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Scott Greenwood  
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*Re: Request for Information, Independent Monitor, Settlement Agreement Regarding the  
Albuquerque Police Department*

Dear Messrs. Killebrew and Greenwood:

I am pleased to express my interest in serving as Independent Monitor for the City of Albuquerque's Police Department (APD). My background and experience make me well-suited for this assignment. I served for 10 years as a prosecutor in the U.S. Department of Justice, first as a criminal Assistant U.S. Attorney in Philadelphia, later as an Assistant Chief in DOJ's Criminal Fraud Section, and last as the Executive Director of President Obama's Financial Fraud Enforcement Task Force, chaired by Attorney General Holder. In this last role I brought together numerous government agencies that were used to working alone in order to achieve a common goal and create transparency and accountability in the government's activities. I possess both the leadership skills necessary to tackle such an important assignment and the deep respect and admiration for -- and understanding of -- police officers that can only come from a decade of working side by side with federal and local law enforcement in a variety of criminal investigations and trials.

Moreover, the distinguished team I have assembled to assist me as Monitor includes a variety of subject-matter experts, including: the former Chief of the Civil Rights Unit in the U.S. Attorney's Office for the Southern District of New York; a former Police Major and 26-year veteran of the City of Miami Police Department (and current Chief of Police of the University of Miami Police Department); a former Assistant U.S. Attorney in Albuquerque and Director of Criminal Prosecutions for four successive New Mexico Attorneys General; and two nationally-recognized experts (including one who has 30 years of experience as a police officer) in the fields of mental health, crisis intervention, and de-escalation techniques by police.

Together we possess a robust knowledge of the issues currently facing the City, the manner in which they best can be addressed, and the ability to advise and ensure implementation of the necessary changes contemplated in the Settlement Agreement. The team is committed to furthering safe, effective, and constitutional law enforcement in Albuquerque, where the police work in partnership with the community it serves.

**I. Executive Summary and Methodology**

The Settlement Agreement between the City of Albuquerque and the U.S. Department of Justice recognizes that the most serious act in which a police officer can engage is the use of deadly force and that the authority to carry and use firearms in the course of public service is an enormous responsibility. Moreover, it observes that without effective officer training and knowledge of available community resources and interventions, citizens with mental illness who may be effectively and efficiently served through prevention and diversion programming may instead be arrested or worse, kill or injured, during their contact with police.

Our monitoring team possesses the wealth of experience necessary to review thoroughly and fairly the manner in which APD seeks to address these and other serious problems identified in the Agreement.

Initially, if selected we would talk to members of APD (supervisors and street officers alike), City officials, and members the community to understand their goals, concerns, and remedial efforts undertaken to date. We also would use this time to review necessary documents and databases containing items such as use of force policies, IA files, mental health training materials, current and proposed staffing, and staffing, training, and use of CIT, to name just a few. This data review will allow us to understand what information is available to conduct compliance reviews and audits as well as assessments to measure whether implementation of the Agreement is resulting in constitutional policing. Finally, we will establish a communication system that will provide for an effective and convenient flow of information between the Monitoring team and the relevant parties, and a dedicated email address and phone line available solely to the public to send questions, concerns, and other comments directly to the Monitor and the team.

Moreover, during the initial 90 days of the monitorship, our team will develop a detailed plan for conducting compliance reviews and outcome assessments. These plans will include the assessments delineated in the Settlement Agreement, as well as additional assessments identified by the Monitor and agreed to by the Parties. Included in the plan will be a schedule for reviewing quantitative data and completing qualitative assessments of the requirements of the Agreement. The plan will also include an outline of when reports will be filed. Within 45 days of his appointment, the Monitor and his team will have coordinated with the APD to ensure that

the measures laid out in the Settlement Agreement are the most effective metrics to assess that the goals of the Agreement are achieved. Once agreement on metrics is reached, a scorecard will be developed to capture existing data, and ensure that the systems exist to record and analyze the measurements that the team will be monitoring. Of particular focus will be the value of the statistics collected. It is important that the metrics measure quality of police action, and do not unwittingly encourage unwanted behaviors.

Of course, the monitoring plan will be evaluated and updated continuously through the process based upon achievement of goals, the monitoring team's assessments, and the identification of new issues or concerns.

