

American Civil Liberties Union of New Jersey
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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 :
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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. _____

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The American Civil Liberties Union of New Jersey of New Jersey (“ACLU-NJ” or “Petitioner”) respectfully requests that the Special Litigation Section, acting pursuant to its authority under 42 U.S.C. § 14141, commence an investigation into the Newark, New Jersey Police Department (“NPD”). As demonstrated herein, the NPD has

“engage[d] in a pattern or practice of conduct by law enforcement officers . . . that deprives persons of rights, privileges or immunities secured or protected by the Constitution or laws of the United States.” This pattern is manifested through the 407 recent allegations of police misconduct described in this document, most of which involve false arrests and excessive force contrary to the Fourth Amendment right against unreasonable searches and seizures and the right to due process of law under the Fourteenth Amendment. This petition and its accompanying documents demonstrate that the NPD is beset with serious systemic problems which include:

- a. recurring, documented instances of violent and sometimes fatal treatment of people who come in contact with the police, through both the intentional use of excessive force and through negligent actions;
- b. false arrests and stops made without reasonable suspicion of criminal activity, much less probable cause, along with improper searches, malicious prosecutions, the false planting of evidence and other corrupt practices;
- c. an ineffective process of identifying and deterring such conduct;
- d. insufficient processes for receiving, handling, adjudicating, and announcing the disposition of citizen complaints or other complaints alleging misconduct or violation of rules;
- e. recurring conflict between officers and superiors, which has manifested in charges and countercharges of discrimination, retaliation, gross disparities and iniquities in the police disciplinary system, and other improper

conduct, along with cases seeking substantial damages for the violation of federal labor and employment laws;

- f. the failure to have a complete set of modern and meaningful policies or practices that guide officers; and
- g. costly litigation expenses including verdicts, arbitrations, and settlements, together with the expense of defending those cases; in the past 2 years, taxpayers have paid out millions of dollars for misconduct, some for long-lingering cases. (*See* Table 2). At the same time, lawsuits and recently-filed notices of tort claims filed in the same period show the same patterns of misbehavior, as if nothing has been learned or corrected in response to the prior lawsuits or allegations (*compare* Tables 5 and 6 *with* Tables 7, 8, 10, 11 and 12).

On behalf of the people who live in, work in, and visit the City of Newark, New Jersey, we implore the Civil Rights Division to investigate the NPD. The misconduct described herein is recent, not historical. It has left citizens dead, permanently injured, and otherwise damaged. It has left employees' careers in shambles due to discrimination and retaliation, and stressed by abusive working conditions when they are sent out to patrol the streets. And it has left innocent Newark residents distrustful of the police, unsure whether an encounter with them will lead to them being "protect[ed] and serve[d]" or beaten and arrested.

Since January 1, 2008, the municipality has: (a) paid out over \$4 million in at least 38 litigation settlements and other resolutions of lawsuits for police misconduct; and (b) been sued at least 51 times over deaths, false arrests, excessive force, internal affairs

improprieties, employment discrimination, and similar matters. (*See* Tables 1 and 2).

When these figures are added to other data laid out the Petition, the record shows over 400 claims of police misconduct in our 2 ½ year study. (*See* Tables 5-8 and 9-12). This is a pervasive “pattern or practice of conduct by law enforcement officers... that deprives persons of rights, privileges or immunities secured or protected by the Constitution or laws of the United States,” which is unlawful under 42 U.S.C. § 14141.

As laid out in the Petition, there have been calls for federal assistance and an independent monitor in Newark going back decades. The City typically rejected these entreaties, arguing it could reform itself without outside help. But these efforts have fallen flat, such that the City remains ravaged by homicidal violence (its murder rate was 6.9 times the state average in 2009), while members of its police force regularly violate the federally-protected legal and constitutional rights of individuals.

The citizens of Newark are turning to the Department of Justice in a last resort to obtain the relief that they have heretofore been unable to obtain locally.

Petitioners therefore urge that the Department of Justice (“DOJ”) use its powers under 42 U.S.C. § 14141(a) to commence an investigation and thereafter utilize civil litigation to reform the NPD.

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OVERVIEW

I. THE PETITIONER

1. The Petitioner is an organization with approximately 12,000 members throughout the State of New Jersey, including approximately 464 members residing in Newark. In existence since 1960, Petitioner works to defend all aspects of liberty throughout the State of New Jersey through litigation, advocacy, and education. The aspects of liberty that Petitioner seeks to defend include (1) the right to be free from unconstitutional, unlawful or wrongful arrest, detention, and force by the police or law enforcement authorities; (2) the right to receive responsible, effective, and nondiscriminatory public services, including law enforcement services and adjudication of complaints; and (3) the right to fair and nondiscriminatory treatment in the course of public employment.

2. As a civil liberties organization, the ACLU-NJ regularly receives complaints from the public about law enforcement misconduct, including misconduct by the NPD. At times, the ACLU-NJ acts on these complaints by formal and informal advocacy, including the commencement of litigation. For example, it is counsel to plaintiffs in two of the cases described in this Petition.

II. OVERVIEW OF THE PETITIONER'S INVESTIGATIVE PROCESS AND FINDINGS

3. The repeated complaints known to the Petitioner about the NPD led the Petitioner to commence an investigation into whether the NPD engaged in excessive misconduct, brutality, and failure to supervise officers. Using sources such as records of criminal charges against officers, settled and filed civil litigation, administrative proceedings, news accounts, and its own database of citizen complaints, Petitioner has

spent hundreds of personnel hours systematically studying and collecting a database of reported acts of misconduct by the NPD.

4. To determine whether the NPD's patterns and practices were recent and ongoing, and not simply historical, Petitioner's inquiry primarily focused on acts of misconduct reported¹ since January 1, 2008 (the "Study Period"). In addition, to account for the often lengthy lag time between an act of misconduct and the resolution of civil litigation arising from that misconduct, we also studied lawsuit resolutions that were reached during the Study Period, even if the litigation was filed before the Study Period. We also reported on misconduct that was reported prior to the Study Period where it was related to incidents that occurred within the Study Period.

5. **This document contains over 400 allegations of misconduct by the NPD during the Study Period.**² The Petitioner's study revealed that NPD is an organization that in the aggregate is unable to refrain from systematic violations of the constitutional and legal rights of people with whom they come into contact. These violations include false arrests and wrongful detentions, use of excessive force, and corruption (thefts). Internal strife regularly occurred between patrol-level officers, middle management, and senior management. And the police internal affairs ("IA") unit, through a combination of its own procedures and restrictive constraints imposed on it by the state attorney general, remained unable to detect, deter, or punish all these problems, including

¹ "Reported" generally means the date the ACLU received a complaint or, in the case of civil litigation, the date the civil litigation was filed (even if the misconduct occurred before the Study Period began). In the case of criminal charges, "reported" means the date of arrest, complaint, indictment, or trial.

² See footnote 4.

instances where citizens³ suffered beatings or other reprisals for reporting or threatening to report misconduct to the IA unit.

6. The total number of identified complaints of police misconduct in the past 2 ½ years are as follows:

Lawsuits settled in the past 2 ½ years (Section VI).....	38
Lawsuits filed in the past 2 ½ years that remain pending (Section VII).....	37
Notices of tort claim for conduct in the past 2 ½ years, excluding those that developed into lawsuits listed above (Section IX).....	50
Other complaints of misconduct in the past 2 ½ years not included above (Section X).....	21
Internal affairs complaints alleging excessive force, improper arrest entry, or search, or differential treatment filed in calendar 2008 and 2009 (Section XI).....	261 ⁴
TOTAL IDENTIFIED MISCONDUCT COMPLAINTS.....	407

7. Those operations of the NPD that were corrupt and heavy-handed, as might be expected, yielded dozens of lawsuits against it. The Petitioner’s investigation revealed 51 lawsuits involving the NPD filed in federal or state court⁵ or state administrative agencies during the Study Period. Of these lawsuits, 34 involved charges of unconstitutional searches or seizures, uses of excessive force, false arrests, or other allegations of wrongful acts made by citizens. Other cases (5) alleged negligence by the

³ “Citizen” is defined in this Petition as meaning a person who is not an employee of the Newark Police Department.

⁴ 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.

⁵ The particular lawsuits known to petitioners are discussed in Sections VI and VII of this Petition. A state court case will bear a docket number of “ESX-L-####-##” while a federal case will bear the docket number of “##-cv-####.” If a case is in federal court due to a removal, both docket numbers will be furnished if known.

NPD, primarily in their vehicular operations. In addition, 12 of these suits involved claims of wrongful treatment of NPD employees by their superiors, motivated sometimes by racial, ethnic, or gender discrimination, sometimes by “cliques” of officers seeking to punish disfavored ones, sometimes by the complete inability to manage stress, frustration, or anger, and sometimes by other factors or a combination of the foregoing.

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.)	34 (27)
Alleging negligence (careless, reckless driving, etc.)	5 (3)
TOTAL LAWSUITS BY CITIZENS	39 (30)
TOTAL LAWSUITS BY EMPLOYEES (race or gender discrimination, unlawful favoritism, etc.)	12 (7)
TOTAL LAWSUITS	51 (37)

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

8. The Petitioner further found that there were dozens of resolutions through settlement or otherwise for civil plaintiffs during the Study Period. In particular, not less than \$2,041,617 was paid to resolve 26 lawsuits brought by citizens (*see* paragraphs 51 to 76), and not less than \$2,691,503 was awarded to resolve 12 cases brought by NPD employees who suffered mistreatment at the hands of their superior officers (*see* paragraphs 81 to 92).⁶ Thus, the total cost of lawsuits against the NPD during the Study Period was nearly \$5 million, not even counting NPD’s expenses for defense counsel,

⁶ Some lawsuits – both citizens and employee – involved more than one plaintiff. The cited figures also include a \$600,000 jury verdict on which judgment has not yet been entered.

including outside counsel. As the City of Newark is not insured for tort liability, and since the City of Newark generally indemnifies its employees for judgments, settlements, and legal fees, it was the taxpayers of the City of Newark, and the taxpayers of the State of New Jersey and the United States who effectively funded these case resolutions. Moreover, it appears that litigation payments are drawn from a general budget item for liability, meaning that the NPD does not directly feel any financial consequence from the settlement payments necessitated by its officers' actions.

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	26	20	\$2,041,617
BY EMPLOYEES	12	12	\$2,691,503
TOTAL	38	32	\$4,733,120

TABLE 2 Known resolutions of claims against the NPD, by settlement or otherwise, January 1, 2008-July 1, 2008

9. In addition, the *Star-Ledger*, the state's leading and largest-circulation newspaper is headquartered in Newark. As might be expected, it pays attention to the NPD and reports on events occurring with the NPD. Relying primarily on the *Star-Ledger* as a source, Petitioner has identified at least 13 NPD officers who were charged with, or had trials for, felony criminal activity, within the Study Period (*see* paragraphs 136 to 146).

10. Next, using state open records laws, Petitioner also requested from the City of Newark all notices of tort claims filed against the City relating to police issues. Under state law, filing this notice of tort claim within 90 days of accrual of the injury is a jurisdictional prerequisite to filing state-law claims against public entities or employees,

although some state law claims and federal claims under 42 U.S.C. § 1983 are not barred by a failure to file.

11. A study of these notices of tort claim revealed at least 50 serious claims of police misconduct that occurred within the Study Period (*see* paragraphs 149 to 198).

12. The Petitioner also studied police-generated statistics about IA complaints. These statistics, which understate the rate of police misconduct in general,⁷ are especially unreliable in the NPD, due to NPD's noncompliance with state reporting requirements (detailed at paragraph 224) and the NPD's treatment of IA complainants, which ranges from unresponsiveness to brutal retaliation (for especially egregious examples, *see, e.g.*, paragraphs 55, 70, 97, 107 and 109 below).

13. The statistics from internal affairs showed that in 2008, 106 internal affairs complaints were filed alleging excessive force, improper arrest, improper entry, improper search or differential treatment. Of those, zero (0) complaints were sustained. Instead, they all resulted in a finding of exonerated, not sustained, or administratively closed.

14. In 2009, that number climbed to 155 internal affairs complaints alleging excessive force, improper arrest, improper entry, improper search or differential treatment. Of those, only one (1) complaint (alleging an improper search) was sustained. The remainder resulted in a finding of exonerated, not sustained, or administratively

⁷ *See* Matthew J. Hickman, *Citizen Complaints about Police Use of Force* (Bureau of Justice Statistics, June 2006), <http://bjs.ojp.usdoj.gov/content/pub/pdf/ccpuf.pdf>, p. 4 (stating that complaints by citizens about officer of use of force “represent a subset of all force events. That is, not all force events result in citizens filing formal complaints. How often do citizens actually complain? . . . [Among] citizens experiencing force [who] thought the level of force used was excessive, about 10% filed a complaint with the agency employing the officer(s).”

closed. At least as to allegations of excessive force, this level of sustained complaints appears to be comparatively low.⁸

15. In addition to these foregoing sources about misconduct and criminal behavior by NPD members, the Petitioner also relied on other materials to identify misconduct during the Study Period. These other investigative techniques included participating in public forums about police misconduct, private witness interviews, the review of published news stories, and the analysis of police-generated statistics about the use of force and vehicular pursuits.

16. The Petitioner also became aware of 21 other complaints of excessive force, false arrests, or other misconduct that are not elsewhere covered in this Petition. (*See* paragraphs 200 to 220).

17. There is little to no evidence that officers who commit offenses against citizens are meaningfully disciplined for their conduct. Even officers with multiple settled litigation, pending complaints, criminal charges, or substantiated discipline against them are allowed to have continued contact with citizens. As especially egregious examples of officers with multiple misconduct issues being allowed to stay in the NPD and interact with citizens, *see, e.g.*, paragraphs 59, 61, 68, 69, 100, 110, 119, and 124, and the accompanying footnotes.

18. Petitioner has found repeated incidents of NPD officers advising citizens that they act with complete impunity and disregard for the law, and that citizens have no rights. As examples, *see* paragraphs 103, 105, and 109 and 210.

⁸ See footnote 148.

19. The misconduct and brutality of some NPD officers, and the impunity with which they operate, not only violates of the rights of people with whom NPD comes into contact, but it is also ineffective in meeting the ultimate goal of a police force: the prevention of crime, and the apprehension of suspects who engage in crime. The statistics described below show that Newark suffers inordinately high rates of crime, violent crime, and murders, and has comparatively low case clearance rates.

20. Indeed, some scholarship suggests that a widespread pattern of police abuse of citizens may contribute to higher crime rates and/or low case clearance rates because the misconduct engenders less assistance or cooperation by law-abiding residents.⁹

21. All told, this places Newark residents and guests of the city at a higher risk of crime, a higher risk of police misconduct, and a lower chance that crime or misconduct against them will be remedied by the justice system. In sum, it warrants prompt federal intervention.

III. NEWARK CENSUS DATA: ITS RESIDENTS AND POLICE FORCE

22. According to the U.S. Census, as reported in its 2006-08 American Community Survey 3-Year Estimates, Newark had a population of 262,313 people, of whom 26.5 percent were under age 18.¹⁰ (Another source states the 2008 population was

⁹ See generally Tom R. Tyler, *Enhancing Police Legitimacy*, 593 ANNALS OF THE AM. ACADEMY OF POL. & SOC. SCI. 84, 89, 92 (May 2004) (a citizen who receives respectful treatment instead of disrespectful treatment from an officer is more likely to view the police as a legitimate institution, and those who view the police as a legitimate institution are more likely to comply with the law and report on criminals and wrongdoers).

¹⁰ See ACS printout for Newark, reprinted in the Appendix. This report by the Census bureau sets forth the demographic data that is cited in this Section.

280,135).¹¹ With about 24 square miles of land, Newark has a population density that is high compared to other regions of the State, but as population has fallen substantially since its high of about 442,000 in the 1930 Census, so too has its density.

23. The Census reports that Blacks/African Americans make up 53.6 percent of Newark's population, Whites make up 24.3 percent, and persons of Hispanic or Latino origin (of any race) comprise 31.9 percent of Newark's population.

24. As of March 2009, it was reported that the NPD had 1,312 members. The NPD reports that 36.2 percent of the members are African-American, 26.5 percent are Caucasian and 36.9 percent are Hispanic.¹² However, Petitioner believes that in the upper ranks of police management, there is less diversity, and a greater percentage of Caucasian police executives than in the police force as a whole.¹³

25. Because the NPD reports the racial/ethnic makeup of its police force using categories different from those of the Census, we cannot state with confidence whether any particular racial or ethnic group is over or under-represented in proportion to the City's overall racial and ethnic makeup.

IV. PREVALENCE OF CRIME AND CLEARANCE RATES IN NEWARK

26. The people and the businesses of the City of Newark suffer from unreasonably high crime rates when compared to other municipalities within Essex

¹¹ See CRIME IN NEW JERSEY, FOR THE YEAR ENDING DECEMBER 31, 2008 (hereinafter "NJ UCR Report") p. 108, <http://www.njsp.org/info/ucr2008/pdf/2008-uniform-crime-report2.pdf>. This higher number is used for the crime rate computations in this section.

¹² Len Melisurgo, *50 Years of Success for Newark Bronze Shields*, STAR-LEDGER (Mar. 15, 2009), http://www.nj.com/news/local/index.ssf/2009/03/50_years_of_success_for_newark.html. See also NJ UCR Report, p. 129 (1,071 male sworn officers, 246 female sworn officers, and 390 civilian employees).

¹³ To test the validity of this hypothesis, Petitioner requested, under the state open records law, a table of organization of the NPD and the names of all unit, precinct, or bureau commanders. The NPD provided a table of organization but responded it had no documents naming the individual commanders. While this impaired Petitioner's ability to test this hypothesis, the sheer inability of the NPD to produce a list of the names of its commanders may speak to other oversight and management issues.

County and the State of New Jersey. According to the State of New Jersey's 2008 Uniform Crime Report, there were 2,769 violent "index" crimes and 10,722 nonviolent "index" crimes known to the police during 2008 in the City of Newark.¹⁴

27. Thus, the UCR report shows that Newark had a total index crime rate of 48.2 per 1,000 residents; a violent crime rate of 9.9 per 1,000 residents; and a nonviolent crime rate of 38.3 per 1,000 residents. In contrast, in 2008, the State as a whole had a total index crime rate of 26.2/1000; a violent crime rate of 3.3/1000; and a nonviolent crime rate of 22.9/1000.¹⁵

28. Most notably, for 2008, these data show that Newark's violent crime rate was three times the state average.

29. Turning to murders, in 2008, Newark had 69 murders, which was itself the lowest number since 2002, and the total number of murders increased again in 2009.¹⁶ In 2008, that represented a murder rate of 0.246 per 1,000 residents. However, in 2008, the State had 376 murders, at a rate of 0.045 per 1,000 residents.

¹⁴ See NJ UCR Report, pp. 128-29. Statistics compiled by the Petitioner from the NPD's monthly reports for 2009 showed 2,596 violent crimes and 8,822 nonviolent crimes. However, these only include crimes processed by the NPD, and do not include crimes processed by other law enforcement agencies operating within Newark, such as the county sheriff, university police, or transit police.

¹⁵ *Id.* at 12, 128.

¹⁶ See *Newark homicides increase for the first time in 3 years*, STAR-LEDGER (Jan. 1, 2010), http://www.nj.com/news/index.ssf/2010/01/newark_homicides_increase_for.html. There have been frequent disputes between citizen groups and law enforcement agencies, and even among law enforcement agencies, about the correct computation of the number of murders in Newark. See, e.g., Alexi Friedman, *Newark Police, Essex County Prosecutor's Office Dispute Number of City Murders*, Star-Ledger (Jan. 5, 2010), http://www.nj.com/news/index.ssf/2010/01/newark_police_essex_county_pro.html (setting forth competing claims that 2008 murders were either 67 or 72 and that 2009 murders were either 77 or 80). Petitioner's figure of 69 murders for 2008 is drawn from the state crime report.

