

**A PUBLIC REPORT OF FINDINGS**  
**FOLLOWING THE INVESTIGATION INTO ALLEGATIONS OF MISCONDUCT BY MEMBERS OF THE**  
**CLARK TOWNSHIP AND CLARK POLICE DEPARTMENT’S LEADERSHIP**

**ISSUED BY**  
**THE OFFICE OF NEW JERSEY ATTORNEY GENERAL MATTHEW J. PLATKIN**

**DATED NOVEMBER 20, 2023.**

**INTRODUCTION**

The law enforcement executives sworn to protect the public and set an example for the officers in their charge, and the elected leaders sworn to serve our communities, have awesome responsibilities in those roles. They also enjoy the incredible privilege of being public servants working to improve our communities and make life better for all New Jerseyans. In these jobs, officials are entrusted with the faith and reliance of their communities that they will show up each day to work in selfless service to others. There is a social contract that imposes an expectation that officials in positions of governmental and law enforcement leadership will do the right thing, act not in self interest but in service to the greater good, and treat all people with respect and dignity as equals. These are not naïve ideals or lofty ambitions, but rather the bare minimum expectations communities should have in their leaders. The leaders in the Clark Police Department, and the Township more generally, failed to keep up their end of that bargain.

Allegations of abhorrent language used to degrade crime victims, suspects, and prospective employees, raised the alarm of potentially criminal policing and hiring practices. Allegations of self-dealing and coverups using public funds to conceal the misconduct of individuals in positions of power, created a concern that no one in local leadership could be trusted. Allegations of abuses of the Internal Affairs function of a police department and selective enforcement of departmental rules, made it impossible, looking in from the outside, to know whether it was a problem of bad apples or a rotten orchard. These allegations necessitated the extraordinary step of superseding an entire police department in the midst of an ongoing global pandemic and a national reckoning on racism—when law enforcement resources were already stretched thin. It necessitated taking that step without even giving notice to local officials, limiting the information to be shared with the public and the members of the department as the reasons for taking over the department were the subject of numerous ongoing, covert, criminal investigations, and it required treating the department’s electronic and paper records as potential evidence of criminal activity.

In July of 2020, when the Union County Prosecutor’s Office (UCPO) and the Office of the Attorney General (OAG) assumed control of the Clark Police Department (CPD) through the exercise of supersession authority, the leaders of both agencies announced that they would make public the findings of their agencies. This report is intended to deliver on that promise.

To many in the community, the release of this report has been long overdue. But for those who take the time to read this report in its entirety, it is anticipated that they will find that the investigators and prosecutors in both agencies took painstaking care to thoroughly investigate all

aspects of this case. In the course of that investigation substantial new criminal conduct came to light which demanded further investigation. While grand jury secrecy precludes the disclosure of certain details – especially with regard to uncharged conduct – this report endeavors to provide the public with the maximum amount of transparency as permissible by law. Whenever possible, if details of the investigation could be established through publicly available sources or information obtained outside of the grand jury, those details are shared. The allegations giving rise to these investigations rocked the public’s trust in government. Mindful of the legal limitations to disclosing certain information, this report attempts to restore community trust in some small measure through publicly disclosing the State’s findings.

The report is organized in the following sections:

- Section I: A brief overview of the facts and allegations that gave rise to the July 2020 supersession of the CPD is provided in this section.
- Section II: General information about the Township of Clark and the roles of the individuals at the center of our inquiry.
- Section III: A summary of the in-depth audit conducted of CPD policing and hiring practices to determine whether criminal charges for racially-influenced policing or criminal deprivation of civil rights was warranted.
- Section IV: Sets forth some of the legal and factual analysis relied upon in declining criminal charges in connection with the settlement agreement entered between Clark and a now-retired police lieutenant that used public funds to conceal the misconduct of individuals.
- Section V: A summary of sustained internal affairs findings made against four senior members of the CPD is provided.
- Section VI: Outlines required interventions and recommendations made by the Office of the Attorney General.
- Section VII: This section contains referrals to non-law enforcement agencies for additional follow-up as deemed appropriate by those agencies.

#### **A MESSAGE TO THE OFFICERS OF THE CLARK POLICE DEPARTMENT**

Since July of 2020, the brave and dedicated officers of the Clark Police Department have operated under the shadow of this looming report. And yet from the very first day that UCPO leadership walked through the front door of their headquarters, relieved their leadership of their duties, and took command of their department without providing any detail as to why such extreme actions were being taken, the vast majority of officers in CPD have embraced the uncertainty, leaned into the changes in leadership, and welcomed the scrutiny. The vast majority of officers had no reason to be concerned for the inquiries into their department, because they were performing their duties honorably, and have continued to do so even under the challenging circumstances of the last several years.

It cannot be easy to learn of misconduct of those in leadership, and know that those leaders are no longer at work but still collecting their paycheck while the department has to carry on with fewer officers on the force and limited room for promotion while the investigation is pending. It cannot be easy to read about your department in negative press coverage and struggle with the knowledge that many will view the misconduct of a few as representative of the culture of the entire department. And yet even in the face of these challenges, the officers of CPD continued to show up to serve.

They did not merely bide their time with the intention of going back to the way things were once the supersession ends. Instead the members of the CPD, under new leadership, moved forward together – improving policies and procedures, embracing alternative ways to reach vulnerable members of the community in crisis by becoming early participants in the Attorney General’s ARRIVE Together program, and expanding their transparency, accountability, and officer safety measures, by participating in the UCPO’s Body Worn Camera Pilot Program.

While the primary purpose of this report is to provide community members with a sense of the scope of the State’s investigation and its findings, it is also hoped that the issuance of this report will bring some closure to the uncertainty CPD officers have experienced over these past years. It is further hoped and expected that CPD officers and UCPO will continue to be the State’s partners in improving police culture and practices so that we can better fulfill our collective mission to make New Jersey more safe and more just for all.

## **SECTION I. FACTS AND ALLEGATIONS GIVING RISE TO THE INVESTIGATIONS INTO THE LEADERSHIP OF THE CLARK POLICE DEPARTMENT**

### *A Series of Anonymous Letters*

In May of 2020, UCPO received an anonymous letter dated April 20, 2020. The author of the letter alleged that Lieutenant Antonio Manata of the Clark Police Department was being compensated for a job he no longer held and police duties he no longer performed, and that the Chief of Police in Clark was covering it up. It was further alleged in the letter that a Captain within the Clark Police Department used drugs and even kept drugs on his desk. The matter was referred to the UCPO Professional Standards Unit and an official case was opened. According to the Professional Standards Unit, the Clark Police Department had already advised UCPO that Manata was on administrative leave.<sup>1</sup> As the only allegation against the Chief pertained to Manata having a no-show job and UCPO personnel were advised by CPD leadership that Manata was on leave for an injury pending his retirement, the matter was referred to Clark for an internal affairs investigation into the allegations made against the Captain.<sup>2</sup> Due to the criminal nature of the

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<sup>1</sup> At no time did CPD leadership provide UCPO personnel with the real reason for Lt. Manata’s leave despite CPD leadership’s knowledge of the confidential settlement, discussed *infra*. Chief Pedro Matos and Sgt. Joseph Teston specifically had knowledge of the real reason for Manata’s leave. Both Chief Matos and Sgt. Teston were in direct contact with UCPO personnel at around this time in connection with the anonymous letter, but neither came forward with their knowledge of the allegations against them and the confidential settlement that covered up said allegations.

<sup>2</sup> Pursuant to §5.1.8 of the Internal Affairs Policy & Procedures promulgated by the Office of the Attorney General (hereinafter “IAPP”), complaints against a law enforcement executive are to be handled by the Office of the County Prosecutor or the Attorney General. Based on UCPO’s belief that the Lt. named in the anonymous letter was in fact

allegations, personnel within the Clark Police Department were directed to conduct the investigation and present proposed charges or findings to UCPO for review prior to filing or issuance.

On or around June 10, 2020, the Clark Township Attorney, Joseph Triarsi,<sup>3</sup> of the firm Triarsi, Betancourt, Wukovits & Dugan, reached out to UCPO to report that the township was being blackmailed. Specifically, the township attorney advised that township authorities had received anonymous letters making allegations against the Police Chief, claiming to have video and audio recordings supporting the allegations, and threatening to provide same to the press. The township attorney advised that he had been the attorney for thirty years and he could not imagine the allegations were true. He advised that the township was being blackmailed by a disgruntled employee, and wanted the matter criminally investigated by the UCPO. He advised that the township had settled a dispute over work conditions with CPD Lt. Manata who was now on leave with pay, and township authorities believed Manata was now blackmailing the township. At no time did counsel advise UCPO of the nature of the work conditions, the specifics of the settlement, or his knowledge that recordings corroborating many of the claims existed. Instead, this was being portrayed – by the township – as a referral of a criminal investigation into possible extortion by an unknown suspect believed to be Manata. The attorney advised that the letters were being preserved and held at the Police Department by the Chief, and arrangements were made for same to be secured by UCPO sworn personnel.

On June 12, 2020, investigative staff from the UCPO responded to CPD, and secured the letters. The two letters were being held by Chief Matos of CPD. Matos ushered the UCPO investigative staff member into his office where they were joined by the subject of the pending drug investigation commenced in May of 2020, Captain Vincent Concina, who also provided UCPO with another anonymous letter he had received at his residence in February.

Among the anonymous letters turned over to UCPO on June 12, 2020, was an undated letter addressed to “Chief Pete Matos,” and postmarked June 3, 2020 (“the June 3<sup>rd</sup> Letter”). The June 3<sup>rd</sup> Letter purports to be from members of the police department claiming to have audio, video, and documentary evidence against the Chief and Captain Concina, and threatening to release same to the media if the Chief failed to resign by June 5, 2020. The letter references a Clark public meeting held on February 3, 2020, as resolving a dispute with Manata.<sup>4</sup> The letter alleges, *inter alia*, drug use and theft of time by Concina, racist comments made by the Chief, sexist and degrading comments about women by Concina, and racist hiring practices by the department.

The second letter was dated June 8, 2020, addressed to Chief Pete Matos, and authored by “the ones that care at the Clark Police” (the “June 8<sup>th</sup> Letter”). The June 8<sup>th</sup> Letter references the June

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on administrative leave, the only viable allegations in the anonymous letter were made against a Captain, and so the matter was referred to the Internal Affairs Unit of the Clark Police Department.

<sup>3</sup> A relative of the township attorney is employed at UCPO, but was immediately walled off from the investigation and has remained walled off throughout same.

<sup>4</sup> The Clark township website includes a three-item agenda for the special meeting held on February 3, 2020. The second item is “Authorizing the Mayor to execute an insurance agreement regarding personnel matter(s).” During the course of this investigation it was determine that it was at the February 3, 2020 meeting that the Council authorized the Mayor to enter into the agreement with Manata discussed herein.

3<sup>rd</sup> Letter, and calls for either the immediate resignation of both Matos and Concina or a referral to the Prosecutor's Office. The letter claims that failure to do so by June 10, 2020 will result in the authors referring the matter to the OAG.

When these letters were ultimately turned over to UCPO in the hopes that the Office would initiate a criminal investigation into the sender, the Chief also provided old letters that he believed were sent by the same disgruntled employee claiming that the writing styles were similar. The aforementioned letters contained allegations of unlawful conduct by the Chief of Police and members of CPD. None of these allegations of wrongdoing by the leadership of CPD were referred to UCPO for the initiation of an investigation upon receipt, as required by the Internal Affairs Policy & Procedures promulgated by the Office of the Attorney General (IAPP). *See* IAPP at §5.1.8 (requires that complaints against a law enforcement executive be handled by the County Prosecutor or the Attorney General); IAPP at §1.0.9 (h) ("Where a preliminary investigation indicates the possibility of a criminal act on the part of the subject officer, the County Prosecutor must be notified immediately. No further action should be taken . . . until the County Prosecutor so directs it."). These letters only came to light when the township attorney requested the initiation of a criminal investigation into the sender. Upon review of the contents of the anonymous letters UCPO immediately opened an investigation into members of CPD, including the Chief of Police.

Due to the seriousness of the allegations contained therein, UCPO immediately contacted the individual believed to have authored the anonymous letters, Manata of CPD. On June 12, 2020, the same day that UCPO obtained the letters, Manata was contacted and UCPO learned for the first time that Manata had entered a formal settlement agreement with the township, and was subject to a non-disclosure agreement which he believed prohibited him from participating in an internal affairs investigation. Manata indicated that he would like to cooperate with UCPO's investigation but could not risk his settlement, and was represented by counsel in connection with the settlement agreement.

#### ***Obtaining the Settlement Agreement between Clark Township Officials and Lt. Manata***

The UCPO made several attempts to obtain the settlement agreement and attendant materials from attorneys for Manata and the township, but ultimately had to issue a grand jury subpoena for the settlement agreement, the unfiled draft civil complaint, and other documentation and materials pertinent to same.<sup>5</sup>

On or around June 25, 2020, counsel for the township provided UCPO with the following items:

- a copy of the settlement agreement between the township and Manata (Settlement Agreement);

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<sup>5</sup> Ordinarily information obtained pursuant to a criminal grand jury subpoena cannot be shared for purposes of an administrative (internal affairs) investigation, but due to the inherent overlap between the criminal and administrative investigations, the State, upon superseding the investigation from UCPO, moved for a court order permitting the investigators involved in the administrative investigation access to the grand jury material. On April 22, 2022, the State sought and obtained an order permitting the use of the material obtained by grand jury subpoena from Judge Miralles Walsh, Assignment Judge of the New Jersey Superior Court for the County of Union. That order did not, however, permit discretionary public disclosure of grand jury material.

- a flash drive and cellphone provided to the township by Manata;
- copies of demand letters made to the township;
- a copy of the unfiled draft complaint sent to the township on behalf of Manata (Draft Complaint);
- and written denials made by Sergeant Joseph Teston, Captain Vincent Concina, and Chief Pedro Matos, in response to the Draft Complaint.

