

American Civil Liberties Union of New Jersey
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Newark, New Jersey 07102
973/642-2086

REDACTED
VERSION - OK
FOR PUBLIC
RELEASE

IN THE MATTER OF A PETITION FOR :
AN INVESTIGATION INTO THE :
NEWARK, NEW JERSEY POLICE :
DEPARTMENT BY THE UNITED :
STATES DEPARTMENT OF JUSTICE :
PURSUANT TO 42 U.S.C. § 14141 :
 :
 :
American Civil Liberties Union of :
New Jersey, Petitioner :
 :
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BEFORE THE UNITED STATES
DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION,
SPECIAL LITIGATION SECTION

No. _____

FIRST AMENDED AND SUPPLEMENTAL PETITION

The Petitioner in the above-entitled matter, the American Civil Liberties Union of New Jersey (“ACLU-NJ” or “Petitioner”), respectfully submits this First Amended and Supplemental Petition (the “Amendment”) as an update to its original Petition for Investigation dated September 9, 2009 (the “Original Petition”).

This Amendment:

(1) describes lawsuits, settlements, tort claims, criminal actions, and other complaints of police misconduct that fell within the Study Period for the Original Petition¹ and which would have been included if known to the Petitioner at that time;

(2) describes lawsuits, settlements, criminal actions, and other complaints of police misconduct that occurred since the Study Period closed (i.e., since July 1, 2010);

¹ The Study Period was January 1, 2008 to July 1, 2010, and is more fully described in Paragraph 4 of the Original Petition and its accompanying footnote.

(3) updates several matters known to have settled during the Study Period and described in the Original Petition, but where the settlement amount was not known;

(4) describes settlements or other resolutions of matters described in the Original Petition;

(5) updates any Tables from the Original Petition which are changed by this Amendment; and

(6) provides general updates on the matters described in the Original Petition.

Petitioner avers that this amended and supplemental information enhances and supports the request in its original Petition for an investigation by the Special Litigation Section into the pattern and practice of violations of the Constitution and laws by the Newark Police Department (“NPD”).

I. AMENDMENTS TO ORIGINAL PETITION²

6. Paragraph 6 is amended to state that the total number of identified complaints of police misconduct during the Study Period (Jan. 1, 2008 to July 1, 2010; *see also* footnote 1, *supra*), is as follows:

Lawsuits settled in the past 2 ½ years (Section VI).....	42
Lawsuits filed in the past 2 ½ years that remain pending (Section VII).....	47
Notices of tort claim for conduct Jan. 2008-April 2009, excluding those that developed into lawsuits listed above (Section IX).....	45
Other complaints of misconduct in the past 2 ½ years not included above (Section X).....	23

² Paragraphs in this section of the Amendment correspond to the paragraphs to be amended in the original petition. Paragraphs that need to be **added** to the Original Petition – covering matters that occurred within the Study Period, but of which Petitioner was unaware – are numbered with a capital letter following the paragraph number that corresponds to the place where the paragraph would have been placed in the Original Petition.

Internal affairs complaints alleging excessive force, improper arrest entry, or search, or differential treatment filed in calendar 2008 and 2009 (Section XI)..... 261³

TOTAL IDENTIFIED MISCONDUCT COMPLAINTS DURING STUDY PERIOD.....418

7. Paragraph 7 of the Original Petition stated that there were 51 lawsuits filed against the NPD during the Study Period. Further research has shown that the number is actually **64 lawsuits** filed during that period, and Paragraph 7 is amended accordingly. Of these suits, 38 involved claims of unconstitutional searches and seizures, excessive force, false arrest, and other wrongful acts, and 6 involved claims of negligence, most commonly in vehicular operations. In addition, 20 of these suits involved wrongful treatment of NPD employees by their superiors. Petitioner knows of three other suits filed from the close of the Study Period through the date of this Amendment.

8. Paragraph 8 is amended to state that the total cost to resolve claims against the NPD during the Study Period was \$4,850,327: \$2,102,117 covering 29 lawsuits brought by citizens (not 26 as first thought), and \$ 2,748,210, covering 13 lawsuits brought by employees (not 12 as first thought). These amounts do not include internal costs or significant costs paid by the City for outside counsel. Furthermore, from the close of the Study Period through the date of this Amendment, Petitioner is aware of the settlement of one additional lawsuit, alleging false arrest and malicious prosecution, in the amount of \$300,000 (see the description of the Ramon Guzman matter on page 17 of this Amendment).

³ Because of the secrecy afforded to internal affairs complaints by the NPD, Petitioner does not know the names of these complainants. Accordingly, some of the 261 internal affairs complaints may be duplicative of the identified lawsuits, tort claims, or other complaints. However, IA statistics are only released once annually, after the close of the calendar year. Therefore, this number excludes any IA cases filed and/or disposed of in calendar 2010.

