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8 UNITED STATES DISTRICT COURT *for the* CENTRAL
9 DISTRICT OF CALIFORNIA, *Western Division*
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13 ADAM JOHN MACKINTOSH,
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15 Plaintiff,
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17 v.
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19 GAVIN NEWSOM, ET AL.,
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28 Defendants.

PLAINTIFF'S REQUEST FOR
REFERRAL TO THE UNITED STATES
ATTORNEY AND THE UNITED
STATES DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION

[34 U.S.C. § 12601]

CASE NUMBER: 2:26-cv-08508-KK-KES

INTRODUCTION

Plaintiff Adam John Mackintosh (“Mr. Mackintosh”) respectfully submits this request that the Court, upon its findings in this action, refer this matter to the United States Attorney and to the United States Department of Justice, Civil Rights Division, for review of the pattern or practice of conduct alleged in the Complaint.

This request is addressed to the Court’s discretion and is separate from the claims for relief pled in the Complaint; it seeks no adjudication of any Defendant’s liability, but asks only that, if the evidence in this action bears out the pattern alleged, the appropriate federal authorities be permitted to review it and act to prevent its continuation.

Mr. Mackintosh brings this request in the conviction that animated the founding of this Republic: that governments are instituted to secure the rights of the governed, and that when any system of government power becomes destructive of those ends through an excessive number of ordinances, local, state or federal, it is the right and the duty of the people to seek its correction through the lawful institutions built for that purpose. This Court, and the Department of Justice, are those institutions. The facts supporting this request are set out in full in the Complaint and are summarized below.

THE REQUEST

Request for referral. The conduct alleged in this Complaint reflects, in Mr. Mackintosh’s experience, the same revenue-driven enforcement structure that the United States Department of Justice has previously investigated and documented (Compl. ¶ 35.3), operating here through the Scheme and the method of commission alleged in ¶ 96. Mr. Mackintosh therefore respectfully requests that the Court, upon its findings in this action, refer this matter to the United States Attorney and

1 to the United States Department of Justice, Civil Rights Division,
2 for review of the pattern or practice of conduct alleged herein pursuant
3 to 34 U.S.C. § 12601 — just as the district court referred the matters
4 underlying what Mr. Mackintosh witnessed in the *Waymo* case, see
5 *Waymo v. Uber Technologies, Inc.*, No. 3:17-cv-00939 (N.D. Cal.),
6 Docket Entry 428, “Order of Referral to United States Attorney” — so
7 that any relief may extend beyond Mr. Mackintosh to other American
8 Citizens subjected to the Scheme — persons whose vehicles, money, and
9 property have been taken over the decades because they could not afford
10 to pay, setting them down the path of homelessness in California, a path
11 whose destination is visible in the miles of encampments on Skid Row:
12 not an accident of the city, but a symptom of the Scheme.

13 **Constitutional context for the referral.** The Scheme alleged in
14 the Complaint operates outside the ordinary safeguards the Constitution
15 guarantees. Property is taken without proof of any crime, in the name of
16 safety (§ 5); a hearing must be purchased before it is held (§ 81);
17 scheduled hearings are cancelled or terminated at the last minute and
18 impoundments occur using DMV registration holds (§ 82A); as applied to
19 Mr. Mackintosh, no jury was afforded and no forum remained in which to
20 confront his accusers (§§ 81-82A); and the holds, assessments, and
21 collections run automatically once triggered (§§ 21, 79, 82A).

22 Enumerated one by one, the safeguards this system displaces are
23 the very guarantees the founding generation thought indispensable to a
24 free people. The Complaint alleges a system in which: judgment is
25 automatic — guilt and the exaction follow from the citation itself, with
26 the money taken by administrative process before any neutral adjudication
27 occurs (§§ 21, 79, 81); the hearing is conditioned on payment — a citizen
28 must first surrender the disputed sum to purchase the opportunity to

1 dispute it (§ 81); the forum disappears — scheduled hearings are cancelled
2 or terminated or scheduled in courtrooms far from a citizen’s location,
3 leaving no tribunal in which the citizen may confront the agencies arrayed
4 against him (§ 82A); no jury of one’s peers stands between the citizen and
5 the taking of his property — a protection the Founders held so essential
6 that its denial was among the grievances recited in the Declaration of
7 Independence in 1776 (§§ 81-82A); the exaction repeats — successive
8 fees, penalties, assessments, and holds are layered upon the same alleged
9 violation, each triggering the next, so that a single disputed citation
10 compounds into the loss of a vehicle, a livelihood, a home, and liberty
11 (§§ 21, 71A, 79); and for the citizen who cannot pay, the system offers his
12 labor as the alternative currency: the debt is converted into hours of the
13 citizen’s life — time spent working off the debt, under threat of deeper
14 penalty, sums that were assessed by automated systems and never proven
15 before any jury — so that the wealthy discharge these exactions with a
16 check while the poor discharge them in days of toil, and a citizen’s
17 remaining hours on this earth become the State’s collateral for a parking
18 space. That is the dynamic addressed in paragraphs 94 through 94A of the
19 Complaint and in the discussion of 18 U.S.C. § 1589 below.