In a sense, these disputes are irrelevant to the underlying issue that Newark's residents suffer from an unreasonably high crime rate, because if the NPD's calculation is right, Newark's murder rate would "only" have been 5.3 times the state average in 2008, not 5.5 times. This is hardly comfort to residents of a city ravaged by both homicidal violence and the levels of police misconduct described in this Petition.

30. This means that Newark’s 2008 murder rate was 5.5 times the State average.

CRIME RATE COMPARISON BETWEEN NEWARK AND THE STATE OF NEW JERSEY 2008			
OFFENSE / OFFENSE CATEGORY	NEWARK CRIME RATE	STATE OF NJ CRIME RATE	NEWARK CRIME RATE COMPARED TO NJ CRIME RATE
All index crime	48.2/1,000	26.2/1,000	1.8 times higher
All violent index crime	9.9/1,000	3.3/1,000	3.0 times higher
Murder	0.246/1,000	0.045/1,000	5.5 times higher

TABLE 3 Crime rate comparison between Newark and the State of New Jersey, 2008. These data are drawn from, or computed using, the figures in the 2008 NJ UCR Report.

31. For 2009, it has been reported that the number of murders statewide fell slightly, from 376 to 335. In Newark, however, the number of murders increased from 69 to at least 77. Assuming the population for both the State and Newark remained the same in 2009, it means the Newark murder rate was 6.9 times the State average for 2009.

32. The people served by the NPD fare no better when case clearance rates¹⁷ are studied. In response to a records request made by Petitioner under the State’s open records law, the NPD produced its monthly UCR reports for the period of January 1, 2008 to December 31, 2009. Petitioner’s analysis of these forms, reproduced in the Appendix, shows that in many categories of crime, the NPD’s case clearance rates remain well below state averages:

¹⁷ A case is considered “cleared,” for most purposes, when the police arrest a suspect for a crime known to them. See UNIFORM CRIME REPORTING HANDBOOK (Rev. 2004), p. 150. It does not necessarily mean, however, that prosecutors obtained a conviction or plea for that level of offense, or for any offense.

COMPARISON OF STATEWIDE AND NPD CASE CLEARANCE RATES, 2008 AND 2009			
OFFENSE	STATEWIDE CLEARANCE RATE, 2008¹⁸	NPD CLEARANCE RATE, 2008	NPD CLEARANCE RATE, 2009
Murder	60.6 %	49.3 %	31.6 %
Rape	41.1 %	56.9 %	57.4 %
Robbery	26.4 %	22.7 %	21.0 %
Aggravated Assault	59.0 %	51.4 %	44.1 %
Burglary	13.8 %	16.1 %	10.4 %
Larceny	19.2 %	11.0 %	10.3 %
Motor Vehicle Theft	5.5 %	0.4 %	0.5 %
All violent index crimes	43.7 %	36.6 %	32.4 %
All index crimes	20.1 %	14.1 %	12.7 %

TABLE 4 Comparison of statewide and NPD case clearance rates, 2008 and 2009. Shaded boxes indicate clearance rates lower than statewide rates for 2008. Statewide clearance rates are drawn from the 2008 UCR Report. Newark data are computed using the UCR forms supplied to Petitioner by NPD following a request under the state open records laws.

V. THE ROLE OF THE SPECIAL LITIGATION SECTION

33. The Special Litigation Section, United States Department of Justice, has previously taken action against local and state law enforcement agencies who demonstrate disregard for the constitutional and legal rights of people. Pursuant to 42 U.S.C. § 14141, when a law enforcement agency has engaged in a “pattern or practice of conduct” that has the effect of “depriv[ing] persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States,” it may file a civil action to obtain the necessary systemic remedies to eliminate these patterns and practices.

34. The DOJ has investigated and either publicized findings and/or filed complaints and/or entered into consent decrees with at least 21 law enforcement agencies around the United States.

¹⁸ Statewide crime rates and clearance rates for calendar year 2009 have not been published as of yet.

35. These DOJ responses include an investigative letter recommending changes to policies, use of force practices, and IA practices, and the adoption of an early warning system and enhanced community relations activities in the Inglewood, California Police Department.¹⁹ That investigation came in response to the police killings of five unarmed people during a span from 2003 to 2009, along with officer complaints about a lack of training, an ineffective and conflict-ridden IA process, and records showing excessive use of conductive energy devices,²⁰ along with civil litigation that was filed and later settled for \$2.45 million.²¹

36. The DOJ issued and publicized a similar investigatory letter for the Yonkers Police Department²² in response to “allegations of excessive force and discriminatory policing by members of the Yonkers Police Department.”²³ The DOJ did the same with respect to the Austin, Texas Police Department in 2008.²⁴ A similar investigation began in March 2004 in the Virgin Islands, and was resolved by a consent decree reciting that the Government alleged a “pattern or practice of excessive force throughout the Virgin Islands Police Department.”²⁵ More recently, the DOJ commenced an investigation into the police department of East Haven, CT, prompted by allegations

¹⁹ http://www.justice.gov/crt/split/documents/inglewood_pd_Jail_findlet_12-28-09.pdf .

²⁰ *Inglewood police have repeatedly resorted to deadly force*, L.A. TIMES (Dec. 28, 2008), <http://www.latimes.com/news/local/la-me-inglewood28-2008dec28,0,2459345>.

²¹ *Inglewood to pay \$2.45 million to settle claim in 2008 police shooting death*, L.A. TIMES (Mar. 23, 2010), <http://latimesblogs.latimes.com/lanow/2010/03/inglewood-to-pay-24-million-to-settle-claim-in-2008-police-shooting-death.html>.

²² http://www.justice.gov/crt/split/documents/YonkersPD_talet_06-09-09.pdf

²³ <http://yonkersinsider.wordpress.com/2009/10/12/flyer/>

²⁴ http://www.justice.gov/crt/split/documents/AustinPD_taletter_12-23-08.pdf

²⁵ http://www.justice.gov/crt/split/documents/VIPD_CD_03-23-09.pdf at ¶ 1.

of discriminatory policing, improper stops and seizures, false arrests, excessive force and beatings, and retaliation against people who documented police misconduct.²⁶

37. The problems identified below in the NPD are at least as severe as those in other municipalities where the DOJ took action.

38. When intervening to remedy misconduct by a local police department, the DOJ has generally imposed a combination of remedies including a court-appointed independent monitor, operational policy and oversight mechanisms, training protocols, and accountability systems.

39. This “core set of reform mechanisms”²⁷ is especially appropriate with regard to the NPD in light of the excessive force and improper arrests and stops that NPD engages in. In addition, other reforms to calm labor-management relations within the NPD would be equally appropriate.

40. Federal intervention can bring about reforms in the NPD by ensuring that it has state-of-the-art policies on use of force, citizen complaints, early intervention systems, officer training and other matters involving policing.²⁸ Even if NPD had such policies, however, the critical task is to ensure that those policies are aggressively implemented.²⁹ Such a task can only be performed by an independent monitor, and this

²⁶ See Nina Bernstein, *Connecticut Town Grapples with Claims of Police Bias*, N.Y. TIMES (Apr. 22, 2010); see also Letter of Yale School and St. Rose of Lima Church to Shanetta Cutlar and Mark Kappellhoff, March 26, 2009.

²⁷ Joshua Chanin, *Implementing §14141 “Pattern or Practice” Reform: Evidence from Four Police Departments*, <http://www.pmrnet.org/conferences/OSU2009/papers/Chanin,%20Joshua%20M.%20Implementing%20Section%2014141%20Pattern%20or%20Practice%20Reform%20-%20Evidence%20from%20Four%20Police%20Departments.pdf>

²⁸ See Samuel Walker & Morgan McDonald, *An Alternative Remedy for Police Misconduct: A Model State “Pattern or Practice” Statute*, 19 CIVIL RIGHTS LAW JOURNAL 479, 505-10 (2009).

²⁹ *Id.* at 510-16.

is a position that the NPD has expressly refused to adopt on its own initiative, despite decades of calls for such a position.³⁰

41. Under the tenure of the present police director, Garry McCarthy, the NPD convened a “Steering Committee” of police officials, other government officials, and representatives from nongovernmental organizations to review and examine reforms to the NPD. The Steering Committee held approximately a dozen meetings between March 2010 and May 2010. The Petitioner has participated in these meetings. However, the outcomes arising from these meetings fell far short of the systemic reforms that are needed to eliminate the pattern of wrongful conduct and practices in the NPD.

42. In particular, the outcome of this review process was basically limited to:

- (a) a plan to renovate some police precincts and other buildings if funding can be found;
- (b) a plan to create a new police website (<http://www.newarkpdonline.org/>), which was to be rolled out on May 1, 2010 but which was delayed until approximately July 1, 2010;
- (c) directives to ensure that internal affairs complaints will be accepted at any time, and at any location, in accordance with long-standing state directives;³¹
- (d) a proposal to drop the Drug Abuse Resistance Education (DARE) curriculum and one of the city’s Explorer posts in favor of another curriculum and other activities for students;
- (e) an effort to provide each officer with about four hours per year of new community relations and sensitivity training;
- (f) conducting a police services satisfaction survey;
- (g) the design of a new motto, mission, and values for the NPD;
- (h) the securing of funding to place video

³⁰ *City of Newark v. Benjamin*, 144 N.J. Super. 58 (Ch. Div. 1976) (discussing the Newark City Council’s court battle opposing a citizen referendum petition for a civilian police review board), *aff’d*, 144 N.J. Super. 389 (App. Div. 1976), *aff’d*, 75 N.J. 311 (1978); Deborah Jacobs, *The Best Way to Curb Police Abuse*, *Star-Ledger* (Oct. 22, 2008) (advocating “an independent monitor armed with subpoena power and expertise in police practices [to] assess the work of the [NPD] and recommend ways to improve policies, practices and department culture”).

³¹ Nevertheless, the Petitioner has identified recent noncompliance with this directive. *See* paragraph 200.

cameras in a small subset of the NPD's marked patrol vehicles; (i) presenting a play about community policing on or about June 22, 2010; and (j) implementing a deficient early warning/risk management system, with several important elements in the system missing, including a comprehensive list of trigger events.

43. The changes NPD implemented, in effect, were mostly cosmetic. Indeed, the NPD specifically rejected a number of other reforms to its policies and practices recommended by the Petitioner and others. For example, it rejects – as the City has for decades – the idea of an independent monitor or civilian police review board. It promised to put video cameras in just a small subset (approximately 40) of its patrol cars. And its early warning system omits several important trigger events that have been found useful in other early warning/risk management systems, like the filing of a tort claim against an officer, the filing of a lawsuit against officer, prosecutorial declinations due to search-and-seizure misconduct, or an officer pressing a charge against a suspect that involves a high degree of potential for abuse, such as assault on a police officer, loitering, or obstruction.³²

44. Indeed, as the DOJ has noted on other occasions, the mere fact that some reforms are proposed, or even implemented, should not divest the Special Litigation Section of an appropriate role in police oversight.³³ In the case of the NPD, the few reforms implemented don't begin to address the entrenched problems that contribute to misconduct and corruption at NPD.

³² Compare, for example, the Consent Decree in *United States v. City of Detroit*, Civ. A. No. 03-72258 (E.D. Mich. June 12, 2003), ¶ 80. Moreover, the State of New Jersey makes similar recommendations, which Newark has elected not to follow. See footnote 150 and accompanying text.

³³ See, e.g., Letter of Shanetta Cutlar to Marc Ott and Arturo Acevedo, Dec. 23, 2008 (despite “significant improvements” in updating some policies, an investigative letter and continued review by the DOJ remained appropriate).

45. The record shows extensive misconduct by NPD against citizens and its own employees. The operation of the civil and criminal justice system has not been enough to remedy this pattern, and the delays in obtaining resolutions of filed cases suggest that the justice system does not even provide speedy remedies to individuals. Moreover, the NPD refuses to implement the necessary reforms to bring this pattern to an end. The only thing that can bring this pattern to an end is federal intervention under 42 U.S.C. § 14141.

NPD MISCONDUCT

VI. CIVIL LITIGATION AGAINST THE NPD RESOLVED THROUGH SETTLEMENT OR OTHERWISE

46. The sheer number of federal and state lawsuits filed against the City of Newark because of the acts or omissions of the NPD, which is more fully explained in Sections VI and VII of this Petition, is an indication of dozens of people who have (a) been mistreated at the hands of the NPD; (b) successfully obtained representation by counsel; and (c) have cleared the procedural prerequisites to filing suit (e.g., a state tort claims law that requires notice of intent to sue on state-law claims within 90 days after accrual, and a two-year statute of limitations for both state-law and civil rights claims). Given the hurdles to bringing litigation, it is manifest that the number of actual incidents of misconduct that occurred against citizens is far greater than the number of lawsuits filed. All lawsuit and settlement documents described in sections VI and VII of this Petition – alphabetized by plaintiff and which comprise four large binders – are being simultaneously produced to the Special Litigation Section with this filing.

47. Another factor justifying federal intervention is the evidence of the number of claims against the NPD that have actually been settled or resolved. While both

sides to a litigation settlement generally do so without any admission of liability, the fact that a lawsuit is settled generally speaks to the merit of the suit and the risk of a higher damages award if the case is ultimately tried. The 38 resolutions reported below would alone suggest a long-standing but uncorrected pattern of misconduct within the NPD.

48. The City of Newark, indeed, has made affirmative attempts to keep case settlements from public scrutiny. Some of the settlements below (e.g., those described in paragraphs 81 and 84) were not even approved at regular twice-monthly city council meetings; rather, some of the larger settlements were instead approved at “special” or “agenda” meetings with more limited public notice, and for which limited information is available from the municipal website listing meeting information. And in one case involving a \$1 million settlement brought by the estate of a citizen who died in custody (*see* paragraph 60), the resolution does not appear *at all* in the online database of city council business. The reason for this is undetermined.

A. Resolved Cases Involving Citizen Complaints Of NPD Brutality, False Arrests, Or Other Misconduct

49. In Section VI(A), Petitioner identifies 26 cases which involve allegations by citizens of misconduct by the NPD (some with multiple plaintiffs), and which cases were settled or otherwise resolved within the Study Period. Section VI(B) will identify like cases (some of which have multiple plaintiffs) that involve the settlement of labor or employment claims brought by NPD employees.

50. For these cases, the names of the officers involved and the place where the unlawful conduct occurred is stated, if it could be gleaned from the complaint or other pleadings reviewed by the Petitioner. The cases are presented in reverse chronological order. The facts as presented in sections VI(A) and (B) are a report of the facts that have

been pleaded in court filings, and unless noted, have not been independently verified by the Petitioner. The fact of settlement and the amount of settlement are drawn from court files, records of the Newark city council, or in responses to requests for documents under New Jersey’s open records law.

CLAIMS MADE IN CITIZENS’ LAWSUITS AGAINST NPD RESOLVED JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF RESOLVED CASES
Excessive Force	10
False Arrest	10
Internal Affairs improprieties	7
Improper Conduct	5
Unlawful Search	4
Negligence	4
Malicious Prosecution	3
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)	26
Total cases where settlement amount known	20
Total dollar value of known resolutions	\$2,041,617

TABLE 5 Claims made in citizens’ lawsuits against NPD which were settled or resolved January 1, 2008-July 1, 2010

51. **Unlawful search, Excessive Force and False Arrest/Settlement/June 2010/ \$35,000.** In 1999, Sharonda Qualls was called to testify in a homicide trial. She offered testimony supporting the defendant’s alibi. In an effort to intimidate her from testifying, an Essex County Sheriff’s Detective stated he was going to pay a visit to her home at **REDACTED** and “knock down some doors.” He repeated the threat after her testimony. The next day, an officer from the NPD (an agency that regularly

works with the Essex Sheriff) obtained a search warrant for her home. One week later, after a mistrial was declared in the criminal case, 10-20 Newark police officers raided her home on the basis of the 8 day old warrant. The aging warrant, in turn, had been based on faulty information supplied by a confidential informant. During the raid, the officers involved ransacked Ms. Qualls' apartment, stole money and other property, and generally terrorized Ms. Qualls and her children. Ms. Qualls was also forced to submit to a body cavity search in the presence of male police officers. She was never arrested or charged with any criminal conduct arising from this matter. Ms. Qualls commenced a federal suit (No. 01-cv-2680) against Newark, the Essex Sheriff and the involved officers (who included NPD officers Willie Thomas, Stephanie Treadwell, Daryl Strickland, Gary Prystauk, Rocco Buglione and Julian Jova. In 2005, the City and some of the officers were dismissed as defendants; however, in June 2010, the case settled with the two remaining defendants. The City, on their behalf, made a \$35,000 payment to Qualls.

52. **Excessive Force, Internal Affairs and False Arrest/Settlement/June 2010/\$ Unknown.** In April 2006, Mary Cheeseboro and several members of her family were attending a barbeque when she observed police officers stop a car and assault the juvenile occupants of the car. When she asked the police to stop this assault, the officers turned on her and her family, handcuffing her and throwing her daughters on the ground and macing them. One of the daughters, a juvenile, was arrested and charged with obstruction of justice; these charges were ultimately dismissed. When Ms. Cheeseboro said that she was going to report the officers' actions to internal affairs, one of the officers said that they would release her daughter in exchange for her not filing the internal affairs complaint. In April 2008, Ms. Cheeseboro commenced a lawsuit against

the NPD and officers L. Guedes #9021, Perez #7730, Bradbury #7109, and Breaux #6992. Court filings show that the matter settled on or about June 24, 2010, but the settlement amount is unknown.

53. **Excessive Force, Internal Affairs and Attempted Bribery/Settlement/May 2010/\$150,000.** On June 13, 2006, plaintiff Cornell Pendergrass was beaten by NPD police officer Michael Walker³⁴ at **REDACTED** Newark by repeated punches to the face, which ultimately required his jaw to be wired shut for several weeks. Co-plaintiff Minisiah Gbor attempted to videotape the officer's beatings on other people in the vicinity and when Officer Walker and his partner, Officer Larry Brown, saw her videotaping, they assaulted her as well. When Mr. Pendergrass filed an internal affairs complaint about the incident, an acquaintance received a threatening telephone call in retaliation for the complaint. Some weeks later, Walker attempted to bribe Mr. Pendergrass to "forget about everything." On or about May 19, 2010, the plaintiffs' federal lawsuit (No. 08-cv-2936) was settled for \$150,000.00. Adding insult to injury, the City even reimbursed Walker's lawyer an additional \$39,037 in taxpayer money for legal fees incurred in defending the case.

54. **Excessive Force/Settlement/April 2010/\$20,000.** On June 8, 2006, plaintiff Dennis Ramos and his wife were at a diner at 6 Wilson Avenue, Newark. There was a fight between other patrons. Without provocation or cause, officer Landre Johnson³⁵ assaulted plaintiff and shoved him down a flight of stairs. A Lt. N. Jacobs and a Capt. Riley, present at the time, failed to stop or otherwise discipline Johnson for his

³⁴ Walker was later indicted for official misconduct for a separate incident. *See* paragraph 143.

³⁵ Johnson was sued for negligent driving while on duty in a separate case. *See* paragraph 63.

misconduct. On or about June 2, 2010, the case (No. 08-cv-2770) was settled for a \$20,000.00 payment by Newark.

