

Expert Report

Prepared By

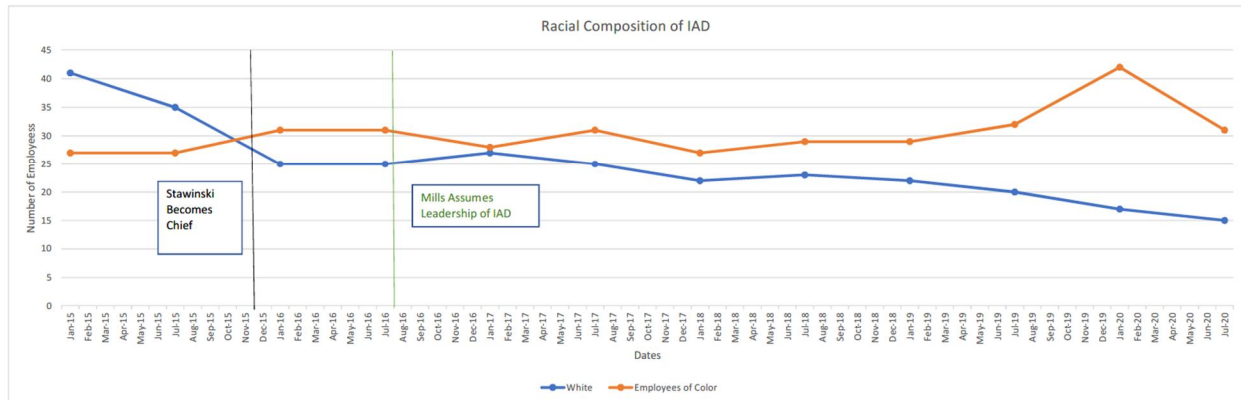
J. Thomas Manger

In

Hispanic National Law Enforcement Assoc. NCR et al.
v.
Prince George's County et al.,

United States District Court
District of Maryland

Civil Action No.: 8:18-cv-03821-TDC



88) Building and maintaining the community's trust is an ongoing pursuit for any police department. It has been my experience that community members are more likely to come forward to make complaints against the police when they have confidence that their complaints will be handled competently. Moreover, my opinion, based on my experience, is that a victim or complainant often feels more comfortable speaking with someone they believe will understand their point of view. Placing minority officers in pivotal positions in the disciplinary process is, therefore, a best practice for building the community's trust and confidence in the investigatory and disciplinary process, and for preventing racial discrimination in the process.

D. The Individual Plaintiffs Were Reasonably Disciplined

i. The investigations into Plaintiff Perez were not retaliatory or harassment

89) Contrary to Mr. Graham's assertion that Plaintiff Perez faced retaliatory or reciprocal charges for making complaints, it is my opinion that the Department's treatment of Plaintiff Perez has been thorough, careful, and fair and not retaliatory.

90) Mr. Graham's Report discusses Plaintiff Perez in the context of "reciprocal charges," which indicates a focus on the Department's IAD investigation into Plaintiff Perez's conduct at the Seat Pleasant Police Department.¹⁶⁴ Mr. Graham's Report also mentions Plaintiff Perez's transfer in 2016 from the Internal Affairs Division to the Planning and Research Division and the Department's failure to promote Plaintiff Perez to the rank of Major, along with other minor acts which Mr. Graham appears to believe were retaliatory.¹⁶⁵

91) [REDACTED] ¹⁶⁶ [REDACTED]
[REDACTED] ¹⁶⁷ [REDACTED]

¹⁶⁴ Graham Report, ¶ 143(f), pp. 130-134.

¹⁶⁵ *Id.*

¹⁶⁶ PG0000980350-980354.

¹⁶⁷ *Id.*

[REDACTED]¹⁶⁸ [REDACTED]

[REDACTED]¹⁶⁹ [REDACTED]

[REDACTED]¹⁷⁰ [REDACTED]

[REDACTED]¹⁷¹

92) [REDACTED]

[REDACTED]¹⁷² [REDACTED]

[REDACTED]¹⁷³ [REDACTED]

[REDACTED] Plaintiff Perez challenged the Department's actions three times. First, Plaintiff Perez filed a request with the Circuit Court for Prince George's County requesting a "Show Cause" hearing to determine whether Prince George's County Police Department's actions in the investigation were retaliatory.¹⁷⁴ The court determined they were not.¹⁷⁵ [REDACTED]

[REDACTED]¹⁷⁶ Finally, the Circuit Court for Prince George's County Maryland upheld the AHB's findings, stating that there was "substantial evidence to support the [Administrative Hearing] Board's finding... and that "any reasoning mind can find [Plaintiff Perez's conduct] to be intimidating."¹⁷⁷ The court further found that Plaintiff Perez "use[d] the prestige of [his] office to gain access and ultimately to gain personal benefit..."¹⁷⁸ As a result of his actions, Plaintiff Perez received a demotion from Captain to Lieutenant, and was removed from the promotion cycle for one year.¹⁷⁹

93) Mr. Graham's Report claims that there were "significant procedural irregularities" in the Department's investigation. Notably, as described above, Plaintiff Perez has already challenged these alleged irregularities before the Circuit Court for Prince George's County, Maryland, which specifically found that "[w]here the Department deviated from its standard

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² PG0000980347; PG0000990252.