20 Each of these, standing alone, would warrant concern. Operating
21 together, automatically, at scale, upon millions of citizens, they present
22 precisely what the Declaration of Independence called “a long train of
23 abuses”¹ — not isolated errors of administration, but a design. And the
24 design’s product is visible on the streets of this District: tens of thousands

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26 ¹ The Declaration of Independence (U.S. 1776) (“a long train of abuses”;
27 grievances including deprivation “in many cases, of the benefits of
28 Trial by Jury”). Transcript: National Archives,
<https://www.archives.gov/founding-docs/declaration-transcript>

1 of citizens living in encampments that once filled a few blocks and now
2 stretch for miles through Skid Row, across the City of Los Angeles, and
3 throughout the State of California — many of them displaced by
4 the very sequence the Complaint alleges, their vehicles and mobile
5 homes taken, their savings consumed by fees, their hearings never
6 held — or never reachable, for want of transportation and the means to
7 travel (¶¶ 5, 71A, 95) — and upon whom the same machinery of
8 citations, fines, and seizures continues to operate even after it has taken
9 everything but their labor. And labor is not money: it is paid in the one
10 currency no one can ever replenish — the hours of a life, which is brief,
11 and which is all any citizen finally has. A system that manufactures
12 destitution and then continues billing the destitute is not administration in
13 need of adjustment; it is the presence of design that distinguishes a pattern
14 or practice warranting the review requested here from the ordinary friction
15 of government.

16 **Nor is the pattern newly identified.** As reflected in Exhibit A
17 hereto — a publication of the ACLU of Northern California, available at
18 [https://www.aclunorcal.org/news/ca-chief-justice-agrees-traffic-courts-](https://www.aclunorcal.org/news/ca-chief-justice-agrees-traffic-courts-can-t-charge-fees-advance-trial)
19 [can-t-charge-fees-advance-trial](https://www.aclunorcal.org/news/ca-chief-justice-agrees-traffic-courts-can-t-charge-fees-advance-trial) — the Chief Justice of California agreed,
20 more than a decade ago — in 2015, when Chief Justice Tani Cantil-
21 Sakaue directed emergency action and the Judicial Council voted
22 unanimously to bar the practice — that traffic courts cannot require
23 payment of fees in advance of trial as a condition of contesting a citation.
24 Yet as applied to Mr. Mackintosh, precisely that precondition was
25 imposed: payment was demanded before any trial or trial by written
26 declaration, to defend three similar citations sharing a common nucleus of
27 operative facts (expired registration / license-plate frame) (Compl. ¶ 81),
28 his scheduled hearings were cancelled or terminated or scheduled

1 hours away with LA traffic risking another stop and impoundment
2 (§ 82A), and the Franchise Tax Board and a law firm engaged by the
3 courts thereafter contacted Mr. Mackintosh by mailing collection
4 demands threatening wage garnishment, bank levies, seizure of his
5 property and further legal action — all without Mr. Mackintosh ever
6 receiving an opportunity to contest the citations, practices, and fees
7 (§§ 82-83) — and, throughout, his written contests went unanswered
8 by the agencies.

9 A practice publicly identified and disavowed at the highest
10 level of the State’s judiciary — and documented and condemned in the
11 United States Department of Justice’s own publications, reproduced as
12 Exhibits B and C hereto, and in contemporaneous public reporting,
13 reproduced as Exhibit D hereto (see Compl. ¶ 35.3) — yet still
14 operating years later against a citizen who attempted every lawful
15 avenue of contest — hearings requested, written legal demands,
16 correspondence — is the signature of a pattern or practice warranting the
17 review requested here. The Department’s response did not end at
18 publication: invoking this same statutory authority, the United States
19 thereafter obtained a court-entered consent decree reforming the
20 revenue-driven enforcement system its findings had documented — proof
21 that the review requested here carries, at its end, the power not merely to
22 describe such a system but to enjoin it. *United States v. City of Ferguson*,
23 No. 4:16-cv-00180-CDP, Consent Decree, ECF No. 41 (E.D. Mo.
24 Apr. 19, 2016), reproduced in relevant part as Exhibit E attached
25 hereto.

26 The Defendants’ acts described herein — carried out by persons
27 who report and answer through a chain-of-command structure as alleged
28 in the Complaint (§§ 23, 33, 96, 122) — have further obstructed a criminal

1 investigation into Uber and related parties, as alleged in ¶¶ 84-96
2 and 114-117, through years of department and agency creation, policies,
3 rules, citations, stops, impoundments, and vehicle-code provisions
4 (the California Vehicle Code, “CVC”). Through that apparatus, the
5 ordinary incidents of owning and using a vehicle — registration,
6 titling, plates, parking — have become the levers of the Scheme:
7 administrative conditions administered by the DMV and its partner
8 agencies, whose alleged violation authorizes the stop, the stop supplies
9 the encounter, and the encounter is converted into criminal charges — so
10 that a citizen against whom no crime could be alleged is transformed,
11 by administrative code alone, into a criminal defendant, as the
12 Complaint alleges occurred to Mr. Mackintosh himself in the fourth
13 stop (¶¶ 61-69). It is by this conversion that civil disputes and civil
14 violations become occasions for criminal charges — a design ratified by
15 public officials in California, including Defendants Newsom and Bass,
16 and others, in derogation of the supremacy of the United States
17 Constitution that shields all people.