9. Paragraph 9 is revised to read that there were at least **14** NPD officers charged with, or tried for, felony criminal activity within the Study Period. Furthermore, from the close of the Study Period through the date of this Amendment, Petitioner is aware of two additional NPD officers charged with felony criminal activity namely, tax evasion (see the description of these matters on page 18 of this Amendment).

11. Because the City has not cooperated with Petitioner and has engaged in unreasonable delays to Petitioner's public records requests, Petitioner has no new information regarding tort claims which were summarized in Paragraph 11 of the Original Petition. Specifically, on September 24, 2010, Petitioner made a request for additional tort claims notices filed with the City since April 2010. On October 20, 2010, the City replied that it "required additional time" to collect this information, and that it anticipated providing a response on November 24, 2010. (Under state law, records requests are normally to be filled within seven business days). Petitioner will update this information as needed.

16. Paragraph 16 is amended to read that Petitioner became aware of 23 other instances of excessive force, false arrests, or other misconduct not otherwise covered in the Petition or this Amendment (hereinafter, "Other Incidents"), that occurred within the Study Period. Furthermore, from the close of the Study Period through the date of this Amendment, Petitioner is aware of two additional substantial complaints, including one for wrongful death.

42-43. Regarding Paragraph 42-43, to more fully illustrate the inadequacy of the NPD's reform process, Petitioner has previously provided the Special Litigation Section with the NPD's "Community Relations Strategy" that was publicly distributed on

September 28, 2010. Of particular concern, the NPD represented that it has a "performance monitoring" (early warning) system in place. However, it has been placed on hold while the police officers' Union grieves the matter. Apparently, management has identified officers targeted for Levels I, II and III of monitoring, but they are not actually supervising them as contemplated because of the pending grievance. As such, NPD actually does not have a meaningful performance monitoring system in place. Moreover, as stated in the Original Petition, the performance monitoring system still omits various key trigger events, making the system ineffectual even if it had been implemented.

50A. (New matter – Civil Settlement prior to end of Study Period). **False Arrest/Settlement/June 2010/\$7,500.** On January 14, 2005, unknown NPD officers stopped Carlos Cruz for a motor vehicle violation. Thereafter, they arrested him for an arrest warrant issued out of Colorado, even though the warrant did not match, and was not for, Mr. Cruz. He remained in the custody of the NPD, and ultimately the Essex County jail, for three days until he was released. Mr. Cruz brought suit (No. ESX-L-1281-07) and on June 17, 2010, the case was settled for a \$7,500.00 payment.

53A. (Civil Settlement prior to end of Study Period – originally listed as pending). **Excessive Force and LGBT Discrimination/Settlement/May 2010/\$ Unknown.** The civil action described in paragraph 120 of the Original Petition, Caraballo v. Newark Police Department, which included claims for excessive force and LGBT discrimination, was reported as settled on May 11, 2010. The settlement amount is unknown.

56. (Settlement amount now known – was previously listed as unknown). The civil action described in this paragraph (Kevin Hill, plaintiff), was settled on June 17, 2010, for the sum of \$12,000.00.

62. (Settlement amount now known – was previously listed as unknown). The civil action described in this paragraph (Kenyetta Nevous, plaintiff), was settled on June 17, 2010, for the sum of \$21,000.00.

65A. (Civil Settlement prior to end of Study Period – originally listed as pending). **False Arrest/Settlement/April 2009/ \$15,000.** Felix Brenya claims in a state lawsuit (No. ESX-L-399-09) that on January 15, 2007, NPD officers Elizabeth Malave and J. Reyes arrested him without probable cause. The charges against him were dismissed on the motion of the municipal prosecutor. The case settled in April 2009 for \$15,000.

66. (Settlement amount now known – was previously listed as unknown). The civil action described in this paragraph (Elvin Serrano, plaintiff), was settled on June 17, 2010, for the sum of \$5,000.00.

85A. (New matter - Civil Settlement prior to end of Study Period). **Unpaid compensation/Court order/May 2009/\$56,707.** An NPD sergeant, Joseph Farina, retired from the NPD sometime before March 2008 and elected to be paid his “compensatory time” in a lump sum at retirement. He claimed he was owed \$231,011. The City only paid him \$176,304.20, and on February 17, 2009, the Superior Officers Association (Farina’s union), sued the NPD (No. ESX-L-1471-09) on Farina’s behalf, seeking the remainder due, of \$54,707.15. On May 15, 2009, the Court ordered payment

of that amount, and directed the NPD to pay within 30 days. When they failed to do so, the Court assessed an additional \$2,000 in attorney's fees on the City.

