

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	C.A. No. RWT 04 CV 185
)	
PRINCE GEORGE'S COUNTY, MD,)	
and the PRINCE GEORGE'S)	JOINT MOTION AND MEMORANDUM
COUNTY POLICE DEPARTMENT)	FOR TERMINATION OF
)	CONSENT DECREE
Defendants.)	
_____)	

The United States, Prince George's County, and the Prince George's County Police Department jointly request that the Court terminate the Consent Decree between the parties entered as an Order of the Court on March 11, 2004. In support of this Motion, the Parties aver that termination on the Order's three-year anniversary is appropriate under Fed.R.Civ.Pro. 60(b)(5) because the Defendants have satisfied the requirements of the Consent Decree as detailed below:

1. On March 11, 2004, at the request of both parties, the Court entered the Consent Decree, addressing use of force by the Prince George's County Police Department Canine Section, as an Order of the Court. The term of the agreement, as specified in paragraph 77, is three years. The three-year anniversary of the decree is March 11, 2007.

2. Contemporaneously with the negotiation of the Consent Decree, the parties entered into a Memorandum of Agreement addressing the entire Prince George's County Police Department's use of force. The Memorandum of Agreement is overseen by an Independent Monitor selected by the parties who publishes quarterly status reports (available on the County's public website). The Memorandum of Agreement terminates on January 22, 2009.

3. Pursuant to paragraph 74 of the Consent Decree, the Defendants have provided quarterly updates detailing their progress towards compliance (see Appendix A). Additionally, the Defendant's have posted each report on the County's public website.

4. Pursuant to paragraphs 69 to 73 of the Consent Decree, the United States has monitored the Defendants' progress implementing the Consent Decree.

5. Over the past three years, the United States, along with its expert consultants, completed various on-site compliance inspections of the Prince George's County Police Department's Canine Section, as well as reviews of all documentation required under the Consent Decree (see document requests and approval letters in Appendix B).

6. At the conclusion of each inspection or document review, excluding the initial September 2004 base-line on-site compliance inspection, the United States provided the Defendants with a letter evaluating its current compliance status (see Appendix C).

7. On October 21, 2005, following an August 2005 on-site compliance inspection, the United States found that the Defendants had complied with the majority of the Consent Decree provisions, identifying only five paragraphs that required additional improvement and three paragraphs (regarding the Early Intervention System) to be reviewed at a later time (see Appendix C).

8. On April 13, 2006, the United States found that the Defendants had sufficiently improved in the five areas, identified in the October 21, 2005 letter, meriting a compliance finding for each identified paragraph (excluding the three Early Intervention System paragraphs to be evaluated at a later time). (see Appendix C).

9. On May 4, 2006, the United States approved the Defendant's Protocol and Data Input Plan for the Early Intervention System. The United States notified the Defendants via letter that they had complied with provision 66 of the Consent Decree requiring creation of such documents (see Appendix C).

10. On September 18, 2006, following an August 23, 2006 on-site compliance inspection, the United States found that the Defendants had complied with every provision of the Consent Decree, except paragraph 65 requiring the creation of a computerized Early Intervention System (see Appendix C and DVD of canine demonstrations in Appendix E).

11. On January 30, 2007, after review of the documentation provided along with Defendant's tenth quarterly report issued on September 30, 2006 and all canine bite investigations and reviews completed in 2006, the United States found the Defendants in compliance with all provisions of the Consent Decree, except paragraph 65 requiring the creation of a computerized Early Intervention System (see Appendix C).

12. Paragraph 65 of the Consent Decree requires the Defendants to create a computerized Early Intervention System to provide oversight for the Canine Section. This paragraph is nearly identical to paragraphs 75 and 76 of the Memorandum of Agreement between the parties requiring the creation of an Early Intervention System regarding the entire department. Moreover, the scope and language of Memoranda of Agreement paragraphs 75 and 76 encompasses the requirements of Consent Decree paragraph 65 (See Appendix D).

