

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

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Plaintiff, :

:

-and- :

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THE VULCAN SOCIETY, INC., *for itself and on* :
behalf of its members, JAMEL NICHOLSON, and :
RUSEBELL WILSON, *individually and on behalf of a* :
subclass of all other victims similarly situated seeking :
classwide injunctive relief, :

ROGER GREGG, MARCUS HAYWOOD, and :
KEVIN WALKER, *individually and on behalf of a* :
subclass of all other non-hire victims similarly :
situated; and :

CANDIDO NUÑEZ and KEVIN SIMPKINS, :
individually and on behalf of a subclass of all other :
delayed-hire victims similarly situated, :

Plaintiff-Intervenors, :

:

-against- :

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THE CITY OF NEW YORK, :

:

Defendant. :

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07-cv-2067 (NGG) (RLM)

MONITOR’S FOURTH PERIODIC REPORT TO THE COURT

Pursuant to paragraph 59 of this Court’s Remedial Order and Partial Judgment,

Permanent Injunction, and Order Appointing Court Monitor dated December 8, 2011 (the “Remedial Order”) (Docket # 765), Mark S. Cohen, in his capacity as Court Monitor (the “Monitor”) in the above-captioned matter, respectfully submits the Monitor’s fourth 90-day report concerning the status of the parties’ compliance with the Remedial Order.

I. Overview

Pursuant to paragraph 59 of the Remedial Order, the Monitor must “provide periodic reports to the court and to the Parties concerning the status of the Parties’ compliance with this Order and other orders of the court or the Court Monitor, including their progress, any barriers to compliance, and potential areas of noncompliance.” Remedial Order ¶ 59. The Remedial Order further provides that “[t]he Court Monitor shall file a report with the court under this provision at least once every 90 days.” *Id.* The Monitor submitted his Third Periodic Report to the Court (the “Third Report”) on September 4, 2012. Accordingly, this Report sets forth an update regarding the parties’ compliance with the terms of the Remedial Order, and provides the Monitor’s continuing observations on the progress of the parties in fulfilling the goals of the Remedial Order.

The Monitor has continued to hold conference calls with the parties on a regular basis (typically every week) during which the Monitor has reviewed upcoming issues, discussed ongoing tasks required to be performed by the City pursuant to the Remedial Order, and addressed procedural and substantive matters raised by the parties. The Monitor believes that these weekly calls continue to be productive in ensuring compliance with specific tasks and deadlines set forth in the Remedial Order as well as learning of new or evolving issues.

In addition to these conference calls, the Monitor has periodically held in-person meetings with the parties to address issues. One such meeting, relating to attrition mitigation issues, is discussed in Section V.B, *infra*.

The Monitor also continues to conduct weekly calls with the recruitment and EEO consultants who have been retained by the City pursuant to the Remedial Order. During these calls, the City's consultants have described the steps they have taken thus far in carrying out the independent investigation mandated by the Remedial Order. The Monitor believes that the consultant conference calls continue to serve an important role in coordinating the efforts of the City's consultants and the Monitor's consultant, avoiding the duplication of efforts, and ultimately contributing to a more efficient process of effectuating the Remedial Order.

The sections below summarize the steps taken by the parties and the Monitor since the Monitor's Third Report, including the work of the City's consultants and the Monitor's consultant, further revision of the City's attrition mitigation plan, tasks being performed with respect to EEO, and the document retention plan for the City. This Report also describes issues that have emerged as the parties have undertaken the performance of their assignments under the Remedial Order.

In a separate interim report that the Monitor anticipates filing with the Court this week, the Monitor also provides an update on recent efforts by the parties and the Monitor to create written working guidelines for certain aspects of the post-exam firefighter candidate screening process. The guidelines will be used by the Candidate Investigations Division ("CID") and the Personnel Review Board ("PRB"), two FDNY divisions that review the background and qualifications of firefighter candidates.

II. Role of Consultants

A. Generally

The Monitor has continued to work with the City's independent consultants to evaluate and make recommendations regarding the FDNY's recruitment and attrition mitigation efforts, and its efforts to comply with applicable EEO laws. The Monitor and his expert, Manitou, Inc.

