

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ACLU OF TENNESSEE, INC.,)	
)	
Intervening Plaintiff,)	
)	Case No. 2:17-cv-02120-JPM-jay
v.)	
)	
THE CITY OF MEMPHIS,)	
)	
Defendant.)	

ORDER ADOPTING PUBLIC COMMENT PROCEDURE

This cause came before the Court on Intervening Plaintiff ACLU of Tennessee, Inc.’s (hereinafter “ACLU-TN”) January 17, 2020 Proposed Procedures for Public Comment Period (ECF No. 279) and Defendant City of Memphis’s (hereinafter “the City”) January 17, 2020 Notice of Filing Defendant’s Proposed Procedure for Written Public Comments (ECF No. 280). These submissions were made pursuant to the Court’s January 3, 2020 Order Modifying Scheduling Order. (ECF No. 273.) In that Order, the Court directed the ACLU-TN and the City to submit proposed public comment procedures by no later than January 17, 2020. (Id. at PageID 8687.)

Public input is a key component of ensuring the City’s compliance with the Kendrick Consent Decree. (See, e.g., Order Following Conference, ECF No. 203 at PageID 7039; see also Joint Public Engagement Plan, ECF No. 211 at PageID 7282 (“The Monitor and the parties commit this Plan to the Court’s discretion and remain committed to providing the public with the opportunity to learn and give feedback about the City’s efforts to comply with

the *Kendrick* Consent Decree.”)) “Rigorous transparency” is also one of the core principles guiding the Independent Monitor’s process of ensuring the City’s compliance with the Kendrick Consent Decree. (ECF No. 180-1 at PageID 6559 (“Rigorous Transparency. We want the Court, the MPD, the ACLU-TN, and the public to know what we are doing, why we are doing it, and how much it costs.”).) These principles apply with equal force to the Court’s consideration of any proposed modification of the Kendrick Consent Decree.

With these guiding principles in mind, and after reviewing both the ACLU-TN’s and the City’s proposed public-comment procedures, the Court hereby **ADOPTS** the ACLU-TN’s proposed public-comment procedure. (See ECF No. 279.) The ACLU-TN’s proposed procedure better comports with the guiding principles of transparency and public engagement by putting in place fewer barriers to public participation in the modification process. The ACLU-TN’s procedure allows all members of the public to submit comments directly to the Court or to the Independent Monitor for review and permits citizens to submit comments in a variety of formats. (See *id.* at PageID 8805–06.)

The Court adopts the ACLU-TN’s procedure and reproduces that comment procedure as follows:

MODIFICATION PUBLIC COMMENT PROCEDURE:

- (1) The Court will accept written comments on the Proposed Modifications of the Kendrick Consent Decree beginning on **Friday April 3, 2020**. The Court will accept written comments until **Monday May 4, 2020**.
- (2) Written comments may be submitted by individuals, groups of individuals, or legal entities.

- (3) Written comments:
- (a) shall identify the person or group submitting the comment;
 - (b) shall outline the individual, group of individuals, or entity's experiences or credentials that bear on the Court's consideration of the party [or parties'] proposed modification of the Kendrick Consent Decree; and
 - (c) shall not exceed ten (10) pages in length.
- (4) Written comments may be submitted either in paper copy or as an electronic portable document format ("PDF") on disk or portable drive, via U.S. Mail or common carrier, to the Clerk for the United States District Court for the Western District of Tennessee, located at:
- 167 N. Main Street, Rm. 242
Memphis, TN, 28103
- (5) Written comments may also be submitted in PDF to the Independent Monitor via email at monitoringteam@memphisdpdmonitor.com. All comments received by the Monitor shall be copied and sent in paper form to the Clerk of Court.
- (6) Interested members of the public may also submit comments in video format, submitted via the methods outlined above in (4) and (5). Any video submission must conform to the requirements imposed by (3)(a) and (3)(b) of these procedures. Additionally, any such video submission shall not exceed ten minutes in length and shall be formatted as a MPEG-4 (file extension .mp4).
- (7) The Clerk shall make four copies of all written comments it receives. One copy shall be prepared for the Court, and the remaining copies shall be presented to the ACLU-TN, the Independent Monitor, and the City at the close of the Public Comment Period. The Clerk's Office shall make four copies of all video and

electronic comments. One copy shall be prepared for the Court, and the remaining copies shall be presented to the ACLU-TN, the City, and the Independent Monitor at the close of the Public Comment Period.

- (8) The Monitor shall post a copy of these Procedures on its website, www.memphispdmonitor.com. The Monitor shall also publish copies of the City's Motion for Modification of the Kendrick Consent Decree and the ACLU-TN's Response to the City's Motion for Modification.
- (9) The Monitor and the Parties may also provide notice to the public of the opportunity to submit written comments in accordance with the above-referenced procedure.

SO ORDERED, this 3rd day of March, 2020.

/s/ Jon P. McCalla
JON P. McCALLA
UNITED STATES DISTRICT JUDGE