95A. (New matter – Civil Action filed prior to end of Study Period). **Improper Conduct and Assault/Litigation filed/May 2010.** On or about May 14, 2010, Sheila Robinson filed a pro se complaint in district court (No. 10-cv-2491) alleging that the NPD falsely arrested her on certain charges in February 2010, and pulled up her shirt to expose her in front of their co-workers. On another date in May 2010, Robinson alleges that NPD officers committed an aggravated assault on her. On September 29, 2010, the Complaint was dismissed without prejudice, and with leave to replead, for procedural irregularities.

95B. (Civil Action filed prior to end of Study Period – originally listed as tort claim). **Excessive Force and False Arrest/Litigation Filed/May 2010.** In January 2009, Sharon Webb was assaulted at her home by NPD officer Doris Gonzalez. To cover up the wrongful assault on Webb, Gonzalez filed charges against Webb alleging aggravated assault on a police officer, resisting arrest, and obstructing the administration of law. The indictable charges were dismissed by the Essex County prosecutor in January 2010. Webb filed suit (No. ESX-L-4842-10) on May 25, 2010, and the case remains pending.

95C. (New matter - Civil Action filed prior to end of Study Period). **Improper Conduct/Litigation filed/April 2010.** On May 2, 2008, Kelvin Nurse was operating a motor vehicle in Newark when the occupants of an adjoining vehicle began mouthing and gesturing to him; Nurse returned the gestures and, when the driver of the other vehicle jumped out of it, Nurse drove away. The other vehicle, which turned out to be an

unmarked police car, then pursued him. Nurse immediately pulled over, and one of the occupants exited the unmarked police vehicle, pointed his gun at Nurse, saying “Do you want to die today? I’ll kill you.” Nurse was then issued traffic summonses by the other officer in the unmarked vehicle, and was released. On April 23, 2010, Nurse sued the NPD and the unnamed officers (No. ESX-L-3461-10); the case remains pending.

95D. (New matter - Civil Action filed prior to end of Study Period). **Excessive Force/Litigation Filed/April 2010.** On April 9, 2008, Beulah Barnes was lawfully in her home at **REDACTED** when NPD officers Phillip Turzani,⁴ Michael Giordano⁵ and Louis Weber attempted to arrest Barnes’ son. The officers were in plain clothes and did not identify themselves as police officers. Believing that the men were unlawfully assaulting her son, Barnes requested that they stop, but the police assaulted her instead, leaving her with permanent injuries. On April 8, 2010, Barnes filed suit (No. ESX-L-2997-10); the case remains pending.

95E. (Civil Action filed prior to end of Study Period – originally listed as tort claim). **False Arrest and Malicious Prosecution/Litigation filed/April 2010.** On February 24, 2009, Curtis Clemons was arrested and charged with loitering and obstructing at **REDACTED**. The charges were false, and were filed maliciously, and the Newark municipal court dismissed the charges. On April 14, 2010, Clemons filed a civil suit (No. ESX-L-3193-10) over these allegations, naming the NPD and an Officer Holland as defendants. Clemons’ attorney has complained that the “City of

⁴ Turzani was the subject of various complaints set forth in Paragraphs 110, 118, 160 and 162 of the Original Petition.

⁵ Giordano was the subject of a complaint set forth in Paragraph 160 of the Original Petition.

Newark refuses to accept service for officers,” thus obstructing the case from being decided by the courts.

98. The auto accident described in Paragraph 98 has resulted in a second lawsuit against NPD Captain Felipe Gonzalez. In a matter filed February 5, 2010 (ESX-L-1333-10), another injured plaintiff, Tanashia Loyal, alleges negligence by Gonzalez.

98A. (New matter - Civil Action filed prior to end of Study Period). **Negligence/ Litigation filed/January 2010.** While living in Newark, **REDACTED** was subjected to domestic violence and harassment by a resident of the rooming house she shared with the assailant. When she reported this, the police responded but failed to arrest or otherwise remove the assailant. Later that morning, after the police had left, the assailant again attacked her and raped her. At this point, the police arrived again and arrested the assailant. **REDACTED** alleges that the NPD officers were negligent in not arresting or removing the assailant after the first event, and that but for their negligence, she would not have been assaulted and raped later that day. Her lawsuit (No. ESX-L-2911-10; prior to venue transfer BER-L-345-10) remains pending.

99A. (New matter - Civil Action filed prior to end of Study Period). **Death in Custody/Litigation filed/December 2009.** On February 13, 2009, Steven Vierra was shot once in the back of the head and twice in the back by NPD officers Johnny Faulkner and Louis Weber, who then intentionally fled the scene, leaving Vierra bleeding to death on the sidewalk. The NPD failed to conduct a crime-scene investigation until the following morning, while the scene of shooting was left unsecured. In a pending case (No. 09-cv-6464), Vierra’s sister and children accuse the NPD of intentionally causing

his death and then covering up the circumstances of the death. The case remains pending.

103. The docket number of this case pending in U.S. District Court (Quodomine v. City of Newark) was listed incorrectly. The correct docket number is 09-cv-5396.

