

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:15-cv-01046
)	
Plaintiff,)	JUDGE SOLOMON OLIVER, JR
)	
v.)	
)	
CITY OF CLEVELAND,)	
)	
Defendant.)	

MOTION FOR LEAVE TO FILE AMICUS MEMORANDUM OF LAW

Exhibit 1

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Plaintiff,)	JUDGE SOLOMON OLIVER, JR
)	
v.)	
)	
CITY OF CLEVELAND,)	
)	
Defendant.)	

**AMICUS CURIAE MEMORANDUM OF LAW OF
THE CLEVELAND COMMUNITY POLICE COMMISSION**

Respectfully submitted,

/s/ Christos N. Georgalis

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CORPORATE DISCLOSURE STATEMENT

The Cleveland Community Police Commission has no parent corporation and is not publicly traded. The Commission is not aware of any publicly owned corporation not a party to the action that has a financial interest in the outcome of the litigation.

Date: March 17, 2026

/s/ Christos N. Georgalis
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STATEMENT OF AMICUS CURIAE

The Cleveland Community Police Commission (the “Commission”) was established to reinforce and extend the improvements agreed upon in the Consent Decree. Specifically, its mission is to “strengthen civilian oversight of the police force, and to hold the police force more accountable[.]” CLEVELAND, OHIO, CODE § 115-5(a)(i).

As an integral link between the community and the Cleveland Division of Police (“CDP”), the Commission seeks to assist the Court in understanding whether the City of Cleveland (“City”) and the CDP have substantially complied with the terms of the Consent Decree and the costs to the community if the Consent Decree were terminated before durable systemic changes were achieved. *See Sims Buick-GMC Truck, Inc. v. General Motors LLC*, No. 4:14 CV 2238, 2017 WL 7792553, at *5 (N.D. Ohio Mar. 1, 2017) (the “purpose of an amicus brief is to assist the court by offering a novel perspective on unresolved questions or issues not fully addressed by the parties”) (citing *United States v. Michigan*, 940 F.2d 143, 164-65 (6th Cir. 1991)).

The impact on the community and the Commission of terminating the Consent Decree before sustained changes have been permanently implemented is relevant to the pending motion to terminate. The Consent Decree’s purpose is to ensure constitutional and community-based policing. Its premature termination could lead to a return to improper policing practices and habits that do harm to the community. Additionally, terminating the Consent Decree without ensuring the Commission, and similar organizations, can enforce their mandates, will be detrimental to community oversight and could lead to increased distrust between the police and citizenry.

I. BACKGROUND

On November 29, 2012, over 100 Cleveland police officers engaged in a high-speed chase of two unarmed civilians after their car backfired while driving past the Justice Center. At the conclusion of the chase, thirteen CDP officers fired 137 shots at the car, killing both occupants. Each occupant was shot more than 20 times. Following this incident, and other incidents of excessive force, Cleveland's mayor publicly requested that the Department of Justice (the "DOJ") review CDP's use of force policies. (Findings Letter, Dkt. No. 1-1).

Following an investigation, the DOJ found that CDP "engaged in a pattern or practice of using unreasonable force against persons in Cleveland . . . includ[ing] the unnecessary and excessive use of deadly force[.]" (Complaint, Dkt No. 1 at ¶ 15). The DOJ filed a complaint against the City and the CDP. Subsequently, the parties negotiated an agreement, the Consent Decree, under which the DOJ would oversee systemic changes by the City and the CDP related to policies, training, and accountability. (Consent Decree, Dkt. No. 7, as amended on Mar. 18, 2022 (Order Approving and Adopting Modification to Settlement Agreement, Dkt. No. 413-1, Dkt No. 416) (Dkt. No. 7 and 413-1, collectively "Consent Decree")). On February 19, 2026, the parties filed a motion seeking to terminate the Consent Decree. (*See* Joint Mot. to Terminate Settlement Agreement, Dkt. No. 688-2).