13. While the computerized Early Intervention System is not currently functional, the Defendant's have maintained a "paper system" throughout the life of the Consent Decree using Early Intervention System data to identify officers and coordinate the agency's response. The United States' August 23, 2006 compliance review revealed that the Defendants' "paper system" functioned as required by the Consent Decree. Nevertheless, the United States withheld a "compliance" determination regarding provision 65 because the computer aspect of the system was not yet functional. The computerized system is still under construction and is expected to be functional by December 1, 2007.

14. The Defendants have continued to collect all data required by Paragraph 65 in a database to be used when the computerized Early Intervention System becomes operational. Compliance with the Memorandum of Agreement also requires the Defendants to continue to collect such data.

15. While the Early Intervention System is only represented by a few Consent Decree paragraphs, the System is a cornerstone of the Memorandum of Agreement.

16. The Independent Monitor will continue to oversee the implementation of the Defendants' Early Intervention System throughout the life of the Memorandum of Agreement, which terminates on January 22, 2009.

17. In order to successfully complete the requirements of the Memorandum of Agreement, the Defendants must achieve compliance with all provisions regarding the creation of the

computerized Early Intervention System. As indicated above, such compliance overlaps with the requirements of Consent Decree paragraph 65. Therefore, the parties request that the Court terminate the Consent Decree, including paragraph 65, because the Defendants have satisfied the Early Intervention System goals of the Consent Decree and the continuing creation of the computerized aspect of the System will be adequately addressed through the ongoing implementation of the Memorandum of Agreement.

18. Additionally, the Parties wish to recognize the Defendants' tremendous efforts in accomplishing the required reforms within the three-year time period. The Defendant's hard work institutionalizing police reform, and exceeding the Consent Decree's requirements by incorporating best practices, creates a foundation for practices that will continue long after the expiration of the Consent Decree, ensuring that the Canine Section's practices continue to comport with constitutional policing requirements.

19. In conclusion, the Parties agree that termination of the Consent Decree on March 11, 2007 is appropriate under Fed.R.Civ.Pro. 60(b)(5) because the Defendants have demonstrated "(1) that for a reasonable period of time (2) they have complied in good faith with the [C]onsent [D]ecree (3) to the point that the 'vestiges' of past unlawful behavior have been eliminated 'to the extent practicable,' and thus the purpose of the [D]ecree has been satisfied." Alexander v. Britt, 89 F.3d 194, 200 (4th Cir. 1996), quoting Board of Education of Oklahoma City Public Schools v. Dowell, 498 U.S. 237, 249-50 (1991).

Wherefore, the Parties request that this Court sign the attached Order terminating the Consent Decree on March 11, 2007. A proposed Order is being filed with this Motion.

Respectfully submitted,

FOR THE UNITED STATES:

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DATE:

CERTIFICATE OF SERVICE

I certify that a copy of the Joint Motion For Entry of Consent Decree and Supporting Memorandum was served by facsimile and regular mail on Feb. 1, 2007, on the following:

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GREGORY GONZALEZ

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_____)	

[PROPOSED] ORDER

Having considered the joint motion by the Parties to terminate the Consent Decree on March 11, 2007, the Court hereby finds:

1. The Defendants have satisfied all of the prospective relief required by the Consent Decree to correct the violations of federal rights by Prince George's County and the Prince George's Police Department set forth in the Complaint.

2. Based on the Court's assessment of the Defendant's progress, termination of the Consent Decree on March 11, 2007 is appropriate under Fed.R.Civ.Pro. 60(b)(5) because the Defendants have demonstrated "(1) that for a reasonable period of time (2) they have complied in good faith with the [C]onsent [D]ecree (3) to the point that the 'vestiges' of past unlawful behavior have been eliminated 'to the extent practicable,' and thus the purpose of the [D]ecree has been satisfied." Alexander v. Britt, 89 F.3d 194, 200 (4th Cir. 1996), quoting Board of Education of Oklahoma City Public Schools v. Dowell, 498 U.S. 237, 249-50 (1991).

Accordingly, the Consent Decree Order shall be terminated on March 11, 2007.

SO ORDERED:

JUDGE ROGER W. TITUS

DATE