(“Manitou”), participate in ongoing weekly calls with the City's consultants regarding these efforts. These calls, led by Manitou, address a range of topics, including review of research materials regarding best practices for recruitment and EEO operations, and updates on focus group meetings held by the City's consultants with various FDNY and City staff, including incumbent firefighters. The calls also allow the consultants and the Monitor to coordinate interviews to be held with comparable fire departments and other public safety agencies for the purpose of gathering baseline information on their respective recruitment and EEO compliance efforts. *See Part II.B, infra.*

The independent consultants are working with the Monitor and the City to review and make recommendations concerning the City's current attrition mitigation efforts with respect to promotional candidates and the expected List 2000. In addition, pursuant to paragraph 28 of the Remedial Order, the independent recruitment consultant's final report evaluating the effectiveness of the FDNY's recruitment efforts, identifying recruitment best practices, and making recommendations regarding strategic recruitment changes, short and long-term goals, and financial and other resources, is due by March 31, 2013. The independent EEO consultant's final report evaluating the effectiveness of the FDNY's EEO compliance activities, identifying EEO best practices, and making detailed recommendations for EEO compliance, including retaliation and discrimination detection and deterrence activities and structural and procedural improvements, is also due by March 31, 2013 pursuant to paragraph 49 of the Remedial Order. The Monitor believes that the weekly calls and other steps described above will facilitate the preparation and usefulness of the reports that are to be prepared by the City's recruitment and EEO consultants.

B. Comparative Studies

Over the past 90 days, the Monitor and the City's consultants have engaged in

discussions with staff of other public service agencies to obtain information regarding those agencies' recruitment and EEO efforts. On November 9, 2012, for example, the Monitor, Manitou, and the City's experts met with members of the New York City Police Department's Applicant Processing Division (the "APD"), to discuss the APD's process for screening and evaluating police officer candidates. The Monitor is also coordinating with the City's experts to speak with personnel at additional fire departments to gather additional information regarding comparable efforts to implement recruitment, attrition mitigation and compliance efforts. As further detailed below, site visits have been made thus far to fire departments in Baltimore, Philadelphia, and Houston. Further visits are planned to Memphis, Dallas, and Denver in early December 2012. In addition to such site visits, the City and Monitors' consultants are engaged in a continuing effort of gathering and reviewing written information from other fire departments, national and international associations of public safety workers, and additional research sources.

The goal of this effort is to develop an understanding of the particular recruitment and EEO efforts that have been successful or unsuccessful in other metropolitan areas, and to determine through careful and thorough comparative analysis what lessons can be drawn for the FDNY. The City will deliver a report addressing its conclusions in this regard in early 2013. In addition, the City's consultants are expected to cover these themes in their forthcoming reports, which are due by March 31, 2013.

C. The City's FDNY Leadership Diversity Conferences

The City has informed the Monitor that on October 22, 2012, the City's recruitment and EEO consultants facilitated the first in what is described as a planned series of FDNY leadership diversity conferences. According to the City, the participants included the Fire Commissioner, 31 of the FDNY's highest ranking chiefs, and key members of the Fire Commissioner's

executive staff. The City advised the Monitor that the City's preparation for the conferences included focus groups with the FDNY's consultants and most of the conference attendees. Subjects addressed during the conference included: clarifying the FDNY's goal of becoming a leader in diversity, inclusiveness, and best EEO practices; exploring the rationale for that goal; providing accurate information regarding the lawsuit, entrance tests, and incoming classes; determining what leadership needs to do to ensure that officers foster and sustain an inclusive welcoming environment for new and incumbent firefighters; and clarifying the roles of leaders in promoting a more diverse and inclusive Department.

As described to the Monitor, the October 22, 2012 Leadership Diversity Conference also featured Brigadier General Tim Trainor, Dean of the Academic Board of West Point Military Academy, as the keynote speaker discussing the U.S. Army's diversification and inclusion efforts. According to the City, Brigadier General Trainor addressed the attendees concerning the challenge of ensuring the preparedness of company officers with respect to diversity, inclusion, and EEO compliance, as well as the benefits the Army has experienced from inclusion. The City has stated that it will continue to work with its consultants on next steps for planning future conferences.