108. Due to the out-of-state incarceration of one of the plaintiffs in this case, the District Court administratively dismissed this matter (Harrison v. City of Newark) on June 14, 2010, with leave to reopen the case by July 2011.

112. The civil action described in this paragraph (Brenya v. City of Newark) was settled on April 3, 2009, for the sum of \$15,000.00. *See* paragraph 65A above.

120. The civil action described in this paragraph (Caraballo v. Newark Police Dept.) was reported as settled in a district court filing made May 11, 2010. *See* paragraph 53A above. The settlement amount is unknown.

121. Regarding the lawsuit described at Paragraph 121 (William Thompson), the District Court dismissed the complaint of the pro se plaintiff on June 22, 2010.

128A. (Civil Action filed prior to end of Study Period – originally listed as Other Incident). **Retaliation/Litigation Filed/June 2010.** Former NPD officer Eugene Collins claims in a lawsuit filed June 29, 2010 (No. ESX-L-5322-10) that he heard from an unknown source that another NPD officer had stolen \$71,000 from a drug dealer. Collins informed the NPD officer about the conversation. Thereafter, NPD internal affairs officers accused Collins of failing to report the conversation and ultimately terminated his employment with the police force on the basis of this administrative offense. Collins' complaint states that various other officers, who were not African-American like him,

received far less severe disciplinary sanctions than he did for offenses that were more serious. His civil rights suit remains pending, as does an appeal from the underlying termination decision.

128B. (Civil Action filed prior to end of Study Period – originally listed as tort claim). **Improper Discipline of Employees/Litigation Filed/June 2010.** Court records show that on June 24, 2010, the police officers who filed the tort claim described in Paragraph 178 (Taiboo Thomas, Richard Williams, Eddie Brown, Rasheem Peppers, and Horace McGloster) commenced a lawsuit against the NPD (No. L-5682-10) over the same claims made in their Notice of Tort Claim.

128C. (New matter - Civil Action filed prior to end of Study Period). **Failure to pay compensation/Litigation Filed/June 2010.** A labor arbitrator, in an opinion rendered in May 2010, found that the NPD had violated its labor agreements by failing to pay certain detective stipends and oil and gas allowances to members of its Narcotics Enforcement Team. On June 18, 2010, the superior officers' union filed suit (No. ESX-L-4992-10) to confirm the award and receive the payments due its members.

128D. (Civil Action filed prior to end of Study Period – originally listed as Other Incident). **Disability discrimination/Litigation filed/June 2010.** Former NPD officer John Jewell claims in a lawsuit filed June 2, 2010 (No. ESX-L-5058-10), that he suffered various on-the-job injuries as an NPD officer. Rather than allowing him to work on light duty or other modified assignment, as permitted under the relevant union contracts, the NPD wrongfully terminated him from his position. The City then failed to honor agreements made before administrative tribunals concerning his duty status. Jewell, who

is African American, states that the NPD “target[s] African-Americans for termination on a far greater basis than those of Caucasian ancestry.” His lawsuit remains pending.

128E. (New matter - Civil Action filed prior to end of Study Period).

Retaliation /Litigation filed/May 2010. David Burgos, an NPD sergeant, alleges that he reported cheating on a civil service examination by two candidates for the rank of lieutenant. (The substance of that case appears at Paragraph 214 of the Original Petition). In retaliation for his reporting the cheating, the Police Director and several deputy chiefs and captains attempted to pressure him to drop the complaint against one of the exam cheaters. Burgos also suffered retaliation for making other reports of officer misconduct – an unauthorized pursuit in January 2009 and a neglect of duty and an unlawful search by an NPD officer in a different jurisdiction that occurred in September 2009. Burgos was humiliated and harassed by several superior officers for making these complaints, and he now suffers from a hostile working environment. Burgos commenced a whistleblower suit (No. ESX-L-4088-10) on May 20, 2010, and the case remains pending.

139A. (New matter – Criminal charges prior to end of Study Period). **Official Misconduct, Theft, Tampering With Public Records/ April 2010.** On or about April 20, 2010, Newark special police officer Rory Palmer was arrested on charges of official misconduct, theft by deception, and tampering with public records, for claiming \$1,800 in pay for hours he was allegedly working at the public library, when in fact he was not present and working.⁶

⁶ *Newark police officer Rory Palmer faces 10 years in prison for scamming \$1,800*, NEW JERSEY NEWSROOM (Apr. 20, 2010), <http://www.newjerseynewsroom.com/state/newark-police-officer-rory-palmer-faces-10-years-in-prison-for-scamming-1800>.

178. Court records show that on June 24, 2010, the police officers who filed this tort claim commenced a lawsuit against the NPD over the same claims made in their Notice of Tort Claim. *See* paragraph 128B above.