While the City and the CDP have made progress towards substantial and effective compliance with the terms of the Consent Decree, there are numerous provisions with which they remain noncompliant. Specifically, while the City and the CDP have made changes to policies and procedures related to the use of force, officer compliance with those policies has not been demonstrated for two consecutive years, as contemplated in the Consent Decree. Additionally, there has been a lack of accountability and discipline for supervisors who fail to uphold those

policies. In accordance with the Consent Decree, and by vote of the citizens, Cleveland codified the creation of several organizations to ensure police accountability and community-based policing. While the creation of those organizations, such as the Commission, are necessary, they nevertheless rely on cooperation from the City and the CDP. Regrettably, the City and the CDP have been reluctant to cooperate with the Commission—leaving the Commission with little recourse but to warn this Court that early termination of the Consent Decree will adversely affect the Commission and its mandate.

Premature termination of the Consent Decree threatens to both undo the positive changes that have been achieved thus far, and to limit the Commission's ability to fulfill its mandate to ensure CDP future accountability.

II. ARGUMENT

The Court should use its discretion and decline to terminate the Consent Decree. Despite their claims, the parties have failed to comply with the Consent Decree's terms in both spirit and effect. As evidence for durable change, the parties point to the creation of the Commission and other similar organizations. The City's behavior, however, tells a different story. The City has demonstrated a lack of coordination and animosity with the Commission and other similarly situated organizations. The City's persistent non-compliance with the Commission demonstrates that the Commission is not ready to function as a standalone watchdog agency outside the structures of the Consent Decree. The Monitor agrees. Without the ability to enforce its mandate through this Court under the Consent Decree, which the Commission has been forced to do numerous times, community oversight of the CDP would be threatened. Thus, continued enforcement of the Consent Decree would not be inequitable and would enable community enforcement organizations, like the Commission, to effectuate their mission. Further, the City and

the CDP have failed to demonstrate substantial compliance—meaning compliance for at least two consecutive years—with several key provisions of the Consent Decree and thus they have not met the standard under the Decree’s termination clause to terminate. *See Cleveland Firefighters for Fair Hiring Practices v. City of Cleveland*, 669 F.3d 737, 741 (6th Cir. 2012).

“[A] district court is not merely an instrument of a consent decree or of the parties’ stipulations with respect to it. The court instead has discretion with respect to whether and how a consent decree shall remain in effect, including the discretion to terminate the decree altogether.” *Firefighters*, 669 F.3d at 741 (citing *Rufo v. Inmates of Suffolk Cnty Jail*, 502 U.S. 367, 380 (1992)). “A district court must determine whether and when to terminate supervision or jurisdiction over a consent decree by considering the specific terms of the consent decree.” *Heath v. DeCourcy*, 992 F.2d 630, 633 (6th Cir. 1993) (citing *Youngblood v. Dalzell*, 925 F.2d 954, 961 (6th Cir. 1991)). A district court should consider many factors, including: (1) any specific terms providing for continued supervision and jurisdiction over the consent decree; (2) the consent decree’s goals; (3) compliance with prior court orders; (4) whether defendants made a good faith effort to comply; (5) length of time consent decree has been in effect; and (6) the continuing efficacy of the consent decree’s enforcement. *Heath*, 992 F.2d at 633 (citing *Bd. of Educ. v. Dowell*, 498 U.S. 237 (1991)). “When the defendants [have] shown compliance with the terms and . . . objectives of the consent decree . . . the district court’s jurisdiction over the case may be terminated.” *Heath*, 992 F. 2d. at 633 (citing *Youngblood*, 925 F.2d at 957-58). “[A] district court should not ‘terminate jurisdiction over the consent decree without first making explicit findings concerning Defendants’ compliance with the decree’s goals and specific terms.’” *Firefighters*, 669 F.3d at 741 (quoting *Gonzalez v. Galvin*, 151 F.3d 526 (6th Cir. 1998)).

Notwithstanding, the non-exhaustive list of factors to be considered, “a district court may not terminate its jurisdiction until it finds both that Defendant[] [is] in compliance with the decree’s terms and that the decree’s objectives have been achieved.” *Gonzalez*, 151 F.3d at 532. “While we recognize that a consent decree operating in perpetuity may not be the most effective way to eradicate the evils of discrimination in the municipal workplace, we must remain true to the wording and intent of such decrees, until their goals are met.” *Jansen v. City of Cincinnati*, 977 F.2d 238, 241 (6th Cir. 1992).

A. The parties have not effectively achieved the Consent Decrees’ objectives and termination at this stage would prevent the implementation of a durable remedy.

The parties assert that even though the City has not met all of the requirements under the agreement, continuing to impose the remaining requirements would be inequitable because the City has demonstrated the implementation of a durable remedy. Not so.