18 The Supremacy Clause provides that “[t]his Constitution, and the
19 Laws of the United States which shall be made in Pursuance thereof . . .
20 shall be the supreme Law of the Land . . . any Thing in the Constitution
21 or Laws of any State to the Contrary notwithstanding.” U.S. Const. art.
22 VI, cl. 2.

23 Administrative convenience cannot supersede that command: a
24 state enforcement apparatus operated in conflict with the Constitution on
25 an administrative level is void to the extent of the conflict — a principle
26 a court sworn to uphold the Constitution is duty-bound to enforce,
27 because a guarantee that can be routinely bypassed by administrative
28 process is no guarantee at all. The concern is as old as the Republic.

1 **Benjamin Franklin**, in 1755, warned: “Those who would give up
2 essential Liberty, to purchase a little temporary Safety, deserve neither
3 Liberty nor Safety.”² The founding generation was more specific still.
4 **John Adams**, drafting the Braintree Instructions of 1765, declared: “We
5 have always understood it to be a grand and fundamental principle of the
6 constitution, that no freeman should be subject to any tax to which he has
7 not given his own consent, in person or by proxy.”³ And in that same year,
8 as America itself was being conceived, the Virginia Resolves carried by
9 **Patrick Henry** declared of the people in whom that nation was taking form
10 — that they “are not bound to yield obedience to any law or ordinance
11 whatever, designed to impose any taxation whatsoever upon them, other
12 than the laws or ordinances of the General Assembly”⁴ — the body in
13 which the people themselves were represented. Consent, given personally
14 or through genuine representation, was the founding condition of every
15 lawful exaction. The Scheme alleged in the Complaint fails that condition
16 at its root: the fees, penalties, assessments, holds, and surcharges it
17 imposes issue from no assembly and no adjudication at all — generated
18 administratively, by agencies, automated and interlocking databases
19 (§§ 21, 79, 82A), collected before any hearing (§ 81), and compounded
20 without any forum where the citizen may be heard (§§ 81-82A).

21
22 ² Benjamin Franklin, Reply of the Pennsylvania Assembly to the
23 Governor (Nov. 11, 1755), in The Papers of Benjamin Franklin.
24 Available at Founders Online, National Archives,

<https://founders.archives.gov>

25 ³ John Adams, Instructions to Braintree’s Representative Concerning the
26 Stamp Act (1765), in The Adams Papers. Available at Founders Online,
27 National Archives, <https://founders.archives.gov/documents/Adams/06-01-02-0054-0001>

28 ⁴ Resolves of the Virginia House of Burgesses (the “Virginia Resolves”) (1765), as published in the colonial press.

1 An exaction to which no citizen ever consented, imposed by a
2 process in which no citizen may participate, is precisely the wrong the
3 founding generation declared intolerable — modernized, digitized,
4 automated, and operating ubiquitously at scale, unchecked. The Founders
5 also supplied the instruments by which such a system is to be measured.
6 *Alexander Hamilton* wrote that: “In the general course of human nature,
7 a power over a man’s subsistence amounts to a power over his will.”
8 The Federalist No. 79.⁵ The Scheme alleged here is exactly such a power:
9 it reaches every citizen’s vehicle, property, livelihood, and shelter — his
10 subsistence — and through them commands his will, extracting payment
11 or labor as the price of keeping what sustains him. *Thomas Jefferson*,
12 in his First Inaugural Address, defined the government the founding
13 generation intended, one that “shall not take from the mouth of labor the
14 bread it has earned.”⁶ And *James Madison* wrote that “that alone is a just
15 government, which impartially secures to every man, whatever is his
16 own.”⁷

17 By each of these measures — subsistence, labor, and one’s
18 own — resolved by men who pledged their lives, their fortunes, and
19 their sacred honor, and by the wives who bore the weight of that pledge
20 beside them, to secure these liberties for those who would come after
21 them, the system alleged in the Complaint stands condemned by the
22 principles of the generation that designed the Republic it operates within.

23
24 ⁵ Alexander Hamilton, The Federalist No. 79 (1788).

25 Full text: Library of Congress, <https://guides.loc.gov/federalist-papers>

26 ⁶ Thomas Jefferson, First Inaugural Address (Mar. 4, 1801).

27 Text: The Avalon Project, Yale Law School,
28 https://avalon.law.yale.edu/19th_century/jefinaul.asp

⁷ James Madison, “Property,” National Gazette (Mar. 29, 1792),
in The Papers of James Madison. Available at Founders Online,
National Archives, <https://founders.archives.gov>

1 **George Washington**, in the first months of the constitutional
2 government, stated where the remedy for such wrongs resides: “The due
3 administration of justice is the firmest pillar of good Government.”⁸
4 That administration is what Mr. Mackintosh respectfully invokes here —
5 nothing more, and nothing less. The Scheme alleged in the Complaint
6 presents the modern form of both concerns: property taken routinely, in
7 the name of safety, through vehicle code enforcement, pretextual stops,
8 and surveillance — automated license-plate readers, camera and sensor
9 systems, computer-aided-dispatch and interagency databases, image- and
10 pattern-recognition systems, and other technologies alleged in the
11 Complaint — and automatic, escalating fines and assessments: exactions
12 imposed by administrative process rather than by any adjudication to
13 which the citizen consented or in which he was heard. A system
14 administered through an excessive number of agencies and partnering
15 corporations, which strips a person of the means of living and then
16 demands his labor to buy them back, presents the servitude and forced-
17 labor dynamic described in 18 U.S.C. § 1589 — an offense Congress
18 expressly enumerated as racketeering activity under 18 U.S.C. §
19 1961(1)(B). That prohibition carries the founding generation’s own
20 resolve: in the Northwest Ordinance of 1787, enacted by the Continental
21 Congress and re-enacted by the First Congress under President
22 **Washington**, the Founders declared that “[t]here shall be neither slavery
23 nor involuntary servitude...” in the said territory “otherwise than in the
24 punishment of crimes”⁹ — words the Thirteenth Amendment later wrote