179. The tort claim described in paragraph 179 (Curtis Clemons) resulted in a lawsuit being filed on April 14, 2010. *See* paragraph 95E above.

183. The tort claim described in paragraph 183 (Sharon Webb) resulted in a lawsuit being filed on May 25, 2010. *See* paragraph 95B above.

199A. (New matter – Other Incident prior to end of Study Period). **Police shooting (nonfatal)/June 2010.** On or about June 30, 2010, near Bradley Court, an NPD officer began chasing a suspect, Muraad Mallard, believed to be involved in drug sales. Police allege that the suspect turned and pointed a “black plastic gun” at the pursuing officer. The officer then shot and injured him.⁷

199B. (New matter – Other Incident prior to end of Study Period). **Death in Custody/June 2010.** On or about June 22, 2010, an NPD officer shot and killed Jihad Phillips, claiming that he “ran toward a marked Newark police vehicle with a gun in his hand.”⁸ The incident occurred on South 13th Street near West Side Park. Although all police shootings are allegedly reviewed by the Essex County Prosecutor’s Office, there has been no news of what, if anything, has come of this review.

201A. (New matter – Other Incident prior to end of Study Period). **Allowance of late tort claim/February 2010.** In February 2009, Anthony Konah was struck by a

⁷ Robin Mascarenhas, *Newark police officer shoots suspect who allegedly had black plastic gun, marijuana*, STAR-LEDGER (Jun. 30, 2010), http://www.nj.com/news/index.ssf/2010/06/newark_police_officer_shoots_s.html.

⁸ Alexi Friedman, *Authorities identify robbery suspect fatally shot by Newark police*, STAR-LEDGER (Jun. 24, 2010), http://www.nj.com/news/index.ssf/2010/06/authorities_identify_robbery_s.html and *Unidentified suspect in Newark armed robbery is fatally shot during police chase*, STAR-LEDGER (Jun. 22, 2010), http://www.nj.com/news/index.ssf/2010/06/unidentified_suspect_in_newark.html.

vehicle being driven by NPD officer Ahmad Stuckey. The severe and painful injuries left Konah unconscious for “several months.” Due to the injuries, Konah did not file a notice of tort claim within 90 days (which would ordinarily be a bar to damages claims under state law), but in February 2010, he sought permission from the court to file a late notice of claim. (No. ESX-L-962-10). On February 19, 2010, the court granted his request. On April 1, 2010, the court denied the City’s motion for reconsideration seeking to bar the claim of the injured man. The City has pursued this procedural bar to Konah’s claim by filing a notice of appeal on May 6, 2010.

202A. (New matter – Other Incident prior to end of Study Period). **Wrongful Termination / Dec. 2009.** NPD officer Dino D’Elia, who has founded a Newark PBA chapter (presumably in competition with the existing bargaining unit, the Fraternal Order of Police Lodge No. 12), complains that he was dismissed from the police department after sham disciplinary proceedings. After one trial board adjourned a dismissal proceeding to allow D’Elia to go on terminal leave preceding a disability retirement, another trial board was convened five days later and dismissed him. Although the decisions of the trial board are subject to review by the police director, D’Elia was handed a final notice of disciplinary action signed by the police director before the trial board even left the room at the close of the hearing.⁹

202B. (New matter – Other Incident prior to end of Study Period). **Improper Search/December 2009.** In response to a motion from a federal criminal defendant, Sharod Brown, a federal judge ordered the suppression of evidence collected by the NPD

⁹ See President’s Message 12.17.09, available at <http://www.newarkpba.org/>.

during a June 2008 raid.¹⁰ According to the opinion, a number of NPD and Drug Enforcement Agency (DEA) officers suspected the defendant of selling drugs from an apartment that he shared with another occupant. Eight officers assembled at the department, without having procured a warrant or indeed having “any plan” regarding their actions. The officers then “barged in” and began searching the apartment. Afterward, one of officers filled out a “consent to search form” except for the signature, folded it over so the all that the apartment’s occupant could see was the signature line, and asked her to sign it, saying not that it was a consent form, but was instead to protect her children from being seized by New Jersey’s child protection agency. The court found that the search was invalid and therefore suppressed the evidence.

218. On June 2, 2010, a lawsuit was filed over this matter, which is a claim of disability discrimination and disparate treatment made by former NPD officer John Jewell. *See* paragraph 128D above.

220. On June 29, 2010, NPD officer Eugene Collins filed a lawsuit over this matter, dealing with employment discrimination and disparate discipline. *See* paragraph 128A above.

II. UPDATES / CHANGES IN STATUS TO MATTERS PREVIOUSLY REPORTED, WHERE CHANGE IN STATUS OCCURRED AFTER END OF STUDY PERIOD

62. In this case referenced in Paragraph 62 of the Original Petition and Section I, Paragraph 62 of this Amendment, City Council records show that on or about September 1, 2010, an additional \$87,500 was paid to attorneys for the police officer defendants in the case.