Under Federal Rule of Civil Procedure 60(b)(5), the court may relieve a party from an order only if “the judgment has been satisfied . . . or applying it prospectively is no longer equitable.” Fed. R. Civ. Proc. 60(b)(5). A court may find that continued enforcement of an order is no longer equitable, “[i]f a durable remedy has been implemented.” *Horne v. Flores*, 557 U.S. 433, 450 (2009). In determining whether to provide relief under Rule 60(b)(5), the core question is “whether the objective of the [challenged decree] has been achieved.” *Id.*

The parties have failed to meet the objective of the Consent Decree in both the plain language and the intent. The City has failed to comply with the various voter-created enforcement mechanisms intended to ensure continued constitutional policing. Thus, termination of the Consent Decree at this stage would prevent the implementation of a durable remedy. Additionally, as described below, although the City may technically comply with several necessary provisions, the

lack of sustained compliance with several use of force provisions indicates that the City has not fulfilled the intended goals or purpose of the Decree.

The parties point to the creation of the Commission, and other similar organizations, as evidence of the implementation of a durable remedy. The City's own actions, through a pattern and practice of noncompliance with the Commission, contradict these assertions.

As noted above, the Commission *should* operate with continued oversight over CDP. In practice, however, the CDP has delayed significantly or refused entirely to turn over the information necessary for the Commission to fulfil its mandate. (*See* Order Granting Plaintiff's Mot. to Enforce the Cleveland Cmty. Police Comm'n's Right to Access Information, Dkt. No. 382; *see also* Adam Ferrise, *Judge Orders Cleveland Officials to Turn Over Info on Withheld Documents of Police Misconduct*, May 28, 2024, available at: <https://www.cleveland.com/court-justice/2024/05/judge-orders-cleveland-officials-to-turn-over-withheld-documents-on-cleveland-police-misconduct.html> (last accessed Mar. 17, 2026) ("U.S. District Judge Solomon Oliver wrote in an order that he was 'disappointed' that city officials blew past a May 13 deadline that he previously set for the city to turn over details regarding withheld records requested by the Community Police Commission.")). As recently as August of 2025, the City has continued to delay and withhold information essential to the Commission's purpose. *See* Frank W. Lewis, *Cleveland Community Police Commission Seeks Legal help with city's slow response to records request*, SIGNAL CLEVELAND, Aug. 29, 2025, available at: <https://signalcleveland.org/cleveland-community-police-commission-seeks-legal-help-with-citys-slow-response-to-records-requests/> (last accessed Mar. 17, 2026) (noting that CPC waited nearly 80 days to receive records that are required to be provided within 21 days under the Consent Decree).

Further, the City has not made staffing or funding the Commission a priority—decreasing its ability to operate effectively. (*See* Eighteenth Semiannual Report, Dkt. No. 697 at 8). There has been a historical lack of cooperation between the City and the Commission, and a failure by the City to coordinate with other community-based oversight groups. (*Id.* at 16). And the City has deliberately excluded the Commission from providing feedback and oversight in matters central to its purpose. (*Id.* at 67 (“The Monitoring Team learned in December that the City’s new Administrative Division Procedure—Public Safety Promotional Selection Process—was implemented without input from the [Commission], as required by the City Charter and per the authority granted by paragraph 18 of the Consent Decree[.]”)). These calculated decisions to circumvent the Commission’s grant of authority bely any assertions by the parties that these community-based organizations will serve as an effective check against the CDP independent of the Consent Decree and this Court’s authority.

The lack of a durable remedy is evidenced by the City’s own actions in failing to abide by the Commission’s mandate. If the Consent Decree were terminated prematurely, the Commission would lack meaningful enforcement mechanisms and would become a watchdog in name only. Therefore, although the City and CDP have made strides towards community-based policing, if there are no meaningful enforcement mechanisms, there is little incentive to prevent the City and CDP from backsliding into harmful and unconstitutional practices.

Absent concrete demonstrations that the City and CDP will abide by the Commissions mandate, the public has little guarantee of any oversight of the police and even less assurance that the police will continue to seek community engagement once the Consent Decree ends.

