

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA,  
Plaintiff**

**CIVIL ACTION**

**VERSUS**

**No. 12-1924**

**CITY OF NEW ORLEANS,  
Defendant**

**SECTION "E"**

**ORDER**

Before the Court is the Joint Motion and Memorandum for Entry of Consent Decree (the "Joint Motion for Entry of Consent Decree"), filed by the City of New Orleans and the United States of America on July 24, 2012, the same day on which the United States filed its Complaint for declaratory and injunctive relief under the Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141; the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d; and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 200d-7, and its implementing regulations, 28 C.F.R. §§ 42.101-.112.<sup>1</sup>

Generally speaking, settlement is to be encouraged. *United States v. Cotton*, 359 F.2d 1326, 1331. Nonetheless, "[a] consent decree, although founded on the agreement of the parties, is a judgment." *United States v. City of Miami*, 664 F.2d 435, 439 (5th Cir. 1981) (citing *United States v. Kellum*, 523 F.2d 1284, 1287 (5th Cir. 1975)). Thus, the court "must not merely sign on the line provided by the parties. Even though the decree is predicated on consent of the parties, the judge must not give it perfunctory approval." *Miami*, 664 F.2d at 440-441. When presented with a proposed consent decree, the court must ascertain that the settlement is "fair, adequate and reasonable" and is not the product of "fraud, collusion, or the like." *Id.* at 441; *Cotton*, 359 F.2d at 1330. "The court must also

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<sup>1</sup> R. Doc. 2 (Motion for Entry of Consent Decree); R. Doc. 1 (Complaint).

consider the nature of the litigation and the purposes to be served by the decree. If the suit seeks to enforce a statute, the decree must be consistent with the public objectives sought to be attained by Congress." *Miami*, 664 F.2d at 441.

For these reasons, the Court concludes that any interested persons should be given an opportunity to move to intervene in this case under Federal Rule of Civil Procedure 24. The Court further concludes that the Joint Motion for Entry of Consent Decree should be heard in open court, at which time the parties will be given an opportunity to present such argument, proffers, testimony, and exhibits as will be necessary to allow the Court to comply with the standards described above. In addition, because of the public interest in a case of this nature, the Court will permit written comments on the proposed Consent Decree by any interested person. Accordingly,


**IT IS ORDERED THAT** any person wishing to seek intervention in this case under Federal Rule of Civil Procedure 24 shall file a contradictory motion to intervene no later than **August 7, 2012 at 11:59 p.m.** Any party opposing any motion(s) to intervene shall file an opposition to the motion(s) no later than **August 14, 2012 at 11:59 p.m.**

**IT IS FURTHER ORDERED THAT** a hearing shall be held before Judge Morgan on **August 29, 2012 at 10:00 a.m.** for consideration of the Joint Motion for Entry of Consent Decree. The hearing will be held at the United States District Court for the Eastern District of Louisiana, 500 Poydras St., New Orleans, Louisiana 70130.

**IT IS FURTHER ORDERED THAT** a notice of the hearing in the form attached hereto as Exhibit A shall be published by counsel for the parties in *The Times Picayune* on Sunday, August 12, 2012 and Sunday, August 19, 2012, the cost of such publication to be equally borne by the parties.

**IT IS FURTHER ORDERED THAT** any person wishing to comment upon the proposed Consent Decree shall do so by filing a written submission, not to exceed **20 pages** in length, with the Clerk of this Court no later than **August 24, 2012 at 4:30 p.m.**

**New Orleans, Louisiana, this 31st day of July, 2012.**

  
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**SUSIE MORGAN**  
**UNITED STATES DISTRICT JUDGE**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA,  
Plaintiff**

**CIVIL ACTION**

**VERSUS**

**No. 12-1924**

**CITY OF NEW ORLEANS,  
Defendant**

**SECTION "E"**

**NOTICE OF HEARING ON PROPOSED CONSENT DECREE**

Notice is hereby given that a hearing has been scheduled at 10:00 a.m. on August 29, 2012 for consideration of a Joint Motion for Entry of Consent Decree that has been filed in the above case. The hearing will be held at the United States District Court for the Eastern District of Louisiana, which is located at 500 Poydras St., New Orleans, Louisiana 70130.

The Complaint in the above case was brought by the United States of America against the City of New Orleans, Louisiana under the provisions of the Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141 ("Section 14141"); the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d (the "Safe Streets Act"); and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 2000d-7, and its implementing regulations, 28 C.F.R. §§ 42.101-.112 ("Title VI"), in order to remedy an alleged pattern or practice of conduct by the New Orleans Police Department (the "NOPD") that is alleged to subject individuals to excessive force in violation of the Fourth Amendment, unlawful searches and seizures in violation of the Fourth Amendment, and discriminatory policing practices in violation of the Fourteenth Amendment, the Safe Streets Act, and Title VI. The proposed Consent Decree contains detailed provisions concerning changes in NOPD policies and practices related to: (1) the use of force; (2) investigatory stops and detentions, searches, and arrests; (3) custodial interrogations; (4) photographic lineups; (5) bias-free

policing; (6) community engagement; (7) recruitment; (8) training; (9) officer assistance and support; (10) performance evaluations and promotions; (11) supervision; (12) the secondary employment system, also known as the paid detail system; (13) misconduct complaint intake, investigation, and adjudication; and (13) transparency and oversight. In addition, the proposed Consent Decree includes detailed provisions regarding the implementation and enforcement of the Consent Decree.

A copy of the proposed Consent Decree is available for public inspection in the Offices of the Clerk of Court located at the United States District Court for the Eastern District of Louisiana, 500 Poydras St., C151, New Orleans, Louisiana 70130. The proposed Consent Decree is also available on the Court's website, <http://www.laed.uscourts.gov/> under "Court News." The offices of the Clerk of Court may not answer questions concerning the proposed Consent Decree.

After the conclusion of the hearing, the Court will be required to determine whether the proposed Consent Decree is fair, adequate and reasonable and is not the product of fraud, collusion, or the like. Any person wishing to comment upon the proposed Consent Decree may do so by filing a written submission, not to exceed 20 pages in length, with the Clerk of this Court no later than August 24, 2012 at 4:30 p.m.

  
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**SUSIE MORGAN**  
**UNITED STATES DISTRICT JUDGE**