25 ⁸ George Washington, Letter to Edmund Randolph (Sept. 28, 1789),
26 in The Papers of George Washington. Available at Founders Online,
National Archives, <https://founders.archives.gov>

27 ⁹ Northwest Ordinance, art. VI (July 13, 1787; reenacted Aug. 7, 1789).
28 Transcript: National Archives, [https://www.archives.gov/milestone-
documents/northwest-ordinance](https://www.archives.gov/milestone-documents/northwest-ordinance)

1 into the Constitution for the whole nation and its people and inhabitants,
2 and which Congress enforces today through Chapter 77 of Title 18,
3 including § 1589. A citizen's labor extracted as payment for exactions
4 never adjudicated as crimes stands squarely within the evil those words
5 were written to forbid.

6 The judgment whether any conduct alleged here warrants
7 evaluation under those provisions belongs to the Department of Justice,
8 whose charge is the enforcement of that unbroken line — from the
9 Founders' ordinance, through the Amendment, to the statute — and
10 Mr. Mackintosh invokes nothing more than that enforcement, faithfully
11 applied.

12 Mr. Mackintosh is clear about the limited office of that reference:
13 the claims for relief in this action rest on the predicate acts pled in
14 the Complaint (extortion, mail and wire fraud, obstruction of justice,
15 witness-interference and tampering offenses, Compl. ¶¶ 103-117),
16 and no claim or damages are pursued under § 1589.

17 The forced-labor provision is referenced because the Complaint
18 recounts (¶¶ 94-94A) that Mr. Mackintosh's draft complaint alleged
19 the Scheme operates in the manner that statute addresses — taking the
20 instruments of a person's livelihood and conditioning their return on
21 payment extracted through further labor for another party — and because,
22 as an enumerated RICO predicate, that dynamic bears directly on the
23 pattern-or-practice review requested here. Whether any conduct alleged
24 warrants evaluation under § 1589 or related provisions is a judgment that
25 belongs exclusively to the Department of Justice — which is among the
26 reasons Mr. Mackintosh respectfully submits that the pattern alleged
27 warrants the review requested in the Prayer for Relief, ¶ 8, of the
28 Complaint.

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Dated: August 8, 2026

Adam J. Mackintosh (*Pro Se*)

EXHIBIT A

[ACLU of Northern California, “CA Chief Justice Agrees: Traffic Courts Can’t Charge Fees in Advance of Trial” — printed from <https://www.aclunorcal.org/news/ca-chief-justice-agrees-traffic-courts-can-t-charge-fees-advance-trial/>]



ACLU Addresses Unconstitutional Policies of California Traffic Courts



Jorian Goes

California Traffic Safety Expert | Founder of Ticket Snipers

Published Jun 10, 2015

+ Follow

If you recently received a traffic ticket in Del Norte, Fresno, Mendocino, Tuolumne, Mariposa, Tulare, Madera, or Shasta County and wanted to fight it, you were made aware that in order to do so you must first pay the fine and fees related to the ticket. Wait. What? How can that be right? You have to pay all monetary penalties before being allowed to appear in court to protest your innocence? How can that be right? Can that even be legal?

Yes, that is correct, but no, it isn’t legal. In fact, it’s downright unconstitutional. It’s a clear violation of every citizen’s right to due process of the law, and in addition, it targets people with low incomes and many who may be unlawfully cited in the first place due to racial profiling – which we know doesn’t exist, but still, it’s just the idea of it.

EXHIBIT B

[U.S. Department of Justice, Civil Rights Division, Investigation of the Ferguson Police Department (Mar. 4, 2015) — excerpt, printed from <https://www.justice.gov> (report PDF)]

→ ↻ aclu.org/news/racial-justice/departments-justice-throws-its-weight-behind-ending



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The Justice Department came to a pretty simple conclusion that should not be controversial: People should never be locked up behind bars for being unable to pay court fines and fees they cannot afford. But local governments across the country are using threats of jail and actual imprisonment to secure payments toward court fines and fees. The ACLU has [exposed and challenged these practices](#) in places as diverse as [DeKalb County, Georgia](#); [Benton County, Washington](#); [Eastpointe, Michigan](#); and [Biloxi, Mississippi](#).

In one stroke, the Justice Department has dramatically amplified our efforts. It has issued [a strong letter](#) to state chief justices and court administrators making it clear that the 14th Amendment prohibits jailing people for nonpayment of court fines and fees without procedural safeguards. These measures include an ability-to-pay hearing before a neutral judge on whether a person's nonpayment was willful or due to poverty, meaningful alternatives to jail for people who cannot afford to pay, and legal representation in certain collection enforcement actions.