In its Eighteenth Semiannual Report, the Monitoring Team found the City was non-compliant or partially compliant with seven of the eighteen provisions related to community engagement and building trust. (*See* Eighteenth Semiannual Report, Dkt. No. 697 at 8). While this represents an improvement from the Seventeenth Semiannual Report, it is far from the standard that should be required for termination of the Consent Decree. Likewise, the Monitoring Team found the City failed to achieve even general compliance with any of the provisions related to community, problem-oriented, and bias-free policing. (*Id.* at 9). Community engagement and trust are essential to creating a lasting culture of constitutional policing. Without satisfying these requirements, any change that has been achieved is likely to be momentary and fleeting.

Because the parties have failed to demonstrate a durable remedy, the request to terminate the Consent Decree should be denied.

B. The parties have not met the standard to terminate the Consent Decree under paragraph 401.

Even if there were evidence of a durable remedy, the parties have not demonstrated compliance with the express terms of the Consent Decree. Termination of the Consent Decree is provided for in paragraph 401 of the Decree. The termination clause states:

This Agreement will terminate when the City has been in Substantial and Effective Compliance with the search and seizure provisions for one year and with all of the remaining provisions for two consecutive years. “Substantial and Effective” compliance means that the City has either complied with all material requirements of this Agreement, or has achieved sustained and continuing improvement in constitutional policing, as demonstrated pursuant to this Agreement’s outcome measures.

(Consent Decree at ¶ 401, as amended Mar. 11, 2022, Dkt. No. 413-1). There is no dispute that the City has made progress in implementing the changes demanded by the Consent Decree, however, the reports of the Monitor make clear that the City has not yet met the standard for termination under paragraph 401. While Consent Decrees are “not intended to operate in perpetuity,” *Dowell*,

498 U.S. at 248, termination should not occur until the City can demonstrate substantial compliance.

1. The City has not substantially complied with the use of force provisions.

The Monitor's reports demonstrate that the City has not yet substantially complied with the use of force provisions in the Consent Decree. Of the seventy-four upgrades related to use of force improvements, the Monitor found the City was in substantial and effective compliance with only twenty-two provisions. Less than one-third. Further, a majority of those paragraphs related to changes in policy and methods of investigation, rather than documented changes in action and effect. (*See* Monitor's 2025 Use of Force Assessment, Dkt. No. 685 at 6). Substantial and effective compliance, as opposed to general compliance, means the City has been in compliance with the provision for at least two consecutive years. As the Monitor notes, the most significant factor in determining whether systemic change has occurred is "adher[ence] to Consent Decree requirements across a material span of time." (*Id.* at 12). Thus, while the City has made great progress and "demonstrates a year of good work[,]" (*id.* at 25) a singular year is not enough to demonstrate a sustained pattern of change. Allowing the parties to terminate the Consent Decree prematurely could endanger the public as it poses a risk of backsliding into harmful practices.

Additionally, many of the areas where the City has failed to demonstrate sustained compliance relate to the use of firearms, the use of electronic control weapons ("ECW"), and oversight by, and discipline of, supervisors. For example, the Monitoring Team noted that although there were only eight instances¹ where an officer displayed a firearm not within policy guidelines, there were multiple instances where officers failed to report firearm draws, specifically in cases involving multiple officers on a scene. (*Id.* at 36). The Monitoring Team also found that CDP's

¹ And the Commission would assert that eight is still a great number of instances.

ECW (e.g., tasers) use was only compliant 65% of the time. (*Id.* at 39-40). Use of firearms and other weapons against the citizenry is at the heart of this case and allowing the parties to terminate the Consent Decree before these important benchmarks are met poses a grave risk of future harm to the public.

The Monitoring Team also found a lack of substantial compliance by supervisors investigating use of force allegations, (*see id.* at 57 (documenting 25 instances where a supervisory investigation of the use of force was not in accordance with policy)), and a lack of discipline for supervisors who failed to adhere to the relevant policies (*Id.* at 64) (“The City has not demonstrated that investigatory supervisors are subjected to the disciplinary process—including re-training or discipline—when inadequacies are identified by a higher level in chain of command.”). Culture and accountability come from the top. Without demonstrated substantial compliance with these policies, the public cannot be assured that officers at the highest echelons will be responsible for ensuring a culture of constitutional policing.

