B

The Monitoring Team's *Second* Force Audit Report (Phase I)

This Audit Report presents the initial findings of the Independent Monitoring Team's *second* audit of the City of Ferguson's (the "City's") and Ferguson Police Department's ("FPD's") compliance with the Consent Decree requirements relating to Force Reporting & Investigation.

I. Reviewers

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

Darryl Owens, (Ret.) Boston Police Department
Natashia Tidwell, Lead Monitor

II. Introduction

Paragraph 427 of the Consent Decree instructs the Monitoring Team to audit the City's and FPD's compliance with the Consent Decree's requirements. Pursuant to Paragraph 426 of the Consent Decree, by letter on April 15, 2024, the Monitor issued notice to the City, FPD, and United States Department of Justice ("DOJ") (collectively the "Parties"), that the Monitoring Team would commence an audit of FPD's compliance with certain Consent Decree provisions.¹ Specifically, the Monitoring Team notified the Parties that, beginning in the spring of 2024, it intended to assess whether FPD is in compliance with Consent Decree ¶¶ 171-184, 186-188.

As a general matter, the above-referenced paragraphs and related provisions of the Consent Decree require FPD to, in part:

- Ensure that "all officers using force above unresisted handcuffing...document the use of force in writing before the end of the shift and [] immediately report the use of force to a supervisor. Each use-of-force report shall include "a narrative that explains with specificity the type of force forced; the legitimate police objective necessitating the use of force; details regarding the level of resistance encountered; and all efforts to de-escalate the situation to avoid the use of force and to minimize the level of force used, or reason why such efforts were not attempted." (¶173).
- Ensure that, "[w]ith the exception of the lowest level of reportable force, an FPD supervisor [] immediately responds to the scene of every reportable use of force by an FPD officer." (¶180).
- Ensure that supervisors conduct high-quality use-of-force investigations to ensure that "FPD officers use force only as permitted by the law, FPD policy, and [the Consent Decree] and are held accountable when they do not; that officers are positively recognized when they appropriately minimize or avoid use of force; that FPD identifies and corrects training, policy, equipment, tactical, and officer safety

¹ Consent Decree Paragraph 426 permits the Parties, upon receipt of notice of the Monitoring Team's intent to conduct an audit or assessment, to submit any comments or concerns no later than 15 days prior to the proposed date of the audit or assessment. The Monitoring Team received comments and conferred with the Parties prior to commencing this audit.

The Monitoring Team's *Second Force* Audit Report (Phase I)

concerns raised by use-of-force incidents; and that FPD's response to officer use of force builds community trust and confidence." (§§171, 181-184, 186-188).

Recognizing the importance of thorough investigations of reported force as well as accurate reporting of all uses of force, the Monitoring Team intended that the audit be conducted in two phases. The methodology for each phase is described in further detail in the next section.

III. Audit Methodology

A. Phase One

In the audit's initial phase, the Monitoring Team assessed the timeliness, thoroughness, and accuracy of FPD's use-of-force reports and the quality of its investigations as required in the Consent Decree and FPD policy. Pursuant to FPD General Order 4.1.2., *Use of Force: Review* and §183 of the Consent Decree, FPD use-of-force incidents are assigned to one of the following categories:

- Type 1 Force - force that includes lethal force; force resulting in death or serious physical injury; force resulting in hospital admission; canine bites; use of an impact weapon to the head, neck, face, throat, spine, heart, kidneys and groin; certain applications of an Electronic Control Weapon ("ECW"); and any vehicle pursuit.
- Type 2 Force - force that causes an injury, could reasonably be expected to cause an injury, or results in a complaint of an injury, but does not rise to a Type 1 force. Type 2 force includes the use of an ECW; Oleoresin Capsicum ("OC") spray; weaponless defense techniques (e.g., elbow or closed-fist strikes, kicks, leg sweeps, and takedowns); impact weapons (when the use is not to the head, neck, face, throat, spine, heart, kidneys and groin); use of force against a restrained person; and canine apprehension (when no bite is involved).
- Type 3 Force - force that is reasonably expected to cause only transient pain and/or disorientation during its application as a means of gaining compliance, including pressure point compliance and joint manipulation techniques, but that is not reasonably expected to cause injury, does not result in an actual injury, and does not result in a complaint of injury. Type 3 Force also includes the un-holstering in the presence of a person or pointing of a firearm or ECW at a person.

