

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	NO. 4:16-cv-000180-CDP
)	
Plaintiff,)	JUDGE CATHERINE D. PERRY
)	
v.)	
)	
THE CITY OF FERGUSON,)	
)	
Defendant.)	
)	
_____)	

**MEMORANDUM IN SUPPORT OF JOINT MOTION
FOR APPROVAL OF CONSENT DECREE MONITOR SELECTION
AND FOR A STATUS HEARING**

Plaintiff, the United States of America, and Defendant, the City of Ferguson (“City” or “Ferguson”) (collectively, “the Parties”), have selected the Squire Patton Boggs (“SPB”) monitoring team, led by Clark Ervin, to serve as Independent Monitor of the Consent Decree (“Decree”) [ECF No. 41]. Consistent with Paragraph 419 of the Decree, the Parties respectfully request that the Court approve the Parties’ selection.

The Parties selected the SPB team following a thorough selection process that was jointly developed by the Parties and that included opportunities for community members to provide input prior to the Parties’ selection of the monitoring team. This process made clear that Mr. Ervin and the SPB team are highly qualified to effectively fulfill the responsibilities of the Monitor set forth in paragraphs 424-41 of the Decree. The input that the Parties received from community members also indicated consistent support for the SPB team, with no community member or group recommending against selection of this team.

I. SELECTION PROCESS

The Consent Decree provides that the Parties will jointly select an Independent Monitor (“Monitor”), “which will be a team of individuals highly qualified in policing, civil rights, monitoring, and related areas, to assess and report on whether the requirements of this Agreement have been implemented, and whether this implementation is resulting in constitutional and otherwise lawful policing and administration of justice, and increased community trust between the public and the Ferguson Police Department and Court.” Decree at ¶ 416. The Decree further provides that the Parties’ selection will be made pursuant to a process jointly established by the Parties, and will be subject to the approval of the Court. *Id.* at ¶ 419.

Consistent with these requirements, on May 12, 2016, the Parties issued a Request for Applications (“RFA”) [attached as Exhibit A] that set forth the responsibilities and required qualifications of the Monitor. The United States sent this RFA to a distribution list of over 100 individuals and entities, including firms that have applied for monitorships in the past and community groups working in Ferguson. The Parties also posted the RFA on their respective websites and encouraged its broad dissemination.

The application period closed on June 10, 2016, with nine individuals or groups having applied to serve as Monitor. The Parties conferred on June 17 and selected seven applicants for telephone interviews, which were conducted on June 27 and 28. On June 30, the Parties conferred and selected four finalists to travel to Ferguson for in-person interviews and a public forum, which were held on July 12, 2016. On July 15, the Parties conferred and agreed to select the Squire Patton Boggs team led by Clark Ervin.

The Parties solicited and received a significant amount of community feedback regarding the candidates throughout this process. The Parties published the nine monitoring proposals

received on their respective websites and invited community members to review those materials and provide input on the applicants. One community group surveyed applicants on particular issues, and the Parties made the applicants' survey responses available to all members of the public. The four finalists also participated in a public forum on July 12, 2016, during which each team made a presentation and fielded questions directly from community members.

II. QUALIFICATIONS OF THE PROPOSED SQUIRE PATTON BOGGS TEAM

The Squire Patton Boggs team consists of a group of individuals that together have the multidisciplinary experience and expertise necessary to successfully monitor implementation of the Consent Decree. Mr. Ervin has extensive monitoring experience and has served as Inspector General for both the United States Department of Homeland Security and the United States Department of State. The team also includes nationally-recognized policing experts (Commissioner Ed Davis and Professor Delores Jones-Brown); a highly-qualified data analytics team (led by Frances McLeod); and a locally-based expert in municipal court practices, with particular expertise in Missouri courts and familiarity with the St. Louis area (Professor Kim Norwood).

We have listed below the core members of Mr. Ervin's team, along with a brief summary of their relevant experience:

- Clark Ervin. Mr. Ervin is a partner in the Government Investigations & White Collar Practice Group at Squire Patton Boggs. Prior to joining the firm, he served as the Inspector General of the United States Department of State and the United States Department of Homeland Security. At these agencies, Mr. Ervin conducted scores of inspections and audits, and made hundreds of recommendations to make those agencies more effective, efficient, and economical.