55. **Excessive Force and Internal Affairs/Settlement/March 2010/ \$ Unknown.** Charles W. Jones was arrested on an open warrant on November 7, 2007. While he was in custody at the 5th Precinct, another prisoner asked where he could file an internal affairs complaint, a question that Mr. Jones answered. Police officer Eusebio Moreira overheard the request and Mr. Jones' answer, and retaliated against him by striking him on the face and body, resulting in broken bones and facial fractures. The severe beating left Jones' jaw broken in two places, so that it had to be wired shut and a metal plate inserted in his chin. The officer's beating also knocked out a tooth. None of the other police present attempted to stop him. Moreira also charged Mr. Jones with aggravated assault and making terroristic threats; the charges were later dropped. The police advised Mr. Jones that an investigation would be conducted, but they failed to investigate or adequately investigate his allegations. Mr. Jones sued the police department and Moreira in an action pending in state court (No. ESX-L-4394-09; *see also* Newark Notice of Tort Claim dated Dec. 7, 2007). State court records indicate the case was settled as of March 9, 2010 but the settlement amount is unknown at this time.

56. **Improper Conduct and Internal Affairs/Settlement/March 2010/ \$ Unknown.** On Feb. 9, 2008, at the corner of Ridgewood and Avon Ave., plaintiff Kevin Hill was driving his car, when an unmarked SUV cut him off. Five men in plain clothes, wearing "skull caps" or ski masks, jumped out of the car with guns drawn but not announcing themselves as police. Believing that he was under attack from street gang members, Mr. Hill threw the car into reverse, and immediately collided with another

police car. Mr. Hill and his sister were violently removed from the vehicle, handcuffed, and verbally abused. He received three traffic summonses, which were later dismissed. Mr. Hill promptly made a complaint about the incident to IA, but no one from the NPD ever contacted Mr. Hill or his sister. Approximately two weeks later, another officer followed him to his house and made unwarranted threats against him, and briefly detained him. Mr. Hill believes this was in retaliation for his IA complaint. He and his sister filed a federal lawsuit (No. 08-cv-6237) against the city and officers Neil Minovich,³⁶ Whyhidi Wilson,³⁷ Elvis Lugardo, Brian Lovejoy, Neil Laurie, and Jason West.³⁸ The suit was reported on the PACER system as having settled on or about March 31, 2010, but the settlement amount is unknown at this time.

57. **False Arrest, Improper Conduct and Mistreatment of Journalist/Settlement/January 2010/\$55,000.** In September 2007, a journalist for a local paper discovered a dead body near Foundry Street. He and his editor, Roberto Lima, notified the police. When the police arrived, NPD lieutenant Samuel DiMaio harassed the photographer about his immigration status, which the state attorney general later found to be in violation of a state law enforcement directive on discrimination. Mr. Lima attempted to intervene in DiMaio's harassment of the photographer. DiMaio then ordered

³⁶ Another case where Minovich is a defendant – a death in custody case – is described in Paragraph 64. Minovich, whose most recent service with the NPD was in the city's 5th Precinct, retired on March 1, 2010. See http://www.newarksoa.org/SOA/Announcements_files/March%202010%20Complete.pdf.

³⁷ NPD officers are required to file Use of Force Reports ("UFRs") when they use certain kinds of enumerated force against suspects. Petitioner sought and obtained the UFRs for Newark for the period of January 2006 through December 2009 under the state open records law and has analyzed them and compiled them into a database. Measured by the number of UFRs filed, Wilson is among the top 10 users of force in the 1,300-member NPD.

³⁸ In *State v. Owens*, 2008 WL 834366 (Mar. 28, 2008), the Appellate Division affirmed a trial court motion suppressing evidence seized during a June 28, 2007 arrest by NPD officer Jason West. The court determined that West acted wrongfully by opening a closed container found inside a vehicle without first obtaining a warrant for the search.

the seizure of the photographer's camera and demanded copies of his pictures, all without a warrant. On the orders of the NPD police director, Garry McCarthy, and another officer, Lydell James, Mr. Lima was then arrested and only released when he agreed to turn over copies of the pictures taken by his photographer. In addition, when Mr. Lima sought a meeting with the Newark mayor over the incident, the police parked vehicles outside his office in an effort to intimidate him. Mr. Lima sued the city and various officers (No. 08-cv-426)³⁹ and the case settled in January 2010 for \$55,000.00, but an ongoing dispute over counsel fees remains on appeal.

58. **Negligence/Arbitration/January 2010/\$12,000.** Plaintiff Dulci L. Chamberlain alleges that on September 13, 2007, on Frelinghuysen Avenue, she was struck by a motor vehicle being operated carelessly by an NPD officer, "John" Burnell.⁴⁰ Court records show that the case (No. ESX-L-5505-08) was arbitrated on January 20, 2010, and that the arbitrator awarded \$12,000.00 in favor of plaintiff and against "Bernal." The City itself was not found to have any liability. Court records do not show that either party timely filed paperwork requesting judicial review of the arbitral award.

59. **False Arrest/Settlement/January 2010/\$90,000.** Thomas Michael Stewart operates a legitimate towing business and had been contracted to tow improperly parked vehicles from an apartment complex in a neighboring town, Belleville. After towing seven illegally parked vehicles from the complex, a NPD Captain, Felipe Gonzalez,⁴¹ ordered the arrests of Mr. Stewart and two of his employees on or about May

³⁹ The Petitioner was counsel to Mr. Lima in this lawsuit.

⁴⁰ No one with the surname Burnell could be identified as employed by the NPD. However, the agency employs a Joseph A. Bernal (the surname used by the arbitrator in the award).

⁴¹ See also paragraph 96 (describing Gonzalez' status in a separate lawsuit alleging that officers planted false evidence) and paragraph 98 (describing Gonzalez's role as defendant in another lawsuit alleging negligent operation of a motor vehicle while on duty).

11, 2007, and had them detained for a lengthy period of time and seized their property; then, no charges were pursued and all records of the incident were destroyed. In or about January 2010, the City of Newark paid plaintiffs \$90,000.00 to resolve the lawsuit (No. ESX-L-3584-08 / 08-cv-3250 following removal). Gonzalez remains as the precinct commander in charge of Newark's 5th Precinct, which covers the southern parts of the city.⁴²

60. **Death in Custody/Settlement/December 2009/\$1,000,000.** In January 2005, a car driven by Rasheed Moore collided with a police car at the intersection of 18th Avenue and South 13th Street in Newark. When the officers, Matthew Ruane⁴³ and Pasquale Popolizio, exited their car, a struggle ensued. Mr. Moore and his passenger were unarmed, but Ruane fired 13 shots at Mr. Moore. He died at the scene. In early 2007, Moore's executor brought suit against the police. (No. ESX-L-410-07). In December 2009, a jury found that both officers used excessive force and awarded \$1.1 million in damages. Before the jury considered punitive damages, the case settled for \$1 million.⁴⁴ Of note, no records of the resolution of this case appear in the online postings of Newark City Council business. The reason for this could not be determined.

61. **Excessive Force, Improper Conduct and Internal Affairs/Settlement/October 2009/\$30,000.** A state lawsuit (No. ESX-L-8649-06) was filed in October 2006 by Luis Cal against the NPD and officers Arnold Borrero, Lillian Carpenter, Richard

⁴² See http://www.nj.com/news/index.ssf/2010/05/crime_reduced_in_5th_precinct.html.

⁴³ In addition to shooting Moore, Ruane also had two other on-duty shootings, one of them fatal. In addition, he is named as being involved in two other instance of misconduct, described in paragraphs 75 and 184. Moreover, for the period covered by Petitioner's database, Ruane has filed the fourth-highest number of UFR reports in the entire NPD. See footnote 37 for more information about the UFR database.

⁴⁴ Charles Toutant, *Newark Police Shooting Victim's Family Wins \$1M for Excessive Use of Force*, NEW JERSEY LAW JOURNAL (Dec. 16, 2009).

Cuccolo, Crystal Burroughs, Albert Cicalese, Anthony Ambrose, Irving Bradley and the officer bearing badge #6916.⁴⁵ In October 2004, Borrero stopped a motorist, Sara Lesende at the corner of Jefferson and Elm Sts., and became extremely agitated during the course of the stop, ultimately punching Ms. Lesende in the face and assaulting her.⁴⁶ Borrero then drew his weapon and pointed it at some bystanders, one of them being the plaintiff, Luis Cal, and threatened to shoot them. The complaint further alleges that other defendants – Carpenter, Cuccolo, Burroughs, Cicalese, Ambrose, and Bradley – knew or should have known of Borrero’s extensive disciplinary history⁴⁷ and despite this, allowed him to remain as an officer in the NPD without disciplining him for this or other incidents.⁴⁸ On or about October 21, 2009, Mr. Cal’s case settled for \$30,000.00; Ms. Lesende’s case remains pending.

62. Unlawful Search, Malicious Prosecution, and Planting Evidence/Settlement/October 2009/\$ Unknown. In January 2002, a number of Newark police detectives approached the home of plaintiff Kenyetta Nevous at [REDACTED] [REDACTED] [REDACTED] After the detectives disabled only one of the two surveillance cameras at the house, the remaining camera captured the detectives conducting a warrantless entry into the home,

⁴⁵ According to another database, Tony Smith is the bearer of badge #6916.

⁴⁶ See Charles Toutant, *Judge Reinstates Civil Rights Claim of Newark Cop’s Excessive Use of Force*, New Jersey Law Journal (May 24, 2010), p. 7.

⁴⁷ In particular, Borrero has an extensive disciplinary record of serious violations. In an opinion filed in a case brought by Ms. Lesende, *Lesende v. Borrero*, Civ. A. No. 06-4967 (D.N.J. May 19, 2010), Judge Debevoise explained that:

Borrero’s disciplinary record lists 45 internal affairs complaints resulting in the imposition of 15 penalties. In three separate matters, three Administrative Law Judges (“ALJs”) found that Borrero was not credible or made false statements. Borrero’s record includes four excessive force allegations (none of which were sustained), a sustained false reporting complaint, and a sustained allegation of assisting an out-of-state bounty hunter’s search for a fugitive in New Jersey.

⁴⁸ On or about June 12, 2009, the Superior Court denied the City of Newark’s motion to dismiss Mr. Cal’s claims against the City alleging deficiencies in hiring, training, supervision, and internal affairs investigations.

and planting as evidence a gun and ammunition that one of the detectives had been carrying in his waist band. The detectives then falsely arrested plaintiff for gun possession charges. The detectives also stole plaintiff's car for use in a drug bust operation. Ms. Nevous brought suit against the City (No. ESX-L-829-04), the various detectives, and other law enforcement agencies. Court documents show that the case was settled on or about October 13, 2009 but the settlement amount is unknown at this time.

63. **Negligence/Settlement/June 2009/\$39,043.** On November 30, 2008, Labeeb Abdullah was injured in a motor vehicle accident involving a NPD patrol vehicle driven by officer Landre Johnson,⁴⁹ and at least one other car, at Camden Street and 16th Avenue. He later sued (No. ESX-L-9501-08) and received a \$39,043.75 settlement from the City of Newark.

64. **Death in Custody/Settlement/June 2009/\$60,000.** In October 2006, on Sherman Avenue, Warren Lee was confronted by two NPD officers, Lt. Neil Minovich⁵⁰ and Sgt. Anthony Costa, who suspected the presence of illegal drugs. The stop quickly escalated, with Minovich and Costa becoming extremely violent, viciously beating and punching Mr. Lee. Mr. Lee then began showing signs of medical distress (which the police say came from an attempt to swallow a bag of drugs); but whatever the cause, the officers said that he was “faking” and did not assist him or call an ambulance. Mr. Lee later died, and his father commenced suit against the NPD (No. 07-cv-4909). The case settled in June 2009, with taxpayers paying \$60,000.00 to resolve this wrongful death claim.

⁴⁹ The complaint refers to “Landry” Johnson, but the only person with a similar name in the employ of the NPD is Landre Johnson. He was sued for police brutality in a separate case, *see* paragraph 54.

⁵⁰ *See also* paragraph 56 and accompanying footnote regarding another claim about Minovich's conduct.

65. **Unlawful Search and Improper Conduct/Settlement/May 2009/\$**

Unknown. After a nearby shooting, NPD officers A. Lima, Detective FNU Gonzalez and Detective FNU Clarkin demanded entrance to the home of plaintiffs Kent and Donna Mitchell at **REDACTED** on March 21, 2005. The police threatened to arrest him or “blow his brains out” if he refused entrance. The police searched the house, and humiliated them during the warrantless search, and also separated the plaintiffs’ children from the parents for questioning while the search was performed.⁵¹ Plaintiffs were never charged with any crime. Plaintiffs commenced a federal suit (No. 07-cv-1298) on March 20, 2007 and on or about May 3, 2009, the suit settled for a \$10,000.00 payment by Newark. The retaliation described in the footnote below is not covered by this settlement.

66. **Improper Conduct and Internal Affairs/Settlement/February 2009/\$**

Unknown. Elvin Serrano, who was in the midst of a nasty divorce, went to his home in Belleville to pick up his belongings. His mother-in-law initiated a confrontation, and soon after, her son, NPD officer Raymond Ojeda, arrived at the scene with Belleville police. At Ojeda’s urging, and due to a Belleville police captain wanting to maintain a “working relationship” with the NPD, the Bellville officers ordered Mr. Serrano to leave his own house. He then attempted to file a complaint with the Newark IA bureau at 22 Franklin Street, where a female Detective, M. Weber, refused to accept his complaint.⁵² The PACER system shows that his lawsuit (No. ESX-L-9043-07; after removal 08-cv-996)

⁵¹ Thereafter, on August 10, 2009, one of the Mitchells’ children, **REDACTED**, was harassed and wrongly cited for a curfew violation by officers FNU Reyes and FNU Hearts. Then, on August 12, 2009, the same officers kicked in the front door of the Mitchells’ home and falsely detained another person at the home and ran his credentials. All of the foregoing was “in retaliation for previously filing a federal civil rights lawsuit against the” NPD. *See* Notice of Tort Claim dated November 4, 2009.

⁵² Mr. Serrano’s suit does not identify Detective Weber’s first name. However, NPD employed a Maryanne Weber, who was herself implicated in another lawsuit alleging the mishandling of an internal affairs complaint. *See* paragraph 70.

was settled on or about Feb. 6, 2009, but there is no evidence of the amount Mr. Serrano was paid.

67. **Negligence/Settlement/January 2009/\$37,500.** On or about September 18, 2005, Andres Herrera Lopez was driving down Johnson Street, with the path of travel narrowed due to other cars being illegally parked. After he scratched one or more cars by accident, he was arrested by NPD officers Anthony Maldonado and Roger Mendez and two other officers bearing badges numbers 7348 and 9438, who used excessive force in the course of the arrest. He filed suit in state court (No. ESX-L-7237-07) and in January 2009, he received a \$37,500.00 settlement.

68. **Excessive Force/Settlement/January 2009/\$60,000.** Saleem Lighty was stopped by NPD officers Alan Knight,⁵³ Michael Morgan #9788,⁵⁴ Joseph Conzentinis #6731,⁵⁵ and Angel Vila #8039 on September 25, 2006. The stop occurred on Clinton St. between 16th and 17th Streets.⁵⁶ A check of his name revealed an outstanding warrant. The officers did not advise him of the warrant, and when Mr. Lighty asked why he was being arrested, an officer hit him in the face with a flashlight or fist, which fractured his jaw. The other officers failed to intervene. His federal lawsuit (No. 06-cv-5977) was settled in or about January 2009, with taxpayers giving Lighty \$60,000.00 for the excessive force used by NPD officers.

⁵³ See paragraph 100 regarding another lawsuit making serious allegations of brutality against Alan Knight. That suit alleges that Knight has a history of at least 62 internal affairs investigations, including 26 allegations of conduct, excessive force, or improper arrest.

⁵⁴ See also paragraph 156 regarding other allegations against Morgan. Moreover, for the period covered by the Petitioner's database, Morgan was the second-highest filer of UFR reports in the entire NPD. See footnote 37 for further information on Petitioner's Use of Force database.

⁵⁵ This officer is also identified in paragraph 156 as being involved in some misconduct.

⁵⁶ This is the location listed in the Complaint. A review of a city map shows the location in question is more likely Clinton Avenue between South 16th and South 17th Streets.

69. **False Arrest and Excessive Force/Settlement/December 2008/\$30,000.**

In October 2003, Christina Robinson and Shalina Thorne and several family members had dinner at a Newark restaurant at 67 Ferry Street. When another patron began smoking, one of the diners had an asthma attack. A dispute with restaurant employees ensued, culminating in a Newark plainclothes detective, Antonio Rendiero,⁵⁷ arresting Ms. Robinson and Ms. Thorne and using excessive force in doing so. No charges were ever filed. Ms. Robinson and Ms. Thorne brought a lawsuit (No. ESX-L-8227-05) which was settled in December 2008 with a payment of \$30,000.00 by the City of Newark.

70. **False Arrest, Malicious Prosecution and Internal Affairs/**

Settlement/October 2008/\$7,500. Plaintiff Raul Davila, who was dating the cousin of NPD officer Thomas Cinque, has been repeatedly harassed by Cinque.⁵⁸ He called IA to report Cinque on or about March 29, 2005. The IA call was handled by defendants Maryann Weber⁵⁹ and Jerry Calabrese. In response to and retaliation for the complaint, Mr. Davila was charged with terroristic threats for making the IA complaint, arrested, and detained for three days. Once the prosecutor learned the details and heard the IA tape, he agreed there was no basis for the criminal charges against Mr. Davila, and dismissed the charges on or about October 27, 2005. Mr. Davila sued in federal court (No. 07-1304), and in the course of the case, another IA complaint (IOP # 04-979) against Cinque was disclosed. On or about October 12, 2008, the case was settled for \$7,500.00.

⁵⁷ Rendiero, whose badge number is 9276, has had at least five neglect of duty complaints brought against him during his service with the NPD. All five complaints known the Petitioner have been sustained. At least one of those complaints led to a suspension.

⁵⁸ Cinque has a lawsuit pending against the City for wrongfully terminating his employment, apparently for reasons unrelated to the Davila matter. *See* paragraph 131.

⁵⁹ Weber was implicated in another lawsuit involving a mishandled internal affairs complaint. *See* paragraph 66.

71. **False Arrest and Malicious Prosecution/Settlement/October 2008/\$48,824.** Cleveland Johnson, a City of Newark employee, was baselessly accused of official misconduct and forgery without a proper investigation by the NPD, in or about May 2003. The charges against him were eventually dismissed. He filed suit for false arrest and malicious prosecution (No. 05-cv-531). In or about October 2008, Newark paid Mr. Johnson \$48,824.06 in settlement of his claims.

72. **Negligence/Settlement/September 2008/\$80,000.** On May 5, 2005, Carmen Morales and Jessica Perez were passengers in a motor vehicle that was struck by an NPD police car negligently being driven by NPD officer Jessica Mendez. The accident occurred on Summer Avenue. A lawsuit (No. ESX-L-6671-05) ensued, and on or about September 3, 2008, the suit was settled for \$80,000.00.

73. **Repeated False Arrests/Settlement/June 2008/\$8,750.** On October 17, 2005, plaintiff Al-Tarik Johnson was stopped at a motor vehicle checkpoint and suddenly arrested and taken to jail. The purpose of the arrest was not disclosed until several hours later, when he was advised he was wanted on an assault warrant. Defendants continued to interrogate plaintiff multiple times, but it was a case of mistaken identity, as neither photographs nor fingerprints matched, and he was ultimately released two days later. Mr. Johnson complained to the NPD internal affairs unit. Representatives from IA interviewed him but failed to communicate any case disposition or resolution to him. On March 5, 2006, Mr. Johnson was arrested a second time and held for over two hours. Despite these errors, defendants never purged the misinformation from their databases, and Mr. Johnson was denied a job on the basis of these false arrests. His lawsuit (No.

ESX-L-8239-07; 08-cv-1049 following removal) was settled on or about July 7, 2009, for \$8,750.00.