However, members of UCPO could not immediately review the items provided by the township. In providing the above documentation responsive to a grand jury subpoena, counsel for the township contested the validity of the State's subpoena citing the fact that – as a result of the COVID-19 global pandemic – there was no sitting Grand Jury in Union County at that time. Following extensive communications with counsel from UCPO that spanned more than several weeks, the township eventually decided not to file a motion with the court and acquiesced to the validity of the subpoena. Only then were the documents able to be reviewed by the legal and investigative staff of UCPO.

In addition to the items provided by the township, UCPO sought a written consent to search from Manata for the forensic examination of his cellphone which had been in the possession of the township. The phone was examined by the Cybercrimes Task Force, and UCPO learned that the phone had been reset to the manufacturer's default setting around the same time that the township and Manata entered the settlement agreement. Investigators were then advised by Manata – who by this time was no longer represented by his employment counsel – that he was required to reset his phone in this manner by the township as part of the Settlement Agreement. The State's investigation confirmed that this was done by Manata contemporaneously with the entry of the Settlement Agreement, and not by a subject of this investigation once UCPO became aware of the allegations.<sup>6</sup>

The Draft Complaint alleges that the leadership in CPD and the Township created a hostile work environment within the department. Among other things, the Draft Complaint alleged that the plaintiff, Manata, had been present when the Chief, the Mayor, and the Sergeant in command of Internal Affairs, Teston, used racist and antisemitic slurs, as well as derogatory and sexist language, when discussing policing and hiring practices within the Department. The flash drive produced by the township contained several audio recordings referenced in the Draft Complaint. Many of the voices captured on the tape are readily identifiable, while others remain unidentified.<sup>7</sup>

Among the many disturbing things said in the audio recordings or summarized in the draft complaint, are allegations that Chief Matos has used racial slurs in discussing people his

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<sup>6</sup> Criminal charges related to the potential destruction of evidence related to the resetting of Manata's phone were investigated, considered, and ultimately declined.

<sup>7</sup> The audio recordings at issue were obtained pursuant to a grand jury subpoena, and as such cannot be publicly released. However, audio identical to portions of the recording obtained by investigators that was verified as being accurate, undoctored, audio recordings has been publicly released. This report only quotes audio recordings that were part of the underlying investigation and also publicly released. Members of the public listening to the publicly available audio recordings who recognize the voices not yet identified by authorities, are urged to come forward and provide further information. Members of the public may contact the Office of Public Integrity and Accountability tip line at 1-844-OPIA-TIP (1-844-674-2847).

department was looking to investigate, individuals he was declining to consider for employment, and in discussing groups of people the police force should endeavor to keep out of the township. Also included in the audio recordings are conversations between Lt. Manata and Sgt. Teston, as well as a conversation with Teston's predecessor in Internal Affairs, discussing alleged criminal conduct – specifically fraud and theft, as well as acts of deceit, by Captain Concina being overlooked by the Clark Police Department.

The audio recordings also include several conversations with the sitting mayor, Mayor Sal Bonaccorso (Bonaccorso or the Mayor), and the Business Administrator John Laezza (Laezza), as well as members of CPD.<sup>8</sup> While the investigation revealed numerous instances of Bonaccorso – and others – using racially-charged, anti-Semitic, and misogynistic language on multiple occasions, this report only includes examples that can be sourced to materials not protected by grand jury secrecy. Additionally, readers of this report should be advised that the specific language used, when sourced to materials not protected by grand jury secrecy, is not redacted in this report. Among the remarks made by Bonaccorso are the following:

- The Mayor using racial slurs – “Two things you can never count on . . . machines and niggers . . .they always break down.”
- The Mayor discussing lynchings as if it were a common practice – He is heard saying, “We [redaction] hang the spooks up there,”<sup>9</sup> as he passed by ropes hanging in the town recreation center.
- The Mayor openly discussing his refusal to hire female officers for the Clark Police Force, claiming “as far as female cops go, I hope there is never any but I can only take care while I’m here. They are all fucking disasters that I’ve seen.”

It is alleged that members of CPD were present when the Mayor spoke in this way, and said nothing in opposition to such sentiments. In at least one such recording, the voice of Matos is heard immediately after the Mayor speaks.

It is clear from the investigation that these allegations were received by the township and the police department at the end of 2019. At no time were these allegations against the Chief and the sergeant responsible for Clark's internal affairs function ever referred to the Prosecutor's Office for an internal affairs investigation to be commenced as required by the IAPP promulgated by the Office of the Attorney General. Nor were the allegations of criminal conduct by members of the police department or township leadership ever referred to this Office by anyone within the Clark Police Department. It further appears that CPD failed to initiate an internal affairs investigation into many of the allegations made against Concina.

Instead the township entered into a settlement agreement with Manata whereby he was paid a lump sum of \$275,000 for his emotional/psychological pain and suffering, and was to retain full salary and benefits until his retirement date on February 28, 2022, though he would be placed on an administrative leave until his retirement. In exchange for this and other consideration, Manata

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<sup>8</sup> Mr. Laezza passed away during the pendency of this investigation.

<sup>9</sup> Redacted due to grand jury secrecy. While this comment has been publicly reported, to the State's knowledge, the redacted word has not been publicly reported.

agreed that if he were to become involved in an internal affairs agreement he would have to forego/reimburse any financial benefit derived from the Settlement Agreement. The Settlement Agreement also included a non-disclosure agreement that ran contrary to *N.J.S.A. 10:5-12.7*, rendering the provision unenforceable as against public policy.<sup>10</sup> The potential criminality of the Settlement Agreement was investigated and is discussed in Section IV of this report.

### ***The Exercise of Supersession Authority Over the Clark Police Department***

The number and nature of allegations contained in the anonymous letters and Draft Complaint, the actions taken by township and police department authorities to conceal the conduct alleged in the Draft Complaint from the public as well as the Prosecutor's Office, and the recorded conversations obtained by UCPO, necessitated not only the initiation of a largescale investigation into the specific conduct set forth in the myriad allegations, but also the need to immediately remove the leadership within the department and audit all functions of the department.

In July of 2020, UCPO sought and obtained permission from OAG to exercise supersession authority over CPD. In addition to granting UCPO such permission, OAG also provided resources to support the sweeping investigation that needed to occur.<sup>11</sup>

On July 23, 2020, UCPO entered CPD headquarters. Three members of the Department's command staff, including the Chief, were relieved of their duties, and the County Prosecutor took immediate control over the operations of CPD. Once in control of the department, members of UCPO's Cybercrimes Task Force took all necessary steps to secure, preserve, and seize all electronic databases and equipment that could contain information relevant to the investigation. UCPO issued standard operating procedures to all departmental personnel appointing a Captain from UCPO<sup>12</sup> as Officer in Charge over the Department, and removing the subjects of the investigation from the chain of command.<sup>13</sup> Additionally, UCPO took control of the internal affairs function of the Police Department.

UCPO opened several administrative investigations into the members of the CPD, but paused them so as not to impede the numerous criminal investigations sparked by the Draft Complaint,

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<sup>10</sup> The Settlement Agreement is dated January 29, 2020. *N.J.S.A. 10:5-12.7* became effective on March 18, 2019.

<sup>11</sup> At the time, UCPO was also operating under supersession authority – meaning that the office was operating under the authority of the Attorney General and under the supervision of an Acting Prosecutor appointed by the Attorney General who simultaneously served as an Assistant Attorney General within the Department of Law and Public Safety. This remained so up until July 14, 2021, when a senate-confirmed County Prosecutor assumed leadership of the Union County Prosecutor's Office. While UCPO was no longer in supersession, OAG required UCPO to maintain supersession authority over CPD, and consult with OAG, through OPIA, as the investigation continued.

<sup>12</sup> CPD remains in supersession. Then UCPO Captain, and now Chief of Detectives, Harvey Barnwell, was named the Officer in Charge and remains so to this day.

<sup>13</sup> The County Prosecutor has the authority to exercise supersession over a Police Department, in the same way that the Attorney General can exercise authority over a County Prosecutor's Office or a Police Department. The County Prosecutor, however, cannot terminate the employment of, or payment to, a township employee. Only the employer – in this case local government has that ability. As conduct of township authorities was also the subject of investigation, UCPO advised them of the exercise of supersession in writing through counsel. While township authorities were aware of the fact that CPD leadership was under investigation and prohibited from performing their sworn duties during the pendency of same, township authorities continued to compensate the impacted police department personnel and all of them have been on paid leave status during the pendency of the criminal and administrative investigations.



recordings, Settlement Agreement, and anonymous letters. Initially UCPO, and ultimately OPIA, looked into whether there was a basis to charge racially motivated investigations in violation of N.J.S.A. 2C:30-6, whether the criminal allegations against Concina were actionable, as well as whether there was any criminal liability in connection with the conduct related to the Settlement Agreement entered into between township officials and Manata. Separate and apart from the criminal and administrative investigations of the alleged conduct of individuals named in the Draft Complaint and the anonymous letters, UCPO – under the supervision and at the direction of OAG – also undertook a comprehensive review of all functions of CPD to determine whether express or implicit bias was driving police policy, actions, or hiring.

In July of 2021, UCPO and OAG underwent a change in leadership. At that time the criminal investigations remained ongoing – with active motion practice regarding certain grand jury issues then still pending. The administrative investigations had been paused to allow the criminal investigations to take priority, but in November of 2021, UCPO resumed the administrative investigations. In February of 2022, OAG underwent another change in leadership. On April 7, 2022, the Attorney General’s Office, through the OPIA, assumed the investigations into the leadership of CPD and the township. The Attorney General also directed UCPO to continue its exercise of supersession over CPD’s operations and internal affairs until further notice.

## **SECTION II. AN OVERVIEW OF THE TOWNSHIP OF CLARK**

Before undertaking a review of the Clark Police Department, it is important to understand some general background about the township and the subjects of the investigation. It is also critically important to have a sense of the demographics of the community itself.

Clark Township is a Faulkner Act (Mayor-Council) municipality. The mayor–council form features a mayor with strong powers and a city council. Salvatore Bonaccorso was first elected as mayor in 2000 and has been repeatedly re-elected with his current term as mayor expiring in December 31, 2024.

John Laezza worked as the Business Administrator for the Township from January 2001 until his death on May 22, 2021. His daughter Edith Merkel has served as the Township’s Clerk for over a decade. Merkel participates in both public and closed Township council meetings. Merkel is related through marriage to Bonaccorso.<sup>14</sup>

Township Council members are all members of the Republican party, and over the years, several have run on the same ticket as Bonaccorso. The council members at the time the Settlement Agreement was approved were: Alvin Barr, Angel Albanese, Bill Smith, Brian Toal, Frank Mazzarella, Patrick O’Connor and Steven Hund.

Joseph Triarsi, Esq. stated to UCPO that he had been the Township Attorney for thirty years. According to his firm’s website, he retired from full time practice in 2019, but he remains of

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<sup>14</sup> Merkel’s husband is the brother of Bonaccorso’s wife.

counsel to his firm. Upon Triarsi’s retirement another member of his firm, Mark Dugan, Esq., took over as the Township Attorney.

Chief Pedro Matos became the Chief of CPD in 2015.

Antonio Manata was a Lieutenant for CPD having been promoted to Sergeant in 2014 and to Lieutenant in 2016. He reached 25 years of service in February 2022 and retired on February 28, 2022, in accordance with the terms of the Settlement Agreement reached in secret with township and CPD authorities.

Captain Vincent Cocina worked for CPD since 1997. Cocina was Manata’s immediate supervisor. Cocina acknowledged being close friends with Matos since 1992, when they served in the Marines together.

Sergeant Joseph Teston was hired by CPD in 2008, promoted to Sergeant in 2016, and began handling Internal Affairs cases for CPD in or around January 2019.

***DEMOGRAPHICS OF CLARK AND NEIGHBORING COMMUNITIES***

Clark Township is located in southern Union County, New Jersey. It encompasses 4.45 square miles, and is zoned for residential, commercial, and industrial usage. According to the Tax Assessor for the Township, as of 2021, Clark Township has 4,880 residential properties and 206 commercial properties, making the Township 95.78% residential and 4.22% commercial. It is bordered by the following municipalities: City of Linden, City of Rahway, Township of Woodbridge, Township of Edison, Township of Scotch Plains, Township of Westfield, Township of Cranford, and the Township of Winfield Park. The below demographics table for Clark Township, and its immediate neighboring jurisdictions, is based on the census data available to UCPO in July 2020 – the time of the initial exercise of supersession over CPD.

<b>TOWN</b>	<b>POPULATION</b>	<b>% WHITE</b>	<b>% BLACK</b>	<b>% HISPANIC</b>	<b>% ASIAN</b>
Clark	15,911	93	2	4	1
Linden	42361	32	30	32	5
Rahway	29895	34	29	32	5
Woodbridge	100195	42	12	21	25
Edison	99758	33	8	10	49
Scotch Plains	24274	73	10	9	8
Westfield	29512	81	4	8	7
Cranford	24054	86	2	9	3
Winfield	1623	78	2	18	2

\*Percentages are rounded to the nearest whole number.

The Township is bordered to the northeast by the City of Linden, to the east by the City of Rahway, and to the southeast by the Township of Woodbridge. U.S. census data shows that these neighboring municipalities have significantly higher percentages of Black and Hispanic residents than Clark itself. The Township is bisected by the Garden State Parkway (GSP) with exit 135 serving as the primary exit for the area. Exit 135 is a multi-lane, unmonitored, toll free exit, accessible from both the north and southbound roadways of the GSP. The exit connects with, or is very near to, several major thoroughfares including Valley Road, Brant Avenue, Raritan Road, Westfield Avenue, Central Avenue, and Lake Avenue. Valley Road provides the most direct route from the GSP to Roselle and Linden, and Exit 135 would be the most likely exit for residents of these towns to use when driving home. Likewise, Brant Avenue provides the most direct route to Rahway, and Raritan Road to Plainfield. Exit 135 is also in close proximity to several shopping Plazas, including the plazas for Target, ShopRite, and Clark Commons, which draw residents of all of the towns surrounding Clark.

