

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, :  
 :  
 v. : CIVIL NO. 99-5970 (MLC)  
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 STATE OF NEW JERSEY AND THE :  
 DIVISION OF STATE POLICE OF THE :  
 NEW JERSEY DEPARTMENT OF :  
 LAW AND PUBLIC SAFETY, :  
 :  
 Defendants. :  
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**AFFIDAVIT IN SUPPORT OF THE JOINT MOTION FOR  
TERMINATION OF THE CONSENT DECREE**

I, James Ginger, being of full age, hereby depose and say the following in support of the parties' joint motion to terminate the Consent Decree in this matter:

1. I am a principal in the firm Public Management Resources, Inc., which performs management studies and audits of law enforcement agencies throughout the United States. I have participated in more than three dozen studies and audits during my tenure with Public Management Resources, Inc. In addition, I have experience in evaluating the operations and procedures of law enforcement agencies for compliance with and adherence to the Constitution of the United States.

2. In March of 2000, I was selected as one of two Independent Monitors under the Consent Decree implemented in response to the above cited action. Alberto Rivas, Esq., a principal with the law firm of Lite, DePalma, Greenberg and Rivas, L.L.C., was selected as the second Independent Monitor.

3. Under Paragraph 115, the independent monitor is responsible for overseeing the implementation of the Consent Decree by Defendants. Under Paragraph 121, the independent monitor is responsible for reporting to the Court on Defendants' progress in implementing the decree.

4. Both Mr. Rivas and I have performed the duties of the Independent Monitor on a continuous basis since March of 2000. In addition, we have filed with the Court reports outlining Defendants' efforts to implement the Consent Decree. Our reports have been filed on a regular and continuous basis since our selection as Independent Monitors.

5. The purpose of the Consent Decree is to reform the practices and procedures of Defendant Division of State Police to ensure that citizens traveling the roadways of New Jersey are not deprived of the privileges and immunities secured by the Constitution and laws of the United States. The decree imposes the following requirements on Defendants:

- a. Adopt and implement policies that mandate the non-discriminatory enforcement of the motor vehicle laws of the State of New Jersey by individual State troopers.
- b. Ensure that individual State troopers properly document and record information concerning all motor vehicle stops and any law enforcement activities that result from the stops.

- c. Ensure that State Police supervisors review information collected during motor vehicle stops to ensure that individual State troopers engage in the non-discriminatory enforcement of the motor vehicle laws.
- d. Conduct supervisory and management reviews of State Police personnel and units to ensure compliance with provisions of the Consent Decree.
- e. Develop and implement a computerized risk management database to assist in conducting the appropriate supervisory and management reviews.
- f. Adopt policies and procedures governing the receipt, investigation and resolution of citizen complaints of trooper misconduct to ensure the impartial investigation and appropriate resolution of those complaints.
- g. Develop and provide training programs for all State troopers concerning the requirements of the Consent Decree, cultural diversity, non-discriminatory law enforcement and the principles governing search and seizure.

6. Since our appointments as Independent Monitors in March of 2000, Mr. Rivas and I have prepared sixteen reports evaluating the efforts of Defendants to comply with the provisions of the Consent Decree. A seventeenth report was prepared by the Office of State Police Affairs in the Department of Law and Public Safety under our direction and supervision.

7. The purpose of each report was to evaluate the efforts of Defendants in implementing the Consent Decree and to measure the success of Defendants' efforts.

8. In preparing each report, Mr. Rivas and I personally reviewed hundreds of police reports and video tapes documenting law enforcement activities undertaken by individual State troopers in the performance of their duties. We reviewed the reports and the video tapes for two reasons. First, we wished to determine whether individual State troopers properly documented

and recorded information concerning motor vehicle stops and any law enforcement activities that resulted from the stops. Second, we wished to determine whether Defendants adopted and implemented policies designed to achieve the non-discriminatory enforcement of the motor vehicle laws and criminal laws of the State of New Jersey.

9. The Consent Decree required Defendants to develop and implement a computerized risk management database to assist in conducting the appropriate supervisory and management reviews. Defendants created the Management Awareness and Personnel Performance System (MAPPS). Information concerning motor vehicle stops which resulted in law enforcement activity was entered into MAPPS. In addition, State Police supervisors were required to enter information concerning the reviews they conducted of motor vehicle stops. In preparation for each report, Mr. Rivas and I personally reviewed the information contained in MAPPS to determine whether MAPPS was operational and whether State Police supervisors conducted supervisory and management reviews of State Police personnel and units to ensure compliance with provisions of the Consent Decree.

