

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	
	)	COMPLAINT
	)	
CITY OF NEWARK,	)	
	)	
Defendant.	)	
	)	
_____	)	

I. INTRODUCTION

1. The United States of America, by its undersigned attorneys, brings this civil action against the City of Newark for declaratory and injunctive relief under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (“Section 14141”).
2. The United States brings this action to remedy a pattern or practice of conduct by law enforcement officers of the Newark Police Division (“NPD”), the law enforcement agency of the City of Newark, New Jersey, that has deprived persons of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States.
3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, and 2201.
4. The United States is authorized to initiate this action under Section 14141. Section 14141 authorizes the United States to bring suit against a state or local government for equitable and declaratory relief in order to remedy 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.

5. Venue is proper in the District of New Jersey under 28 U.S.C. § 1391(b). Defendant is located in New Jersey, and all events, actions, or omissions giving rise to this claim occurred in New Jersey.

II. PARTIES

6. The Plaintiff is the United States of America.
7. The Defendant is the City of Newark, a municipality located in Essex County, New Jersey. The City of Newark is a local government within the meaning of Section 14141. Defendant controls and operates NPD, and is liable for the acts or omissions of NPD.

III. FACTUAL ALLEGATIONS

8. On July 22, 2014, following a three-year investigation, the United States issued a Findings Report concluding that NPD has engaged in a pattern or practice of constitutional violations in its stop and arrest practices, responses to individuals' exercise of their rights under the First Amendment, uses of force, and theft by officers. The investigation also revealed that the pattern or practice of constitutional violations stems in part from deficiencies in NPD's systems that are designed to prevent and detect misconduct, including its systems for reviewing force and investigating complaints regarding officer conduct.

A. Defendant's Pattern or Practice of Unlawful Stops, Searches, and Arrests

9. NPD has engaged in a pattern or practice of unlawful stops, searches, and arrests in violation of the Fourth and First Amendments.

10. NPD officers have engaged in a pattern of pedestrian stops without the individualized suspicion of wrongdoing required by the Fourth Amendment under *Terry v. Ohio*, 392 U.S. 1, 21 (1986). Approximately 75% of reports of pedestrian stops by NPD officers failed to articulate sufficient legal basis for those stops, despite NPD policy requiring such justification. For example, the United States' investigation revealed that NPD made thousands of stops of individuals described by officers merely as being present in a high crime area or "milling," "loitering," or "wandering," without any indication of reasonable suspicion of criminal activity.
11. NPD has engaged in a pattern or practice of conducting searches and arrests without probable cause in violation of the Fourth Amendment, including some narcotics arrests and searches preceding arrests.
12. NPD has engaged in a pattern or practice of arresting individuals for engaging in speech protected by the First Amendment, including lawfully objecting to police actions, or other constitutionally protected behavior that officers perceived as insubordinate or disrespectful.
13. Black individuals in Newark have borne the brunt of NPD's pattern of unconstitutional stops and arrests. Black individuals in Newark have been at least 2.5 times more likely to have been subjected to a pedestrian stop or arrested than white individuals.

B. Defendant's Pattern or Practice of Using Unreasonable Force

14. NPD officers have engaged in a pattern or practice of using unreasonable force in violation of the Fourth Amendment.

15. In more than twenty percent of the incidents reviewed by the United States in which NPD officers used force, the force as reported was unreasonable and thus in violation of the Constitution.
16. Further, there has been substantial underreporting of force by NPD officers, and most NPD use of force investigations have been too inadequate to support reliable conclusions about whether an officer's use of force was reasonable.

C. Defendant's Pattern or Practice of Subjecting Individuals to Theft

17. NPD has engaged in a pattern or practice of theft by officers in violation of the Fourth Amendment and the Fourteenth Amendment.
18. The United States' investigation revealed evidence of theft of citizens' property and money by officers, specifically in NPD's specialized units such as the narcotics and gang units, and in the prisoner processing unit at the Green Street Cell Block.
19. NPD has conducted inadequate investigations into theft complaints, failed to take corrective action against offending officers, and declined to implement methods recommended by its own investigators that could substantially reduce and deter future theft by officers.

D. NPD's Inadequate Accountability Systems

20. The pattern or practice of unconstitutional conduct has arisen, in part, from deficiencies in Defendant's systems for directing, training, supervising, and holding accountable NPD officers.
21. Defendant's systemic deficiencies have included a failure to adequately review and investigate officers' uses of force and fully and objectively investigate all allegations of misconduct. For example, NPD's internal affairs system sustained only one civilian complaint of excessive force out of hundreds received during a six-year period.
22. NPD has also failed to provide officers with the tools necessary to support constitutional policing, such as adequate training, clear and easily accessible policies, and meaningful supervisory direction.

IV. CAUSE OF ACTION: PATTERN OR PRACTICE OF VIOLATIONS OF THE FIRST, FOURTH, AND FOURTEENTH AMENDMENTS AND SECTION 14141

23. Plaintiff realleges and incorporates by reference the allegations set forth above.
24. The United States is authorized under 42 U.S.C. § 14141(b) to seek declaratory and equitable relief to eliminate a pattern or practice of law enforcement officer conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.
25. By the actions set forth above, Defendant and its agents, including NPD officers, have engaged in unreasonable stops, searches, and seizures of individuals in violation of the Fourth Amendment.

26. By the actions set forth above, Defendant and its agents, including NPD officers, have violated individuals' rights to engage in protected speech in violation of the First Amendment.
27. By the actions set forth above, Defendant and its agents, including NPD officers, have used unreasonable force against individuals in violation of the Fourth Amendment.
28. By the actions set forth above, Defendant and its agents, including NPD officers, have stolen property from individuals in violation of the Fourth and Fourteenth Amendments.
29. By the actions set forth above, Defendant and its agents, including NPD officers, have engaged and, absent the relief sought, are likely to continue to engage in a pattern or practice of conduct causing irreparable harm by depriving persons of rights, privileges, or immunities secured or protected by the Fourth, First, and Fourteenth Amendments to the Constitution and laws of the United States, in violation of 42 U.S.C. § 14141(a).

V. PRAYER FOR RELIEF

30. WHEREFORE, the United States prays that the Court:

- a. Declare that Defendant, its officers, agents, and employees have engaged in a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, in violation of Section 14141;
- b. Enjoin Defendant, its officers, agents, and employees from engaging in any of the predicate acts forming the basis of the pattern or practice of conduct;
- c. Order Defendant, its officers, agents, and employees to adopt and implement policies and procedures to remedy the pattern or practice of unconstitutional and

unlawful conduct described herein, and to prevent Defendant, its officers, agents, and employees from depriving persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States; and

d. Order such other appropriate relief as the interests of justice may require.

s/ Paul J. Fishman
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