- Commissioner Edward Davis. Commissioner Davis has over 30 years of law enforcement experience, including decades spent leading the reform of both the Boston Police Department and the Lowell Police Department. A nationally-recognized expert in transparency, technology, community relations, accountability, and training, Commissioner Davis is a member of the team monitoring the settlement of the lawsuit against the New York City Police Department concerning stop-and-frisk practices, *Floyd v. City of New York*, 08-cv-1034 (S.D.N.Y. filed Jan. 31, 2008).
- Dr. Deborah Jones-Brown. Dr. Delores Jones-Brown is a Professor in the Department of Law, Police Science and Criminal Justice Administration at John Jay College of Criminal Justice, City University of New York. She is the founding director of the John Jay College Center on Race, Crime and Justice and has published and trained law enforcement on topics such as race relations and policing; stop, question, and frisk practices; use of force; community policing; and alternative policing.
- Professor Kimberly Norwood. Professor Norwood has taught at the Washington University School of law for over 25 years. She is an expert in implicit bias, having trained judges, lawyers, and legislators on this subject. Most recently, Professor Norwood served as a member of the Missouri Supreme Court's Racial and Ethnic Fairness Commission, which engaged with Missouri citizens to examine and review current court practices and recommended measures to help assure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process and in the practice of law. She also served on the Missouri Supreme Court's working group for municipal court reform.

- Sam Rosenthal. Mr. Rosenthal is a partner at Squire Patton Boggs, where he leads the Government Investigations & White Collar Practice Group. Before entering private practice, Mr. Rosenthal served as Chief of the Appellate Section of the U.S. Department of Justice's Criminal Division.
- Frances McLeod. Frances McLeod is a founding partner and co-founder of Forensic Risk Alliance ("FRA"). She has over 23 years of experience advising diverse clients on numerous issues. She has been involved in significant monitoring projects requiring the collection and analysis of complex data.

The qualifications of these team members are set forth in greater detail in the proposal submitted by Squire Patton Boggs in response to the RFA [attached as Exhibit B].¹

During the interview process as well as the public forum, Mr. Ervin and the Squire Patton Boggs team demonstrated a clear understanding of the Consent Decree's requirements, the role of the Monitor, the value of local input, and the need for objective and credible oversight of the implementation process. Mr. Ervin's team is well-positioned to successfully monitor every aspect of the Decree, and has expressed a strong commitment to seeing this project to its effective completion. Mr. Ervin's team also demonstrated professionalism and integrity, and is free from any actual or apparent conflicts of interest.

¹ In addition, the Parties have spoken with Mr. Ervin and Ms. Natasha Tidwell about the possibility of adding Ms. Tidwell, who interviewed as part of another team, to the Squire Patton Boggs team. During the selection process, Ms. Tidwell was identified by both Parties as having expertise that is particularly relevant to the responsibilities of the Monitor in this case. Ms. Tidwell served as a patrol officer, school resource officer, detective, and lieutenant in the Cambridge (MA) Police Department; attended law school and served as Trial Attorney with the U.S. Department of Justice, Criminal Division, Public Integrity Section and as Assistant U.S. Attorney; and served as an Associate Professor of Law. She is now counsel in the white collar and civil litigation departments of Collora LLP, and serves on the Boston Police Department's Ombudsman Oversight Panel. While Mr. Ervin's team is sufficiently strong even without the addition of Ms. Tidwell, her addition would complement Mr. Ervin's team and provide tremendous value. Mr. Ervin is currently in communication with Ms. Tidwell regarding the possibility of her being added to the Squire Patton Boggs team.

The Squire Patton Boggs team has also already begun building a rapport with members of the Ferguson community. The feedback that the Parties received indicated that the selection of SPB is supported by a diverse range of community members, with no community member or group opposing SPB's selection.

III. REQUEST FOR STATUS HEARING

The Parties also respectfully request that the Court hold a status hearing in order to provide the Parties and the Monitor (if approved by the Court) with an opportunity to update the Court on the status of Consent Decree implementation. The Parties and Mr. Ervin have conferred regarding scheduling, and the Parties respectfully propose that the hearing be held on September 7, 2016 at 1:00 P.M.

IV. CONCLUSION

For the foregoing reasons, the Parties respectfully move this Court to approve the Squire Patton Boggs team, led by Clark Ervin, as Monitor of the Consent Decree.

Respectfully submitted this 20th day of July, 2016.

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