Based on the critical roadways that make Clark a necessary pass-through community, and the numerous commercial attractions that bring in shoppers, diners, and employees, from other communities, it is clear that the demographics of individuals visiting Clark are more diverse than the demographics of its residents. Unfortunately, there is no available data to give a clear sense of the diversity that exists on a daily basis in the community. This data gap made it increasingly difficult to draw definitive conclusions even in the face of troubling data analysis as discussed more fully herein.

### **SECTION III. AUDIT OF THE POLICE DEPARTMENT'S FUNCTIONS TO DETERMINE IF EVIDENCE OF BIASED POLICING AND/OR HIRING PRACTICES EXIST**

In light of the allegations giving rise to the investigations into Clark's leadership, immediately upon assuming control of CPD, UCPO began an in-depth audit of CPD's police functions to determine if there had been, or were ongoing, violations of *N.J.S.A. 2C:30-6*. *N.J.S.A. 2C:30-6* establishes a crime where:

a public servant acting or purporting to act in an official capacity commits the crime of official deprivation of civil rights if, knowing that his conduct is unlawful, and acting with the purpose to intimidate or discriminate against an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation or ethnicity, the public servant: (1) subjects another to unlawful arrest or detention, including, but not limited to, motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes another in the lawful exercise or enjoyment of any right, privilege, power or immunity.

The aforementioned statute would also potentially make criminal certain violations of the New Jersey Law Against Discrimination which protects the right to obtain employment free from discrimination based on race and/or gender, among other protected characteristics.

The recordings secured and reviewed as part of this investigation made clear that officials within the Township and CPD expressed views that suggested they encouraged bias-based policing and hiring practices. It was important to review the department's performance in the following critical areas to determine whether the views held by certain members of leadership reflected a department-wide practice toward underrepresented groups and protected classes in: (1) internal communications; (2) arrests; (3) searches; (4) use of force; (5) pursuits; (6) citizen complaints; (7) civilian interactions; and (8) hiring practices.

It should be noted at the outset that the collection of data and initial analysis of same was done by UCPO beginning in July of 2020 and continuing in the year that followed. Whenever possible UCPO investigative staff attempted to corroborate raw data with reviews of video recordings. Unfortunately, many of the incidents UCPO attempted to review were not still retained or not properly tagged for retention by CPD. The recommendations and interventions required by OAG in this report, as well as changes made by UCPO during supersession, require all such retention deficiencies be corrected by CPD.

It should further be noted that upon the Attorney General's supersession of UCPO's investigation into Clark officials, OPIA reviewed the data collected by UCPO and conducted their own analysis of same. The findings set forth herein reflect the conclusions drawn by OPIA.

#### ***INTERNAL COMMUNICATIONS – A REVIEW OF CPD EMAILS***

Once UCPO exercised supersession over CPD, it obtained access to police computers, servers, specific devices, and the CPD electronic mail (email) communication system. UCPO began a review of the accounts associated with key members of CPD leadership implicated in the allegations – Matos (Chief of Police), Concina (Captain of the Patrol Division),<sup>15</sup> and Teston (Sergeant of the Internal Affairs unit). UCPO investigators conducted keyword searches of the emails, searching for various racist, sexist, and misogynistic terms. Over 200,000 emails were searched dating back to 2014 and no instances of any CPD members using such terms were revealed.

Further, since the allegation was made that the Mayor encouraged racially biased police practices, UCPO narrowed the review of the emails to those sent from/or received by the Mayor. Approximately 7,000 additional emails met this criteria and were reviewed. This search also failed to reveal any directive or encouragement from the Mayor, or any CPD member, to act with bias. This review however only pertained to directives sent via email, and the investigation revealed that many of the bias-motivated remarks made by Clark officials about policing and employment practices were communicated verbally – not in writing.

#### ***ARRESTS – A REVIEW OF UNIFORMED CRIME REPORTING ARREST DATA***

A review was conducted of CPD's Uniform Crime Reporting (UCR) data for the years 2017, 2018, 2019, and the first six months of 2020. The UCR report is a mandatory reporting of crime statistics

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<sup>15</sup> It should be noted that the allegations against Concina did not include race-based misconduct.

reported through the New Jersey State Police (NJSP). All NJ police agencies are required to report such data and the accuracy is subject to NJSP monitoring.

Clark PD's UCR data revealed that the majority of their arrests are made in two categories: retail theft arrests such as shoplifting (reactive policing) and patrol-related drug arrests (pro-active policing).

A review of the UCR statistics showed statistical evidence that does not by itself establish a finding of bias in adult arrests or juveniles taken into custody. For the time period in question, 52% of adults arrested were White, 44% were Black, and the 4% remaining arrestees were Asian or Native America. While more White individuals than Black individuals were arrested in absolute numbers, as a percentage of the population, Black individuals were arrested at a far greater percentage than their population. The Census data for Clark available at the time of the supersession showed the following: White (93%), Hispanic (4%), Asian (1%) and Black (2%). The above UCR statistics are helpful, but do not include other factors, such as the racial or ethnic makeup of individuals who frequent the township to utilize retail or dining establishments. UCPO's investigation revealed that reliable data about the racial and ethnic makeup of individuals frequenting, but not residing in, Clark was not available. Therefore, OPIA found that the UCR statistics are insufficient by themselves to reach any conclusions regarding biased policing.

UCR juvenile statistics, absent a better sense of the demographics of visiting youth, likewise showed inconclusive evidence of disproportionate police actions being taken against any one racial category, or disparate treatment regarding which cases were referred to the Juvenile Justice System and which were handled by Station House Adjustment.

While the evidence was insufficient to sustain criminal or administrative charges of discriminatory policing practices, the State finds that it is nonetheless concerning and requires more extensive investigation and statistical analysis. Therefore, this matter is being referred to the Division on Civil Rights in the Office of the Attorney General for an in-depth investigation and review of the policing practices in Clark.

#### *SEARCHES – A REVIEW OF SEARCH DATA*

CPD uses the Guardian Tracking system to track motor vehicle searches.<sup>16</sup> Guardian Tracking data was reviewed regarding motor vehicle searches conducted by CPD officers during the time period in question. In total, 307 searches occurred between January 2017 and July 2020. Those searches led to 202 incidents where illegal contraband was found and an arrest was made. This percentage equates to a "find rate" of 65.8%. As seen in the chart below, the "find rate" was nearly identical within all races (between 62% and 66%). Below is the UCPO data containing the statistics and methodology of their inquiry.

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<sup>16</sup> Guardian Tracking is a performance monitoring / early warning software used by numerous New Jersey police departments. This system allows supervisors to track all manner of police performance, including searches, use of force, civilian complaints, commendations, etc.

**UCPO ANALYSIS OF PROBABLE CAUSE SEARCHES BY CLARK POLICE  
DEPARTMENT FROM JANUARY 2017 THROUGH JULY 2020**

<b>Race of Driver</b>	<b>Total # of Searches</b>	<b>Contraband</b>	<b>No Contraband</b>	<b>% Success</b>	<b>% of Total Searches</b>
Black	149	99	50	66.4%	48.5%
White	86	58	28	67.4%	28.1%
Hispanic	61	38	23	62.3%	19.8%
Asian / Other	11	7	4	63.6%	3.6%
<b>Totals</b>	<b>307</b>	<b>202</b>	<b>105</b>	<b>65.8%</b>	<b>100%</b>

For the purpose of their analysis, a search was listed under “contraband” only when the officer’s stated Probable Cause for the search (almost always the odor of marijuana)<sup>17</sup> led to the discovery of, and a subsequent arrest for, possession of marijuana. There were instances where the officer’s search turned up no marijuana, but an arrest was made for another violation (usually active warrants, or possession of drug paraphernalia). These instances were listed under “no contraband.” There were also many instances where the officer discovered what was referred to as “an unrecoverable amount of marijuana” (usually the remnants inside a plastic bag, or a few small flakes of “shake”). These also were listed under “no contraband.” Finally, in several instances where no contraband was recovered, the driver admitted to having recently possessed and ingested marijuana in the vehicle. Those instances were listed under “no contraband.”

The find rate does not on its face demonstrate that Clark officers were initiating searches based on race, as it would if the find rate was much lower for Black individuals than for White individuals. However, an equivalent find rate does not foreclose a conclusion that discrimination in stops was occurring. If White and Black people possess marijuana at the same rate, the find rate would be expected to be equal regardless of the number of times that they are stopped. That does not answer whether Black motorists are stopped at a disproportionately higher rate, as the data clearly suggests. The chart shows that Black drivers were stopped many more times than White drivers even though they represent .1% of the population versus 83% of the population.

While the findings, absent additional proofs, did not support criminal charges, OAG does find that the data does necessitate interventions and further study, as set forth in the Recommendations section of the instant report.

***USE OF FORCE***

CPD also tracks Use of Force reports in their Guardian Tracking system. UCPO’s investigation showed that for the time period January 2017 through August 2020, CPD officers filed forty-seven Use of Force reports involving twenty-one separate incidents. UCPO pointed out that CPD officers erred on the side of caution and filed Use of Force reports even in situations where a report may

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<sup>17</sup> During the relevant time frame of the conduct under review, the odor of marijuana was still permissible to establish probable cause.

not have been necessary. One example used was instances where the officers assisted medical personnel by restraining an uncooperative medical patient.

The forty-seven reports entered for the relevant time period described the circumstances surrounding twenty-one separate uses of force, involving twenty different individuals (one individual, a Hispanic male resident with mental health issues, had two separate encounters with the Clark Police Department). Of the twenty individuals upon whom force was used, the race was known for eighteen of the individuals. The other two individuals were female juveniles whose name and race were not included in the Guardian data. They both had attempted suicide and resisted being transported for evaluation and had to be restrained by Clark officers.

#### **RACIAL BREAKDOWN OF USE OF FORCE**

<b>WHITE</b>	<b>BLACK</b>	<b>HISPANIC</b>	<b>UNK</b>	<b>TOTAL</b>
<b>7</b>	<b>6</b>	<b>5</b>	<b>2</b>	<b>20</b>
<b>35%</b>	<b>30%</b>	<b>25%</b>	<b>10%</b>	<b>100%</b>

Of the twenty-one incidents where force was used, there were no incidents of deadly force (i.e., the use of a firearm). There were also no incidents where mechanical force (i.e., the use of the expandable baton or PR-24 side handle baton) was used. However, there were three incidents where chemical force (i.e., the use of OC or “pepper” spray”) was used, either alone or in conjunction with physical force. In those incidents, the OC spray was used on two White individuals, and one black individual. In the remaining eighteen incidents, the level of force used was physical, in the form of “compliance holds” such as wrist locks and arm bars. In nine of the twenty-one incidents, the suspect was an Emotionally Disturbed Person (EDP), intoxicated to the point of needing medical assistance, or both. In the remaining twelve incidents, the suspect was resisting arrest, or failing to comply with commands from the officer.

#### **TYPES OF FORCE USED**

<b>TYPE</b>	<b>WHITE</b>	<b>BLACK</b>	<b>HISPANIC</b>	<b>UNK</b>	<b>TOTAL</b>
<b>DEADLY</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>MECHANICAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHEMICAL</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>3</b>
<b>PHYSICAL</b>	<b>5</b>	<b>5</b>	<b>6</b>	<b>2</b>	<b>18</b>

A total of forty-seven reports were filed for these twenty-one incidents, as in most instances there were more than one officer at each scene. A review of the Guardian data showed that CPD officers were thorough in reporting the use of force, to the point of possibly over-reporting.

The reports show that officers were reporting themselves even in instances where they were merely assisting medical personnel by holding the legs or arms of an individual who was being restrained.

Of the forty-seven reports, there were twenty-five separate officers who filed reports. There was one officer (a patrol supervisor) who filed five Use of Force Reports. Two officers filed four

reports each, five officers filed three reports each, two officers filed two reports each, and fifteen officers filed one report.

The data in the Guardian Tracking system showed no conclusive evidence of disparate treatment or racial bias in the Use of Force used by CPD officers. However, UCPO was reliant on the reports of CPD in reaching its determination. As detailed in the section regarding civilian interactions, when UCPO investigators sought to independently verify the records of CPD they were met with two obstacles: (1) video footage of many of the events sought to be reviewed was no longer retained at the time of the supersession; and (2) video footage by CPD was not being properly tagged for retention and review. Correction of both of these issues is addressed in the recommendations and required interventions set forth herein. In light of the inability to independently verify the findings made by CPD personnel in their records, it was impossible for OPIA to make a definitive finding with respect to whether use of force was motivated by bias and/or disproportionately applied to members of protected classes.

While under UCPO's leadership, CPD did become one of the early participants in the Attorney General's ARRIVE Together program which has been proven to reduce racial disparities and decrease the use of force. The impact of this program on communities across the State, including in Clark, is the subject of ongoing study and evaluation.

#### *POLICE PURSUITS*

CPD also tracks vehicular pursuits in the Guardian Tracking system. The Guardian Tracking data showed that during the time period of January 2017 through June 2020, CPD engaged in ten pursuits involving twenty-four Clark officers. This includes involvement in two pursuits initiated in other jurisdictions, and CPD officers merely assisted as the pursuit entered Clark. Three of the pursuits were initiated when the officer's Automated License Plate Reader (ALPR) alerted them that a stolen vehicle had been detected. One of the pursuits was initiated as CPD officers responded to an armed robbery of a gas station, and the victims pointed out the fleeing vehicle. One pursuit was initiated as officers responded to a complaint of a vehicle burglary in progress, and the civilian complainant pointed out the suspect's vehicle. One pursuit was initiated as officers responded to a complaint of an unconscious man in a vehicle, who subsequently regained consciousness and fled the scene.

The remaining two pursuits began as motor vehicle stops initiated by CPD officers. Those incidents involved one White driver and one Black driver. In one incident, a Black male was seen operating a motorcycle with an expired registration. When CPD officers attempted to stop him, he fled at a high rate of speed and the pursuit was quickly terminated. The driver was never identified or apprehended. In the second incident a White male was seen running a red light. When CPD officers attempted to stop the vehicle it continued on at slow speed through Clark and Scotch Plains, and then eventually Plainfield, where the driver was apprehended and subsequently charged with eluding and driving under the influence.