III. Firefighter Test Development and Administration

A. Generally

Exam 2000 has been approved in the manner prescribed in the Court's Memorandum and Order of September 28, 2012 (Docket # 986), which will lead to the creation of a list of eligible candidates for the position of entry-level firefighters. Test development and administration initially fell within the purview of Special Master White, although the Monitor remained generally informed about the Special Master's work through party updates and communications with the Special Master (Remedial Order ¶ 7). The Court's September 28, 2012 Memorandum

and Order assigned any duties that remained under the terms of the Order Appointing Special Master Mary Jo White (Docket #448) to the Monitor.¹

B. The CPAT Examination and Establishment of List 2000

The City has informed the Monitor that in September 2012, ORD launched a CPAT Training Program. The City informed the Monitor that the City planned to administer the CPAT to promotional candidates beginning November 19, 2012, and expects to have the final results for all promotional candidates by December 19, 2012. The City has also advised the Monitor that it is collecting data relating to candidates' performance during both the CPAT training period and the actual testing. (*See Part V.A, infra.*) The City has also stated that it will provide notice to the Monitor and the parties in March or April 2013 of its intent to establish civil service List 2000, in accordance with paragraph 24 of the Remedial Order, and that the City anticipates establishing List 2000 in June or July 2013 (shortly before the appointment of a class to the FDNY Fire Academy in the summer of 2013). In addition, pursuant to paragraph 16 of the Remedial Order the Monitor expects to receive advance notice and information from the City regarding any step in any process for the selection of entry level firefighters, including with regard to the steps specifically enumerated in paragraph 7 of the Remedial Order.

IV. Firefighter Applicant Recruitment

A. Optional Survey

As noted in the Monitor's Third Report, the City's test consultant, PSI, transferred response data from the optional survey that was provided to takers of Exam 2000 to the City on May 18, 2012. The City has advised the Monitor that the data will be organized and analyzed in the coming months, pursuant to paragraph 25 of the Remedial Order. The Monitor has asked for

¹ The Monitor also notes that the Monitor will examine the City's actions, policies, and procedures with regard to the administration of Exam 2500, as they may affect the treatment of candidates for entry-level firefighter positions under Exam 2000.

an update on this matter and expects to hear from the City in the near future.

B. Recruitment Consultant

The City's independent recruitment consultant, Vernä Myers Consulting Group ("VMCG") communicates regularly with the City's independent EEO consultant, the Monitor, and Manitou, in the weekly consultant phone call led by Manitou as well as emails regarding a range of logistical issues and meetings to discuss various issues.

The City and VMCG have advised the Monitor that VMCG has continued to work extensively with the City since the Monitor's Third Report. Among other things, the Monitor has been advised that VMCG has: conducted interviews about the City's past and recruitment efforts with members of the staff of the Office of Recruitment and Diversity ("ORD") and conducted focus groups with a number of recruiters to understand methods used and to get the views of both permanent staff and firefighter recruiters regarding recruiting efforts; met with the leadership of the Vulcan Society and its counsel; conducted focus groups with top chiefs; visited the Baltimore Fire Department with the Monitor; participated in planning for and co-facilitated the Leadership Conference on Diversity and Inclusion described above; visited, with the Monitor, NYPD Applicant Processing Division; continued research on recruiting best practices, including information gathering from other urban fire departments; begun its review of ORD's current budget and process for creating budgets going forward; attended relevant conferences; assisted with revising the schedule for the City's "top-to-bottom" assessment; conferred regularly with City and FDNY personnel; continued work on the attrition mitigation plan (see *infra*); conferred regularly with the City's independent EEO consultant and the Monitor's staff and consultants; and conferred with the other parties to the litigation regarding the attrition mitigation plan (*see infra*).

Pursuant to paragraph 27 of the Remedial Order, the independent recruitment

consultant's final report evaluating the effectiveness of the FDNY's recruitment efforts, identifying recruitment best practices, and making recommendations regarding strategic recruitment changes, short and long-term goals, and financial and other resources is due by March 31, 2013.

V. Attrition Mitigation Plan and Reassessment of Entry-Level Firefighter Selection

Paragraph 31 of the Remedial Order provides that “[t]he City, in consultation with the Court Monitor and the Parties, shall draft and implement a written plan to mitigate and diminish rates of voluntary candidate attrition between different steps of the City’s process for the selection of entry-level firefighters.” Remedial Order ¶ 31. As noted in the Monitor’s Third Report, the parties and the Monitor previously provided their initial comments regarding the City’s draft attrition mitigation plan. The parties and the Monitor likewise agreed that the City’s attrition mitigation plan should continue to evolve over the length of the Monitorship based on the success of different approaches and input from the Monitor and the parties. Accordingly, at the Monitor’s request, the parties submitted revised comments and additions to the draft attrition mitigation plan. The City, in conjunction with its independent recruitment and EEO consultants, revised the draft attrition mitigation plan to incorporate certain of the parties’ comments, and submitted the revised draft attrition mitigation plan to the Monitor on September 7, 2012.