74. Unlawful search and Excessive Force/Settlement/April 2008/\$250,000.

On July 19, 2001, the NPD raided a home located at **REDACTED**. In the course of the raid they threw a device into a sofa bed where plaintiff Lateesha Williams was sleeping with two children. The device caused a fire in the sofa bed that severely burned Ms. Williams and her children. Ms. Williams brought suit (No. ESX-L-4970-03) against the City and several officers – S. Galvano, Frank Rossi, John Kirk, Eric Brown, J. Byrd, K. Rubel, Joseph Watson, Oscar Davis, P. Bumalang and Joseph Penevolpe. In April 2008, the city authorized a settlement with Ms. Williams and her children in an amount not to exceed \$250,000.00.

75. False Arrest/Settlement/February 2008/\$21,000.

Larry James claims in a suit (No. ESX-L-7269-06, after removal 06-cv-5074) that he was falsely arrested on September 16, 2004 by NPD officer Matthew Ruane,⁶⁰ who claimed he was the person named in an arrest warrant for “Norris Canty.” Although the names did not even closely resemble one another, Mr. James spent four days in the Newark jail, after which he was transported to Cumberland County and then released the next day. In February 2008, Newark taxpayers paid James \$21,000.00 to settle the case.

76. Excessive Force and False Arrest/Settlement/January 2008/\$7,000.

On or about July 24, 2006, at **REDACTED**, plaintiff Amadu Musa was detained, beaten, and pepper-sprayed⁶¹ by NPD officers Edgardo Gonzalez and Silas Smith, Jr.⁶²

⁶⁰ See also paragraphs 60 and 184 regarding other allegations against Ruane.

⁶¹ On the issue of pepper spray, see footnote 98.

The officers also maligned him for being from Africa. His federal lawsuit (No. 06-cv-4496) was settled on or about February 11, 2008 for \$7,000.00.

77. The Petitioners are not aware of any evidence that any officer involved in any of the foregoing cases were disciplined for the conduct that led to these lawsuits, or that any discipline was disclosed to the public at large or to the Newark police force, or that they made any individual contributions to the foregoing settlements. A major contributing factor is the fact that IA matters are considered confidential under a state attorney general policy. Also contributing to this is the lack of an independent auditor or monitor or civilian review board able to report these facts to the public.

78. However, even assuming that any of the foregoing officers were disciplined or directly or indirectly contributed to these monetary settlements, such facts have not been publicly disclosed. This undermines the goal of general deterrence that can be obtained from a justice system including a police discipline system, namely, the disclosure of punishment to deter others from engaging in misconduct, along with public acknowledgement that a violator has transgressed defined norms of conduct.

B. Resolved Cases Involving Employee Complaints of Discrimination, Employment, or Labor Relations Issues

79. In this section, Petitioner discusses 12 other civil lawsuits filed against the NPD that were resolved within the Study Period, brought by NPD officers or employees. Generally, these relate to employment discrimination, breaches of labor contracts, and the like.

⁶² In 1999, Smith and three other officers stood trial for beating a suspect or allowing other officers to beat the suspect, but were acquitted of the charges. See Ronald Smothers, *Metro Briefing*, N.Y. TIMES (Aug. 8, 2001), <http://www.nytimes.com/2001/08/08/nyregion/metro-briefing-new-jersey-newark-police-charges-dropped.html>.

80. As in the prior section, the settlements here are presented in reverse chronological order of the date of settlement. The facts as presented here are a report of the facts that have been pleaded in court filings, and except where noted, have not been independently verified by the Petitioner. The fact of settlement and the amount of settlement are drawn from court files, records of the Newark city council, or in responses to requests for documents under New Jersey's open records law.

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	1
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)	12
Total cases where resolution amount known	12
Total dollar value of known resolutions	\$2,691,503

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

81. **Harassment, Retaliation and Abuse of Subpoena/Partial Settlement/June 2010/\$185,000.** NPD officers Yessennia Rodas Montalvo and Jose Montalvo allege in a federal lawsuit (No. 06-cv-1505) that they were the victims of a discriminatory and retaliatory campaign against them by NPD executives. For example, they were subjected to harassment, gossip, and false allegations about their personal

relationships, including a false claim that they had engaged in sexual activity on a conference table in the NPD's communications office. As part of that campaign, Yessenia Montalvo was assigned to work at the city jail, where other male officers made sexually hostile remarks and exposed her to pornography. In addition, Jose Montalvo's ex-wife, Lillian Mejias, committed an assault and battery upon her. Jose Montalvo was also assigned to unfavorable details such as the cell block and foot patrol. In addition, like other officers (*see* paragraph 85 and accompanying footnote), the Montalvos used a website in their off-duty hours to raise these abuse-of-authority and other matters of public concern, and in response, Newark police officials misused grand jury subpoenas to learn their true identities. Complaints made by both of the Montalvos about their hostile work environment and other misconduct were ignored by superior officers, while they were subjected to frivolous or baseless disciplinary charges. On or about June 30, 2010, Yessenia Montalvo's case was settled for \$185,000.00. Jose Montalvo's case remains pending.

82. Retaliation and Wrongful Termination/Verdict/June 2010/\$600,000.

Darren Nance, an African-American former NPD officer, sued the City for the retaliation visited upon him when he made reports of pervasive racism in the NPD between 1990 and 1996. Rather than address his reports, the NPD instead mounted a campaign of retaliatory discipline against him, which ultimately culminated in his dismissal. Mr. Nance sued in 1997 (No. 97-cv-6184) but the claims were not tried to a jury until June 2010. The jury awarded Mr. Nance \$600,000 in compensatory and punitive damages. Issues about reinstatement, pension credits, and counsel fees remained unresolved as of the date of this Petition.

83. **Overtime/Settlement/March 2010/\$365,000.** Newark police officers Michael Kraynanski and Gary Bootes⁶³ were responsible for the care of the dogs in the NPD canine unit. In a federal lawsuit (No. 08-cv-938), they claim the City violated federal labor laws by refusing to pay them overtime for the time spent with the dogs during off-duty hours, specifically, the time spent “training, walking, feeding, grooming, [and] cleaning up after” the dogs. On or about March 17, 2010, the City of Newark settled the claim by paying the two men \$365,000.00 in taxpayer money.⁶⁴

84. **Religious Discrimination and Retaliation/Settlement/December 2009/\$129,178.** Several years ago, the EEOC brought a complaint against the NPD on behalf of officer Anthony Kerr and others, on the grounds of religious discrimination. Despite the City’s efforts to repeatedly challenge the court rulings, all the way to the Supreme Court, Mr. Kerr and the EEOC won the case. Among other things, the court rulings allowed Mr. Kerr to wear a beard while performing his duties as a police officer. In retaliation for his successful suit, the NPD misused its disciplinary system, “which functions based on alternating purposes, and for uneven application amongst the workforce for racism, nepotism, separatism, cronyism and [] preferential treatment or favoritism.” Specifically, NPD filed a number of unfounded disciplinary charges against Mr. Kerr, and subjected him to multiple police trial boards, each having “gross procedural errors for intentional results, discriminatory bias, and disparate treatment.”

⁶³ In another case, *Montalvo v. City of Newark*, No. 06-cv-1505, a Rule 56.1 statement alleges that Bootes “pistol whipped another Police Officer, but he retired without discipline and was permitted to retire with full pension rights.” The above-mentioned overtime settlement is over and above his discipline-free retirement.

⁶⁴ On or about June 25, 2010, a group of six current and former police officers – James Kniepp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez and Donna Sapienza – filed a similar federal lawsuit (No. 10-cv-3254) alleging that they are owed overtime pay for their off-duty care of their dogs. That case remains pending.

These trial boards ultimately led to his being terminated as a police officer. Mr. Kerr then commenced a federal case (No. 08-cv-3660) against the NPD and several officers involved in the retaliation and discrimination against him. On or about December 8, 2009, Mr. Kerr and the City settled the case, and he received \$129,178.14 from taxpayer coffers.

85. **First Amendment and Abuse of Subpoena/Settlement/May 2009/\$147,325.** A 15-year veteran of the NPD, officer Louis Wohltman, exercised his First Amendment rights by criticizing NPD leadership on an internet bulletin board. He, along with other officers, had posted messages about “matters of public interest and concern,” namely, the honesty, integrity and competence of certain NPD commanders. He did on his own time, and not as a police officer. In response to this exercise of First Amendment rights, the NPD improperly obtained and used Essex County grand jury subpoenas, serving them on the internet site and various internet service providers. The subpoenas were improperly drawn, were not supervised by either the grand jury or a prosecutor, and were not signed by a prosecutor or issued by a court. The NPD then improperly used this evidence to bring Mr. Wohltman up on disciplinary charges, and he was then suspended for a total of nine months. Mr. Wolhman sued in federal court (No. 07-cv-5871) and his claims were ultimately settled on or about May 19, 2009, for \$147,325.22.⁶⁵

⁶⁵ Other officers brought similar claims against the City for violations of their First Amendment right to speak. These included Philip Wesley Smith, whose Complaint was filed in federal court at No. 08-cv-1332. Two other officers, Jose Montalvo and Yessennia Montalvo, who already had a federal case pending against the City for other matters (No. 06-cv-1505) also amended their complaint to add claims about the violation of their free speech rights. Yessennia Montalvo received a \$185,000 settlement for all her claims, *see* paragraph 81, while Jose Montalvo’s claims remain pending.

86. **Assault and Retaliation/Settlement/April 2009/\$90,000.** Newark police officer Francisco Vilasoa claims in a state lawsuit (No. ESX-L-5761-08) that he was assaulted by a fellow officer, Lt. Vincent Ucci,⁶⁶ and then retaliated against when he made complaints about the assault. Specifically, on September 6, 2007, in front of other police officers and at least one prisoner at the 4th Precinct, Ucci engaged in an uncontrolled outburst of temper and curse words, and “tried to choke Vilasoa to death,” leaving him with neck injuries and other bruising. Rather than properly investigating Ucci, the department relieved Mr. Vilasoa of his firearm 4 days later, and Internal Affairs officers escorted him to a hospital and put him out on stress leave. According to Mr. Vilasoa, the stated policy of NPD is for all officers to conduct themselves in a non-discriminatory, non-harassing and non-retaliatory way, but that policy is not enforced against some officers, like Ucci, who have “a violent anger management problem, leading to abuse of other officers in the workplace.” On or about March 24, 2009, the case settled with the taxpayers paying Mr. Vilasoa \$90,000.00.

87. **Discrimination and Retaliation/Settlement/March 2009/\$350,000.** An NPD detective, Janell Robinson, sued the NPD for discrimination and retaliation (No. ESX-L-5145-06). Her complaint describes an escalating series of harassment upon her, beginning in 2001 when then-Lieutenant (and later police chief) Irving Bradley began sexually harassing another NPD officer. With Ms. Robinson aiding and encouraging her, the other officer complained of Bradley’s conduct. In retaliation, Bradley changed Ms. Robinson’s shift to a late-night shift, then assigned her a walking post without a vehicle, and filed false disciplinary charges against her. During the summer of 2004, Bradley

⁶⁶ Other allegations about Ucci are described in paragraph 89. In another case, *Montalvo v. City of Newark*, No. 06-cv-1505, a sworn Rule 56.1 statement alleges that Ucci “threatened . . . Police Officer Alice Wilkins with his service weapon and there was not even an investigation.”

began stalking Ms. Robinson at a franchise business she owned. Later that year, another detective, Sgt. Dennis Sanders⁶⁷ called the franchisor's headquarters in an unwarranted attempt to insinuate there was something amiss with her business. According to Robinson, "[o]ther officers who operated outside businesses were not investigated in this manner." She was also assigned dangerous and unfavorable patrol duties and subjected to other forms of harassment. Robinson sued the City, along with Sanders, Bradley, and Anthony Ambrose in June 2006. In March 2009, the case settled with her receiving a payment of \$350,000.00.

88. Discrimination and Harassment/Settlement/January 2009/\$195,000.

Newark police officers Jacob Hernandez, Anthony Wade and Juan Ramos were targeted for an "Integrity Test" by the NPD Internal Affairs unit on January 28, 2005. Though the officers had done nothing wrong, the "Integrity Test" degenerated into an abusive, harassing, and discriminatory interrogation of the three officers. Kurt Ebler,⁶⁸ the captain in charge began yelling and conducted an illegal search and seizure of one of the officer's bags. Other Internal Affairs officers, Darrin Maresca,⁶⁹ Derrick White and Dennis Sanders⁷⁰ later arrived, and ordered the officers into an unmarked patrol car as if they were common criminals about to be charged with a crime. Later, White and Maresca transferred the targeted officers to another police station to be interrogated through tormenting and bullying by Sanders, Lieutenant Umar Abdul Hakeem and Sergeant William Thomas. Throughout this, the targeted officers requested, but were denied,

⁶⁷ Sanders played a role in another incident of misconduct, described in paragraph 88.

⁶⁸ Ebler was one of the officers involved in the retaliatory campaign against officer Louis Wohltman for his exercise of First Amendment rights. Wohltman's case is discussed at paragraph 85.

⁶⁹ See paragraph 107 regarding another allegation of misconduct by Maresca.

⁷⁰ See paragraph 87 regarding another settled case involving Sanders.

access to a union representative. The three officers filed suit in August 2005, and the case was then removed to the district court (No. 05-cv-5153). In or about January 2009, the case was settled at a \$195,000.00 expense to taxpayers.

89. **Discrimination, Retaliation and Assault/Settlement/November 2008/\$65,000.** While on patrol on June 29, 2004, Newark police officer Joyia Miles was alerted to a domestic violence incident/fight at a bar, involving Newark police sergeant Darnell Henry. When she responded, Henry assaulted her, causing various injuries and permanent scarring. There was “initial discussion” of an Internal Affairs investigation, but it came to nothing, as Ms. Miles was neither interviewed nor contacted as part of the investigation. Less than three weeks later, her superior, Lieutenant Vincent Ucci,⁷¹ began a retaliatory campaign against Ms. Miles over the incident, taunting and denigrating her, and subjecting her to a severe and discriminatory work environment. Her lawsuit against the NPD (No. ESX-L-1679-06; 06-cv-1587 after removal) states that she, like other African-American police officers, suffered retaliation for standing up for her rights, and states that the NPD’s equal employment opportunity employment policy is mere “window dressing.” Her case was settled in or about November 2008, with taxpayers paying her \$65,000.00.

90. **Harassment and LGBT discrimination/Settlement/November 2008/\$135,000.** Plaintiff Christine Locke, an NPD officer, was injured while on duty in a car accident. After she returned to duty, an NPD captain, Richard Cuccolo, engaged in a campaign of repeated harassment, including suggestions that she was malingering and ultimately calling her a “f—king dyke” in a November 2004 incident. Other retaliation,

⁷¹ Ucci retired from the NPD on “accidental disability” as of August 1, 2008. Other allegations of misconduct involving him are described in paragraph 86.

including the filing of frivolous disciplinary charges against her then ensued through at least 2006. Ms. Locke filed suit in March 2008 (No. ESX-L-2759-06), and in or about November 2008, she settled her lawsuit for \$135,000.00. Cuccolo, as of January 2010, remained the head of the Newark Police Academy.

91. **Retaliation/Settlement/July 2008/\$220,000+.** In July 2008, the City of Newark paid \$220,000.00 to police officer Kenneth Rankin, who alleges in an administrative case (No. CSV 07899-07) that he was wrongfully removed from the NPD, twice – once in 2001, allegedly due to political retaliation, and again in 2006, due to his involvement in a prescription drug scam.⁷² News accounts state that Rankin, whose father was a former police director in Newark, had joined the force in 1995, and had been “harassed and mistreated by superiors and political enemies of his father, who himself had been fired by former mayor Sharpe James.”⁷³ This campaign of harassment ended with his firing in 2001, which he appealed. While the appeal was pending, Rankin was arrested and put into a pretrial intervention program (PTI) for his alleged involvement in a prescription drug scam in another county. When he completed the PTI, he joined a police academy class, but was fired again, this time by the current police director. He then sued before the state Office of Administrative Law. In June 2008, Rankin and the City reached a settlement that awarded him \$139,000.00 plus a retroactive salary increase, and an additional \$81,000.00 for his attorneys’ fees.

92. **Retaliation/Settlement/July 2008/\$210,000+.** Anthony Buono, as of 2002, was a lieutenant in the NPD. Buono supported Cory Booker in the 2002 mayoral

⁷² Chanta L. Jackson, *Newark will pay \$220,000, rehire cop*, STAR-LEDGER (Jul. 8, 2009), http://www.nj.com/newark/index.ssf/2008/07/newark_will_pay_220000_rehire.html.

⁷³ The elder Mr. Rankin received \$400,000 in settlement of his own claims against the City for retaliation.

election. After the incumbent mayor, Sharpe James, defeated Booker, Buono's complaint alleges that James "openly and vehemently expressed his intention to retaliate against City workers if they politically supported Cory Booker" and that city officials created a "list" of individuals who were purportedly politically affiliated with Cory Booker." True to their stated intentions, various city officials, including police officials, retaliated against Buono. Less than a month after the election, he was transferred to undesirable work assignments, namely, a "punishment detail" working at the city jail. Then, between May 2004 and July 2004, Buono was given a series of "Warning Notices" which made false allegations of misconduct by Buono. After the series of Warning Notices, several notices of disciplinary action followed between July 2004 and November 2004, and Buono's attempts to resolve the matter through internal channels went unheeded. Eventually, in November 2005, Buono was demoted to sergeant on the basis of a meritless disciplinary charge. In June 2006, Buono filed a state lawsuit which was then removed to federal court (No. 06-cv-3414), naming the City and Anthony Ambrose, who had served as police chief or police director during the relevant times. According to a federal judge's order and city council records, the case was resolved in July 2008, with the settlement including (a) a payment to Buono "not to exceed" \$210,000; (b) the reinstatement of Buono to Senior Lieutenant, Step 4; and (c) the immediate promotion of Buono to Captain, Step 3.

93. As with the citizens' complaints, the Petitioners are not aware of any evidence that any officer involved in any of the foregoing cases were disciplined, or that their discipline was disclosed to the public at large or to the Newark police force, or that they made any individual contributions to the foregoing settlements. Thus, as with the

citizens' lawsuits, even assuming that any of the foregoing officers were disciplined or directly or indirectly contributed to these monetary settlements, such facts have not been publicly disclosed. This undermines the goal of general deterrence that can be obtained from a justice system including a police discipline system, namely, the disclosure of punishment to deter others from engaging in misconduct, along with public acknowledgement that a violator has transgressed defined norms of conduct.

VII. PENDING CIVIL LITIGATION AGAINST THE NPD

94. Even without considering the settled cases, the fact that litigants are frequently asserting claims against a police department can signal the need for reform. From a review of public files, Petitioner has ascertained that the following 37 suits (30 by citizens and 7 by employees) were brought against the City of Newark within the Study Period and remain pending. These include claims of misconduct against citizens (e.g., excessive use of force, false arrest, negligence relating to persons in custody, and the like) or mistreatment of its own employees (e.g., discrimination, retaliation, etc.). An additional 12 cases brought within the Study Period were also settled within that time, and were discussed in the previous section. The cases presented in this section contain allegations which have not been proven or disproven in court.

A. Pending Cases Involving Citizen Complaints of NPD Brutality, False Arrests, or Other Misconduct

95. The pending citizen cases discussed here are presented in reverse chronological order of the date of filing. The facts as presented here are a report of the facts that have been pleaded in court filings, and except where noted, have not been independently verified by the Petitioner.

