

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

Plaintiff;

v.

POLICE DEPARTMENT OF BALTIMORE
CITY, et. al.,

Defendants.

Civil Action No. 1:17-cv-00099-JKB

JOINT MOTION TO APPOINT INDEPENDENT MONITOR

The United States, the Mayor and City Council of Baltimore (“City”), and the Police Department of Baltimore City (“BPD” or “Baltimore Police Department”) (collectively, “the Parties”) jointly request the Court appoint as Independent Monitor a team composed of members of the Exiger/21st Century Policing, LLC (21st Century Policing) team, members of the Venable LLP (Venable) team, and Community Mediation Program, Inc. (doing business as Baltimore Community Mediation Center, BCMC). As required by the Consent Decree, the combined team has significant expertise in protecting civil and constitutional rights, knowledge of police practices and the challenges that police officers and departments face, a track record of success in achieving institutional reform within police departments, and local experience and expertise with the diverse communities of Baltimore. The Parties agree the proposed team is the most qualified candidate to serve as the Independent Monitor overseeing the Baltimore Police Department and City’s implementation of the Consent Decree.

I. BACKGROUND

On April 7, 2017, the Court entered a Consent Decree jointly filed by the Parties to remedy an alleged pattern or practice of violation of constitutional rights and federal law, pursuant to the Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141.¹ The Consent Decree calls for an Independent Monitor to be proposed by the parties and appointed by the Court. Consent Decree, ¶¶ 442-45 (ECF No. 2-2).

The Consent Decree also sets forth a process for the selection of the Monitor to be proposed to the Court. *Id.* at ¶¶ 443-44. The Parties have fully complied with this process. Specifically, on April 20, 2017, the Parties issued a Request for Applications, requesting interested individuals and teams to submit proposals to serve as Monitor. *Id.* Twenty-six teams applied to serve as the Monitor. The Parties posted all applications on each party's website so that members of the public could review and provide feedback on the proposals. *Id.* at ¶ 444(b). Public commenting on the proposals ended on July 17, and all comments were posted on each Party's website.

Based on the quality of proposals, the qualifications of proposed team members, and public feedback, the Parties selected six teams to interview from July 31, 2017 through August 4, 2017. *Id.* at ¶ 444. Following these initial interviews, the Parties selected four teams to invite to two public forums which occurred on August 15, 2017 and August 16, 2017, and for secondary interviews. *Id.* at ¶ 444(d). Members of the public submitted questions for the monitoring teams to answer at each public forum. At the forums, the monitoring teams answered these questions from members of the public as well as questions from audience members. After hearing directly

¹ As of September 1, 2017, 42 U.S.C. 14141 has been re-codified as 34 U.S.C. § 12601.

from the finalists at the public forums, members of the public had an opportunity to submit additional comments regarding the four final teams, through August 23, 2017.

At the conclusion of the interview and public feedback process, the Parties conferred with each other and the Court. *Id.* at ¶ 444(e). After extensive consultation, the Parties concluded none of the finalist teams have all of the appropriate experience and expertise for each of the key aspects of a successful monitorship of the Consent Decree. Accordingly, the Parties discussed creating a new team with members of the Venable and 21st Century Policing teams, and they agreed, resulting in the formation of the Venable/21st Century Policing team. Additionally, the Parties believed it was necessary to enhance the community engagement capability of the newly formed team, and the Parties and Venable/21st Century Policing entered into discussions with BCMC to address this concern, resulting in the addition of BCMC to the team as the community liaison. The Parties have reviewed the proposed team composition and assignments (attached as Exhibit A), as well as a proposed budget for the first year, and now recommend the Venable/21st Century Policing team to the Court.

