

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CITY & COUNTY OF
DENVER, COLORADO

Civil Action No. C-3693

CAROL C. HOGUE, RAE BETH McCALL
AND LAURA TINNIN, on behalf of
themselves and all other persons
similarly situated,

Plaintiffs,

vs.

TED BACH, ARTHUR S. BOWMAN and HOUSTON GIBSON,
individually and as Commissioners of the City
and County of Denver Civil Service Commission, J. T.
DINAN, individually and as Secretary and Chief Examiner
of the City and County of Denver Civil Service Commission,
GEORGE T. SEATON, individually and as Chief of Police
Department of the City and County of Denver, and CITY
AND COUNTY OF DENVER, a municipal corporation,

Defendants.

MODIFIED CONSENT DECREE

The parties hereby agree to this Modified Consent Decree as a substitute for the August 27, 1975 decree because of changes in circumstances since the original Consent Decree was entered in this action. This agreement is intended to replace in total the August 27, 1975 decree. Like that decree, this decree is dedicated to preserve and further the following principles:

1. The people of the City and County of Denver are entitled to and must at all times be provided with an efficient

Police Department composed of police officers who are most qualified and capable of preserving the peace, protecting persons and property and enforcing the laws of the State of Colorado and City and County of Denver, and;

2. Only those persons of good moral character, possessing all the physical and mental abilities necessary to perform the duties of police officers shall be certified and appointed to the classified service of the Denver Police Department, hereinafter referred to as "the Department", and;

3. The development of testing and hiring methods utilized for determining the qualifications of each applicant must be job related, validated and shall contain no barriers which would deprive any person of good moral character, possessing the necessary physical and mental abilities from competing for appointment to the Denver Police Department, and;

4. Only the most qualified applicants are entitled to certification and appointment to vacant police officer positions pursuant to the civil service system as provided in the Charter of the City and County of Denver, and;

5. The qualifications upon which certification is based must be related to the performance of police duties and the efficiency of the Department and not discriminate against any person because of race, color, national origin, religion or sex.

NOW, THEREFORE, each of the named parties and the classes they represent, incorporating the above principles, enter into this Modified Consent Decree as follows:

The Civil Service Commission of the City and County of Denver, hereinafter referred to as "the Commission", which has the Charter duty to recruit, test and certify eligibles to the classified service of the Denver Police Department agrees that:

6. It will continue to devote its resources and energies to evaluating and refining its testing methods and standards for police officer positions to ensure job relatedness and will continue to use validated selection methods as required by federal law.

7. It will continue to actively recruit eligible, qualified minorities and women in order to maintain a sufficient pool of applicants for certification as hereinafter provided.

8. The requirement of a high school diploma or its equivalent will be retained for applicants.

9. Each applicant will be required to pass any existing medical examination and also the agility test described by the April 29, 1987 settlement agreement attached hereto and incorporated herein.

10. The Commission or appointing authority may continue to use a polygraph examination, credit rating and previous employment record in evaluating applicants. Such use shall be in a manner so as to not work discrimination against minority or women applicants.

11. The Commission may continue to use an oral board in selecting applicants for the Denver Police Department. If

there is an oral board, it will consist of at least one-third minority members.

12. The Commission will establish minority hiring goals of the Department for the particular minorities of Hispanic, Black, Asian and Native American. The goals for each particular minority group referred to throughout this decree will be that minority group's percentage of the available work force within the City and County of Denver. As used herein, the phrase "available work force" means individuals who possess the minimum age and education qualifications for an applicant to the Denver Police Department. This information can be determined from the decennial census. When new decennial census data is available, it will be used to set new goals.

13. Whenever the Commission creates a register of persons eligible to be hired as police officers pursuant to §C5.63 of the Charter of the City and County of Denver, that register shall contain, at least, a percentage of each particular minority group equal to the goal established in paragraph 12 for that group, subject to the provisions of paragraph 15 below. Whenever the Commission certifies a list pursuant to §C5.65 of the Charter in response to a requisition from the Manager of Safety, hereinafter referred to as the certification list, that list shall contain at least a percentage of each particular minority group equal to the goal established for that minority subject to the provisions of paragraphs 14 and 15 below. The Manager of Safety shall appoint as probationary officers at least a percentage of each

particular minority group equal to the goal established for that group, subject to the provisions of paragraphs 14 and 15 below. If the exercise of the rule of three by the Manager of Safety as provided by the Charter prevents the Manager from appointing enough probationary officers to meet the various goals established herein, then the minority person not selected pursuant to the rule of three shall be replaced on the list by a person in the same minority group.

14. Until the percentage of black police officers on the Department is equal to or greater than the percentage of blacks in the available work force within the City and County of Denver, each certification list for the position of police officer fourth grade shall contain, and the Manager of Safety shall appoint, forty-five percent black applicants. When the goal for blacks has been reached, this special certification and appointment requirement shall cease and the provisions of paragraph 13 above shall apply.

15. It shall not be deemed a violation of this agreement if a sufficient number of the particular minority group does not apply for the position or pass the complete examination process in order for the Commission and Manager to comply with the provisions of paragraphs 13 and 14 above; provided, however, that (1) the Commission and the City have engaged in a good faith effort to recruit members of that particular minority group and (2) the testing process is validated pursuant to federal law. For purposes of this paragraph a good faith recruiting effort shall include at a

minimum (a) an active recruitment program by the police department; (b) advertisements in local and neighborhood newspapers which are directed toward the particular appropriate minority groups; (c) some electronic media advertising focused at minorities and (d) a meeting between representatives from the Commission and the City with representatives of the organizations representing active police officers to obtain input and exchange ideas toward what other efforts should be used at that time.