CLAIMS MADE IN PENDING CITIZENS' LAWSUITS AGAINST NPD JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF PENDING CASES
Excessive Force	13
False Arrest	13
Malicious Prosecution	5
Negligence	4
Internal Affairs improprieties	4
Discrimination	2
Death in Custody	1
Unlawful Search	1
Planting Evidence	1
Mistreatment of Journalist	1
Other/Unknown	8
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)	30

TABLE 7 **Claims made in pending citizens' lawsuits against NPD filed January 1, 2008-July 1, 2010**

96. **Planting Evidence/Litigation Filed/March 2010.** Luis Velasco, in a state lawsuit (No. ESX-L-2561-10) claims that during a motor vehicle stop on October 4, 2008 in the 5th Precinct, officer Gregory Hamilton planted drugs (crack cocaine) and drug paraphernalia on him, while his partner officer Beverly Gravely, looked on and failed to stop Hamilton's actions. His lawsuit, which also names the 5th Precinct commander, Felipe Gonzalez,⁷⁴ remains pending. The case has also received media attention. *See N.J. corrections officer sues Newark police for alleged framing, false arrest*, STAR-LEDGER (Jul. 9, 2010).

97. **LGBT Discrimination, Malicious Prosecution and Internal Affairs/Litigation Filed/February 2010.** Diana Taylor, in a state lawsuit (No. ESX-L-1465-10)

⁷⁴ See also paragraphs 59 and 98 regarding other litigation involving Capt. Gonzalez.

claims that on March 23, 2009, she was falsely stopped by two NPD officers, G. Maiorano and C. Nunez, and harassed based on her gender expression. Ms. Taylor, who is transgendered, was called a “chick with a dick” and a “faggot.” When the officers refused her request to stop harassing her, they arrested her and transported her to Newark’s 2nd Precinct, where she was further tormented by other officers. When Taylor stated she was going to report the officers to internal affairs, they re-cuffed her, placed her in a police car, and drove her to her house, and threatened to have local gang members retaliate against Taylor if she went through with the complaint. During a later attempt to file an IA complaint against the officers, a Lt. Carrillo⁷⁵ first tried to dissuade her from filing a complaint and when she appeared at the station, refused to accept her complaint. A full month after the incident, Taylor was formally charged with three offenses, but the charges that led to Taylor’s arrest were dismissed when the officers failed to appear in court.⁷⁶

98. **Negligence/Litigation filed/January 2010.** Darren Billings, in a state lawsuit (No. ESX-L-466-10) claims that on or about September 23, 2008, a Newark police captain, Felipe Gonzalez,⁷⁷ negligently injured him in a motor vehicle accident near Nye & Bergen Aves.

⁷⁵ There are three individuals with the surname of Carrillo in the employ of the NPD (Leonardo, Manuel and Miguel). It is not clear which of these individuals interacted with Ms. Taylor, nor is it clear whether he was the same Lieutenant Carrillo (pleaded as “Carrillo”) mentioned in the misconduct described in Paragraph 116.

⁷⁶ In addition, on the issue of mistreatment of LGBT persons by the NPD, *see generally* Andrew Jacobs, *In a Progressive State, a City Where Gay Life Hangs by a Thread*, N.Y. TIMES (Dec. 2, 2007) (stating that LGBT persons face “sometimes callous treatment by the police” including being “ridiculed and intimidated by the police”). The article details a 2007 incident involving a bias incident and homophobic slurs by NPD officer Vincent Cordi.

⁷⁷ *See also* paragraphs 59 and 96, regarding other litigation involving Gonzalez.

99. **False Arrest and Negligence/Litigation Filed/December 2009.** Ronald Ragin, in a state lawsuit (No. ESX-L-42-10) claims that on December 27, 2007, he was arrested as a result of a bench warrant issued for his son, Ronald McLean. After being wrongfully arrested, Mr. Ragin was detained at the municipal jail, and while there, another prisoner who had been negligently searched, began smoking crack with a crack pipe, and then attacked Mr. Ragin with the crack pipe, Mr. Ragin lost one eye, and incurred medical bills of over \$68,000 in the process. His complaint says that police officers FNU Herran # 9388⁷⁸ and FNU Muhammad⁷⁹ were the officers on duty at the jail responsible for the negligent search. Adding insult to injury, the police also charged him with simple assault for the incident, which delayed his medical treatment. For further details, *see also* Notice of Tort Claim of Cynthia Ragin filed April 1, 2008.

100. **False Arrest and Malicious Prosecution/Litigation filed/October 2009.** Qandeel Nixon was unlawfully stopped by the NPD at **REDACTED** on October 29, 2007, and later arrested and charged with attempted murder and other crimes. During the interrogation, Mr. Nixon asked for an attorney, but the aggressive interrogation continued for at least another 30 minutes. He remained incarcerated for 20 days until he was released, but it was not until 11 months later that the charges were dropped. His lawsuit for malicious prosecution and other violations (No. ESX-L-8786-09; 10-cv-188 following removal) remains pending.

101. **Excessive Force, Malicious Prosecution/Litigation filed/October 2009.** In June 2008, two youths were playing with a water gun near **REDACTED**. A

⁷⁸ Other sources indicate an Alonzo Herran is employed by the NPD with approximately 12 years' service.

⁷⁹ Three persons with a surname of Muhammad are employed by the NPD, Harold Muhammad, Murad Muhammad, and Toye Muhammad. Petitioner was unable to ascertain which one of them is targeted in Mr. Ragin's suit.

pickup truck driven by NPD officer Alan Knight approached them, asking if they had sprayed a man down the street with their water gun. The boys replied they had not, and entered the gate at the home of plaintiff Jose Quinonez. Knight, wearing plain clothes and not showing his police badge, followed them through the gate. Mr. Quinonez asked what was going on and ultimately asked Knight to leave his property. In response, Knight ran up the stairs, grabbed Mr. Quinonez and threw him down the stairs, and struck him in the head with his firearm. After cuffing him, Knight continued his violent assault for several minutes, punching him, kicking him, and shoving his head and face into the ground. Following the unprovoked assault, Knight charged Mr. Quinonez with aggravated assault on a police officer, and was detained for almost two weeks at the Essex County Juvenile Detention Center. Mr. Quinonez alleges in his federal complaint (No. 09-cv-4801) that the City of Newark knew that Knight posed a substantial risk to the citizens of Newark, given his record of 62 internal affairs investigations during his career, including 26 allegations by citizens of conduct, excessive force, or improper arrest, and did nothing about it. His case remains pending.⁸⁰

102. False Arrest and Malicious Prosecution/Litigation filed/October 2009.

In a state lawsuit, since removed to federal court (No. ESX-L-8764-09 / following removal 10-cv-186), Sharonda Goodloe alleges she was falsely stopped, arrested, and subjected to illegal procedures to force her to make a false confession of crimes. The charges against her were eventually dropped. She names officer Ray Arocha as one of the officers involved. The suit remains pending.

⁸⁰ See also paragraph 68 regarding another lawsuit against Knight.

103. **False Arrest, Mistreatment of Journalist and Extortion/Litigation filed/October 2009.** On October 26, 2008, journalist James Quodomine was filming a demonstration on Springfield Avenue in Newark. A city special police officer, Brian Sharif, ordered him to put the camera away, and when Mr. Quodomine declined, he forcibly arrested him, saying “I hate the press . . . I can do whatever I want.” As the trial date for the disorderly persons charge approached, an attorney from the Newark corporation counsel’s office made an improper offer to dismiss the criminal charge against Mr. Quodomine in exchange for a release from civil liability. Mr. Quodomine declined the offer, and the Essex Prosecutor eventually dismissed the criminal charge against him. Mr. Quodomine has a federal lawsuit (No. 09-3596) pending against Newark. In one of the rare instances where police executives disclosed disciplinary action against an officer, press reports indicate the officer was suspended.⁸¹ However, no additional details are known about what discipline, if any, was imposed on Sharif. Video of news coverage of the incident is available at <http://www.youtube.com/watch?v=CTAAZBT0rBU>.

104. **False Arrest, Assault, and Malicious Prosecution/October 2009.** In May 2007, Newark police raided Peter LaBrada’s home, seeking to arrest him on a charge of murder. In the course of arresting him, they repeatedly assaulted him. He remained in jail for three days until bail was posted. Despite a lack of physical evidence, conflicting eyewitness evidence, and credible alibi evidence, the police pressed Mr. LaBrada’s prosecution until March 21, 2009, when the Essex County Prosecutor

⁸¹ See Carly Rothman, *Newark suspends special police officer after arrest of TV cameraman*, STAR-LEDGER (Oct. 27, 2008), http://www.nj.com/news/index.ssf/2008/10/newark_special_police_officer.html.

dismissed the case against him.⁸² Mr. LaBrada has filed a lawsuit (No. ESX-L-7291-09; prior to venue transfer No. MON-L-2569-09) over his mistreatment.

105. **Excessive Force/Litigation Filed/September 2009.** On September 6, 2007, Trace Morris was approached by five police officers at **REDACTED** Newark. At least one of the officers, Jeffrey Bouie, assaulted Morris “by punching him into a state of unconsciousness, which beating resulted in severe and permanent debilitating spinal [cord] injuries and paralysis.” Taken to the Newark city jail, Mr. Morris’ medical needs were ignored, and he lay on his stomach for three days while he defecated and urinated on himself. Eventually he was taken to the hospital, and while there, “the arresting officers [were] rejoicing and laughing about plaintiff’s injury stating ‘we f_ _ _ him up.’”⁸³ Mr. Morris’ federal lawsuit (No. 09-cv-4561) remains pending.

106. **Harassment and False Arrest/Litigation Filed/September 2009.** George Tillery alleges that on March 9, 2007, several police officers illegally entered his business, stole cash and cigarettes, and harassed his customers. They also filed criminal charges against him that were ultimately dismissed.⁸⁴ NPD officers continue to harass his customers and target him for unwarranted inspections because he had previously brought complaints to the NPD internal affairs unit. His federal lawsuit (No. 09-cv-4696) remains pending.

⁸² See John Martin, *Essex prosecutor ends case against Monmouth man accused in Newark killing*, STAR-LEDGER (Mar. 25, 2009), http://www.nj.com/news/index.ssf/2009/03/essex_prosecutor_drops_charges.html and John Martin, *Newark homicide case evokes shadows of doubt*, STAR-LEDGER (Oct. 4, 2008), http://www.nj.com/news/index.ssf/2008/10/newark_homicide_case_evokes_sh.html.

⁸³ For another case involving Bouie’s misconduct earlier that year, see paragraph 115. Bouie is also named in a tort claim notice described in paragraph 196.

⁸⁴ Several individual officers and two private entities are named in the Complaint, but it is not clear what role each defendant played; accordingly, a more detailed description is omitted.

107. **False Arrest, Excessive Force Against Juvenile, and Internal Affairs /Litigation Filed/July 2009.** On July 17, 2007, **REDACTED**, a juvenile, was approached by NPD officers Antonio Tavares and Anthony Matos. They ordered him to admit involvement in a crime; when he refused, they threatened to throw him over a bridge. Told by a supervisor to take **REDACTED** home, they instead took him to a secluded location, beat him, urinated on him, and left him there. When **REDACTED** complained to internal affairs, he produced the T-shirt he was wearing during the incident to an internal affairs lieutenant, Darrin Marasco.⁸⁵ The NPD claimed it found no evidence of urine on the shirt, but then claimed to have lost it when **REDACTED** requested it be returned to his attorney. **REDACTED**' lawsuit also names Adolph Vasquez as a defendant because he was the supervisor of Tavares and Matos. His federal lawsuit (09-cv-3449) remains pending; *see also* Newark Tort Claim No. CO900407 filed Sept. 12, 2007.

108. **False Arrest and Excessive Force/Litigation Filed/April 2009.** On April 20, 2007, **REDACTED**, a minor, was violently arrested by NPD officers near Graymond High School in Newark. The arrest was based on a false and mistaken belief that he was in a gang and was therefore involved in a car theft. He was kept on "house arrest" for 2 ½ months, until the police caught the actual car thief. Mr. Harrison's lawsuit against the NPD (No. 09-cv-1849) remains pending.

109. **Excessive force and Internal Affairs/Litigation Filed/April 2009.** On June 14, 2008, a Pop Warner football coach, Kelvin James, was driving a car with two of his teenage players, Tony Ivey and Faheem Loyal, at 18th Street and Clinton Avenue,

⁸⁵ See paragraph 88 regarding allegations made in a settled lawsuit against this officer.

Newark. A car filled with five plainclothes detectives, Norberto Sanchez,⁸⁶ Maik Alexandre,⁸⁷ Josue Martinez,⁸⁸ Rod Simpkins and William Richardson, suddenly stopped them, approached them with guns drawn, pulled them out of the car, and began verbally abusing them, telling them “you have no f*** rights . . . we’re the cops, we do whatever we f*** want.” They then conducted a nonconsensual car search, finding only football equipment. An internal affairs investigation into this misconduct was mishandled by being referred back to the gang unit” on the grounds that it involved “three black males,” rather than being investigated by IA personnel. A lawsuit on behalf of the coach and players (No. ESX-L-3458-09) remains pending.⁸⁹

110. Excessive Force and Unlawful Search/Litigation Filed/February 2009.

Claiming they were responding to a “domestic violence complaint,” a full complement of five NPD officers (Detectives Richard Weber #9088,⁹⁰ Gialanella #7970,⁹¹ Turzani #7278,⁹² Sanchez #8014⁹³ and Patela #7998⁹⁴) appeared at the door of **REDACTED** in Newark on May 6, 2007, and aggressively forced themselves into the premises. Seeing that no domestic violence had occurred, they nevertheless conducted a warrantless search

⁸⁶ Sanchez is reportedly under investigation by the prosecutor for other misconduct. *See* paragraph 208.

⁸⁷ Alexandre filed 18 Use of Force reports in the Petitioner’s database, the third highest amount in the entire NPD. For a more detailed description of the UFR database, *see* footnote 37. In addition, *see* paragraph 156 for other allegations against Alexandre.

⁸⁸ A tort claim alleging other misconduct by Martinez is described in paragraph 156.

⁸⁹ Petitioner is counsel to the plaintiffs in this lawsuit.

⁹⁰ For another lawsuit naming Weber as a defendant, *see* paragraph 118.

⁹¹ For other issues involving Gialanella, *see* paragraph 214 and accompanying footnote.

⁹² Other citizens have made allegations against Turzani for other incidents, as described in paragraphs 118, 160, and 162.

⁹³ *See also* paragraph 152 for other allegations about Sanchez’s conduct.

⁹⁴ Other databases show that Badge #7998 is assigned to Officer Victor Patela. In 2007, Patela was named as a defendant in another lawsuit (*Feggans v. Newark*, No. ESX-L-9787-07) where he was accused of being involved in a January 2005 beating that led to the death of a suspect in custody. For other incidents involving Victor Patela, *see* paragraphs 118 and 185.

of the house without the consent of the occupant, as well as a search of the vehicle of plaintiff Shantel Wade. The search of the house revealed “contraband” for which Ms. Wade was criminally charged, although the charges against her were later dismissed. Her federal lawsuit (No. 09-cv-544) remains pending.

111. **Excessive Force/Litigation filed/February 2009.** Ibrahim M. Ibrahim claims, in a state lawsuit (No. ESX-L-3740-09), that he was assaulted, verbally abused, and terrorized, by one or more NPD officers in an incident that occurred on August 11, 2007.

112. **False Arrest/Litigation Filed/January 2009.** 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.

113. **Excessive Force/Litigation Filed/October 2008.** Plaintiff Rudy Kinchen claims in a pending lawsuit (No. ESX-L-8034-08) that on October 5, 2006, at REDACTED [REDACTED], Officer Michael Ramirez, Badge No. 9034, and other unknown officers, accused Mr. Kinchen of drinking in public and, “at gunpoint,” “ordered [him] on his knees against the gate of his residence” then “struck . . . numerous blows to [Kinchen’s] head, grabbed his head and ear [and] snapped his head,” causing “head, eye and neck” injury. Mr. Kinchen also accuses Ramirez of pouring beer in his face. Mr. Kinchen, who was unarmed during the incident, alleges this was because he was of African-American descent.

114. **Negligence/Litigation Filed/October 2008.** Plaintiff Nereida Perez claims in a lawsuit (No. ESX-L-8388-08) that on July 25, 2007, Officer Manuel Sauto, Jr.

“drove down South 19th Street in the wrong direction without the aid of lights or sirens. As he drove down the street,” he struck Ms. Perez’s car as she was lawfully pulling out of her driveway. The violent collision resulted in most of Ms. Perez’s teeth being “knocked out of her mouth” and she suffered other permanent back, chest, and knee injuries. Her case remains pending.

115. Excessive Force and False Arrest/Litigation Filed/September 2008.

Plaintiff Johan DeCosta was lawfully walking on **REDACTED** in Newark on March 8, 2007, when several police officers including J. Bouie⁹⁵ jumped out of an unmarked police car and chased him. After catching him, they beat him and unlawfully arrested him, and after taking him to the police station, failed to render the necessary medical assistance. His federal lawsuit (No. 08-cv-4417) remains pending.

116. Excessive Force and False Arrest /Litigation Filed/ September 2008.

Plaintiff Felix Rosario’s girlfriend’s mother was dating an NPD lieutenant, Manny Carillo.⁹⁶ On September 9, 2006, Rosario and his girlfriend got into a verbal argument and he damaged her mother’s car. When Lt. Carillo learned of this, he “went into a rage.” Carillo then organized a posse consisting of him and officers Robert Leonard, Wayne Pugh,⁹⁷ Jose Ferriera and J. Burgos, who forcefully entered Mr. Rosario’s house, beat him, and sprayed a chemical spray in his eyes.⁹⁸ When Mr. Rosario was taken to the

⁹⁵ Other sources show a Jeffrey Bouie in the employ of the NPD since 1995. Bouie stands accused, in another civil lawsuit, of savagely beating another citizen later that year. *See* paragraph 105. In addition, *see* paragraph 196 regarding another allegation of misconduct by Bouie.

⁹⁶ The lawsuit spells the officer’s name as “Carillo.” However, records show a “Manuel Carrillo” in the employ of the NPD.

⁹⁷ For claims of another act of misconduct by Wayne Pugh, *see* paragraph 200.

⁹⁸ A Newark police executive has represented to the ACLU that the NPD “doesn’t issue chemical spray” to its officers. Email of Stephen McAllister to Flavio Komuves, Mon 4/26/2010 12:04 PM. Accordingly, it is not clear where the unknown officer obtained the chemical spray described in this litigation.

hospital, another officer beat him again. Then, the officers filed assault charges against him, and waited five days before taking Mr. Rosario before a judge. Mr. Rosario's lawsuit (No. 08-cv-4495) remains pending.

117. **Excessive Force, Internal Affairs and Retaliation/Litigation Filed/September 2008.** On September 18, 2006, plaintiff Shannon Taylor was stopped and arrested on an outstanding warrant. After the arrest, he was held in the back of a police car for several hours and ultimately transported to the city jail. There, he asked to see a police supervisor to complain about his mistreatment. This led to him being beaten by officers Vernon Parker,⁹⁹ Kyle Bowman, and Mary Louise Bailey. Taylor's lawsuit against the city (No. 08-cv-4651) was filed September 17, 2008 and remains pending. In addition, Parker, Bowman, and Bailey were indicted for official misconduct in connection with this incident (*see* paragraph 145).

118. **Corruption and Theft/Litigation Filed/September 2008.** In a lawsuit (No. ESX-L-7960-08), plaintiff Karen Clinton claims that seven police officers removed a fire safe from her home, believing it contained drugs. The safe actually contained \$32,000.00 in cash belonging to plaintiff, her children and grandchildren, and the police only accounted for \$1,500.00, having stolen the rest. Clinton's suit names Lt. William

⁹⁹ Detective Parker was himself arrested in March 2008 on criminal charges of sexual assault. *See* paragraph 145. Parker himself filed a Notice of Tort Claim against Newark on or about July 23, 2008, where he claims that on or about April 23, he was wrongfully suspended from duty while the criminal charges were pending.

Mehalaris #7131¹⁰⁰ and Officers Patela #7998¹⁰¹, McCoy #7967, Weber #9088, Turzani #7278,¹⁰² Rivera #6965, and Figueroa #7708 as responsible for the misconduct.

