



PP-PA-0001-0001

pb 4/25/01  
REC'D MAY 07 1998

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LISA WILSON, LAWRENCE BOWDEN, : CIVIL ACTION  
KIMWAN TOPPIN, SHIRLEAN LOPER, :  
on behalf of themselves and all :  
others similarly situated :

VS. :

TINICUM TOWNSHIP, TINICUM :  
TOWNSHIP POLICE DEPARTMENT : NO. 92-CV-6617  
TINICUM POLICE CHIEF :  
ROBERT T. LYTHGOE, JR., :  
OFFICERS THOMAS CANZANESE and :  
WALTER FIFE OF THE TINICUM :  
TOWNSHIP POLICE DEPARTMENT, in :  
their individual and official :  
capacities, and UNKNOWN POLICE :  
OFFICERS NUMBERS ONE AND :  
TWO OF THE TINICUM TOWNSHIP :  
POLICE DEPARTMENT, in their :  
individual and official capacities : JURY TRIAL DEMANDED

CONSENT DECREE

I. INTRODUCTION

This Consent Decree is intended to settle all claims in this action. The Consent Decree is based upon federal and state constitutional principles and reflects in part recent interpretations by the appellate courts of Pennsylvania of Article I, Section 8 of the Pennsylvania Constitution, regarding the powers of the police to stop, detain, search, or arrest persons in the Commonwealth of Pennsylvania. Nothing

contained in the Consent Decree and settlement of this case shall be deemed an admission of liability or wrongdoing of any of the Defendants.

**II. PROVISIONS REGARDING ENFORCEMENT OF TRAFFIC, MOTOR VEHICLE AND CRIMINAL LAWS IN TINICUM TOWNSHIP ON I-95**

The Defendants, in the enforcement of the criminal and motor vehicle laws of Pennsylvania on I-95, shall adhere to the following standards:

1. Consistent with this Consent Decree, the defendants shall not stop, detain, search or arrest any person because (in whole or in part) of the race or ethnic identity of that person.

2. Where the defendants receive information concerning specific criminal activity and this information includes race or ethnic background, the information may be considered in the determination of whether probable cause or reasonable suspicion exists to stop, detain, search or arrest. Further, nothing in this Consent Decree shall prohibit defendants from responding to a request for backup from other law enforcement agencies.

3. The defendants shall not stop or detain any automobile or its occupants unless they have reasonable suspicion to believe that the operator or passenger(s) has committed or is committing a traffic or motor vehicle violation, or have reasonable suspicion or probable cause to believe that the operator or a passenger(s) have committed or are committing a criminal act.

4. If the stop of the vehicle is for a traffic or motor vehicle violation for which no arrest is authorized by law, the defendants may issue a summons or warning, but may not search the vehicle or its occupants or detain the operator or passenger(s) for any period longer than that which is reasonably necessary to issue said process, or to end the car stop because no process is necessary, unless the officer, consistent with this Consent Decree, possesses reasonable suspicion or probable cause to believe that the operator or passenger(s) has committed or is committing a criminal act, or poses an immediate danger to the safety of the officer.

5. Once the summons or warning has been issued, the defendants shall not request consent to search the occupants, their possessions or the vehicle, and shall not detain the occupants or vehicle to try to obtain consent unless the officer, consistent with this Consent Decree, possesses reasonable suspicion or probable cause to believe that the operator or passenger(s) has committed or is committing a criminal act. A request for consent to search may be made during the time between the stop of the vehicle and the issuance of a summons or warning, or the determination that no process will issue, only upon the following conditions: (a) where said request does not delay the investigation or issuance of process, (b) where the stop was based upon reasonable suspicion or probable cause that a traffic or motor vehicle violation had occurred or reasonable suspicion or probable cause to believe a crime is being committed or has been committed, and (c) where the police do not threaten, intimidate or otherwise coerce the occupant(s) into giving consent.

