



## Legislation Text

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**File #:** 16-0723, **Version:** 1

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**Dept/ Agency:** Law

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Purpose:** Settlement of Civil Litigation

**Docket No.:** 2:16-cv-01731-MCA-LDW

**Claimant:** United States of America

**Claimant's Attorney:** Vanita Gupta, Principal Deputy Assistant Attorney General and Paul J. Fishman, United States Attorney, District of New Jersey

**Attorney's Address:** 950 Pennsylvania Avenue, NW, Washington, DC 20530 and 970 Broad Street, Suite 700, Newark, New Jersey 07102

**Settlement Amount:** N/A

**Funding Source:** Department of Public Safety - Newark Police Division

**Additional Comments:**

**WHEREAS**, the United States of America, filed a civil action against the City of Newark seeking declaratory and injunctive relief under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"); and

**WHEREAS**, the United States brought this action seeking a remedy for alleged pattern or practice of conduct by law enforcement officers of the Newark Police Department now known as the Newark Police Division ("NPD"), a Division of the Department of Public Safety, the law enforcement agency of the City of Newark, New Jersey, alleging that the NPD has deprived persons of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; and

**WHEREAS**, the United States District Court for the District of New Jersey has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, and 2201; and

**WHEREAS**, 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; and

**WHEREAS**, on July 22, 2014, following a three-year investigation, the United States issued a Findings Report wherein it concluded 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; and

**WHEREAS**, the United States alleges that the NPD has engaged in a pattern or practice of unlawful stops, searches, and arrests in violation of the Fourth and First Amendments; and

**WHEREAS**, the United States alleges that the NPD officers have engaged in a pattern or practice of using unreasonable force in violation of the Fourth Amendment; and

**WHEREAS**, the United States alleges that the NPD has engaged in a pattern or practice of theft by officers in violation of the Fourth Amendment and the Fourteenth Amendment; and

**WHEREAS**, the United States alleges that the pattern or practice of unconstitutional conduct has arisen, in part, from deficiencies in NPD's systems for directing, training, supervising, and holding accountable NPD officers; and

**WHEREAS**, the United States alleges that the 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; and

**WHEREAS**, the United States, Department of Justice presented the City with a Consent Decree to begin negotiations to settle this Complaint; and

**WHEREAS**, the United States, Department of Justice, the United States Attorney's Office, and the Police Department, now known as the Police Division of the Department of Public Safety engaged in extensive discussions and negotiations to settle this Complaint which is being memorialized in the attached Consent Decree; and

**WHEREAS**, as a result, the Mayor, the Corporation Counsel, and the Public Safety Director believe it is in the best interest of the City of Newark to resolve this litigation by entering into a Consent Decree; and

**WHEREAS**, a requirement of the Consent Decree is the appointment of an Independent Monitor who shall report the City's compliance with the terms of the Consent Decree, among other responsibilities to the United States and the Court; and

**WHEREAS**, after an extensive procurement process the parties have agreed to the selection of Peter C. Harvey, Esq. of Patterson Belknap to serve as the Independent Monitor; and

**WHEREAS**, the proposal submitted by Mr. Harvey to serve as Independent is for an amount not to exceed Seven Million Four Hundred Thousand Dollars and Zero Cents (\$7,400,000.00) for a five (5) year monitorship; and

**WHEREAS**, the Mayor, the Corporation Counsel, and the Public Safety Director believe it is in the best interest of the City of Newark to consent to the appointment of Mr. Harvey as the Independent Monitor.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor, the Corporation Counsel and the Public Safety Director are authorized to enter into the Consent Decree with the United States in a form substantially the same as presented to the Municipal Council (Copy attached). The Corporation Counsel is authorized to further negotiate the terms as may be required upon presentation to the Court.

2. The Mayor, the Corporation Counsel and the Public Safety Director are authorized to approve the selection of Peter C. Harvey of Patterson Belknap as the Independent Monitor of the Consent Decree.

3. The Mayor, the Corporation Counsel, the Finance Director and the Public Safety Director are authorized to ensure that the annual funds necessary to cover the fees of the

Independent Monitor are appropriated and budgeted during the five (5) year monitorship. The total amount of the monitorship is proposed at an amount not to exceed Seven Million Four Hundred Thousand Dollars and Zero Cents (\$7,400,000.00) for a term of five (5) years.

### **STATEMENT**

Resolution authorizing the Mayor, the Corporation Counsel and the Public Safety Director to enter into the Consent Decree with the United States in a form substantially the same as presented to the Municipal Council, and approving Peter C. Harvey, Esq. of Patterson Belknap as the Independent Monitor for an amount not to exceed Seven Million Four Hundred Thousand Dollars and Zero Cents (\$7,400,000.00). The Corporation Counsel is authorized to further negotiate the terms as may be required upon presentation to the Court.