While reviewing the documentation of pursuits in the Guardian Tracking system, UCPO investigators observed that all pursuits were reviewed by at least two levels of supervision (the patrol Sergeant and patrol Lieutenant) and very often up through the Captain to the Chief. On two



occasions officers were counseled about their participation in pursuits. In one instance, an officer was counseled for leaving his assigned zone in an attempt to join a pursuit in progress. In the second instance, an officer positioned his vehicle in front of a fleeing vehicle, and his police vehicle sustained minor damage in the ensuing collision. He was counseled to exercise more caution in the future.

For the reasons discussed herein, UCPO's inquiry was in large part limited to the records maintained by CPD personnel and databases, but could not be independently verified through a review of video footage of police pursuits.

### *CITIZEN COMPLAINTS*

During the time period of January 1, 2017 through June 30, 2020, twenty civilian complaints were lodged against CPD officers. Twelve of those complaints were "attitude and demeanor" complaints. The remaining eight complaints all alleged unfair treatment and/or racial profiling, and were reviewed by UCPO.

One of the complaints was from a White female who alleged that she was pulled over because she is a woman. Investigation and MVR review by the patrol Lieutenant disproved this allegation. Specifically, the Lieutenant reviewed the video of the stop with the complainant, who had alleged that two other vehicles were speeding alongside her (she admitted to speeding herself), but that she was singled out because she is a woman. According to the Lieutenant's report, the video clearly showed that she was the only vehicle on the road when she was stopped.

The other seven complaints were made by Black or Hispanic drivers. Two of those incidents were made by individuals who had been arrested for Possession of CDS. In both instances, investigation by patrol supervisors revealed that the officers acted properly, had sufficient probable cause to stop the vehicle, and to make an arrest. Of the remaining five incidents, each was as a result of a motor vehicle stop where summonses were issued to the complainant. All five instances were investigated by patrol supervisors, and it was determined that the officers acted properly. In two of the incidents, after having the opportunity to review the Mobile Video Recorder (MVR) and Body-Worn Camera (BWC) footage, the complainant withdrew their complaint.

UCPO investigators attempted to independently verify the findings made contemporaneously with the initial CPD review of the complaints, but the videos were no longer available having automatically deleted prior to the initiation of the investigation. A re-examination of the retention policies of CPD is among the required interventions set forth in the instant report.

The eight incidents involved six separate officers. One CPD officer received two complaints, while six CPD officers received one complaint each.

At the time of UCPO's review, it was unclear how CPD classified and assigned complaints, and this is not explained in the Guardian Tracking system. Some of the above-listed complaints were reviewed by Internal Affairs and then referred back to the patrol Lieutenant for investigation, while similar complaints were investigated by the patrol Lieutenant without review by Internal Affairs.

OPIA investigators reviewed the written Guardian entries for each of the twenty citizens' complaints. They were each entered in the Guardian tracking system in the involved officer's file. It should be noted that each entry was first reviewed by a patrol supervisor (including BWC reviews in many cases), and later reviewed by an IA supervisor. It also appears that the IA personnel who reviewed and approved each entry were not using a consistent audit trail by assigning an IA tracking number with each complaint.

The above process is contrary to the CPD IA policy which states: "All complaints will be forwarded to the Internal Affairs Unit Supervisor for classification and entry in the recordkeeping system." IV. D(1) Accepting Complaints.

This violation in CPD policy was immediately rectified by UCPO when they assumed control of the IA function of the CPD. In October 2020, UCPO investigative leadership responsible for the CPD IA function held a meeting with every supervisor of the CPD and informed them that beginning immediately the SOP regarding internal affairs would be strictly adhered to, and that all citizen complaints would be directed to the Internal Affairs officer. UCPO also engaged LawSoft, the vendor for CPD's CAD system, and had them modify the CAD to include the category "Citizen Complaints." This not only made it easier for patrol personnel to document an initial citizen's complaint, it ensured that every such complaint was documented in one location accessible to the Internal Affairs personnel. This was also communicated to all CPD supervisors in October 2020.

***CIVILIAN INTERACTIONS – A REVIEW OF MOTOR VEHICLE RECORDER (MVR) AND BODY WORN CAMERA (BWC) FOOTAGE***

By October of 2020, UCPO was able to obtain copies of all MVR and BWC videos retained by CPD. CPD uses WatchGuard for their video collection and storage. In total, UCPO received 19,655 separate videos. It was determined that WatchGuard videos could not be viewed by category and therefore a search of the video encounters was to be completed through random samples. The intention of the random search was to confirm the accuracy of the data pulled from the Guardian Tracking system.

The original goal was to view only motor vehicle stops. However, since the videos were unclassified by title, UCPO investigators were required to view several hundred videos to arrive at the target number of forty motor vehicle stops.

A random selection of the stops resulted in sixteen different PD officers involved. Of the forty stops, twenty-seven were of male drivers and thirteen female drivers. There were twenty-six White drivers, eight Black drivers, and six Hispanic drivers. UCPO investigators reported they observed only professional behavior by the CPD officers with no misconduct witnessed.

While randomly searching for motor vehicle stops, UCPO came across and viewed, medical calls, accident investigations, citizens contacts, response to retail thefts, etc. UCPO did not observe any incidents of bias, misconduct, or any unprofessional behavior in the various videos reviewed. UCPO's search also acted as an unintended cross check since in each instance where the conduct observed warranted an entry into the Guardian Tracking system there was a corresponding accurate entry every found by UCPO.

Upon review of the evidence collected and interviews conducted, UCPO found no evidence to support the allegation that CPD practiced bias-based policing during Matos' tenure.

It is also noteworthy, that UCPO attempted to collect Computer Aided Dispatch (CAD) data. CAD systems require information to be manually input and they allow for the storage and retrieval of information regarding department activity. Typically, this information is added by dispatch or a call taking center. CPD uses a CAD system. However, in regards to motor vehicle stops, it is widely considered best practice to collect information such as race, gender, and age range, along with the reason for the stop and what, if any, enforcement was taken.

UCPO found that although the officers are broadcasting this information it is not routinely collected into the CPD CAD system. This is an unacceptable practice. Documenting this information into the CAD system, as well as periodic supervisor reviews to ensure adherence to the practice, will now be required of CPD.

Members of UCPO conducted a thorough review of the data available to them in an effort to determine if police actions were influenced by racially biased practices. Their findings, absent additional proof, did not support criminal charges.

However, OPIA's review of the data pulled and methodology used for UCPO's conclusions relied upon insufficient data and as such, are not strong enough to defend against scrutiny. A more expansive review is necessary to determine whether any of the conduct or practices – although not deemed criminal – may nevertheless be unlawful. The Attorney General is therefore requiring certain interventions herein geared to address these concerns, as well as referring this matter for further investigation by the Division on Civil Rights who are better equipped for this purpose.

### ***HIRING PRACTICES***

Immediately upon exercising supersession over CPD, UCPO investigators and prosecutors were assigned to investigate the allegations of improper and bias hiring practices at CPD while Matos was the Chief – focusing on the period between July 2017 and July 2020.

On July 23, 2020, the applicant background investigation files inside Matos' office were secured by UCPO investigative staff, and each and every background application was reviewed to determine if a decision not to extend an offer of employment to an applicant off of the New Jersey Civil Service Commission (NJCS) list was warranted. Additionally, to further the criminal investigation, UCPO obtained Clark Township records from the NJCS, including the Certification of Eligibles for Appointment. Specifically, UCPO's investigation focused on three positions: 1) Police Officer applicants; 2) Dispatcher/ Clerical applicants; and 3) Special Law Enforcement Officer (SLEO) applicants.

It is widely recognized that optimally the makeup of any police department is reflective of the community it serves. As set forth in this report, the demographics of the communities surrounding Clark reflect a greater diversity than the demographics of Clark residents. A police department serves all people they encounter – from residents to the many individuals who travel through Clark or come to the township to shop, work, or dine.

With this in mind, UCPO undertook their review of all files connected to CPD’s hiring for the three-year period leading up to the supersession to determine if there were any identifiable improprieties. For the purpose of a public-facing report, the names of candidates not selected for public employment are not being disclosed.

***HIRING PRACTICES – POLICE OFFICER APPLICANT REVIEW***

UCPO conducted a review of the one hundred and forty applicants certified by the NJCSC list for police officer positions during the time period of January 2017 through July 2020. This list consisted of Civil Service applicants and Intergovernmental Transfers. As per the NJCSC, the Intergovernmental Transfer Program is a voluntary program which offers New Jersey’s Civil Service employees the opportunity to transfer from one jurisdiction to another, while maintaining permanent civil service status.

Of the one hundred and forty certified applicants, thirty-four applications were submitted for the position of Police Officer. Of the thirty-four applications, nine applicants were hired as Police Officers. Of the thirty-four applications received, thirty-two applicants were male, and two applicants were female. Of the thirty-four applications received, twenty applicants were White, three were Black, ten were Hispanic, and one was Asian.

Of the twenty White applicants, all twenty applicants were male. Of the ten Hispanic applicants, two applicants were female, and eight applicants were male. Of the three Black applicants, all three applicants were male. The one Asian applicant was male.

Of the nine applicants hired as Police Officers, the eight hired were White males, and one was a Hispanic male. Four of the White males and the Hispanic male hired all had prior law enforcement experience, and held certifications by the Police Training Commission.

Based upon a review of all records available regarding minority and/or female applicants, UCPO found that appropriate documentation existed in each applicant’s file indicating the reason(s) for hiring or not selecting the applicant. More specifically, one Hispanic male was hired by the CPD and one Hispanic male deferred the hiring process. Among the reasons documented by the CPD for an applicant to not be selected included: criminal history, missing items in application, falsifying application, poor employment reviews, tardiness with prior employment, financial accounts in arrears, failing the physical training assessment, suspended driver’s license, and being fired from employment. Documentation for similar past infractions were not found in the background investigations conducted by CPD for those applicants hired for police officer positions. A summary of the reasons documented by CPD for diverse applicants is set forth herein:

	AGE	SEX	RACE	DISPOSITION / NOTES
1	32	MALE	WHITE	
2	30	MALE	WHITE	3 x DUI
3	24	MALE	WHITE	
4	26	MALE	WHITE	
5	30	MALE	WHITE	

6	23	MALE	HISPANIC	DEFERRED
7	22	MALE	HISPANIC	CRIMINAL HX / UNLAWFUL POSSESSION OF WEAPON
8	24	FEMALE	HISPANIC	FAILED TO LIST VEHICLE/POOR EMPLOYMENT REVIEWS; DQ FOR FALSIFYING APPLICATION (UPHELD BY CSC)
9	27	MALE	WHITE	
10	32	FEMALE	HISPANIC	EMPLOYMENT PERFORMANCE ISSUES / TARDINESS / FINANCIAL ACCOUNTS IN ARREARS / LIVES OUT OF COUNTY
11	27	MALE	ASIAN	FAILED PT ASSESSMENT
12	52	MALE	HISPANIC	INELIGIBLE (OVER AGE); TERMINATED FROM EMPLOYMENT 2017
13	24	MALE	HISPANIC	FAILED PT ASSESSMENT
14	36	MALE	HISPANIC	UNABLE TO BUYBACK MILITARY TIME PRIOR TO HIRE DATE; OFFERED POSITION (DECLINED DUE TO AGE)
15	25	MALE	HISPANIC	HIRED BY KEARNY PD
16	32	MALE	WHITE	FAILED PT ASSESSMENT
17	28	MALE	WHITE	
18	30	MALE	BLACK	FIRED FROM JOB MARCH 2016; MV VIOLATIONS; SUSPENDED D/L
19	32	MALE	HISPANIC	DV HX / CRIMINAL HX / MV HX / MISSING ITEMS IN APPLICATION
20	28	MALE	BLACK	FAILED TO DISCLOSE SUMMONS AND SEVERAL MV VIOLATIONS; FIRED JUNE 2016; DQ'D BY OTHER PD'S
21	29	MALE	WHITE	
22	33	MALE	BLACK	2018 POLICE INVOLVED SHOOTING IN TX
23	23	MALE	WHITE	
24	26	MALE	WHITE	
25	27	MALE	WHITE	SEPT 2016 HIRED AS DISPATCHER
26	24	MALE	WHITE	HIRED JAN 2017 (CIVIL SERVICE LIST/IGT)
27	26	MALE	WHITE	HIRED JAN 2019 (CIVIL SERVICE LIST)
28	26	MALE	WHITE	HIRED NOVEMBER 2018
29	25	MALE	WHITE	HIRED JAN 2019 (CIVIL SERVICE LIST)
30	26	MALE	WHITE	HIRED JAN 2018 (IGT)
31	24	MALE	HISPANIC	HIRED JAN 2018 (CIVIL SERVICE LIST)
32	23	MALE	WHITE	HIRED JAN 2017 (CIVIL SERVICE LIST/IGT)
33	21	MALE	WHITE	HIRED STAMLER CLASS 119; FAILED ACADEMY
34	27	MALE	WHITE	HIRED STAMLER CLASS 117; RESIGNED PRIOR TO GRADUATION

The notations made by CPD in their records were then independently verified by UCPO during its investigation. Specifically, UCPO corroborated the veracity of the CPD notations through documentation provided by candidates that contained self-admissions, as well official employment and governmental records.

Based on other allegations being reviewed in this matter, UCPO also reviewed the starting salaries of all hired officers, and did not identify any improprieties there. All variations in starting base pay were specifically tied to prior law enforcement, military, or educational experience.

***HIRING PRACTICES – CIVILIAN AND SPECIAL LAW ENFORCEMENT OFFICER (SLEO)  
APPLICANT REVIEW***

UCPO also investigated CPD hiring practices with regard to civilian and SLEO positions filled between January 2017 through July 2020. Within the background investigation files maintained by Matos, CPD reviewed a total of nine applications for the civilian (dispatcher / clerical) positions during the relevant timeframe. Eight of the nine applications were submitted for dispatcher positions and one for a clerical position. From that pool of applicants two candidates were hired as dispatchers and one as a clerical.