EXHIBIT C

[U.S. Department of Justice, Civil Rights Division & Office for
Access to Justice, “Dear Colleague” Letter on Fines and Fees
(Mar. 14, 2016) — printed from justice.gov archives]

→ ↻ aclu.org/news/racial-justice/departments-justice-throws-its-weight-behind-ending



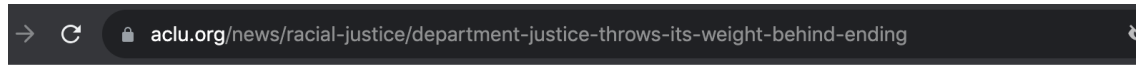
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DOJ’s letter also echoes [longstanding ACLU concerns](#) about the bias introduced when municipalities enlist for-profit probation companies that have a direct financial stake in the debts they are hired to collect. Employees hurt the company bottom line when they help courts identify indigent people whose payment of company service fees should be waived. The ACLU has sued the for-profit probation company Judicial Corrections Services, Inc. in [Georgia](#) and [Biloxi](#).

But there is a way for municipalities to stay on the right side of the Constitution. Today’s settlement with Biloxi, Mississippi, provides a step-by-step guide on how court leaders can heed the Justice Department’s call to bring their court rules and practices in line with constitutional standards when imposing and collecting fines and fees.

EXHIBIT D

[ACLU report and contemporaneous coverage of the Department of Justice's fines-and-fees guidance (Mar. 2016) — labeled as ACLU material]



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The [sweeping reforms adopted by](#) Biloxi include the elimination of for-profit probation companies from the collections process and the adoption of detailed new [court procedures](#), including a [“bench card”](#) to guide judges on how to avoid jailing people who are too poor to pay. Biloxi has also established a full-time public defender’s office to protect indigent people’s right to counsel, and it also will make payment plans, community service, and a host of other alternatives to jail available for those who cannot afford to pay court fines and fees. Judges will even consider ability to pay at sentencing to avoid imposing crippling high fines and fees that the poor cannot even hope to repay.

These reforms are transformative. They provide a map for other cities to follow in heeding the Department’s call, long before being sued.

EXHIBIT E

[*United States v. City of Ferguson*, No. 4:16-cv-00180-CDP
(E.D. Mo.) — Consent Decree entered April 19, 2016 — excerpt:
cover and court-approval pages, and provisions addressing
municipal fines, fees, and stops — printed from the official copy
at <https://www.justice.gov> (Civil Rights Division, case page:
United States v. City of Ferguson)]

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	NO. 4:16-cv-000180-CDP
	)	
Plaintiff,	)	JUDGE CATHERINE D. PERRY
	)	
v.	)	
	)	
THE CITY OF FERGUSON,	)	
	)	
Defendant.	)	
	)	
	)	

CONSENT DECREE

alternatives to the program, initiative, activity, or service that would have less of a disparate impact. If appropriate modifications or alternatives are available, the City will implement them within a reasonable time.

VII. VOLUNTARY CONTACTS, STOPS, SEARCHES, CITATIONS, AND ARRESTS

75. The City agrees to ensure that all FPD voluntary encounters, investigatory stops and detentions, searches, citations, and arrests are conducted in accordance with the rights, privileges, and immunities secured or protected by the Constitution and the laws of the United States. FPD will ensure that these police activities are part of an effective overall crime prevention strategy; are consistent with community priorities for enforcement; build trust between FPD and the community; and are adequately documented for tracking and supervision purposes.

76. With respect to the subsections below, the City agrees to ensure that FPD officers adhere to the following principles:

- a. No City or FPD employee will recommend, develop, or implement any law enforcement program, strategy, tactic, or action in order to generate revenue. Any revenue generated by law enforcement actions will be incidental to the public safety purpose;
- b. FPD officers will not use race, color, ethnicity, national origin, religion, gender, sexual orientation, disability, or other protected characteristics as a factor, to any extent or degree, in investigating, searching, or restraining the liberty of any person, except as part of an actual and credible description of a specific suspect in an ongoing criminal investigation;
- c. FPD officers will not initiate an encounter with any person or stop any person, or attempt to do so, for the purpose of checking for warrants even where there is an alternative pretext for the stop, unless the officer knows the person's identity and that the person has outstanding warrants for his/her arrest, prior to the encounter;
- d. FPD officers will not use "canned," boilerplate, or conclusory language in any reports documenting investigatory stops or detentions. Articulation of reasonable suspicion, probable cause, or any other applicable legal standard will be specific, clear, and based on objective facts particular to the stopped, detained, or arrested

person; and

- e. FPD officers will not use or rely on information known to be materially false or incorrect in conducting or justifying any police activity.

A. Voluntary Contacts: Social Contacts & Non-Custodial Interviews

77. FPD will recognize two distinct classes of voluntary contacts: social contacts, which are non-investigative conversations, and non-custodial interviews, in which the officer seeks to investigate the person he or she questions. Officers will be encouraged to engage in social contacts to develop relationships and implement FPD's commitment to community-oriented policing. Officers conducting or attempting to conduct non-custodial interviews will:

- a. Introduce themselves by name and rank as soon as reasonable and practicable;
- b. Notify the person(s) encountered that they are free to leave and do not have to answer any questions;
- c. Inform the subject that the encounter is being recorded; and
- d. Refrain from using words or actions that would tend to communicate that the person(s) are not free to leave or must answer questions.

