



U.S. Department of Justice

Civil Rights Division

JS:TM:JG:JM
DJ 207-57-4

Special Litigation Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530

December 18, 2013

Honorable Greg Hicks
Law Director
City of Warren, Ohio
City Hall
391 Mahoning Ave., N.W.
Warren, OH 44483-4634

Re: United States v. City of Warren (4:12-cv-00086)

Dear Mr. Hicks:

We write to provide you our assessment of the City of Warren's compliance with the Settlement Agreement entered in the above-captioned action. The City has made significant progress in implementing the Agreement, although much work still remains. We appreciate the City's willingness to implement the Agreement promptly, and we note, in particular, that the Warren Police Department's newly inaugurated Chief, Erik Merkel, has demonstrated a willingness to adopt policies and take actions consistent with the requirements of the Settlement Agreement. This is a positive sign, and we hope that we can continue to build on this momentum to ensure the successful implementation of the Agreement.

Our assessment is based on information we have received from multiple sources, including an on-site assessment of the Warren Police Department on September 16 and 17, 2013, which included interviews with Department executives and counsel, and review of documents that the Department provided to us both before and after our visit. During that visit we not only assessed the Department's compliance with the Agreement, but we also provided extensive technical assistance. Regrettably, the federal government shutdown, and the resultant backlog of government business, has substantially delayed our delivery of this compliance assessment to you. Because of the delay, however, we have included information that we acquired from the Department since our visit. We appreciate that the Department has kept us apprised of changes it has begun and events it has addressed since our visit.

In short, we found that the Department has implemented some provisions of the Settlement Agreement and has not yet acted fully on some other provisions. For example, the Department has implemented appropriate use-of-force policies and timely referred allegations of criminal conduct to law enforcement agencies. The Department also has begun more robust use-of-force investigations and internal affairs investigations, though these are not yet fully satisfactory. Unfortunately, prior to Chief Merkel's installation, the Department began

implementation of an important Settlement Agreement provision—a risk management system—without tailoring the effort and expenditure to the requirements of the Settlement Agreement. This attempt, though an improvement in some data tracking, did not result in an effective risk management system that meets the requirements of the Settlement Agreement.

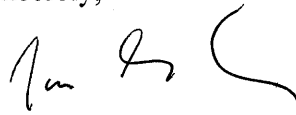
For each provision of the Settlement Agreement not yet in compliance, we would like to assist the Department in understanding the necessary steps it must take to reach substantial compliance. In the attached appendix, we list each provision of the Settlement Agreement and for each provision we state our finding of the Department’s compliance status: substantial compliance, partial compliance, or non-compliance. For each finding, we add qualitative analysis and, where appropriate, offer technical assistance. For provisions of the Settlement Agreement with multiple requirements, we have focused our review on those areas most in need of remediation to come into compliance with the Settlement Agreement. The Department, with the guidance of its counsel, should use this appendix as a roadmap to come into compliance with the Settlement Agreement.

Pursuant to our authority under Section VII.A.3 of the Settlement Agreement, we are also notifying you that the City of Warren must re-open certain use-of-force and internal affairs investigations. We identified certain investigations in which the justification for uses of force were not clear, or for which the Department did not fully investigate allegations of officer misconduct in a manner consistent with the Settlement Agreement. Specifically, the Department must reopen investigations of use of force for Response-to-Resistance Report 2013-12; Response-to-Resistance Report 2013-21; Response-to-Resistance Report 2013-25; and Internal Affairs Investigation 2013-002. In identifying these incidents for further investigation, we do not opine on the lawfulness of the force used. Rather, the Department’s objectives for these re-opened investigations should be both: (1) to determine the appropriateness of the Department’s uses of force; and (2) to develop internal expertise in the assessment of force incidents or allegations of officer misconduct. After these additional investigations are complete, please provide us with copies of the final investigations for our review and further assessment of the Department’s compliance with the Settlement Agreement.

We will continue to assist the Department in fully implementing the remedial measures required by the Settlement Agreement. We anticipate traveling to Warren on a regular basis until the Department achieves substantial compliance in all operative provisions. Between our on-site assessments, we encourage the Department to keep in contact with us. If any concerns arise during the implementation of the Settlement Agreement, we would be happy to provide you with technical assistance to ensure successful implementation.

If you have any questions about our findings in this letter or to discuss further technical assistance, please contact Jack Morse at (202) 305-4039, or me at (202) 353-8866.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonas Geissler', with a long, sweeping flourish extending to the right.

Jonas Geissler
Senior Trial Attorney
Special Litigation Section

cc: Michelle Heyer
Assistant United States Attorney
for the Northern District of Ohio