

Nassau County



Police Department

THOMAS R. SUOZZI
COUNTY EXECUTIVE

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LAWRENCE W. MULVEY
COMMISSIONER

February 6, 2008

VIA ECF and REGULAR MAIL

Honorable Joanna Seybert
United States District Judge
United States District Court for the
Eastern District of New York
P.O. Box 9014
100 Federal Plaza
Central Islip, New York 11722-9014

Re: United States v. Nassau County, et al.
Civil Action No. 77 CV 1881

Your Honor:

Please allow this correspondence to serve as a request to extend the Nassau County Police Officer List No. 3000 ("Current List"), which expires on March 17, 2008, for six (6) months, or the date on which a new eligible list is established, whichever event occurs first. Please be advised that I have noticed AUSA Clare Geller from the Department of Justice, Harry Greenberg, counsel to the Police Benevolent Association, and Michael Axelrod, counsel to the Superior Officers Association of this application. I have spoken with all parties, and have been advised that I may represent that they do not oppose the County's application for this extension. No prior requests for an extension to this list have been made.

As you are aware, an entrance examination was prepared by AON Consulting and was administered in August 2007 (Docket Entry "DE" 487). The results of the examination are currently undergoing validation review by the Department of Justice. It is my understanding that validation review is anticipated to be complete by the middle to the end of February 2008. Thereafter, the results will be sent to Nassau County Civil Service for certification. Once a list is certified ("New List"), the County will then be able to begin doing background investigations of the applicants. Accordingly, the County will be able to "hire" from the New List once background investigations are complete.

The County, AON, and the Department of Justice have been proceeding expeditiously to take all steps necessary to generate a New List as soon as possible. Although the work necessary to establish a New List is near completion, the County potentially could be without a list to hire since the Current List expires in March 2008 and there is outstanding work that remains to be done in order to certify the New List. As a public safety measure, the County feels as though it would be at risk and in a vulnerable position as of March 17, 2008, if it does not have a List upon which to hire. The Department is constantly faced with the possibility of the decrease in the number of its sworn members as a result of separations from service, and therefore, it is imperative that the Department be in a position to be able to maintain the number of sworn members. The Department anticipates a hiring plan that will result in the need to hire recruits in March, May, July, September, and November, 2008, in order to maintain the number of sworn members. For this reason, the Department potentially faces a public safety crisis if the Current List expires and the Department is barred from hiring to maintain the number of sworn members.

Accordingly, based upon the consent of all of the parties and consistent with the Consent Decree, it is respectfully requested that the Current List be extended for six (6) months, until September 17, 2008, or the date on which a new eligible list is established, whichever event occurs first. The Current List was established on March 18, 2004, from an examination administered in January 2003. A proposed Order is attached hereto.

Should the Court require any additional information, please contact the undersigned at (516) 573-7210.

Respectfully submitted,

Tatum J. Fox
Deputy County Attorney

cc: By Regular Mail and Fax

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

-against-

CV 77-1881 (JS)

NASSAU COUNTY, et al.

Defendants.
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On April 21, 1982, the Court approved and entered a Consent Decree (the "1982 Consent Decree") in United States v. Nassau County, et al., 77 CV 1881, agreed and consented to by all parties in this action; plaintiff the United States of America (the "United States"), defendant Nassau County, defendant Nassau County Commissioner of Police, defendants Nassau County Civil Service Commissioner (collectively, the "Nassau County defendants"), defendant Police Benevolent Association of Nassau County, Inc. (the "PBA") and defendant-in-intervention Superior Officers Association of Nassau County, Inc. (the "SOA").

The parties currently remain under the Court's jurisdiction as a result of the 1982 Consent Decree, which was entered by Judge George C. Pratt. The 1982 Consent Decree was entered to ensure "that Blacks, Hispanics and females are considered for employment by Nassau County in the [Department] on an equal basis with white males" (1982 Consent Decree ¶ 1).

Under the terms of the 1982 Consent Decree, a written examination may be used to establish an eligible list of candidates for the position of Police Officers in the Nassau County Police Department (the "Department") so long as the test is shown to have no adverse impact (1982 Consent Decree ¶ 6).

The current list was generated by the last entrance examination administered in January 2003, which was developed pursuant to the terms of the 1982 Consent Decree. Pursuant to N.Y. Civil Service Law § 56, on March 18, 2004, the Nassau County Civil Service Commission established an eligible list of candidates for Police Officer in the Nassau County Police Department based on the results of the 2003 Examination.

Under New York law, a municipal hiring authority may use a competitive civil service examination for no more than four years. N.Y. Civil Service Law § 56 subd. 2.

No prior requests for an extension of the current list have been made. The County is using its best efforts to take all steps necessary to generate a new list as soon as possible. However, a new eligible list will not be available before the current list expires. Entry of

this Order will ensure that the County has continuously available a list of eligible candidates to hire as Police Officers should there be a need at any time.

The Court finds that good cause has been shown for this extension and that it is consistent with the provisions and purposes of the Consent Decree.

ACCORDINGLY, IT IS HEREBY ORDERED:

Nassau County, the Nassau County Civil Service Commission, the Nassau County Commissioner of Police, the Nassau County Police Department, may continue to use the Current List in accord with the provisions of the Consent Decree until the earlier of (1) September 17, 2008, or (2) the establishment of a new eligible list of candidates for Police Officer.

ENTERED this 12th day of February 2008 in Central Islip, New York.

151 JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.