119. **Death in Custody/Litigation Filed/July 2008.** On July 30, 2006, Chakhan Nance was shot and killed by officers Jose Dopazo and Samad Washington.¹⁰³ Prior to that, he was either handcuffed or subdued. The case (No. ESX-L-6062-08) was dismissed for procedural grounds in May 2009 without an adjudication on the merits.

120. **Excessive Force and LGBT discrimination/Litigation Filed/June 2008.** During a Portuguese Festival in Newark, on June 11, 2006, plaintiff Rogelio Caraballo, Jr. was assaulted, kidnapped, beaten, and abused by NPD officers Antonio Cruz and Rafael Cabrera. Also present at the scene and failing to intervene were Det. James Cullen and Lt. John Evangelista. Caraballo states that sexual orientation discrimination was one of the motives for his beating. His case (No. ESX-L-4429-08 and 08-cv-3381 following removal) remains pending.

121. **False Arrest/Litigation Filed/April 2008.** In a federal lawsuit (No. 08-cv-1948), William Thompson claims that on May 29 - May 30, 2007, he was falsely arrested, wrongfully detained, and subjected to verbal abuse at police headquarters.

¹⁰⁰ Mehalaris was recently suspended for one day for unknown reasons which may or may not be related to this litigation. *See* http://www.newarksoa.org/SOA/Announcements_files/March%202010%20Complete.pdf, p. 5.

¹⁰¹ For other incidents involving Victor Patela, *see* paragraphs 110 and 185.

¹⁰² Although this officer's first name is not stated in the complaint, other sources indicate that the NPD has employed a Philip Turzani since 1994. Other citizens have made allegations against Turzani for other incidents, as described in paragraphs 111, 160, and 162.

¹⁰³ Samad Washington has an extensive disciplinary history with the NPD. In 2003, Washington was suspended for 60 days for insubordination, violations of subpoena rules, and conduct unbecoming in connection with an angry dispute with a fellow officer in the Essex County Courthouse. *See* Dkt. No. CSV01323-01 (OAL Nov. 18, 2003) and Merit System Board Minutes, Feb. 24, 2004, No. B-28. The judge made public all of Washington's prior disciplinary history, including a 2-day suspension in 1993 for a false statement; a 3-day suspension in 1992 for disobeying orders; a 1994 incident involving a subpoena; a 2-day suspension in 1992 for disobeying orders; a 5-day suspension in 1999 for insubordination; and an 80-day suspension in 2000 for insubordination. *See id.*

122. **Negligence/Litigation Filed/April 2008.** In a lawsuit filed in state court on April 2, 2008 (No. ESX-L-2775-08), Paolo Branco claims that a Newark motorcycle officer, Benito Torres, drove the bike carelessly and collided with Branco's motorcycle on Interstate 78 in Newark.

123. **Excessive Force/Litigation Filed/February 2008.** Kassim Copeland, in a state lawsuit (No. ESX L-1543-08) claims that on May 18, 2005, while driving on Route 78, he was pulled over by NPD Officers Walter Melvin #6425 and Kevin Wright #7237, and while exiting the vehicle he was shot twice in the back by the officers without provocation or cause. Further, Mr. Copeland claims that Officers Melvin and Wright falsified the police reports and charges filed against him. The charges and complaints against Mr. Copeland were ultimately dismissed.

124. **False Arrest/Litigation Filed/January 2008.** McKinley Burks claims, in a state lawsuit (No. ESX-L-361-08), that Newark police officer Anderson C. Walker¹⁰⁴ falsely arrested him on February 2, 2006 at the Mount Vernon School in Newark. The suit remains pending.

125. **Sexual Assault and Failure to Supervise/Litigation Filed/January 2008.** In a lawsuit filed in January 2008 (No. ESX-L-389-08), plaintiff Quheisha Mitchell claims that she was sexually assaulted by a Newark police captain, Ralph Boswell, in his patrol car in the West Ward of Newark on February 2, 2006. Mitchell claims that the City knew of Boswell's "vicious and immoral and unlawful tendencies" and was indifferent to

¹⁰⁴ In 2001, Walker was given a 25-day suspension for "language, conduct in public and private, derogatory reference, public disparagement, and addressing the public" for an incident that occurred in July 1997. See <http://www.state.nj.us/csc/msb/01/011218m.htm>. Prior to that, he received a ten-day suspension for violating rules "governing conduct of police officers in public and private and the use of indecent language" for a 1995 incident. He also had four other prior suspensions. See *Walker v. Newark Police Dept.*, No. CSV7655-99, http://lawlibrary.rutgers.edu/oal/html/initial/csv7655-99_1.html. Finally, Walker is also the subject of another complaint discussed at paragraph 181.

them by promoting him and letting him remain on duty. According to other sources, Boswell, at the time of the attack on Mitchell, was awaiting trial on criminal charges that he had groped an officer under his supervision.

126. **Except where noted, there is absolutely no evidence that any officers named in any of these lawsuits were disciplined or sanctioned in any way for these incidents.**

B. Pending Cases Involving Employee Complaints of Discrimination, Employment or Labor Relations Issues

127. In this section, Petitioner describes the seven pending lawsuits known to it where employees of the NPD have lawsuits against it alleging employment discrimination or other types of employee or labor issues.

128. As with the prior section, the pending employee cases discussed here are presented in reverse chronological order of the date of filing. The facts as presented here are a report of the facts that have been pleaded in court filings, and except where noted, have not been independently verified by the Petitioner.

CLAIMS MADE IN PENDING EMPLOYEES' LAWSUITS AGAINST NPD JANUARY 1, 2008-JULY 1, 2010	
	NUMBER OF PENDING CASES
Discrimination	4
Retaliation	1
Favoritism	1
Other	3
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)	7

TABLE 8 **Claims made in pending employees' lawsuits against NPD filed January 1, 2008-July 1, 2010. This data does not include the pending cases described in paragraph 81 and footnote 64.**

129. **Racial Discrimination/Litigation Filed/Jan. 2010.** In or about early 2010, the DOJ Civil Rights Division filed suit against the State of New Jersey accusing it of using a racially- and ethnically- discriminatory civil service test for promotions to police sergeant. Newark is one of the users of this discriminatory test, and thus has participated in this discrimination.¹⁰⁵

130. **Discrimination and Favoritism/Litigation Filed/January 2010.** NPD captain Glenn Camuso claims in a state lawsuit (No. ESX-L-767-10) that he was denied a promotion to deputy chief out of personal bias and animosity, including his support for a political opponent of the incumbent mayor, and due to reverse race discrimination.

131. **Disability discrimination/Litigation Filed/November 2009.** Former police sergeant Thomas Cinque alleges that he was wrongfully terminated from the NPD in May 2008. His lawsuit was first filed in state court (No. ESX-L-9840-09) and later removed to federal court (No. 10-cv-225).

132. **Racial and gender discrimination/Litigation filed/March 2009.** Sharon Davis, a former NPD officer, filed a federal lawsuit (No. 09-cv-1032) against the City and several commanders alleging that the City of Newark engaged in racial and/or gender discrimination against her, along with violations of her constitutional rights. The complaint details a variety of retaliatory actions taken against her, and details how the discipline imposed on her was disproportionate in light of punishments imposed on other officers engaged in misconduct.

133. **Mismanagement and corruption/Litigation filed/March 2009.** Officer Fernando Ramirez states in a lawsuit (No. ESX-L-1102-09 and 09-cv-1693 following

¹⁰⁵ See generally Chris Megerian, *Justice Department lawsuit accuses N.J. of discrimination in written police tests*, STAR-LEDGER (Jan. 7, 2010), http://www.nj.com/news/index.ssf/2010/01/departments_of_justice_lawsuit.html.

removal) that a citizen accused him of wrongdoing, for which he was acquitted in a departmental trial. Afterward, police executives illegally subjected him to four more departmental trials over the same false charges.

134. **Retaliation/Litigation filed/May 2008.** Karama Thomas was a Newark special police officer who heard a shooting on July 18, 2005. She gave chase and apprehended a suspect. The defense subpoenaed her to testify at trial, which she did. Since then, Thomas has been subjected to an intense campaign of retaliation, including disparate disciplinary actions imposed upon her, resulting in her termination from the NPD. Her federal lawsuit (No. 08-cv-2452) remains pending.

135. **Insubordination/Litigation Filed/Feb. 2008.** The union representing Newark's sergeants, lieutenants, and captains likewise engaged in open, insubordinate confrontation with the police director, asserting that the director, though the chief executive of the department, should not have access to key operational and crime-reporting data, and filed suit. *See* Superior Officers' Association-Newark Police Dept. v. City of Newark, No. ESX-L-0771-08). The union's position was ultimately overruled by the state attorney general's office.¹⁰⁶

VIII. CRIMINAL CHARGES AGAINST NPD OFFICERS

136. Within the Study Period, various NPD officers have been charged with criminal offenses. Those known to the Petitioner are listed below. They are presented here in reverse chronological order of the date of the indictment or complaint. The facts as presented here are a report of what has been printed in media accounts, and except where noted, have not been independently verified by the Petitioner.

¹⁰⁶ *See generally* AG: Newark police director entitled to crime data access, STAR-LEDGER (Feb. 5, 2008), http://www.nj.com/news/index.ssf/2008/02/_the_state_attorney_generals.html.

CRIMINAL CHARGES FILED AGAINST NPD OFFICERS JANUARY 1, 2008-JULY 1, 2010	
ACCUSATION	NUMBER OF OFFICERS INVOLVED
Official Misconduct	7
Aggravated Assault or Assault	4
Making False Statements	2
Kidnapping	1
Extortion	1
Obstruction of Justice	1
Sexual Assault	1
Other	3
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)	13

TABLE 9 Criminal charges against NPD officers, January 1, 2008-July 1, 2010

137. **Kidnapping/May 2010.** According to press reports, Michael Knight, a NPD officer who is a driver for Newark’s Public Safety Director, was arrested on May 7, 2010 for holding a hostage inside his home. This was an off-duty incident. Eight months before, Knight was also allegedly arrested on a domestic violence charge.¹⁰⁷

138. **Obstruction of justice/May 2010.** A federal indictment released May 11, 2010 (complaint no. 10-3528) alleges that NPD sergeant Michael Lalley committed obstruction of justice by encouraging a witness to lie to federal authorities about sexual activity between the witness and Lalley, which occurred while the witness was underage.¹⁰⁸ Lalley has not been suspended pending resolution of these charges, and has instead been allowed to continue to serve on the police force.¹⁰⁹

¹⁰⁷ See *Newark police veteran is accused of holding a hostage in Union Township home*, STAR-LEDGER (May 7, 2010), http://www.nj.com/news/index.ssf/2010/05/newark_police_veteran_is_arres.html.

¹⁰⁸ The indictment against Lalley revealed that at some point in or about 2009, a federal grand jury had been conducting investigations into allegations that certain NPD officers had been stealing money and

139. **Official Misconduct/April 2010.** A Newark police officer, Alan Marfia, was arrested on April 22, 2010 and charged with official misconduct. (Case No. 10001567). Marfia is accused of giving information about undercover and surveillance information to officials in a longshoreman's union who were involved in corruption on the New Jersey waterfront.¹¹⁰

140. **Assault, Making False Statements/March 2010.** On March 24, 2010, video cameras captured the police beating of **REDACTED**, a teenaged youth, at 55 Spruce St. The NPD officer involved, Angel Pared, was temporarily suspended and other officers on scene were transferred to administrative duty. Pared was later indicted for four counts, including aggravated assault and falsifying police reports about the incident.¹¹¹ (Case No. 10003149). Separately, **REDACTED** filed a Notice of Tort Claim stating his intent to sue the police and the individual officers involved. He states that the additional officers involved (none of whom have been charged criminally) are Franklin Murchison, Victor Garcia, and Anthony Rawa, Jr. Furthermore, despite his initial suspension, Pared was reinstated fewer than four months after the incident, but was placed on desk duty without a gun.¹¹²

drugs from narcotics dealers and their associates. *See* <http://www.justice.gov/usao/nj/press/press/files/pdf/Lalley,%20Michael%20Indictment.pdf>. The outcome of that investigation is unknown. Possibly related to this is the Newark Police Dept. Chief's Memorandum No. 2008-63, issued February 8, 2008.

¹⁰⁹ *See Newark detective accused of stealing drugs, paying minors for sex returns to work*, STAR-LEDGER (March 30, 2010), http://www.nj.com/news/index.ssf/2010/03/former_newark_detective_charge.html.

¹¹⁰ *See Chris Mergerian, Longshoremen's union top official is accused of extorting workers at N.J. ports*, STAR-LEDGER (Apr. 22, 2010), http://www.nj.com/news/index.ssf/2010/04/top_official_at_longshoremen_u.html.

¹¹¹ *See Alexi Friedman, Newark cop charged with beating teen*, STAR-LEDGER (May 4, 2010), <http://www.nj.com/news/jjournal/index.ssf/?base/xclude/1272954468301180.xml&coll=3>

¹¹² *See Alexi Friedman, Newark police detective pleads not guilty to assault on teen, falsifying reports*, STAR-LEDGER (June 7, 2010), http://www.nj.com/news/index.ssf/2010/06/newark_police_detective_pleads.html

141. **Conspiracy, Official Misconduct and Theft/December 2009.** An NPD officer, Lawrence Furlow, was charged with conspiracy, official misconduct and theft by taking cash from criminal suspects and planting evidence on them. The charges were filed in 2004, but the trial against Furlow did not occur until December 2009; it resulted in hung jury and the State indicated it plans to retry the case. Charges against the co-defendant, NPD officer Darius Smith, were not expected to be tried until some time in 2010. Both officers were said to have been under suspension since their arrests.¹¹³

142. **Extortion/November 2009.** The Essex County Prosecutor has confirmed that a Newark detective, Darryl Taylor, is under investigation for extortion after offering to pay a suspect's bail in exchange for cash.¹¹⁴ A separate tort claim filed by the victim's lawyer provides further detail and indicates that this arises from his arrest at Newark's 5th Precinct on September 5, 2009. He alleges that NPD officer Darryl Taylor, offered to post his bail in exchange for a cash payment. In addition, \$900 in cash from a paycheck was also stolen from the van where he was apprehended. In February 2010, the FBI took over the investigation of the case.¹¹⁵

143. **Official Misconduct and Making False Statements/Feb. 2009.** Two NPD detectives, Michael Walker¹¹⁶ and Manuel Cancel, were indicted for showing a suspect's photo to a witness individually rather than in a photo array, and then making false statements about it. This misconduct led to an innocent man being falsely arrested.

¹¹³ See Alexi Friedman, *Newark police officer accused of shaking down drug dealers faces retrial*, STAR-LEDGER (Jan. 14, 2010), http://www.nj.com/news/index.ssf/2010/01/newark_police_officer_accused.html

¹¹⁴ See Alexi Friedman, *Newark police detective is accused of extortion*, STAR-LEDGER (Nov. 12, 2009), http://www.nj.com/news/index.ssf/2009/11/newark_police_detective_accuse.html and Sarah Wallace, *Newark Police accused of extortion*, WABC News (Nov. 16, 2009), <http://abclocal.go.com/wabc/story?section=news/investigators&id=7113839>.

¹¹⁵ See *id.*

¹¹⁶ See paragraph 53 regarding a settled lawsuit regarding Michael Walker.

(Indictment No. 09-08-2191-I). Newark's IA unit initially suspended them after their indictment, and then reinstated them.¹¹⁷ In April 2010, their trial ended in a hung jury but no information was available about their retrial.

144. **Money laundering and Conspiracy/October 2008.** An NPD detective, Michelle Davis, was convicted in federal court of money laundering and conspiracy, by helping an admitted drug dealer hide the illegal proceeds of his criminal enterprise.¹¹⁸

145. **Aggravated assault and official misconduct/May 2008.** In May 2008, NPD officers Vernon Parker,¹¹⁹ Kyle Bowman and Mary Louise Bailey were indicted for official misconduct in connection with the beating of a citizen.¹²⁰ A trial had been scheduled for July 2010.

146. **Sexual assault/March 2008.** In March 2008, NPD detective Vernon Parker was charged with 8 counts of sexual assault on a teenager.¹²¹ A trial had been scheduled for July 2010.

IX. FILED TORT CLAIMS NOTICES ARISING FROM CONDUCT OF THE NPD

147. In this section, we review tort claim notices on file with the City of Newark. If a tort claim was filed with the City, and litigation subsequently ensued, the

¹¹⁷ See Alexi Friedman, *Trial set to begin for Newark police officers charged with misconduct*, STAR-LEDGER (Apr. 20, 2010), http://www.nj.com/news/index.ssf/2010/04/two_newark_officers_plead_not.html.

¹¹⁸ See Michael Rispoli, *Detective convicted of aiding drug ring*, STAR-LEDGER (Oct. 29, 2008), http://blog.nj.com/ledgerarchives/2008/10/detective_convicted_of_aiding.html.

¹¹⁹ Detective Parker was also arrested in March 2008 on criminal charges of official misconduct. See paragraph 146.

¹²⁰ See John Appezzato, *Three Newark cops indicted in beating of prisoner*, STAR-LEDGER (May 8, 2008), http://www.nj.com/news/index.ssf/2008/05/3_newark_cops_indicted_in_beat.html.

¹²¹ See Claire Heining, *Newark police detective charged in sex assault*, STAR-LEDGER (Mar. 2, 2008), http://www.nj.com/news/index.ssf/2008/03/a_decorated_newark_police_dete.html.

tort claim will not be discussed in this section; rather it will be discussed in the appropriate section of this Petition relating to settled cases and/or pending cases.

148. The facts as presented here are a report of what is on file with the City in the tort claims notice and except where noted, have not been independently verified by the Petitioner.

CLAIMS MADE IN NOTICE OF TORT CLAIMS FILED AGAINST NPD JANUARY 1, 2008-JULY 1, 2010	
CLAIM	NUMBER OF CLAIMS FILED
Excessive Force	24
False Arrest	24
Improper Conduct	10
Negligence	6
Unlawful Search	5
Death in Custody	3
Malicious Prosecution	2
Other/Unknown	5
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)	50

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, which are discussed elsewhere in the Petition.

149. **Improper Conduct / April 18, 2010.** Troy Sweatnam was a passenger in a vehicle involved in an accident with another vehicle at Van Buren Street and Clifford Street in the City of Newark. The other driver, Thomas Wheiley, was engaged in “careless and dangerous driving.” After the accident, the other driver said he was an undercover police officer and pulled his gun on Mr. Sweatnam.

150. **Improper Conduct, Negligence / March 18, 2010.** Al-Kabeer Clark was placed in the back of a police car driven by Victor E. Vazquez¹²² of the 5th Precinct, who thought he could get a better cell phone signal by engaging in reckless driving and making multiple U-turns. As a result of his driving, the police car collided with another vehicle and Mr. Clark sustained injuries to his head, back and the rest of his body.

151. **Seizure of Property / February 18, 2010.** Mr. Francis Marass, a retired federal law enforcement officer, attempted to enter Newark City Hall but was stopped when he set off the metal detector. Mr. Marass then remembered that he had his pocket knife on his person. An officer confiscated the knife and refused to return it. When Mr. Marass said he was hesitant to leave without his property, he was forcibly escorted to the street, searched and placed in a police car. Mr. Marass was informed that if he did not leave immediately he would be taken to jail. Mr. Marass left the scene.

152. **Excessive Force / February 7, 2010.** Hassan Q. Williams was “brutally assaulted” while in custody at the 4th Precinct by NPD officers I. Robinson (#7891) and Jenkins. Mr. Williams sustained head injuries and broken bones around his right eye, resulting in leaking of fluid and impaired vision.