6. During the stop of a vehicle, defendants shall not subject the persons in the vehicle to a dog search, absent consent obtained consistent with the provisions of this Consent Decree or probable cause to believe that the persons stopped possess a controlled substance under state or federal law. Provided, however, that nothing in this Consent Decree shall preclude the defendants from using a canine to search for bombs, chemical weapons, or hostages under circumstances that legally warrant such searches.

7. If the stop of the vehicle is based on either reasonable suspicion or probable cause to believe that a crime other than a traffic or summary motor vehicle offense has been committed or is currently being committed, or is based on emergency health or safety reasons, defendants may detain, frisk, search or arrest the occupant(s) and/or the vehicle only in accord with then existing laws, rules and applicable judicial opinions construing the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Constitution of the Commonwealth of Pennsylvania.

8. Any actions of the defendants that are not covered by this Consent Decree shall not be punishable by contempt even if they are determined to be illegal or unconstitutional.

**III. COMPLIANCE PROVISIONS**

A. The defendants shall provide to plaintiffs' counsel on a monthly basis for a period of two years following the entry of this Consent Decree fully legible copies

of any and all reports of motor vehicle stops on I-95 by any of the defendants or police officers of Tinicum Township.

B. The Consent Decree shall remain in effect for a period of two years from the date it is approved by the Court. At the end of this two year period, the Consent Decree shall expire unless the Court, upon a showing of lack of compliance with the Consent Decree or other good cause, extends the terms of the Decree.

C. Each party to this action retains the right to move to enforce by way of contempt, or to modify the terms of the Consent Decree. Prior to the filing of any motion for contempt or to modify the parties shall make a good faith effort to resolve the issues raised by said motion.

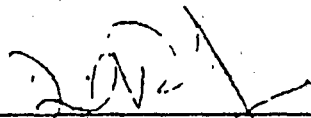
#### IV. COMPENSATION AND COUNSEL FEES


A. Defendants shall pay a sum of \$150,000 to plaintiffs to settle all damage claims by the plaintiffs. Defendants shall pay a sum of \$70,000 to plaintiffs for attorney's fees and costs. Compensation to the plaintiffs will be provided under a schedule to be approved by the Court. Nothing contained in this provision shall be deemed an admission of liability or wrongdoing by any of the defendants.

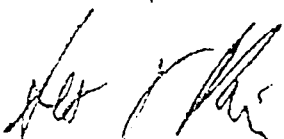
B. Defendants shall pay the costs of any further notices to plaintiff class.


For the Plaintiffs:

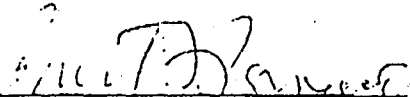
For the Defendants:

  
\_\_\_\_\_  
DAVID RUDOVSKY, ESQUIRE  
Kairys, Rudovsky, Kalman  
and Epstein  
924 Cherry Street, Ste 500  
Philadelphia, PA 19107  
(215) 925-4400

  
\_\_\_\_\_  
STEFAN PRESSER, ESQUIRE  
American Civil Liberties  
Union of Pennsylvania  
125 S. Ninth Street  
Suite 701  
Philadelphia, PA 19107  
(215) 592-1513, ext. 16

  
\_\_\_\_\_  
SETH KREIMER, ESQUIRE  
University of Pennsylvania  
Room 159  
3400 Chestnut Street  
Philadelphia, PA 19104  
(215) 898-7447

  
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ROBERT G. HANNA, JR., ESQUIRE  
Marshall, Dennehey, Warner,  
Coleman and Goggin  
1845 Walnut Street  
Philadelphia, PA 19103  
(215) 575-2811

  
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ROBERT PAPPANO, ESQUIRE  
Pappano and Breslin  
3305 Edgmont Avenue  
Brookhaven, PA 19015

APPROVED BY THE COURT:

  
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LOWELL A. REED, JR., J.

DATED: January 19, 1995