Of the nine applications received by CPD, five applicants were male, and four applicants were female. Eight applicants were White (five males and three females), and one was Hispanic (female). Two of the White, female applicants were hired as dispatchers, and one White female was hired as a clerical.

One of the civilian hires was the wife of Captain Concina. She was hired in December of 2017 into an unclassified civilian position with CPD. UCPO investigated the salary and paperwork associated with this civilian hire and did not discover any regularities. The salary range for the NJCSC position was \$30,000 to \$40,800. The salary assigned at hiring was \$30,950, and significantly below the position being backfilled which had a different CSC title and a salary of \$67,724. It is noted that an unclassified position means that NJCSC does not require posting or advertising of the vacancy, or hiring off of a NJCSC test list.

CPD received a total of eight applications for the position of SLEO during the relevant time frame. All eight applicants identified as male. Seven of the applicants were White, and one was Hispanic. Three of the applicants were hired as SLEOs – two were White men and one was a Hispanic man.

UCPO conducted numerous witness interviews, reviewed documents maintained by CPD, and whenever possible independently verified the information contained in CPD records. UCPO did not find anything irregular in the records maintained by CPD.

#### ***HIRING PRACTICES – CONCLUSIONS***

Though more emphasis should have been put on diversifying the department, there were no intentional improper hiring practices uncovered by UCPO during the course of the investigation. Additionally, regarding sworn police officers, CPD's hiring practices are restricted to the confines of the NJCSC rules which dictates the applicant pool. The CPD administration has no control over the list of eligible candidates. The department makeup reflects the applicant pool and their township's demographics.

However, the public perception and a representation of the transient population that work and visit Clark Township should be considered, and ideally be reflected, in the makeup of the police force. It was noted that at the time of UCPO's supersession, thirty-seven of thirty-nine officers within CPD were White males. There were no female officers, no Black officers, one Hispanic officer, and one Asian officer.

It should be noted that under UCPO's management, the department has been able to expand the diversity of the CPD workforce – while still operating within the confines of the NJCSC rules and also during a pandemic when law enforcement recruiting was especially challenging. Since the start of the supersession in July of 2020, under UCPO's management, CPD has brought on 9 new officers.

Initially, three officers were hired from the NJCSC list. These officers consisted of a White male, an Asian male, and one White female. Also, an additional White female was hired as an intergovernmental transfer.

In February 2021, legislation was passed that permitted police departments to be exempt from the requirements of taking the civil service exam for entry level law enforcement positions. This legislation expanded the pool of candidates. Since that time the Clark Police Department has hired five additional officers. Four police officer were hired as intergovernmental transfers. These hires consisted of one Hispanic male, two Black males, and one White male. There was an additional White male hired through an “alternate route” appointment.

Under the UCPO’s management CPD also increased its outreach for recruitment. On April 25, 2022, Kean University hosted a Career Day Fair sponsored by the UCPO. CPD was in attendance and approximately twenty resumes were collected at that time.

Although this investigation did not yield any administrative or criminal findings with respect to improper or criminal hiring practices, the ability of UCPO management to diversify the Department suggests that additional inquiry is warranted. UCPO’s inquiry was limited in scope to an investigation into the hiring practices of CPD during a three-year period while Matos served as Chief. The evidence uncovered during the investigation revealed that many of the race and gender-based directives about hiring came from the Mayor verbally to members of CPD’s command. As such, the underlying allegations are being referred to the New Jersey Division on Civil Rights which is specifically charged with enforcing New Jersey’s civil rights laws, and which has the ability to investigate the Township’s hiring practices more generally.

**SECTION IV. DECLINATION OF CRIMINAL CHARGES RELATED TO THE ENTRY OF THE CONFIDENTIAL SETTLEMENT AGREEMENT THAT UTILIZED PUBLIC FUNDS TO CONCEAL INDIVIDUAL MISCONDUCT**

In rare instances, there is sufficient legitimate public interest to warrant a public declination of criminal charges. Such is the case here. Cognizant of the limitations of disclosure imposed by rules governing grand jury secrecy, the State is disclosing that criminal charges were seriously considered in connection with the confidential settlement agreement between leadership in CPD and the township and Manata. Absent new evidence or information, the State is declining charges at this time for reasons described herein.<sup>18</sup>

***FACTS UNCOVERED IN THE INVESTIGATION***

In or around October 2019, a Linden official alleged Manata committed an attempted theft of services, and shortly thereafter there were three additional allegations against Manata submitted anonymously to CPD. Around when CPD began to investigate the Linden allegation, Manata went out on leave and filed a Workers’ Compensation claim for a back injury.

In November 2019, Manata through his attorney notified the Clark Township Attorney, Triarsi, that he had evidence (including recordings) of misconduct by Clark Township Mayor Bonaccorso and members of CPD, including Matos. Manata alleged that he had been subject to a hostile work environment and was seeking compensation.

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<sup>18</sup> The declination of charges related to other alleged criminal conduct is addressed throughout this report.

Settlement discussions ensued and Triarsi included in these discussions at least Matos, Bonaccorso and John Laezza, Clark Township's Business Administrator (now deceased). Manata's attorney provided Triarsi the Draft Complaint on December 4, 2019,<sup>19</sup> which listed Clark Township, and individual officials as defendants and included a myriad of allegations. Manata possessed recorded evidence, including recordings of Bonaccorso and Matos themselves, which supported his claims.

Triarsi discussed the draft complaint with township officials including Matos. He also forwarded the Draft Complaint to the Township's joint insurance fund (JIF).<sup>20</sup> Ultimately, the Township, with the JIF's authorization, decided to settle all claims made by Manata, including Manata's outstanding Workers' Compensation claim and his hostile work environment claim, for a grand total of \$400,000. Of the \$400,000 payout, the Township was responsible to pay \$70,000 and the JIF \$330,000.

Triarsi drafted the Settlement Agreement, which only references the claims brought by Manata in November of 2019, and instead frames the agreement as a resolution of Manata's Worker's Compensation claim.<sup>21</sup> Triarsi represented the township, but also represented and counseled all of the individual Clark officials, and recommended that they all sign the agreement. The parties signed the Settlement Agreement on January 29, 2020.

Pursuant to the Settlement Agreement, in addition to the lump sum payout, Manata would remain on the payroll of CPD until he was eligible for retirement (over two years later), but would not be required to report to work. Furthermore, CPD was obligated to notify UCPO that it was no longer interested in pursuing the pending internal affairs claims against Manata. In exchange, Manata was required to turn over all recordings concerning the alleged misconduct by Bonaccorso and others, and agree to a confidentiality provision restricting him from publicizing or discussing the matters governed by the Settlement Agreement. Triarsi included the confidentiality provision in the Settlement Agreement despite the existence of a state statute (*N.J.S.A. 10:5-12.8*) that expressly declared such provisions unenforceable and contrary to public policy.

The Township's Council members unanimously approved the Settlement Agreement on February 3, 2020, in a public council meeting. Through its investigation, the State interviewed six of the seven Council members and the Clerk. According to witness interviews, Triarsi disclosed to the members, in closed session, that there were recordings of Matos and Bonaccorso – both of whom were also present at the private, closed session – using racist language. The recordings were never played, and the Council members were advised that the tapes would not be disclosed. Only one member asked to hear the recordings, and when Triarsi advised the tapes were unavailable, he abandoned his request. Despite never seeing the Settlement Agreement document or hearing the recordings, the settlement agreement recommended by Triarsi and benefitting the individual parties, was unanimously approved.

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<sup>19</sup> The draft complaint itself is not currently subject to public disclosure. Information contained in this report about the draft complaint is drawn from other permissible sources from the State's investigation.

<sup>20</sup> Clark belongs to a Joint Insurance Fund (JIF) named the New Jersey Municipal Self Insurers. This JIF (like many others) falls under the Municipal Excess Liability JIF (NJ MEL),

<sup>21</sup> The Settlement Agreement is also not currently subject to public disclosure. As such all information contained in this report about the Settlement Agreement is drawn from other permissible sources from the State's investigation.



According to witness interviews, Triarsi counseled that the entry into the Settlement Agreement was the most economically appropriate resolution, having been approved by insurance providers. Throughout the investigation Triarsi maintained this position, though he acknowledged that if Manata had filed the draft complaint, the named individuals would have been “done.”

After settling Manata’s suit, neither the Township nor CPD further investigated the conduct alleged by or about Manata. But for UCPO taking action in response to the anonymous letter it received, as well as in response to Triarsi’s claim of extortion, the misconduct of Clark officials would have remained secret.

#### ***CONSIDERED CRIMINAL LIABILITY***

The State considered whether the conduct uncovered during the course of the investigation exposed any of the individuals to criminal liability. Though other offenses were also considered, the two charges most applicable to the conduct were official misconduct and insurance fraud.

***Official Misconduct:*** *N.J.S.A. 2C:30-2* defines Official Misconduct, in relevant part, as follows:

A public servant is guilty of official misconduct when, with purpose to obtain a benefit for himself or another or to injure or to deprive another of a benefit, he commits an act relating to this office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized or he is committing such act in an unauthorized manner.

*N.J.S.A. 2C:30-2(a).*

The elements of Official Misconduct, as set forth in the model jury charges, which each must be proved beyond a reasonable doubt are:

- (1) That the defendant was a public servant at the relevant time(s);
- (2) That he/she committed an act relating to his/her office knowing that it was unauthorized [OR committed the act in an unauthorized manner knowing that the manner was unauthorized] [OR knowingly refrained from performing a duty which is imposed upon him/her by law or which is clearly inherent in the nature of his/her office]; and
- (3) That his/her purpose in so acting [OR refraining] was to benefit himself/herself or another or to injure or deprive another of a benefit.

Regarding the second element, an act is “unauthorized” if it is committed in breach of some prescribed duty of the public servant’s office. *See Model Jury Charges (Criminal), Official Misconduct, at p. 2.* Regardless of where the duty arises, to provide a basis for a criminal charge of Official Misconduct, the duty must be official and non-discretionary, and must be so clear that the public servant is on notice as to the standards he or she must meet. *See Model Jury Charges (Criminal), Official Misconduct, at p.2.* One cannot be convicted of official misconduct if the official duties imposed are themselves unclear. *Id.* at 3; *see also State v. Grimes, 235 N.J. Super.*

75, 89-90 (App. Div. 1989) (holding that uncertainty with respect to the specific duties imposed, under the circumstances presented, is a complete defense to the crime of Official Misconduct).

Concerning the first element, all of the subjects of the investigation are elected or appointed employees of the Township and all, including Triarsi, clearly fall within the definition of “public servant,” as defined under *N.J.S.A. 2C:27-1(g)*. There is also no doubt that the conduct of entering into the settlement agreement also benefitted the named defendants in the Draft Complaint, and that the subjects’ actions were related to their respective offices and public employment. The hurdle the State would not be able to overcome is proving, beyond a reasonable doubt, that the subjects engaged in the sort of clearly and unquestionably unauthorized conduct necessary to secure and sustain a conviction for Official Misconduct.

The actions of Bonaccorso, Matos, Cocina and/or Teston in participating in settlement discussions, providing input into the terms of the settlement agreement or attending the closed council meetings, certainly appear on their face to have constituted a conflict of interest and to have likely violated provisions of Local Government Ethics Laws requiring them to refrain from participating in matters in which they have “an interest . . . that might reasonably be expected to impair [their] objectivity or independence of judgment.” However, to the extent any of them participated, the evidence indicates that they did so at the behest of the Township’s Attorney, Triarsi – meaning they involved themselves on the advice of, and with the consent of, counsel. Even if Triarsi was wrong to request their participation or to permit or condone it, Bonaccorso and the other subjects, who, unlike Triarsi, are not lawyers and have no legal training, could legitimately argue that, if Triarsi, as the Township Attorney, did not understand their actions to be a clear violation of Local Government Ethics laws or Township policy, how could they have understood and been on notice that their participation, at his request, would constitute a clear and unmistakable violation of their official duties. Thus, the State could not prove, beyond a reasonable doubt, that Bonaccorso and the other subjects engaged in conduct which they knew to be a clear, unmistakable violation of their duties. *See Grimes*, 235 N.J.Super. at 89-90; Model Jury Charges (Official Misconduct), pp. 2-3. It should also be noted that representatives from the Division of Local Government Services, the State Division responsible for enforcing this area of law, have been unwilling to definitively say that any of the actions taken by Bonaccorso, Matos, Cocina, Teston or Triarsi are violative of the Local Government Ethics laws.

Further as to Triarsi, his position was that Manata’s claim was effectively a shake down and blackmail and that he required the assistance of the various individuals to assist him in his representation of the Township. Triarsi also claims that since Manata had a pending Workers’ Compensation claim for a known back injury, the decision to settle was a purely financial decision as the cost for litigation and payout for Manata’s Workers’ Compensation claim and potential future claims (given this was not the first time Manata went out on leave due to his back injury) exceeded the amount of the payout. This decision was supported by the JIF and MEL, as they made a similar determination that settlement was a prudent business decision. Moreover, according to Local Government Services, the duty not to act in a matter where a public official has an interest is a duty of the individual public official who has the conflict of interest, and the ethics laws do not impose upon public employees a clear duty to intervene or to prevent other public employees

and officials from participating in a matter in which they possess a conflict of interest. Thus, according to Local Government Services, Triarsi had no duty to prevent the individual defendants from participating in the settlement decision.

To the extent that Triarsi included non-enforceable provisions in the Settlement Agreement, particularly the non-disclosure provision that he admitted he knew was in violation of *N.J.S.A. 10:5-12.8*, Local Government Services noted that they would not view this as a violation of Local Government Ethics Law, as *N.J.S.A. 10:5-12.8* has its own remedy – namely that the provision is void or more specifically not enforceable by the Township against Manata.<sup>22</sup> Therefore, the evidence with respect to any potential charge of Official Misconduct against Triarsi suffers from the same issue noted above with respect to the other subjects of the investigation – that is, the State would not be able to prove, beyond a reasonable doubt, that Triarsi purposely engaged in conduct constituting a violation of his clear, unmistakable and known official duties under Local Government Ethics laws.