As discussed below, the City made a detailed presentation of its current and upcoming attrition mitigation efforts at an in-person meeting on November 19, 2012.

A. The City’s Ongoing Efforts to Address Attrition Mitigation

The City has informed the Monitor that the FDNY has continued to communicate with applicants, encouraging them to remain engaged with the FDNY and participate in FDNY-related events. For example, the City advised that since the Monitor’s Third Report, applicants have been invited to attend the Rev. Mychal Judge Walk of Remembrance and the Stephen Siller

Tunnel-to-Tower New York City Run, both of which occurred in September 2012.

The City has also informed the Monitor that ORD has continued to facilitate communication between candidates and the Vulcan Society, the Hispanic Society and the United Women Firefighters by providing those organizations with the names and contact information of candidates who miss appointments in the hiring process. In addition, the City has advised the Monitor that ORD has been contacting candidates who have missed appointments to find out the reason they failed to appear as scheduled and assist them in rescheduling. The City further reports that ORD continues to encourage applicants to follow it on Facebook (JoinFDNY) and Twitter (@JoinFDNY). According to the City, JoinFDNY now has 12,174 followers, while @JoinFDNY has 2,030. Through these social media platforms, ORD has answered more than 13,700 questions.

According to the City, 863 applicants were invited to attend Information Sessions to describe the CPAT and the Training Program. The City advised the Monitor that through extensive phone and e-mail follow-up, 733 applicants (85%) pre-registered for Information Sessions, 683 applicants (93%) attended Information Sessions, and 679 applicants (99%) registered for CPAT Training. Currently, in week eight of the 12-week cycle, 375 applicants (55%) have attended three or more training sessions, and 257 applicants (38%) have attended one or two sessions. The Monitor will continue to assess this data.

The City has also informed the Monitor that ORD added five new employees to staff a newly formed Attrition Mitigation Team: a Director, Data Management; an Attrition Mitigation Coordinator; a CPAT Training Program Coordinator; a Firefighter Candidate Mentorship Program Coordinator; and a Candidate Events Coordinator. ORD also added a Chief of Staff, in furtherance of a stated attempt to allow Assistant Commissioner Michele Maglione to devote

more of her time to attrition mitigation efforts. ORD also has received authorization to hire a Communications and Social Media Coordinator. All of these positions will report directly to Assistant Commissioner Maglione.

The City advised the Monitor that ORD continues to have extensive meetings with the recruitment consultants, both in person and via conference call, to update the attrition mitigation plan.

B. November 19, 2012 Meeting with the Parties

On November 19, 2012, the Monitor, the parties, the City's independent consultants, and the Monitor's consultants met in person to review the updated attrition mitigation plan. Assistant Commissioner Maglione gave a presentation covering the current status of the plan.

During the November 19 meeting, the parties discussed a variety of topics. These included steps being taken to follow up with candidates via phone and e-mail, including upon failure to appear for CID interviews, medical examinations, or the commencement of the CPAT training sessions. The parties reviewed preliminary statistics and discussed possible additional follow-up as well as other ways to assist candidates to complete the process, and ways that fraternal organizations can help to encourage candidates to remain and succeed in the process. With respect to data, the parties discussed the potential to correlate candidate data that is being maintained in separate City department databases and files.

Assistant Commissioner Maglione also reviewed certain aspects of the FDNY's planned mentorship program, which the City has stated will be overseen by the Firefighter Candidate Mentorship Program Coordinator. The other parties were invited to provide suggestions and comments by November 30, 2012, and did so on that date. Another topic raised by other parties to the City was the need to provide candidates with user friendly information about the workings of upcoming stages of the process, including the CPAT and medical examination, and any follow

up or appeals mechanisms that may be required or available.

The Monitor will continue to review the Attrition Mitigation Plan and its implementation with the parties. Among other things, the City's data tracking will yield important empirical data. This data may well lead to adjustments or changes in the Attrition Mitigation Plan.