78. FPD will ensure that officers engaged in, or attempting to engage in, a social contact or non-custodial interview do not use a person's failure to stop, failure to answer questions, decision to end the encounter, or departure to justify an investigatory stop or detention, search, citation, or arrest of the person.

B. Investigatory Stops and Detentions

79. FPD will ensure that officers conduct investigatory stops or detentions only when they have reasonable suspicion that a person has been, is, or is about to be engaged in the commission of an offense.

80. FPD officers will not conduct pretextual stops except where the actual reason for the stop is to investigate a felony.

81. FPD will ensure that, upon initiating an investigatory stop or detention, officers:

- a. Introduce themselves by name and rank as soon as reasonable and practicable. It will be FPD practice to also provide the stopped individual an FPD business card at the end of a stop;
- b. Immediately notify the person(s) encountered that they are not free to leave, and, if the officer intends to ask questions, that they do not have to answer any

321. The City agrees to provide initial and in-service training for supervisors and officers to assist them in identifying and effectively assisting other officers who are under severe stress or otherwise in need of assistance.

L. Accountability Training

322. The City agrees to provide initial and ongoing annual in-service training to all FPD and court employees on:

- a. How to properly handle complaint intake, including how to provide complaint materials and information; the consequences for discouraging misconduct complaints or otherwise failing to properly accept complaints; and strategies for turning the complaint process into a positive police-civilian interaction; and
- b. Employees' specific responsibilities regarding the duty to identify and report misconduct, as well as the duty to fully cooperate with all misconduct investigations.

XVIII. MUNICIPAL COURT REFORM

323. To ensure that the Ferguson Municipal Code is enforced for the purpose of protecting public safety, and to enable the fair and impartial resolution of municipal charges, the City agrees to implement the requirements set forth below.

A. Ensuring that Municipal Code Enforcement is Driven by Public Safety

324. As required by state law, the City agrees to ensure full compliance with the cap placed on revenue from municipal fines and fees codified within Senate Bill 5, as well as all other provisions of that statute. *See* Senate Bill 5, codified at Mo. Rev. Stat. § 479.350 *et seq.* The City agrees to provide DOJ and the Monitor access to all data, information, and analysis used to complete and submit the City's compliance reports required by that statute. The City further agrees to maintain Municipal Code Ordinance 2014-3565.

325. Within 60 days of the Effective Date, the City will remove the Ferguson Municipal Court from the oversight of the City Finance Director and ensure the Finance Director has no involvement in court operations. Consistent with Missouri law, the Ferguson Municipal Court will report directly to the St. Louis County Circuit Court and Missouri Supreme Court. Where coordination with City officials is required for administrative purposes, members of the Ferguson Municipal Court will report directly to the City Manager.

B. Comprehensive Amnesty Program

326. The City agrees to implement a comprehensive amnesty program immediately upon entering this Agreement that, at a minimum, incorporates the following measures:

- a. Prosecution will be declined in all open cases not yet adjudicated that were initiated prior to January 1, 2014, and all warrants associated with those cases will be eliminated, except where the prosecutor finds good cause to continue prosecution, in which case the City may continue to prosecute the case and maintain the municipal arrest warrant consistent with the terms of this Agreement;
- b. To the extent that it has not already done so, the City will eliminate all pending charges, fines, and fees related to Failure to Appear violations (previously imposed pursuant to Ferguson Municipal Code § 13-58) without requiring a defendant to make a bond payment, appear in court, or take any other action;
- c. To the extent that it has not already done so, the City will, without requiring a defendant to make a bond payment, appear in court, or take any other action, eliminate all pending fines and fees imposed pursuant to:
 1. Ferguson Municipal Code § 13-60 (authorizing fee of up to \$75 plus court costs when an individual withdraws a complaint that resulted in a violation being issued);
 2. Ferguson Municipal Code § 13-63 (authorizing special deterrent fees as part of parole and probation);
 3. Ferguson Municipal Code § 13-70(2) and (3) (authorizing fees for continuing court proceedings, issuing and serving warrants, mileage, and witness fees);
 4. Ferguson Municipal Code § 44-50 (authorizing city-imposed towing fees);and
- d. In all cases in which a defendant has made total payments that exceed the amount of the initial fines and fees imposed for a municipal ordinance violation, including payments for associated failure to appear violations, the City will recommend that all fines are stayed and the case closed, with no further collections. The City will provide this amnesty without requiring a defendant to make a bond payment, appear in court, or take any other action. In all cases where payments have already been made that do not total or exceed the amount of the original fine,

including payments for associated failure to appear violations, the City will recommend lowering the fine and fee debts owed to the amount of the initial fines and fees imposed, less any form of payment already made by the defendant.

327. The City agrees to complete implementation of the comprehensive amnesty program within 30 days of the Effective Date, including the elimination of all relevant charges, fines and fees from pending case files as set forth above. The City agrees not to execute any municipal arrest warrant or collect any fines or fees identified above while it is implementing the comprehensive amnesty program.

C. Revision of Ferguson Municipal Court Practices

328. Within 90 days of the Effective Date, the City will develop and implement all necessary ordinances and policies to ensure that the practices of the Ferguson Municipal Court are grounded in the fair administration of justice and comport with all constitutional and other legal requirements. Such ordinances and policies will incorporate the requirements set forth below.

