

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

UNITED STATES OF AMERICA,	)	CASE NO.: 1:15-CV-01046
	)	
Plaintiff,	)	
	)	JUDGE SOLOMON OLIVER, JR.
vs.	)	
	)	
CITY OF CLEVELAND	)	<b>MEMORANDUM SETTING SPECIFIC</b>
	)	<b>MILESTONES FOR OFFICE OF</b>
Defendant.	)	<b>PROFESSIONAL STANDARDS</b>
	)	

To facilitate broader compliance with the Consent Decree’s more comprehensive requirements relating to the Office of Professional Standards (“OPS” or the “Office”), the Parties and Monitoring Team have agreed to establish several specific milestones for the Office to meet for the balance of 2017. These milestones do not replace, supplant, or amend any obligations under the Consent Decree or the current Second-Year Monitoring Plan. While the scope of progress that OPS must make to comply with the Consent Decree is more substantial than the milestones outlined here, the milestones are intended to provide specific, measurable guideposts to assist OPS in meeting existing requirements.

For the purposes of all of the following milestones, an investigation is considered “completed” when it has been formally approved by the OPS Administrator, per the Court-approved OPS Manual and certified as being completed with sufficient quality by the Monitoring Team with the input and counsel of the Parties.

**I. PROVISION OF INFORMATION REGARDING OPS PERFORMANCE**

Beginning on September 1, 2017, OPS will make formal, specific representations to the Monitoring Team, and the Parties concerning the Office's and its investigators' caseload, performance, and process via a comprehensive bi-weekly report. OPS will attest that it has used best efforts to prepare the report and that the report is correct and complete to the best of its knowledge. The Monitoring Team will keep the Court informed of the progress identified in the bi-weekly reports.

**II. REDUCTION IN THE VOLUME OF INCOMPLETE CASES**

**A. Complaints from 2014 through 2016**

OPS currently represents that 273 investigations of complaints filed in 2014, 2015, and 2016 remain incomplete. The Parties and Monitoring Team have established the goal of OPS completing by December 31, 2017 all 136 of the remaining investigations of complaints that were made in 2014 and 2015 – which would amount to a nearly 50 percent reduction in the backlog of 273 pre-2017 complaint investigations that presently remain open. To achieve this goal, each of the six OPS investigators currently assigned to completing older cases would need to complete an average of 22.6 investigations before the end of the year. Assuming 160 work hours per month, this would amount to each of the six investigators completing 5.6 investigations per month. This would result in the investigators spending on average some 28.5 hours per investigation.

**B. Complaints from 2017**

OPS currently identifies that 128 investigations arising from complaints filed in 2017 remain pending. The Parties and Monitoring Team have established the goal of OPS completing 64 of these investigations by December 31, 2017 – which would amount to a 50 percent

reduction in pending investigations of the new complaints received to date. To achieve this goal, each of the six OPS investigators assigned to completing complaints filed in 2017 would need to complete an average of 10.6 investigations before the end of the year. Assuming 160 work hours, this would amount to the completion of 2.5 investigations by each investigator per month. This would result in the investigators spending on average 64 hours per investigation.

### **III. REDUCTION IN VOLUME OF INCOMPLETE COMMUNICATIONS & ADMINISTRATIVE ACTIONS**

#### **A. Cases Pending Administrative Dismissal**

Currently, OPS has a number of cases pending administrative dismissal because, per the OPS Manual approved by the Court, the Office lacks jurisdiction or other authority to conduct a full-scale investigation of the complaint. OPS will formally identify to the Parties and Monitoring Team the number of outstanding cases pending administrative dismissal by September 15, 2017. Subsequently, all cases pending administrative dismissal should subsequently be addressed by September 25, 2017. Through the end of 2017, cases that may be resolved through administrative dismissal should be closed via the administrative dismissal process within thirty (30) calendar days of receipt. To confirm compliance with this goal, all cases administratively dismissed by OPS should be immediately forwarded upon resolution to the Parties and Monitoring Team.

#### **B. Cases Requiring Disposition Letters**

Some 184 cases have received dispositions from the Police Review Board (“PRB”) as of August 22, 2017. Most relate to complaints made from 2014 through 2016. The Parties and Monitoring Team agree that disposition letters for these approximately 184 cases will be sent by September 30, 2017. To confirm compliance with this goal, OPS will make available copies of these letters available to the Parties and Monitoring Team upon request.

### **C. Findings Letters**

OPS currently represents that findings letters are pending in twenty (20) cases. Findings letters are forwarded to the Chief of Police's Office and explain the PRB's discipline recommendations. By September 15 2017, OPS will formally identify to the Parties and Monitoring Team the actual number of pending cases that require the completion of findings letters. Subsequent to identifying the number of such cases, OPS will complete findings letters by October 1, 2017 for at least half of the identified outstanding cases. The finding letters will include all relevant and reasonable information, including but not limited to the date of the incident and the specific allegations, along with the recommended discipline Findings letters for all such identified cases are to be completed by November 1, 2017. To confirm its compliance with this goal, OPS will forward copies of these letters contemporaneously to the Chief's Office, Parties, and Monitoring Team. Going forward, any new findings letters will be completed within fourteen (14) calendar days of the PRB issuing a finding. The findings letters are to be sent contemporaneously to the Chief's Office, Parties, and Monitoring Team.

### **IV. INCREASE IN INVESTIGATIVE QUALITY**

The Parties and Monitoring Team agree that for all open investigations, regardless of when initiated, OPS will interview officers where it believes a sustained finding is more likely than not. The Director of Public Safety will facilitate these interviews by issuing a written, standard order that OPS can use to direct officers to cooperate with their investigations and participate in such an interview.

The Parties and Monitoring Team also agree that in evaluating whether cases should be certified as completed with sufficient quality, they will consider whether or not all identified material witnesses who are not unavailable have been interviewed. A witness will be considered

unavailable if s/he has refused to be interviewed, or has not responded to three contact attempts using information provided by the complainant as well as any other contact information an investigator can locate.

Finally, all investigatory interviews, whether of officers, complainants, or witnesses, will be audio-recorded.

**V. RESOURCES**

The City will promptly ensure that every investigator is provided with a digital recorder with the capacity to record phone interviews and access to video recording capabilities. It will also immediately staff the currently-open full-time clerical position. The Monitoring Team will continue to work during this period with the Parties in evaluating the 2018 budget for OPS, which will include discussion of hiring a supervisory investigator.

Respectfully submitted,

/s/ Matthew Barge

MATTHEW BARGE

Monitor

234 5th Avenue, Suite 314

New York, New York 10001

Tel: (202) 257-5111

Email: matthewbarga@parc.info

**CERTIFICATE OF SERVICE**

I hereby certify that on August 30, 2017 I served the foregoing document entitled Memorandum Setting Specific Milestones for Office of Professional Standards via the court's ECF system to all counsel of record.

/s/ Matthew Barge  
MATTHEW BARGE