153. **False Arrest / January 27, 2010.** Lynda A. Lloyd was wrongfully arrested on **REDACTED** while speaking with local residents by Detective Carlos Alvarado,¹²³ Detective David Nieves, Sergeant Anthony Venancio, Detective Eric

¹²² See also paragraph 175 regarding other allegations against Vazquez.

¹²³ There have been other allegations of misconduct by Carlos Alvarado. In a lawsuit filed November 25, 2005 (No. 05-cv-5536), Evans Fanor alleges that Alvarado repeatedly acted in an abusive and angry manner toward him while plaintiff tried to do his job as a patient advocate for University Hospital in Newark. The abuse culminated in Fanor’s arrest on May 8, 2004, and his detention for 2 days. When Fanor said he was going to file internal affairs charges against Alvarado, Alvarado belittled and cursed at him, and refused to provide him with IA contact information. Eventually, the grand jury refused to indict Fanor on the more serious charges, and the municipal court dismissed the remaining disorderly persons offense. Discovery revealed that Alvarado had at least three other internal affairs reports for excessive force dated

Manns, Detective Stefan Engers and Officer Guisulle. Ms. Lloyd was held overnight in the municipal jail.

154. Excessive Force, False Arrest, Improper Conduct / January 17, 2010.

Margret K. Barnes-Williams was sitting in her parked truck on **REDACTED**. Two police officers approached and asked for ID. The officers (one of them had badge #9780) asked Ms. Barnes-Williams to step out of the truck and then threw her into the vehicle frame. The officers then placed her in a police car and drove her to the 5th Precinct. She complained of pain in her arm and was ignored. At the Precinct, Ms. Barnes-Williams was patted down and made to remove her shirt exposing one of breasts in a public area with male officers present. After being placed in a cell, Ms. Barnes-Williams asked to use a restroom but was ignored. Eventually Ms. Barnes-William's husband arrived and paid bail. She was never told the reason for her arrest. As a result of this incident, Ms. Barnes-Williams sustained physical injuries to her right arm and emotional damages leading to nightmares and a fear of police.

155. Excessive Force / December 25, 2009. Nelson Villaronga was arrested, handcuffed and beaten by Newark Police officer Henry Watson and another unknown officer. Mr. Villaronga's jaw was fractured in three separate places as a result requiring surgery.

156. Excessive Force, False Arrest, Malicious Prosecution / October 31, 2009. Rasheed Suber was sitting in a parked vehicle on **REDACTED** in the City of Newark. Two plainclothes police officers approached the vehicle, failed to identify themselves, and drew weapons, causing Mr. Suber to flee in his vehicle. The police

June 17, 2000; December 20, 2001; and May 19, 2003. The wrongful arrest claims were tried to a jury, with Fanor acting *pro se*. The jury found in favor of the City. The case is now on appeal to the Third Circuit.

eventually stopped Mr. Suber, dragged him from his vehicle and assaulted him before arresting him. The officers filed false reports and caused false charges to be filed against Mr. Suber, resulting in his incarceration. Mr. Suber names Police Officer Josue Martinez, Maik Alexandre,¹²⁴ FNU Minatee, FNU Johnson, Michael Morgan, and Sgt. Joseph Cozentino¹²⁵ as being responsible.

157. **Excessive Force, False Arrest / October 20, 2009.** Monique A. Rodwell voluntarily appeared at the NPD to provide information on an incident that occurred in her house. While being interviewed, Detective Anthony J. Williams physically assaulted and falsely arrested Ms. Rodwell.

158. **Excessive Force, False Arrest, Improper Conduct / October 13, 2009.** Shana Goodman approached a police car in need of assistance at 15th Avenue and Bergen St. Officer Lenin Genao refused to help. When Ms. Goodman persisted, the officer got out of his car, hit Ms. Goodman, body slammed her to the road, placed his knee on her back, and handcuffed her. Ms. Goodman was detained from October 13 to October 16, 2009. As a result of this incident, she sustained injuries to her hip, eye and head and incurred medical expenses to treat her injuries.

159. **Improper Conduct, Unlawful Search and False Arrest / October 11, 2009.** Paul G. Bishop answered his door to find three unknown Newark Police officers outside his home at **REDACTED**. Mr. Bishop's phone rang and he asked the officers to wait one minute. When he left to answer the phone, the officers entered the property and began to search. When Mr. Bishop asked if they had a warrant, the lead

¹²⁴ See paragraph 109 regarding allegations against Alexandre.

¹²⁵ See also paragraph 68, discussing a settled misconduct lawsuit where both Morgan and Cozentino are named as parties.

officer replied that he did not need one. Mr. Bishop asked them to leave and they refused to do so. The officer's proceeded to "trash" the property and stole \$300-\$500 worth of valuables including DVDs, a watch, clothing and tools. Mr. Bishop was also falsely arrested.

160. **Excessive Force / September 9, 2009.** Jerry Louis Colon was assaulted by Newark Police officers including Sergeant Angel Sanchez (ID #8014)¹²⁶ and Detective Elliott DeLoach, Jr. (ID #7786).¹²⁷ Mr. Colon also names officers Turzani,¹²⁸ Spencer, DaSilva, Giordano and Vendrell¹²⁹ as being responsible. Mr. Colon suffered bruises, swelling of the face, and aggravation of his epileptic condition as a result and he was admitted to University Hospital where he was treated and incurring medical expenses.

161. **False Arrest / September 8, 2009.** Matthew D. Daniels was falsely arrested without probable cause by Newark Police Officer Feliciano and another unidentified officer (Badge #8007) in response to a call regarding a theft. The criminal complaint against him was ultimately dismissed.

162. **Excessive Force, Improper Conduct / August 15, 2009.** Karon S. Braxton was assaulted by Newark Police Detectives Giordano and Turzani¹³⁰ and several other unknown police officers at Hawks Patio Lounge, 59-61 N. 9th Street. Mr. Baxton was assaulted a second time by the same detectives and officers at 1 Lincoln Ave Police

¹²⁶ See also paragraph 110 regarding a lawsuit alleging other misconduct by Sanchez.

¹²⁷ See paragraph 177 regarding other allegations against DeLoach.

¹²⁸ Other allegations against Turzani, for other incidents, appear in paragraphs 111, 118 and 162.

¹²⁹ See paragraph 177 regarding other allegations against Vendrell.

¹³⁰ Other citizens have made allegations against Turzani for other incidents, as described in paragraphs 111, 118 and 160.

Station (2nd Precinct). As a result, Mr. Baxton suffered permanent injuries to his head, face, neck, back, arms and legs and required medical treatment at UMDNJ hospital.

163. **False Arrest, Unlawful Search / July 22, 2009.** Angelita and Isabel Gonzalez were subjected to an unlawful breaking and entering by law officers at [REDACTED], Newark, and were thereafter falsely arrested and imprisoned.

164. **Excessive Force / July 10, 2009.** Charles L. Mack was assaulted by Newark Police Officer Lt. Carillo in the North District (Second Precinct) Police Station lobby resulting in trauma and requiring treatment at a Veterans Facility.

165. **Excessive Force / July 8, 2009.** Mario Carreno was brutally assaulted at his residence at [REDACTED] by two or three Newark Police Officers. Mr. Carreno suffered head injuries, headaches, neurological injuries, and pain and suffering as a result.

166. **Negligence / July 3, 2009.** Marcus M. Holmes was arrested and held for three days as a result of open warrants. During this time, he stated numerous times that he felt ill, but was ignored by Newark Police officers and denied access to his prescription medications. Mr. Holmes was transferred to the Essex County Correctional Facility, which immediately recognized the severity of his illness and refused to admit him until he had been treated at a hospital. As a result of the delay in treatment, Mr. Holmes suffered severe and permanent damage to his liver and kidneys which may necessitate a transplant in the future.

167. **False Arrest / June 4, 2009.** The minor children of Mark Newton were falsely detained by Newark Police in a locked patrol car, suffering loss of freedom, fame and reputation. The officers using patrol units 446 and 420 (4th Precinct) are cited as responsible for the injuries to the children.

168. **False Arrest / May 22, 2009.** Tyisha M. Colquit was wrongfully arrested while witnessing the arrest of her companion. Ms. Colquit suffered illegal search and seizure and emotional distress as a result. She identifies Officer Myesha Caraballo and Sgt. Marc Priccacante as responsible for her injuries.

169. **Excessive Force / May 18, 2009.** Kenneth Green was subdued by Newark Police officers. While prone and subdued, Newark Police Officer Daniel DeAmorin fired several gun shots into Mr. Green's back. As a result, Mr. Green suffered multiple gun shot wounds, severe injury to his angle which will require surgery, pain, suffering and emotional distress.

170. **Improper Conduct / April 21, 2009.** Robert F. Williams was accosted by Newark Police officers while crossing from Orange to James Street in front of [REDACTED]. In the encounter with Officers Voloz and Sosan, the officers grabbed everything out of Mr. Williams' and his friend's pockets and threw them on the ground, making false accusations about drug possession. Mr. Williams' phone was damaged in the process.

171. **Excessive Force / April 18, 2009.** Daquan Yarde was assaulted by unknown Newark Police officers at "Sugar Rays" in Newark. This resulted in a contusion to his face.

172. **Excessive Force / April 17, 2009.** Jonathan Alvarado was assaulted by Newark Police Officer Omar Kenyatta Smith around his head and face on [REDACTED]. Mr. Alvarado's forehead and chin required stitches, his front teeth were cracked and knocked loose, and both of his eyes were injured, including permanent injury to his right eye.

173. **Death in Custody, Negligence / April 10, 2009.** Clifford Cook was arrested by Newark Police while recuperating from surgery. The officers took him to the police headquarters on Green Street. During his time in custody, the officers ignored his cries for medical help. When he became silent, the Police Officers took Mr. Cook to UNDMJ hospital where he was pronounced dead on April 11, 2009 at 9:50 am.

174. **Excessive Force / April 3, 2009.** Safiyyah Adams was assaulted by Newark Police Officer Montubay Simmons and other officers near **REDACTED** **REDACTED**. The attack resulted in injuries to her head, neck, throat, back, legs, arms, and other parts of her body and required treatment at UMDNJ hospital.

175. **Excessive Force / March 27, 2009.** Darnell I. Roberts was walking to a car with a friend on **REDACTED** when he was assaulted by Newark Police Officers Richard Velez, Victor Vasquez,¹³¹ and other officers. As a result, Mr. Roberts suffered a broken jaw, severe body aches, back pain and neck pain and required medical treatment at Newark Beth Israel Hospital.

176. **Seizure of Property / March 24, 2009.** Jose Rivera had property seized by police in connection with earlier charges. Judge D. Montes dismissed the charges against Mr. Rivera, but the city of Newark refuses to return Mr. Rivera's property.

177. **Excessive Force, False Arrest, Unlawful Search, Improper Conduct / March 23, 2009.** Christopher Ferraco was unlawfully stopped without probable cause at the corner of **REDACTED** by Newark Police Officers Manuel Vendrell (Badge #9329), Elliot DeLoach (Badge #7786),¹³² Alex Rodriguez (Badge #7476). Mr. Ferraco was strip searched and subject to a full body cavity search in public,

¹³¹ See also paragraph 150.

¹³² See paragraph 160 regarding other allegations against DeLoach and Vendrell.

in plain view of members of the public. Mr. Ferraco was then wrongfully arrested, imprisoned, and had false criminal charges filed against him. As a result, Mr. Ferraco was caused physical pain and suffering, humiliation, emotional distress, and suffered deprivation of liberty and invasion of privacy. Mr. Ferraco also names Bernard Bynum (Badge #6408) as a culpable party for failure to supervise these officers.

178. False Arrest, Malicious Prosecution, Employment / March 19, 2009.

Detective Taiboo Thomas, Det. Richard Williams, Det. Eddie Brown, Det. Rasheem Peppers, and Det. Horace McGloster were all wrongly suspended by the NPD, Deputy Chief John Rubel,¹³³ and Captain Raul Esteves. According to their respective tort claim notices, each of the detectives were suspended, maliciously and falsely charged and prosecuted, unlawfully arrested and detained, resulting in monetary and psychological damages.

179. False Arrest / February 24, 2009. Curtis Clemons was arrested at [REDACTED]

[REDACTED], while waiting on the street for a friend to pick him up. He was charged by Officer A. Holland with loitering and obstruction. As a result, Mr. Clemons was unlawfully detained and humiliated.

180. Negligence / February 23, 2009. Roosevelt Knight was walking north on

the sidewalk near Dr. Martin Luther King Jr. Blvd when he was struck by a vehicle being pursued by Newark police in a high-speed chase.¹³⁴ Mr. Knight suffered a skull fracture,

¹³³ This may be an erroneous reference to Deputy Chief Keith Rubel.

¹³⁴ In an effort to more fully investigate issues surrounding NPD's high-speed chases, Petitioner obtained a copy of the NPD's "Police Pursuit Summary Report-Annual Report 2008." The document describes 14 people in third-party vehicles and 2 pedestrians who were injured in police pursuits during that year, along with one death of a person in a pursued vehicle. Using the state open records law, Petitioner also asked for all police reports reflecting these 14 injuries to third parties or pedestrians, or deaths, as a result from NPD vehicular pursuits and/or high-speed vehicular pursuits, from January 1, 2008 to present. The NPD denied the request, thus impairing the Petitioner's ability to explore this point further.

fractures in his left and rights legs, multiple lacerations, a sprain to his right knee, fear, shock, horror and other traumatic injuries.

181. **False Arrest, Improper Conduct / January 5, 2009.** Jennifer L. Burlew was verbally and physically assaulted by Newark Police Officer Anderson Walker REDACTED . For some six hours, Ms. Burlew suffered racial epithets and slurs about her sexual orientation and was pushed and groped. As a result, she suffered emotional distress.¹³⁵

182. **Excessive Force, Unlawful Search / January 4, 2009.** Carlos Simmons, Stacey Wilson, Angel Thornhill, Jamie Wilson and Jamar Wilson were present at REDACTED in Newark when Newark Police Officers entered without a warrant and unlawfully searched and frisked Mr. Simmons. As a result, Mr. Simmons suffered emotional distress, trauma, and property damage.

183. **Excessive Force, False Arrest / January 1, 2009.** Sharon Webb was beaten with a flashlight by Newark Police Officer Doris Gonzalez. Ms. Webb suffered a broken wrist, permanent impairment to the use of her wrist, and permanent disfigurement to her lip. Moreover, Ms. Webb was arrested on false charges and jailed for seven days resulting in the loss of her job of four years.

184. **Negligence / December 26, 2008.** Seamona N. Abrams' had legally parked on a street and was not present in her vehicle when a Newark Police car driven by Matthew Ruane¹³⁶ crashed into Ms. Abrams' car during a high speed pursuit. Extensive damage to the right half of Mr. Abrams' car resulted.

¹³⁵ Another complaint against Walker is detailed at paragraph 124. For a discussion of his extensive disciplinary history, *see* footnote 104.

¹³⁶ *See* paragraphs 60 and 75 regarding other lawsuits alleging misconduct by Ruane.

185. **Excessive Force, Other / November 3, 2008.** Luis C. Fernandes was improperly injured, discriminated against, and denied due process of law by Newark Police officers including Officer Victor Patela.¹³⁷ Mr. Fernandes incurred legal expenses and was denied his rights as a result.

186. **Excessive Force, False Arrest / October 12, 2008.** Raechel E. Justice, Ishmael Pulliam, Isiah Pulliam, Imin Pulliam and Idris Pulliam were are was falsely arrested, falsely imprisoned, and assaulted by Newark Police resulting in various injuries. The arrests occurred at **REDACTED**

187. **Excessive Force / September 15, 2008.** Nashawn Brown was, without cause, assaulted and battered by Newark Police officers causing severe, permanent, and disabling injuries.

188. **False Arrest, Unlawful Search, Improper Conduct / September 13, 2008.** Jody Pittman and her children were within the home of Ms. Pittman's nephew, at **REDACTED** when two plainclothes Newark Police Officers knocked on the door. When Ms. Pittman opened the door and then stepped back furnish her nephew's ID as the officers requested, the officers entered the home and informed Ms. Pittman they did not need a warrant to do so. One began searching while the other interrogated Ms. Pittman. She asked the officers if she could leave with her children but they refused to allow her to leave or make any phone calls. When one of the officers discovered a revolver hidden under a mattress, he spun the gun in Ms. Pittman and her children's faces while taunting them. Ms. Pittman was then arrested and held in jail from September 13 to September 16, 2008. As a result, she lost her job, she was forced to sell her car and to

¹³⁷ For other incidents involving Victor Patela, *see* paragraphs 118 and 185.

terminate her lease early and move into a more affordable apartment in a different city.

Ms. Pittman and her children suffered emotional and psychological damages. Ms.

Pittman identifies Kevin Matthews, Jason West¹³⁸ and Orlando Rivera as the responsible officers.

189. **False Arrest / September 4, 2008.** Nelson Gomez was wrongfully arrested, detained and imprisoned by unknown Newark Police officers on Clifton Avenue, Newark. Severe psychological damage resulted.

190. **False Arrest / August 21, 2008.** Deborah Simmons was called by the Newark Police, who instructed her to come to the police station at 150 Keer St., Newark. When she arrived, Officer Juan Gonzales (Badge #7977) and others falsely arrested Ms. Simmons for an alleged charge of child abuse .

191. **Excessive Force, False Arrest / August 12, 2008.** Marcelle Higgs was wrongly stopped by Newark Police, at Bergen St. and South Orange Avenue, detained in his car, required to exit, assaulted (resulting in a broken femur), arrested and charged with resisting arrest and motor vehicle violations.

192. **Death in Custody / July 28, 2008.** Jamel Kemp died in custody after being “wrongfully and negligently” denied medical attention and left unattended by unknown police officers at the Green Strait Jail in the City of Newark.

193. **Excessive Force, Death in Custody / July 4, 2008.** Francisco Taveras was shot to death by Newark Police Officers despite explanations and pleas from bystanders that Mr. Taveras was mentally unstable and that emergency medical service should be called.

¹³⁸ See paragraph 56 and accompanying footnote regarding a case settlement, and a separate appellate court decision, regarding misconduct by West.

194. **False Arrest / May 30, 2008.** Marco Mojica was wrongly and illegally arrested by unnamed Newark Police Officers (Badge #s 8000 and 7828) resulting in emotional distress and damage to Mr. Mojica's reputation.

195. **Excessive Force / April 29, 2008.** Antonio Cafaro was assaulted and battered by NPD Lt. Gregory Gilhooly resulting in multiple bodily injuries, severe emotional distress and post-traumatic stress disorder. The assault took place on **REDACTED**

196. **False Arrest / April 15, 2008.** Leonard Wheeler was falsely arrested by Newark Police Officers Garrett, Ronald Bernan, Jeffery Bouie¹³⁹ and Jose Perez. As a result, Mr. Wheeler suffered emotional trauma and loss of reputation and character in his community.

197. **Negligence / April 6, 2008.** Yvonne Lightfoot was injured in a three way car accident with a police vehicle involved in an improper and reckless chase. The crash occurred at Madison Avenue and 11th St., Newark. As a result, Ms. Lightfoot suffered a right pelvic fracture, lumbar fracture, fractured rib, bilateral corneal abrasions, other pain and suffering, and her vehicle was totally destroyed.

198. **Excessive Force, False Arrest, Harassment / February 2, 2008.** John Goode was "accosted, assaulted, falsely imprisoned, falsely arrested, subject to harassment and abuse by [unknown] officers and agents of the Newark Police Department" at **REDACTED** Newark. As a result, Mr. Goode suffered mental anguish and distress, injuries to his neck, back and extremities.

¹³⁹ For other allegations of misconduct by Bouie, *see* paragraphs 105 and 115.

