

Appendix 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID FLOYD, *et al.*,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

08 Civ. 1034 (AT)

KELTON DAVIS, *et al.*,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

10 Civ. 699 (AT)

JAENEAN LIGON, *et al.*,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

12 Civ. 2274 (AT)

ORDER

ANALISA TORRES, District Judge:

On July 19, 2018, this Court ordered the parties to submit a joint proposal for a pilot program to study the electronic recording of first- and second-level police-citizen encounters. ECF No. 619. On August 9, 2018, this Court further ordered that the proposed program study the use of body-worn cameras (“BWCs”) in first-level encounters. ECF No. 634. The parties then asked the Monitor to develop the required program. After consulting with the parties, the Monitor submitted a proposal on November 9, 2018, ECF No. 660-1, and submitted a revised proposal (the “Combined Pilot”) on January 29, 2019, ECF No. 687. This Court approved the Combined Pilot on February 7, 2019. ECF No. 691.

The Combined Pilot was a study using graduate students riding in police cars with New York City Police Department (“NYPD”) officers to observe police-citizen encounters. Because of the COVID-19 pandemic, that study is now not advisable. Accordingly, on December 14, 2020, the Monitor made a submission asking this Court to vacate its February 7, 2019 order for the Combined Pilot and, in place of that order, enter a new order requiring two things. ECF No. 805. First, the Monitor requested that the new order require the City to implement the plan it developed to make some of the policy changes that the Combined Pilot would have studied (the “Alternative Plan”), which is detailed in the City’s February 21, 2020, August 18, 2020, and September 9, 2020 letters included as Appendix 1 to the Monitor’s submission and as Exhibit A to this order. Second, the Monitor requested that the new order require the City to give full support to certain studies designed to capture information that the Combined Pilot would have developed (the “Proposed Studies”), which are described in the memoranda included as Appendix 2 to the Monitor’s submission and as Exhibit B to this order.

The Alternative Plan has two parts. First, it will require NYPD officers citywide to activate their BWCs for first-level encounters, except when officers have those encounters (a) in situations that the NYPD has designated as “do not record” situations; (b) while addressing motor vehicle accidents; (c) in situations where a person requires medical assistance, except that the involvement of an emotionally disturbed person is not a reason for not recording; or (d) while taking reports on past crimes. Second, it will require officers to manually enter information into a form on evidence.com: for first-level encounters, officers must enter the level of the encounter; for second-level encounters, officers must enter the level of the encounter, the race and gender of the primary person encountered, and whether multiple persons were encountered. The manually entered information supplements the information that would be automatically captured by the BWC recordings: date, time, officer and supervisor information, assignment information, and length of recording.

The Proposed Studies will examine officers’ compliance with applicable legal requirements in police-citizen encounters, racial disparities in officers’ compliance and escalation in those encounters, and whether those encounters are appropriately documented. As with the Combined Pilot, the Proposed Studies can succeed only if the City embraces them by funding them and fully supporting them as directed by the Monitor.

Together, the Alternative Plan and Proposed Studies are an appropriate and adequate substitute for the Combined Pilot in light of the circumstances. Accordingly, it is hereby ORDERED that:

1. This Court’s February 7, 2019 order requiring the Combined Pilot is VACATED.
2. The Alternative Plan, described in the letters attached as Exhibit A to this order, is APPROVED, and the City is ordered to implement the requirements of that Plan.
3. The Proposed Studies, described in the memoranda attached as Exhibit B to this order, are APPROVED, and the City is ordered to provide all necessary funding for those Studies and full support for their implementation as directed by the Monitor.

SO ORDERED.

Dated: ____ 2020
New York, New York

ANALISA TORRES
United States District Judge