VI. EEO Compliance Reform

A. EEO Compliance Issues

Paragraph 47 of the Remedial Order provides that the independent EEO consultant shall submit a report concerning the City's EEO compliance activities with respect to the FDNY that, among other issues, "evaluates the effectiveness of equal employment opportunity law compliance activities," "identifies best practices used by other offices responsible for ensuring comparable municipal departments' compliance with applicable equal employment opportunity laws and policies, and particularly, best practices used by EEO offices in other fire departments nationally," and "recommends a detailed compliance program to be carried out by the EEO Office including specific compliance activities, and which references specific metrics and goals to be used to evaluate the EEO Office's performance in carrying out each activity." This report by the EEO consultant is to be based upon a research plan to be developed by the consultant in cooperation with the City and the Monitor, "subject to the approval of the Court Monitor." Remedial Order ¶ 48.

The City has informed the Monitor that its EEO consultant, Professor Merrick Rossein, has continued meeting with FDNY EEO and management staff in researching restructuring of the FDNY EEO compliance and training policies and procedures. As part of the research, Professor Rossein met with the NYPD EEO Deputy Commissioner and other NYPD staff. Professor Rossein, along with the Monitor, visited the Houston Fire Department and has plans to continue researching EEO compliance efforts by the military and other fire departments.

The City has reported that Professor Rossein advised the FDNY concerning the development of data collection systems to conduct disparate impact analyses consistent with the EEOC's Uniform Guidelines on Employee Selection Procedures to monitor the Exam 2000 selection process, including without limitation the outcomes of referrals from CID to the PRB, and medical determinations.

Professor Rossein has advised that he met with the FDNY leadership to assist in examining firefighter evaluation processes and leadership development, especially as it relates to EEO compliance. Professor Rossein and a colleague, together with the City's recruitment consultant, also reported having met with two women firefighter focus groups. Also, Professor Rossein participated with the recruitment consultant in a meeting with the Vulcan Society. Professor Rossein, along with the recruitment consultant and the Monitor, interviewed the Commanding Officer of the NYPD Applicant Processing Division.

Professor Rossein is scheduled to submit a final report on March 31, 2013. Remedial Order ¶ 49. The City will respond to the report within 90 days, *id.* ¶ 50, and the Monitor will submit a reply 30 days thereafter. *Id.* ¶ 51.

B. Candidate Investigation Division and Personnel Review Board Training

Paragraph 42 of the Remedial Order provides that "each investigator and manager in CID, and each member of the Personnel Review Board ('PRB') shall receive interactive training tailored to educate the recipients how to practically apply applicable equal opportunity laws and policies in the performance of their responsibilities in CID or on the PRB, respectively." Remedial Order ¶ 42. In June 2012, Professor Rossein and a colleague held an interactive training session for CID staff who would be processing candidates for the FDNY's EMS Division. Prior to these training sessions, Professor Rossein submitted his proposed curriculum to the Monitor.

Further, Professor Rossein and a colleague conducted two interactive EEO training programs for CID management and supervisors, as well as for all CID investigators. The Monitor observed both of these programs. Professor Rossein also conducted two interactive EEO training programs for a total of five hours for all PRB members and alternate members. The training included case studies and simulated presentations to the PRB, a close examination of the PRB Guidelines, a full discussion of relevant law, examination of the Court-mandated communications policy and newly developed conflict of interest and other forms, and a presentation and discussion of sociological data. The Monitor likewise observed these training programs as well.

The City has informed the Monitor that Professor Rossein was integral to the City's efforts to develop written working CID and PRB guidelines. The Monitor continues to appreciate the efforts undertaken thus far by Professor Rossein and his colleagues, especially with regard to the development of the working CID and PRB guidelines.² The Monitor's description of those guidelines and their preparation will be provided to the Court as a separate Interim Report, which the Monitor anticipates filing this week. The Monitor recognizes that the development of proper policies for the FDNY's CID and PRB represents a significant step. Prior to the creation of the monitorship in this action, the FDNY had little to no written guidelines or policies to govern the operation of the CID and PRB. As detailed in the Court's Findings of Fact and summarized in the Interim Report relating to the working guidelines, the Court found that existing CID and PRB practices were critically deficient in several respects. The working guidelines are meant to address the Court's concerns relating to this important aspect of the post-exam screening process for firefighter candidates.

² The working CID and PRB guidelines are currently in use specifically for Exam 2500 promotional candidates. As the Monitor has reminded the parties, the working guidelines are likely to be revised for use in the context of Exam 2000 candidates.