X. OTHER COMPLAINTS OF MISCONDUCT BY THE NPD

199. In this section, Petitioner identifies additional complaints which are known to it, from public statements, news accounts, and complaints lodged directly with Petitioner. In some of these cases, the complaining witness is identified by a code number; Petitioner, however, can supply additional information upon request. The complaints are presented in reverse chronological order of the date of the event.

OTHER CLAIMS OF MISCONDUCT AGAINST NPD NOT OTHERWISE MENTIONED, JANUARY 1, 2008-JULY 1, 2010	
	NUMBER OF CLAIMS MADE
Discrimination	5
Unlawful Search	4
Internal Affairs improprieties	3
Excessive Force	2
Improper Conduct	1
Malicious Prosecution	1
Death in Custody	1
Fatal Drunk Driving	1
Other/Unknown	12
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)	21

TABLE 11 Claims of NPD Misconduct Not Otherwise Mentioned, January 1, 2008-July 1, 2010

200. **Noncompliance with Internal Affairs Directives/June 2010.** Petitioner developed a protocol to test the NPD’s claims that it had implemented new procedures and documentation (a poster and a brochure) to ensure that citizens could file IA complaints at any time and place, as required by state law. The study, conducted between June 15, 2010 and June 21, 2010, revealed only partial compliance. Of the four precincts where inquiries were made, one (the 4th Precinct) said that complaints had to be filed at the IA building on 16th Avenue, which is contrary to both NPD and state policy. In addition, none of the four precincts offered the IA brochure to the Petitioner’s testers (one

said they had just run out of them). However, all four precincts tested prominently displayed the poster on the IA process which must be posted at all precincts.

201. **Excessive force/March 2010.** On or about March 12, 2010, a video camera captured a motor vehicle stop performed by NPD officers on Route 21 in Newark. The video shows NPD officer Wayne Pugh¹⁴⁰ removing a suspect, Jamil Richardson, from the vehicle, throwing him on the ground, and then kicking him. On or about June 18, Pugh was charged with official misconduct for the incident (No. W-2010-07777770714), but on or about June 25, 2010, the Essex County Grand Jury returned a no-bill on the charges.

202. **LGBT Discrimination/January 2010.** [CW #245] was falsely arrested on or about January 23, 2010. During the arrest, which occurred at the NPD North (2nd) Precinct, several officers there repeatedly made homophobic slurs against the witness.

203. **High-Speed Chase with Injuries/July 2009.** A news station showed an account of three innocent people who were injured in a police chase that ended at Hunterdon St. & Sheppard Avenue in Newark on or about July 23, 2009.¹⁴¹

204. **Malicious Prosecution and Neglect of Duty/June 2009.** The complaining witness, [CW #987], states that on June 29, 2009, an NPD officer, Tim Hart, launched a verbal tirade against a motorist who was driving legally on Maybaum and So. Orange Aves. He proceeded to write her a ticket. Having verbally abused the complainant and made false statements on the traffic summons, the officer then failed to appear for the first two court dates. After a trial, on the third listed court date, the court found the complainant not guilty of the traffic charges.

¹⁴⁰ For other allegations of misconduct by Pugh, *see* paragraph 116.

¹⁴¹ *See* <http://www.youtube.com/watch?v=YtaDvQhsv5c>.

205. **False arrest/June 2009.** On June 22, 2009, [CW # 740] was stopped by an NPD patrol car. The complainant provided his identification to the officer, and the officer claimed he was wanted on an open warrant from another municipality. However, the person named in the warrant was six inches shorter than the complainant, and had certain tattoos, whereas the complainant has no tattoos. The complainant was taken to the city jail, then taken twice to the county jail, before being released over a day and a half later.

206. **Death in custody/May 2009.** On May 15, 2009, Newark resident Basire Farrell died after being arrested. According to news accounts, the NPD internal affairs division opened an investigation into the matter. Other sources claimed that a conductive energy device was used on the subject.¹⁴²

207. **Unlawful search and Harassment/May 2009.** In May 2009, the complainant, [CW #675], was at her house on **REDACTED** in Newark when two officers came to her door to ask about the whereabouts of a suspect. The witness said she did not know him, but the police returned minutes later, threatening to kick the door down and beginning the process of doing so. When she opened the door, continued verbal harassment ensued. In addition, the witness, who was partially undressed at this time, was then subjected to demeaning comments by one of the officers.

208. **Criminal Investigation/April 2009.** A Newark police detective, Norberto Sanchez, was said to be under investigation by the Essex County prosecutor's office on

¹⁴² See Sharon Adarlo, *Newark man dies while in police custody*, STAR-LEDGER (May 16, 2009), http://www.nj.com/news/index.ssf/2009/05/newark_man_dies_while_in_polic.html and David Giambusso, *Family, community members march for Basire Farrell*, STAR-LEDGER (May 15, 2010), http://www.nj.com/news/index.ssf/2010/05/family_community_members_march.html.

two allegations: one that he fired his weapon improperly; another, that he used excessive force.¹⁴³ Petitioner was unable to determine the resolution, if any, of these accusations.

209. Misconduct of Police During Off-Duty Employment/February 2009.

According to news accounts, the Essex County Prosecutor's office is investigating six Newark police officers, including Deputy Chief Anthony Perillo, who were providing private security at Newark's Robert Treat Hotel on Feb. 22, 2009, when gunmen shot three people after a dance. In other allegations of misconduct when NPD officers provide private security services, four other officers were suspended in January 2009 last month for allegedly refusing to hand their weapons over to a gun check the NPD set up for off-duty officers at a concert at Newark's Prudential Center.¹⁴⁴

210. Unlawful Search, Improper Conduct and Internal Affairs/February 2009. On February 22, 2009 [CW # 225] got lost at Ridgewood and W. Runyon Sts., in Newark. Five plainclothes detectives stormed the car and began searching the driver's person and his car. The driver stated he did not consent to the search, to which the police responded with a barrage of profanities and saying, "F** your consent, I don't f*** care about your consent, you're being allowed to drive is a privilege which means you are subject to searches." The witness asked for the officers' names or identification, which they all refused, but the number on the police car was #517. Two written complaints to internal affairs by the witness were neither acknowledged nor investigated; an investigation only commenced after he went in-person to the department.

¹⁴³ See Paul Brubaker, In court, Newark police officer defends 18 shots fired at suspect, STAR-LEDGER (Apr. 14, 2009), http://www.nj.com/news/index.ssf/2009/04/in_court_newark_police_officer.html.

¹⁴⁴ See Joan Whitlow, *Lil Wayne, Newark police and guns. Oh my*, STAR-LEDGER (Apr. 3, 2009), http://blog.nj.com/njv_joan_whitlow/2009/04/newark_police_lil_wayne_and_th.html.

211. **Internal Affairs/January 2009.** [CW #179] was arrested by NPD officers in December 2008. Thereafter, on January 9, 2009, he made a trip to the internal affairs office on 16th Avenue in Newark to file a complaint. The internal affairs personnel refused to take his complaint.

212. **Unlawful search/December 2008.** In December 2009, NPD “SWAT Team” officers entered an apartment on **REDACTED** which was the home of [CW #928]. After a violent entry and search of the home, and berating and harassing the complainant, they found none of the drugs they were allegedly there to look for. The witness later learned that the SWAT Team had been targeting an apartment with a similar number, but they erred when targeting her apartment.

213. **LGBT Discrimination/November 2008.** [CW #030], a gay man, alleges multiple instances of mistreatment and homophobic slurs at the hands of the NPD. Most recently, after a burglary at his house in November 2008, the police refused to take a report, falsely arrested the complainant on an open warrant, and was detained in the city jail for nine days, where he was refused necessary medication.

214. **Corruption/September 2008.** NPD sergeants Christopher Gialanella and Fiore Purcell were caught cheating on a February 2006 exam for promotion to lieutenant. The Civil Service Commission (CSC) disqualified them for sitting for an exam for a three year period, but there is no evidence that any other discipline for their dishonest conduct was meted out. The CSC later relented and let them sit for a September 2008 exam, before their suspension period ended. The sergeants then argued that they lacked

sufficient time to study for the exam, and requested a make-up exam. The CSC denied the make-up exam.¹⁴⁵

215. **Excessive Force and Demeanor/September 2008.** On or about September 6, 2008 [CW #677] urinated by his car in the Edison Parking lot on Bruen Street, behind Penn Station. Rather than issue a summons or a warning to the complainant, and unknown officer began shouting at him in an “aggressive and furious tone” and provided the license, registration and insurance requested by the officer. The unknown officer then grabbed the complainant by the shirt and punched him with his right fist about the head and left shoulder. He then arrested him and took him to the police station on Market Street, Ironbound section (3rd Precinct).

216. **Unlawful search, LGBT Discrimination and Retaliation/July 2008.** On July 15, 2008 [CW #127] held a dinner inside his home. A police officer who also lived in the building, [FNU] Figueroa, began harassing the witness’s dinner guests for identification. About 20-30 minutes later, the officer and two fellow officers (one was FNU Valentine, the other is unknown) pounded on the witness’s door and forced their way in. They conducted an illegal and warrantless search of the home, meanwhile uttering homophobic slurs and taunting the witness and his guests. After the witness filed a complaint with IA, other officers of that precinct approached him on three occasions and defamed him. An investigator with the Essex County Prosecutor later conducted an interview of the witness, and the witness said he was willing to testify to the grand jury to

¹⁴⁵ See DOP Dkt. No. 2006-4370 (CSC Sept. 24, 2008). Previously to this incident, Gialanella had been indicted for official misconduct, assault, conspiracy, and making false statements, in connection with a 1999 incident involving an alleged beating of a suspect, but the charges were ultimately dismissed. See *Caruso v. City of Newark*, No. A-2529-04 (N.J. App. Div. Aug. 11, 2006). See also paragraph 110.

give further evidence, but it is unknown whether the grand jury heard any testimony on the matter.

217. **Fatal drunk driving/July 2008.** An NPD detective, Mark Hulse, struck and killed a pedestrian, Joao Marques, while driving drunk and speeding on July 12, 2008, 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.¹⁴⁶ A civil suit filed just after the end of the Study Period is pending.

218. **Discrimination and favoritism/June 2008.** After an auto accident, former NPD officer John Jewell was terminated from the police force for disability. In a matter that is pending before the state Office of Administrative Law (No. CSV-11708-08), he maintains that his designation as unfit for duty is erroneous, because other similarly situated officers have been allowed to remain on the force on light duty.

219. **Demeanor, Internal affairs/March 2008.** [CW #696] shares custody of a child with her ex-spouse. Transfers of custody are made at the “West Bigelow” police station (5th Precinct) due to prior altercations. In response to rude and abusive treatment by an officer there in March 2008, the witness attempted to file a complaint with the IA unit. The IA unit did not respond to her complaint in any manner.

220. **Discrimination and favoritism/January 2008.** Former NPD officer Eugene Collins claims in an appeal to the state civil service commission and state appeals court that he was subjected to disparate disciplinary practices at the hands of the NPD. Specifically, for what was tantamount to failure to file paperwork relating to a supposed

¹⁴⁶ James Queally, *Newark detective is sued by family of car accident victim*, STAR-LEDGER (June 12, 2009), http://www.nj.com/news/index.ssf/2010/06/newark_detective_is_sued_by_fa.html.

“threat” against another NPD officer, Collins was removed from the force. This was disparate, according to Collins, because of the “progressive discipline” of public employees used in New Jersey. In most instances, this principle bars a penalty of removal for an officer who, like Collins, had no prior sustained disciplinary complaint against him.

XI. THE FAILURE OF NPD’S INTERNAL AFFAIRS POLICIES AND PRACTICES TO STEM MISCONDUCT

221. The NPD’s internal affairs process does not function adequately in the sense that people who come into contact with the NPD could not justifiably believe that the internal affairs division thoroughly investigated claims of misconduct. For example, in 2008 and 2009, there were 261 claims of officer misconduct filed with internal affairs and classified as “excessive force,” “improper arrest,” “improper entry,” “improper search,” or “differential treatment.”¹⁴⁷

222. Of those 261 complaints, only one (1), alleging improper search, was sustained, or less than one-half one percent. The remainder resulted in findings of “exonerated,” “not sustained,” “unfounded,” or “administratively closed.”

223. The rate of sustained complaints is abysmally low. Nationally, it has been found that about 8 percent of complaints about police use of force are sustained.¹⁴⁸ In the NPD, zero (0) of the 128 complaints alleging “excessive force” were sustained.

¹⁴⁷ In 2008 and 2009, there were an additional 386 “demeanor” complaints,” 102 claims of “other criminal violations” and 1,654 claims of “other rule violations.”

¹⁴⁸ See Matthew J. Hickman, *Citizen Complaints about Police Use of Force* (Bureau of Justice Statistics, June 2006), <http://bjs.ojp.usdoj.gov/content/pub/pdf/ccpuf.pdf>, p. 3 (stating that in 2002, among municipal law enforcement agencies employing more than 100 officers, 8 percent of citizen complaints of officer use of force to an internal affairs unit were sustained).

INTERNAL AFFAIRS COMPLAINTS FILED WITH THE NPD, 2008 AND 2009			
TYPE OF COMPLAINT	2008 COMPLAINTS FILED/SUSTAINED	2009 COMPLAINTS FILED/SUSTAINED	TOTAL COMPLAINTS FILED/SUSTAINED
Excessive Force	55 / 0	73 / 0	128 / 0
Improper Arrest	15 / 0	34 / 0	49 / 0
Improper Entry	0 / 0	3 / 0	3 / 0
Improper Search	32 / 0	35 / 1	67 / 1
Differential Treatment	4 / 0	10 / 0	14 / 0
TOTALS	106 / 0	155 / 1	261 / 1

TABLE 12 Internal affairs complaints filed with NPD, 2008 and 2009, for selected types of complaints.

224. Aside from the low rate of sustained complaints, Newark’s IA operations also suffer from another substantial deficiency: their complete inability to generate meaningful statistical data on case dispositions. Specifically, the NPD’s IA statistics show a figure for “cases pending at the end of 20xx.” The State Attorney General’s instructions direct NPD to carry over that to the “cases pending from prior years” column for the next year’s report.¹⁴⁹ However, the NPD refuses to follow instructions, meaning that as to the 2008 and 2009 reports, there is no public record of the disposition of the 186 cases that came in during 2008 but had not been adjudicated as of December 31, 2008. Thus, public statistical reporting on those cases from year to year disappears from public view.

225. Petitioner has demanded that the NPD remedy these deficiencies in report, most recently by letter dated May 26, 2010, and NPD has refused to do so.

¹⁴⁹ New Jersey Office of the Attorney General, *Internal Affairs Policy & Procedures* (rev. 2000) (hereinafter, “IAPP”), p. 11-87.

226. The State of New Jersey’s directives on Internal Affairs advise that law enforcement agencies “should” have a risk management system in place that flags certain acts by officers for inclusion into the early warning system. These include but are not limited to “[c]ivil actions filed, regardless of outcome”; “arrests for resisting arrest [or] for assault on a law enforcement officer”; “[c]ase rejected or dismissed by the prosecutor” or “evidence suppressed by the court.”¹⁵⁰ This directive was promulgated by the Attorney General in November 2000.

227. As mentioned above at paragraph 43, the early warning/risk management system employed by NPD omits several important trigger events, meaning that it is of little value for its intended purposes.

228. Moreover, as this Petition has demonstrated above, there have been multiple recent allegations of unresponsiveness to, and/or retaliation against, citizens for making IA complaints.

229. Finally, the State, quite reasonably, insists that local police departments have careful procedures in place to identify only the highest-quality individuals.¹⁵¹ The NPD does not do so. It has been alleged, for example, that some NPD recruits who failed background checks were nevertheless allowed into the police academy and that personnel from the background check unit who became aware of this were transferred.¹⁵²

¹⁵⁰ IAPP, p. 11-50.

¹⁵¹ IAPP, p. 11-11.

¹⁵² See Joan Whitlow, *Criminals in the Police Academy?*, STAR-LEDGER (Jul. 9, 2010), http://blog.nj.com/njv_joan_whitlow/2010/07/post_1.html.

REMEDIES REQUIRED

XII. HOW INTERVENTION BY THE DEPARTMENT OF JUSTICE CAN ASSIST NEWARK RESIDENTS AND ITS POLICE FORCE

230. History has demonstrated that involvement by the United States Department of Justice can serve as a “potent strategy for police reform” in other jurisdictions.¹⁵³ So, too, in Newark.

231. The incidents demonstrated in this Petition show that the NPD suffers from a series of deficiencies that make structural reform, spearheaded by an outside agency, especially appropriate here.

232. There is substantial evidence of failings in the NPD’s personnel management system, in that officers with repeated complaints are allowed to have continued contact with citizens, (as examples, *see* paragraphs 59, 61, 68, 69, 100, 110, 119, and 124 above, and the accompanying footnotes), and in the failure to have a meaningful early warning/risk management system (*see* paragraph 43 above).

233. Moreover, there is substantial evidence of gross disparities in the NPD’s discipline system, with an apparent inability to identify serious misconduct (*see, e.g.*, paragraph 223) or punish it appropriately (*see, e.g.*, paragraph 217). Conversely, there is evidence of the discipline system being used in a heavy-handed way against officers who have little or no culpability (*see, e.g.*, paragraphs 84, 88, and 220).

234. NPD has also failed to respond to the high costs of defending and settling civil litigation. Millions are paid out annually to both citizens falsely arrested or beaten, and to employees mistreated on the job.

¹⁵³ Samuel Walker, THE NEW WORLD OF POLICE ACCOUNTABILITY 18.

235. Civil litigation, although frequent (and therefore a strong indicator of misconduct) has failed in two ways: first, it has failed to bring about structurally needed reforms to prevent misconduct from recurring; second, it can take years for aggrieved individuals to receive individual relief for the misconduct they personally suffered (*see, e.g.,* paragraphs 74, 77, and 82).¹⁵⁴

236. NPD has consistently, and for decades, refused calls for outside oversight, whether it comes in the form of a professional monitor or auditor, or an independent civilian police review board.¹⁵⁵

237. Moreover, although state law grants both the county prosecutor and state attorney general oversight powers over all local police departments, including the power to assume control over their operations if necessary, such power has not been exercised as to the NPD.

238. Federal intervention can bring about real oversight, such as policy reform, an early intervention system and supervisory review by an independent monitor to ensure the prescribed policies are actually being enforced in an evenhanded way. The presence of an independent monitor is an indispensable element of reform in the NPD, and one which will generate actual reform and justifiable public confidence in reform. As

Professor Walker has explained:

Monitors do more than simply report on the progress of consent decree and [Memorandum of Agreement] implementation. Because of their capacity to investigate and report to both the district court and the public any implementation shortcomings, they are active agents of implementation.¹⁵⁶

¹⁵⁴ *See generally* Walker & McDonald, *supra* note 28, at 494-95.

¹⁵⁵ *See supra* note 30 and accompanying text.

¹⁵⁶ Walker & McDonald, *supra* note 28, at 513 (emphasis added).

239. As noted earlier, litigation information and discipline information about the NPD is extremely difficult to obtain. An independent monitor could overcome this inappropriate preference for secrecy, a point also made by Professor Walker:

Monitors' reports become extremely valuable sources of information about the agencies they monitor. For example, they provide information about the progress of reform, developments related to use of force policy, and the citizen complaint process. In this respect, Monitors' reports help to reduce or end the historic problem of the closed nature of police bureaucracies.¹⁵⁷

240. As the NPD refuses to accept an independent monitor of its actions, to bring about needed substantive reform and the transparency that accompanies it, the only realistic alternative for reforms in the NPD is a federal investigation under 42 U.S.C. § 14141.

¹⁵⁷ *Id.* at 514 (citation omitted).

CONCLUSION

For all of the foregoing reasons, the Petitioners respectfully ask the United States Department of Justice, Special Litigation Section, to forthwith commence an investigation into the Newark, New Jersey Police Department. Thereafter, DOJ should impose 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.

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