The Monitoring Team's *Second* Force Audit Report (Phase I)

In 2022 and 2023, FPD reported **30 use-of-force incidents** in the following categories:²

| Category | 2022 | 2023 |
|---------------------|------|------|
| <i>Type 1 Force</i> | 1 | 1 |
| <i>Type 2 Force</i> | 5 | 4 |
| <i>Type 3 Force</i> | 14 | 5 |

As part of this review, the Monitoring Team requested each of these reports/investigations along with any accompanying evidence including, but not limited to:

- Body-worn and in-car camera video recordings;
- Any officer/witness statements;
- Audio/video recorded interviews;
- 911/Communications recordings; and
- Photographs.

In consultation with the Parties and to ensure consistency in its review, the Monitoring Team developed a rubric to rate each use-of-force report and resulting investigation in a number of categories (**Exhibit 1**). These categories included Documentation, De-Escalation, Force Response, Force Reporting, and Force Investigation. Each incident was assigned a Satisfactory/Unsatisfactory rating based on the Monitoring Team's assessment of all categories. The results of the Monitoring Team's review are detailed in the next section.

B. Phase Two

Phase Two of the Force Reporting & Investigation audit, which the Monitoring Team anticipates conducting through the remainder of 2024, will assess FPD's compliance with Consent Decree ¶173 which requires "all officers using force above unresisted handcuffing" to document the use of force in writing. To identify and evaluate whether the absence of use-of-reporting from a particular incident evidenced that force was *not employed* or that force was *employed but not reported*, the Monitoring Team requested that FPD provide a list of 2022 and 2023 FPD arrests for the following offenses:

- Assault on a Law Enforcement Officer;
- Assault 1st Degree Law Officer/Gun;
- Assault 2nd Degree Law Officer/Hands/Fists;
- Assault 3rd Degree Law Officer/Simple;
- Disorderly Conduct;
- Failure to Comply w/Order of a Police Officer;
- Resist/Interfering (F) w/Arrest;

² FPD also reported eight motor vehicle pursuit incidents which, for reporting purposes, are categorized as Type 1 Force. These incidents were not assessed as part of this audit. Pursuant to Consent Decree ¶183(a), officers are required to report Type 3 uses of force but, absent extenuating circumstances, supervisors are not required to conduct a use-of-force investigation of these incidents. While the Monitor's *first* Use of Force audit did not include a review of Type 3 Force incidents, that category of cases was assessed as part of the current audit.

The Monitoring Team's *Second* Force Audit Report (Phase I)

- Resist/Interfering (M) w/Arrest;
- Resisting or Interfering with Arrest, Detention or Stop; and
- Unlawful Possession/Firearm Certain Persons.

The Monitoring Team selected these offenses based on its judgment that, due to the nature of each offense, force may have been employed in effecting the arrest (even if unreported). The Monitoring Team will report the results of this review upon its completion.

IV. Summary of Phase One Audit Results & Observations

As detailed above, the Monitoring Team requested reports, body-worn and in-car camera footage and other materials related to 30 arrests/incidents in which FPD reported that its officers employed force in 2022 and 2023.

Using the Use of Force Audit Checklist as a guide for its review, the Monitoring Team rated each use-of-force report/investigation as Satisfactory or Unsatisfactory based on the following factors:

- Documentation – was the report timely, accurate, and complete and did the investigation include collection and review of relevant supplementary materials such as video footage and witness statements?
- De-Escalation – did the officer(s) provide verbal warning prior to using force or otherwise take meaningful steps to stabilize the incident, calm an agitated person, or take actions to de-escalate (or escalate) the situation?
- Force Response – was the use of force objectively reasonable and proportional to the level of resistance? Was the force used on a restrained individual or as a retaliatory measure? Did the officer(s) provide immediate necessary medical assistance?
- Force Reporting – was each use of force identified, reported by the required officer(s), and justified?
- Force Investigation – did the investigating supervisor conduct required interviews, identify, and respond to deficiencies appropriately?

As the audit progressed, the Monitoring Team observed that while FPD's use of force practices were generally reasonable and consistent with applicable legal and constitutional standards, there were concerning lapses in FPD's reporting and investigation of force incidents. To better illustrate this dichotomy, the Monitoring Team divided its review into two separate areas of inquiry: (1) whether FPD officers use force in an objectively reasonable manner; and (2) whether FPD's reporting and investigation of the use of force comports with existing policy and the Consent Decree.

