

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case number 03-72258
Honorable Julian Abele Cook, Jr.

CITY OF DETROIT, MICHIGAN
and the DETROIT POLICE DEPARTMENT,

Defendants.

ORDER

On July 18, 2003, the parties (namely, the United States of America, through its Department of Justice (“DOJ”), and the Defendants, the City of Detroit, Michigan, and its Police Department (collectively identified as the “City”)) agreed to the entry of two Consent Judgments that would affect their relationship with each other in this litigation. These Consent Judgments arose in response to accusations by the DOJ that the City, through its Police Department (“DPD”), had engaged in a pattern or practice of (1) using unlawful levels of force in its arrests and detentions, and (2) providing unconstitutional or otherwise unlawful living conditions to prisoners who had been confined in its holding cells.

On April 19, 2010, the Court issued an order that, *inter alia*, required the City, through the Office of the Chief Investigator (“OCI”), to resolve all of its backlogged citizen complaints¹ within a period of 90 days. On July 23, 2010, the City filed a motion in which it sought to obtain an

¹Every citizen complaint that has been pending in excess of 90 days without reaching final resolution is considered to be “backlogged.”

additional six months to resolve its backlogged OCI cases. The Court, in granting this motion, set January 19, 2011, as the new deadline for resolving the OCI backlog. However, the City filed a second motion on January 13, 2011, seeking to garner another extension of the time (i.e., 60 days) to complete its mission of addressing the OCI backlog. This request was reluctantly granted. In March 2011, the City finally achieved substantial compliance with its obligation to resolve its backlogged complaints.

However, the Court has now been informed that the number of backlogged citizen complaints has returned to an unacceptable level and continues to rise. According to the City, there were only 14 backlogged cases in March 2011. However, this number began to rise during the following month and each month thereafter to such an extent that - as of January 2012 - there are now more than 400 citizen complaints which can be, and are, classified as backlogged. This, quite simply, is totally unacceptable. In fact, the failure of the City to address this problem immediately will have the practical effect of undermining its slow but steady progress toward satisfying all of its obligations to the citizens of Detroit under the two Consent Judgments.

The City, while proffering a variety of reasons for this precipitous backslide, primarily points to the termination of the Chief Investigator and four investigators in August of last year. While these factors doubtlessly contributed to the problem, the Court is not persuaded that these staffing deficiencies fully explain the problem, especially when the evidence indicates that the backlog began to reappear several months prior to the terminations.

This dramatic failure is especially distressing to the Court when it is noted that the City has otherwise made tremendous strides in the past two years. Overall, the City is now in full compliance with eighty percent (80%) of the requirements of the two Consent Judgments. However, the timely

and appropriate resolution of citizen complaints is *absolutely* central to this entire endeavor. The Court fears that the OCI - and, by extension, the City and the Board of Police Commissioners² - do not fully understand the gravity of this situation.

In order to ensure that this issue receives the prompt attention it requires, the Court issues the following mandates:

- (1) Within a period of thirty (30) days of the entry of this order, the City *must* submit a written plan which specifically and clearly identifies the steps that it will undertake to (a) clear each and every backlogged case, and (b) ensure that the backlog does not reoccur. This plan *must* (a) identify the specific date by which the backlog will be fully eradicated, and (b) include specific commitments that will identify the percentage of its open cases that will be current (i.e., 90 or fewer days old) by the end of each month between now and the projected backlog elimination date. This plan *must* be developed with the input and approval of the Independent Monitor and the Department of Justice. If the City fails to timely submit this plan, it will be required to remit the sum of one thousand dollars (\$1,000) to the Clerk of the Court each business day, commencing on March 1, 2012 - a sanction which shall continue unabated until further order of the Court.
- (2) The City *must* submit a written report to the Independent Monitor and the Department of Justice on or before April 2, 2012, and each month thereafter to advise each of these two entities of its progress in complying with the benchmarks within this plan. In the event that the City does not meet these benchmarks, it will be required to show cause as to why it

²The Board of Police Commissioners oversees the Detroit Police Department, including the Office of the Chief Investigator. In this capacity, the Board is the entity that is responsible for hiring investigators and the Chief Investigator.

should not be sanctioned for this failure.

- (3) The City *must* also provide separate reports to the Independent Monitor that will detail the progress that has been made in filling the now-vacant investigator and Chief Investigator positions on or before February 6, 2012, and every two weeks thereafter until all of these positions are staffed. In addition, the Chief Investigator shall be hired in consultation with, and with the approval of, the Independent Monitor. The investigators shall be hired in consultation with, and with the approval of, the Chief Investigator, or, if the Chief Investigator has not yet been hired, in consultation with, and with the approval of, the Independent Monitor.

IT IS SO ORDERED.

Date: January 30, 2012

s/Julian Abele Cook, Jr.
JULIAN ABELE COOK, JR.
U.S. District Court Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on January 30, 2012.

s/ Kay Doaks
Case Manager