

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,)	
vs.)	JUDGE SOLOMON OLIVER, JR.
)	
CITY OF CLEVELAND,)	
)	<u>CITY OF CLEVELAND'S STATUS</u>
Defendant.)	<u>REPORT TO THE COURT RE:</u>
)	<u>OFFICE OF PROFESSIONAL</u>
)	<u>STANDARDS</u>

I. Introduction

On December 15, 2017 the City filed the “City of Cleveland’s Memorandum Outlining the Plan to Address Completion of Investigations by the Office of Professional Standards” (“Memorandum”). The goal established by the City and OPS in 2018 was to have OPS remain timely in completing the investigation of complaints received on and after December 1, 2017, while simultaneously working with an identified outside investigative contractor, Hillard-Heintz, to eliminate the identified backlog of unfinished OPS investigations associated with public complaints received in 2015, 2016, and 2017.

This report will briefly address the progress to date in meeting these objectives and update the Court concerning the OPS Administrative staff and training undertaken in the first half of 2018.

II. OPS Administration

Administrator

Following a nationwide search the City filled the vacant OPS Administrator position.

The new OPS Administrator is Roger Smith. Mr. Smith is a graduate of the University of Southern California Law School (1998) and he received an M.A. in Public Affairs Reporting (1995) and a B.A. in History from the University of Maryland College Park. Mr. Smith served for three and a half years as an Assistant District Attorney in the New York County District Attorney's Office from 1998-2002. From August 2007 thru May 2016, Mr. Smith served as Executive Agency Counsel for the New York City Civilian Complaint Review Board ("CCRB"), where he also served as the Director of Training from December 2011 thru February 2015. In this role Mr. Smith provided legal supervision to the CCRB's Investigation Division staff and lectured in report writing, interviewing and search and seizure law. While with the CCRB, Mr. Smith made presentations concerning the CCRB to six New York Police Department graduating classes under the auspices of the NYPD's Cultural Immersion Program.

Senior Investigator

As this Court was previously advised, the City funded new position, OPS Senior Investigator, in the City's 2018 OPS budget. The Senior Investigator reports to the OPS Administrator and works directly with the OPS investigators in a supervisory capacity to address the quality and completion of OPS investigations. Following a nationwide search, Mr. Henry Roney was hired as the OPS Senior Investigator on May 7, 2018. Prior to assuming his current position, Mr. Roney served 25 years as a Special Agent with the Naval Criminal Investigative Service (NCIS) where he retired as the Inspector General. As a Special Agent Mr. Roney investigated criminal, fraud, and counterintelligence offenses. Mr. Roney held supervisory and senior leadership positions with NCIS to include, Supervisory Special Agent, Assistant Special Agent in Charge, Special Agent in Charge and Assistant Director. Prior to his NCIS career, Mr. Roney had been a commissioned officer in the United States Marine Corps where he served as a

combat intelligence officer during Desert Shield/Storm. Mr. Roney is a 1983 graduate of Prairie View A&M University, Texas, where he studied criminal justice and political science.

Community Engagement Coordinator

The 2018 OPS budget also funded the new position of "Community Engagement Coordinator." The Community Engagement Coordinator will be tasked with working with the public to keep the community informed on OPS activities. Posting for the position was closed on April 13 and final interviews have been completed for this position. A candidate has been identified to fill the position and the hiring process for the new coordinator position is presently being completed. Examples of recent community engagement undertaken by the OPS administrative staff have included informational and outreach meetings with the Legal Aid Society and the NAACP.

Other

OPS is in the process of working with the City's Civil Service Commission to finalize the revised job description to be associated with the new of OPS Research Analyst. Input associated with the new position was received from the Monitor team.

Mr. Tony Scott departed his position as OPS General Manager at the end of July to take a new position with the City.

Staff Training

A number of subjects have been addressed through the OPS staff training that has been completed in 2018. Ongoing training completed by staff members in 2018 has focused on improving the professional skills that will assist the OPS investigators in completing their assigned investigative responsibilities. The training topics have included: conducting interviews, report writing skills, use of force training, IA Pro manual training, the elements associated with

reasonable Internal Affairs/OPS investigations, qualitative review of sustained cases, public records request processing, and how electronic evidence is changing investigations. A new investigative report template has been introduced and is now being used. Future training will include four OPS staff members attending the NACOLE conference in St. Petersburg, Florida. OPS will conduct a week of staff training on a variety of relevant topics in December, with outside lecturers to include CDP leadership, university professors, community groups, and local practitioners.