1. Increasing Transparency of Court Operations

329. The City agrees to make public through a variety of means—including prominent display on the City website—a clear and accurate description of the municipal court payment process, including information regarding: any pre-established fines and fees; a person's court obligations once they are charged with a municipal ordinance violation; a person's rights and responsibilities for challenging a charge; payment and community service options; how to seek an ability-to-pay determination; and the potential consequences for non-payment or missed court dates.

330. The City will develop and implement a plan for a public education campaign aimed at providing members of the broader Ferguson community with accurate and complete information regarding the operations of the Ferguson Municipal Court. The public education campaign will include specific measures to inform the public that appearing in court without being able to pay pending fines or fees will not result in arrest or jail time.

331. The City agrees to make information broadly available, including on the City's website, regarding cost-free legal assistance that may be available to individuals with pending municipal charges.

2. Ensuring Adequate Notice

332. The City agrees to provide all individuals charged with a violation of the Ferguson Municipal Code with adequate and reliable information regarding the charges brought against them, the options and requirements for resolving the charges, and the consequences for failing to resolve the charges in a timely matter.

333. The City will ensure that all citations, summonses, arrest notification forms, and other charging documents used by FPD contain (or at a minimum are contemporaneously supplemented with a separate document that contains) clear and detailed information regarding the recipient's rights and responsibilities. Such information will include:

- a. The specific municipal violation charged;
- b. The recipient's options for addressing the charge, including whether in-person appearance is required or if alternative methods, including online payment, are available;
- c. Information regarding all pending deadlines;
- d. A clear statement notifying the recipient of the right to challenge the charge in court and instructions regarding how to do so;
- e. The exact date, time, and location of the court session at which the recipient must or may appear;
- f. Information regarding how to seek a continuance for a court date;
- g. The specific fine imposed, if the charged offense has a preset fine;
- h. A clear statement that the recipient is entitled to have the amount of the imposed fine proportioned to the recipient's ability to pay;
- i. The range of possible penalties for failing to meet court requirements; and
- j. Clear instructions regarding how to acquire information regarding a pending charge, including how to contact a clerk of the Ferguson Municipal Court by phone or in person.

334. Within 60 days of the Effective Date, the City will develop and implement a plan to regularly, and at least on a monthly basis, audit citations, arrest notification forms, and other notices of violations used by officers to ensure that such documents are completed properly and in a manner that provides individuals with thorough and accurate information as required by this

Agreement. The City will develop this plan in consultation with the Monitor and submit it to DOJ for approval.

335. The City agrees to maintain up-to-date contact information for individuals with cases pending in the Ferguson Municipal Court, including ensuring that court staff request updated address and other contact information each time a defendant appears in court or otherwise communicates with court staff and ensuring that any updated information received is maintained in the defendant's municipal court file.

3. Online Payment System

336. Within 60 days of the Effective Date, the City will revise its online payment system to allow late payments, payment plan installments, and all other court payments to be made online except where prohibited by law.

337. Within 60 days of the Effective Date, the City agrees to contract with the provider of its current online payment system, or another qualified provider, to establish an online system by which a person charged with a violation can access specific details about a case, including pending charges, court dates, deadlines, owed fines and fees, and payments already made. This system will be developed in consultation with the Monitor and submitted to DOJ for approval.

338. The City agrees to ensure that all online court systems include the privacy protections necessary to protect a defendant's personal information.

4. Eliminating Unnecessary Barriers to Resolving Cases

339. Within 60 days of the Effective Date, the City will develop and implement a plan to identify and eliminate unnecessary barriers to resolving municipal cases. As part of this plan, the City agrees to:

- a. Ensure that nothing in any City ordinance or any other City directive requires that an in-person court appearance be made for any offense beyond those offenses listed in Missouri Supreme Court Rule 37.49 as requiring an in-court appearance;
- b. Implement a process for requesting a continuance of a required court appearance, including by phone, fax, or in-person, whether or not represented by counsel. Requests shall be considered in good faith and granted upon a showing of good cause for the continuance;
- c. Ensure that the City website provides accurate information regarding the hours

and location of the Ferguson Municipal Court and Ferguson Municipal Court Clerk's Office. The City will ensure that the Court and Court Clerk's office are consistently staffed during posted business hours;

- d. Accept partial payments pursuant to criteria established by the Municipal Judge and not reject any payment an individual wishes to make against any court fine, fee, or outstanding debt; and
- e. At a minimum, the court will accept payments for all court-related fines and fees in the form of credit card payments, money orders, and cash.

5. Imposing Fines and Fees, and Conducting Ability-to-Pay Determinations

340. Within 60 days of the Effective Date, the City will ensure that defendants are provided with appropriate ability-to-pay determinations consistent with the following requirements:

- a. The Court will affirmatively inquire as to a defendant's financial capacity prior to initially assessing fines, fees, and costs;
- b. Where a showing of indigency is made, the Court will proportion all fines, fees, and costs imposed by the Court to the financial resources of the defendant;
- c. Individuals who indicate they cannot afford to pay will not be asked to prove their indigency beyond completion of a standard affidavit under penalty of perjury;
- d. Objective and consistent criteria will be established for proportioning fines, fees, and costs to a defendant's income in cases where a defendant makes a sufficient showing of indigency. These criteria not only will take into account the income of the defendant, but will also consider any documented fines or fees owed to other municipal courts; and
- e. The City agrees to ensure that ability-to-pay determinations are conducted prior to the court imposing any initial fine or fee, upon any increase in the fine or related court costs and fees, and upon a defendant's request for an ability-to-pay determination at any point in a case, including in cases with preset fines.