It falls outside the scope of this Office’s authority to determine whether it would be prudent to amend the Local Government Ethics Laws to: (1) more clearly define a conflict of interest in circumstances such as those at issue in this matter; and (2) establish a duty of counsel to advise public officials against violating this duty – or at least not affirmatively request their participation when they have a conflict.

***Insurance Fraud:*** The crime of Insurance Fraud is defined in the New Jersey Criminal Code, in relevant part, as follows:

- a. A person is guilty of the crime of insurance fraud if that person knowingly makes, or causes to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omits a material fact from, or causes a material fact to be omitted from, any record, bill, claim or other document, in writing, electronically, orally or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted as part of, in support of or opposition to or in connection with: (1) a claim for payment, reimbursement or other benefit pursuant to an insurance policy, or from an insurance company . . . (3) any payment made or to be made in accordance with the terms of an insurance policy . . .

*N.J.S.A. 2C:21-4.6(a).*

During the course of the State’s investigation, representatives of the JIF, MEL, and third-party claims administrator/reviewer for the Township, were interviewed. Based on the State’s investigation, it appears that Triarsi and Laezza disclosed the Draft Complaint, which detailed Manata’s allegations, and were otherwise forthcoming and provided all of the information requested by the insurers. The insurers were also aware that Manata had made recordings, and of the general content or substance of the recordings, although the insurer’s did not insist on listening

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<sup>22</sup> While *N.J.S.A. 10:5-12.8* provides that confidentiality provisions are unenforceable and against public policy, it does not strictly prohibit their inclusion in settlement agreements where a party is a public entity or public servant acting in their official capacity.

to the actual recordings. The fact that the insurer's did not ask for or receive copies of and listen to the actual records/recordings suggests that they considered the Draft Complaint and their understanding of the content of the recordings to provide sufficient information from which to make a decision about the advisability of the settlement and the agreed upon payout. Moreover, there is otherwise no evidence that the insurers requested information that was not provided, that any of the information that was provided was not accurate, or that the insurers were not told about any material facts that would have changed or significantly influenced their determination that the matter should be settled and the contemplated payout authorized. Without evidence as to the misrepresentation of material facts, there is no basis for pursuing charges of insurance fraud. *See N.J.S.A. 2C:21-4.6(a)*.

## **SECTION V. INTERNAL AFFAIRS FINDINGS**

Consistent with the Supreme Court's ruling in *Rivera v. Union County Prosecutor's Office*, 250 N.J. 124 (2022), and in advance of any common law requests, the Office of the Attorney General is directing the Union County Prosecutor's Office to publish on their Office's website an executive summary of the State's findings of the extensive internal affairs investigations relevant to this matter.

As previously set forth, in April of 2022, the Attorney General, through OPIA, superseded the investigations – administrative and criminal – being conducted by UCPO into allegations of misconduct by CPD leadership. A summary of the allegations, findings, and recommendations, made at the conclusion of this Office's investigations is set forth herein.

While discipline is within the purview of the appointing authority, the IAPP permits the County Prosecutor or the Attorney General to make recommendations as to the appropriate discipline to be imposed when the subject of the findings is a Police Chief or other high-level officials within a department. IAPP at §5.1.8. In this instance, the Attorney General is exercising this discretionary right and calls for the immediate termination of the employment of Pedro Matos and Joseph Teston.

### ***THE INTERNAL AFFAIRS INVESTIGATION INTO PEDRO MATOS, CHIEF OF POLICE OF CPD***

As previously set forth, absent new evidence, the State is declining criminal charges against Pedro Matos. However, the State conducted a full administrative investigation into various allegations of misconduct by Matos. This report only sets forth a discussion of allegations resulting in sustained administrative findings issued by the State following this Office's investigation.

This Office sustained allegations for the following violations against Matos:

- Failure to conduct internal affairs investigations;
- Failure to self-report allegations of misconduct;
- Standard of conduct related to derogatory comments; and
- Lack of truthfulness.

Each of these sustained violations is detailed more fully below.

***Failure to conduct internal affairs investigations:*** During this investigation, Matos openly admitted he violated department policy, rules and regulations, as well as the general principles of the IAPP, because he felt he could quickly disprove accusations against certain members of his department without an investigation, which he deemed unnecessary. Matos expressed a clear understanding of how internal affairs inquiries are required to be handled, but expressed disagreement with those rules, admitting that he openly disregarded the requirements of the IAPP when he chose not to follow those rules.

This investigation revealed several instances where, both to protect the credibility of his Department and to remain in compliance with the IAPP and his own department standard operating procedures, Matos should have opened internal affairs cases and assigned them for investigation. By following proper procedure, including an intake procedure, assessment, and a finding, there would have been documentation that complaints were received and properly investigated. Failure to follow internal affairs policies and procedures uniformly across the agency has a detrimental impact on the internal morale of the officers, and destroys the public's trust in the internal affairs process.

***Failure to self-report allegations of misconduct:*** The IAPP issued by the Attorney General states:

5.1.8 Complaints against a law enforcement executive, or a member of the executive's senior management team, may originate from a member of the public or from an employee of the agency. All such complaints shall be documented and referred to the County Prosecutor for review. If the subject of the Internal Affairs investigation is the Police Chief, Police Director, Sheriff or Head of Internal Affairs, the County Prosecutor or the Attorney General's Office shall handle the investigation.

It was evident through this investigation that Matos became aware of allegations of misconduct brought against himself and others by a subordinate in CPD in late 2019. He was aware that these allegations pertained to potentially criminal conduct, as well as administrative violations. He was further aware of the fact that at least some of the conduct giving rise to administrative findings sustained in this report were caught on recordings provided to Clark officials in December of 2019 and January 2020. At no time, did Matos report any of these allegations against himself, members of his department's command staff, and Clark officials, to UCPO. In fact, in June of 2020, Matos actively concealed from UCPO leadership his knowledge of allegations and recorded facts that substantiated those allegations, when he supported the township attorney's claim that UCPO should investigate someone attempting to extort Clark officials.

***Standard of conduct related to derogatory comments:*** Section 3:11.7 of the Clark Rules and Regulations issued by Matos on November 12, 2015, prohibits employees of the CPD from making disparaging comments regarding protected personal characteristics. Specifically, the rule states "employees shall not use words which humiliate, disparage, demean, degrade, ridicule, or insult a person because of their race, creed . . . gender . . . or other protected class." The investigation

revealed multiple occasions when Matos – as the Chief of Police – was present when subordinates used such language, as well as made such comments himself.

In one such instance, Matos while he served as the Chief, was recorded saying “Because I’m going to prove that them fucking niggers did it.” While the statement itself is reprehensible, the context in which it was said is even more disturbing. During the investigation it was revealed that this comment was made by Matos during a discussion he had with a subordinate at CPD as they were re-organizing the evidence room at CPD. The Lieutenant in question mentions finding a box of evidence related to a closed investigation that had been conducted jointly by UCPO and CPD in January 2017 regarding an alleged bias incident that victimized members of a Plainfield Girls Basketball team.

In January of 2017, there was a basketball game hosted at a Clark public school. The children from the visiting team were brought to a classroom to change and when they entered the classroom they saw a Black doll in a basketball jersey hanging from the ceiling. Many of the children from the visiting team were Black, and understandably viewed this as a symbol of hate and eventually reported it. The incident was criminally investigated. It also led to community-wide healing sessions in Plainfield, after members of the Clark community accused the visiting team of planting the doll. It was ultimately determined by the UCPO not to be a hate crime, as it was revealed during the course of their investigation that the classroom used by the visiting team was used as an art classroom. The young children in the class were asked to make puppets of their real-life heroes. One child made a puppet of a professional basketball player. Puppets, along with other art, were then displayed hanging from strings around the room. While the puppet itself was determined to be an innocent art project, the experience of the Black children from the opposing team who encountered it in the classroom they were provided by Clark school officials, was no less traumatic in the moment.

In the recorded conversation, when Matos comes across the file, he tells his subordinate that he (Matos) is considering re-opening the case. When asked why, Matos replies, “because I’m going to prove that them fucking niggers did it.” During this investigation, Matos admits that the voice on the recording is his and that he made that statement.

CPD had been involved in the underlying investigation into the bias incident. Matos was the Chief of CPD at that time. He knew that the children from Plainfield did not plant the puppet. He knew that a group of Black children visiting a public school in Clark to play basketball encountered what they perceived to be a Black doll in a basketball uniform hanging from what they understandably thought was a noose in the classroom designated by adults in Clark as their changing room. He was using a racial slur to refer to children who were the victims of a perceived bias incident in a conversation with his subordinate in which he was suggesting they re-open a criminal case into the victims and blame them for something he knew they did not do.

While there was no evidence uncovered indicating Matos took affirmative steps to re-open a sham investigation into the children, his conduct very clearly violated the CPD Rules and Regulations which expressly prohibit the making of disparaging comments.

***Lack of truthfulness.*** Section 8.0.4 of the IAPP requires the following:

A police officer has the same duty and obligation to their employer as any other employee. Thus, where an internal affairs investigation is being conducted solely to initiate disciplinary action, the officer has a duty to cooperate during an administrative interview. The officer also must truthfully answer all questions put to him or her during the course of the Investigation. Failure to fully cooperate with an administrative investigation and/or to be completely truthful during an administrative interview can form the basis for disciplinary action separate and apart from the allegations under investigation. This duty to fully cooperate in an investigation applies to every employee of the agency, whether law enforcement officer or civilian. (IAPP August 2020-7 Edition).

The Clark Police Department's Rules and Regulations require employees "to be truthful at all times whether under oath or not." (Section 3:13.5, Truthfulness).

During his internal affairs interview conducted by UCPO, Matos said he never heard Mayor Sal Bonaccorso use racist or sexist remarks. Matos said if he heard the Mayor say something inappropriate he would have found it offensive but people say inappropriate things but "do they really mean it?" This denial was determined to be untruthful as evidenced by conversations between Matos and the Mayor on two separate recorded occasions during which the mayor used such derogatory language.

***Conclusions as to Matos:*** The sustained findings of violations of disparaging comments, and lack of truthfulness, will be relevant to future considerations given by any prosecuting agency regarding the *Brady-Giglio* implications for Matos as a witness, as well as his qualifications as a Chief of Police. (Attorney General's Law Enforcement Directive No. 2019-006).

The sustained violations set forth in this report reflect the following deficiencies on the part of Matos: a disdain for, and refusal to follow, the Attorney General Directives regarding internal affairs policies and procedures; a failure to hold oneself to the same level of accountability and transparency applicable to every officer; an express bias that was communicated through the use of racial slurs to subordinates in the context of conversations about police work while on duty; bias-based policing; and a lack of candor. Such findings would render someone unfit to be an officer – let alone the leader of a law enforcement agency. While the Attorney General's recommendation of discipline are not binding on the Appropriate Authority, the Authority should be advised that it is the recommendation of the Office of the Attorney General that Matos not only be relieved of his duties as Chief indefinitely, but that his employment as a member of sworn law enforcement should be terminated.

#### ***THE INTERNAL AFFAIRS INVESTIGATION INTO JOSEPH TESTON, SERGEANT AT CPD***

As previously set forth, absent new evidence, the State is declining criminal charges against Joseph Teston. However, the State conducted a full administrative investigation into various allegations of misconduct by Teston. This report only sets forth a discussion of allegations resulting in sustained administrative findings issued by the State following this Office's investigation.

This Office sustained allegations for the following violations against Teston:

- Standard of conduct related to derogatory comments;
- Failure to conduct internal affairs investigations; and

Each of these sustained violations is detailed more fully below.

***Standard of conduct related to derogatory comments:*** This investigation revealed multiple occasions – caught on a recording – during which Teston uses racially charged and offensive language while on duty and actively discussing police work with colleagues. As previously set forth certain information obtained through grand jury are legally permitted to be disclosed, however two such instances verified during the investigation have already been publicly reported. In one such instance, Teston describes Black suspects in a motor vehicle pursuit case as “shines.” In another instances, while viewing a prisoner’s photograph, he called the suspect “a fucking animal” with a “big fucking monkey head.” Teston acknowledged that the voice in the recording was his.

***Failure to conduct internal affairs investigations:*** The Attorney General’s IAPP requires that “Every law enforcement agency shall establish a policy providing that all citizen complaints are readily accepted and fully and promptly investigated.” In September of 2019, while Teston was the head of Internal Affairs at CPD, three allegations were anonymously sent to CPD regarding a member of CPD who at the time was on leave, and who would months later bring a claim against the township and the department that included allegations against Teston. Teston had no valid basis for his failure to open IA matters based on the anonymous tips received by CPD.

***The Second and Separate Investigation into Teston:*** During the pendency of this Office’s investigation, new allegations were brought forth against Teston. Those allegations were also investigated by OPIA resulting in sustained violations for: failure to conduct one’s private life in a manner to avoid bringing CPD into disrepute (CPD Standard of Conduct 3:1.1); failure to exercise tact, restraint, and good judgment in his relationship with the public (CPD Standard of Conduct 3:7.15); failure to notify his appropriate supervisor of a change of address within twenty four hours (CPD Standard of Conduct 3:1.18); and failure to obey established rules and regulations of the CPD (CPD Standard of Conduct 3:1.7). Through this Office’s investigation it was determined that while out on administrative leave for the earlier allegations, Teston was arrested in New York on April 15, 2022, for what would have been an aggravated assault if committed in New Jersey. Those charges were dropped, but OPIA’s investigation revealed that the alleged conduct did in fact occur – and much of it was even admitted to by Teston. After attending a professional sporting event while just outside of the stadium, Teston struck an unarmed stranger in the head (near his temple) with a glass bottle causing injuries that required medical attention – including sutures. By his own acknowledgement, Teston responded to verbal threats with violence. Even in his interview, Teston’s anger escalated in an alarming way as he discussed the moments before the assault.