¹⁰ *United States v. Brown*, Crim. No. 08-622 (JLL) (D.N.J. slip op. filed December 30, 2009).

116. In the lawsuit described at Paragraph 116 of the Original Petition (Rosario v. Castillo), on or about October 6, 2010, Plaintiff's counsel filed a copy of the Original Petition with the District Court as part of a discovery motion in the case. The motion remains pending.

132. Regarding the lawsuit described at paragraph 132 (Sharon Davis), the case was dismissed by the district court in an order dated September 10, 2010.

145. On September 18, 2010, the criminal charges against Vernon Parker, Kyle Bowman and Mary Louise Bailey were resolved. Parker pleaded guilty to charges that he beat a handcuffed prisoner at the Newark City Jail; sentencing is pending. The charges against Bowman and Bailey were dismissed.¹¹

175. **Excessive Force/Litigation Filed/July 2010.** This matter, discussed as a tort claim in Paragraph 175 of the Original Petition, has resulted in a lawsuit filed after the end of the Study Period. The suit claims that on March 27, 2009, on Hawthorne Avenue, Darnell Roberts was accosted by two NPD officers, Victor Vasquez and Richard Velez, who threw plaintiff on the ground and began beating him for no reason, causing permanent injuries to Roberts. The officers then filed fabricated charges of resisting arrest and aggravated assault on a police officer. Those charges were dismissed with prejudice. Roberts filed suit on July 22, 2010 (No. ESX-L-6084-10); the case remains pending.

193. **Death in Custody/Litigation Filed/July 2010.** This matter, discussed in Paragraph 193 of the Original Petition as tort claim, has resulted in a lawsuit filed after the end of the Study Period. Francisco Taveras was shot to death by Newark Police

¹¹ See James Queally, *Newark police detective pleads guilty to beating handcuffed prisoner*, STAR-LEDGER (Sep. 18, 2010), http://www.nj.com/news/index.ssf/2010/09/newark_police_detective_pleads_1.html.

Officers despite explanations and pleas from bystanders that Mr. Taveras was mentally unstable and that emergency medical service should be called. His estate filed suit against the city (No. ESX-L-5669-10) on July 9, 2010, and the case remains pending.

217. **Wrongful death/Litigation filed/July 2010.** This matter, discussed in Paragraph 217 of the Original Petition as an Other Incident, has resulted in a lawsuit filed after the end of the Study Period. The suit alleges that on July 12, 2008, an off-duty NPD detective, Mark Hulse, struck and killed a pedestrian, Joao Marques, while driving drunk and speeding, at the intersection of Market and Fleming Sts. in Newark. The detective avoided criminal charges for the incident beyond the DWI. The NPD, in a widely-criticized decision, only punished Hulse with a six-month suspension from the police force. On July 12, 2010, Marques' estate commenced suit against Hulse and others. (No. ESX-L-5765-10). The case remains pending.

III. NEW SIGNIFICANT EVENTS THAT OCCURRED AFTER END OF STUDY PERIOD

All events described below occurred after the Study Period and are not updates (and are wholly separate from) any events included in the Original Petition.

1. (New matter – Civil Settlement following end of Study Period). **False Arrest and Malicious Prosecution/Settlement/October 2010/ \$300,000.** On December 27, 2005, a citizen named Ramon Guzman went to the Newark 5th Precinct to make a report of lost property he had found. The officers there determined that Guzman could not read or write English. Without giving him *Miranda* warnings, an NPD detective, Douglas Marshall, asked him to sign documents that he represented were related to the lost property he was returning. In fact, Marshall presented him with numerous

documents written in English, purporting to confess to various theft crimes (including two that allegedly occurred while Guzman was jailed for an unrelated matter). On the basis of these false confessions, Marshall arrested him, and later assisted in procuring an indictment against him. For ten months, Guzman remained incarcerated for these crimes, until the Prosecutor's Office moved to have all charged against him dismissed. In December 2007, Guzman brought suit against the NPD, Marshall, and four other officers. (No. ESX-L-10077-07). On or about October 6, 2010, the case settled for \$300,000.00.

2. (New matter – Criminal charges after end of Study Period). **Tax evasion / September 2010.** On September 17, 2010, NPD officer Leslie Wofford a/k/a Wajeedah Abu-Bakr pleaded guilty in district court to five counts of tax evasion (specifically, claiming 99 dependents on W-4 form so tax would not be withheld and then failing to pay the tax due). Although Wofford had been claiming 99 dependents for several years, NPD did nothing about these tax abuses until notified by the IRS, then did nothing when Wofford filed a new form again claiming 99 dependents. The docket number is 10-cr-618. Sentencing is pending.