After the initial 45 and 90 day periods, the Monitor and his team will focus on reviewing data and ensuring compliance, as well as offering guidance and technical assistance when required.

## **II. Personnel and Qualifications**

### **A. Michael Bresnick**

I would serve as the Independent Monitor, coordinating and overseeing the activities of each member of the monitoring team, acting as the primary point of contact, and ultimately bearing the responsibilities of the Monitor as outlined in the Settlement Agreement.

From 2003 to 2013 I was a criminal prosecutor at the U.S. Department of Justice, starting as an Assistant U.S. Attorney in the Eastern District of Pennsylvania. While there I worked closely with my law enforcement partners (federal, state, and local) to investigate and prosecute a broad variety of crimes in order to protect the public. These cases included violent crimes as well as financial fraud, health care fraud, and public corruption offenses, among others. In total, I led 16 criminal trials and more than 100 investigations.

In early 2011 I was promoted to be an Assistant Chief in the Criminal Division's Fraud Section, supervising the Section's bank and mortgage fraud prosecutions. I was promoted again soon thereafter by the Deputy Attorney General to serve as the Executive Director of President Obama's Financial Fraud Enforcement Task Force.

The Task Force consists of eight working groups and two active committees. As Executive Director I oversaw all of its activities. The membership of these groups and committees consisted of senior leaders within DOJ, including component heads, U.S. Attorneys, federal inspectors general, and leaders in law enforcement agencies and regulatory offices, among others. I worked closely with each of these individuals, including the Attorney General, Deputy Attorney General, and Associate Attorney General, to create guidance on a variety of

matters government-wide, set priorities for the nation's prosecutors, civil attorneys, and regulatory agencies, and address the needs of the public by working closely with community organizations. Under my direction we also looked for innovative ways to help victims of crime. For example, in addition to speaking at many public events, we also worked with community-based organizations to offer pro bono financial planning services to thousands of fraud victims, among many other activities.

An important part of my role as Executive Director of the Task Force was to ensure transparency and accountability into the work we were doing. To that end, I was responsible for reporting to the public, senior government officials, DOJ's Inspector General, and the Government Accountability Office the many plans, activities, and accomplishments of the Task Force. Significantly, I led the creation of a Strategic Scorecard, which was used as a management tool to identify objectives and goals and measure our success at reaching those goals.

Of my time as Executive Director, Attorney General Holder said:

Throughout his tenure as Executive Director of the President's Financial Fraud Enforcement Task Force, Mike Bresnick has played an indispensable role in leading interagency efforts to ensure stability and fairness in our financial and housing markets – while holding accountable those who take advantage of their fellow citizens . . . . Under Mike's leadership, the Department's approach in identifying – and combating – financial fraud has never been smarter, more systematic, or more effective.

(DOJ press release, July 31, 2013).

Currently I am a partner at Stein Mitchell Muse Cippollone & Beato LLP, where I am Chair of the Financial Institutions Practice Group, specializing in handling government investigations for a variety of clients. The attorneys at our firm have a long history of involvement in complex and high profile matters, including: a former federally-appointed Independent Counsel in the investigation of Edwin Meese, III, President Reagan's nominee to be U.S. Attorney General; the former General Counsel to the Special Senate Committee to investigate Hurricane Katrina; a former Associate Independent Counsel for the Whitewater Investigation; the former Chief of Criminal Law for the U.S. Army at Fort Belvoir, Virginia; and a former Deputy Associate Counsel in the Executive Office of the President and Trial Attorney in DOJ's Tax Division. This institutional knowledge, combined with my demonstrated leadership and experience in bringing together disparate individuals and organizations, will enhance my ability to support APD in its efforts to provide the transparency, accountability, and constitutional policing required under the Settlement Agreement.

## **B. Andrew Schilling**

Mr. Schilling would serve as Chief Counsel to the Monitor. From 1997 to 2007, and again from 2010 to 2012, he served as an Assistant U.S. Attorney in the Southern District of New York under U.S. Attorney Preet Bharara.