III. OPS investigation of complaints received on and after December 1, 2017

The OPS has a staff of eight permanent investigators and two temporary investigators who are currently working on complaints received by OPS from the public during the period December 1, 2017 to the present. As of August 8, OPS had received 142 new complaints during this period. OPS has completed work on 85 of these new complaints. A breakdown of these cases shows 55 cases were completed as the result of full investigations, 20 cases have been administratively dismissed, with 10 cases having been administratively closed. As of August 8, the OPS investigators were actively investigating 49 complaints, with 6 cases in the process of transfer/ referral to the investigators and 2 cases awaiting initial assignment. Of the cases remaining to be completed 19 remain open from 73 complaints received by OPS in the period of December, 2017 to April, 2018, with the 38 remaining open files from the 69 complaints received from May to the present.

IV. The Backlog Investigation Completion Plan

The City issued a public Request for Qualifications (“RFQ”) in January, 2018 for the purpose of identifying a qualified private vendor who could provide the City with sufficient investigative expertise to effectively complete the investigations associated with the existing

2015-2017 backlog of OPS investigations. The use of an outside investigation firm to address and eliminate the backlog would allow the full-time permanent and temporary OPS investigators to direct their efforts to ensuring that investigations of public complaints received by OPS after December, 2017 were kept current and accomplished in a timely manner.

Hillard-Heintze LLC

As a result of the responses to the City's RFQ, the Chicago based investigation firm Hillard-Heintze, LLC was identified as the best qualified choice for completing the backlog investigations. Given the coordination and complexities associated with involving an outside firm in such a process, the overall work toward completing the identified backlog has been divided to date into two phases.

Phase One

The first phase of City's interaction with Hillard Heintze has been completed and involved the company conducting a comprehensive preliminary review and assessment of 282 backlogged investigations. Hillard Heintze met with OPS stakeholders to verify goals and case review objectives before beginning this work. The company was able to define the current state of the investigations and the anticipated level of effort that would be required to bring the cases to completion. The 282 cases were assigned to one of four categories based on the contents of the case files:

- (1) Intake Only — primarily file reflecting receipt of a complaint, with minimal follow up and work completed; (17 cases)
- (2) Data Collection — case intake materials provided in file, with some of the necessary data and materials having been collected; (55 cases)
- (3) Partial Investigation — basic facts concerning allegation validated in file, with some officer and complainant follow-up documented; (144 cases)
- (4) Mostly Completed — File reflects complaint interviews completed, factual validation, officer Form-1 questions asked and answered. (66 cases)

Hillard Heintze identified three main issues that influenced the quality of the backlogged case files that it received. These included (1) the professional level of management of the investigations, (2) the records documenting the investigations, and (3) whether the investigation quality was to a professional standard. Many files were found lacking in one or more of these categories. Based on the various factors contributing to the assessments of each file Hillard Heintze graded the quality of the investigations on the backlogged files it received as follows:

Excellent — 11 cases
Good — 51 cases
Marginal — 145 cases
Poor — 71 cases

Based on its initial review of the OPS backlog files Hillard Heintze concluded that for a majority of the cases the investigations would need to start from the beginning.

Phase Two

Hillard Heintze subsequently worked with the City and OPS to establish an approach to completing the backlogged investigations. The agreed upon approach will allow the company to evaluate each case to determine whether sufficient evidence actually exists that would warrant further investigation. This process will establish findings that will (1) support the closure of those files where sufficient evidence does not exist to proceed further, and (2) inform the appropriate future investigation action to be undertaken for those cases where the review has established that sufficient evidence exists. It is anticipated that the use of a concurrent, focused project management approach to address each backlogged complaint in this manner will ensure the most effective and efficient use of resources. This phase of evidentiary review should be completed in approximately thirty weeks. During this period Hillard Heintze will enter all cases into the IAPro system to include the steps required to further investigate or close the backlogged investigations in an effective, appropriate, and fiscally responsive manner. Completion of the

necessary investigation work where sufficient evidence is found to exist will begin at the conclusion of the evidentiary review process. The terms of the contract associated with this phase have been agreed to and the contract is currently being completed.

V. **Conclusion**

Much has been accomplished in the first part of the year as the City and OPS work to meet the standard of professional service owed to both the public and the Cleveland Division of Police.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the “City of Cleveland’s Status Report to the Court Re: Office of Professional Standards” was filed electronically on August 15, 2018. Notice of this filing will be sent to all parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system. Pursuant to the requirements of the Consent Decree the Monitor Team has been delivered a copy of this filing.

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