3. (New matter – Criminal charges after end of Study Period). **Tax evasion / September 2010.** On September 8, 2010, NPD officer Marion Reynolds pleaded guilty in district court to five counts of tax evasion (specifically, claiming 99 dependents on W-4 form so tax would not be withheld and then failing to pay the tax due). Although Reynolds had been claiming 99 dependents for several years, NPD did nothing about these tax abuses until notified by the IRS, then did nothing when Reynolds filed a new form again claiming 99 dependents. The docket number is 10-cr-591. Sentencing is pending.

4. (New matter – Other Incident after end of Study Period). **Improper Conduct/September 2010.** On September 1, 2010, [CW# 330] was riding in a vehicle at the corner of Osborne Terrace and Mapes Avenue when an officer Alvarado¹² and four other unknown NPD officers aggressively approached them, repeatedly used foul language in a “hostile” and “disrespectful and derogatory” manner, ordered them out of their car, threatened to send him “to jail for a crime that [he] did not commit” and falsely accused the driver of being a narcotics dealer and gang member. He then continued berating [CW # 330] with foul language and homophobic remarks. After detaining them by the car for about ten minutes, the officers had the vehicle towed.

5. (New matter – Other Incident after end of Study Period). **Death in Custody/July 2010.** On or about July 14, 2010, 2 NPD plainclothes officers shot and killed Rashaan Gilbert on Bergen St. and Mapes Avenue. Police allege that they shot at Gilbert fourteen times, hitting him six times, after he “failed to comply with the officers’ repeated demands that he drop the weapon.”¹³ If the Essex County Prosecutor’s Office has reviewed the matter, there has been no news of what, if anything, has come of this review.

¹² Alvarado’s first name is not provided in the complaint. Accordingly, it is unknown whether this is the same officer Alvarado who has been accused of false arrests and demeanor issues, as identified in Paragraph 153 and footnote 123 of the Original Petition.

¹³ Alexi Friedman, *Hillside man is fatally shot by Newark police after allegedly brandishing a gun*, STAR-LEDGER (Jul. 14, 2010), http://www.nj.com/news/index.ssf/2010/07/hillside_man_is_fatally_shot_b.html.

REVISED TABLES

The following tables contained in the Original Petition are revised as follows:

KNOWN LAWSUITS FILED AGAINST NPD January 1, 2008-July 1, 2010 TOTAL CASES (PENDING CASES)	
By citizens	
Alleging intentional misconduct (beatings, false arrests, theft, retaliation, etc.)	38 (29)
Alleging negligence (careless, reckless driving, etc.)	6 (4)
TOTAL LAWSUITS BY CITIZENS	44 (33)
TOTAL LAWSUITS BY EMPLOYEES (race or gender discrimination, unlawful favoritism, etc.)	20 (14)
TOTAL LAWSUITS	64 (47)

TABLE 1 Known lawsuits against NPD, filed January 1, 2008-July 1, 2010. The figure in parenthesis is the number of pending cases as of the end of the Study Period, whereas the first number includes all cases filed within the Study Period whether pending or concluded.

KNOWN SETTLEMENTS/AWARDS FOR CLAIMS AGAINST THE NPD, January 1, 2008-July 1, 2010			
	Claims Resolved by Settlement or Otherwise	Claims Where Resolution Amount Known	Total Amount Paid / Awarded
BY CITIZENS	29	25	\$2,102,117
BY EMPLOYEES	13	13	\$2,748,210
TOTAL	42	38	\$4,850,327

TABLE 2 Known resolutions of claims against the NPD, by settlement or otherwise, January 1, 2008-July 1, 2008. After the end of the Study Period, Petitioners are aware of one case that settled for the sum of \$300,000.00 (but that case and settlement are not included in the table above).

CLAIMS MADE IN CITIZENS' LAWSUITS AGAINST NPD RESOLVED JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF RESOLVED CASES
False Arrest	13
Excessive Force	11
Internal Affairs improprieties	7
Improper Conduct	5
Unlawful Search	4
Negligence	4
Malicious Prosecution	4
Death in Custody	2
Bribery/Attempted Bribery	1
Planting Evidence	1
Mistreatment of Journalist	1
Total number of settled cases (Note: several kinds of claims can be asserted in a single case, so individual claim types do not add up to total number of cases)	29
Total cases where settlement amount known	25
Total dollar value of known resolutions	\$2,102,117

TABLE 5 Claims made in citizens' lawsuits against NPD which were settled or resolved January 1, 2008-July 1, 2010. In addition to these resolutions (most of which are settlements), three cases were dismissed by the Court on motions by the defense. After the end of the Study Period, another case, alleging false arrest and malicious prosecution, was settled for \$300,000 (but that case and settlement are not included in the table above).