Significantly, Mr. Schilling served as Chief of the Civil Rights Unit in that Office from 2004 to 2007. In that capacity, he investigated and criminally prosecuted police and correction officers for violations of federal civil rights laws. Moreover, he supervised the § 14141 federal civil rights investigation of the City of Beacon Police Department, resulting in an agreement with DOJ to reform its policies and practices regarding use of force, review of officer conduct, and citizen complaints. After leaving the Office in 2007, Andrew later returned in 2010 to lead its Civil Division, overseeing approximately 125 employees and 57 Assistant U.S. Attorneys, and served on the Executive Staff, participating in office-wide policy, budget, personnel, administrative, and monitorship decisions.

Mr. Schilling currently leads the Government Investigations Practice Group of the New York office of BuckleySandler LLP. His experience in conducting and leading federal civil rights investigations will be invaluable as the team fulfills its mandate to assess APD's compliance with the Agreement.

## **C. David Rivero**

David Rivero would serve on the monitoring team as an expert in police policies and practices. He currently serves as Chief of Police for the University of Miami Police Department, selected in 2006 after a nationwide search conducted by the Honorable Donna Shalala, President of the University. Previously, from 1982 to 2006, Chief Rivero served as a police officer in the City of Miami Police Department in a variety of senior executive positions. For example, he was promoted by Chief John F. Timoney to serve as Police Major for the Central District, Field Operations Division, where he oversaw community policing efforts and directed a law enforcement team of three Police Commanders, nine Neighborhood Resource Officers, seven Lieutenants, 28 Sergeants, and 195 Police Officers, and managed a budget of nearly \$30 million. The Central District has a population of over 167,000 merchants and residents, and is home to the two largest homeless shelters in Miami. Chief Rivero worked closely with them in order to establish a great working relationship, which best served their needs and the needs of the community overall. He also created the Critical Incident Review Board, pursuant to which the Department convened a panel of senior staff members to analyze and critique the manner in which critical situations were handled by field commanders.

Chief Rivero previously served as a Police Commander for other major areas of Miami,

and, in 2003, as Police Captain of the Training Unit, where he was the Director of the Miami Police Department Training Center and Training Academy. In this role, he was responsible for all training aspects and needs of the Miami Police Department, including the Police Academy, the Firearms Range, the Officer Survival Training, and the in-service training for all employees.

Notably, as Director of Training Chief Rivero guided the Miami Police Department through an investigation by DOJ's Civil Rights Division into the Department's use of excessive force. Chief Rivero created and implemented the Miami Police Department's new Taser policy and new Deadly Force policy, which included procedures relating to investigations of officer-related shootings. These new policies were credited with a drastic reduction in officer-involved shooting incidents in Miami. In fact, in a 2013 letter from the Civil Rights Division to the Mayor of the City of Miami and the current Chief of the Miami Police Department, in which DOJ announced that it found reasonable cause to believe that the Miami Police Department is engaging in a pattern or practice of excessive use of force, DOJ referenced the earlier investigation from 2002 to 2003 -- in which no such finding was made -- and the "important changes to [the Miami Police Department's] policies that significantly restricted the use of deadly force, resulting in a 20-month period between December 2002 and September 2004 when no MPD officer discharged his or her firearm at anyone." (See July 9, 2013, letter from Thomas E. Perez, Assistant Attorney General, to Hon. Thomas P. Regalado, Mayor, City of Miami, and Chief Manuel Orosa, City of Miami Police Department, at 3). The letter further "attributed this dramatic improvement to changes in policies and procedures, increased accountability, and increased supervision within the specialized units . . . ." (Id. at 3-4). Finally, the letter noted that "[t]here were no shootings in 2003, two in 2004, four in 2005, [and] one in 2006 . . . ." (Id. at 5 n.2)<sup>1</sup> These "important changes" and "dramatic improvement" are directly attributable to the work of Chief Rivero.

Moreover, as Captain of the Criminal Investigations Section from 1999 to March 2003, Chief Rivero personally led the Miami Police Department's investigative efforts into several questionable police-involved shooting incidents. Through a joint investigation with the FBI and the U.S. Attorney's Office, 13 police officers were indicted for conspiracy to violate civil rights. In the aftermath of this investigation, Chief Rivero personally wrote the Miami Police Department Order on how to conduct criminal investigations.

Relying on this lifetime of experience in police training and procedures, and on his specific involvement in creating and implementing a new use of force policy for one of the nations largest police departments, teaching officers how to conduct proper investigations, and

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<sup>1</sup> It bears reiterating that Chief Rivero left the Miami Police Department in October 2006, long before the conduct that is the subject of the 2013 findings letter occurred.

focusing on the needs of the community at large, Chief Rivero would be a tremendous asset in helping APD meet its stated goals.

