

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2008-158
)	
THE TERRITORY OF THE VIRGIN)	
ISLANDS, and VIRGIN ISLANDS POLICE)	
DEPARTMENT,)	
)	
Defendants.)	

ATTORNEYS:

Marina Mazor, Esq.
 United States Department of Justice
 Washington, D.C.
For the plaintiff,

Vincent F. Frazer, Attorney General
Carol Thomas-Jacobs, AAG
 Virgin Islands Department of Justice
 St. Thomas, U.S.V.I.
For the defendants.

AMENDED ORDER¹

GÓMEZ, J.

Before the Court is the joint motion of the United States and the Territory of the Virgin Islands and Virgin Islands Police Department (collectively the "Virgin Islands") to amend the consent decree in this matter.

The Consent Decree sets forth various reforms designed to remedy the systemic excessive use of force by the Virgin Islands

¹ This order amends the order entered by the Court on April 30, 2014. This order makes minor adjustments to the reporting and evidentiary paragraphs outlined in the April 30, 2014, order. The substance has not been changed.

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Police Department. Specifically, the Virgin Islands was required to implement certain reforms regarding citizen complaints, training, use of force, and auditing within a certain time frame. The Consent Decree in this matter was first entered into on March 24, 2009. It has since been amended five times, by the Court's count. Each amendment was in response to a motion by one or both parties as a result of the Virgin Islands being unable to comply with the deadlines for substantial compliance with some or all sections of the Consent Decree that called for improvement. Each time, the Virgin Islands and the United States indicated to the Court that changes in leadership in the Virgin Islands Police Department had resulted in renewed commitment to the consent decree.

In a part of the Consent Decree labeled the "Action Plan," the Consent Decree set October 31, 2013, as the deadline by which the Virgin Islands was to achieve substantial compliance with all sections of the Consent Decree. That date has long since passed. The Virgin Islands is not in substantial compliance with several sections of the Consent Decree. The Virgin Islands moved to amend the consent decree on October 1, 2013. In a hearing on November 18, 2013, both parties informed the Court that the proposed deadlines were reasonable. Remarkably, before the Court could rule on the motion, the

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Virgin Islands failed to meet the deadlines that it had proposed in the October 1, 2013, motion. Thereafter, the parties supplemented their October 1, 2013, motion to amend. The supplemental motion shifted the dates in the Action Plan to even further in the future.

The Court held another hearing on this matter on February 25, 2014. At that hearing, the parties presented evidence regarding efforts to comply with the Consent Decree. The parties also suggested amendment of the Consent Decree. Both the Virgin Islands and the United States argued that the newly proposed deadlines were achievable; that the Virgin Islands was closer to compliance than it had been previously; and that changes in leadership within the Virgin Islands Police Department had resulted in a renewed commitment to compliance.

However, as the Court explained at the February 25, 2014, hearing, words and promises are not enough. Indeed, each time a new Commissioner of the Police Department came on board, the Court was reassured that the individual was strongly committed to the implementation of the Consent Decree and that this renewed commitment would push the Virgin Islands into compliance. However, if history is any indication, the leadership's expressed desire to achieve compliance - not only for compliance's sake, but in order to improve the Virgin

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Islands Police Department so that it could effectively serve the community it is supposed to protect - will simply not, after six years and five amendments, be enough.

As such, the Court suggested that the parties target meaningful and achievable quarterly goals. In light of the Court's suggestion, the parties agreed to submit quarterly proposed goals. Such proposed goals would be subject to approval by the Court. The parties consented to a hearing each quarter on the status of compliance with each respective quarter's goals.

On March 7, 2014, the Virgin Islands filed a notice of their quarterly goals for the quarter ending on May 27, 2014. The Virgin Islands indicated that it would achieve substantial compliance in the areas of citizen complaint processes (paragraphs 42-58 of the Consent Decree) and training (paragraphs 73-81 of the Consent Decree).

The premises considered, it is hereby

ORDERED that the Action Plan is stricken from the Consent Decree; it is further

ORDERED that the parties' February 25, 2014, agreement to submit to the Court proposed quarterly goals and to accomplish any goals accepted by the Court by each respective quarter's end is **ADOPTED**; it is further

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ORDERED that the Consent Decree is hereby **AMENDED** to include the following provision:

On a quarterly basis, the Virgin Islands Police Department shall select at least two (2) subject areas (e.g. training and citizen complaint process) of the Consent Decree in which the Virgin Islands Police Department believes it can achieve substantial compliance. The subject areas chosen shall be designated as the Virgin Islands Police Department's "quarterly goals." Such goals must be reviewed and accepted by the Court. Upon the Court's acceptance, the Virgin Islands shall be obligated to complete the quarterly goals by the end of the quarter.

The quarters shall end on the third Friday of May, August, November, and February of each calendar year. The proposed quarterly goals shall be submitted to the Court no later than ten (10) weeks before the end of the quarter in which those goals are to be accomplished.

No later than the fourth Monday of May, August, November, and February, unless otherwise ordered by the Court, each party shall file a report regarding progress made towards the achievement of the quarterly goals for the quarter that has ended.

An evidentiary hearing shall be held on the fourth Thursday of May, August, November, and February, unless otherwise ordered by the Court. At the hearing, the parties shall be prepared to present such testimony and evidence as are necessary to apprise the Court fully of the status of the Consent Decree.

The failure of the Virgin Islands to achieve quarterly goals accepted by the Court may result in a finding of contempt.

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It is further

ORDERED that the quarterly goals submitted by the Virgin Islands to be completed by May 27, 2014, are accepted; it is further

ORDERED that an evidentiary hearing in this matter is **SCHEDULED** to commence promptly at 9:00 a.m. on June 9, 2014.

S\ _____
CURTIS V. GÓMEZ
District Judge