CLAIMS MADE IN EMPLOYEES' LAWSUITS AGAINST NPD RESOLVED JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF RESOLVED CASES
Retaliation	8
Discrimination	5
Harassment	3
Assault	2
Abuse of Subpoena	2
Overtime	1
Other	2
Total number of resolved cases (Note: several kinds of claims can be asserted in a single case, so individual claim types do not add up to total number of cases)	13
Total cases where resolution amount known	13
Total dollar value of known resolutions	\$2,748,210

TABLE 6 Claims made in employees' lawsuits against NPD which were settled or resolved January 1, 2008-July 1, 2010

CLAIMS MADE IN PENDING CITIZENS' LAWSUITS AGAINST NPD JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF PENDING CASES
Excessive Force	14
False Arrest	12
Malicious Prosecution	6
Negligence	5
Internal Affairs improprieties	4
Death in Custody/Wrongful death	4
Discrimination	4
Unlawful Search	1
Planting Evidence	1
Mistreatment of Journalist	1
Other/Unknown	10
Total number of cases (Note: several kinds of claims can be asserted in a single case, so individual claim types do not add up to total number of cases)	33

TABLE 7 **Claims made in citizens' lawsuits against NPD filed January 1, 2008-July 1, 2010, and which were pending as of July 1, 2010. After July 1, 2010, there have been three cases filed, one alleging excessive force, another alleging wrongful death, and another alleging death in custody. One of those cases was dismissed after the close of the Study Period (but that dismissal is not reflected in the table above).**

CLAIMS MADE IN PENDING EMPLOYEES' LAWSUITS AGAINST NPD JANUARY 1, 2008-JULY 1, 2010	
	NUMBER OF PENDING CASES
Discrimination	4
Retaliation	3
Favoritism	1
Other	7
Total number of cases (Note: several kinds of claims can be asserted in a single case, so individual claim types do not add up to total number of cases)	14

TABLE 8 Claims made in employees' lawsuits against NPD filed January 1, 2008-July 1, 2010, and which were pending as of July 1, 2010. One of these case was dismissed in September 2010, i.e., after the end of the Study Period (but that fact is not reflected in the table above). This data includes the cases described in this Section as well as the pending cases described in footnotes 64 and 65 of the Original Petition.

CRIMINAL CHARGES FILED AGAINST NPD OFFICERS JANUARY 1, 2008-JULY 1, 2010	
ACCUSATION	NUMBER OF OFFICERS INVOLVED
Official Misconduct	8
Aggravated Assault or Assault	4
Making False Statements	2
Kidnapping	1
Extortion	1
Obstruction of Justice	1
Sexual Assault	1
Other	5
Total number of involved officers (Note: several kinds of offenses or counts can be asserted in a single case, so individual offense types do not add up to total number of officers involved)	14

TABLE 9 Criminal charges against NPD officers, January 1, 2008-July 1, 2010. Since the end of the Study Period, two NPD officers have been charged with tax evasion (although that fact is not reflected in the table above). In addition, charges against two of the officers listed above were dismissed. See Section II, Paragraph 145 of the Amendment.

CLAIMS MADE IN NOTICE OF TORT CLAIMS FILED AGAINST NPD JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF CLAIMS FILED
Excessive Force	22
False Arrest	20
Improper Conduct	10
Negligence	6
Unlawful Search	5
Malicious Prosecution	2
Other/Unknown	7
Total number of cases (Note: several kinds of claims can be asserted in a single notice of tort claim, so individual claim types do not add up to total number of cases)	45

TABLE 10 Claims made in notices of tort claims filed against NPD or its officers, January 1, 2008-July 1, 2010. Excludes tort claims that developed into civil litigation or criminal charges before July 1, 2010, which are discussed elsewhere in the Petition and the Amendment.

OTHER CLAIMS OF MISCONDUCT AGAINST NPD NOT OTHERWISE MENTIONED, JANUARY 1, 2008-JULY 1, 2010	
	NUMBER OF CLAIMS MADE
Unlawful Search	4
Discrimination	3
Internal Affairs improprieties	3
Excessive Force	2
Improper Conduct	2
Malicious Prosecution	1
Death in Custody	3
Other/Unknown	14
Total number of cases (Note: several kinds of claims can be asserted in a single misconduct report, so individual claim types do not add up to total number of cases)	23

TABLE 11 Claims of NPD Misconduct Not Otherwise Mentioned, January 1, 2008-July 1, 2010. Since the end of the Study Period, Petitioner has become aware of 1 disclosable complaint for improper conduct and 1 disclosable complaint for wrongful death.

CONCLUSION

For these reasons, and for the reasons stated in the Original Petition, the Petitioners respectfully ask the United States Department of Justice, Special Litigation Section, to investigate and impose appropriate remedial steps upon the NPD, including but not limited to: (a) alterations to the citizen complaints and internal affairs processes; (b) an enhanced risk management system; (c) enhanced training; (d) alterations to the disciplinary process; and (e) an independent monitor to oversee compliance.

Respectfully submitted,

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