**D. Dr. Joel Fay**

Dr. Fay, together with Habsi Kaba (discussed below), would assist the Monitor as an expert in CIT staffing, use, and training, and in the training of police departments in identifying and treating people with mental illness.

Dr. Fay is a retired police officer with over 30 years of policing experience in both the Los Angeles and San Rafael Police Departments. In 1999, while working as a police officer for the San Rafael Police Department (SRPD), Dr. Fay obtained his Doctorate in Clinical Psychology from the American School of Professional Psychology. From 1999 to 2011, he was the Mental Health Liaison Officer for the SRPD, handling hundreds of crisis intervention calls. He also coordinated the Marin County Crisis Intervention Team, served as a consulting psychologist for the Marin County Mental Health Court, and was the Clinical Supervisor for the Marin County Forensic Mental Health Program known as STAR (Support and Treatment after Release). Additionally, he was the Coordinator for the Marin County Forensic Multi-Disciplinary Team, a collaboration of social service and criminal justice agencies who meet monthly to discuss problematic mentally ill citizens and to develop coordinated treatment plans.

Currently, Dr. Fay treats first responders who have experienced critical events, teaches crisis intervention and peer support to numerous agencies, including police departments, throughout California, speaks at conferences throughout the country, and consults with public safety agencies. Of particular significance, Dr. Fay frequently trains police departments and other government and community-based organizations about the Restorative Policing Project (RPP), which he created. RPP is the Marin County model for law enforcement's collaboration with community-based programs. As Dr. Fay explains, a Restorative Policing Project has three basic goals: (1) maintain public safety; (2) reduce harm to individuals and the communities; and (3) restore marginalized individuals to a supportive appropriate community.

To accomplish its goals, a RPP increases community awareness by using community outreach and public speaking, encourages clients to use treatment and supportive services instead of criminal justice services, and uses individual advocacy as a primary intervention. A RPP collaborative allows law enforcement to bring cases directly to the mental health system requesting intervention in the life of a client. A synergy of police philosophy, social work and psychiatry allows community mental health to successfully treat persons who were previously considered untreatable. Working collaboratively with mental health experts can benefit law enforcement by reducing fruitless calls for service, gaining compassion for the mentally ill, and successfully intervening in the lives of persons police once thought of as dangerous. Dr. Fay

trains police departments to become essential advocates, filling the gaps in a service system that has been divided into silos by maintaining accountability among the mentally ill and the agencies chartered to serve them.

Dr. Fay's efforts have been wildly successful. He has received numerous awards and citations of excellence. For example, the Mental Health Liaison Officer program he created was selected as a Community Oriented Policing Best Practice by the American Conference of Mayors in 2002. He also was awarded the Helen Putnam Award, California League of Cities, Excellence in Policing, in 2003; the Public Health Hero Award by the Martin County for work with the Marin County Mentally Ill Offender Program in 2004; and the Outstanding Criminal Justice Professional Award by the California Association for Mental Illness in 2011.

#### **E. Habsi Kaba**

Habsi Kaba is a recognized international expert in the field of mental health crisis intervention and de-escalation training for law enforcement, as well as one of the most experienced and qualified persons internationally in the implementation of mental health initiatives and behavioral health liaison services.

As the President of Crisis Solutions International, Inc. she shares her vast experience as a mental health educator and leader in crisis education and prevention. Ms. Kaba's expertise as a crisis intervention and de-escalation technique instructor makes her a sought-after panelist and conference speaker throughout the United States. Her unique experiences and celebrated interpersonal skills make her an excellent behavioral health resources facilitator and mental health initiative and program implementer. She authors training curriculums and conducts workshops designed to meet the specific needs of organizations and each population served.