II. DISCUSSION

The Parties recommend that the Court appoint the Venable/21st Century Policing team to serve as the Independent Monitor of the Consent Decree. The Consent Decree requires that Independent Monitor “include a team of individuals with expertise in policing, civil rights, monitoring, data analysis, project management, and related areas, as well as local experience and expertise with the diverse communities of Baltimore.” Consent Decree, ¶ 442. The Consent Decree further requires that the Parties use certain criteria in selecting the Monitor, including “each team member’s experience and qualifications to perform the tasks outlined in this Agreement; the ability to work collaboratively with BPD and DOJ to enable BPD to reach

compliance with this Agreement; and the ability to do so in a cost-effective manner.” *Id.* at ¶ 443. The Consent Decree also requires that the Parties consider the budget of the proposed team in selecting the Monitor and determine that it is reasonable. *Id.* at ¶ 448. The newly-formed Venable/21st Century Policing team satisfies each of these criteria and qualifications, and it has provided a first-year budget that is reasonable and within the budgetary cap set by the Decree, *see id.*, and the Parties therefore propose this team to the Court for approval.²

As set forth in further detail in the original applications and supplemental materials provided by the Venable and Exiger/21st Century Policing teams, the members of the Venable/21st Century Policing team have extensive expertise in policing, civil rights, monitoring, data analysis, and project management, as well as local experience and expertise with the diverse communities of Baltimore.³ The team has an appropriate mix of local and national experience and expertise, ensuring both independence and neutrality in the performance of its duties, as well as a knowledge of local conditions and history to ensure successful implementation of the Decree. The team is led by a native Baltimorean with deep ties to the Baltimore community, and with the addition of BCMC, the team also has experience and expertise in reaching a broad cross-section of residents throughout Baltimore’s neighborhoods.

The Venable/21st Century Policing team also contains individuals with extensive law enforcement experience from across the country, including experience in jurisdictions that are analogous to the challenges faced by the Baltimore Police Department. Many members of the

² It is crucial to the recommendation of the United States that the proposed monitor made a firm commitment to the Parties, consistent with the provisions of the Consent Decree, to remain under the budgetary cap set by the Consent Decree.

³ The original applications and supplemental materials provided by the Venable and Exiger/21st Century Policing teams can be found at <https://consentdecree.baltimorecity.gov/monitor-applications>.

team have also worked on projects to achieve reform of law enforcement agencies, including experience monitoring and implementing consent decrees and reform agreements in other jurisdictions, such as the District of Columbia Metropolitan Police Department, the New Orleans Police Department, the Cleveland Police Department, and the Los Angeles Police Department, among others.⁴ Because of the experience many members of the team have in implementing reform efforts in other jurisdictions, the Parties are confident that the proposed team has the necessary project management experience to efficiently and effectively implement the Consent Decree. The team also contains leading academics in areas of civil rights law and statistical analysis methods applicable to the issues covered in the Consent Decree. And the team includes a number of former federal prosecutors with experience prosecuting civil rights violations by law enforcement officials, as well as experts in law enforcement accountability systems and increasing the transparency of police departments. This array of experience and expertise will ensure timely implementation of the Consent Decree, strengthening the relationship between the Baltimore Police Department and the community it serves.

Finally, the Venable/21st Century Policing team has committed to working collaboratively with BPD and DOJ to enable BPD to reach compliance with the Consent Decree as efficiently as possible, and to providing its services to the Court, the Parties, and the communities of Baltimore in a cost-effective manner.

III. CONCLUSION

⁴ One member of the proposed team, Kathleen O'Toole, is currently the Chief of the Seattle Police Department, which is currently implementing a consent decree with the Department of Justice. The Parties agree that Chief O'Toole will not be permitted to work on the monitoring team until (1) Seattle is no longer in a consent decree, or (2) Ms. O'Toole is no longer Chief of SPD, whichever comes first.

For the foregoing reasons, the Parties propose that the Court appoint the Venable/21st Century Policing team to serve as the Independent Monitor for the Consent Decree.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing Joint Motion to Appoint Independent Monitor was served through the electronic filing service on September 15, 2017, giving notice to all registered parties.

s/ Puneet Cheema
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