

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, Plaintiff,

v.

CITY OF PITTSBURGH, PITTSBURGH
BUREAU OF POLICE, and DEPARTMENT
OF PUBLIC SAFETY, Defendants.

CIVIL NO. 97-0354

STIPULATED ORDER

On April 16, 1997, this Court entered a Consent Decree between the United States and the City of Pittsburgh, *et al.* ("City"). Paragraph 79 of the Decree provides that "[a]t any time after five (5) years from the date of entry of this Decree, and after substantial compliance has been maintained for no less than two years, the City may move to terminate this Decree."

As required by paragraph 70 of the Decree, the Auditor has filed comprehensive reports of the City's compliance with the Decree on quarterly basis. The Auditor's quarterly reports have found the City to be in operational compliance with provisions of the Decree applicable specifically to the Bureau of Police since the Ninth Quarterly Report, covering the time period from August 16, 1999 through February 15, 2002. However, the Auditor's reports have found that the City has not attained operational compliance with the provisions of the Consent Decree applicable specifically to the City Office of Municipal Investigations ("OMI"), the office responsible for investigating and deciding complaints of police misconduct. In particular, the City continues to maintain a substantial backlog of OMI cases in violation of the Consent Decree. The Auditor's reports also reveal that the City's failure to comply with the provisions applicable specifically to OMI affects the City's ability to comply fully with certain Bureau of Police provisions with which they interrelate.

The parties agree, based on their own assessments, and the conclusions and analysis reflected in the Auditor's reports, that the City has maintained substantial compliance with certain Consent Decree provisions which apply solely to the Bureau of Police, from August 16, 1999 to date. The parties also agree that the City has not achieved substantial compliance with certain Consent Decree provisions applicable to OMI, and that this has impacted certain Bureau of Police provisions with which they interrelate.

In recognition of the Defendants' compliance with provisions of the Consent Decree pertaining solely to the Bureau of Police, and in consideration for commitments regarding OMI agreed to by the City herein and the City's agreement to continue to maintain in effect policies and procedures substantially similar to those developed pursuant to the Consent Decree regarding (a) the performance assessment and review system and protocols for its use, (b) reporting, review and aggregate analysis by the chain of command of uses of force, searches and seizures and traffic stops, and (c) civil rights training programs, the parties stipulate to the following. Plaintiff, the United States, and Defendants, City of Pittsburgh, *et al.*, jointly move this Court to order the following:

1. The Court shall terminate Consent Decree paragraphs 10, 13, 14, 18(b), 19(b), 20, 21(a), 23, 24, 25, 26(a) and (c), 28, 29, 30, 31, 33, 34, 35, 36, 37, 39, 40, 41 (except that the City shall continue to

maintain: training records of OMI investigators; and training records of officers who received training based on OMI complaints), 42 (except that the City shall continue to document and maintain all mandatory counseling of officers based on OMI complaints) and 43. All other Consent Decree paragraphs shall remain in effect until termination is effected with regard to those paragraphs pursuant to Consent Decree paragraph 79.

2. In order to achieve operational compliance with all remaining provisions of the Consent Decree not terminated by this Stipulated Order, the City agrees to comply with the following requirements governing the operations of OMI and its successors:

A. OMI has developed and shall continue to maintain an enhanced computerized relational database that effectively tracks the status of complaint investigations by case number, allegation, investigator, and status of the investigation.

B. The City shall continue to hire and/or assign an individual to OMI for the exclusive purpose of assisting OMI in the supervision and management of its caseload, including any backlog, and accomplishing any modification of policies and protocols necessary to assure efficient processing of complaints until OMI has completely eliminated its backlog.

C. The City shall clear OMI's existing backlog of cases open longer than 120 days by February 28, 2003.

D. Until the backlog is eliminated, the City shall ensure that at all times OMI maintains a staff of at least 16 investigators. Thereafter, the City shall ensure that at all times OMI maintains sufficient staff to comply with paragraph 2.E. herein.

E. After eliminating the backlog, the City shall not permit OMI to again develop or maintain a significant backlog of cases and, thus, agrees that, after February 28, 2003, the total number of cases open more than 120 days shall not exceed 5% of the total OMI caseload. The 5% limit shall not include cases appropriately designated by the City as "pending" and which are no more than 180 days old. A case may be designated as "pending" by the OMI manager and his or her direct supervisor if each of the following applies: (a) a non-police witness whose testimony is necessary to determine the disposition of any of the allegations is unavailable after aggressive efforts have been made by OMI in accordance with Consent Decree paragraph 61; and (b) all other phases of the investigation have been completed within the 120 day period. The 5% limit shall apply to all cases open longer than 180 days.

F. The City shall ensure that each OMI closed case file contains all of the records necessary to document their compliance with all Consent Decree provisions. Any file lacking documentation necessary to determine OMI's compliance with the Consent Decree at the time of the Auditor's review, shall be deemed non-compliant by the Auditor.

G. The City shall ensure that all OMI investigators receive police academy and in-service training, as required by Consent Decree paragraph 46, within six months of their date of hire, and shall maintain detailed written records substantiating the training received by each investigator.

H. The City shall provide to the Auditor and the Department, on a monthly basis until the Consent Decree is terminated pursuant to Consent Decree paragraph 79, a report listing the

following current information: the number of incoming OMI cases per month, by type; the number of assigned current and backlog cases per month, by type; the number of unassigned current and backlog cases per month, by type; the number of staff (current and backlog) per shift on the last day of the month (including the name, title and start date for each staff member); and the number of closed cases (current and backlog) per month, by type.

3. The Auditor shall continue to audit, as provided in Consent Decree paragraphs 70 to 76, all Consent Decree paragraphs that have not been terminated. Consent Decree paragraphs 12, 15, 16, 17, 18 (a), 19(a), 21(b) and (c), 22, 26(b), 27, 32, 38, 41, 42 and 43, which pertain primarily to the Bureau of Police, will be audited only to the extent they cover or affect OMI's responsibilities pursuant to the Consent Decree and this Order. In addition, the Auditor shall continue to review and report on all information included in Consent Decree paragraph 71 (a) through (d).
4. The Auditor shall audit compliance with this Order as part of his audit of the Consent Decree. The Auditor shall use a 'process audit' approach, as described in the Auditor's September 13, 2002 Supplemental Report to the Court.
5. This Order shall terminate when the entirety of the Consent Decree is terminated pursuant to Consent Decree Paragraph 79.

For the Plaintiffs:

RALPH F. BOYD, JR.
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

STEVEN H. ROSENBAUM, Chief
DONNA M. MURPHY, Deputy Chief
MARY R. BOHAN, Attorney
S. NICOLE NARDONE, Attorney
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Ave., N.W.
SPL, 601 D Street
Washington, D.C. 20530
(202) 514-6247

For the Defendants:

JACQUELINE R. MORROW, City Solicitor
SUSAN E. MALIE, Assistant City Solicitor
City of Pittsburgh Department of Law
414 Grant Street
313 City-County Building
Pittsburgh, PA 15219
(412) 255-2002

SO ORDERED this 30th day of September, 2002.

ROBERT J. CINDRICH
United States District Court Judge