The Monitoring Team's *Second* Force Audit Report (Phase I)

A. *The Monitoring Team's Assessment of FPD Use of Force*

In its initial review, the Monitoring Team assessed each incident to determine whether the force employed was objectively reasonable and proportional as required by the United States Constitution, the Consent Decree, and FPD policy. When evaluating solely on that basis, the Monitoring Team assigned a "Satisfactory" rating to **25 of the 30 incidents reviewed** (83%). The Monitoring Team generally observed that, in these encounters, FPD officers used force that was necessary, legal, and consistent with training, policy, and the Consent Decree.

Additional observations from the "Satisfactory" reports/investigations included:

- The level of force employed by FPD officers was generally objectively reasonable and proportional to the level of resistance.
- In most instances, where feasible to do so, FPD officers made efforts to de-escalate, stabilize, or slow down the incident.
- During an incident in which an electronic control device (ECW) was used on an individual armed with a knife and experiencing a mental health crisis, officers spent a great deal of time using de-escalation tactics despite interference from the individual's highly agitated family member who demanded the individual's immediate removal from the residence.
- An incident in which officers deployed oleoresin capicum (OC) spray to break-up a fight between two combatants and immediately provided after-care to those who were sprayed.
- An officer utilized a take-down maneuver, rather than more severe force, to detain a combative 61-year-old shoplifting subject. Both the officer and the subject emerged from the incident without injury.

The Monitoring Team remains troubled by instances in which FPD officers direct discourteous and profane language at detainees ("trash talk"), a pattern observed and detailed in the *first* Force audit. Even in incidents warranting otherwise "Satisfactory" ratings, the Monitoring Team observed officers interact with the public in an unnecessarily unprofessional manner. While this conduct is outside the audit's scope, the Monitoring Team, once again, urges FPD to address the issue through training and policy.

The remaining five of the 30 incidents reviewed were assigned an "Unsatisfactory" rating. In the Monitoring Team's view, FPD's use of force was either objectively unreasonable, lacking appropriate de-escalation, or disproportional. The deficiencies observed in these cases included:

The Monitoring Team's *Second* Force Audit Report (Phase I)

- A 2022 incident of Type 2 Force (ECW deployment) in which the involved officers deployed two tasers at the same time which is a violation of the Consent Decree. The subject was not assaultive toward officers but was, contrary to police orders, walking away from the officers when the spray was deployed.
- A 2022 incident of Type 2 Force (Takedown) in which a restrained subject was placed in a department cruiser after assaulting one officer and threatening others. The officers' force response to the increasingly combative subject appeared retaliatory in nature.
- A 2022 incident in which the arresting officer committed several tactical errors including striking a restrained subject.
- A 2023 incident of Type 2 Force (Takedown) that was miscategorized as Type 3 Force. The force used appeared retaliatory and disproportionate in that the subject was walking away from the scene (while also directing disrespectful and profane language to the arresting officer). The investigating supervisor's report was cursory in nature, noting simply that the "use of force was within policy."
- A 2023 incident (Type 2 Force ECW) in which FPD used a taser to apprehend a fleeing then actively resistant domestic violence subject even though there were no indications of a pending assault on officers or civilian bystanders.

B. The Monitoring Team's Assessment of FPD's Reporting & Investigation of its Use of Force

As detailed above, during the conduct of the present audit, the Monitoring Team observed what appeared to be a systemic failure in FPD's categorization of force incidents by type and a troubling absence of accountability where it appears that officers used force in violation of applicable policies and the Consent Decree. At the conclusion of the *first* audit in this area, the Monitoring Team noted that the quality of FPD's force reporting and investigation appeared to be trending upward due, in part, to the completed development of policies in this area and the anticipated implementation of new use-of-force reporting software. While the new software can enhance FPD's ability to track force incidents and identify potentially problematic patterns, FPD cannot fully harness the technology's capability without better performance from those with primary responsibility for reporting and investigating force incidents: the supervisors.

