

MSL/2016R00738

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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UNITED STATES OF AMERICA	:	Criminal No. 17- 532- RBK
	:	
v.	:	18 U.S.C. § 242
	:	18 U.S.C. § 249(a)(1)
FRANK NUCERA, JR.	:	18 U.S.C. § 1001(a)(2)
	:	

INDICTMENT

The Grand Jury, in and for the District of New Jersey, sitting at Trenton, charges:

BACKGROUND

1. At all times relevant to this Indictment:
 - a. Defendant FRANK NUCERA, JR. (“defendant NUCERA”) was the Chief of the Bordentown Township Police Department (“BTPD”) in Bordentown Township, New Jersey.
 - b. As a police officer, and while acting under color of law, defendant NUCERA was required at all times to comply with the Constitution and laws of the United States, including the right to be free from unreasonable search and seizure during the course of an investigation, arrest, and detention.
 - c. “Officer 1,” “Officer 2,” and “Officer 3” were police officers employed by BTPD.
 - d. “Civilian 1” was an eighteen-year-old, African American, male resident of Trenton, New Jersey.

e. “Civilian 2” was a sixteen-year-old, African American, female friend of Civilian 1.

Defendant NUCERA’S History of Racial Animus Towards African Americans Before the September 1, 2016 Assault of Civilian 1

2. Since at least in or about November 2015, defendant NUCERA expressed a racial animus toward African Americans. For example, defendant NUCERA had a history of making racist comments concerning African Americans, to whom he frequently referred as “niggers,” “nigs,” “moulinyans” (an Italian-derived racial slur for African Americans), and “moulies.” Defendant NUCERA also made racist comments espousing violence towards African Americans. For example, in or about November 2015, when defendant NUCERA suspected that a previously arrested African American individual had slashed the tires of a police vehicle, defendant NUCERA stated to Officer 1, in substance and in part:

I wish that nigger would come back from Trenton and give me a reason to put my hands on him, I’m tired of ‘em. These niggers are like ISIS, they have no value. They should line them all up and mow ‘em down. I’d like to be on the firing squad, I could do it. I used to think about if I could shoot someone or not, I could do it, I’m tired of it.

3. Defendant NUCERA also has ordered the racially discriminatory use of police dogs to intimidate African Americans. For example, from in or about late 2015 through in or about early 2017, when the BTPD provided security for high school basketball games, defendant NUCERA instructed police officers to bring canines to certain games and to position the vehicles holding the canines at the entrance to the gymnasium, in order to intimidate African

American patrons. As another example, on or about April 30, 2016, during a discussion with Officer 1, which was audio recorded, defendant NUCERA directed Officer 1 to walk a police dog through an apartment complex to “let these fucking moulies see him. Let ‘em see him. I don’t care.”

The September 1, 2016 Assault of Civilian 1

4. On or about the evening of September 1, 2016, Officer 2 and Officer 3 responded to a call for help at the Bordentown Ramada hotel. Hotel staff had called police to report that two young individuals, Civilian 1 and Civilian 2, had failed to pay for a hotel room the night before and had been swimming in the hotel pool that afternoon. Shortly after the two BTPD officers arrived at the Ramada and attempted to question Civilian 1 and Civilian 2 about the allegation that they had failed to pay for the hotel room, the interaction escalated into a physical struggle in a second-floor hallway. Both Civilian 1 and Civilian 2 resisted arrest. During the struggle, one of the officers used pepper spray on Civilian 1, and the officers called for backup. In response, several other police officers, including defendant NUCERA and Officer 1, went to the Ramada. With the additional police assistance, Civilian 1 and Civilian 2 were subdued and handcuffed.

5. Several minutes after Civilian 1 had been handcuffed, with his hands behind his back, officers began guiding Civilian 1 towards the stairwell to escort Civilian 1 to a waiting police car. Civilian 1 briefly stopped walking as Civilian 1 reached the area in front of the stairwell doorway, and started loudly complaining. He was not kicking or struggling. Officer 2 placed his hand on

Civilian 1's back and began to push Civilian 1 forward to direct Civilian 1 to keep walking. Then, defendant NUCERA approached Officer 2 and Civilian 1 from behind, grabbed Civilian 1's head, and slammed it into the metal doorjamb separating the hallway from the stairwell.

6. After the assault by defendant NUCERA, officers continued to escort Civilian 1 down the stairs, out of the hotel, and into a patrol vehicle. Civilian 1 was transported to the BTPD station for processing.

Recordings of Defendant Nucera's Racist Statements About Civilian 1 and Other African Americans After the September 1, 2016 Assault of Civilian 1

7. Defendant NUCERA assaulted Civilian 1 because of Civilian 1's race. Defendant NUCERA would not have assaulted Civilian 1 but for the fact that Civilian 1 is African American.

8. Within hours of defendant NUCERA's assault of Civilian 1, on or about September 1, 2016, defendant NUCERA was recorded, while at the BTPD station, making the following racially hostile statements regarding Civilian 1, Civilian 2, and African Americans in general:

I'm fucking tired of them man. I'll tell you what, it's gonna get to the point where I could shoot one of these motherfuckers. And that nigger bitch lady [a reference to Civilian 2's aunt], she almost got it.

"Get back." . . . aunt. Well, I said "get back."

"Don't tell me what to do."

I said, "I'm telling you, you're getting close to getting thrown on the fucking floor too. Get back."