Additionally, the investigation revealed that Teston provided NYPD with an address different from the address on file with CPD. And finally, Teston acknowledged that he fled the scene rather than assist the bleeding and injured victim.



In this situation, Teston's conduct caused a serious injury to another person which resulted in his being criminally charged. At the very least, Teston's actions and response to a verbal altercation demonstrate a troubling level of poor judgment and, frankly, a lack of respect for human life. Teston's assessment of the situation and his subsequent reaction to it, is particularly concerning for a law enforcement officer who is sworn to protect the public from harm.

While the Attorney General's recommendations of discipline are not binding on the Appropriate Authority, same should be advised that it is the recommendation of the Office of the Attorney General that based solely on the findings in this investigation, Teston's employment as a member of sworn law enforcement should be terminated immediately.

#### ***THE INTERNAL AFFAIRS INVESTIGATION INTO VINCENT CONCINA, CAPTAIN AT CPD***

As previously set forth, absent new evidence, the State is declining criminal charges against Vincent Concina. However, the State conducted a full administrative investigation into various allegations of misconduct by Concina. This report only sets forth a discussion of allegations resulting in sustained administrative findings issued by the State following this Office's investigation.

This Office sustained allegations for the following violations against Concina:

- Drinking on duty;
- Bringing drugs into Police Headquarters, not related to police activity; and
- Inappropriate Standard of Conduct.

Each of these sustained violations is detailed more fully below.

***Drinking on duty:*** Pursuant to section 3:6-1(2) of the CPD Rules and Regulations, "Employees of the department, shall not drink alcohol while on duty, or take any drug as defined herein, except on special assignment authorized by the Chief of Police. Employees shall not drink alcohol or take drugs while in uniform or during any activity where the employee is acting as a representative or has identified himself as an employee of the Department." The investigation revealed that on at least two occasions Concina was drinking while on duty, in uniform and/or during a police activity. The first such example was from a parade event that Concina attended while on duty and while in a partial uniform – during which he was photographed with an open bottle of beer in his hand. The second incident occurred when he consumed alcohol while representing CPD at a National Night Out event.

***Bringing drugs into Police Headquarters, not related to police activity:*** Concina admits to keeping marijuana he seized from his children on his desk at CPD for at least seven years (prior to legalization) in violation of CPD Rules and Regulations. Criminal allegations of drug use by Concina were fully investigated and there was no credible evidence uncovered to support such claims.

***Inappropriate Standard of Conduct:*** Section 3:1.1 of the CPD Rules and Regulations requires that "Employees shall conduct their private and professional lives in such a manner as to avoid bringing the department into disrepute." In December of 2015, anonymous letters alleging

Concina sent his son to school in Cranford despite living in Clark were sent to the Attorney General's office, before being referred to local authorities. At that time criminal charges were not brought forward. The allegations resurfaced during the instant investigation. Due to the passage of time and the destruction of records in the intervening years, criminal charges were declined by the UCPO following a subsequent investigation launched in 2020. However sufficient proof was uncovered to determine that an administrative violation should be – and is – sustained for the conduct that occurred.

An independent investigation conducted at the request of the Acting Superintendent of the Cranford Public Schools in late 2015 concluded that Concina's son was residing in Clark Township, at his father's address, but actually attending Cranford High School. Surveillance conducted on multiple occasions during the investigation revealed that the son in question, Joann Concina (wife of Captain Concina), and the other two siblings were entering and leaving the same address on a regular basis. When confronted with this violation in January of 2016, Vincent Sr. and his wife, willingly entered into an agreement with Cranford public schools to pay for the cost of their son's attendance at the out-of-district public school, Cranford High School.

Regardless of which parent registered the son in question, Concina was aware that his son was attending high school in Cranford Township illegally.

The sustained violations set forth in this report reflect the following deficiencies on the part of Concina: a failure to hold ones' self to the same level of accountability and transparency applicable to every officer; a lack of judgment expected of every officer – especially superior officers; and a willingness to skirt the law and bend the rules by someone sworn to uphold them. At the time of the sustained misconduct, Concina held a position of authority within the CPD – not only as a superior officer, but also as an officer assigned to handle internal affairs. These findings render Concina unfit to continue to serve in that capacity. While the Attorney General's recommendations of discipline are not binding on the Appropriate Authority, the Authority should be advised that it is the recommendation of the Office of the Attorney General that Concina should be subject to major discipline. It is further specifically recommended that Concina be subject to the loss of one rank. In the event that Concina is re-instated, the Office of the Attorney General directs UCPO – which is still exercising supersession authority over CPD – to refrain from permitting Concina any responsibilities related to internal affairs or professional responsibility.

***THE INTERNAL AFFAIRS INVESTIGATION INTO ANTONIO MANATA, LIEUTENANT AT CPD (RET.)***

In November of 2019, Manata and his attorney brought forward to Clark officials serious allegations of misconduct occurring at Clark PD, specifically involving Matos, Concina and Teston, in addition to Bonaccorso. At the center of his November 2019 complaint was the use of derogatory language captured on audio recordings Manata recorded surreptitiously between 2017 and 2019. Members of the Clark Police Department are required to admonish or report derogatory language. Manata failed to do so, but given that Manata eventually cooperated with law enforcement officials and in light of the protections afforded by the Conscientious Employee Protection Act (CEPA), the State is not sustaining a finding of a violation for his failure to report. For the same reasons, the State is also not sustaining a finding for his violation of the CPD

prohibition against surreptitious recordings for any of the conversations he recorded with members of the CPD or Township leadership.

However, during the course of this investigation, Manata revealed that between the years 2011 and 2014 he made countless surreptitious recordings of interactions with civilians. Unlike the recordings he made of his colleagues, his reason for recording civilians was not to bring misconduct to light, but rather to shield himself – as he was a self-described “active” officer – from any false allegations brought by civilians. This conduct, which amounted to years of conducting non-consensual intercepts without the authorization required by law, is a basis to sustain a violation for those surreptitious recordings.

### ***CHANGES TO THE INTERNAL AFFAIRS FUNCTION***

The investigation into CPD revealed that members in leadership abused the internal affairs function of CPD. Senior members of the department – including the Chief – selectively initiated, and failed to initiate, internal affairs investigations as they saw fit. It was clear from the findings in the administrative inquiries, that senior members of CPD shielded themselves from accountability and scrutiny, not only by failing to open mandatory investigations into one another, but also by failing to self-report. The State’s findings also make clear that at least two senior-ranking officers in CPD felt that it was acceptable to disregard the rules protecting the confidentiality of internal affairs investigations and openly discuss cases they were investigating and/or in which they were the target.

The way in which the internal affairs function of an agency runs is critical to the morale of its officers, as well as the confidence of the community it serves. An unhealthy or misused internal affairs function will destroy community trust – and lead to distrust in the rank and file. If the rules change for the people in charge, it is impossible for a junior officer to know whether the rules apply to them. At the outset of this investigation it was evident that the internal affairs function of CPD was broken and those within Clark entrusted to oversee it had let their department down.

Immediately upon exercising supersession in July of 2020, UCPO personnel were assigned to review the internal affairs function of the police department, to include a review of how complaints against police officers were handled. It should be noted that significant changes to the internal affairs function have already been made under UCPO’s leadership. After an initial review of same, UCPO issued a CPD Standard Operating Procedure on September 2, 2020, to provide clear guidance about the appropriate way to document complaints from the public regarding officers/employees of the police department so as to be in compliance with the IAPP.

UCPO also determined that CPD was maintaining Internal Affairs investigations on an Excel spreadsheet by police officer name. In 2015, there was a separate Excel spreadsheet maintained in a drive within the CPD server, by the officer then handling the IA function and accessible to that officer and the Chief. This is not an appropriate record keeping system for internal affairs investigations and has already been corrected by UCPO.

CPD has been using Guardian Tracking, an early intervention system, since 2015. This system can provide a means to electronically record and maintain things like supervisor observations,

events, conversations, incidents of good or bad performance, rewards and recognition, evaluations, or any other work-related occurrences. A subsection of the Guardian Tracking system marked “confidential” is utilized by the internal affairs investigator which can only be viewed by the Chief of Police and members assigned to the internal affairs function of the department. It appears that this system was not being properly used to document all complaints reported and/or investigations initiated. UCPO corrected this and Guardian Tracking is now utilized to document all complaints and/or internal affairs investigations.

In addition, UCPO assisted CPD in implementing recommendations to maintain an internal affairs Index file. This serves as a record control device to maintain an inventory of internal affairs case files and to summarize case status for authorized personnel only. Since the supersession, an index is now maintained indicating an internal affairs CAD number that is generated for an incident and/or complaint. Every IA investigation is given an IA prefix number. At the completion of every investigation, the entire work product is sealed in an envelope marked “confidential” and stored in a secure locked file cabinet. In addition, Appendix K (the IAPP reporting form) and Appendix L (the IAPP Annual Major Discipline Reporting form) are also maintained.

Under UCPO’s leadership, two CPD Lieutenant have received training in the handling of internal affairs investigations. While all CPD internal affairs investigations were initially being handled by UCPO staff, a CPD Lieutenant of the CPD has taken over the internal affairs function of the department and is currently assigned to investigate CPD internal affairs matters with the oversight by UCPO.

UCPO also updated CPD’s Policy and Procedure for Evidence and Property Control to require that efforts are made to identify and notify the owner/custodian of recovered property in the department’s custody, and dramatically improve the handling of prisoner property left in the custody of the police department.

Working with UCPO staff, the two CPD Lieutenants trained by UCPO in internal affairs have continued to update the CPD Policies and Procedures to confirm same are compliant with all Attorney General Directives.

## **SECTION VI. REQUIRED INTERVENTIONS AND RECOMMENDATIONS**

### ***THE UNION COUNTY PROSECUTOR’S OFFICE IS DIRECTED TO MAINTAIN ITS EXERCISE OF SUPERSESSION AUTHORITY***

The Clark Police Department will remain in supersession under the direct control of the Union County Prosecutor’s Office until further order of the Attorney General. During that period, the Union County Prosecutor, or his/her/their designee, is required to oversee the implementation of the required interventions set forth herein. Additionally, UCPO is to submit reports every six months on the progress made in the key areas identified in this report. The first of such reports will be due on June 1, 2024, and must be submitted to the Executive Director of the Office of Public Integrity and Accountability, with a courtesy copy provided to the Director of Policing Policy, and the First Assistant Attorney General. Following the conclusion of UCPO’s exercise

of supersession, UCPO will appoint a member of its legal or investigative staff to serve as a monitor. The cessation of supersession and the appropriateness of the proposed monitor must be approved by the Office of the Attorney General.

***THE CLARK POLICE DEPARTMENT IS TO IMPROVE ITS DATA COLLECTION AND ANALYSIS***

The lack of adequate and relevant data collection regarding everyday police/civilian interactions by CPD created an inability on the part of those charged with overseeing the department to draw any reliable conclusions about the general practices of CPD. Although many of the findings in this report reliant on data collection were inconclusive, the data surrounding the demographics of people subjected to law enforcement action compared to the demographics of the resident population was alarming.

As set forth in this report, many officers in CPD were following best practices and calling out demographic information about civilians being stopped, but that information was not being captured in the CAD. Effective immediately personnel assigned to radio rooms and/or dispatch duties are to receive appropriate training on this best practice, and must record demographic information provided by the officers in the field in the CAD system. Additionally, the need to relay demographic information in real time or as close thereto must be reinforced with officers in the field.

Additionally, CPD and UCPO leadership assigned to CPD are to consult with the Attorney General's Office of Justice Data (OJD) and OPIA to identify additional data fields that should be collected, and implement those recommendations into the policies and procedures of CPD.

CPD, with assistance of UCPO, should consider partnering with a reputable academic institution or expert in the field to conduct a study of the data being collected, as well as the efficacy of the interventions being implemented pursuant to the instant report.

***CONTINUED IMPROVEMENTS TO THE INTERNAL AFFAIRS FUNCTION***

The investigation into CPD revealed a complete breakdown in their leadership's oversight (and abuse) of the internal affairs function. Under the leadership of UCPO, and the new CPD leadership involved in CPD Internal Affairs function, improvements to this system are already well underway. UCPO, in collaboration with CPD leadership assigned to this function since the supersession, are encouraged to continue the improvements they have already made and build upon them.

One such specific improvement to make in CPD – and in municipal departments across the county and the state – is to reiterate the existing requirement in the IAPP for law enforcement employees and officers to self-report allegations of misconduct. UCPO is to issue guidance to its officers across the county re-educating them on this requirement and explaining that it does not matter whether the allegation comes in the form of an anonymous letter or a draft civil complaint – all allegations must be reported and/or self-reported, and all allegations of misconduct must be documented and investigated pursuant to applicable rules and regulations of the agency, as well as in compliance with Attorney General Directives.

While a healthy internal affairs function is critical to the success of an agency, it is as important to implement systems that catch problematic behavior before it rises to the level of an internal affairs investigation. CPD supervisors shall work with UCPO leadership to evaluate whether appropriate processes are in place – and being followed – in CPD to identify concerning behavior before it becomes serious so that officers can get specific training necessary to address areas in need of improvement.

#### ***MVR AND BWC REVIEWS***

The Office of the Attorney General was encouraged by CPD's participation in the second phase of the UCPO's BWC Pilot Program. BWC and MVR footage, when properly utilized by front-line supervisors, provides law enforcement agencies incredible opportunities to commend exceptional police work, identify lapses in training, intervene and stop questionable behavior before it becomes problematic, and timely address unconstitutional or dangerous practices. CPD is directed to continue to engage in meaningful and systematic BWC and MVR reviews consistent with the review protocols developed by the UCPO BWC Pilot Program, but geared towards police-civilian encounters most relevant to CPD.