341. The City agrees to maintain a public list of preset fines (Traffic Violations Bureau or "TVB" fines) for all municipal ordinance violations for which preset fines are allowed under Missouri law. The City further agrees to recommend to the Municipal Judge TVB fine amounts

that are not overly punitive, that take into account the income of Ferguson residents, and that are under no circumstances greater than regional averages for specific offenses. The TVB fine recommendations will be developed in consultation with the Monitor and subject to approval by DOJ.

342. The City agrees not to impose additional charges, fines, fees, or costs in response to any alleged or found "Failure to Appear" violation, or pursuant to Ferguson Municipal Code §§ 13-60, 13-63, 13-70(2), or 13-70(3).

6. Community Service and Payment Plan Options

343. Within 60 days of the Effective Date, the City will ensure that defendants are provided with appropriate alternative sentence and payment plan options consistent with the following requirements.

344. The City agrees to provide all defendants with the option of performing community service in lieu of paying fines and fees within 120 days of the Effective Date. In advance of that date, the City will work with local and regional community organizations to develop a comprehensive community service program. The community service program will establish reasonable rates at which community service is credited against pending fines and fees, and will establish reasonable time periods for the completion of community service obligations that take into account a defendant's existing employment and familial obligations. The community service program will be developed in consultation with the Monitor and subject to approval by DOJ.

345. The City agrees to ensure that defendants are provided with options for court-managed payment plans with reasonable periodic payments. Such policies will provide:

- a. An ability-to-pay determination to assess a periodic payment amount that is reasonable in light of the defendant's financial resources;
- b. Procedures for a person to seek a reduction in the periodic payment amount;
- c. Procedures allowing individuals, without appearing in court, to seek requests for extensions of payment obligations, to be granted upon a showing of good cause; and
- d. Multiple opportunities each month, at varied days and times, for individuals on payment plans to appear before the Municipal Judge to petition the Court for payment plan modifications, extensions, or other relief.

346. If a person fails to timely fulfill community service obligations or satisfy a court debt within the time allotted by a court payment plan, the City agrees to collect outstanding debts in a manner consistent with the processes set forth in this Agreement.

7. Requirements for Municipal Arrest Warrants

347. The City agrees not to use municipal arrest warrants as a means of collecting civil court debt.

348. Within 60 days of the Effective Date, the City will establish and implement protocols, through policy or ordinance, to ensure that arrest warrants related to municipal code violations will be issued, if at all, only after all other mechanisms available for securing a person's appearance in court have been exhausted. Such protocols will also ensure that arrest warrants are not being issued in response to a person's financial inability to pay a fine or fee. Such protocols will require, at a minimum, that:

- a. The City provide individuals who have missed a required court appearance or payment with notice of the missed requirement, notice of a new court date or payment deadline, and notice of the potential consequences for failing to satisfy that subsequent requirement;
- b. If a defendant fails to satisfy a subsequent required court appearance, the court will conduct a hearing on why a warrant should not issue, including an assessment of ability to pay any pending fine or fee. The court shall not issue a warrant for any individual who appears at the show cause hearing;
- c. The City agrees to provide effective notice of any motion for an order to show cause. The City will, at a minimum, provide this notice through first-class mail, and may attempt to contact the person by telephone or text message if such contact information is available; and
- d. If the above mechanisms are unsuccessful at securing payment or otherwise resolving the case, the municipal court may, in its discretion, issue an arrest warrant. The City agrees that, upon arresting any person pursuant to an outstanding municipal arrest warrant, such detentions shall comport with the requirements of this Agreement.

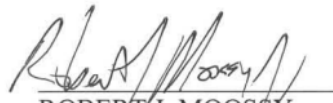
71. "Social contact" means a voluntary, consensual encounter between the police and a subject with the intent of engaging in casual and/or non-investigative conversation. The subject is free to leave and/or decline any of the officer's requests at any point.
72. "Specialized CIT Officer" means an officer who has received specialized, comprehensive training on how to respond to persons in mental health crisis, including persons under the influence of drugs or alcohol.
73. "Supervisor" means sworn FPD personnel at the rank of sergeant or above, or anyone acting in those capacities, and non-sworn FPD personnel with oversight responsibility for other personnel.
74. "Unit" means any designated organization of officers within FPD, including area and specialized units.
75. "Vehicle stop" means any instance where an FPD officer directs a civilian operating a motor vehicle of any type to stop and the driver is detained for any length of time.
76. "Will" or "shall" or "agrees to" means that the provision imposes a mandatory duty.

Respectfully submitted this 17th day of March, 2016,

For Plaintiff UNITED STATES OF AMERICA:



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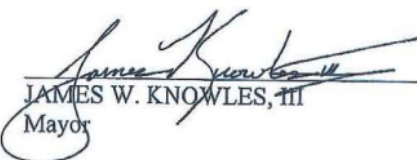
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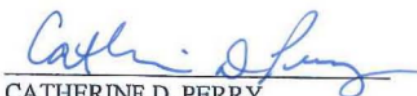
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So Ordered, this 19th day of April, 2016


CATHERINE D. PERRY
United States District Court Judge
Eastern District of Missouri