"That's my niece." I said, "I don't care who the fuck it is. Get fucking back! Don't yell at me, one more time."

Fucking nipple hanging bitch. I'm so tired of them man.

Shortly thereafter, defendant NUCERA engaged in the following exchange with Officer 1:

NUCERA: These fucking people. Where are they from?
Officer 1: Trenton, I think.
NUCERA: They're from Trenton.
Officer 1: I think so.
NUCERA: Stay the fuck out of Bordentown. Now they can go home and tell them, you can go to Bordentown, they'll fuck, I just, you know what? It would have been nice if that fucking dog could have come up. 'Cause they would have stopped, put down.

...

That dog, that dog will stop anything right then and there [makes dog noises]. I'm telling you. You'd have seen two fucking niggers stop dead in their tracks. I love that when they do that. I just love that.

Later that evening, defendant NUCERA was recorded referring to Civilian 1 as a "[f]ucking little, fucking nigger."

9. On or about December 13, 2016, approximately three months after Civilian 1's arrest, defendant NUCERA was recorded attempting to defend the excessive use of force against Civilian 1 by arguing that numerous police officers had to respond to the call "cause of six unruly fucking niggers."

COUNT ONE
(Hate Crime)

10. The allegations set forth in paragraphs 1 through 9 of this Indictment are hereby repeated, realleged and incorporated as if fully set forth herein.

11. On or about September 1, 2016, in Burlington County, in the District of New Jersey, and elsewhere, defendant

FRANK NUCERA, JR.

did willfully cause bodily injury to Civilian 1, who is African American, by assaulting Civilian 1 because of Civilian 1's actual and perceived race and color.

In violation of Title 18, United States Code, Section 249(a)(1).

COUNT TWO
(Deprivation of Rights Under Color of Law)

12. The allegations set forth in paragraphs 1 through 9 of this Indictment are hereby repeated, realleged and incorporated as if fully set forth herein.

13. On or about September 1, 2016, in Burlington County, in the District of New Jersey, and elsewhere, defendant

FRANK NUCERA, JR.

did, while acting under color of law, assault Civilian 1 during the course of an arrest of Civilian 1 while Civilian 1 was restrained and handcuffed, thereby willfully depriving Civilian 1 of the right, secured and protected by the Fourth Amendment of the Constitution and laws of the United States, to be free from unreasonable search and seizure. This offense resulted in bodily injury to Civilian 1.

In violation of Title 18, United States Code, Section 242.

COUNT THREE
(False Statements)

14. The allegations set forth in paragraphs 1 through 9 of this Indictment are hereby repeated, realleged and incorporated as if fully set forth herein.

15. On or about December 22, 2016, defendant NUCERA was interviewed by Special Agents of the Federal Bureau of Investigation regarding the September 1, 2016 arrest of Civilian 1. During that interview, which was video recorded, defendant NUCERA falsely stated multiple times that he did not touch Civilian 1 during the arrest and subsequent detention. Specifically, in response to the following questions from Special Agents, defendant NUCERA gave the following answers:

a. Question: But you didn't go hands on with anybody?

NUCERA: Nope . . . Nope, I didn't go hands on, didn't touch anybody, didn't spray anybody.

b. Question: And you didn't cuff anybody?

NUCERA: I didn't touch, I didn't touch any of them. . . . I had nothing to do with the physical arrest or anything, no.

c. Question: If anyone were to say that you, Chief Nucera, used excessive force on anybody at the scene that day . . . would that be true?

NUCERA: No. I didn't touch anyone.

d. Question [in reference to Civilian 1 and Civilian 2]: But you didn't have any contact with them?

NUCERA: Nah. I didn't touch, I didn't touch them, I didn't talk to them, and I didn't see any of the

processing at the station.

16. Defendant NUCERA's statements and representations set forth in bold in paragraph 15 of this Indictment were false because, as defendant NUCERA then and there knew, he had slammed Civilian 1's head into a doorjamb during the September 1, 2016 arrest of Civilian 1, after Civilian 1 had been restrained and handcuffed by other officers.

17. On or about December 22, 2016, in Burlington County, in the District of New Jersey, and elsewhere, defendant

FRANK NUCERA, JR.

did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, as set forth in bold in paragraph 15 of this Indictment, in a matter within the jurisdiction of the executive branch of the Government of the United States, namely a criminal investigation conducted by the United States Department of Justice and the Federal Bureau of Investigation.

In violation of Title 18, United States Code, Section 1001(a)(2).

A TRUE BILL

FOREPERSON 


WILLIAM E. FITZPATRICK
ACTING UNITED STATES ATTORNEY

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

FRANK NUCERA, JR.

INDICTMENT FOR

18 U.S.C. §§ 242, 249(a)(1) & 1001(a)(2)

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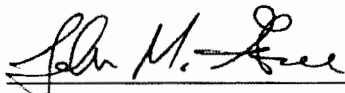
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FRANK NUCERA, JR.	:	
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CERTIFICATE OF THE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

I, John M. Gore, hereby certify prosecution by the United States of FRANK NUCERA, JR., for violating Title 18, United States Code, Section 249(a)(1), by willfully causing bodily injury to Victim 1 on or about September 1, 2016, because it is in the public interest and necessary to secure substantial justice. This certification is made pursuant to Title 18, United States Code, Section 249(b)(1)(D).

Signed the 18th day of October, 2017.



 John M. Gore
 Acting Assistant Attorney General
 Civil Rights Division
 Department of Justice