UCPO is to confirm CPD compliance with all applicable laws and regulations for BWC/MVR retention. Additionally, UCPO is to determine whether CPD personnel require additional training to ensure that all footage is being appropriately categorized and tagged for retention and review.

#### ***MOTOR VEHICLE STOPS***

Motor vehicle stops are one of the most dangerous civilian encounters for law enforcement officers. They can also be incredibly vulnerable experiences for those individuals who are stopped – especially if the drivers do not feel that the stop was warranted. Yet motor vehicle stops are critical to public safety as we know that impactful and intentional traffic enforcement can save the lives of motorists and pedestrians alike. Given these competing interests, however, we need to be deliberate in our enforcement action strategies.

For these reasons, beginning in January and for a one-year period, CPD officers are directed to call in the reasons for any and all traffic stops prior to the stop being made. Of course, if the safety of an officer or a civilian is in jeopardy, the officer can report the basis for the stop as soon as it is safe to do so – even if that opportunity occurs after the stop is effectuated and cleared. The officer is not calling this into headquarters to seek permission for the stop – but rather simply asserting the basis for the stop (for example, the call may be as simple as speed, equipment malfunction, suspected DUI, distracted driver, etc.).

CPD personnel assigned to dispatch or the radio room are required to enter the information in real time (as the officer calls it into headquarters) into the CAD system and create a case entry for each stop made – regardless of the outcome (even if no enforcement action is taken after the stop). The CAD entry should include the date, time, location of the stop, the officer initiating and effectuating it, the perceived race and gender of the driver, the license plate number of the car stopped, the stated reason for the stop, and the outcome of the stop (for example, the listed outcome may be no action taken, summons issued, search, results of search, arrest, warning, etc). These records are to

be maintained for the year and turned over to the Office of Justice Data within OAG at the conclusion of the year, unless requested earlier or in interval, or unless preservation is required for a longer time pursuant to applicable law, rule, or regulation.

CPD supervisors, in consultation with UCPO leadership, should consider whether specific enforcement direction should be given to officers to connect their enforcement actions with the specific public/roadway safety needs of the Clark community. For example, if Clark experiences a large amount of pedestrian traffic in a particular area of the township, perhaps officers assigned to patrol that area should be given instruction to focus their enforcement actions on violations that directly impact pedestrian safety such as speeding and distracted driving. And if such a focus is prescribed to officers on certain shifts or patrols, perhaps their supervisors should consider periodic reviews of the stated reasons for officer stops in that area to determine if the stops are in fact being focused on the enforcement actions intended to address a specific public safety need. If CPD implements area and/or specific need-driven enforcement strategies, it is further recommended that officers communicate that to civilians when they effectuate stops as a means of improving community trust. (For example, if a speeding driver is pulled over in a heavy pedestrian traffic zone, an officer may consider saying “I stopped you because you were traveling in excess of the posted limit and this is an area with heavy pedestrian traffic where we have seen an uptick in pedestrian/ motor vehicle accidents.” This explanation may not only improve the specific interaction, but also deter the motorists from speeding ten minutes later when out of sight of the officer.)

CPD supervisors, in consultation with UCPO leadership, are also directed to create and implement a meaningful mechanism for shift supervisors to review compliance with this particular directive.

We acknowledge that some officers may feel this level of reporting and oversight is excessive, and some may even decide taking the enforcement action is not worth it, if they believe – incorrectly – that this intervention is meant as a means to be punitive. It is not. Nor is it meant as a way of limiting the discretion of officers. The reason for this is simple – we are more effective at keeping our communities safe when we connect our enforcement actions with our specific public safety goals.

#### ***REVISIONS TO THE ATTENDANCE POLICIES ARE REQUIRED***

The investigation into certain allegations related to theft of time proved impossible to render a reliable determinations as to criminal liability because of flawed policies and loose practices regarding attendance and time-keeping at the CPD.<sup>23</sup> UCPO is directed to work with CPD to put in place appropriate attendance policies and procedures and ensure same are followed.

If not already addressed by UCPO, UCPO is to immediately end the permitted practice in place under Matos whereby superior officers were allowed to take undocumented partial days off, similar to comp-time, to take care of personal appointments and personal needs, and even pick up paid, off-duty, overtime jobs – commonly referred to as “road jobs.” Even if it is permissible for

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<sup>23</sup> Allegations of theft of time were fully investigated by the State. And while conduct that would ordinarily be considered criminal was uncovered, it was also determined that the practices described herein were permitted by the Chief and township officials. As such, criminal charged were not deemed appropriate.

the Township to authorize comp-time for superior officers because they are not entitled to overtime, such time nevertheless must be documented. And a policy must be implemented making it clear that officers are prohibited from working paid, off-duty or road jobs, while they are also on the clock at CPD. Acceptance of paid, off-duty jobs should only be permitted when an officer is on personal time or pre-approved and documented leave time.

### ***IMPROVED CIVILIAN RELATIONSHIPS***

Community engagement with Clark residents has been a source of pride with CPD members – as it should be – as CPD members continue to be active participants in the activities of the community they serve. But CPD members are sworn to protect and serve not only Clark residents, but also all those New Jerseyans who visit Clark’s retail and business establishments, its restaurants and diners, as well as all those who drive through the township on their way home from work and school. CPD’s community ties – and community trust – should extend beyond its municipal borders to all civilians who encounter CPD officers.

CPD is to develop strategies to further that goal. CPD is to work with UCPO, and is encouraged to consult with OPIA’s Policing Policy Bureau or the Attorney General’s Office of Community Engagement, to develop specific strategies with this aim, and then implement same. Among the strategies CPD should implement, it is recommended that CPD design and procure contact cards for all of its officers. If personalized contact cards are cost prohibitive for the CPD, cards where individual officers must write in their name and badge number would suffice. The cards should contain clear information on how a civilian can report to CPD a compliment about their experience with the officer, or register a civilian complaint. Other departments, such as the Paterson Police Department, have made this very easy by printing a URL code that when scanned by a smart phone brings the user to the PD’s website where complaints or compliments can be entered (with an option for anonymity). Once procured, all officers should be instructed to carry contact cards while on duty and provide them to members of the public during civilian encounters – including motor vehicle stops and calls for service.

Another means of improving civilian relationships is to implement best practices in civilian encounters. For example, to the extent this is not already happening, it has been established that tension during a motor vehicle stop dissipates almost immediately – improving the safety of our officers – when the officer effectuating the stop does the following: (1) courteously greets the driver and introduces themselves by name (“Hello sir, I am Officer Last Name with the Clark Police Department.”); (2) states the reason for the stop (“I am stopping you because I observed this car traveling above the posted speed limit”); and (3) then asks for identification, insurance, and vehicle registration. Implementation of simple best practices that are centered in officer safety and service delivery to civilians will assist CPD officers in expanding the community trust they experience with Clark residents to the many other civilians they encounter and serve.

### ***CONTINUED COMMITMENT TO INCREASED DIVERSITY TO REFLECT THE GREATER CLARK COMMUNITY***

Although demographically the makeup of Clark Township is classified as predominantly White residents, the community CPD serves on Clark’s roadways, its business establishments, and in the



workplace, reflects a much broader makeup of people. We acknowledge the increased diversity CPD has experienced under UCPO leadership and encourage UCPO to work with CPD supervisors to continue the intentional efforts underway and institutionalize the strategies that have been most effective for UCPO leadership since the supersession. More emphasis should be put on diversity within the ranks of the police department – as is true for police agencies across New Jersey and nationally. Proactive recruitment of a more diverse police department will be essential to regain public trust.

It is strongly recommended that going forward, the CPD administration should adhere to the hiring guidelines, “Promoting Diversity in Law Enforcement Hiring,” issued by the Attorney General on December 7, 2021. The guidelines emphasize that law enforcement agencies should strive for workforces that reflect the jurisdiction they serve to effectively interact with all community members.

### ***OFFICER WELLNESS***

It was clear when the supersession began, that the misconduct of a few leaders within the CPD had not trickled down to influence the culture of an entire department. Instead UCPO leadership was met with dedicated officers open to reform and passionate about service. While members of the CPD have flourished under UCPO leadership, having their Department superseded and investigated – especially for this duration – nevertheless brought added stressors to an already high-stress job. CPD, with assistance from UCPO, is encouraged to develop, or formalize and expand upon, an employee wellness program to assist CPD members with the stressors of the job and improve overall health. Special consideration should be given to fitness programming shown to improve wellness while simultaneously offering de-escalation techniques.

### **SECTION VII: REFERRALS**

Prosecutors are bound to enforce the laws as they presently exist, and must be ever vigilant in their responsibility to only bring charges they believe they can prove by the extraordinarily high burden of proof beyond a reasonable doubt. Their authority as prosecutors is restricted by the criminal laws of this state, even when they uncover conduct that is egregious or seemingly unlawful from a civil perspective. While the State has some recourse through the Internal Affairs functions to address the reprehensible conduct uncovered in this investigation, that authority extends only to the members of the law enforcement community, and does not provide oversight over elected officials, private attorneys, or other government entities.

As the Chief Law Enforcement Officer, the Attorney General is cognizant of, and observes, the limitations of the authority of this Office. However, as an officer of the Court, member of the community, and as head of the Department of Law and Public Safety, this Attorney General makes the following public referrals for additional investigative steps and appropriate follow-up actions:

#### ***A REFERRAL TO THE DIVISION OF CIVIL RIGHTS***

The instant report refers the allegations as to the conduct of the unsworn township authorities within Clark to the Division on Civil Rights (DCR) within the Department of Law and Public Safety for all follow-up deemed appropriate by the Director of DCR and Division Staff.

Additionally, the Attorney General directs the DCR to undertake a review of the institutional practices of the township. While the investigation undertaken by UCPO and OAG reviewed the hiring practices of the Police Department, the hiring practices of the township more generally fell outside of the purview of our prosecutorial authority. Based on statements made by the sitting Mayor regarding his refusal to hire women, and his animus towards African Americans and individuals of certain faiths, a review of the employment practices of the township is specifically warranted.

Additionally, DCR is directed to consult with the Division of Consumer Affairs in an audit of any business permits and licensing controlled by township authorities. Recorded comments capturing the Mayor and late Business Administrator suggest that township authorities sought to maintain a certain demographic within their community. It is unclear whether expressed animus influenced the practices of township functions under mayoral oversight and control.

#### ***A REFERRAL TO THE OFFICE OF ATTORNEY ETHICS***

The investigation into the sworn officers who were party to the Settlement Agreement entered between the township and township authorities, and Manata, presented several concerning questions as to the conduct of attorneys involved in the negotiations and drafting of the Settlement Agreement. The Office of Attorney Ethics may wish to more fully explore the terms of the agreement generally, and the areas of concern identified herein.

Specifically, it is unclear to the many attorneys involved in this investigation how counsel for the Township was able to fulfill his duties to his client, when he undertook the representation of multiple individual parties with conflicting interests. It is also concerning that the Settlement Agreement would contain at least two unenforceable provisions that were clearly of material import to the parties. The Settlement Agreement contained an unenforceable non-disclosure agreement, as well as a provision requiring the Clark Police Department to cease open and pending internal affairs investigations into an officer the department retained in its employ. Such provisions are not only contrary to public policy but also contrary to law, and Attorney General Directives that have the force of law.

Finally, the Settlement Agreement entered into by the township used public funds to conceal individual misdeeds. This use of funds benefitted the individuals who were party to the potential lawsuit, but was detrimental to the institutional reputation of the local government.

In light of the conduct uncovered during this investigation, the matter is being referred to the Office of Attorney Ethics to take whatever steps that Office deems appropriate.

#### ***A REFERRAL TO THE OFFICE OF THE STATE COMPTROLLER***

This report is being shared with the Office of the State Comptroller to take whatever steps it deems appropriate. As the Office charged with investigating the misuse of public funds, the confidential settlement agreement explored in this investigation may be of interest to the Office. As set forth herein, the confidential settlement agreement entered between Clark and Manata, expended tremendous public resources to coverup the misconduct of individuals. It is unclear how doing so benefitted the people of Clark. Additionally, a material term of the agreement allowed Manata to

remain on the CPD payroll for years – despite the fact that the terms of the agreement forbid him from returning to duty – so that he could fully vest in the pension and collect retirement benefits provided by the State for the remainder of his life. The propriety and legality of that practice may be something the OSC wishes to explore. It should also be noted that when these arrangements are made in the context of police employers it necessarily means that public safety is impacted as the position cannot be filled and the CPD roster is an officer short until the subject officer officially retires.

#### ***A REFERRAL TO THE DIVISION OF PENSIONS AND BENEFITS***

While the involvement of counsel and the high burden of proof associated with criminal charges makes imposing criminal liability difficult in connection with the settlement agreement, we refer this matter to the Pension Fraud and Abuse Unit for review as to the propriety of the agreement, any pension awards to the parties, and whether regulations are required to forbid local government entities from entering into agreements that require employees to refrain from working for extended periods but leaves them on the payroll so that their pension can vest.

#### ***A CLOSING OBSERVATION***

Under the current state of the law in this state, the Attorney General has the ability to render findings and make recommendations as to the appropriate discipline in internal affairs investigations conducted on any sworn law enforcement officer (state, county, or local). While the findings are binding, in most instances the disciplinary recommendations are simply recommendations and the decision as to discipline is left to the Appropriate Authority (usually a local elected official, often with no law enforcement experience). In this instance, the internal affairs findings will be sent to Clark officials to mete out discipline despite the fact that Clark officials have a clear conflict of interest. After all, Clark officials entered the confidential settlement agreement designed to keep much of the sustained misconduct from ever seeing the light of day. Additionally, certain Clark officials encouraged and actively participated in some of the very same misconduct that the Attorney General deems grounds for termination of employment. There is no clear alternative Appropriate Authority in instances such as this when the Appropriate Authority has a conflict of interest that renders it nearly impossible for them to be objective in reviewing the findings and recommendations of the Chief Law Enforcement Officer for the State of New Jersey. However, it is strongly recommended that the Appropriate Authority designate an independent individual who does not suffer from any conflict of interest to make the final determination of discipline in these matters.