16. Validity of a requirement as that term is used herein shall mean that the requirement is related to the performance of the duties of a police officer and does not discriminate against any person because of race, color, religion, sex or national origin, or if it does so discriminate, it is of business necessity to do so.

17. The Commission agrees to make annual reports to the Court and counsel in which its activities regarding recruitment, certifications and validation studies are fully explained. These reports shall be made while this Modified Consent Decree is in effect.

18. The parties retain the right to petition the Court at any time and obtain a prompt evidentiary hearing regarding validation of any portion of the selection process if there is absence of agreement by the parties. The burden of establishing validation shall be on the defendants. Validation shall be determined by the Court pursuant to law. The parties stipulate that the Court may appoint a qualified independent

psychometrist to aid the Court in resolving any dispute pertaining to validation. Any Court decision regarding validation may, however, be appealed by the parties.

19. The Manager of the Department of Safety and the Chief of the Police Department of the City and County of Denver agree to the principles and provisions contained in this agreement, and will assist the Civil Service Commission in its recruitment, testing and validation studies whenever requested. It is understood by all parties, however, that this specific provision does not in any way alter or delegate charter jurisdiction or duties of any charter officers or the Civil Service Commissioners. The Manager of Safety and the Chief of the Police Department further agree to monitor the termination and resignation rates of minority officers. If the termination and resignation rate of a particular minority group exceeds the rate of Anglos on the Department during any calendar year, the Department will establish a program of counselling and evaluation to determine, if possible, ways of reducing the termination and resignation rate.

20. The Plaintiffs agree that none of the Defendants have willfully discriminated against minorities and recognize that the Defendants are currently in the process of evaluating and improving selection methods. The Plaintiffs enter into this agreement anticipating that these Defendants will maintain their bona fide good faith efforts. The parties agree that the Civil Service Commission may adopt new or modify any

existing tests, or any portion thereof, provided that the selection process complies with paragraphs 5 and 16 above.

21. The Plaintiffs and the members of the class which they represent also agree that no provision in this Modified Decree is to be interpreted so as to deny the Chief of Police and appointing authority the right to fairly discipline any appointee for violation of departmental rules and regulations or terminate his or her employment if he or she is unable to satisfactorily perform the assigned duties of a police officer, provided however, that any such disciplinary action or termination thereof shall be in accordance with the provisions contained within the Charter of the City and County of Denver.

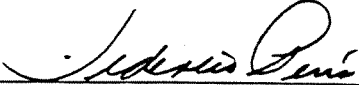
22. This Modified Decree shall continue in effect until both of the following events have occurred: (1) the Department reaches and maintains the hiring goal for each minority group for a period of four (4) years and (2) the Civil Service Commission adopts by rule procedures for recruitment and hiring of police officers which will have the effect intended by this Modified Decree.

23. Whenever fractions of numbers result from the calculations under this Modified Decree, the number shall be rounded to the nearest whole number.

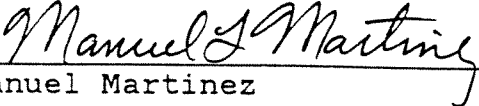
24. Whenever the Civil Service Commission submits a certification list to the Manager of Safety in compliance with paragraphs 13 and 14 above, the Commission shall use a random selection method to establish the order of names on that list.

25. The parties agree that no damages, costs or attorneys fees are to be awarded any of the Plaintiffs, Defendants or members of the class, and each party will pay its own costs and attorneys fees.

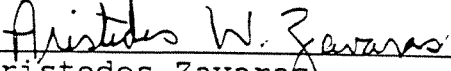
26. The effective date of this agreement shall be December 1, 1988.



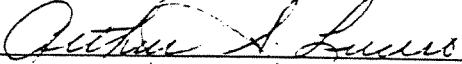
Federico Peña
Mayor
City and County of Denver



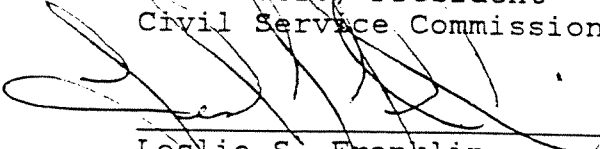
Manuel Martinez
Manager of Safety
Department of Safety



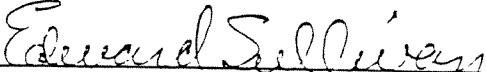
Aristedes Zavaras
Chief, Denver Police Department



Art Lucero, President
Civil Service Commission



Leslie S. Franklin
Civil Service Commissioner



Edward Sullivan
Civil Service Commissioner

Deborah A. Wagner
Deborah Wagner
Civil Service Commissioner

Jane Woodhouse
Jane Woodhouse
Civil Service Commissioner

Joseph G. Webb
Joseph G. Webb
Committee Chairman
Chief Negotiator for Consent Decree
Committee

Ken Harris
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Police Protective Association

Kirk L. Dunham
Kirk Dunham
Black Police Officers Organization

Miriam Reed
Miriam Reed Denver Association of Women Police
~~Women's / Police / Officers / Association~~

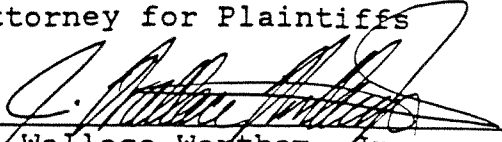
Nina Orton
Nina Orton
Denver Police Union

Mark Chavez
Mark Chavez
Latin American Law Enforcement
Association

James E. Lux
James Lux
Brotherhood

APPROVED AS TO FORM:

Attorney for Plaintiffs

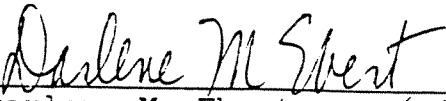


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