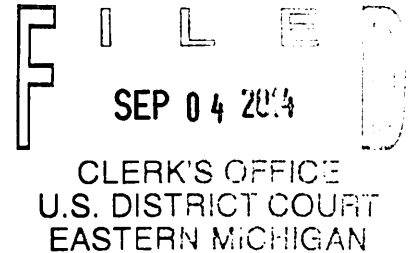


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

-vs-

HON AVERN COHN
Case No. 03-72258

CITY OF DETROIT,

Defendant.

**COMMENTS OF COURT (REVISED) ON
ORDER TERMINATING CONSENT JUDGMENT AND ENTERING TRANSITION
AGREEMENT (Doc. 731)¹**

Judges have a constitutional habit of the last word; I want to add a coda to the comments of the Department of Justice and City of Detroit, on closing down federal oversight of the Detroit Police Department.

When I became a federal judge in 1979, I had just resigned as Chairperson of the Detroit Board of Police Commissioners. Also, I was born and raised in Detroit. I have a long-time familiarity with the affairs of the City, and particularly of the Department. Until 1972, the governance structure of the Department called for civilian oversight by a single commissioner appointed by the mayor. This structure had been in effect from the beginning of home rule by the City in 1918. Before that, under state law the Department, from its beginning in 1861 until 1901, civilian oversight took the form of four (4) commissioners appointed by the governor. That changed in 1901 to a single commissioner appointed by the Common Council. Under the first charter adopted in

¹This is a revision and extension of the Court's comments from the bench at the hearing on August 25, 2014.

1918 until 1972, there was civilian oversight by a single commissioner appointed by the mayor.

In 1972, governance changed; the board had five (5) commissioners appointed by the mayor. The board had responsibility for civilian oversight as well as civilian review of complaints. The mayor, however, appointed the chief of police.

The five (5) member commission continued until 2012. It changed under a new charter adopted that year. The new charter called for a nine (9) member commission, four (4) of whom are appointed by the mayor, and five (5) of whom are elected from districts. According to the charter's study group, this arrangement "increased public participation and accountability." Given an elected mayor and elected city council, it appears that this arrangement is likely to complicate rather than enhance civilian oversight.

Now to be more particular. The papers submitted to the Court for approval contain the signatures of the Mayor and the Emergency Manager. This suggests that the Emergency Manager currently plays a major role in the governance of the Department. To the Court this suggests the first order of business is to give the control of the Department back to the Mayor, much like he now has control of the Water and Sewerage Department and the Homeland Security and Emergency Management Department.

My second suggestion is for the Mayor to look at the charter provisions relating to the Board of Commissioners. The Charter states, as it did when the consent judgments were entered into, "The Board of Police Commissioners has supervisory control and oversight of the Police Department." A look back at the history of this case, and why the

then-mayor in 2000 called on the Department of Justice to examine and look into what he saw as the gross deficiencies of police operations in Detroit was the consequence of a Board of Police Commissioners who had fallen down on the job of supervision and control. This breakdown is well described in a series of articles in the *Detroit Free Press* in May, 2002, available on the website of the Police Policy Studies Council, as well as follow-up stories in the *Free Press* which describe a malfunctioning Board of Police Commissioners.

Civilian oversight of the operations of the Department are essential to maintaining the current level of operations. Civilian oversight is different than civilian review. In my view, what is needed today and for the future is a civilian head of the Department appointed by the mayor, and a chief of police who reports to the civilian head much like it was prior to 1972. The Board of Police Commissioners should continue as a civilian review body dealing with complaints.



AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: September 04, 2014
Detroit, Michigan