

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CIVIL ACTION NO.

12-CV-01924

VERSUS

SECTION E

JUDGE SUSIE MORGAN

CITY OF NEW ORLEANS

DIVISION 2

MAGISTRATE WILKINSON

**CONSENT MOTION TO AMEND
PARAGRAPHS 143, 328, and 404 OF THE CONSENT DECREE**

The City of New Orleans ("City") respectfully moves this Honorable Court for an order amending Paragraphs 143, 328, and 404 of the Consent Decree entered by the Court on January 1, 2013 ("Decree"). The proposed amendments would clarify requirements of the Consent Decree and enable the New Orleans Police Department ("NOPD") to investigate Level 1 uses of force and misconduct complaints more efficiently. The Office of the Consent Decree Monitor ("OCDM") has reviewed and approved these proposed amendments to the Decree. The United States consents to these proposed amendments.

Based on the foregoing, the City herein proposes the following amendment to Paragraph 143 of the Decree to include the following language (change in italics):

“An officer shall immediately notify a supervisor when effectuating a felony arrest; an arrest where the officer used force; an arrest for obstructing or resisting an officer; a custodial arrest where the most serious violation was a vehicle infraction, simple drug possession, or, outside the French Quarter and Central Business District, any of the following city or state laws: Disturbing the Peace (City Code 54-103; LSA-R.S. 14:103); Criminal Trespass (City Code 54-153; LSA-R.S. 14:63); Obstructing Public Passages (City Code 54-40; LSA-R.S. 14:100.1); or Begging/Vagrancy (City Code 54-411; 14:107). Upon notification, the supervisor shall respond to the scene. *The supervisor is not required to respond to the scene of an arrest involving a Level 1 use of force.*”

The City further proposes the following amendment to Paragraph 328 of the Decree to include the following language (change in italics):

“NOPD agrees to develop and implement policies and procedures regarding AVL, in-car cameras, ECWs, and similar equipment that require:

- a) activation of in-car cameras for all traffic stops and pursuits until the motor vehicle stop is completed and the stopped vehicle departs, or until the officer's participation in the motor vehicle stop ends;
- b) activation of ECW cameras when the ECW's safety switch is turned off;
- c) activation of in-car cameras, where vehicle is so-equipped, to record requests for consent to search a vehicle, deployment of drug- detection canines, and vehicle searches;
- d) activation of in-car cameras for incidents in which a prisoner being transported is violent or resistant;
- e) supervisors to review AVL, in-car camera recordings, and ECW recordings of all officers listed in any NOPD report regarding any incident involving injuries to a prisoner or an officer, *Level 2-4* uses of force, vehicle pursuits, or misconduct complaints;
- f) supervisors to review recordings regularly and to incorporate the knowledge gained from this review into their ongoing evaluation and supervision of officers;
- g) NOPD to retain and preserve recordings for at least three years, or, if a case remains under investigation or litigation longer than three years, at least three years after the final disposition of the matter, including appeals; and
- h) an officer to notify a supervisor immediately when an event was not recorded.”

The City herein proposes the following amendment to Paragraph 404 of the Decree to include the following language (change in italics):

“Officer misconduct investigations shall be as thorough as necessary to reach reliable and complete findings. The misconduct complaint investigator shall interview each complainant in person, absent extenuating circumstances, and this interview shall be recorded in its entirety, absent specific, documented objection by the complainant. *If the investigator determines the complaint is clearly unfounded or exonerated based on camera footage and no other misconduct is evident, the investigator may submit the recommended disposition for supervisory review and conclude the investigation after supervisory approval. In such an event, the investigator need not conduct additional investigatory requirements.*”

CONCLUSION

For the foregoing reasons, the City respectfully requests that paragraphs 143, 328, and 404 of the Consent Decree be amended as set forth herein.

Respectfully submitted this 19th day of May, 2017.

/s/ Rebecca Dietz
CHURITA H. HANSELL, LSB#25694
DEPUTY CITY ATTORNEY
REBECCA H. DIETZ, LSB#28842
CITY ATTORNEY
1300 Perdido Street, Ste. 5E03
New Orleans, Louisiana 70112
Telephone: 504-658-9920
Facsimile: 504-658-9868

Attorneys for the City of New Orleans

CERTIFICATE OF SERVICE

I hereby certify that on this 19th Day of May, 2017 I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/Rebecca Dietz
REBECCA H. DIETZ

