



PN-OH-001-019

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. C2-99-1097
)	
v.)	Judge Holschuh
)	
CITY OF COLUMBUS, OHIO, et al..)	Magistrate Judge King
)	
Defendants.)	
_____)	

MOTION FOR LEAVE TO PARTICIPATE AS AMICI CURIAE

United States Representatives John Conyers, Jr., Howard L. Berman, Danny K. Davis, William D. Delahunt, Harold E. Ford, Jr., Sheila Jackson-Lee, Carolyn Cheeks Kilpatrick, Zoe Lofgren, Gregory W. Meeks, Juanita Millender-McDonald, Donald M. Payne, Edolphus Towns, Maxine Waters, and Melvin L. Watt respectfully seek leave to participate in the above captioned case as amici curiae, by filing the attached brief in support of the United States’s objections to the Report and Recommendations of the Magistrate Judge.

The Magistrate Judge’s Report in this case is the first judicial pronouncement interpreting the appropriate scope of liability under 42 U.S.C. § 14141, an important civil rights statute intended by Congress to fill several gaps in the application of federal civil rights laws to unconstitutional misconduct by local police. The Magistrate Judge’s reading of the statute thwarts this purpose by unduly restricting the scope of municipal liability under the statute.

Representative John Conyers, Jr. is the ranking minority member of the House Judiciary Committee. He was an original cosponsor of the Police Accountability Act of 1991, H.R. 2972, 102d Cong., 1st Sess. – proposed legislation that included the language ultimately enacted in

42 U.S.C. § 14141, the statute at issue in this case. (As discussed in the brief we file concurrently with this motion, the legislative history to the Police Accountability Act, as incorporated in the 1991 Crime Bill, represents the most pertinent background to the provision that became Section 14141.) Representatives Howard Berman and Maxine Waters also serve on the House Judiciary Committee and were original cosponsors of the Police Accountability Act of 1991.

Representatives William D. Delahunt, Sheila Jackson-Lee, Zoe Lofgren, and Melvin L. Watt are current members of the House Judiciary Committee, and Representatives Danny K. Davis, Harold E. Ford, Jr., Carolyn Cheeks Kilpatrick, Gregory W. Meeks, Juanita Millender-McDonald, Donald M. Payne, and Edolphus Towns are current members of Congress; all share a particular interest in police accountability.

The Members of Congress who are seeking to participate are concerned that the Report's erroneous restriction of the intended scope of liability of the statute should not become accepted law. The amici leave the facts to the parties, and take no position on other issues raised in this case; their interest lies entirely in correcting the Magistrate Judge's importing into Section 14141 of a "policy or custom" limit, which they believe to be a misapplication of this important statute.

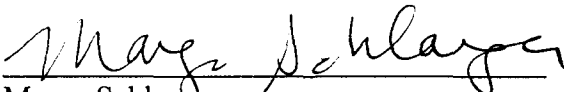
For the foregoing reasons, we respectfully move the Court to grant Representatives Conyers, Berman, Davis, Delahunt, Ford, Jackson-Lee, Kilpatrick, Lofgren, Meeks, Millender-McDonald, Payne, Towns, Waters, and Watt leave to file the attached brief as amici curiae. It being the close of the period of time for the parties' response to objections to the Magistrate's report, the parties should be granted a reasonable period in which to respond to this filing. We have sought the consent of the parties to this litigation for our participation. Consent of the United States was granted; counsel for the defendant-intervenor Fraternal Order of Police ("FOP") informs us that the FOP has no objection provided there is an opportunity for response

by the parties; we left a message with counsel for the defendant City of Columbus but were unable to reach any live person and received no response.

Respectfully submitted,



Samuel R. Bagenstos, Trial Attorney



Margo Schlanger

1545 Massachusetts Avenue
Cambridge, MA 02138
(617) 495-9299

Counsel for U.S. Representative John Conyers, Jr.
and thirteen other Members of Congress

On consideration of the foregoing Motion for Leave to Participate as Amici Curiae, the motion is:

GRANTED/DENIED, this _____ day of September, 2000.

UNITED STATES DISTRICT JUDGE

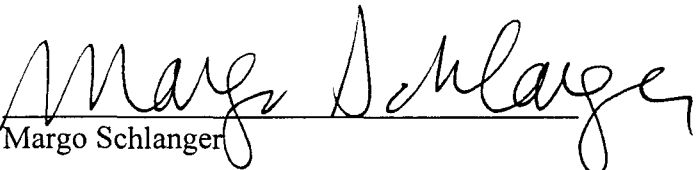
CERTIFICATE OF SERVICE

This is to certify that on this fifth day of September, a copy of the foregoing Motion for Leave to Participate as Amici Curiae was sent by Federal Express, next day delivery, to:

Mark Masling
Special Litigation Section
Civil Rights Division
U.S. Department of Justice
601 D Street, N.W.
Washington, DC 20004
Counsel for the Plaintiff, United States

Timothy J. Mangan
Office of the Columbus City Attorney
90 West Broad Street
Columbus, OH 43215
Counsel for the Defendant, City of Columbus

James E. Phillips
Vorys, Sater, Seymour and Pease
52 East Gay Street
Columbus, OH 43216-1008
Counsel for the Defendant-Intervenor, Fraternal Order of Police, Capital City Lodge No. 9


Margo Schlanger