Meeting the requisite time period for “substantial and effective” compliance with policies related to the use of force is essential to the purpose of this Consent Decree. *Gonzalez*, 151 F.3d at 532 (“[A] district court may not terminate its jurisdiction until it finds both that Defendant[] [is] in compliance with the decree’s terms and that the decree’s objective have been achieved.”). This case began with the death of two individuals at the hands of police with poor weapons training and control, and with a lack of intervention from supervisors who should have known better. Many terms of the Consent Decree were designed to address exactly these issues and terminating the Decree before those provisions are met would be contradictory to its very purpose and intent.

2. *CDP has not complied with the data collection and technology advancement provisions for two or more years.*

Of particular concern to the Commission, is the lack of sustained compliance with technological upgrades and data collection practices. The Commission was created to “strengthen the police reform initiated by, but grossly insufficient in, the Consent Decree.” CLEVELAND, OHIO CODE § 115-5(a)(ii). The Commission’s primary responsibilities relate to oversight of discipline, policies, procedures, and training regimens. CMTY. POLICE COMM’N, OPERATIONS MANUAL at 1-2. In furtherance of these duties, the Commission is tasked with, among other things, directing investigations into officer misconduct, gathering and maintaining data on individual police officers, auditing investigative practices, and reviewing and approving policies. *Id.* at 1-4. All of these responsibilities rely on CDP to effectively gather, maintain, and transmit the relevant data. In the most recent reports, the Monitor found that CDP was non-compliant with the provision related to maintaining and auditing use of the ECWs. (*See* Monitor’s 2025 Use of Force Assessment, Dkt. No. 685 at 49 (“CDP reports that it does not currently have the ability to provide the documentation of quarterly downloads of all [ECW] use. As such, [CDP] is not conducting random and directed audits of [ECW] application data, nor are the data being provided to the Monitor.”)).

Moreover, of the nine provisions related to equipment and resources, CDP was only substantially compliant with two provisions and only generally compliant (meaning compliance for less than two consecutive years) with two provisions. Primarily, as it relates to the equipment and monitoring, the Monitoring Team deemed CDP to be only partially or operationally compliant, meaning CDP had failed to demonstrate “meaningful adherence to or effective implementation [of]” the necessary changes. (*See generally* Monitor’s 2025 Equipment and Resources Assessment, Dkt. No. 678).

The Commission, and other similar organizations, lacks the ability to fulfill its mandate and responsibilities to the community if the CDP cannot or will not collect and maintain the necessary data.

C. The case is not moot merely because the parties wish to terminate the Consent Decree.

Although the parties have jointly requested that the Court terminate the Consent Decree, that alone does not determine that the Court must acquiesce to their request, nor does it deprive the Court of jurisdiction over the Consent Decree. ““A consent decree is a strange hybrid in the law.”” *Vanguards of Cleveland v. City of Cleveland*, 23 F.3d 1013, 1017 (6th Cir. 1994) (quoting *Brown v. Neeb*, 644 F.2d 551, 560 (6th Cir. 1981)). It is both “a voluntary settlement agreement which could be fully effective without judicial intervention” and “a final judicial order . . . plac[ing] the power and prestige of the court behind the compromise struck by the parties.” *Vanguards*, 23 F.3d at 1017 (quoting *Williams v. Vukovich*, 720 F.2d 909, 920 (6th Cir. 1983)). A consent decree is a “settlement agreement subject to continued judicial policing.” *Vanguards*, 23 F.3d at 1017. And “[o]nce approved, the prospective provisions of the consent decree operate as an injunction.” *Vanguards*, 23 F.3d. at 1018 (citing *Plumer v. Chemical Bank*, 668 F.2d 654, 659 (2d Cir. 1982)). The decision to terminate a consent decree rests in the district court’s discretion. *Firefighters*, 669 F.3d at 741 (citing *Rufo*, 502 U.S. at 380).

III. CONCLUSION

The City has failed to substantially comply with necessary and fundamental provisions of the Consent Decree. That failure poses a risk of continued unconstitutional and dangerous police practices towards members of the community. Likewise, the City has demonstrated that absent continued intervention from this Court, it has no intention of abiding by the guardrails put in place

by the citizens. Because the parties cannot demonstrate substantial compliance or a durable remedy, their request to terminate the Consent Decree should be denied.

Amicus would also request the opportunity to participate in any future hearings related to the termination of the Consent Decree.

Respectfully submitted,

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