10. The Consent Decree required Defendants to adopt policies and procedures governing the receipt, investigation and resolution of citizen complaints of trooper misconduct to ensure the impartial investigation and appropriate adjudication of those complaints. In April of 2004, following thirty months of compliance with the provisions of the decree relating to the investigation of trooper misconduct, the parties in this matter jointly petitioned the Court asking that the provisions of the decree relating to trooper misconduct be removed from further review by the monitors. The Court removed all but two of the provisions relating to trooper misconduct. Those provisions related to the timeliness of the misconduct investigations and the procedures to be followed in cases where an allegation of misconduct was substantiated. In preparation for

each report, Mr. Rivas and I personally reviewed files prepared during misconduct investigations to determine whether the investigations were completed in a timely manner and whether the appropriate procedures were followed in cases where an allegation of misconduct was substantiated.

11. The Consent Decree required Defendants to develop and provide training programs for all State troopers concerning the provisions of the decree, cultural diversity, non-discriminatory law enforcement and the principles governing search and seizure. In preparation for each report, Mr. Rivas and I designated Mary Kealoha of Public Management Resources, Inc., to assist us with an evaluation of the training function. Ms. Kealoha reviewed training records maintained by the State Police Academy. In addition, Ms. Kealoha evaluated training curricula developed by Defendants. Ms. Kealoha also audited training programs to determine whether the programs were consistent with the provisions of the decree. Finally, Ms. Kealoha implemented an evaluation process specifically designed to measure the value of each training program undertaken by Defendants.

12. For the first sixteen reports submitted to the Court, Mr. Rivas and I undertook the activities outlined in Paragraphs 8 through 11 above and memorialized our findings in writing to the Court.

13. For the most recent report filed with the Court, the Independent Monitors, in consultation with the parties and with notice to the Court, delegated the performance of the activities outlined in Paragraphs 8 through 11 above, and the drafting of the report, to the Office of State Police Affairs in the New Jersey Department of Law and Public Safety. All of the activities undertaken by the Office of State Police Affairs were performed under the direction


and supervision of the Independent Monitors and both the Department of Justice and the Independent Monitors approved of the report filed with the Court.

14. Paragraph 131 of the Consent Decree governs dissolution of the decree. Under Paragraph 131, the parties may move to terminate the decree if the Independent Monitors determine that Defendants have been in substantial compliance with the decree for at least two years.

15. Subparagraph (c) of Paragraph 131 of the Consent Decree defines “substantial compliance” with the provisions of the decree as the “performance of the material terms” of the decree. The material terms of the decree may “be determined by reference to overall objectives” of the decree.

16. Beginning with the tenth report that we prepared for the period ending March 31, 2004, through the most recent report that was prepared by the Office of State Police Affairs for the period ending December 31, 2007, the Independent Monitors have concluded that Defendants are in substantial compliance with the provisions of the Consent Decree. Defendants have implemented policies and procedures that constitute “performance of the material items” of the decree. In addition, Defendants administer a training function that constitutes “performance of the material items” of the decree.

17. Defendants' compliance with the provisions of the Consent Decree from March 31, 2004 through December 31, 2007 has been uninterrupted. Thus, Defendants have met the requirements set forth by the decree on a continuous and ongoing basis for a period of forty-five months thereby satisfying the criteria for dissolution established by Paragraph 131 of the decree.

  
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Dr. James Ginger

City/County of Floyd

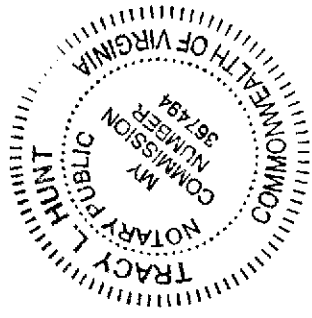
Commonwealth of Virginia

The foregoing instrument was subscribed and sworn

before me this 26<sup>th</sup> day of August, 2009 by

Tracy L. Hunt

Tracy L. Hunt  
Notary Public



Notary registration number: 367494

My commission expires: 10-31-09