¹⁷³ PG0000990252.

¹⁷⁴ PG0000080041.

¹⁷⁵ PG0000161564.

¹⁷⁶ PG0000980342-980358.

¹⁷⁷ Transcript of July 31, 2020 Motions Hearing, *Joseph Perez v. Prince George's County Police Department*, Civil Action 19-36458, (Circuit Court for Prince George's County, Maryland) ("Perez Circuit Court Hearing") at 34-35.

¹⁷⁸ Perez Circuit Court Hearing at 35.

¹⁷⁹ PG0000980339-980341.

operating procedures, it had believable explanations” and noted that “the Department conducted the investigation with an abundance of caution.”¹⁸⁰ It is my opinion that the Circuit Court was correct, and this investigation was conducted with an abundance of caution and in a fair and non-retaliatory manner.

94) [REDACTED]

[REDACTED]¹⁸¹ [REDACTED]

[REDACTED]¹⁸² [REDACTED]

[REDACTED]¹⁸³ [REDACTED]

[REDACTED]¹⁸⁴

95) Mr. Graham’s Report claims that the Department failed to turn over certain materials during the investigation. Plaintiff Perez was represented by counsel during the entire process, and never raised such an objection.¹⁸⁵

96) The Department’s handling of the investigation and subsequent proceedings was even-handed, non-retaliatory, handled in accordance with the LEOBR law and consistent with what I would expect when a police department investigates a high-ranking officer for a serious charge. The Department received a complaint from a third-party and was obligated to investigate the complaint. As described above, its investigation was fair and non-retaliatory.

97) Next, Mr. Graham’s Report implies that Prince George’s County Police Department [REDACTED]

¹⁸⁰ PG0000161564.

¹⁸¹ PG0000990252; PG0000095242 ([REDACTED]); PG0000095245 ([REDACTED]).

¹⁸² PG0000990252; PG0000095250-95251; PG0000095254-95256; PG0000095270-9525278; PG0000095299-9525301.

¹⁸³ PG0000990252; PG0000095157-95159.

¹⁸⁴ PG0000095172; PG0000095198-95202.

¹⁸⁵ See generally PG0000095217; Perez Circuit Court Hearing.

[REDACTED]¹⁸⁶ [REDACTED]
[REDACTED]¹⁸⁷ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹⁸⁸ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

98) Mr. Graham also notes his opinion that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹⁹⁰ [REDACTED]
[REDACTED]¹⁹¹ [REDACTED]
[REDACTED]¹⁹²

99) Similarly, the Department's transmission of information related to [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹⁹³ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹⁸⁶ See PG0000971483-971484.

¹⁸⁷ Graham Report, ¶ 143(f), pp. 132-133.

¹⁸⁸ PG0000971483-971484; Christopher Murtha Deposition Transcript ("Murtha Tr.") 61-94 (August 5, 2020).

¹⁸⁹ PGPD-PER-0069140.

¹⁹⁰ Graham Report, p. 131, note 426, citing PG0000785918-785919.

¹⁹¹ PGPD-PER-0067452; PGPD-PER-0098783.

¹⁹² Compare Graham Report, p. 132, note 432 (citing PG0000169211-169213) with Michael Smith Deposition Transcript ("M. Smith Tr.") 155-156 (July 22, 2020) and Joseph Ghattas Deposition Transcript ("Ghattas Tr.") 221-229 (July 8, 2020).

¹⁹³ PG0000155728; Stawinski Tr. 343-349 (July 31, 2020).

100) Mr. Graham's analysis of Plaintiff Perez's claims also contains numerous inaccuracies and frequently cites to allegations without supporting evidence. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁹⁴ [REDACTED]

[REDACTED]¹⁹⁵ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁹⁶ [REDACTED]

[REDACTED]

[REDACTED]

ii. Plaintiff Oatis was disciplined fairly

101) Mr. Graham outlines the investigations into the conduct of Plaintiff Tasha Oatis (case number IA2014-130), Sergeant [REDACTED] (case number SI2017-0010, and Lieutenant [REDACTED] (SIQ2017-006) as indicative of a lack of fairness in discipline by the Prince George's County Police Department and contends that minority officers have received harsher discipline than white officers for similar violations.¹⁹⁷ I disagree with Mr. Graham's assessment because his discussion of the two cases that he points to as comparable to Plaintiff Oatis's contain certain misstatements and omit facts.

102) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁹⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁹⁹

(PG0000013443).

¹⁹⁴ See PGPD-PER-0069986.

¹⁹⁵ PGPD-PER-0069987; see also Joseph Perez Deposition Transcript ("Perez Tr.") 104-106 (July 30, 2020).

¹⁹⁶ See PG0000971542; PGIAD000002956.

¹⁹⁷ Graham Report, ¶ 134(c), pp. 118-119.

¹⁹⁸ PG0000013433-13434.

¹⁹⁹ PG0000013436-13443.