

ORIGINAL <sup>3</sup>

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION:

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CLERK'S OFFICE, DETROIT-PSG  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 03-72258  
HON. JULIAN ABELE COOK, JR.  
United States District Judge

CITY OF DETROIT, MICHIGAN,

Mag. Judge Donald Scheer

Defendant.

**FILED**

OCT 11 2005

CLERK'S OFFICE  
U. S. DISTRICT COURT  
EASTERN MICHIGAN

ORDER

On July 12, 2003, the City of Detroit and the United States filed two proposed Consent Judgments requiring the implementation of remedial measures in the operation of the Detroit Police Department ("DPD"). The Court entered the Use of Force and Arrest and Detention Consent Judgment ("UOF/A&D CJ"), as well as the Conditions of Confinement Consent Judgment on July 18, 2003.

The UOF/A&D CJ defines probable cause under paragraph "hh" as "a reasonable belief that an individual has committed, is committing, or is about to commit an offense." The City, concerned that the UOF/A&D CJ probable cause definition might be misinterpreted by its police officers because the definition does not describe or explain what establishes probable cause that an individual is "about to commit" an offense, filed the aforementioned motion. The United States asserted that the definition of "probable cause" that was approved by the

Court in the UOF/A&D CJ was a legally valid definition supported by case law. The parties, believing that the resolution of the City's concerns regarding the probable cause definition is imperative and is in the best interests of the citizens of Detroit, as well as the parties, have agreed to the addition of a footnote to certain DPD policies and training materials that discuss probable cause. The footnote describes the conduct which probable cause that a crime is "about to be committed may be predicated upon, pursuant to the UOF/A&D CJ definition. The footnote reads as follows:

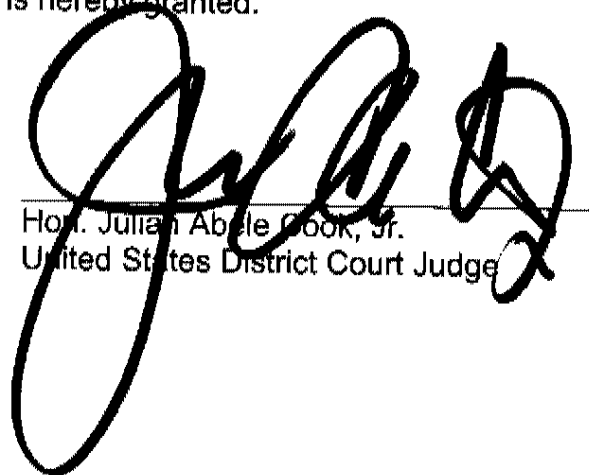
"The definition of probable cause includes a reasonable belief that a person is "about to commit" a crime. MCL 750.92 requires that "[a]ny person who shall attempt to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such offense" has committed an attempt crime. If a person has not taken any act towards the commission of a criminal offense, there is no probable cause for an arrest. However, an investigative detention (Terry v. Ohio) is permitted when there exists reasonable articulable suspicion. Reasonable articulable suspicion exists where the facts and reasonable inferences drawn from those facts convince an ordinarily prudent person that criminality is at hand."

The above footnote will only appear in relevant DPD policies and training materials. The consent judgments will not be amended, altered or modified in any manner and the City requests that their Motion to Amend the Use of Force and Arrest and Detention Consent Judgment be withdrawn. The Court has been advised of the stipulation between the parties that resolves this issue.

IT IS HEREBY ORDERED that Defendant's request that their motion to

amend the UOF/A&D CJ be withdrawn is hereby granted.

IT IS SO ORDERED.



Hon. Julian Abele Cook, Jr.  
United States District Court Judge

PURSUANT TO RULE 77(D), FRCP  
COPIES HAVE BEEN MAILED TO ALL  
ATTORNEYS FOR ALL PARTIES ON

Oct 11, 2005

Kay Alfred  
Deputy Clerk