Ms. Kaba is also the Miami Dade County Crisis Intervention Team Training Program (CIT) Coordinator for the Eleventh Judicial Circuit Criminal Mental Health Project. In this role she has developed, implemented, coordinated and conducted Crisis Intervention Team (CIT) Training for thousands of sworn law enforcement, 911 Communications Personnel, and Police Academy Cadets on a federal and state level. She has successfully evaluated and identified malfunctions in the management flow of behavioral health, criminal justice and law enforcement systems allowing for the full support of mental health intervention. She is the single point person for communication between mental health providers, law enforcement, social services, criminal justice and the judicial system in Miami-Dade County. In her position as Mental Health and Public Safety Liaison for the Eleventh Judicial Circuit she provides continuity in services for local, federal and international law enforcement and communications personnel. Ms. Kaba also provides consultation for law enforcement agencies with mental health standard operating



policies and procedures. Ms. Kaba was most recently recognized as the Crisis Intervention Team (CIT) Coordinator of the Year at the International Crisis Intervention Team (CIT) Conference.

Together with Dr. Joel Fay, she could help APD develop, implement and support more integrated, specialized responses to individuals in a mental health crisis through collaborative partnership, training, and improved communications. Further, they would serve as expert advisors on APD's efforts to improve its CIT program, including offering guidance on de-escalation strategies, developmental disabilities, current case law, improved report writing, understanding the mental health system, Veteran issues, and Suicide by Cop, among other things. They could greatly assist APD in lowering police contact fatalities while improving the futures of persons with mental illness coming in contact with law enforcement.

#### **F. Fred Smith**

Fred Smith possesses an intimate knowledge of the Albuquerque law enforcement community and the citizens it serves. He was the Director of Criminal Prosecutions for four successive New Mexico Attorneys General and an Assistant United States Attorney in Albuquerque. Beginning in 1978, he acted as a Special Prosecutor for the New Mexico Attorney General, Jeff Bingaman. He was promoted to become a Deputy Attorney General, and later the Director of Prosecutions and Investigations for General Bingaman. He continued to head the Special Prosecutions Division under the following three New Mexico Attorneys General: Paul Bardacke, Hal Stratton, and Tom Udall.

As the Director of Prosecutions and Investigations for the New Mexico Attorney General, he supervised the investigation and prosecution of a wide range of major crimes, specializing in white collar and political corruption cases on a statewide basis. He developed the *Grand Jury Manual for Prosecutors* as a guide for investigation of complex economic crimes, first published in 1982, and revised several times since.

After finally leaving the New Mexico Attorney General's Office in 1994, he served as a Special Prosecutor in several judicial districts and on a number of Indian reservations, including the Navajo and Jicarilla Apache Nations. He then served as an Assistant United States Attorney in the District of New Mexico, in Albuquerque, from 2002 through 2007. Since leaving DOJ, he has created training programs for police, prosecutors, expert witnesses, and judges on criminal investigations involving forensic science evidence.

Mr. Smith's nearly three decades of experience as a prosecutor at all levels of the criminal justice system in New Mexico makes him imminently qualified to assist the Monitor in ensuring that APD complies with its requirements under the Settlement Agreement. In addition to possessing a deep familiarity with the APD and the City of Albuquerque -- including both its

governance and geography -- he also understands the needs, concerns, and fears of the community APD serves.

Moreover, Mr. Smith, based on his vast experience in training law enforcement, will be able to assist APD, including its Academy, on the fundamentals of the law in order to promote constitutional policing. Law enforcement officers simply must have a clear understanding of what is expected of them, and this can only be accomplished through detailed and frequent training. Mr. Smith has spent the better part of his career training police departments so they are armed with the knowledge and power to ensure that they perform their jobs safely and fairly, and always do so within the limits of the law.

In addition, Mr. Smith can ably review APD's use of force and serious misconduct complaint investigations for completeness, consistent with the term of the Settlement Agreement. And, as a result of his familiarity of the City and its citizens, Mr. Smith will be able to support APD's efforts to engage in strong community participation and facilitate open communication to promote community and problem-oriented policing.

#### **G. Information Technology Systems Expert**

The Monitor will need to be assisted by an IT systems expert in order to evaluate the technology and communications systems APD has in place and ensure they are using the most effective method to collect and analyze data consistent with the Agreement. Similarly, the IT systems expert would help establish a dedicated email address for the Independent Monitor to which members of the public could send questions and comments.

### **III. Conclusion**

We thank you for considering our response to the Request for Information. Please call me at (202) 661-0957 if there is any additional information or materials you would like to review. For example, we would be delighted to provide references if requested. We all look forward to hearing from you.

Sincerely,

/s/

Michael Bresnick