C. Top-To-Bottom Assessment

The Remedial Order tasks the City with consulting with its independent EEO and recruitment consultants, the Parties, and the Monitor to “conduct a comprehensive top-to-bottom assessment of all steps in its process for the selection of entry-level firefighters that evaluates the strengths and weaknesses of the City’s current selection process as a whole and of individual steps in that process.” Remedial Order ¶ 32. As noted in the Monitor’s previous reports, the Monitor, the Monitor’s consultants, and the City’s independent consultants developed a work-plan for the execution of the top-to-bottom assessment. On August 27, 2012, the City informed the Monitor that it anticipated having to seek an adjournment of the December 2, 2012 deadline for the filing of the City’s final report concerning alternative selection procedures. In late November, the City again informed the Monitor that it would seek to extend the December 2, 2012 deadline. The Monitor expressed no objection, and the City submitted its request to adjourn the deadline until August 16, 2013. (Docket #1017) The Court granted the request on November 16, 2012. (Docket # 1018)

At the same time as it filed its request for adjournment, the City agreed to submit interim reports relating to issues that will eventually be covered by the top-to-bottom assessment. The objective is to evaluate in real time the strengths and weaknesses of each step in the firefighter selection process, and to identify alternatives and assess potential barriers to such alternatives, including the potential need for legislative, administrative or other governmental action. The City has likewise agreed to provide the above reports to the Monitor and the parties as the City gathers data and conducts analysis on the CID/PRB process (including each qualifying step in that process), CPAT training and testing, and rates of attrition at each qualifying step. To date, the parties have agreed on two specific interim reports. The first, to be delivered on January 28, 2013, would analyze data collected by the City regarding the demographic makeup of candidates

who complete the selection process as well as those who fail to report at each stage of the process. The second, also to be completed in early 2013, would relate to the City's research into selection processes used by other fire departments and the US Army. Additional topics are under consideration, as is a specific schedule for interim reports from the City.

VII. Document Retention and Preservation

Paragraph 52 of the Remedial Order provides that “[t]he Court Monitor, in consultation with the Parties, shall prepare and file a Document Retention and Preservation Order, for approval by the court, directing the City of New York to retain, preserve, and maintain specified broad categories of documents that are relevant to evaluating the City's compliance with the Order, including documents currently in existence and any document which will be created in the future.” Remedial Order ¶ 52. The Remedial Order further provides that the Monitor “may amend or supplement the Document Retention and Preservation Order at any time.” *Id.*

The Monitor submitted its proposed Document Retention and Preservation Order to the Court on August 30, 2012 (Docket # 959). Pursuant to the Court's August 31, 2012 Scheduling Order, the parties were given the opportunity to provide comments on the proposed Document Retention and Preservation Order by September 4, 2012. On September 10, 2012, the Court entered the Document Retention and Preservation Order (Docket # 965).³

VIII. Continuing Themes and Next Steps

Over the course of the past 90 days, certain issues have continued to emerge as potentially significant in connection with the Remedial Order. The Monitor will be discussing these issues further with the parties.

³ As discussed in the Monitor's previous periodic reports, the City confirmed on December 13, 2011 that the litigation hold from the underlying litigation in this matter is still in place.

A. Candidate Investigation Division and Personnel Review Board Processes

A critical next step in the candidate selection process will be the finalization of the CID and PRB guidelines for use in the context of candidates who have taken Exam 2000 and the implementation of the final guidelines. Accordingly, the Monitor intends to actively observe the implementation of the CID and PRB guidelines. Such monitoring will take at least two forms. First, as set forth in ¶ 43 of the Remedial Order, the Monitor will attend all meetings of the PRB. Second, the City has agreed to create a database of information relating to the results of the CID and PRB process with the goal of enabling outside review. The Monitor, in conjunction with Manitou, intends to use such data to evaluate the impact of the new guidelines and the City's adherence to such guidelines.

B. Continuing Need for Empirical Data in Connection with Outreach

The Monitor continues to emphasize the need for empirical data in approaching the programs and objectives of the Remedial Order. Manitou has likewise expressed to the City's consultants (who also are gathering data from the City) the Monitor's desire to collect data at every step in the remedial process. The Monitor continues to believe that this empirical data will help the City and the Court to assess the efficacy of remedial measures over the life of the Remedial Order.

The City has advised the Monitor that it has been working on creating a database for candidate information. The Monitor is awaiting a description of the specific information to be included in the database and a timeline for completion. Assuming the project is thorough and timely, the Monitor is encouraged by the City's approach to this issue and will seek ways to build on this progress.