As described in the preceding section, the Monitoring Team determined that FPD officers' use of force was objectively reasonable (or "Satisfactory") in 25 of the 30 incidents reviewed. However, the after-action response to force incidents by FPD supervisors is equally important. When assessing FPD's reporting and investigation through that lens, the Monitoring Team assigned a "Satisfactory" rating to only **15 of the 30 reports/investigations reviewed** (50%). In 11 of the "Unsatisfactory" reports/investigations, Type 2 Force was categorized and misreported as Type 3 Force. These incidents, if correctly reported, would have triggered supervisory investigations.

The Monitoring Team's *Second* Force Audit Report (Phase I)

The results of the Monitoring Team's review of actual force investigations were mixed. In most instances, supervisors avoided the use of boilerplate or "pattern language," and did an admirable job of locating and interviewing not only the involved officers but also any non-FPD witnesses to the underlying incident. The resulting reports largely consisted of detailed accounts of the incident itself, the type of force used, officer efforts to de-escalate the situation to avoid or minimize the use of force, and the level of resistance encountered. However, these investigations also included the afore-mentioned misclassifications in the type of force employed, cursory and delayed investigations, and a complete absence of accountability for obvious policy violations, particularly in FPD officers' use of electronic control weapons (ECW). This stands in sharp contrast to the cases reviewed in the *first* audit in which FPD recommended and implemented remedial measures, including verbal counseling and training, when deficiencies and policy violations were identified.

V. Conclusion

The Monitoring Team previewed its findings for the Parties prior to filing this report with the Court. In a subsequent meeting, the DOJ engaged its own subject matter expert to lead an open and productive discussion of the incidents detailed above as well as other issues. The Monitoring Team is heartened by FPD's willingness to accept feedback and by the Parties' shared commitment to improving FPD's use-of-force reporting and investigation capabilities so that substantial compliance can be achieved in this critical Consent Decree subject area.

Exhibit 1

USE OF FORCE AUDIT CHECKLIST

Report Number: _____

NA = Not Applicable

Monitoring Team Member: _____

Y = Yes

Date: _____

N = No

Satisfactory/Unsatisfactory ☐Y / ☐N

U = Unknown

| Documentation | |
|--|--|
| 1. Was BWC video of this UOF available? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| 2. Was In-Car video of this UOF available? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| 3. Is there a 911 recording available? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| 4. Is the UOF report accurate and complete? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| 5. Was the UOF report submitted within the required timeframe? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| 6. Was “pattern language” used in the primary or supplemental reports? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| 7. Were witnesses listed in the report? | <input type="checkbox"/> Y / <input type="checkbox"/> N |
| De-Escalation | |
| 8. Did the officer(s) provide a verbal warning prior to using force, as feasible? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 9. Did the officer(s) slow down or attempt to stabilize the incident? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 10. Did the officer(s) use verbal techniques to calm an agitated person? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 11. Did the officer(s) call in additional resources to assist? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 12. Did the officer(s) attempt a range of tactics (distance, cover, and/or concealment)? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 13. Did the officer(s) use de-escalation techniques to minimize the UOF? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 14. Did the officer take any action that escalated the situation? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| Force Response | |
| 15. Was the UOF objectively reasonable? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 16. Was the level of force proportional to the level of resistance? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 17. Did the officer(s) use an age-appropriate response? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |

| | |
|---|--|
| 18. Did the officer identify himself/herself as soon as possible? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 19. Did the officer(s) allow the person to submit to arrest before force was used? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 20. Was force used on a restrained individual? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 21. Was force used as a retaliatory measure? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 22. If applicable, did any officer(s) act upon the "duty to intervene" when observing unreasonable force? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 23. Did the officer(s) provide immediate necessary medical assistance or summon medical assistance appropriately? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| Force Reporting | |
| 24. Were other officers on the scene? | <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 25. Were civilian witnesses identified? | <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 26. Did each required officer submit a UOF report? | <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 27. Did the officer notify his or her supervisor? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 28. Was suspected unreasonable force reported to a supervisor? | <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 29. Was each use of force identified and justified? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| Force Investigation | |
| 30. Was the reporting officer interviewed by the investigating supervisor | <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 31. Was the UOF Report returned for corrections | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 32. Did the investigating supervisor recommend re-training? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 33. Did the investigating supervisor recommend discipline | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 34. Was the force used correctly judged to be within policy? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 35. Was the force used judged to be outside of policy? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 36. Were witnesses interviewed by the investigator? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |
| 37. Was the reporting officer carrying approved weapons? | <input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U |

